
ABU DHABI – GAC discussion on IGOs and Red Cross Red Crescent Protections

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THOMAS SCHNEIDER: So please take your seats. We really need to restart. Thank you.

So the next session is Session Number 21, which is about where we are with regard to IGO and Red Cross/Red Crescent protection. Let me hand to over to Tom to give us a quick introduction based on the brief you have all received on this. Thank you.

TOM DALE: Thank you, Thomas. Firstly, you GAC members will recall that you discussed these issues with the members of the GNSO Council earlier in the week. I can't remember what day precisely, they all blur into one and it seems like a year ago, but in fact it was probably only two days ago.

In the meeting with the GNSO Council, the GAC received an update and had some brief discussions about progress on these issues. The issues are, firstly, the view that the GAC has and wishes to update and perhaps update the Board with regard to the PDP on IGO/INGO access curative rights protection mechanisms. I know that some GAC IGO members are here and may be able to provide an update on that. That working group is,

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of course, meeting this week. And as you heard from the GNSO Council, it's working towards producing its final report in the near future but not at this meeting.

The issue of the reconvened PDP from quite some years ago to deal with new aspects of protections for the Red Cross and Red Crescent identifiers was also noted in the meeting with the GNSO Council, and some text has been made available through the Red Cross movement Secretariat and I think in the U.K. and Switzerland. You will see that in the next version of the draft Communique, but some progress on that was noted and some possible outstanding issues for further work were also noted.

And finally, the more general issue of IGO protections which were being looked at via what was termed a “facilitated discussion” overseen by former Board member Bruce Tonkin has not been, I don't think there's been any progress on that. So it's possible, Thomas, as I say, that GAC members particularly from the IGOs might want to give an update curative rights, and either the U.K. or Switzerland perhaps, on the Red Cross/Red Crescent materials. Thank you.

THOMAS SCHNEIDER: Thank you, Tom, for the introduction. Let's start with one of the two. Let's take the Red Cross. So I don't know, maybe Mark, since you have been one of the people working very closely with the

Red Cross on this, if have any news about where we are with the protection of the Red Cross. Thank you.

MARK CARVELL:

Thanks very much, Chair. Indeed, I have been working closely with the Red Cross representative and the engagement with the GNSO PDP Working Group and so on. And the progress has been very good in terms of addressing the outstanding issues about permanent protection, in particular for national Red Cross and Red Cross organizations. And it's looking good in terms of a swift resolution of these longstanding issues which colleagues will know from the briefings that have been a feature of GAC advice to the Board for a very long time. So we can, I think, anticipate a final resolution of these issues in the very near future.

There's still one area where we have been seeking extension of temporary protection to permanent protection in the respect of the acronyms of the international organizations of the Red Cross and Red Crescent. That is the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Organizations (IFRC) where the advice has been to seek protection under the same cost-neutral mechanisms to be worked out for the protection of IGO acronyms.

So it's kind of a separate track, if you like, which was not within the scope of the current engagement with the GNSO in respect of

national societies and so on. So that still is on the table, if you like. But as I say, it's linked into protection for IGO acronyms.

So that briefly is the state of play and I think, as I say, we can be satisfied and perhaps this is something to record in the Communique that there has been dedicated work in this area, which is across the community, which is producing, we expect, a very satisfactory result. I hope that's helpful for colleagues. Thank you.

THOMAS SCHNEIDER: Thank you for this update, Mark. Any comments, questions on this? If that is not the case, then we note that things seem to be well underway and we hope that we will have a final end to this issue that is actually going back to the first round still. So it's several years that we have been working together with others on this one, and we do hope this will come to a close soon. Thank you, Mark.

With this, let us move to the other issue that is similar but not the same, which is protection of IGOs, which is also an issue that has been ongoing for many years now. And I don't know if somebody from the IGO Coalition who has been working on this very focused has an update for us. I see the OECD has his hand up. Thank you.

JONATHAN PASSARO: Thank you, Thomas. Yes, this is Jon Passaro from the Organization for Economic Cooperation and Development. I just arrived last night, so I haven't had a chance to see many of you.

As Thomas pointed out, I'm here on behalf of a coalition of several dozen intergovernmental organizations that are trying to protect our acronyms in the DNS. You may recall some years ago the Board voted to implement permanent protections via a reserved list protecting the full name of IGOs in the top and second levels. But this issue of IGO acronyms remains outstanding. For the overwhelming majority of us, the OECD included, these are effectively the only names the public knows us by.

As Tom said earlier, things are largely at a standstill since ICANN 58 in Copenhagen when we had what appeared to be a productive meeting of the GNSO and GAC representatives moderated by former Board member Bruce Tonkin to discuss the IGO protections issue. As you may recall that UDRP is incompatible with IGO status because it requires someone who wants to submit a dispute to submit to the jurisdiction of national courts in order to bring that dispute before the UDRP. This submission to national courts is actually incompatible with the immunities from jurisdiction of courts that IGO member states have given us and which are actually a hallmark of our status under both national and international law. So this effectively

leaves IGOs without a remedy if someone is using our identifiers fraudulently in the DNS.

I read with great interest the draft GAC/ALAC statement that Thomas sent out about lowering barriers to informed participation at ICANN, in particular the section regarding the need not only to provide all members of the community to participate in ICANN decision making but also for the relevant ICANN mechanisms to actually take those views into account once they have been expressed.

Although IGOs were unable to formally participate in the ongoing PDP regarding IGO access to curative rights protection mechanisms, IGOs on a number of occasions provided clarifications to that working group regarding the nature and extent of our immunities from jurisdiction of national courts in order to allow the working group to make informed decisions in that regard.

Most recently, about 20 IGOs submitted comments on the draft final issues report, this was in March or April of this year, voicing concern about misrepresentation of IGO immunities in that draft report. It also bears mentioning that the report contained misrepresentations of the export report the GNSO had itself commissioned on that topic.

Although the final report is not yet out, it unfortunately appears from recent statements from the working group that those statements were ignored. This is, of course, exactly what happened in the first PDP and IGO protections several years ago where IGO and government views were effectively completely ignored.

The issue of IGO protections is obviously of fundamental importance to myself and the IGOs on behalf of whom I'm speaking. Fraud in the DNS using our acronyms can be very harmful to our reputations, and the public are often the victims of scams perpetrated by individuals using our identifiers.

But the core issues of process demonstrate fundamental problems with ICANN which are, as everyone is becoming increasingly aware, negatively impacting the work of everyone in the room. I hope everyone will be following this closely because, again, the issues we are seeing here are really ones that are impacting everyone in the room. And I look forward to everyone's continued support in this regard. Thank you.

THOMAS SCHNEIDER: Thank you, OECD. Further comments, questions on this issue? If that is not the case, then as we've heard, one of the key elements will be to see what will finally be in that report and the recommendations by the Curative Rights [Protection

Mechanisms] Working Group. And we will have to be prepared to give our views on that one. So I can only invite you to follow this and react accordingly to whatever you think is a reaction. Iran?

IRAN: Thank you. GAC representative from Iran. Chair, you said comments. Yes, we continue to support this issue to be resolved. This is on the table for years and years and, yes, we express our doubt about the list of 154 cases which is still on the table. [inaudible] This is not our fault. It's the fault of someone else. If they have not resolved that, they should not come back to us. This should be resolved as soon as possible, and we continue to give our strong support for that. Thank you.

THOMAS SCHNEIDER: Thank you, Iran. Other comments? Switzerland?

SWITZERLAND: Thank you. I'll be very brief. I would like to support what has been explained by the IGOs and the position taken by our colleague Kavouss. Thank you.

THOMAS SCHNEIDER: Thank you. France?

FRANCE: Thank you, Chair, I'm going to be brief. It is high time we find a fast resolution for these issues. This has been longstanding, and I would like to support the position expressed by our colleague in the OECD and the positions expressed by Switzerland and Iran.

THOMAS SCHNEIDER: Thank you, France. If there are no further requests for the floor, then I believe we can bring this discussion to a close and we will take 30 minutes for a technical rollover.

Switzerland, you have the floor.

SWITZERLAND: I just wanted to check whether the status of current discussions on the ICRC issue has been commented on during this session.

THOMAS SCHNEIDER: Thank you. Yes, we briefly touched it at the beginning of this session, and things seem to be on a very good way. We don't have anything on paper yet, but we are getting signals that this is about to be concluded. So also there we need to be careful when we get a final result and look at it and see that this is resolved after many years to the satisfaction of us all.

Switzerland?

SWITZERLAND: Yes, thank you. And apologies because I missed that part, but as I was present yesterday at an informal meeting of the reconvened PDP Working Group chaired by Thomas Rickert, I just wanted to reflect to the Plenary that we are witnessing good progress on the issue of the protection of the names of the national societies. But it seems that the protection of the acronyms falls outside of the scope of that reconvened group. So I think it's of paramount importance in order to maintain the present state of protections for both the national societies and the acronyms, that we recall the Durban Communiqué and our past advice on this issue where we called for the protections of these acronyms. Thank you.

THOMAS SCHNEIDER: Thank you very much, Switzerland.

So if there are no other interventions, then we conclude this session here and move over to the next one. So this is the 30 seconds technical break.

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