**Recommendation #1: Definition of “IGO Complainant”**

The EPDP team recommends that the UDRP Rules and URS Rules be modified in the following two ways:

1. Add a description of “IGO Complainant” to section 1 (i.e., the definitions section of both sets of Rules):

“‘IGO Complainant’ refers to:

(a) an international organization established by a treaty and which possesses international legal personality; or

(b) an ‘Intergovernmental organization’ having received, accepted, and is actively engaging in, a standing invitation to participate as an observer in the sessions and the work of the United Nations General Assembly; or

(c) a Specialized Agency or distinct entity, organ or program of the United Nations[[1]](#footnote-1).”

AND

1. Add the following explanatory text to UDRP Rules Section 3(b)(viii), URS Section 1.2.6 and URS Rules Section 3(b)(v):

“Where the Complainant is an IGO Complainant, it may show rights in a mark by demonstrating that the [identifier] [acronym] which forms the basis for the complaint is used by the IGO Complainant to conduct public activities in accordance with its stated mission (as may be reflected in its treaty, charter, or governing document). Such use shall not be a token use.”

For clarity, the EPDP Team emphasizes that:

* This recommendation does not modify or supersede Recommendation #2 from the IGO-INGO Access to Curative Rights Protection Mechanisms Policy Development Process [[2]](#footnote-2) that the GNSO Council approved on 18 April 2019. IGOs may still attempt to demonstrate that they have the requisite standing to file a UDRP/URS complaint by proof of compliance with the communications and notification procedures outlined in Article 6ter of the Paris Convention.
* This recommendation does not expand any existing legal rights that IGOs may have. As described in Section 3 of this report, the EPDP Team’s intention in making this recommendation is to allow an IGO to demonstrate that it has rights that are functionally equivalent to unregistered trademark rights.

Implementation Guidance:

* The EPDP Team notes that its definition of “IGO Complainant” is consistent with the criteria that the GAC used to develop its list of protected IGOs. The GAC list may be informative as to the types of organizations that satisfy the eligibility criteria. As such, the EPDP Team recommends that ICANN org ensure that the GAC list is published in a publicly accessible online location.
* The EPDP Team believes it is crucial that the definition of “IGO Complainant” and its scope be understood and applied consistently in all applicable ICANN policies. As such, the EPDP Team recommends that ICANN org collaborate with the GAC to ensure that any future updates to the GAC list are made in line with this definition.

1. A visual depiction of the United Nations system is available here, including its Specialized Agencies and various programs: <https://www.un.org/en/pdfs/un_system_chart.pdf>. [↑](#footnote-ref-1)
2. Recommendation #2:

   The Working Group notes that an IGO may seek to demonstrate that it has the requisite standing to file a complaint under the UDRP or URS by showing that it has complied with the requisite communication and notification procedure in accordance with Article 6ter of the Paris Convention for the Protection of Industrial Property. An IGO may consider this to be an option where it does not have a registered trademark or service mark in its name and/or acronym but believes it has certain unregistered trademark or service mark rights for which it must adduce factual evidence to show that it nevertheless has substantive legal rights in the name and/or acronym in question. In this regard, the Working Group recommends that specific Policy Guidance be issued by ICANN to clarify the following points:

   (a) this alternative mechanism for standing is not needed in a situation where an IGO already holds trademark or service mark rights in its name and/or acronym, as the IGO would in such a case proceed in the same way as a nonIGO trademark owner;

   (b) whether or not compliance with Article 6ter will be considered determinative of standing is a decision to be made by the UDRP or URS panelist(s) based on the facts of each case; and

   (c) the possibility that an IGO may seek to rely on its compliance with Article 6ter to demonstrate standing should not modify or affect any of the existing grounds which UDRP and/or URS panelists have previously found sufficient for IGO standing (e.g. based on statutes and treaties). [↑](#footnote-ref-2)