

**IRP – IOT**  
**IRP Supplemental Procedures: Translations**  
**25 February 2020**

1. Review of agenda
2. Statements of Interest
3. ICANN 67 plans – proposal to switch to 17 March
4. Translation issue – see points for discussion below and background document circulated with agenda
5. Discussion of next topic
6. AOB

## 5(B) Translation – Text from Interim Supplementary Procedures

As required by ICANN Bylaws, Article 4, Section 4.3(l), **“All IRP proceedings shall be administered in English as the primary working language, with provision of translation services for CLAIMANTS if needed.”** Translation may include both translation of written documents/transcripts as well as interpretation of oral proceedings.

The IRP PANEL shall have discretion to determine (i) whether the CLAIMANT has a need for translation services, (ii) what documents and/or hearing that need relates to, and (iii) what language the document, hearing or other matter or event shall be translated into. A CLAIMANT not determined to have a need for translation services must submit all materials in English (with the exception of the request for translation services if the request includes CLAIMANT’s certification to the IRP PANEL that submitting the request in English would be unduly burdensome).

In determining whether a CLAIMANT needs translation, the IRP PANEL shall consider the CLAIMANT’s proficiency in spoken and written English and, to the extent that the CLAIMANT is represented in the proceedings by an attorney or other agent, that representative’s proficiency in spoken and written English. The IRP PANEL shall only consider requests for translations from/to English and the other five official languages of the United Nations (i.e., Arabic, Chinese, French, Russian, or Spanish).

In determining whether translation of a document, hearing or other matter or event shall be ordered, the IRP PANEL shall consider the CLAIMANT’s proficiency in English as well as in the requested other language (from among Arabic, Chinese, French, Russian or Spanish). The IRP PANEL shall confirm that all material portions of the record of the proceeding are available in English.

In considering requests for translation, the IRP PANEL shall consider the materiality of the particular document, hearing or other matter or event requested to be translated, as well as the cost and delay incurred by translation, pursuant to ICDR Article 18 on Translation, and the need to ensure fundamental fairness and due process under ICANN Bylaws, Article 4, Section 4.3(n)(iv).

Unless otherwise ordered by the IRP PANEL, costs of need-based translation (as determined by the IRP PANEL) shall be covered by ICANN as administrative costs and shall be coordinated through ICANN’s language services providers. Even with a determination of need-based translation, if ICANN or the CLAIMANT coordinates the translation of any document through its legal representative, such translation shall be considered part of the legal costs and not an administrative cost to be born by ICANN. Additionally, in the event that either the CLAIMANT or ICANN retains a translator for the purpose of translating any document, hearing or other matter or event, and such retention is not pursuant to a determination of need-based translation by the IRP PANEL, the costs of such translation shall not be charged as administrative costs to be covered by ICANN.

## Points for Discussion on Translation

Bylaws: Secure the accessible, transparent, efficient, consistent, coherent, and just resolution of Disputes. Rules intended to ensure fundamental fairness and due process

1. Languages: “from/to English and the other five official languages of the United Nations (i.e., Arabic, Chinese, French, Russian, or Spanish)”.
  - a. Is this the right balance? What about Claimants who do not speak a UN language?
  - b. Group proposal on this had been to give primacy to UN languages where Claimant speaks more than one language.
2. Supporting evidence which is not in English: “A Claimant not determined to have a need for translation services must submit all materials in English”.
  - a. Would suggest that it is the Claimant’s responsibility to translate annexed evidence?
  - b. IRP Panel has a general discretion, is this adequate?
3. Translations by Claimant not determined to be “needs-based” will be treated as legal costs and borne by Claimant.
  - a. Should they be treated as an administrative cost so that the burden could shift to ICANN if Claimant wins?
4. Translations by ICANN to make available to the Community:
  - a. Interim rules say these are not administrative costs. Presumption they are legal costs? Is there a need for greater clarity on these costs?
5. Making a request for translation:
  - a. Word/page limit for such requests? Separate from the 25-page limit for the Initial Written Submission?
  - b. Standard form?
6. Timing of translations (comments of Spain and Switzerland):
  - a. Contemporaneous with availability of the English-language version?
  - b. Time limits to run from availability of translation?
7. Other?

## Proposed Next Topic for Discussion

1. Additions please to Sam's list of additional issues based on review/experience with IRP.
  - a. Use of Google Doc?
  
2. Consolidation, Intervention and Participation as an Amicus (s7 of the Interim Supplementary Procedures)
  - a. Sam has identified:
    - i. Procedures Officer
    - ii. Transparency: access to documents and evidentiary record for the intervening party
    - iii. Possible clarification on process to make a request
  
  - b. Possible inconsistencies/need for clarity include:
    - i. 25-page limit application to all Claimants, including intervention/consolidation
    - ii. Selection of the panellists?
    - iii. Other – all to please review this section
  
  - c. Review rules overall against public comment input and previous discussion
    - i. Do rules properly reflect principles and purpose of IRP
    - ii. Background briefing to follow