
MONTREAL – GAC: Update on current issues (IGO Protections)
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MANAL ISMAIL, GAC CHAIR: So good morning everyone. If you please take your seats we will be starting immediately, and apologies for the delay. So this session is on protection of IGOs, I believe we have 45 minutes for the discussion this morning, and the agenda is as displayed on the screen. I will provide a quick background because this has been a long-standing agenda item, or issue on the GAC agenda. Then Nigel will be providing an update on the GAC IGO list. Stephane on protection of Red Cross and Red Crescent names and identifiers and Brian on IGO access to curative rights protection mechanisms. So if we can move to the following slides, and this is by way of background. And I really want to thank Fabien for this brilliant table, he tried to put everything it's like an 8 year history just in one place, so we have IGOs and we have Red Cross and Red Crescent as a special case that has been handled earlier, we are also speaking about full names and acronyms at the top level and the second level. And you have all the links provided for those who would like to dive deeper into the issues, but in principle, for IGOs the full names are permanently reserved at the top level, and at the second level whereas the acronyms are at the top level they

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are eligible to legal rights objection, and at the second level they are temporarily protected, and this is the core of our discussion today. Brian will be presenting on where we stand on this but also, we have a discussion with the GNSO later today on Red Cross and Red Crescent the full names are permanently reserved. The acronyms are temporarily protected, but again they are also pending resolution of inconsistencies between GAC advising and GNSO recommendations which is the... so as you can see your all the links, and there is one more aspect to this, so those things in green are more or less settled as is. The red parts are the core of our discussion today, and when we talk about IGOs we are referring here to a GAC list, as you can see in the very first field up. And this GAC list has been compiled a while ago, with certain criteria, which was IGO's eligible to be under the .INT top level domain. This list was compiled once but not exhaust actively, and we are trying to make this list complete and see how we can keep it as such, and this is what Nigel will be speaking to today I help to covers quickly the whole thing and I thank again Fabian for this very useful table, which tried really to put everything, everything in one table as in one slide and in one place with all relevant things. So I think I will stop here because we have 3 other presenters, and maybe hand over to Nigel. Can we go to the following slide, please?

NIGEL HICKSON:

Well, good morning. Thank you very much Manal, and Fabien I also found that table enormously useful, as a reference point. If we could have the -- well no, let's start with this slide as a bit of background then. So the so-called GAC list of IGO names as Manal said goes back quite a few years, back to 2012 when it was compiled, and it's a list of 192 different international governmental organizations. I mean it's not exhaustive. No doubt there might be more that could be added in due course, and we will come onto this. But this is an important list because it's the basis of this list is the protection given to those names. And when we say the protection given to those names, it's protection as Manal outlined both at the top level, and at the second level, and it's the second level which is particularly pertinent to IGOs so that their full name. The world health organization, is not linked to a gTLD erroneously by someone that's trying to fraudulently get money from the public or for any other purpose, so the ability for an international governmental organization to protect their name and their acronym is exceedingly important, not just for the IGO itself but also for the protection of the public, and for the protection of their cause. So we do take this very seriously. If we could go to the next slide. So, essentially the government advisory committee for some time have been, if you like, concerned that the list of the IGO names is as complete as possible, and also that the international governmental organizations have the opportunity to select their

name in the 2 languages that they want protected because the policy development process that was undergone came up with the, came up with the option that IGOs could have protection in two languages which of course for many IGOs is very important indeed. I mean not for all, for some IGOs the English equivalent or French equivalent is the only protection that they want, but for other IGOs having protection in two languages is important. So in January 2019 is the last bullet said, a project team was formed to essentially put the -- do an update on the IGO list, and I'll explain how that was done. If we can go to the next slide. So, essentially what we did as a team, and this was a very small team that we assembled. Dennis, my colleague from GDD and a colleague of his, Jenella, myself and with the expert help of Brian Beckham and John from the OECD essentially we put a letter together and that went to all of the 192 international governmental organizations, so essentially we were communicating with the international government organizations, and actually communicating with them in the first place is not trivial because you have to find someone to -- you know you have to find a body to communicate with because if you just send something to an info address it rarely is received, and so, essentially the thrust of what we were asking was first of all to make the international governmental organization aware that their name was protected, at the second level.

We were asking is their name in the corrected form. Has it got the right accents and dashes, is it in exactly the right form? And then we were asking do they want the option of it being protected in the second language? And that's what that's what essentially, we did. And so of the, of the IGO's contacted 36 have asked for their name in second language to be protected. And you might say well, 36 out of 192, well yes, 36. Although some of these names are still coming in. But for these organizations that's important because being protected in another language, they haven't had that protection before, so if you take an international governmental organization, if you take the world health organization, so before -- and this is you know just an example if you like -- so before the world health organization might have had that name protected in the English sense, world health organization but not necessarily in the French language, so for IGOs it's very important and this protection is important, as I said because otherwise this otherwise what happens sometimes is that the name of the IGO is connected to some other top level domain whether it's sex whether it's adult, whether it's news, whether it's finance or whatever and it's used in a way which is detrimental to the IGO, and that's you know that's very important indeed that we are able to offer that protection. So the project, if you like, is completed but feedback is still coming in, so from all those letters from the contacts we've made at the IGOs consideration has been given in some IGOs to whether they want

their language -- sorry their name protected in a second language. And that has to go to their membership sometimes so it's a long process.

So I'll finish by just commenting on next steps and this is just you know our own thinking, and, of course, its subject to whatever the government advisory committee wishes. But you know first of all that this is an ongoing process, that from time to time IGOs will want to communicate with ICANN as an organization, or with the government advisory committee and say that they would like their name protected in a slightly different form or they would like it protected in a second language. Secondly of course the 192 is what we were dealing basing our work on but there are more international government organizations that some GAC members have identified, and it's clearly up to the government advisory committee to advise the organization on whether those international governmental organizations also should be added to the list. So I'll stop there, and thank you very much for this opportunity and it's been good fun working with you as ever.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Nigel, and thanks to Dennis and Jenella as well. That's to the whole team. So if we can move onto the following part of the slides. And Stephane please go ahead.

STEPHANE HANKINS: Thank you, chair. Let me begin by thanking the government advisory committee for inviting the international committee of the Red Cross to take the floor this morning on behalf of the international movement of the Red Cross and Red Crescent, we very much welcome this opportunity also to brief GAC members on the important progress, and I mean important progress when I say that -- towards a permanent protection and reservation of the Red Cross and Red Crescent designations, names and identifiers. Thus including, as many of you will recall, two sets of separate names and strings. Firstly, the words Red Cross, Red Crescent and Red Crystal as the designations of the recognized protective emblems in times of armed conflict so that's one set. Red Cross, Red Crescent, Red Crystal and Red Line and Red Sun are the names of the emblems that serve protective function in war time. Second, the names and identifiers of the different Red Cross and Red Crescent organizations including the 191 national Red Cross and Red Crescent societies recognized in the Red Cross movement today, and I was checking yesterday the updated list of member states of the GAC, I think aside from one member country of the GAC, all states represented in this room have a national Red Cross, Red Crescent societies, and this includes also the names of the international bodies within the International Red Cross Red Crescent movement, the ICRC. The international committee of the Red Cross, and the international federation of Red Cross Red Crescent societies.

The issue is connected of course to the IGO question in particular with regard to the fact that there are 2 international organizations in the Red Cross Red Crescent movement which I've mentioned, but the issues remain distinct and they've actually followed a different track within, within ICANN. I should perhaps begin by reminding of the rationale for the protections of the Red Cross Red Crescent words and identifiers. There were strong legal grounds for that. They result from universally agreed international treaties, the 1949 Geneva Convention and for those states parties also the additional protocols to the Geneva Conventions, and these protections of the words Red Cross, Red Crescent, Red Crystal are extremely clear in the treaties, and the assumption is very clear. It is that any misuse of the Red Cross Red Crescent names, designations erodes the respect that -- represents for armed forces medical services in times of war, as well as for the Red Cross Red Crescent organizations and states have clear obligations under these treaties, they are the primary stakeholders if you will to ensure respect for these names including within their own domestic jurisdictions. This includes also protection of the names in the digital sphere, and on the Internet, and this has been confirmed on a number of occasions. The justification for the protection of these names is that in times of crisis, in times of humanitarian crisis these are designations that are at particular risk of fraud abuse for the purpose of diversion of funds and this we have noted and seen on many

occasions. Now very briefly, on the important progress that has been made towards the permanent reservations of these words, in recent years it's actually been a very long and winding road as some of you will recall. It's a journey which involved a PDP process followed by the reconvening of this PDP process as an exceptional step under ICANN proceedings. No less than some 15 or more GAC communiqués expressing support for these reservations and protections, or successive resolutions of the new gTLD program committee, and all of this culminating in an ICANN Board decision adopted on 27th January 2019.

So this year very recently. Confirming the protections at second level in line with the GNSO policy recommendations and GAC advice. Most recent steps have involved the organization of an IRT an implementation review team in implementation of the Board's decision involving the protections of no less than 7,000 names and DNS labels, and this has been a considerable achievement, and all gratitude to Dennis Chang and his team for all the commitment and all the efforts that have been made. The IRT has also met a number of times in the last year. There have been different telephone conversations where we were also able to put to the test some of the recommendations of the GNSO notably for additions or revisions to the list of national societies names, and this came up this year on 2 occasions following the official change in the name of 2 national Red Cross and Red

Crescent societies, the ISVATI and the North Macedonian Red Cross. The latest is a lunch of a public forum hosted on 23 October. So a couple of weeks as on the proposed policy changes and ERT's outcomes and now we trust that this can be moved along and that the protections can be made permanent and DOOUL notified to ICANN's contracted parties. I would like to conclude maybe to say a couple of points or to raise attention to a couple of points that remain. First of all, the issue of the acronyms of the international bodies and the International Red Cross Red Crescent movement. The ICRC and the IFRC. This is an issue which as per the GAC's past advice adopted in Durban should in principle we hope be addressed under the same early warning and protective regimes to be devised for the IGOs and a second point perhaps which relates to the reservation of these, these names and identifiers of the Red Cross and Red Crescent at the top level. At this present stage it is only the designations Red Cross Red Crescent, Red Crystal, red line and sun in the 6 U.N. languages that are actually protected. Our question would hence be whether, how, and in all logic and consistency. Consideration should be given to include these names and identifiers also in the Applicant Guidebook. So with this, Mrs. Chair, I will conclude. Of thank you very much again for this opportunity, and I really want to thank very warmly the GAC and its leadership and in particular Jorge and the Swiss delegation on the GAC for all their support in recent years. So, thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Stephane. So before opening the floor let's move on to the last part of the presentation, and over to you, Brian.

BRIAN BECKHAM: Thank you, chair. For IGOs the issue is similar as my colleague from the Red Cross movement described. So just as a refresher, under international trademark law, national trademark offices treat IGO names and acronyms differently than normal trademarks. This is of course a very old treaty, and we're here trying to reflect those protections in the domain name system so looking to protecting things that simply weren't accounted for over a hundred years ago. IGOs are created by governments to fill global public missions. To assist IGOs in doing that governments have afforded IGOs certain privileges and immune its that are well accepted under international law. So when it comes to existing rights protection mechanisms that are available in the ICANN framework, IGOs are unable to avail themselves of the same protections that ordinary trademark owners are able to use. This is one of the reasons in the GAC principles in new gTLDs there was special accommodation made for the provision of protection for IGO names and acronyms. The United Nations secretary general in 2016 additionally on the heels of some years of work within ICANN raised this matter for member states, and ICANN's

attention. So to assist this cause, ICANN convened a policy development process that ran for a number of years, and there were some significant procedural and substantive issues with that particular working group. That working group produced recommendations which were at odds with long standing GAC advice calling for protection in the domain name system for IGO names and acronyms.

We are now in sort of the nascent new phase of policy development in ICANN what they call PDP 3.0. And alongside that there is I think a fairly well shared recognition that the policy process that ran for a couple of years produced recommendations that not only didn't work in terms of providing the requested protection for IGO, identifiers but were at odds with long standing GAC advice. So that brings us to the present, which is with that recognition that that working group produced recommendations which would not work, there's an effort underway to recharter a new working group to address the same issue, with a view towards producing positive recommendations. So what I want to bring to your attention, and will of course talk about the GNSO later this afternoon about this, is there are 2 issues that we feel warrant examination in terms of this rechartering effort. This goes to the relationship between several of the recommendations you see there on the slides. 1, 2, 3 and 4. Which were accepted by the GNSO council and what they

called recommendation 5. There's also the sort of procedural matter of looking at rather than the normal sort of open broad, policy development process working group model. Looking at a more focused more targeted expert driven working group under stricter timelines, and constraints to produce recommendations, and the relationship between that focused WorkStream and the umbrella organization that this WorkStream would fall under. So there are we feel some fundamental questions about how the focused work track and the full plenary working group are meant to relate to each other. Of course with a view towards producing positive results in the end that the community can get behind. With that, I will turn back over to the chair. And happy to answer any questions. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Brian. So any questions or comments?
Jorge, yes, Switzerland please go ahead.

SWITZERLAND: Thank you, Manal. Jorge Cancio, Switzerland, for the record. First of all I want to thank you for allowing this time for discussing these important developments, and policy area. On the IGO list I wanted to thank Nigel, Dennis, and all the ICANN team, and, of course, Brian, and John for putting the list together. Of course

Switzerland as host country to so many intergovernmental organizations, we have a very strong interest in having this list updated, and as useful as possible in order to protect as Nigel said, the names of these organizations against misappropriation or abuse. On the question of the Red Cross, Red Crescent, and the Red Crystal names I wanted to thank also Stephane for his thanks and absolutely for his immense work during these years and, of course, Dennis and previously, the team that worked in the reassembled PDP working group where I had also the honor to participate, where we set a very useful precedent to redress and to reconcile the interests of GNSO constituencies with the interests of the Red Cross, I think that we are on a -- now on good-byes I'm sorry with this implementation review team, and I hope that the consultation period is positive, I think that perhaps the GAC can make a consensus input in that regard, supporting the solution that has been developed, and finally, on this question of the Red Cross, I also think that as Stephane said, especially in the so-called focal group we have to watch out to in order to bring over the protections to the subsequent procedures, subsequent rounds and also make sure that the mechanisms for protection at the top level domain warrant what Stephane was saying, that we have good reaction, instruments against misappropriation at the top level domain of the names of the national societies too.

And finally, on what Brian was mentioning, of course, he and the IGOs count with our support. We are engaged in this process of establishing a special charter within the rights protection measures PDP, and there it is important that the charter of this specific work effort allows for appropriate representation of GAC and IGOs, and on the other side, that also learning from the experiences of the Work Track 5 and of the reconvened PDP on the Red Cross, that we have a qualitative balance in that representation, and finally, that the rediscussion of recommendation 5, which is pending, really allows us to revisit the other 4 recommendations which were passed by the GNSO council but with which we have, as we have been saying for years, very significant problems. So I have to apologize for this long intervention, these are 3 issues that are very close to our interests and to our heart. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much Switzerland. And, yeah, thank you for also wrapping everything together. I have China next, but before this, I want also the GAC to think about what Nigel said about maintaining the list of IGOs. This is a GAC decision, how we would like to have this list maintained, how we can add or maybe even later remove, anything from this list, so this is a decision that the GAC would need to take, and Jorge, if you can help us with

language in the communique regarding what you have mentioned as consensus language, that would go in the communique this would be very helpful. And on the charter of work track -- I'm sorry, of the recommendation number 5 that we have been given the chance to comment on, I had the chance to meet Keith this morning, and he told me that they have discussed the comments. They can work through the GAC representation that we have commented on, and regarding discussions on recommendation 5, changing 1 to 4, he said this goes without saying, but maybe putting it explicitly would sound as if we are -- or yeah, they are asking Work Track 5 to change one to 4 -- I keep saying Work Track 5, I'm sorry -- recommendation 5 discussions to change 1 to 4. So just to give you an essence of ongoing discussions within the GNSO, which would probably be discussed here later this afternoon, and China, very sorry to keep you waiting. Please go ahead.

CHINA:

Thank you, chair. Guo Feng from China for the record. So my comment is actually related to the maintaining of the GAC IGO list. So actually, there are several IGOs whose headquarters are in China, and -- or who have branches in China, we have an interest in having their names, and acronyms being protected, and being added into the ... list, so perhaps it's also a question to the -- to

our self. So the procedure, of updating the IGO list, or the plan for the GAC to develop such a procedure, to updating the IGO list. Those several international governmental organizations are new development bank, and international network for bamboo and RETIN ... China center, and, yeah, the additional one is Asia Pacific space corporation organization. So those are among some of them who have approached me for this matter. So I stop here. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, China. And, yeah, indeed we already have pending requests to be added to the IGO list, so again, as the GAC we need to agree on the process or the procedure to have other IGOs added. So if there are any immediate comments on this, or immediate reactions, I'm happy to receive them. Otherwise, we need to finalize this maybe over the mailing list soon enough to have a procedure in place, so -- any -- yeah, Indonesia please.

INDONESIA: From Indonesia, for the record. I think not only China has concerned with the name from Asia Pacific and so on. If you remember... sent a letter to the GAC already regarding similar things like that. So although there's a few I think one or two years

ago. But I think this still has to be -- still has our concern from the Asian countries. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much Indonesia. Well noted. So yeah, it becomes pressing that we have a procedure in place, so I hope we can deal with this soon enough over, over e-mail. So, if there are no other requests for the floor, I would then thank again Nigel. Dennis. Jenella, Stephane and Brian thank you very much. And we will continue the discussion this afternoon with the GNSO on the IGOs protection and we will continue a discussion on how to maintain the list and have a process in place. Thank you everyone. And please stay in the room. We will be proceeding with the following session on new gTLD subsequent procedures Work Track 5, and Olga, please.

[END OF TRANSCRIPT]