

**ICANN Costa Rica Meeting  
International Olympic Committee (IOC) and Red Cross (RC) names - TRANSCRIPTION  
Saturday 10th March 2012 at 10:30 local time**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Stephane Van Gelder: Right, so if we can have everyone back at the table, I will ask the operator to start the recording. We had a bit of a technical issue the previous session, but everything is back in order and working now, so operator please start the recording.

Great, let's get started then with this session, which is on the work that is currently going on on the International Olympic Committee and Red Cross names, and their possible protection as part of the new gTLD program. As you know we have a drafting team that is looking at this issue, the work is being chaired by Jeff Neuman who is sitting to my left and who will take over this session. Jeff.

Jeff Neuman: Thanks Stephane and yeah, I want to just start out by putting out how we got here and some of the things that the drafting team was asked to do and some of the things the drafting team was not asked to do as kind of an introduction and then go into the recommendations.

And there's a number of people on the council and in the room here that were on the drafting team and I want to thank everyone, it was a very compressed timeline, and I think everybody did a great job in coming together and coming up with these recommendations.

So just to take us back, the board resolved in Singapore what you see up on the screen there at the top, that the board authorized, the resolution authorized the president and CEO to implement the new gDLT program, which includes, and there was a whole bunch of tax stuff unrelated, includes the incorporation of text concerning protection for specific requested Red Cross and IFC names for the top level only during the initial application round until the GNSO and GAC developed policy (unintelligible) the global public interest.

So that was it, that was the rationale, or that was the resolution that was posted by the board, or half of the board, in Singapore, and if you look at the rationale in the resolution itself (unintelligible) there was a lot of rationale as you can imagine on the gDLT program as a whole, but really none that we could find that was readily available, that we could find as far as the drafting team.

I'm told that there is some (unintelligible) maybe (unintelligible) not as well, a little later on. That resolution (unintelligible), and then in September the GAC chair sent a letter to Stephane on behalf of the GAC with advice on protection of the Olympic, and Red Cross and Red Crescent teams, I'm going to just say Red Cross and I know that it's actually Red Cross/Red Crescent (unintelligible) just to abbreviate them to Red Cross, but it includes all of that.

The GAC basically sent a letter asking for protections at the second level as well as the top level and also some additional protection with some translations of (unintelligible). Later on in September, shortly after (unintelligible) the actual chronology but right around that time, the final applicant guidebook had come out, and that guidebook contains some protection for the Olympic and Red Cross.

And those protections were drafted by staff in response to the board resolution, and in that guidebook, staff (unintelligible) this different kind of, call

it reserved names, I'm not sure what you'd call it. But basically, put a new category of names together with Olympic Red Cross teams that (unintelligible) how the other reserve needs were treated at the top level.

Shortly after we all met in Dakar, and at that meeting, the GAC had sent a question-and-answer document to the council, which further explained that in addition to second level protection, they wanted (unintelligible) for the Olympic and Red Cross marks, that it wasn't just limited to specific Olympic and Red Cross marks that were in the guidebook, and that they believed that the protection should be suspended for not just the initial (unintelligible) permanently.

At that Dakar meeting, (unintelligible) decided to form a draft team, and the drafting team started meeting (unintelligible) in the November time frame. The drafting team was opened to counselors and others and I'm happy to say that the (unintelligible) counselors participating in the drafting team, including participation by the International Olympic Committee and (unintelligible) from the Red Cross as well.

So (unintelligible) drafting team had a great cross-section of people from the community and the drafting team was given an assignment really to respond to the GAC proposal in the question-and-answer document in order to provide advice to people so that the council could then in its interactions with the GAC come up with joint recommendations if possible to send back to the ICANN board.

The drafting team was put together not to look at whether the Olympic or Red Cross marks should be protected at all. That was a question we had all believed was decided by the board, and so we were taking that as basically an assumption, that these marks will be protected at the top level.

If there's a question that still remains, it's whether protections at the second level, but we on a drafting team went in with the mentality that these are protected at the top level, that decision was made for us.

I want to (unintelligible) because there's been a lot of discussion on some of the constituency (unintelligible) about you know (unintelligible) doing it, they shouldn't be protected at all, there's a lot of discussion going on. Again I really want to emphasize the drafting team (unintelligible) whether the marks be protected but how should the marks be protected.

So I just want to stop there and (unintelligible). Any questions on that point?

Man: Jeff, if I could just highlight, we had (unintelligible) from staff, we have a few people from staff here, to take part in this discussion. We'd also like to welcome Bruce Tonkin, vice chair at the ICANN board, he's here to take part in this discussion as well. Thank you.

Jeff Neuman: I think Alan's got a question.

Alan Greenberg: Certainly the ICANN board said that they are protecting the first level in this round. Isn't it our prerogative to say okay, but not afterwards. And I think we did talk about that a little bit, the general feeling has very quickly lapsed into the (unintelligible) to the territory of in this round, it's protected but it's not done well and we better fix it.

And I think we forgot to go back to the initial decision of should there be protection in the second round, and I think some of the people in the group feel quite differently on that. But I'm not sure we folks done it because there was urgency to get something done at the meeting. (Unintelligible) I'll further comment after we go over the details.

Jeff Neuman: Right. And then I'll get on to what the (unintelligible) team act really did. So I'm going to get to that so, but...

Man: Thank you, just (unintelligible) prediction in the second round. If the assumption is that we'll be protected (unintelligible), then it would be a fair assumption at least in my opinion that they be (unintelligible) and just part of, you know where was the drafting team on that if you could elaborate on that and what is the thinking.

Jeff Neuman: Yeah, I think if you could save that question, I think we'll get to it but that's an important (unintelligible) and we can talk about that.

Man: Jeff, thanks, just a quick comment, I mean I've heard second round and second level and I'm (unintelligible) I mean it's two different issues here, right, one is that as long as everyone is clear (unintelligible) the comments followed in quick succession (unintelligible).

Jeff Neuman: Thanks, (Sean). Appreciate it.

Man: Yeah, just a quick comment I guess it's priorities. So when you talk about a second round, that's some time away. (unintelligible) I think certainly one of the discussions that was active at the board (unintelligible) GAC at the time, was the original request was protection at first and second level.

The board at the time only felt, to go as far as the top level, with respect to this round. But was seeking guidance from (unintelligible) as (Jonathan) said, on various issues, one was at the second level, should there be protection, you know once (unintelligible) that's obviously important.

And then secondly, for the following rounds, is protection appropriate going forward (unintelligible) the Red Cross, no doubt other parties that are now claiming protection, you just need to look at the ICANN correspondence, the never-ending increase of requests saying their name is special and they (unintelligible) keep that general issue of protection at top level (unintelligible).

Jeff Neuman: So (unintelligible) I kind of want to get to more, I shouldn't have stopped at that point because there's a lot more but Marilyn.

Marilyn Cade: Thanks. I understand that this conversation is focused on the question related to unique protection for two particular, for (unintelligible) that are associated with two particular identities. And I want to say that very carefully. But I do think we need to, before we stop this discussion, talk about the letter that the council was copied on on December the 18 from some of the IGOs.

IGOs also have unique legal status, right, as I understand it from looking at the WGOs that are, but the council has focused on these two particular entities. So if we're to be careful not to create a precedent but creating a kind of a set of principles or conditions or qualifications that guide that, then I think we should be clear about what those are, so we're treating part of these barely but not expanding, and I think a lot of people are concerned about.

(Bruce) just made a comment about correspondence, about a number of (unintelligible) of similar treatment. I think we would need to identify just what are the principles or the legal basis that we're identifying these two groups. Because there are - the letter from the IGOs I think that (unintelligible) call out some unique status for the IGOs as well.

Jeff Neuman: I think that's a (unintelligible) Marilyn. And again I want to stress what the (unintelligible) council can consider other things. The goal of the drafting team was to assist the GNSO in responding to a specific request from the GAC. The specific request from the GAC only related to the Olympic (unintelligible), and when they were asked the question again, reiterated (unintelligible) was in their question-and-answer documents.

I appreciate that and you know that was a discussion at the drafting team had at the beginning and we kind of just answered that by saying this is what the GAC (unintelligible).

And so, yes.

Man: When I think the transcript for all of the meetings are really, really clear on what the legal basis is, it was discussed on numerous occasions, we were provided with the actual statutes involved in the various jurisdictions by the (unintelligible) that's what the RC and IOC was very helpful to us in showing us where they have various type of protections.

So you just need to read those transcripts. They've done a very good job, very clear on why we believe (unintelligible) recommendations we're going to make (unintelligible) GAC and the GNSO.

Jeff Neuman: Yeah, thank you. (Unintelligible)

Man: Yes, very quick one, just want to make sure it's being considered. Marilyn, you talk about we hopefully discuss about the (unintelligible) it's in the drafting team, it's...

Marilyn Cade: No, no, no, no, no, I just meant that the words we were talking about were...

Jeff Neuman: Let me go over what the drafting team did and then that may answer questions or may create (unintelligible). So the drafting team got together starting in (unintelligible) February time frame, had a mailing (unintelligible) one of our calls was transcribed and (unintelligible) consider all there for everyone to hear or read, and then what the drafting time did, we realized there were (unintelligible) at the top and the second level.

And given that the application period (unintelligible) very soon, you know, January 12, we looked in the two different issues in the top and second level and thought, okay, (unintelligible) we're going to recommend at the top level, it had to be done again and (unintelligible) some time to give the potential

applicants some notice (unintelligible) what these rules would be at the top level.

With the second level, we believe and confirm that what the GAC (unintelligible) really changed to the schedule in the (unintelligible) that would be signed by the applicants once they were reported (unintelligible) by ICANN. So we figured at the earliest (unintelligible) at that point (unintelligible), so we felt like we've got to solve the problem now, and then once we've come to a good place with that, it's on the second level.

So we spent really January and February focusing on the top level and then begun to ask questions, starting the deliberative process on the second (unintelligible) really had those discussions to give any (unintelligible) recommendations. And I think, as you can imagine, there was a lot more (unintelligible) controversial, I guess is a good word to put it, than at the top level.

So at the top level the drafting team went through the GAC (unintelligible) and really (unintelligible) a couple different issues. Number one is by the staff report of the board resolution (unintelligible) marks were treated differently because they did not have unlike (unintelligible) there was no strength or similarity.

Meaning that if someone applied for the exact mark (unintelligible) Olympic, yeah, that would not be allowed. If someone applied for (unintelligible) with a "k" at the end, or someone (unintelligible) MPIC applied for OFI (unintelligible) I'm just telling, that would not be protected.

There would be no strength similarity review, that would go through. Now it's true that those could be objected to (unintelligible) objection, but there was no protection.



And one of the things we talked about was well, look, the Olympic and Red Cross marks could be fully protected by the legal rights objection, but the board felt so strongly about the actual protection (unintelligible) actually protect the Olympic and Red Cross marks at the top level, because one of the rationales was that, you know (unintelligible)

The Red Cross would have to spend a lot of money, they're protected by treaties, they're protected by statutes (unintelligible) humanitarian effort and it wouldn't be, you know, we want to give them this extra protection. It isn't necessarily the same that every other trademark owner (unintelligible) to us, this (unintelligible) didn't make any sense.

I mean the more we talked about putting aside whether they should be protected at all, they ought to be protected to us in the drafting team, we thought, it doesn't make sense (unintelligible) why would this be treated any differently than dot-ICANN, with a K, or dot.IEPH with a PH. I don't know, I'm making it up, I don't know if that actually makes sense.

But you know, it didn't make sense (unintelligible) why would (unintelligible) do this, there was no commentary on that, there was no ability for us to change it. (unintelligible) So what we did, the recommendations that the drafting team came out with, we put out a number of calls and trying to scroll down here.

Essentially was, that there were three recommendations on the question at the top level. Just trying to scroll down, a lot of (unintelligible) so the first one was, oh and the other side, the other issue that nobody had thought of well if they're on this reserve list, this special type of reserve list, the Olympic Committee and the Red Cross can apply for their own marks.

I don't think that was ever discussed at the, it certainly wasn't in the resolution by the board, and it wasn't in any of the rationale. And we thought well, this doesn't really make sense, they should be provided protections, why

shouldn't they also be able to apply for their own marks. That wasn't making sense to us.

So the first recommendations was, okay (unintelligible) should have done, was to create this modified reserve (unintelligible) so you're not going to treat it exactly like the reserve names were treated in the guidebook, but that one is if the Olympic Committee, Red Cross should be able to apply for their own marks. (unintelligible)

Now we have no inside information as to they're going to, they want to, they've not told us they want to, so as far as we know, we don't know. So that was (unintelligible) recommendation number one. Second one was that we believe that the (unintelligible) should go, except for if they are applied for by the Olympic Committee or Red Cross.

If they're applied for by anybody else, they should go through (unintelligible) so that if it's determined that someone applies for a Olympics with an "x" at the end, instead of a "cs", yeah, that name is confusingly similar or there should be an evaluation as to whether it's confusingly similar just like someone would do it for ICANN, just like someone would do it for IPF or any (unintelligible) other names.

And if it failed the strength similarity review, then there should be a way for the applicant to actually have a chance to get the names if one, it gets a letter of non-objection from these groups, whichever is applicable to that or if (unintelligible) you know, if there's some evaluation or some panel that's able to find that there is no, it's not confusingly similar.

And no matter what happens of those two events, you still always have the right to object, you know if the Olympic Committee or Red Cross disagree with (unintelligible) always have the right to object to it, under whatever objection theory they believe that they have.

And there's a couple other things written into the recommendations that are real technicalities, you know, if for example the Red Cross or the Olympic Committee allow (unintelligible) a letter of non-objection to, I'm making this up, Olympic Camera, say that that was found to be similar, that that in a subsequent round the fact that Olympus got, O-L-Y-M-P-U-S, wouldn't be held against the Olympic Committee if they were to buy dot-Olympic in the next round.

So there's some of the - there's that in the recommendation as well. That's all part of the first recommendation. The second recommendation that the drafting team had come up with was an issue around the language that these marks were translated in.

As far as we understood it on the drafting team, and the Olympic Committee and Red Cross confirmed this for us, is that when they submitted their initial letter to (unintelligible) to the GAC and to ICANN, they (unintelligible) submitted a list that they called illustrative.

That these were certain translations as examples of translations of those marks, but they were in no way (unintelligible) right, so they basically said, we think for example the Olympic mark should be protected in other languages. For example, these are some other languages that they should be protected in, but they didn't really mean (unintelligible) kind of like the lawyers using "including but not limited to," (unintelligible) really mean that these are the only languages they want to be (unintelligible) in that these were just examples of them.

Well somewhere throughout the whole process the board staff took it literally and said okay, only these translations. So the GAC had asked the GNSO to protect it on every language used on the Internet, and that was the proposal.

And even (unintelligible) everybody (unintelligible) what we all said is that's not really feasible (unintelligible) similarity actually have on the list. There's

got to be a list (unintelligible) the way that the evaluator guess every language.

But what we had asked for from the Olympic Committee and the Red Cross/Red Crescent movement was a list of the specific languages that they wanted protection in, and the International Olympic Committee have sent around that list, and I'm trying to remember, if the Red Cross I believe they have it as well (unintelligible).

So they said that they would admit it by the meeting and now that they have. So the (unintelligible) languages as feasible, and the definition of feasible was really after there was some sort of rebuke of these (unintelligible) to implement the protections against that list.

And finally the third recommendation was to, that the protection should apply for all future rounds, but with a very important caveat is, like all of the new gDLT programs, they may be reviewed (unintelligible) now we didn't say must be reviewed, because we didn't want to impose an obligation, have it reviewed (unintelligible) to review it. We spent a day, and I've seen a number of comments from different stakeholder groups on this very point.

It's not that we don't think that it's good, it's not that, you know, we did, the drafting committee wants it to be reviewed if the community wants it to be reviewed. So if people from the community feel strongly about it, then (unintelligible) we were afraid of using the word must because we didn't want to delay a subsequent round if nobody really wanted to review it.

That was really the rationale, it's really that simple, there were no hidden (unintelligible) in making it harder to review, there was nothing like (unintelligible) mentality going in.

So the drafting (unintelligible) and one thing we felt was important was that we should have a session before (unintelligible) to discuss this with interested

council members and (unintelligible) the GAC, because we felt like if we were going to get these recommendations to the GAC without any (unintelligible) any kind of pre-discussion report, you know all of this discussion on the context, we really wanted, we thought it was much more productive (unintelligible)

(Unintelligible) representatives from the GAC on the call, certainly ones that were responsible for this area, they were delegated responsibility from the GAC.

This was March 2 I believe was the date, so it was on a Friday, it was attended by a number of GNSO counselors, it was attended by several GAC members, not in their official capacity but more so just to learn (unintelligible) the questions that they had asked (unintelligible) comments that they had given were not (unintelligible) comments.

But I found them to be very helpful (unintelligible) because obviously they knew, the rationale, the thinking behind the GAC proposal, and so while they were not (unintelligible) I think we could take a number of the comments as being indicative of the way that they believe the GAC would come out on certain issues.

It turned out it was a very helpful call, I think the people on the call, if I'm misrepresenting this, please speak up but I believe that (unintelligible) more supportive, recommendations (unintelligible) happens that the GNSO had pointed (unintelligible) the draft they felt were deficiencies in the GAC proposal. And they are discussing those today and I believe will be supporting these recommendations at the GAC level as well.

In between but just before the GAC session (unintelligible), the drafting team got a letter from ICANN (unintelligible) with some advice on the recommendations that we had given. We did ask (unintelligible) input, we had asked (unintelligible) at the very beginning, we started in November, for

rationale, for why the board chose to protect the Olympic and Red Cross marks before (unintelligible), why the staff implemented the resolution in the manner in which they had.

That never got delivered to the drafting team, but in the letter that got sent from the ICANN staff to the drafting team, made a couple of, I believe most of it was on the (unintelligible) as opposed to the substance, and some of it (unintelligible) but the letter basically said that they wanted (unintelligible).

They were happy with these recommendations and they thanked us for the recommendations, and they said, you know, obviously it's well thought out, but what they wanted was a report to go to the council that, or at least (unintelligible) to the board, that provided a rationale as to why we were protecting Olympic and Red Cross marks in general (unintelligible) other potential marks.

They were - they wanted more rationale as to whether we had considered other proposals, and ultimately they wanted a - they felt that, you know, before these recommendations were sent to the board there should be essentially a 42-day public commentary before the board

Now the drafting team reacted (unintelligible) try to put this in a nice way - fairly (unintelligible) to this proposal. One is that, you know, we felt that there was no public comment ever in place for how (unintelligible) implement the board resolution, and now they were asking, you know the drafting team felt that there were flaws in the (unintelligible) implementation, so there was no comment on how the staff implemented it, but now in order to fix it in our minds, all of a sudden there has to be a 42-day public commentary, which (unintelligible) figured out that a comment (unintelligible) and then, therefore could never be implemented in this round.

It was clear to us that was part of, you know none of us are against public commentary, none of us felt like there shouldn't be a public commentary, but

due to the time pressures that we were under, we felt like we couldn't have a (unintelligible) period.

So what we did, maybe to our, I don't know if it's backfiring on us or what, but we did feel that there should be some type of public commentary, so we decided to ask the staff to put this on a (unintelligible) after the GAC meeting, put it out for public comment on March 2 and it was put out on March 2.

Now there was a little disagreement from the staff as the (unintelligible) to vote on it, but because of some miscommunication or whatever it is, the public comment period unfortunately and after (unintelligible) and of course the reply period is half the (unintelligible) obviously think it is (unintelligible) if we're going to do this at the top level, all applicants need to have (unintelligible) understand, even if this were to be (unintelligible) the council at this meeting and passed by the board on March, whatever that date is, that's still not, you know, giving notice to applicants, but it's better than nothing.

So in summary, the drafting team did not consider whether there should be a public commentary or shouldn't be a public commentary, it did consider the rationale of why, of how the board (unintelligible) resolution, we were simply asked to look at the GAC proposal, we felt that if there is an issue on process and to be sure many people can find an issue on process, that's (unintelligible) that's for us to deal with as a (unintelligible) and the community, but that wasn't for the drafting team.

So I saw a lot of negative reaction to, "How could the drafting team agree to this," you know, "How could they agree to that without a public comment." Look, our role is to provide advice to the GAC sub-council on the specific recommendations, not on the process.

So I think now is a good time for us to debate the process, the public comment period, but the drafting team did, I did a consensus call by the way, on the drafting (unintelligible) recommendation, then there was an e-mail from

(Joey), which I think (unintelligible) and should have been done, and I believed before we put out the recommendations for the GAC on the call (unintelligible) did it in writing after (Joey) did the e-mail, and I sent that to the council.

All of the members of the drafting team supported the recommendations with the exception of (unintelligible). I don't know if it was constituent or (unintelligible) group, maybe both, right, so I did what I did, is, there was a number of people on the drafting team that were, you know they were, for example, there were three members from the Olympic Committee, there were several members from the Red (unintelligible) there were a number of members from the non-commercials, there was one number from the registries.

I didn't want to weigh any one more heavily to the way our group was, basically only group that was against the recommendation were those who (unintelligible) community, the ISPs, (unintelligible) BC, although they weren't officially (unintelligible) capacity, the representatives from those areas, the registries, (unintelligible), sorry the at-large, they voted in support of the recommendations. I know there's a lot of (unintelligible) in it, but I really for fairness, did not want - because the drafting team they (are) staffed by different groups...

((Crosstalk))

Jeff Neuman: ...figure out a fair way to do it. But either way you look at it - oh just - running out of time, sorry. Either way you look at it we believe - or I believe as the Chair - and others can disagree - that we had at least rough consensus for (unintelligible). With that let me open it up for discussion. Stephane.

Stephane van Gelder: Thanks, Jeff. I do want to address that point of Joy's email to the Council. For that explanation (unintelligible) make sure that if we are getting



something from the drafting team they is truly representative of the drafting team's work.

So I think that matter has been cleared up. But if it hasn't as we will be considering a motion (unintelligible) that we pursue discussion of this we have a session where we will be working on the motions that we will be looking at on Wednesday (unintelligible) weekend. So let's use that time if we can to make sure that we are all on the same page going into Wednesday's meeting. Thank you.

Jeff Neuman: Okay let me - I'll start with a queue. I saw Mary and Zahid and Alan. Anyone else - okay. Okay let's - oh Joy, sorry. Okay I'll start with Mary.

Mary Wong: Thanks, Jeff. I hate being short. Okay we have (unintelligible). So I'd just like to make a couple of brief points of clarification that may not be new for many people in the room but to the extent that there's folks who haven't followed it or who are following this remotely only today - but before I do that first of all I want to say as a member of the drafting team that Jeff did a great (unintelligible) difficult sessions.

It's a difficult process so (unintelligible) personally I think also on behalf of my (unintelligible) thanks very much.

(Unintelligible) on the point of clarification (unintelligible) to something that you've already said that in the drafting team there was (unintelligible) and so to the extent that at the beginning folks may have thought that what we were doing, for example, that that's consensus. I think that's not the case and thank you for clarifying that, Jeff.

On the Non Commercial Stakeholder Group's position obviously (unintelligible) there's some more (unintelligible) on the list. But I'd just like to make a point that at least some of us on the drafting team (unintelligible) the fact (unintelligible) we're against the recommendation I think one thing to note

is that some of us may have (unintelligible) a package. So that may be a point of discussion during this weekend at the Council at among the different (unintelligible).

Then on the point of the public comment period our chair will speak on behalf of at least many members of the Non Commercial Stakeholder Group that for the public comment period for it to be short (unintelligible) as a way (unintelligible) done here. It was unfortunate, as you say, Jeff, that it's a little odd and (unintelligible) that the normal public comment period (unintelligible) to reply periods were taken as (after) April 12.

However I think we felt that a full public comment period is the norm and so for the public comment period to really be shortened it may have been something that ought to have been brought to the Council, for example. So I just wanted to make those points. Thank you.

Jeff Neuman: Thanks, Mary. I have Zahid next.

Zahid Jamil: Thank you. Even from the BC excellent job, Jeff, I mean, the neutrality in the way which we were able to get people to, you know, just move the process forward, congratulations on that.

I had a question about (unintelligible) and this may be the wrong time. But do tell me if this is the wrong time. But the question is an email was sent out and the BC (unintelligible) IOC and Red Cross (unintelligible) for protection.

This email just came out which had a couple of different extensions. The Red Cross, Red Crescent, Red Crystal, Red Lion and Sun and they're in all different jurisdictions.

Is there anybody who could just give us an idea because there's a lot of names here; there are a lot of extensions - just - to get some idea. We've been protecting all of these because this is - what we understood earlier was

that there would be designated (unintelligible) variations. Now we have Red Crystal, Red Lion and Sun and others. In some languages it goes into sentences.

Jeff Neuman: (Unintelligible) speaking from my own (unintelligible) so that's the question. And we should probably find some time to talk about that (unintelligible) separate session for (unintelligible).

I think we need a few minutes to digest (unintelligible). I think (unintelligible) now because I haven't even seen it. And probably most of the drafting team haven't seen it yet at this point.

I have Alan next.

Alan Greenberg: A number of points. Okay I'm speaking on my own behalf. There are a number of people on the ALAC who are very upset both with the process by which this whole thing (unintelligible) come about and (unintelligible).

There's a statement that's being drafted - and it may or may not be voted as an ALAC position (unintelligible). From my own position I'm not at all convinced that the first level protection was needed at all. Given the context of the application and the chance that if someone else does try to usurp one of these well known marks (unintelligible) rejection process it wasn't at all (unintelligible) needed. But it's there in the first round; we can't change that I don't believe.

And I felt it was really important to give them that to try to make the rules rational. One of my concerns was current (unintelligible) - if someone tries to applies for one of the marks that is similar - in particular to the Olympics - the Red Cross ones aren't nearly as controversial.

They wouldn't know that anyone - that it might not go through until way into the objection process which is quite far into the overall (unintelligible). And I

wanted to see a little bit more predictability, a little bit more understanding of the process. And under those terms I've (unintelligible). I've said I support the current set of recommendations.

On the other hand if these recommendations do not get approved and put into the first round Guidebook that support is not there. And I believe we need to take the next (unintelligible) and look at it. So although I support saying if we do it this round we should continue next round unless we change it, fine. But if we don't do it this round according to what we're specifying today I think all bets are off and I think any council motion should allow for that. I think that's really important.

And lastly when you start looking at the letters from the NGO, when you start looking at the nice - very nice comment made on the question the Board raised on competitive - on defensive gTLD applications (unintelligible) and the issue of the GPL - GPNL - which was yet another process for saying certain top level domains cannot be available to some people.

We often talk in ICANN about then edges of swords and we don't want to do it because it may be the first (unintelligible). This is a real thin edge of the sword one. And there's all sorts of people who want to protect (unintelligible) first and second levels. And I think we have to be very careful what we do. Thank you.

Man: Thanks, Alan. And, you know, in my (unintelligible) remarks I will support your final remarks. So let me start with this, you know, on the first hand this looks like a simple issue to organizations where (unintelligible) protection and (unintelligible).

So but if you are (unintelligible) issue it gets so complex. And it might conclude (unintelligible) have to be very careful and to be aware about the (unintelligible) implications you have. If you (unintelligible) something (unintelligible) on paper and make a decision.

I think Jeff and in so far, you know, this was a very clever move for us that you took (unintelligible) accepted this and (unintelligible) started on this level by saying okay, you know, this is not (unintelligible) we are moving here. And in so far the group did really an excellent job.

We've just ignored, you know, what was behind the wall and say, you know, this is not (unintelligible) and although we have no responsibility for (unintelligible). However if we come to some concrete recommendations they have to be aware that this has implications.

And, you know, you have referred to the joint telephone conference with GAC members. You know, I ask the question there, you know, whether it will be (unintelligible) GAC because the GAC supported the IOC and the Red Cross and what about the other letter - Marilyn has referred to the other letter.

And (unintelligible) for the moment say, you know, Red Cross and the IOC are so exceptional and (unintelligible) and all this so this will be the only exception and nothing else will come.

So (unintelligible) is there any guarantee that nothing will come?  
(Unintelligible) this now we are (unintelligible) and we will be confronted with endless tape, endless (unintelligible) organizations will, you know, just argue that they have a similar status or they are also important and they (unintelligible) whatever as the Red Cross and the IOC.

They will come with legal treaties and legal references. It means we start a new (unintelligible) for a very long (unintelligible) discussion we will have to go through all this individual (unintelligible) we can stop it. So my recommendation is based on (unintelligible) be done here really to reduce our mandate and to say we are talking about the top level the first round (unintelligible).

So and then we are looking for a language (unintelligible), you know, reflect the special needs but put in a very concrete way it was (unintelligible) organizations. But, you know, giving (unintelligible) which already in the Guidebook because, you know, to be realistic I don't know (unintelligible) know it better, you know, whether there is one application, you know, (unintelligible) conflict this is.

So - but (unintelligible) in the first round on a case by case basis that we see (unintelligible) a proposal pop up and then we will see how we can handle this. Instead now, you know, (unintelligible) and then, you know, the only thing we've achieved is not to reject a proposal which is not on the table but we open a box to know for further engagement of other, you know, groups which take this as a springboard and have (unintelligible).

And so far my recommendation is be very careful if it comes to concrete language, being as general as possible, taking this - it's a good starting point but (unintelligible) which would (unintelligible) organizations, you know, to (unintelligible) they want to have and which is justified. So I have nothing against this (unintelligible) but it has to be in line with general rules. Thank you.

Jeff Neuman: Okay. Stephane's going to interject and then I'll (unintelligible).

Stephane van Gelder: No I just had a request from staff if you can all start by mentioning your name when you speak please that helps (unintelligible). Thank you very much.

Jeff Neuman: Okay in the queue I have Joy, J. Scott, I'll put myself in and Thomas. Joy - sorry, who else (unintelligible), Chuck (unintelligible). Okay so Joy.

Joy Liddicoat: Thank you. Joy Liddicoat. And I would reiterate thanks (unintelligible) for your chairmanship (unintelligible) difficult and at times very (unintelligible) as a group and thank you very much, Jeff.

I'm aware (unintelligible) decision (unintelligible) the Board that's being implemented (unintelligible) Applicant Guidebook and the working group (unintelligible) that its task was to - to seek to implement that decision.

Nonetheless a number of our stakeholder group members feel very strongly (unintelligible) point of principle that disagree with the Board's decision in relation to protection of the IOC and the Red Cross. You know, I just (unintelligible) that, you know, for the record.

And for the benefit of community members who are listening to (unintelligible) of the working group expertise I would just like to flesh out some aspects of the working group discussions so that - and to provide some evidence that the working group had thought very carefully and widely about the recommendations.

(Unintelligible) and the fact that's partly why our concern is not to support the recommendations as (unintelligible) because we feel (unintelligible) those discussions.

For example the working group considered seven options for implementation of the Guidebook. In fact a number of those seven options had sub-options in them. And also there were further options tabled subsequently. And so I think (unintelligible) at least options in (unintelligible) that the working group considered.

And Recommendation 1 (unintelligible) Council (unintelligible) one option that was ultimately worked through. And not rejecting (unintelligible) lack of support for (unintelligible) we did nonetheless want to make for any recommendations came before the Council (unintelligible) very much (unintelligible) Recommendation 1 as workable - as a workable option.

We also discussed in the working group separating out the treatment of the organizations, the IOC and the Red Cross (unintelligible) for example (unintelligible) nature of the issues in Greece in relation to the (unintelligible) that which (unintelligible) period that were unique to the treatment of the world Olympic and its history and its culture in Greece there (unintelligible) Red Cross Red Crescent as an organization (unintelligible).

So we felt that the Council (unintelligible) benefited (unintelligible) ability to understand the nuances and the treatment of the two organizations and to have split recommendations in relation to (unintelligible).

And that this was also why members of our constituency also felt quite strongly there should be a review after the first round and understand the point that you've made very eloquently about the permissive use of the word "may." But nonetheless I think there are some strongly held views about the (unintelligible).

Finally in (unintelligible) Recommendation 2 I think (unintelligible) in relation to the extended list of languages in which the names are protected essentially boils down to (unintelligible) standards which (unintelligible) under question are quite (unintelligible) under at least 40 different languages and did not (unintelligible) as far as 195 names (unintelligible).

And I, like others, have not been (unintelligible) being provided (unintelligible) pragmatism in order of (unintelligible) decision. It does seem (unintelligible), you know, the GNSO Council and indeed the GAC (unintelligible) allowed (unintelligible) under international law.

So these are (unintelligible). We remain open (unintelligible) recommendations during the course of this weekend before Council votes on it and considers these (unintelligible) and look forward very much to getting viewpoints from stakeholder groups (unintelligible) stakeholder groups and also from members of the community. Thank you.



Jeff Neuman: (Unintelligible) I got J. Scott. They're telling me that we only have a few minutes (unintelligible) conversation. (Unintelligible) to prepare for (unintelligible) motion (unintelligible) and we also have (unintelligible) for our (unintelligible) meeting with the Board and GAC (unintelligible) and also that'll give us some time to look at the list (unintelligible).

Let me go with J. Scott.

J. Scott Evans: Okay the IPC has supported the recommendation. I'm speaking here as a member of the drafting team not as the official position of the IPC. So basically I think all this argument about processes or repairing, I mean, I don't see anybody upset or bothered about (unintelligible) we have an implementation that's gone to (unintelligible) that every time they implement something we're going to have (unintelligible) and I don't hear anybody crying that.

The red herring that everyone else is going to get in line and line up and want to have a (unintelligible) that's (unintelligible) has to do it. I mean, it's not like because we did it here we're always (unintelligible) has to do it. We are - my understanding the drafting team was asked by the GNSO to put together a recommendation based on a request from the government (unintelligible) and that's what we have done.

And so I think that, you know, we could have (unintelligible) we need to come up with a constructive (unintelligible) solution with regards to the questions we were asked. That's what I wanted to do is to concentrate on the solution. And that's what the drafting team did. And I think Jeff (unintelligible). And now we can have some discussions about the process I guess for the GNSO because that's what they (unintelligible) or shepherd the process.

But I think it's a red herring, you know, we've been very clear if you have any question about what the rationale is (unintelligible) for the discussion because it is very clear (unintelligible) why these recommendations were done.

It is very clearly set out why people disagreed with these recommendations in the transcripts as well, I mean, it's not all one-sided. Jeff was very good in allowing everyone to have a platform to make their case for their particular perspective. So if you have any questions about, you know, the process or the thought it's all in the transcripts.

Jeff Neuman: Thanks, J. Scott. I'm taking myself out of the queue at this time. Thomas.

Thomas Rickert: A lot of concerns have been raised during this call and (unintelligible). And I take (unintelligible) very seriously. (Unintelligible) J. Scott that for this particular debate this is actually a red herring. (Unintelligible) talk very much on delivering because if the GNSO fails to deliver on this one I think the rest (unintelligible) much higher rather than (unintelligible) violates procedure (unintelligible).

Nonetheless I think what we need to do is to clarify what things went wrong and where but that's a different discussion. And I would like (unintelligible) to that and (unintelligible) have been no exemptions in the original GNSO recommendations (unintelligible) and Board came up with (unintelligible).

So I think (unintelligible) that I think we need to carefully look at what needs protection, where does this come from (unintelligible) on that but that's for a different discussion.

Jeff Neuman: Thanks, Thomas. Lanre.

Lanre Ajayi: Thank you. Thank you very much. I (unintelligible) the major (unintelligible) expressed (unintelligible) is about setting precedent especially with respect of other (unintelligible) take advantage of (unintelligible) recommendations.

And I was wondering is this concern about taking care (unintelligible) the drafting team has recommended that this (unintelligible) to review. So if they are precedents and they are causing a problem I believe that (unintelligible) review period. Thank you.

Jeff Neuman: Thank you. The last two I have are Chuck and then John.

Chuck Gomes: Thanks, Jeff. Chuck Gomes and I represent the Registry Stakeholder Group on the drafting team. Some of you may have seen that the registries have already posted comments on this on the comment period that was opened up a little while ago. And some of that I'll repeat here (unintelligible) all of it and I'll probably add a couple other things.

First of all the Registries were very concerned about this whole idea before the GAC ever sent the letter that we responded to. Our biggest concern was with regard to undue precedence set. (Unintelligible) GAC sent their letter we were very favorably impressed with the careful and detailed analysis of the characteristics of these two categories of names.

And we agreed I think unanimously - certainly no objections - (unintelligible) that the GAC set out a very strong case for the uniqueness of these two categories of names within international law which I think most of us here know was a key characteristic of GNSO recommendations for new gTLDs. We based (unintelligible) on international law.

In fact we think that the GAC gives a very good rationale that the GNSO could use as well. Now interestingly enough we also think that when the IGOs made their request it provided a good test of the GAC conclusion that the Red Cross names, the IOC names were indeed unique. And in fact it seems to show that it does not meet the same criteria of these two.

Now with regard to Wolfgang's question could there be more? I think there could be more; I don't think there would be very many but I'm thinking nothing rules out there being another name that would meet the same criteria that these two categories of the names meet. So I think that's possible. I don't think it'll be very prevalent. That's my opinion.

In the Registries (unintelligible) that there is a good rationale and that it will not present undue precedence and we say that in our statement. Now with regard to timing the Registries (unintelligible) that once (unintelligible) process starts, which will be some time after May - May 1 I guess when all the names are announced - that the two changes - especially the change with regard to review of confusing similarity be in place at that point in time.

And it's really important (unintelligible) that's going to happen or not before that process starts otherwise it will create some complications that are probably unneeded with regard to the evaluation of new gTLDs.

So the - so we support making some exceptions with regard to timing and we certainly agree with everyone else that any exceptions like that should be made with extreme caution and with very strong support.

So no agreement in that at all but we believe in this case that an exception with regard to timing on public comments that we strongly support (unintelligible) in the public comment period when it happens be May because it's not just the GNSO Council that has to make a decision on this. We have to then take it to the Board and the Board has to make a decision on this; it's the Board that ultimately makes the decision.

And so if we don't expedite this we're going to have to come up with some other ways to avoid the complications with regard to the gTLD review process. Thanks.

Jeff Neuman: Thanks, Chuck. And then John gets the last word.

John Berard: That's very unusual. John Berard from the Business Constituency. As much of a (unintelligible) chaos as I am I do think that the work of the drafting team is well done and well intentioned whether it not it takes us on the road to hell I don't know.

But I am suggesting that there may be a couple of things that are implicit in the recommendations that we might want to make explicit. The first one (unintelligible) we are being responsive to the process which is that when the Board issues a resolution asking us to (address) something that the Council then addresses it.

But we are not, I think, suggesting that this is a process by which anyone seeks to gain this kind of status (unintelligible) would take. I'm not suggesting, I mean, otherwise we're - we are suggesting that all one would need to do is lobby the Board and the GNSO would be responsive.

The other is that we suggest that it may be reviewed before the next round. And I think it would be - we should explicitly decide at least a couple of (unintelligible) ways in which that could be opened. So, yes, May but how and when and why so those two things, Jeff, moving from the implicit to the explicit in those two areas.

Jeff Neuman: Thanks, John. And I (unintelligible) last (unintelligible) the last word (unintelligible).

Man: Yeah, thank you everybody and it's really good to see you again. So here is my personal (unintelligible) to the extent that - so first the implementation was made with (unintelligible) the lack of similarity review and the fact that it's not really a (unintelligible) name and understanding the other protections.

And they understanding was that that was the implementation of the Board's direction; that it wasn't a reserved name so there wouldn't be a similarity

review. I think that - so I just wanted to say that (unintelligible) open with full understanding of all the implications of it.

I - from my own personal standpoint I think GNSO recommendation that it should be treated (unintelligible) even though it's not a reserve name (unintelligible) something or other - the GNSO recommendation that it should be treated as a reserve name as far as there being a similarity review is not a big deal - the recommendation.

The GNSO should consider though it's a change to the Guidebook and those have to be sensitive. So that's one thing that you need to do.

My second point is that creating a mechanism for delegating very similar names that (unintelligible) is a bigger deal. And there's different opinions (unintelligible) the policy that confusingly similar names should not be delegated. And so that, you know, I think requires a deeper discussion before we make that change.

So making it more like a reserve name, not a big deal, but still a change to the Guidebook delegating similar names creating a mechanism for that I think is a bigger policy issue and that's what requires public comment (unintelligible).

Stephane van Gelder: Okay thanks, everyone, for that discussion. I'm going to close it off now; we're already late. There is an option if - and I'll just leave this with you guys for now and just have a thought about it. Tomorrow we have a session - thanks, Glen - tomorrow we have a session that has been cancelled that was planned from 12:00-12:45 so we can either take a long break and go to the gym or we can discuss this further or some other points that we feel need further discussion during today's discussion for example.

This is obviously something that there's a lot of ongoing discussion to be had about. So we may want to reintroduce a session that was planned from

12:00-12:45 tomorrow either on this or another topic. This looks like a good candidate. Give that some thought and I'll ask all of you guys what you think about that later on today.

Thanks everyone for this. Thank you, Jeff, once again to echo the compliments that you have been receiving; excellent work on this. Thank you to the whole drafting team for their work on this.

Operator, please close this session and we'll start again immediately with the RAA.

END