

**Transcription ICANN Los Angeles
IGO INGO CRP Update to the Council
Saturday 11 October 2014**

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On page: <http://gnso.icann.org/en/calendar/#oct>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page Jonathan Robinson: Thanks, everyone. Are we good to go for the next session? Thank you. So the next session then is the report back on the working group dealing with the IGO INGO curative rights. I did see Phil Corwin here or, Petter, are you providing that report?

((Crosstalk))

Petter Rindforth: Okay thank you. Yeah, this is actually still called a working group. Good to know. And I - can anyone assist me with this? Thanks. So if we proceed with the first slide is status update. Well at our first meeting on August 11 we noted that in our work description it was instructed that this working group should, at least, at a minimum consider and there was a list of 21 topics.

And going through these topics we decided to initially start working with creating three sub groups to do the phase one. And one sub group has been dealing with checking out the current state of the UDRP and URS and try to see how these kind of disputes has been handled.

And the Sub Group B is going through existing IGO INGO protections that is not raised to alternative dispute resolutions. And the third sub group is dealing with the treatment of the protected groups basically to review the prior work that has been done.

And if we - we have - we can pass on to next slides. What we have considered so far is that when we go through the disputes that has been decided on we could not find any or maybe it was just one IGO disputes. And

on - when it comes to the other groups all disputes has been treated when we'd - decision on the transfer of the domain name.

So we really need to find out is this still a problem and what is the problem. And one thing is that it's - the lack of IGO and government participation in this working group is (unintelligible) because we need input. But, I mean, our recommendations are of direct importance to them.

And of course we also decided at the outcome of the work we've done (unintelligible) is not dependent on the outstanding issues with IGO acronym protections but may affect overall scope of the IGO protections ultimately.

We also to make the work efficient we have realized that it's not practical to obtain data from all organizations identified by their prior working group on the IGO INGO protections. And that comes especially for INGOs because there are so many organizations and so many disputes so we'll try to find a group that - of decisions and a group of organizations that we can use as a format.

Next. So we have to consider whether IGOs and INGOs should be treated differently based on different problems with the UDRP and URS dispute resolutions. And of course the lack of GAC advice on INGOs other than Red Cross and IOC where we have participants in the group and we have a lot of cases that we can check out and work with. An outcome of the working group data analyzes.

We - it's also important that we have to consider the (unintelligible) of UDRP, URS amendments. Is it necessary and in such case what kind of amendments or should we recommend to create a separate dispute resolution procedure.

And well most definitely questions that will be discussed after the sub group complete work with a full update at ICANN 52 in Marrakesh. One thing that is we haven't seen any IGO cases, as said, and we need (unintelligible)

samples of IGO jurisdictional problems related to domain disputes. And here we hope for input from GAC.

I mean, the GAC has expressed an interest in early engagement with the GNSO PDP so given the nature and the issues of this one it seems natural for the GAC to be informed and perhaps encourage the IGOs to get involved especially when the working group embarks on its next phase over the work when it will begin to discuss the possibility and feasibility of either amending UDRP or URS or creating a new dispute resolution procedure.

And given that this was the data that's part of the WIPO 2 process it would certainly be helpful for the IGOs and the GAC to be part of that discussion. So either for suggest that the GNSO Council reach out to the GAC either through Jonathan as the GNSO chair or Mason as the new GNSO GAC liaison to get input on that part.

Next. So just to finalize the formation of the working group, one thing that I just wanted to put out because it was not specifically clear when we started and we got questions also from the working group members that it's not the case of decided on demanding UDRP or URS. It could well be that we see the need to create a separate dispute resolution system to solve this if there are actually problems that needs to be solved in this way.

And so some additional information, we can find - there's a Webpage where you can also find updated info from our weekly meetings and, yeah, talking about meetings don't forget to come to our meeting here in LA now on Wednesday.

And then just a final note as I'm stepping down from the Council later on this week we need to elect a new GNSO Council representative for this working group. Thanks.

Jonathan Robinson: Go ahead, Phil.

Phil Corwin: Yeah, thank you, Jonathan. And I just - I'm co-chair of the working group with Petter and I would just want to add a few things to his presentation. I think we've made very substantial progress in a short time and with two co-chairs and with establishing three separate sub groups by dividing the work up we've made substantial progress.

I would say that, you know, we haven't reached any firm conclusions yet, we're quite a way from that. But in terms of where we're going given that the GAC request is to look at protections for IGOs and their acronyms and the only specific INGOs were Red Cross and International Olympic Committee, our preliminary look at the other INGOs we've discovered that there are several thousand on the ECOSOC list, I'm not sure how to pronounce that acronym.

And it appears so far that the - many of them have trademarked their name, they - the ones who have not appear to have a substantial barrier to doing so. So I think we're heading in the direction of deciding not to try to deal with those thousands of INGOs because they can use the current UDRP just by trademarking their name though again that's not a firm conclusion.

We are looking at first the problem for IGOs is an assertion that they can't be - use the UDRP regardless of whether they have trademarked their names because it involves an appeals process to a national court and there's a claim of sovereign immunity.

We're looking at that and the debate is really whether that sovereign immunity is just a defense against being sued or whether - and what that extends to their use of various legal processes or alternative arbitration processes. They use trademarks, which are national - under national law, they sign when they register their domains, they sign a registrar contract that says they'll be subject to UDRP.

They sign contracts in the countries they operate in under - so they do a lot of things that involve potential enforcement in courts. So we're looking at that issue and seeing if that really justifies a new process.

And if we do decide that there is a need to create a new curative rights process for exact matches and acronyms of IGO names we're going to have to try to figure out something analogous to the classifications of goods and services that exist in the world of trademark because when you take an organization - like World Health Organization, WHO, common English word could easily be part of other domain names and so we have to define well if it's similar but what is the activity that IGOs engaged in where if you're involved in the same activity there might be something analogous to infringement but it was something different, you know, there wouldn't be.

So just to give you some idea of some of the nuances of what we're getting into. And I'll stop there but I think we've got a good group working on this and we've - in a short time we've made some substantial progress down the road. Thank you.

Jonathan Robinson: Thanks, Phil. Thank you, Petter. Any comments or questions on the work of this group at this stage? Just remind everyone in the room that this isn't just about comments, questions or discussions from those seated at the table. By all means, anyone - is there a standing mic?

I must say I just - now that I say that I don't see a mic in the front of the room. But if anyone would like to contribute or comment by all means just come up to the table and grab a mic so if you do have questions, comments or input please feel free to do so.

All right, in the interest of time, as I say, I think we'll draw that session to a close. Thank you, Phil. Thanks again Petter. And we'll move on to the next session.