

**ICANN
Transcription
IGO-INGO Curative Rights Protection PDP WG
Thursday, 05 May 2016 at 16:00 UTC**

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Attendees:

David Maher - PIR
George Kirikos - Individual
Kathy Kleiman – NCSG
Lori Schulman - IPC
Mason Cole - RySG
Paul Tattersfield - Individual
Petter Rindforth - IPC
Phil Corwin - BC
Jay Chapman – Individual
Osvaldo Nova – ISPCP
Paul Keating – NCUC
Rudi Vansnick - NPOC

Apologies:

Jim Bikoff - IPC

ICANN staff:

Steve Chan
Berry Cobb
Mary Wong
Glen de Saint Gery
Terri Agnew

Coordinator: The recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the New IGO INGO Access to Curative Rights Protection Mechanisms Working Group call held on the 5th of May, 2016. On the call today we have Petter Rindforth, George Kirikos, Jay Chapman, Osvaldo Novoa, Paul Tattersfield, Philip Corwin, Rudi Vansnick and Mason Cole. We have listed apologies from Lori Schulman. From staff we have Glen de Saint Géry, Mary Wong, Steve Chan, Berry Cobb and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you, Petter.

Petter Rindforth: Thank you and welcome back all of you. It's nice to have another meeting here and also to have an interesting document to go through. But before we step onto Number 2 on the agenda I would like to ask if there are anyone that have any new statements of interest. I see no hands up. Excellent.

Okay so we have received the final memo from Professor Ed Swaine. And the main topic of today is to discuss feedback and also come up with some specific questions or clarifications etcetera so that we can put forward to the professor and then hopefully have next meeting with the Professor Swaine on board, we can discuss it directly with him.

And I hope that you – all of you have had the possibility to see the memo and study it. I don't know if we need to go through whole memo as such. I think it's interesting is the conclusions that start on Page 24 where he more or less starts with actually saying the same that we made in our initial starting conclusion when we have worked within this working group for, well, just six, seven months, namely that there may be enough to keep with the UDRP and not necessarily to create a completely new dispute resolution policy.

But as you can see he has also come up with some alternatives. And well I open the floor to any specific comments. And I see George, please go ahead. George, are you on mute? George is calling back in. So I pass it on to Phil. And George can come up when he has finished – when he has managed to call back. So, Phil.

Phil Corwin: Yes, thank you, Petter. And hello to everyone and it's good to have this working group back together and moving toward what we hope is some final conclusions.

The main takeaway I took from this memo – and I think it's an excellent memo – and I want to suggest up front that at an appropriate time, which may be after our call with the professor, that when we feel that the memo is locked down that we should share it with the GAC and with the IGO small group and invite their comments if they believe anything in it is legally incorrect, they should have the opportunity to state it if they want to agree or disagree with anything in it or forward their own conclusions.

I think internally within ICANN we'd be on much sounder ground if we do that in preparation for our face to face meeting, which is on the schedule for the Helsinki meeting at the end of June. So I wanted to put that out there and see if there's general agreement that that should be part of our strategy going forward.

Aside from that, and I have some more specific comments and questions I want to raise in the course of this call. The main takeaway I took from this memo is that there is no black and white answer to the question of whether IGOs – whether their immunity is insulted in some way, is transgressed upon by having them utilize the UDRP procedure which designates an appeal in a court of mutual jurisdiction.

And ironically that the only way to answer that question in regard to a particular IGO and a particular dispute and jurisdiction would be to go to the

courts of that jurisdiction and have them opine on whether or not the IGO enjoys immunity from suit in that jurisdiction for the type of issues raised in a UDRP appeal.

I'll stop there and open it to others. But I think that's – we got an excellent memo which I think well documents the complexities of answering that question and points out that the question may be answered differently for a UN IGO versus another type of IGO. And maybe that the answer in one jurisdiction may be different from the answer in another. So I'll stop there and see if George – George says he's back on the phone. So perhaps he wants to chime in. Thank you.

Petter Rindforth: Thanks. And just one second before it leave it over to George, I agree that would be good to send it out to ccNSO and the GAC for further comments. But also that we have to be rather distinctive when we send it out that we would like to have the response within a specific time limit so that we don't wait another year for comments before we can make our conclusions...

((Crosstalk))

Phil Corwin: And, Petter, I agree. My concept was that we put it out and say if you want to raise any questions about the legal analysis or any forward your views on what conclusions we should draw from this memo we should get them by a date, let's say two weeks before the Helsinki meeting because this will be a major focus when we meet in Helsinki. And we're giving this opportunity but the window is not open forever.

Petter Rindforth: Yes, thanks. I perfectly agree with you. And maybe we can have a quick well to see if anyone is against that suggestion after we have listened to George. Please.

George Kirikos: Thanks, Petter. George Kirikos for the transcript. I had quite a few comments on the memo. I'm not going to give them all orally because it would take up

the hour. But generally what I did like is he did seem to do a lot of research. He did seem to read the mailing list because he cited various cases that we discussed on the mailing list and in the conference calls. So to that extent I'm happy.

However I'm very concerned about the fact that he tried to put forth policy alternatives at the end of the memo. That wasn't something that he was really hired to do; he was more hired to do an analysis of what the state of the law is. And I agree with Phil, it seems to be saying that, you know, the state of the law seems to support the status quo that IGOs are allowed to waive their immunity. Indeed the UN, you know, treaties and so on explicitly contemplate waiver. They actually use, you know, the word "waiver" so it's not something, you know, magical that is totally unreasonable.

Another concern I had is that throughout the document it's replete with words that are kind of let's say tilted to one point of view like he uses the word "concession" throughout the document and that kind of has various connotations. And I think he should, you know, fix up the document to take away those loaded terms. For example, on Page 8 it says at the top, "in short the mutual jurisdiction concession means that certain IGOs will have agreed to the possibility," blah, blah, blah.

You know, a more balanced word would be, you know, it would be replacing the word concession with "term" or, you know, agreement because, you know, it's not really a concession because it's something that, you know, every other party bringing a UDRP agrees to as well. There are some examples also where he says one thing – in one part of the document and it's kind of like contradicted by other parts of the document so that's kind of a bit muddled. You have to kind of read the document carefully to understand what he's going through – what he's trying to say.

One example I wanted to go back to is Page 8 in the discussion area. I don't know if people can scroll to it or if they have a printed copy. It says in the

discussion section “although that is not the scenario of principle concern here, imagining that scenario usefully isolates the question as to whether an IGO has a legitimate expectation that it would be entitled to immunity absent the UDRP in its concessions. If such immunity is minimal or uncertain than any compromises required by the UDRP loom less large. If the IGO would otherwise be entitled to immunity, however, its potential sacrifice means more substantial.”

However the scenario he uses is kind of the wrong scenario. It's really a comparison between the situation where an IGO would have filed in court, that's the useful scenario. The scenario he actually describes is something where a demeaning registrant unilaterally brings a motion for declaratory judgment. So he kind of gave the wrong scenario, he tried to use that as the relevant scenario. And it was completely wrong.

The IGO would not have been entitled to immunity if they had brought the lawsuit. Like absent the UDRP it would have been decided by them initiating a lawsuit and so there the so called compromise as required by the UDRP would not be, you know, a compromise at all because it would have, you know, under the alternative they would have had to have waived their immunity anyway. So that was, you know, one thing where I think the language was very – or the logic was very poor.

I had lots of other comments but I'll give up my time to others who might want to also weigh in.

Petter Rindforth: Thank you, George. Petter here. Is there anything that you can summarize that we can put on to Professor Swaine as a specific clarifying question from what you just noted?

George Kirikos: George Kirikos here again. I could perhaps put it in writing all my concerns and then maybe others might want to do the same thing, put in writing on the mailing list all the concerns about the document and he can have a look at it.

But I think my major concern was that he was trying to put up policy alternatives at the end which, you know, really want beyond the scope because he seems to be saying, like Phil said, that the status quo is what's argued for and then he's trying to suggest that, you know, we renegotiate the terms of the UDRP.

The other thing I want to perhaps raise is that we use the term immunity in some vague sense. I think it would actually be perhaps helpful to understand what that immunity entails because in a lawsuit where it is actually going to be of relevance. And I think I identified four different areas. One is where there's perjury because, you know, people are cross examined. Another one is the requirement of discovery of documents and discovery in general so cross examination of the other people.

And the last example is liability for damages. And I think the IGOs are mostly concerned, you know, from my perspective, liability for damages. I don't see how they can make a valid case that they'd be concerned about, you know, being required to, you know, undergo cross examination or being liable for, you know, perjury or being liable, you know, to, you know, produce discovery of documents because those are, you know, fundamental justice issues that I don't think would, you know, would seem unreasonable to most people.

Petter Rindforth: Okay, thanks. Yes, as you said it would be good that after – directly after this meeting if anyone that have discussed comments today can just take a step back and formulate the specific question or comment then we can then put forward to Professor Swaine.

And going back to voting on how to proceed and send out the documents. I see from – support from the chatter so I think that here's no one that is against the suggestion that we send out to GAC and the ccNSO with a specific term limit suggested. And Phil has his hands up.

Phil Corwin: Yes...

Petter Rindforth: Yes.

Phil Corwin: ...thanks again, Petter. And by the way, I think Paul Keating just made a good comment which I'm not going to address but I think we should have some agreed upon process for members of the working group to submit comments and questions about the memo. Perhaps organized by section of the memo so that we can aggregate them and consider them simultaneously.

I want to respond to George. I'm not – while we might quibble with a word here or there, I'm not as troubled by his suggestion of alternatives. And the things he's suggesting, frankly, are things I think we would naturally need to discuss even if they weren't there as a consequence of what's in the memo, for example.

It's clear from his survey of the law that UN affiliated agencies have the strongest immunity claim compared to other IGOs so a consequence of that would be to consider whether they should receive some recognition of immunity greater than that of other IGOs. And if so we'd have to construct some other type of appeals process.

I will say personally I'm a bit troubled by the suggestion of if there were to be an alternative process for some IGOs – and I'm not advocating, I'm playing devil's advocate on all of this as I speak now – that (unintelligible) would be the place to place that I have some doubt – I might need to learn more but that a UN agency would be entirely objective in judging disputes between IGOs and private parties.

I think one of the alternatives suggests that a IGO be permitted to designate another party, say its law firm, to bring the action and therefore not involve its sovereign immunity is one we've already discussed. So that doesn't trouble me that he's in there. And we've already discussed clarifying that IGOs which have asserted their rights under the Paris Convention have standing even

without trademark registrations. This is another potential amendment in regard to standing.

So I think the things he's raised are things we would, in any comprehensive reaction to this moving toward a final product would probably be obliged to consider anyway.

I did – I want to raise two questions. One for staff and one for the group. And again, I'm not advocating any conclusion. But if we were to ever conclude that some IGOs, say UN agencies, that there was a significant immunity question, does our charter require this group to create a whole new curative rights process or appeals mechanism or are we simply under the charter supposed to reach conclusions on that and leave that work to others if it was to ever get to that point?

So I don't want an answer right now. I'm putting that to staff. And the other thing that struck me in reading the memo, and I realize this is a hot issue right now with Work Stream 2 of the ICANN Accountability process supposed to address the jurisdiction issue, but does that fact that ICANN is a US corporation subject to US laws and that the UDRP is a creation of ICANN, that US corporation, should we give greater weight to US law and jurisprudence in this process than that of other nations?

So I want to put those two questions out there. And now I'll step back and let others weigh in. Thank you.

Petter Rindforth: Thanks. And I see Mary's hand is up and I actually had another question to Mary as well so just going back to what Paul said in –I think maybe it could be a good way, an efficient way to do it then we collect comments by email and then if we have time to have – we don't need a full hour meeting I think but if we could have a follow up meeting with the questions to make quick discussion and decision on what we will send out to Professor Swaine that could be a good way to deal with it.

But I put it on to Mary also to state on what we have on the time limits.

Thanks.

Mary Wong: Thanks, Petter. Hi, everybody. This is Mary Wong from staff. I just wanted to try to address Phil's first question and while I don't recollect the words of our charter off the top of my head I think what you're asking about, Phil, is to the extent, you know, for instance if this working group were to decide that perhaps for certain types of organizations such as UN agencies, that there could be certain mechanisms made applicable to them, how far do we – are we able to go in designing those mechanisms.

I believe, from my recollection, that the charter would – it would be within scope for us to recommend that such a new mechanism be created. I don't believe that it would be necessary for us to draft the process or the rules although obviously in terms of policy recommendations we can make those recommendations as to what sorts of protections and bases it should cover.

It may then be appropriate for us to recommend that ICANN use or work with the appropriate experts in that particular field to create that particular mechanism, the rules, the actual processes and so forth. I hope that helps. Thank you.

Petter Rindforth: Thanks. Steve, I see your hand is up.

Steve Chan: Thanks, Petter. This is Steve Chan from staff. And so this comment is not related to what Mary just mentioned but it's in regards to the conversation between George and Phil. And so I guess I just wanted to remind the working group that the memo from Professor Swaine is an input to this working group for consideration so we're not beholden to implement his suggestions as he puts forth.

And so to the extent that we suggest changes to the memo it might be best to concentrate on substantive changes, inaccuracies, clarifications. So one potential approach we could consider is collecting the set of questions and clarifications as Petter mentioned and Professor Swaine could update the memo accordingly as he sees fits as it's his memo. And perhaps it could be – it might not be best to suggest specific change to the memo as it is his memo and his thoughts. So just wanted to bring that forward. Thanks.

Petter Rindforth: Thanks. Petter here. Yes, I think also that if we have specific questions for ourselves to better understand this memo and if there are any specific amendments we would like to do in – for the purpose of clarifying some issues I think we rather should go that way because it's also – what I like with this memo is that it's an external professor that have made this memo and we can refer to it and even if some issues are not specifically clear and we are not got clear replies on all questions it shows the differences and the complications of our topic.

And it's up for us as a working group to come to any conclusions partly based on the – what we have discussed and turned in and partly from the professor's memo and of course from other inputs that we got in the meantime. Yes, as Phil said, if we push beyond clarification what changes in language that could undermine its status as the views from an independent expert.

And as I said, I think it's good to have a document that is actually very well written to be shown to other groups of interest on the work we've done and the – where we have reached out to get input from an independent professor. And then my conclusions from that. Phil.

Phil Corwin: Yes, thank you. Yes, absolutely. I think we should – this is Professor Swaine's memo. He's the expert we hired. If we think there's something unclear or contradictory in the memo we should be free to point that out and ask him to explain himself or perhaps clarify. But if we start suggesting

changes in the substance I think it undermines its weight and looks like we're trying to influence the – his statements to our liking. And I think we should take the memo once anything that should be clarified is clarified and draw our own conclusions from it but not ask him to change his conclusions.

I was going to suggest procedurally – and I don't know staff, can we – and I don't know where we are in scheduling a call with Professor Swaine, when our target date is, and how close we are. But we should set a process where we ask members of this working group to weigh in by a date certain with one, any areas in the memo where they believe clarification is required.

And – for both of these I would urge that we each do it by section. For example, there's Section 1, introduction and summary, then the next section. But that's going to be the easiest way to aggregate the questions. And also if members of the working group have comments particularly conclusions they draw or tentative conclusions they draw from the substance of the memo they should put them in section by section as well but differentiate them from the questions as to their own personal views on what conclusions we might want to draw from the memo in terms of going forward procedurally.

And I see Mary just said we're aiming for two weeks from now so perhaps we can set a deadline of a week from now to ask anyone to get in specific clarifications, questions and comments on the memo so we can aggregate them with a good amount of time before the tentative date for the call with the professor.

And, George, I don't think we're – I view this as getting ready for the call with Professor Swaine, not as a – I see your chat comment – not as a cutoff date for final comments and conclusions on the memo but just, you know, your initial reaction to the memo. That would be my view. Thank you.

Petter Rindforth: Yes, Petter here. I think it's – if we have for us one week to further study this draft and come up with comments and questions on that it should be

workable with seven days. And then of course when we have it on our call it's possible to – we have – we will still have time to come up with new questions as such. But I think that the main issues that we want him to have time to study before he join our call it should work with another week for us.

And I see Paul says perhaps questions and comments should be different. Questions for clarifications are okay in one week and a call to identify and (unintelligible) the questions to be asked, they all cost money, you know. And then a deadline from Swaine for any supplemental. I'm not sure what you see as the main difference between questions and comments. Comments are then a part of the final report. Process questions are what he needs to respond to clarify. Comments are just editorial.

Okay, Phil.

Phil Corwin: Yes, since I suggested that let me clarify what my intent was. It was to get two separate lists. One would be clarifications where anyone who thinks that there's anything in the memo which seems to be contradicted by another part of the memo or where they'd like the wording to be clarified, they think it's somehow ambiguous or something like that, things – in other words, things we want to discuss with the professor to make his final product, and this is the near final memo, somewhat more clear.

I think at the same time, it's okay to share among ourselves not to be raised with the professor preliminary conclusions that members of the working group start to draw after reading the memo and considering what's in it. So I'm talking about two different lists, one is the list of questions to seek clarification from the professor; the others are – the other list is a preliminary opinions of working group members about where they think this memo should lead us in our final work. So I hope that clarifies things.

And one other thing that I thought of – I think this memo also raises questions we're going to raise with other parties. We may wish to raise with other

parties. For example, on if we were to ever conclude that for some – for IGOs generally or for some subset that let's say UN agencies that there was a need to establish an alternative appeals process number one, he opines that in that event ICANN would have to be much more involved with overseeing that process. So I think it's fair to raise a question with the board whether ICANN is willing to take on that burden because they've had a pretty hands off association with the UDRP process up to now.

Another question that's raised, he suggests if there were to be a separate appeals process for some IGOs to (unintelligible) that the IGO taking that route should be obliged to pay the costs of the registrant in that appeals process which is very different from what the GAC asked for which was an appeals process that would be at little or no cost to an IGO. So I think that raises a question for the GAC and the IGO small groups whether they would ever acquiesce to such a process where IGOs would have an additional financial burden.

So I'll stop there but I hope I've clarified what we're looking for in terms of responses to the memo from members. Two lists, by section, one, areas where we're seeking clarification; second, preliminary conclusions that a member wishes to share with other members of the working group. Thank you.

Petter Rindforth: Thanks. Just make a quick comment on comments. I think if we talk about comments as our own working group comments on this report I agree with Paul on the chat that that is more of something that we will do as a working group when we create our final report that is based on inputs from several different point of views. And one is from Professor Swaine but that's not the only one.

Okay, Mary, please.

Mary Wong: Thanks, Petter. And without getting too much into scheduling, because I think we're going to talk about that as the next agenda item, just picking up then on Phil's comments and Paul's question in the chat about our target for issuing a report, so I think as everybody knows, but just as a reminder and for the record, the working group would be expected to publish an initial report that's then published for public comment. And we would then look at all the public comments in preparing a final report.

So if we're looking at doing the initial report then obviously our scheduling between now and then becomes quite critical. And my suggestion and comment is in relation to that. First of all, as Phil noted earlier, there has been a session set aside for a working group meeting, our working group meeting, since the Helsinki meeting is supposed to be focused on substantive policy development.

So that would be a good opportunity to engage other sections of the community and of course for us to continue to meet. In that regard, I wanted to let everyone know that this memo has been shared with the secretariat that supports the GAC. I don't, myself, know whether or when it was distributed to the wider GAC participants. I certainly do not know if there is any discussion or reaction amongst the GAC members or the IGO observers in the GAC as to the contents of this memo.

But I raised that first as a point of information and secondly, also to note that whether at Helsinki or at some appropriate time in this juncture it again coming back to something Phil said earlier, it probably would be helpful for our group to try to engage with the IGOs and the GAC on the basis of whatever discussions or preliminary thoughts we may have going forward based on Professor Swaine's memo. Thanks, Petter.

Petter Rindforth: Thanks, Mary. Just an additional question. Did you say in fact that this memo is already sent out to a group within GAC? Mary?

Mary Wong: Petter, this is Mary again. Yes, and responding to you and as a follow up to Paul in the chat as well, all our meetings are publicly available as recording and transcription so it's been known for a while that we have been expecting a memo from Professor Swaine. And when Professor Swaine's memo was sent to us and then distributed to the full working group obviously this was also know because our mailing lists are public as well.

So around that time, we were contacted by the GAC secretariat for a copy of Professor Swaine's memo. So I just want to assure everybody that that was in consequence of the fact that all our proceedings are transparent and public and this was not released to the GAC or the secretariat prior to its release to the full working group here. Thanks.

Petter Rindforth: Okay. Thanks, Mary. Well just as long as they are clear that that was still a draft and as we have discussed today we will not make any major differences in the memo but maybe some clarifications. So that's also not a reason why we should not ask Professor Swaine to drop or add anything rather than except for to clarify if there are any questions that we think it's not readable or understandable in his report.

Yes, Phil.

Phil Corwin: Yes, in regard to the GAC or at least the GAC secretariat having it, I'm not deeply troubled by that. All working groups are completely transparent, anyone can go to the working group page and find MP3s of the call, transcripts of the call, transcripts of the chat, all of that, that's how we operate.

But the fact that they have it I think we still – I would hope they understand that this working group is still going to engage in the professor – with the professor and possibly seek clarification that this should not be regarded as the final work product. But when we have that final product that's when I'm – and hopefully it's by the end of this month that's when we – in my opinion

should send it directly to the GAC chair and to the IGOs working small group and say here it is, we're going to discuss it in Helsinki and if you want – if you believe there's anything legally incorrect in here or that we should draw any particular conclusions from it we want your feedback by this date certain prior to the Helsinki meeting.

I think we need to share it in an official way but also ask them basically say if you want to provide feedback you have this window and if you choose not to do so so be it because we know what our experience has been with them, which has been minimal participation and very unclear communications when we've gotten them.

So far as the overall timing for this group, our hope was to have a preliminary issue report for discussion in Helsinki. Realistically that's not going to be feasible. If we're looking at a call with the professor two weeks from today which is the 19th, and then perhaps asking him to clarify some things, which is going to take another week or two, we're not going to have a final product from him until last week of May, early June, which is just three weeks before we begin the Helsinki meeting.

So I think Helsinki will be a place where we publicly discuss what he has provided with us and what conclusions we're starting to draw from it and then move toward a preliminary issue report in the period between Helsinki and the final ICANN meeting. And a comment period on it. That's how I would envision the timetable working. And again, nothing I say here is sacrosanct and it's subject to feedback from staff and from all members of the working group.

Petter Rindforth: Yes, thanks. I agree with you. And but I think it's – it will still be an interesting topic to discuss in Helsinki. And once we meet there and also have the possibility to further discuss this memo from – with other groups of interest we can most likely go take a great step forward with the working group during

Helsinki and shortly after that. So our final report should be possible to make before the end of the summer in that case.

I see no specific – I see no hands up. And I see no specific other questions so I think what we have said is that we – all of you can send out to start with any specific topics and questions you have on the memo. And I don't remember if I got a reply from Mary on the possibility to have a short call between us in the working group to summarize the questions before we send them to the professor.

But I think that's – that could be a good way to do it and then have the call with the professor. I don't know, I give it up to Mary first and then to Lori.

Mary Wong: Thanks, Petter. This is Mary from staff again. Certainly, Petter, and I think George and others had maybe raised that suggestion earlier too. It really is up to this group how you want – and at what pace you want to handle the next steps and that's partly why I raised the possibility of Helsinki being some kind of marker to aim for.

So just kind of looking at where we are, we're in early May and we want to collect the questions and comments in the two separate lists that Phil noted from the group within the next say two weeks and then send them – and then discuss them and send them to Professor Swaine and invite him onto a call to discuss his clarifications with us then obviously that impacts our scheduling going into Helsinki but it may also be a better way to inform our discussions in Helsinki. So the short answer is it's up to the group to decide what timeline you would like to pursue from here on out. Thanks.

Petter Rindforth: Thanks. Lori. Okay I take it from that chat – can we ask the professor for a high level executive summary for laymen. Are you still mute, Lori?

Mary Wong: Sorry, I didn't realize that the question was for me. Apologies, Lori and everyone. I...

Lori Schulman: Can you hear me?

Petter Rindforth: Yes, we hear you.

Mary Wong: Is that you, Lori?

Lori Schulman: Can you hear me?

Petter Rindforth: Lori?

Lori Schulman: (Unintelligible).

Petter Rindforth: Okay before – we wait for...

Lori Schulman: You can hear me, yay.

Petter Rindforth: Oh yes, we hear you.

Lori Schulman: What I wanted to say is I'm a little concerned about the – I know this is at least a technical issue so, yeah, can you hear me?

Petter Rindforth: Yes.

Lori Schulman: Now? Can you hear me now? Can you hear me now or...

Petter Rindforth: Yes we do...

Phil Corwin: Lori, we hear you loud and clear.

((Crosstalk))

Lori Schulman: I have – I'm on a My-Fi hotspot, it keeps going in and out, I apologize. So this is my concern, we...

Petter Rindforth: Lori? Mary, yes please.

Mary Wong: Sure, thanks Petter. This is Mary from staff again. While we're trying to Lori back I think, Lori, we got your first question at least – the one that you typed in chat about having Professor Swaine prepare a basically a layman edition executive summary. And I'll note that Paul Keating, amongst others, expressed some concern over this – for reasons including the fact that as you yourself noted it is a fairly technical and complex issue.

I'd just like to say from the staff perspective that we could ask him to do that but we do share somewhat of the concerns that Paul has raised. And so we wonder whether it might not be a better use of Professor Swaine's time if we were to ask him to focus on clarifying any of the questions that our group may have. And it does sound like we will have a few questions as well as a few additional comments as well. Thanks, Petter.

Petter Rindforth: Thanks. I don't know, Lori, are you on the phone again? Otherwise I'll give it over to Phil in the meantime.

Phil Corwin: Yes, a quick comment while we're waiting for Lori to be called. I'm usually a big proponent of executive summaries but in this case this issue is so complicated and so nuanced I don't see how you boil it down to a few bullet points up front. I think it's an excellent memo, whatever clarifications might be worthwhile notwithstanding. And it's up to this working group to draw its own conclusions from it and in its final report and put them out there is what we take away. So and in fact I think the working group creates the executive summary by drawing its conclusions from the memo. Thanks.

Petter Rindforth: Thanks, yeah. I think maybe that may also be the best way for us to deal with it. So before I think that Lori is still mute. Just try to make a summary of what

we have come up to that we will have some specific time, Mary, maybe you can just after this meeting send out an email with the time limits but for us all to send in further comments and requirements for clarifications. And then give Professor Swaine some days to consider that and we'll have a meeting with him.

And in between, if we could have maybe a quick 30 minutes call within our group just to summarize the questions before we send them to Professor Swaine. And as we concluded coming out to Point 3 on the agenda to in Helsinki have our – the meeting based on the Professor Swaine's report and also has the possibility to discuss that with other groups of interest before we proceed.

((Crosstalk))

Lori Schulman: Hi, it's Lori. Sorry. Hi.

Petter Rindforth: Hi, welcome back.

((Crosstalk))

Lori Schulman: Thank you. I have a wonky Internet connect and I apologize. I understand people's points about the technical nature but I am standing a little firm, and maybe I can try to do it myself as a lawyer translating something into laymen's terms. The reason that I asked that the professor do it is so that I – anybody in this group wouldn't be editorializing. That it would still be his independent thoughts just boiled down into a more understandable format. Because I think that the, you know, based on when I had conversations with GAC members most of them do not consult with legal advisors. I've asked this question many times in terms of when they evaluate papers and – or any sort of legally oriented policy decisions.

And it's random. I don't have a scientific study. But my understanding is that in most jurisdictions this kind of paper is either going to be read by a non-lawyer and not have a local lawyer look at it too and that frightens me because then I think given the density of it it's not going to be read at all.

Petter Rindforth: Okay, thanks Lori. Can I suggest that we add your suggestion to our list of topics and then we'll all think about it and make final conclusion on what we should ask Professor Swaine to add and clarify. But it's – that's a good point to deal with.

I see your hands are still up, Lori. You want to...

((Crosstalk))

Lori Schulman: Oh no, I'll take it down. Yes, no I just – my icons – everything's delayed. My typing text into the chat is delayed. My hands are delayed, it's all delayed. So I apologize for that. I just took the hand off and it seemed to work. So...

Petter Rindforth: No problem. Good to have you online.

((Crosstalk))

Lori Schulman: Sorry.

Petter Rindforth: Okay I don't want to rush but by my watch at least we have three minutes left and so I put it over to Mary to make a summary on our next meeting and next steps.

Mary Wong: Sure thing, Petter. Thank you. And thanks, everyone, for a good discussion. So actually Steve and I were just going back and forth a little bit to try to collate what everyone has said. So I'm just going to try to summarize, and please stop me if I get anything wrong. It looks like we are going to be asking via email to the full mailing list for working group clarifying questions and

additional comments and perhaps we could do that by say Monday the 16th of May with the aim to have the short call, Petter, that you were talking about to review and agree on these lists of questions and comments on that Thursday, which would be the 19th.

If we were to then send off that agreed set of lists to Professor Swaine around about that time I note that Phil and Petter, you had mentioned that for yourselves and some members of the working group that last week of May would be difficult for a call because of the INTA annual meeting amongst other things.

So in which case we would then be looking at the first week of June for a call with Professor Swaine on the assumption, A, that he's available and that, B, that's seems sufficient time to prepare his responses. In either case, whether we do it the first or second week of June that would still provide us with an ability to discuss things with him before we go into Helsinki and we could probably then also discuss what we would like to cover and who we'd like to engage with in Helsinki.

In terms of the actual meeting days and times, all the dates that I've thrown out are Thursdays and we assume that it would be at this time, which is 1600 UTC. Petter, does that make sense?

Petter Rindforth: Thanks, Mary. Yes, that was a perfect summary. And at least it was 100% in accordance with my own notes so – and I see no hands up for correction and comments.

Phil Corwin: Phil here.

Petter Rindforth: Yes.

Phil Corwin: So when are we aiming to have a call with the professor? I thought it was going to...

Mary Wong: Phil and everyone, I think we – well if we are going to be only collecting the questions and then doing a review of those questions with the times that we were looking at then we probably would not get him the questions before the 19th which means that the earliest time for a call with him would be the first week of June.

And I noticed that Paul has suggested in the chat that actually we have the deadline for the working group as the 12th instead of the 16th. I don't think that would change the date of the call with Professor Swaine but that would move the deadline for our working group by a few days ahead.

Petter Rindforth: Yes, that seems to work. Do you agree?

Phil Corwin: Well – excuse me – I'm just – this is – we've been so delayed waiting for this I'm just would like to go faster rather than slower. So I leave it to the group, you know, it should be a group decision but I thought we were going to aim to, you know, I assume everyone's given the report at least – the memo at least one reading.

It's not that big a burden to take an hour and read through it again and make a list of any points you think you need to be clarified or any – or whatever you draw from it and get that in by next Wednesday and have a call on Thursday the 12th, a week from today to discuss the questions that have come from the group that we want to raise with them, and shoot for a call on the 19th.

I just – what if we can't get a call with them on the 2nd, you know, that's – the 2nd is three weeks before the date I'm scheduled to fly to Helsinki. It starts to get very close to Helsinki and risks not even having that discussion with them or not having much time after the discussion to prepare for Helsinki and not having perhaps a final – a final, final memo from him to discuss in Helsinki. So I'd prefer pushing to go faster if at all possible.

Petter Rindforth: Thanks. And I see – I said, okay I got it. So going back Mary said we'll seek confirmation from Professor Swaine's availability for the 19th. So can we just once again make a note of the dates we have in front of us trying to come up with our additional comments as quick as possible to have this meeting with Professor Swaine?

Phil Corwin: Yes and I agree with George. Let's see if he's available on the 19th, if he is let's push to be ready for that call; if he's not then, you know, he's not then we have to – then we want to nail him down for a call on June 2nd.

Petter Rindforth: Yes. Okay and independently of that let's have the 19th in our mind and be a little bit quicker with our own additional comments and follow up so that we can send it as quick as possible to Professor Swaine. Okay, so we are three minutes past and I think we have come to the conclusion that we'll have a quick (unintelligible) to just come up with our – send out our comments and questions, have a quick meeting to summarize them and send them out to Professor Swaine and then hope to have a call with him as quick as possible before Helsinki.

And at Helsinki our meeting there – I'm not sure when we will have it in Helsinki if that's – if the agenda is finalized yet but to meet there and have the possibility also to discuss with at least GAC on this topic to have their input on the spot.

Phil Corwin: Yes and, Petter, just before we just off, I saw Jay just ask when our meeting in Helsinki is scheduled for. I'm just bringing up the – the current schedule for that which is – this is the third version of the Helsinki schedule so it could change again. But looking at it we are actually – this group is scheduled to have its meeting on the first morning in Helsinki – Monday morning June 27 from 1:30 to 2:45 local time.

I don't know what that translates into to – into UTC. It's probably a little earlier than – or later than UTC because Helsinki is east of Greenwich. So – but

anyway the tentative schedule right now has this working group meeting for one hour and 15 minutes from 1:30 to 2:45 on Monday June 27.

Petter Rindforth: Thanks. And, yes, I confirm.

Phil Corwin: Okay.

Petter Rindforth: So okay thanks for today.

((Crosstalk))

Petter Rindforth: And we look forward to your follow up comments as quick as possible.
Thanks.

Phil Corwin: Bye, all.

Terri Agnew: Once again the meeting has been adjourned...

Mary Wong: Thank you, everybody. Thank you Petter and Phil.

((Crosstalk))

Terri Agnew: ...very much for joining. Please remember to disconnect all remaining lines.
And, (Anderson) if you can please stop all recordings. Have a lovely rest of your day.

END