

**ICANN Prague Meeting**  
**IOC/ RC/ IGO PDP - TRANSCRIPTION**  
**Saturday 23rd June 2012 at 11:00 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.

Man: Okay, I don't know, have we started the recording?

Coordinator: The recordings have started.

Jeff Neuman: Great, thank you. I want to start before we get into this is actually want to do a roll call of the people that are at the table and so the councilors that are present as well as those that may be online, just to - I didn't do this earlier because people were trickling in.

But now it seems like we have a good amount of people. So if I could ask Glen to do a roll call.

Glen Desaintgery: Jeff Neuman?

Jeff Neuman: Present.

Glen Desaintgery: Ching Chiao?

Ching Chiao: Present.

Glen Desaintgery: Jonathan Robinson?

Jonathan Robinson: Present.

Glen Desaintgery: Yoav Keren?

Yoav Keren: Here.

Glen Desaintgery: Mason Cole? And as we know Stephane will be in later, Thomas Rickert?

Thomas Rickert: Present.

Glen Desaintgery: Zahid Jamil?

Zahid Jamil: Present.

Glen Desaintgery: John Brerard?

John Brerard: I am here.

Glen Desaintgery: Brian Winterfeldt?

Brian Winterfeldt: Present.

Glen Desaintgery: David Taylor has been delayed and he may only be coming tomorrow.  
Oswaldo Novoa?

Oswaldo Novoa: Present.

Glen Desaintgery: Yes, Wolf-Ulrich Knoblen?

Wolf-Ulrich Knoben: Yes, present.

Glen Desaintgery: Bill Drake? Wendy Seltzer?

Wendy Seltzer: Here.

Glen Desaintgery: Rafik Dammak?

Wendy Seltzer: I believe Rafik was delayed on his flight.

Glen Desaintgery: Thank you Wendy. Joy Liddicoat?

Joy Liddicoat: Here.

Glen Desaintgery: Wolfgang Kleinwachter.

Wolfgang Kleinwachter : Yes.

Glen Desaintgery: Lanre Ajayi?

Lanre Ajayi: Present.

Glen Desaintgery: Carlos Aguirre?

Carlos Aguirre: Present.

Glen Desaintgery: Alan Greenberg?

Alan Greenberg: Here.

Glen Desaintgery: Hanchuan Lee? I don't think we have Hanchuan here. I called your name didn't i. Yeah, I did. And for staff with us Liz Gasster, Margie Milam, Marika

Konings, Julie Hedlund, Brian Peck, Berry Cobb, I know David was here earlier, David Olive and that is for the council Jeff, would you like people in the audience too?

Mary Wong: You forgot me, that's okay.

Glen Desaintgery: Mary, I'm very sorry, yes I did indeed.

Mary Wong: I can leave.

Glen Desaintgery: Around the table we have J. Scott Evans and is there anybody else that I missed?

Jeff Neuman: Well if we could just do - I think going through the audience would take a little too time, so why don't we just - how about the ICANN staff that's present, let's get that on the record and then move on.

Glen Desaintgery: We've got them, thanks.

Jeff Neuman: Did I miss that? Sorry. I do listen to everything, really.

Glen Desaintgery: Okay thank you Jeff and that's everybody around the table.

Jeff Neuman: Thanks Glen. So the next topic we have really is kind of the two fold one, is to give you an update on where the drafting team is for the internets Olympic committee, Red Cross Red Crescent issue and then to go into the preliminary issue report for the protection of international organization names and new gTLDs.

So the update from the drafting team, I'll give a real quick one and we'll start with that update and then we'll go to the presentation and then we'll take questions and comments.

On the drafting team I think everyone knows since the last meeting in Costa Rica we actually held a special meeting. Talk about the top level protections of the drafting team had come up with.

That was approved by the GNSO, that went to the board, the board declined to approve those recommendations, citing mostly a lack of time and not wanting to change the status quo.

And so those top level changes weren't adopted. It turns out with the reveal there were no Olympic or Red Cross applications that I saw or ones that were - that would have been captured by the recommendation so it seems like we're okay there.

The role of the drafting team after the top level recommendations was to discuss the second level recommendations for this next round. In the interim after that the - there was a motion that was approved and the preliminary issue report is in response to that motion to start the small letters, P process on the protection of international organization names and new gTLDs.

So that was approved in April I believe if I got my months correct and then since then the drafting team has still continued to meet. We had a council meeting two meetings ago where I think we decided to continue to work on the drafting team as it is and if the council wants to address that at this meeting or the next - on the meeting on Wednesday to address the status of that they are certainly welcome to do that.

But at this point we've indicated to the GAC that we're continuing the status quo, the drafting team is still working. Sad to say though on the progress of the drafting team up - since the last meeting has not been so great, we've had several I think very good calls with the international Olympic committee and the Red Cross talking about some of the legal bases and rational for the protection of these organizations.

Those were well attended, there are transcripts from those meetings and right now we're in a process of asking each of the stakeholder groups, the constituencies, to come back with now that they've heard the presentations by the Olympic committee and Red Cross is to come back for additional questions or come back with initial viewpoints on the GAC proposal which was submitted in September which I know they're going to go over now.

Brian will go over a little bit in his presentation that's covered in the report. So again the update from the drafting team, we are meeting here on Wednesday I believe at 8:00 am and we'll try to make some more progress there.

I strongly encourage all of the stakeholder groups, constituencies and advisory committees to have those discussions before that Wednesday session so we can have a productive session and move it forward.

With that let me go to Brian to give our presentation on the preliminary issue report and then we'll take questions from - questions and comments from the rest of the council and those that are out there.

So Brian?

Brian Peck: Good morning everyone, thank you Jeff and Jeff thank you because you've already covered some of the background that's going to bring us up to date to where we are right now, so appreciate that.

As Jeff mentioned you know the council did approve the drafting team's recommendations for protection of the IOC and Red Cross names at the top level for the first round.

That was declined, those recommendations were declined by the new gTLD committee of the ICANN board in April for the reasons that Jeff stated.

Since the Costa Rica as well as council's aware the board issued a letter on March 11 to both the GNSO council and the GAC requesting for policy advice on whether to protect international government organizations, IGO names at also at the top and second levels.

The GNSO responded that it will defer any action on this particular request until the GAC first provides its policy on the board feeling that it would be appropriate given the nature of IGOs to first work with the GAC on determining what type of recommendation the GAC might determine once the GAC decides to do so and does submit that the board, the GNSO felt that was more appropriate than to take any sort of action in response to that.

In addition in April GNSO council adopted a motion requesting an issue report on special protections for international organization names and acronyms at the top and second level for all new gTLDs.

This includes the Red Cross, international Olympic committee and IGOs. Hence, the issue report covers not just the Red Cross and IOC but the IGO issues as well.

Where we are right now as you know the moratorium that was a result of the board resolution from Singapore, the prohibition of the use of IOC Red Cross names at the top level for new gTLDs expires with this initial round of applications.

So there's currently no protections at the top level for the IOC and Red Cross names in future rounds. In addition there are currently no special protections for the IOC and Red Cross names provided at the second level.

As Jeff mentioned the drafting team is currently working on evaluating the GAC proposal as well as possible other recommendations for protection of these terms on second level.

The preliminary issue report and the public comment form related to the preliminary issue report were both started, or published and opened on the 4 of June.

The public comment period is currently open. In addition, in response to the GAC proposal from September of last year recommending that permanent protections be provided or extended to Red Cross and IOC names at both the first and second levels for all year round.

The response to that is that the drafting team is presumed to work on that and (unintelligible) the GAC proposal and possible recommendations.

And the GNSO provided that update to the GAC on - with a letter on the 7 of June. So that's where we are currently right now, as I mentioned the preliminary issue report was published on June 4.

The objective basically is two-fold, one is to define the type of organizations that should be evaluated in any related PDP, so it wouldn't be initiated for any such protection at both the top and second level.

And the second is to describe how the PDP could be structured to analyze whether ICANN should adopt policies to protect any such organization names at both the top and second level.

The scope includes both IGOs and non-government organizations, and again at both the top and second levels of new gTLDs.

The report briefly outlines current protection that are available at both the top level and second level, for example at the top level you have the review and objection process, currently underway for the applied for strings.

We're all aware of the big reveal on the 13 of June, now that the names are publicly available organizations have a\n opportunity to review the names that

have been applied for and take you know be able to avail themselves of the objection processes that are available under the applicant guidebook.

Including our addition there are legal rights objections that may be applicable to IGOs, you know for example if they meet the criteria for dot int names such as being established by a treaty among governments, and/or why we recognize as having international personality and is subject to international law.

If they're going to meet that criteria they could make themselves available for using the rights objections available for new gTLDs.

The independent objector has been appointed and again is to act solely in the public interest and then you have the PDDRP process for holders of award mark specifically protected by statute or treaty.

On the second level currently available protections include the trademark clearing house, trademark clearing sponsors and sunrise protections, the PDDRP is also available for the second level.

And you have the uniform rapid suspension system which provides for a more quicker process than the UDRP.

In addition kind of somewhat related to this matter of what's currently available in terms of protections of both the top level and second level for organization names, the staff recently submitted a board - a director briefing paper on the issues related to concerns over the need or perceived need of second level defensive registrations in view of current protections.

That was submitted to the GNSO council on the 4 of June, that is something that looks at again what are currently available in terms of both the top level and second level for names in these organizations and whether that is sufficient enough.

Or whether indeed there needs to be additional policy advice or developments, policy developed to address the need for second level defensive registrations.

The preliminary report also suggests issues to explore if a PDP were to be initiated including the definition of international organizations to try to define what is the scope in international organizations that would be you know qualified to be able to avail themselves to special protections.

Quantifying the entities to be considered for special protection, in doing some basic research, for example there are over 5000 IGOs, there are over 35,000 non-profit NGOs.

Obviously that is a tremendous amount of numbers so a PDP is to be initiated is recommended to take a look at how to quantify you know within that what subsets might be eligible for special protections.

Another issue to explore would be the scope of protections under international treaties currently existing as well as domestic laws for the protection of Red Cross and IOC names.

Looking at the US law for example there are certain exceptions. These could be useful for the PDP process to determine what if any limitations might be placed on protections to help protect you know currently legitimate uses of such terms.

Another issue recommended would be to distinguishing between the Red Cross and IOC from other organizations.

There are certain similarities that are listed in the report and there are certain differences, certain similarities include for example you know the same level

of international recognition and being non-profit organizations that the Red Cross and the IOC are.

Other types of similarities include the amount of influence or the number of countries where they operate. Basic differences include you know the specific treaties and national laws that protect the IOC Red Cross names that aren't available for IGOs.

So it's important to maybe to try to look at the similarities and differences to help maybe distinguish and whether these distinguishing characteristics of these organizations would be important in determining what type of protections if any would be available for these organizations.

Another issue recommended would be to looking into establishing the objective set of criteria to determine which international organizations would qualify for any special protections.

Again as we've seen with the cost and with the IGOs, there is the risk if you will that the board, the GAC, the GNSO council will be you know inundated with hundreds if not thousands of requests from individual organizations.

It might be helpful to develop a set of criteria so that you would have a set that could be weighed against when you have organizations coming forth with request for special protections.

The staff recommendation for the preliminary issue report is for the GNSO council to consider whether or not to initiate a PDP as an approach to develop any additional policy advice in response to the board request and initial protections.

Keeping in mind that the three elements that are kind of outstanding that were taken into account in both issuing the request to issue a issue report and the scope of this issue report.

One is you have you know the Singapore resolution from last year, where the board basically you know again imposed a moratorium at the top level for the first round for IOC and Red Cross names.

But only you know for that first round until further policy advice is received from the GNSO council.

You have the March 11 request for policy advice and IGO names, and then of course you have the GAC proposal from September of last year recommending permanent protection both the top and second level for Red Cross and IOC names.

If a PDP is initiated staff recommendations suggest that the scope is limited to IGOs and non-profit NGOs that are protected by treaties and national laws and multiple jurisdictions.

The other recommendation or suggestion would be is that if a PDP is to be initiated the GNSO council carefully consider the context of the minimum required timeline, the workload issues and the need probably for additional resources to meet the demands of a PDP, especially in light of any possible recommendations that might come out of it at both the top and second level.

A clear example of this would be is if a PDP were to come out with policy recommendations for the second level given that the current timeline would call for the designation, the new top level sometime earlier next year.

And given the timelines, minimum timelines required for PDP take that into consideration whether that would be feasible or not. So something to consider if indeed to at the time of the GNSO council considers whether to initiate a PDP on this preliminary issue - or the final issue report.

Next steps, the (unintelligible) team as Jeff mentioned has a working session scheduled on the 27 of June, it's coming - the public comment reply period closes on the 16 of July.

ICANN community is encouraged to participate in the public comment process and also to comment again the scope of the PDP should be if one could be initiated, whether it should only be international organizations that are non-profit and our covered and protected by treaties and laws and multiple national jurisdictions.

Or whether it should be expanded to include other types of international organizations such as IGOs. Once the public comment period closes on the 16th, staff will review published comments summary report.

Staff will then publish and submit a final issue report to the council at which time the council will then consider whether to initiate a PDP on this issue.

Some additional resources, the issue report itself, the public comment form and then as I mentioned on a related topic the defensive registration briefing paper that was submitted to the council on the 4 of June.

That basically concludes the presentation.

Jeff Neuman: Okay thanks Brian, let me start a queue, I see Jonathan, I already put myself in as well. Really quick you said the reply period but the regular comment period doesn't close until when?

Brian Peck: The 25 of June.

Jeff Neuman: Okay, just to clarify, okay so I have Jonathan, I have myself, Zahid and Thomas and Chuck. Okay, so let me start with Jonathan.

Jonathan Robinson: Thanks Jeff and thanks Brian. I mean first of all I'd like to compliment you guys on ongoing good work and I think it's positive affirmation of our decision to continue the work of the drafting team to deal with this sort of second phase or part 2B if you like, Part B of the work.

So it's great to see and it was a helpful presentation to understand where things are going. My question really relates to in a sense this peripheral issue relative to this one which is this second level defensive registrations briefing paper.

And to the extent that I think I understand that you guys are not tackling that, it's just - you've just brought it up in the context of your work, so I think the question then for us as a GNSO is if you aren't tackling it which I understand you're not, where or how are we going to deal with this item?

And so it's for all of us, I'm not sure the answer is available right now, if anyone's got any suggestions or comments in response to that, I appreciate it. That's the question.

Jeff Neuman: Thanks Jonathan, I look at Brian, you want to make a comment on that or...?

Brian Peck: Sure, I mean the paper itself came from a board directed motion, for the new gTLD committee that staff prepared back around (beefing) papers provided to the council to consider whether I think the basic question is whether the current number of protections available at the top and second level are adequate to address this proceed need that they found in the community that came about from the public comment period this year.

Which basically was for the top level unless the comments address the second level concern. And so the board seeing that you know asked for this (beefing) paper to - for the council to consider as I said, whether there needs to be further you know either a look at this issue or whether further advice should be developed to address this concern.

So we've brought the - you know in the context of this presentation as you pointed out correctly, this is not part of the scope of the issue report or the work of the drafting team.

Somewhat related because again when we look at this whether initial protection should be extended to these organizations, you know the question comes as to whether the current level protections are adequate or not.

So within that we thought it would be you know helpful at least to bring this to the attention of the council and to the community.

Jeff Neuman: So let me just ask then maybe to the floor have we gotten this briefing paper yet?

Brian Peck: Yes, it was submitted on the 4 of June, Kurt sent it to Stephane and Stephane distributed it to the council on the same day.

Jeff Neuman: Oh sorry, okay.

Brian Peck: That's okay, and there's a link to it as well, so it's in the council email archive list and it was distributed by Stephane on the 4th.

Jeff Neuman: Okay so I've added Mary to the list, my own comment on the preliminary issue report, something I'd like to see in there that's not in there, sorry I took some notes here, just want to read it.

There's nothing in the issue report about the rationale board news in organizationally providing the protections for the IOC and the Red Cross, so you get a lot of the rationale that the GAC had, some of the rationale the work team had.

Part of our big problem that we've discussed many times is we have no idea what the rationale that the board had and in fact I went back just now and it's still adapted out of the floor.

The June - it was a June 20 meeting, it was the briefing papers, Singapore, it's all redacted, the part about the rationale that was used.

It's all quote privileged and confidential. That is key for us, we've been asking for that ever since the drafting team started, still don't have it. And I think without that information, the preliminary issue report is incomplete at best.

We're all trying to make assumptions as to how the board came about and even if it's kind of - even if the answer is the board didn't have a rationale, which I'm hoping is not the answer but if that's it, we at least should know that.

Get that out, just say that the board did it because they wanted to move forward with the process. That's better than not saying anything because right now it's just two pages of quote, privileged and confidential.

That's what it says and that's just not good enough for us. You know if the board deemed it appropriate to protect those marks, then let's find out why. So that's there, the other question I have is part of a reference in the paper on possibly using the criteria that ICANN uses in dot int.

And then it lists the criteria but there's nothing in there about the experience of ICANN and what the process is within ICANN, the approval process, what are some of the issues that they've had with approving dot int if they have.

You know so what's - did they basically approve every request? Or is there some - do they constantly get requests that are turned down? I don't know, in fact there's very little known about the ICANN operation at the dot int registry.

And I think that's one of - a bigger broader issue we've been asking for a while. But that should be in there if that's one of the recommendations that we consider.

There's also a reference to the clearing house being able to accept IGO names that are protected by statute. Has there been any kind of research as to how many of those names are protected by statute.

And what the plans are (unintelligible) implementation to accept those? Because I haven't seen that in the implementation documents for the clearing house.

ICANN staff asks - so in this they ask - in the preliminary issue report it asks the working group to examine the legal basis for the protection of the IOC and the Red Cross and we've done some of that on the drafting team.

But we'd like actually the legal research that's been done by ICANN staff and by the GAC in coming to those same conclusions. You know we haven't gotten those either.

Yeah, those are my questions, so they're just things to consider and I guess - I hope you consider that my public comment because I don't know if I can get it written down by June 25.

So with that let me go to the next person is Zahid and then I'll add Alan to the list.

Zahid Jamil: Thank you. I was looking at the slide with sort of suggested protections and - or existing protections at the top level and then there was one that said same protections at the second level.

And the three items mentioned that it was sunrise, I think it was something in PDRMP kind of thing. And it was URS. It's my understanding that URS and

I'm looking at the 4 of June 2012 proposed draft procedures says that these proceedings are for trademarks.

It says that a complainer could outlining the trademark rights would file this action. And the - it is my understanding and I think I'm right is that the IOC - the Red Cross names are actually not trademark.

To that extent the URS wouldn't apply is my understanding to as a protection at second level for Red Cross and you may want to clarify that in this slide.

Unless I'm wrong and somebody has a clarification of that. So you might have to think about how would they be protected at a second level?

And you can't do that using what we designed for trademarks.

Brian Peck: No, and that's the point I think keep in mind too that the scope of the preliminary issue report is not just the Red Cross IOC, it's all IGOs. And so the URS might be applicable for some organizations and as the issue pointed out it's not for all, so.

Jeff Neuman: Okay, thanks Zahid. I'm just looking - sorry before I go to Thomas I'm looking back at the ICANN announcement page, I don't see that briefing paper on there.

Maybe that's why I missed it.

Brian Peck: It wasn't published on the announcement, it was sent from Kurt to the GNSO council.

Jeff Neuman: Okay, that could be why I missed it. I get a lot of emails. So yeah, so okay that's - you should probably take some time to discuss that. I have Thomas next.

Thomas Rickert: Thanks Jeff. First of all thanks for the issue report, good luck. Very helpful. On Page 33 and 34 you write about scope and you quote the bylaws of ICANN.

And then test whether this particular task falls under the scope of what ICANN can do. So you quote the bylaws and then say basically whether to grant additional protection to new gTLDs to international organizations is within the scope of ICANN's mission, so on and so forth.

And then come later four or five criteria which you answer to conclude that there are - that this is within the scope. My question to you is whether these five criteria are sort of official test questions to see whether certain task is within the scope of ICANN.

I haven't seen that being the official test, but I might not see the complete picture and if it weren't the case, I at least don't understand from the line of argumentation that's used in the paper why special protection should be granted to special user groups.

And derive that from ICANN's bylaws. And when there was a discussion surrounding reserve names and all that, we would talk generally about protections and the right protection mechanisms that we see now are general protections for all user groups.

So I don't see in this paper the link between the bylaws and the justification for us to make exemptions and grant special protections. I'm not saying there shouldn't be any, but the way it's phrased now basically says to test this, and then the answer is yes.

And I think that's a little bit short because then basically that would open the floor to whatever exemptions there might be requested by whatever requesting parties.

Jeff Neuman: Brian, you want to...

Brian Peck: Yeah, no thank you, sorry. I mean I think the purpose of the issue report is to - is for the council to consider you know whether to initiate a PDP to look at that issue whether indeed you know any special exceptions would be provided or any special protections I should say should be provided for a certain group.

Or you know certain organization, so I know then general exceptions.

Thomas Rickert: Yes but the paper states it as a fact that this is within the scope of ICANN's bylaws and I don't see...

Brian Peck: I think what it says is it's within the scope of being the subject of consideration under a PDP, it's not saying that as a fact that there should be you know if it's within the scope of providing special protections for a certain group of organizations.

I think the announcement there is that - is the issue itself within the scope of to establish a basis to issue or to initiate a PDP under which the PDP would then look at the issue.

It's not stating the fact, indeed you know that there should be special protections granted to you know certain group of organizations.

Thomas Rickert: I agree to the second point, it doesn't state the way it does but there should be protection because that actually the outcome of the PDP nonetheless I think that the line of argumentation is a little bit rushed, to say that this is within the scope.

Because I would doubt that you know we can take it for granted that ICANN should work on every request to plan special protections and special exemptions to special smaller user groups.

Jeff Neuman: Okay, Margie, want to address that.

Margie Milam: Yeah, I mean your concern I think came up in the past with the PDP on the registry contract. I think it was an issue that's in the bylaws, you don't want a PDP to be specific to one party and I think that's where some of your concern is.

Whether it could apply more broadly to a larger group and so theoretically it's the PDP you know focused on special protections for you know a class of people, then it's probably okay within the scope, whether it's the council and the drafting team that comes up with whether it's appropriate to have that policy developed.

But from the bylaws perspective I just wanted to make sure that the PDP is not targeted to one party or one - you know that it has a more broader application.

And so that's why that's mentioned in the issue report and that comes from I think it's the bylaws that we actually talk about which go and issue report and also the PDP manual that was recently adopted.

Just to kind of give a framework for how that scope discussion takes place but your question is valid, should there be a discussion? You know is it appropriate to have a policy focused on a particular group of people.

And that's something that you know that the working group could look at, but from a - from the issue report perspective we're just saying yes, it's something that can be had.

Jeff Neuman: Okay, I have in the queue, I have Chuck, Mary, Helen and I see Joy and then - okay, I've got...

Chuck Gomes: Chuck Gomes from VeriSign, could you put up Slide 7 please? There we go, thank you. The last bullet I wanted to talk to - Berry I think the point there is very well taken.

I just want to reemphasize that if a PDP is done and some policy is established that the criteria really does have to be objective, otherwise we're going to be going around and around every time some special group wants protections.

So that's just an early warning I guess that we really need to work on that and make sure that it is clearly defined, objective criteria that we can apply readily when any group - in fact they shouldn't even have to come to us, they should be able to tell whether they're eligible or not.

And that's not necessarily an easy task but a very important one. If you could jump to Slide 8 for me, I was - forgive me a little amused when you said minimum required timeline, in the last sub bullet there. One thing I'd point out though is that if a PDP is established a policy is ultimately approved by the board, whether or not it is before new gTLDs are delegated or not it would become a policy that all registry operators would have to implement anyway.

So I'm not sure that we have to if I'm understanding this correctly worry about the timing of it if it is a policy.

Obviously it would be nice if it was done before TLDs were delegated but it may be tough to do it very quickly as we all know on these types of issues.

So that's just a comment. Last of all I think it would be very important for the council if you decide to do a PDP maybe even before you make that decision to continue communications with the GAC.

And then if a PDP is established to very early in the process, request input and do that on an ongoing basis. Now we all know from experience that it's very unlikely that we'll have any GAC participation in the PDP working group.

But this is an area where we can ask for input and I think we'll get - it will be responsive on that. If we do that throughout and that will I think really not only help our relationships with the GAC but be constructive in the PDP itself if one is established.

Jeff Neuman: Thanks Chuck, I think you're - certainly your last point is very important about working with the GAC and I think that relates to a topic that is on the GAC agenda which is the PDP process of how do we take their input and get them involved as early as possible.

I have Mary, Alan and Joy and then in the back, so Mary.

Mary Wong: Thanks Jeff, this is Mary Wong. Two points, the first is a reference back to I think Zahid's earlier point about the Red Cross, I don't think it's true that the Red Cross cannot use the URS, I think that as long as the Red Cross has a trademark protected in a jurisdiction and I don't know how many or where.

But I'm pretty sure that it does, but it can use the URS. That doesn't necessarily change his point, but since I thought that statement might be somewhat misleading I wanted to make that clarification.

I'm happy to be corrected if I'm wrong. The second point is really similar to Chuck's last point and so I won't repeat it.

But what I will for the sake of the council and community discussion today as well as with the GAC, a reminder of the GAC's letter of April 12 I think it was to the board where it said a couple of fairly general things, but things that I think we need to bear in mind in our discussion, such that they reaffirm the need to protect the IOC and Red Cross at the top and second levels.

And they said specifically that - and I quote the GAC considers the existence of such two tiered protection as creating the criteria relevant to determining whether any other entities should be afforded comparable enhanced protection.

And then they go on to say that they don't at this point want to offer any specific policy advice on the IGO issue but that in the event that additional IGO are found to meet the above criteria this would be a consideration, the formulation of GAC advice for future rounds.

So a reminder, and I do think that Chuck's point is very important one Jeff as you said and we do need to consider this.

Jeff Neuman: Okay, thanks Mary, Alan?

Alan Greenberg: Thank you, a number of points. First on the issue that Thomas raised where in bylaws, I guess I read it a little bit differently. ICANN is the body who has been given the responsibility for the generic domain name space.

And within that domain, within that area is the responsibility to do it properly. And if that may or may not mean action for certain TLDs, but I don't think it needs to be explicit in the bylaws.

The fact that we are supposed to be good custodians, means we're unfortunately obliged to figure out what that means and then act on it.

So I think it's implicit in the overall responsibility we have. Jeff made a comment which I'd like to reinforce. We're dealing with some really thorny issues.

We really need information as to why recommendations have been made, what investigations have already been done within ICANN and to be hiding

things saying we can't tell you the whole fact, it's secret, means they're tossing something over the wall to the GNSO, and not giving the GNSO the tools to do it properly.

And I think that is - I can use a number of adjectives I won't use in a recorded conversation, but I think that's a rather poor way to act.

And I similarly think that if this is an issue which is so fraught with import that you have to redact two pages of rationale in a board discussion, the various bodies involved are providing good legal support for us.

We should be getting similar good legal support from ICANN on these working groups. Otherwise we're going to make recommendations which would then be told, sorry we can't tell you why but we can't accept your answer or something like that.

And that's just not a way to properly do business, so if this is really important give us the resources which is both information and staff to do it properly.

With regards to the issue of Red Cross - my understanding from discussions with them is some Red Cross organizations have trademarked their name and they therefore have the privilege of being able to use the future URS or the UVRP.

And they have done so but that's an accident of the fact that they decided to trademark them in their jurisdiction. They can't use the process by narrative of their other rights of the name.

And lastly I'd point out that we are now in a position where we may have three parallel activities looking at the same basic subject. That has two implications, it's quite possible the Red Cross IOC group will come back and say nope, we don't need any more protections.

The general one will say yes, we need much more protection at the second level which are completely opposite results and then we're going to look at the PDP in a longer term which can yet take a third variation.

We really have to get our act together to figure out how to do this, for the people who have a particular interest in these issues, the workload is going to be unbelievably ridiculous if they're going to try to have the same people involved in all three conversations.

And if you don't you have the possibility of really interesting results. I don't know how we're going to handle this but we really need to think about it.  
Thank you.

Jeff Neuman: Thanks Alan and I did ask as a session I just sent a note to our policy staff to add this specific item on to the wrap up session at the very least to figure out three different streams that we have and figure out the best way forward.

Okay, I have Joy.

Joy Liddicoat: Thanks Jeff, Joy Liddicoat for the record, thank you very much for that issue report and the synthesis and thinking it's going is much appreciated.

Just a question, an observation and a question, from my own experience in working in the United Nations with many of the international government organizations, and as mentioned organizations.

I see in the options that you've proposed that the working group should evaluate options for international government organizations firstly, and secondly international organizations of a particular character.

And I wonder with some thought has gone into uncoupling those and considering them separately and separate processes, for example

international governmental organizations really of a different character and defined quite distinctly.

Compared to the somewhat more amorphous category of international organizations, and that may be a practical way forward in those areas where from experience many of the discussions have got quite murky when we've gone into the issue of national laws, international treaties and how many governments have signed and how many haven't and so on.

Whereas one with few of them in relation to IGOs, international governmental organizations that the GAC at least would have some clarity and even humility around those which are recognized in other intergovernmental forum.

And certainly I would encourage those particularly from internet governmental regional groups in developing countries, the African union and others to be thinking during the submission period about the utility up ahead.

For the options to uncouple into the PDP proceed. Thanks.

Jeff Neuman: Okay, I have - thanks Joy - I have I saw Christian in the - are you still here?  
Oh sorry, Stephane, I'm sorry, I apologize. If you could just introduce yourself for the transcript.

Stephane Hankins: Okay, thank you very much, Stephane Hankins, international committee of the Red Cross and I'll be speaking on behalf of the international movement of the Red Cross, Red Crescent and its respective components.

First of all I'd like to thank the GNSO really for its continued attention and commitment on this issue and also its commitment in particular to adequately address the protection and reservation of the Red Cross Red Crescent, Red Crystal and related designations which we have submitted, - constitutes a global public interest which ICANN and its respective bodies needs to respect and to implement.

I would like here just to recall a few points and maybe also to in response to some of the points that have been made this morning and in particular to recall the very unique rationale for the protection of the names which relate as you know clearly from public international treaty which today universally ratified the Geneva Conventions.

And to submit also that the issue of the protection of the Red Cross Red Crescent names does not necessarily fit squarely within the questions raised in the issues report, namely the extension of a reservation of protective regime to the denominations or names of other organizations.

We recently submitted to the board actually a detailed position paper which I may refer you to, I think it will be made public very shortly but it also outlines the points I will make.

So once again on the legal rationale of the protection for the Red Cross Red Crescent nations, they extend from public international committees, international humanitarian law.

They don't stem from the affiliation to any particular organization. And I think this is a very key and important point to clearly understand, they stem from the international protection under international humanitarian law or designations of the protective and limbs of armed forces, medical personnel.

That's the rationale for the protection and states have undertaken by virtue of their participation on - in the relevant treaties to implement that protection in their domestic legislation.

Of course the Red Cross Red Crescent actors are entitled under international law to use the designations but that's not the primary purpose of the designation.

That's a secondary purpose. The global public interest has to do with protecting the medical services of armed forces and those who care for the wounded and sick on the battlefield.

That's why these treaties were actually adopted and why states have an obligation also to implement that protection within their domestic legal orders as has been submitted on past occasions and notably by the GAC communication to our board as of September last year which highlights the number of domestic laws which protect the denominations.

Again I also want to underline one small bit, the protection does not stem from trademark laws, it's not because the denominations have been registered by - potentially by Red Cross bodies in - under trademark laws that they are protected.

They are protected because of international and domestic legislation as I have referred to. In that relation I also - we also wanted to underline that by virtue of ICANN's own articles of incorporation there is a requirement to respect relevant international law treaties and obviously also domestic laws which bind ICANN.

US legislation protects these denominations. And again in that regard you know we believe that this does place the claim outside the spectrum of the issues report that has been submitted and potential developments that would come out of that.

As regard to what we have called for well obviously we're calling for permanent protection at first and second levels of these ignitions in multiple languages as international law itself requires.

We're calling for the possibility for the Red Cross Red Crescent actors as international law itself, provide to register the names as they so require.

At second level the Red Cross Red Crescent has registered in fact a large number of denominations but of course the costs involved under the new gTLD program, if we were to do this would be quite (astronomous).

And finally we're calling for string similarity review in line with public international law which itself protects the denominations and prohibits also imitations of the designations.

Which would bring us into the issues of designations which are confusingly similar and prohibition of strings that confusingly similar with the said denominations.

So thank you very much, this is what I wanted to - thank you.

Jeff Neuman: Okay, thank you Stephane. I'm going to go to I think Margie had a comment.

Margie Milam: Yeah, on a separate point it's the question of how to - it's more along the lines of what Alan was saying, how he managed different projects and one of the suggestions that I was thinking about as we were preparing the issue report was how does the defensive registrations paper play into it.

And if the GNSO council for example were to want to take up that issue, the general issue of what's raised in the defensive registration paper how would that happen?

Another issue report, I mean it seems like a lot of work to get to the point of starting a process. You're going to be touched upon with respect to these issues if this issue report is acted upon first.

So one of my thoughts was if the council felt that that should also be addressed, perhaps in the public comment forum it could be raised that the scope of the PDP could be broader than just the international organization.

And then at that point we wouldn't necessarily have to do a second issue report if that was where the council wanted to go. And so I guess maybe that's something for you all to think about is whether that would be an appropriate thing to do or consider at which point since we haven't issued the final issue report once we take into account public comment if public comment is that the scope should be broader than just IGOs.

You know we could at least make that as a recommendation that the council consider that. So anyway I was just trying to play out some of these different possibilities and that might be something you all consider.

Jeff Neuman: Thanks Margie, that would be a really broad issue for a broad PDP, it's almost you kind of run into the whole transfer issue where you'd have to break it into sub parts anyway.

But I understand your point about not wanting to do separate issue reports on all of them. I think that makes sense. I have Wolfgang, I have Lanre in and I saw Kieran and somebody go, I know we have about five minutes left so I want to try to keep that, just have a very short lunch planned.

So Wolfgang.

Wolfgang Kleinwachter: Thank you, ((Foreign Language Spoken)) and a couple of points. The first thing I can on the echo what Chuck and Mary and also Joy have said, if we move towards the special PDP, special protection for IGOs, we have to collaborate with the government advisory committee.

But there is no - we do not have much of a capacity nor authority to decide what an inter governmental organization is or not. So that means this would be really the guidelines would come from the governmental advisory committees, they know what is in the government organization.

And I think it's we should be very clear that we do not set the criteria to define what an intergovernmental organization is or not. A similar thing with the non-governmental organization which is probably more complex, I think there are lists of non-governmental options around and I think the most relevant list is the (unintelligible) from the United Nations which has around 5000 or 6000 non-governmental organizations which are recognized by the (echo soft).

So this could probably a criteria that would say you know special NGOs, which are recognized by the (echo soft) which include all Unesco's and other organizations, all those because (echo soft) is the binding organization between the United Nations and other UN organizations working together with NGOs.

This could be a criteria but my main point is here, that when it comes to criteria we should not reinvent the wheel and we should look for competent other parties in the world who have defined clear criteria.

I think it's a similar procedure (John Postel) used when he established the ccTLD that is set in out. We are not in a position to define what a country is so we are looking for relevant organization which have a procedure.

And we ended up with ISO 3166 which was a very clever position and if we move now towards IGOs and NGOs, we should do - have a similar approach.

A very final remark to the IOC and Red Cross discussion because I was a member of the draft...

END