
JOHANNESBURG – GAC Session on the IGO/Red Cross Protections Update

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CHAIR SCHNEIDER: The next issue is an update on where we are with the protection of IGO names and acronyms, and with the Red Cross/Red Crescent movement names and acronyms.

Tom will provide you with a quick first overview based on the briefing, and then we'll add new information if there's some available.

Thank you.

TOM DALE: Thank you, Thomas.

Since the GAC's meeting in Copenhagen, and where you recall there were a series of facilitated discussions assisted by the ICANN Board and, in particular, by Bruce Tonkin, a former member of the Board, and in which GAC members and GNSO members and other participated, there were a number of new ways forward for dealing with protections for Red Cross/Red Crescent identifiers and also those of IGOs.

Things have continued to develop in relation to the Red Cross/Red Crescent issues. The GNSO has initiated an

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amendment process on specific names, which in effect means re-opening the original policy development process that gave rise to these -- some of these concerns from the GAC in the first place back in 2013. That process is -- the process of that PDP convened, I believe, by the original chair, Thomas Rickert, is slowly beginning to ramp up, but I don't have up-to-date information, I'm afraid, on its most recent meetings. However, it is proceeding, as I understand it, in accordance with the views previously expressed by the GAC.

In relation to IGO matters more generally, there are a couple of streams of work which others may well be able to provide further specifics on.

There is a current -- a current PDP Working Group dealing with access to curative rights protection mechanisms which is meeting this week, and work is also proceeding on implementing on agreed protection mechanisms by ICANN on -- in relation to IGOs. A number of GAC members have followed that, but in particular, the GAC observers from WIPO and the OECD have continued to track that work as best they can. A number of other GAC members I believe have been participating as resources allow.

So that's a very sketchy update, Thomas. My apologies for the LAC of details, but other, more involved GAC members may be able to add to it.

Thank you.

CHAIR SCHNEIDER:

Thank you, Tom, for this overview. And as you said, this is all based on the facilitated dialogues that we had in Copenhagen and that were -- were considered to be very positive, both of them, with regard to the Red Cross. There was a discussion on some mailing lists about the composition of that PDP that would be, like, re-opened and to what extent additional new persons could be taken in. And my message that I sent to those dealing with this is that given that we are invited to engage early, and so on, with all these policy processes, we would assume that we can participate, those from our side who are interested in and who have the time, that they should keep it as open as -- as they can.

I don't know, Mark, whether you have some additional information about the Red Cross as you have been following this issue with more diligence than others, maybe.

MARK CARVELL:

Well, thank you, Thomas. Mark Carvell, UK.

Well, my sense is that the step in re-opening the PDP process for the Red Cross is a very positive one, and it seems to be on track. I wasn't able to take part in the latest call that the working group held. There was this question raised about whether the working group could be augmented by new participants. I don't know if that was resolved by the GNSO leads.

But it's looking good. And I just hope that it does lead to an early resolution. But I don't have any specific detail on that. I don't know if anybody else has. But I'm encouraged in respect of that. It's been a long, long running issue, but we appear to have turned a corner.

Thank you.

CHAIR SCHNEIDER:

Thank you, Mark. So that at least confirms the information that we have, and we're waiting to hear what this -- how this process is being taken up.

Okay. Then with regard to the other part of this, like, coupled session that is dealing with the Red Cross and with the IGO protection, which are two separate issues as we all know, the ongoing work of the curative rights protection mechanism is something, of course, that we are eager to know to what extent our comments that we have made and others have made will be

taken into account. And I'm seeing Brian Beckham from WIPO in the room, and maybe he can just, yeah, sit behind a microphone and inform us about what they have been -- the IGO coalition or WIPO in particular have been able to follow and participate, and if they are able to give us a little bit more of their perception of where things stand and what may be needed in terms of follow-up action.

So, yes, thank you.

Brian, please take the floor.

BRIAN BECKHAM:

Yes, thank you, Thomas. Brian Beckham from WIPO for the record.

I guess in a nutshell, I would -- I would echo what you said about the positive dialogue that we had in Copenhagen, and of course preceding that. I just came from a session where the chair of the IGO Curative Working Group reported to the GNSO Council that he could, quote, "predict with great certainty that the working group would come out with recommendations which differed from GAC advice."

Of course we continue to participate in ways we think are -- are positive and can bring a solution that works for everybody on this file. So while the working group is -- is still in its

deliberations, we're waiting to see what they come out with and take the next steps from there.

Thank you.

CHAIR SCHNEIDER:

Thank you. So then we are to assume that our advice will not be in line with what they are about to produce, which would then again put us in the situation where we would have to see or will have to see where things are going. This is, of course, regrettable. So, yeah, I think let's wait and see what will come out of this.

I see Switzerland.

SWITZERLAND:

Thank you, Chair.

Just to follow up on the intervention of Brian Beckham. I think it would be useful to perhaps address this issue in our bilateral with the GNSO and also with the bilateral with the Board on the side of the GNSO. According to the recommendations for better interaction, there was a recommendation that foresaw that if it's foreseeable that a conflict will arise between GNSO recommendations and GAC advice, that before the GNSO

recommendations become final, that we engage in a dialogue between both constituencies.

And regarding the Board, in our advice of Copenhagen, we urged the Board to request the GNSO PDP Working Group to take into account the advice coming from the GAC and the inputs coming from so many IGOs and also from national governments. So perhaps it would be useful to remind them about that urging and that they also take some action in this regard in order to prevent that we end up in a -- in a situation where we have conflicting recommendations from the GNSO side and advice from the GAC side.

Thank you.

CHAIR SCHNEIDER: Thank you, Switzerland.

Olof.

OLOF NORDLING: Thank you. Very rapidly and just to highlight that the PDP Working Group on IGO, INGO curative rights protection will meet tomorrow at 10:30, which of course happens to coincide with the meeting the GAC has with ALAC. So it's full overlapping with

that. But it's worthwhile noting, at least, for those who can attend it.

CHAIR SCHNEIDER: Thank you for this information. I had Iran wanting to take the floor.

IRAN: Thank you, Chair.

With respect to the meeting which will overlap each other, this is also other areas. Unfortunately, the agenda of GAC is so heavily charged that we miss some of the things. There is another important meeting of three hours or four hours tomorrow on other important issue that coincident with our meeting. So I would like to know how we could avoid these things in future. This is point one.

And point two is apart from this ICANN meeting here, or GAC meeting, does GAC actively participate in this amendment to the PDP that GNSO has initiated and continue, otherwise, we don't participate, the issue may not meet the requirements. So these are the two issues. First, how we avoid the coincidence of these important group, and the second is participation in the PDP development and timing for that.

It is mentioned that the final report will be in August, but final report is the beginning of possible amendment to the PDP. So still, we need to have some possible time frame. It is years that we are discussing this. Years and years. So we have to have some -- some objective time limit of that.

Thank you.

CHAIR SCHNEIDER:

Thank you, Iran.

Well, on the first one, I guess there's not that much to do because everybody has a number of work streams that they need to or want to make progress on. This is probably something that will also pop up in the priorities session that I have a role in. As you know, they will take place on Wednesday afternoon. And the other thing is those delegations that have more than one representative of course may split themselves, or some that have priorities on one thing may go somewhere else and then report to us either through the mailing list or orally at some point in time. But apart from that, I don't see any significant thing, structural improvement that we could make.

About the second one, I think we should note there are different processes under way. One was the re-opening, whatever it's -- the correct term is, of the former PDP that used to take IGOs and

organizations like the Red Cross together in one PDP, and that was ex post considered as one of the problems, that it was not really -- that the differences in legal basis and other procedures were not sufficiently realized by that group. And that is the one that is led by Thomas Rickert and will, when it's re-opened, which is the case like more or less now, will definitely be followed by the Red Cross and ideally also by some -- some GAC members in addition to the Red Cross. Whereas the other one, we have the representatives from the IGO coalition who participate, and maybe occasionally also some GAC members. But I'm not informed into all -- in all the details who is exactly participating.

But I see Brian has his hand up. Maybe you can give a little more information about how the GAC and its members or observers are participating in the process.

Thank you.

BRIAN BECKHAM:

Yeah, thank you, Chair. I think for the reconvening of the first working group, that's still in its beginning stages, so I don't have an answer to that.

In terms of the Curative Working Group, in fact IGOs have collectively decided not to formally to participate in the working

group. The reason for that is during the first working group, IGOs had to fight to get a minority statement put into.

The reason for that is during the first working group, IGOs had to fight to get a minority statement put into the record above the objections of the members of the working group. We took issue with the way that they read the GNSO operating procedures in terms of deeming consensus over minority objection.

So based on that past experience where frankly the voice of IGOs were overridden by others in the working group, IGOs chose not to formally participate as members of the current curative working group. We do observe the goings-on of the working group, and we have had on several occasions questions put directly to IGOs by the working group. One instance we had a letter from 40 legal counsels of IGOs explaining the nuances of privileges and immunities under international law that we provided to the working group. And so it's an open question of how the working group takes those types of feedback on board.

CHAIR SCHNEIDER:

Thank you, Brian, for this clarification.

Any further questions or comments on this issue? Of course, we'll keep you informed and the question is also if and what eventually you would like to see reflected as text in the

communiqué. This is something that we do still have a little bit of time.

If there are no more questions or comments on this issue for the time being, I would like to use the remaining few seconds of that minute before 3:00 for something completely different, which is something that you may remember as not having been that long ago, i.e., the last -- and so the next high-level governmental meeting that the GAC had for the last time in Marrakech in 2016, so early last year.

And we've been looking into future options for having such a high-level governmental meeting in the cadence of about two years, as has emerged more or less as a tradition since 2012 where we started with this in Toronto in Canada and then 2014 in London and then 2016 in Marrakech.

And we are very happy to be informed by our colleague, Rafael from Spain that actually the Spanish government is ready to take on some effort for the upcoming meeting in Barcelona. So, please, Rafael, you have the floor.

RAFAEL PEREZ GALINDO: Thank you, Thomas. And thank you, GAC colleagues. As Thomas was explaining, as you may know, once every two years the high-level governmental meeting is convened in conjunction with the

regular ICANN meeting. So following the successful precedence of Toronto, London, and Marrakech, the Spanish government proudly announces that it will be hosting the next high-level governmental meeting in Barcelona in October 2018. This high-level meeting will be an outstanding opportunity to enable all parties to gain a clearer understanding of the critical role that governments play in ICANN processes, including the enhancements, the participation, effectiveness of the GAC as a full member of the empowered community with regards to public policy issues.

These discussions will benefit from the presence of very senior officials, allowing them to gain a greater understanding of ICANN and its role in Internet governance.

With an end to achieving all these goals and have the most fruitful possible meeting, the Spanish government will liaise with ICANN and all of you in order to arrange for the event, including invitations, travel support, and agenda setting.

So we're very excited about this challenge and expect you all in Barcelona next year. Thank you.

CHAIR SCHNEIDER: Thank you very much for that message. I think this is a good thing to hear, and we're very happy to all come to Barcelona in October 2018.

With this -- of course, we will have to then start thinking about issues and how to shape that particular day. And we know how this works more or less now after three experiences, so this process will start, of course, from now on. We are not in a hurry. We have time. But time passes normally quickly, so we really want to move this forward, yeah, at full speed.

Okay. This is the coffee break apart from Manal telling us something. Just one second before I give the floor to you.

The cross-community sessions, where are they exactly? In the GAC room or is it another one?

Olof. Or Tom tells us in this room. So we need to take our things off and then come back so that the seats are free for everyone, including us, those that come back for the cross-community session.

So with this, Manal, please go ahead.

MANAL ISMAIL: Thank you, Thomas. Just very quickly to remind ourselves we already have a document, a guiding document, for the high-level

meeting that's been updated by our hosts in London and in Canada and Toronto. So we can again share it with our Moroccan colleagues if they have something to add and ultimately share it also with Spain, in case they find it useful. Thank you.

CHAIR SCHNEIDER:

Thank you, Manal, for referring to this.

So, okay, this is the coffee break. Thank you.

And we meet again as GAC tomorrow morning after the community forum, which will also be here, tells 1.0.

Okay, thank you.

[Coffee Break]