**Recommendation #3:**

1. The EPDP team recommends that an IGO Complainant (as defined under Recommendation #1) be exempt from the requirement under Section 3(b)(xii) of the UDRP Rules and Section 3(b)(ix) of the URS Rules.
2. The EPDP team recommends that, when forwarding a complaint filed by an IGO Complainant to the respondent (pursuant to Paragraph 2(a) of the UDRP or Paragraph 4.2 of the URS, as applicable), the relevant UDRP or URS provider must also include a notice informing the respondent: (i) of its right to challenge a UDRP decision canceling or transferring the domain name or a URS Determination rendered in favor of an IGO Complainant by filing a claim in court; (ii) that, in the event the respondent chooses to initiate court proceedings, the IGO Complainant may assert its privileges and immunities with the result that the court may decline to hear the merits of the case; and (iii) that it has the option to agree to binding arbitration to settle the dispute at any time, including in lieu of initiating court proceedings or, in the event it files a claim in court, where the court has declined to hear the merits of the case.

Explanatory Text:

This recommendation addresses the GNSO Council’s instructions that the EPDP team’s recommended policy solution must *“[account] for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances; … not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction whether following a UDRP/URS case or otherwise; and … [recognize] that the existence and scope of IGO jurisdictional immunity in any particular situation is a legal issue to be determined by a court of competent jurisdiction”*.

Early in its deliberations, the EPDP team agreed on the need to balance the rights and interests of registrants and IGOs. In finalizing its recommendation to exempt IGO Complainants from the requirement to agree, with respect to any challenge to a UDRP decision or URS Determination, to submit to the jurisdiction of the courts in at least one specified Mutual Jurisdiction (as the term is defined in the UDRP Rules and URS Rules), the EPDP team thought it important to ensure that registrants who wish to challenge a UDRP or URS outcome in court be made aware that an IGO Complainant’s exercise of its privileges and immunities may mean that the court declines to hear the registrant’s case.