

**Transcription ICANN Buenos Aires Meeting
Adhoc IGO INGO PDP Update
Sunday 17 November 2013**

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Jonathan Robinson: All right, so we are going to take ten minutes or so just to get a brief update from Thomas as to where we are on the motion for the IGO-INGO PDP.

Thomas Rickert: Thanks very much Jonathan. I'm Thomas Rickert and I'm chairing the PDP Working Group on the Protection of IGO-INGO names. Following up to our discussion that we had yesterday and the questions that the councilors as well as the other GNSO members asked, I thought it would be worthwhile to provide some more background information and explanations to why the motion is in front of the council as it is now.

You will remember that we had quite extensive debates surrounding Result Clause Number 5 and the alternative language in there, and the reason for that is twofold. We have two motions that are in there or two recommendations that are in there, which only received strong support but significant opposition during the consensus call that we carried out at the working group.

And these two recommendations are conditional to each other, so in essence, what it means is that we need to talk about two layers to better understand the motion or the draft motion.

The first layer is whether or not IGO acronyms should be added to the trademark clearinghouse. That recommendation got strong support, but significant opposition.

The second layer is that should we answer positively that the IGO acronyms should be added to the trademark clearinghouse, then another recommendation that got strong support but significant opposition would need to be discussed, i.e. whether those designations should benefit from sunrise service on top of the 90-day (bench service).

Now why do we burden the resolution or the draft motion with all of this information, and the reason is - and this is sort of the answer to your question whether we want the council to make policy which should be done by the GNSO and the PDP Working Group, and in my view, the answer is no. Because we did the consensus call, and up to very shortly before the deadline for the reply period ended, we were still lacking input from two groups in the GNSO.

One group has responded in writing, which sort of elevated one of the recommendations that we are still sort of uncertain as to the consensus level to consensus, but then this very recommendation that got strong support but significant opposition would be a consensus position if the one missing group said yes to it. If it doesn't, it sticks with strong support but significant opposition. But if the group supports it, it would be a consensus position.

And therefore, the council ordered we need to await -- and I guess that's the best way forward -- the discussions of all groups on Tuesday to then find out whether if our consensus can be completed by taking into account and putting into the equation feedback from the last missing group. and then, it

may well be that the group says no to IGO acronym inclusion to the GNCH and the recommendation will still be at the SSbSO level. and if they support the inclusion to the GNCH, then it will be a consensus position.

The second question, i.e. the question of whether or not certain designations should benefit from the sunrise service, which is the second recommendation that only got strong support for significant opposition, would then subsequently need to be discussed.

Now technically some of you might argue that this would be a question that needs to be pushed back to the working group to be answered there, but we thought it would be worthwhile asking council or the groups who presented in the GNSO Council whether they would be open to considering the support, sunrise services for these designations.

Because if no group or only few groups say that they would do, then it would be a moot exercise to give this back to the working group for deliberation, because ultimately the outcome would be no different than staying at the strong support with significant opposition level.

Now these were two explanations that I wanted to give to you to better understand why we phrased the motion as we did. I'm afraid I can't give you a more definitive answer as to the outcome. We will only learn that on Tuesday evening and I hope our council leadership will be generous enough to allow for another couple of minutes on Tuesday evening, because by then, once we get feedback from the groups, I will be able to either draft a motion in a way that will (perfect) the either or other solution.

And the solution may be that we can get rid of Resolution Number 5 or Result Clause Number 5 in its entirety or that we can other group it should we have a consensus position go along (with it).

Now I hope that this has not been a statement to add to the confusion, at least it was my intention to provide some more clarity. But sometimes - and I really take the blame for that. You know we've been working on that for so long that you take certain information or a sequence of happenings for granted, but I'm sure that not all of the councils and their groups could understand this by just reading the motion in isolation, which is why I wanted to provide an offer of additional information.

Thank you so much Jonathan.

Jonathan Robinson: Thanks Thomas, it's helpful additional information. Just quick to be clear on this Tuesday session. I mean it's unfortunate that there is some potential scheduling clashes and I'm not sure how easy it is going to be for all councilors to participate.

The intention behind the session was specifically to create a space to discuss this once we knew the outcomes of the constituency and stakeholder group discussions. and as far as I can see, right now, this is the only topic that we really need to deal with at that session.

So contrary to being generous to giving you any time, I think that is the purpose of the session is to try and get into shape as it were on this motion. So any other comments or questions from Thomas. Marika.

Marika Konings: This is Marika. Not really a question, but maybe more of a comment on that meeting. Because even if not all council members are there, hopefully those council members that are there are able to represent or share their stakeholder group or constituency position and be able to address the question on the Result Clause 5.

Thomas Rickert: I may add that certainly we are in constant contact with the one group that is - whose input is missing so far, so we will take care of ensuring that we get the information on Tuesday. Nonetheless, I would very much appreciate if

councilors could check back with their groups with respect to the question of whether they want to open up and discuss the question of sunrise protection.

Because if there was no support for that or no significant support for that, we would not need to discuss (this) necessary item and push it back to the working group even if the one missing group supported IGO inclusion to the GNCH.

Jonathan Robinson: (John).

(John): So I think I've caught my tail in reviewing this. So looking at 5, there is the first bit, which is that the council notes that there are several recommendations that we reserve the right. Okay, that's the first bit that we reserve the right, yes, and then we have or we can go to what you've got labeled here as the council recommends A. So the A is the it's all good, trademark clearinghouse, and eligible for sunrise.

And there is another or, or and/or, and we've got the and I guess the acronyms are eligible for the trademark clearinghouse. And then the last bit is and those acronyms are eligible for sunrise, right. That's it.

Thomas Rickert: This bit that I was speaking to is B.

(John): Right.

Thomas Rickert: And if (B) fails, then we don't (unintelligible).

((Crosstalk))

(John): Don't do C.

Thomas Rickert: But Mary you might wish to chime in and offer more input on that.

Jonathan Robinson: Mary.

Mary Wong: So (John), this is Mary. I'm not sure I understand the question, so please stop me if I'm answering the wrong question.

So first of all, A, B, and C are Clause 5, the alternative Clause 5. They are not interdependent; they relate to different recommendations. A to the Red Cross, B to IGOs, and C to the INGOs.

What Thomas is talking about is B. While all of them talk about sunrise, the issue for the IGOs is a little bit different and here is why. Because for the Red Cross and the INGOs, the condition there is really if you vote okay for the consensus recommendations in Clause 1. Because those identifiers in 5A and 5C are already dealt with in a consensus recommendation.

The difference therefore is Clause B which deals with IGOs. Those identifiers are the acronyms of the IGOs and there is no consensus at this point that IGO acronyms go into the trademark clearinghouse, and that's why we thought we should highlight this point today. Forget about the sunrise. We don't even get to the sunrise yet.

The first point for folks to consider is whether IGO acronyms go into the trademark clearinghouse at the second level. Is that right Thomas? Did I get that right?

And as Thomas said earlier, this particular question of whether IGO acronyms go into the clearinghouse for the second level is not at the moment a consensus recommendation, but it's short by very little.

(John): That answers the question. Thank you.

Chuck Gomes: This is Chuck. Am I - okay, I was looking to the wrong person I guess. This is Chuck Gomes.

Just for clarity so that we are all on the same page, for the Red Cross and the IOC, there is already consensus recommendation, working group consensus that those would go into the trademark clearinghouse and would apply - the acronyms, okay. And would apply to both sunrise and claims service, is that correct.

No, okay that's what I misunderstood.

Mary Wong: So the identifiers for the Red Cross and the INGOs in Clause 5, if there is consensus, they will go into the clearinghouse, okay. So the only question for those identifiers for RCRC and INGOs in Clause 5 is do you guys want to talk about sunrise. Whereas for the IGO acronyms, it is two questions. First, should they even go into the clearinghouse and secondly do you want to talk about sunrise.

Chuck Gomes: This is Chuck again. So for - I got it straight. I'm having trouble and I was on this working group. You need to do a better job of keeping us straight Thomas.

So for IGOs, they differ from INGOs and the Red Cross in that acronyms for those two have already been recommended for consensus policy to go in the trademark clearinghouse.

Mary Wong: Only certain acronyms of the Red Cross and none of the INGOs.

Chuck Gomes: None of the INGOs. That's where I lost it. So if we get consensus on IGOs for them going in the trademark clearinghouse, then the question comes up as to whether sunrise applies. Okay, sorry about that. I think I have it straight, but I just...

((Crosstalk))

Man: (Just a few comments). Jeff is next in line, but I mean by definition, once something is in the clearinghouse, (we must) have some function that derives from that. There are minimum functions at play and the (unintelligible). Is that correct Mary?

Mary Wong: Yes and there actually is consensus that if --a big if -- IGO acronyms are in the clearinghouse that they get claimed. And that is why this question of IGO acronyms second level clearinghouse is the threshold question for IGO acronyms.

Man: (Unintelligible) confusion in a sense, because by definition, going into the clearinghouse (unintelligible) service, so yes.

Man: (Unintelligible) for a year or more to make this determination, but it almost seems like you are asking the council to solve this issue, to make a choice. That's what it sounds like to me. what am I missing?

Mary Wong: No, I'm sorry if I've made it sound like - that isn't the point. I think the reason why we wanted this session is because we know that all of you will be discussing it with your constituencies and stakeholder groups on Tuesday, and almost all of those groups did have representation in the working group.

However, it is you folks who are going to come back on Wednesday to vote, so we wanted to make sure that everyone had as much and as accurate information as possible. Even though the motion is so long and involved, it could not possibly capture a lot of the things that are in the report. So since you've got representatives on the group and since the report has been out for a while, we just wanted to add clarity if possible, not to ask the council to change its rules.

Man: Right, but we had discussed different on (unintelligible).

Mary Wong: Right, so what Thomas said was that if there is a sense - I'm not going to use consensus list. But if there is a sense in the GNSO that IGO acronyms should not go into the clearinghouse, then we could - well first let me back up. If there is a sense that IGO acronyms are not going into the clearinghouse, that's one thing.

If there is also a sense that if regardless we don't want to talk about sunrise, we being the GNSO, then we can simply drop Clause 5 altogether because there is no consensus on either IGO acronyms in the clearinghouse or sunrise for any of these organizations.

Chuck Gomes: This is Chuck. Can I correct something Jeff said. You do have all of the facts. You probably haven't had time to read them all. They are in the report.

Jeff Neuman: (unintelligible) make the recommendations. The fact that you couldn't come to a consensus recommendation you know is something that in my mind should go back to the group (unintelligible) recommendations or be dropped as opposed to saying well we always hate it. Look, let's be honest in this room.

We hate it when the board gets these questions and then has to make a top down decision (unintelligible). so they (unintelligible) asking (unintelligible) because I'm assuming - my assumption is that the groups were all involved in helping constituency stakeholder group members come to their - I know (unintelligible) bringing that to us.

The reason why the stakeholder group did not agree with that one recommendation - call me crazy, but I can't imagine us changing our minds on this. I can't imagine this happening.

Chuck Gomes: Yeah Jeff, this is Chuck again. First of all, I understand what you are saying, but keep in mind the working group doesn't have any guidelines that say you should only put forward recommendations that reach working group consensus.

And so, to me, just me saying this, this is a management issue for the council in terms of okay is strong support good enough to go forward or does it need at least consensus. Neither one of us, the council or the working group, have that guidance, okay. So in my opinion, it is kind of a management decision there. Probably not one you would rather have, and I appreciate that.

Thomas Rickert: (unintelligible) Jonathan (unintelligible) need to wrap up.

Jonathan Robinson: Good.

Thomas Rickert: I have one more point. It's not that we ask council to make a value judgment for IGO acronyms; just that you were missing part or one piece of information in the consensus (unintelligible). we would not have done the consensus clause just (unintelligible) neglecting that fact, particularly in the light of that one (unintelligible) elevate this recommendation from (unintelligible) to consensus.

So on Tuesday evening, we will be wiser. We will know by then whether there is going to be a consensus for this, and then - and I know I am repeating myself here, but I think it's worthwhile for the sunrise discussion, we are asking you. And you should all go back to your respective groups to discuss this on Tuesday. Should none of you be interested in further discussing the question of sunrise, it's not worthwhile pushing it back to the working group.

That's the only point and I should have made this clearer yesterday, but those are the dependencies. You know I don't want to waste all of the peoples' time for a moot exercise. So if we know that this would not (unintelligible) council, at the moment we are stuck with (unintelligible). You know we should leave it like that and just delete that from the recommendations. So that's the point where (unintelligible) and we will take that offline.

I'm more than happy - you know I have been explaining the consensus clause for the determination for hours, right, so I'm more than happy to answer your questions. So don't perceive this to be evasive, but I think we need to...

Jonathan Robinson: Really need to wrap it up. We have do have ten minutes to (unintelligible) and meet with the GAC first. Thanks for trying to bring us further up to speed Thomas. We will close the session now. Stop the recording. Thanks.

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