

Terri Agnew:Welcome to the IGO-INGO Access to Curative Rights Protection Mechanisms Working Group call on Thursday, 21 September 2017 at 16:00 UTC for 90 minutes

Terri Agnew:agenda wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_qAghB&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=YTqlDtsw0tD38e1UShyXR-1FWRY9Vngu9LefcNXCb5Y&s=v53Q8Cc6x8H1pQQzML03RTXkeR\\_86RTJR12\\_Ic0bty0&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_qAghB&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=YTqlDtsw0tD38e1UShyXR-1FWRY9Vngu9LefcNXCb5Y&s=v53Q8Cc6x8H1pQQzML03RTXkeR_86RTJR12_Ic0bty0&e=)

George Kirikos:Hi folks.

Petter Rindforth:Hi there

George Kirikos:Hi Petter. How are you today?

Petter Rindforth:Fine, and looking forward to our co-operative work in finalizing our recommendations

George Kirikos>Welcome Poncelet. Did you know that your surname dot-com is unregistered?

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_gwhois.org\\_ileleji.com-2Bdns&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=YTqlDtsw0tD38e1UShyXR-1FWRY9Vngu9LefcNXCb5Y&s=INBftJHot8f37hevjiAifkkExNNhnqnJCq2TJJeTXMrA&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_gwhois.org_ileleji.com-2Bdns&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=YTqlDtsw0tD38e1UShyXR-1FWRY9Vngu9LefcNXCb5Y&s=INBftJHot8f37hevjiAifkkExNNhnqnJCq2TJJeTXMrA&e=)

At under \$15/yr at most registrars (eg. GoDaddy, etc.), it might be a great investment for you and your family.

George Kirikos:(e.g. personal email using [firstname@lastname.com](mailto:firstname@lastname.com), blog, website, etc)

George Kirikos:Same for Rindforth.com !!

Poncelet Ileleji:Hello All

George Kirikos:I'm always amazed when I see unregistered surname dot-coms.

Mason Cole:Greetings all. Apologies in advance, but I can stay on the call only until about 45 past the hour.

Terri Agnew:Thanks for this information Mason

Paul Tattersfield:Hi everyone

George Kirikos>Welcome Mason and Paul.

Philip Corwin:Hello all

George Kirikos>Welcome Phil and Jay.

Jay Chapman:Hi George -thanks!

George Kirikos:Perhaps some of those should be changed to 'Observers'.

George Kirikos:<https://community.icann.org/pages/viewpage.action?pageId=48347895> (28 participants, but maybe half haven't been active lately)

Terri Agnew>Welcome David Maher

Paul Tattersfield:Looks like the IGo's prefer the political route

Mary Wong:We cannot change a person's status from member to observer, or vice versa, without a specific instruction from him/her.

Paul Tattersfield:One wonders if they won't way anything until the end and then simply object if the working group doesn't give them everything they have asked for

Paul Tattersfield:way=say sorry

Mary Wong:The Working Group Guidelines requires that the chair(s) continually assess the representativeness and balance of the composition of the Working Group, and as the active participants on this one are few, it's something we will probably need to work on more as we move toward a consensus call.

Philip Corwin:Agreed as well

Paul Tattersfield:Mary did you have chance to dig out the letter from Ki-moon that Brian referenced at Hyderabad?

Mary Wong:Hello Paul, yes I did, actually - apologies for the delay, i will send it right after this call

Paul Tattersfield:Brilliant, thank you.

Paul Tattersfield:No other forum in the world would allow the IGOs to initiate an action and then assert immunity against a counter suit

George Kirikos:[https://en.wikipedia.org/wiki/Single\\_transferable\\_vote](https://en.wikipedia.org/wiki/Single_transferable_vote)

George Kirikos:<https://archive.icann.org/en/committees/elcom/recs-07jul00.htm>

Poncelet Ileleji:Thanks for Sharing George

Mary Wong:There is no voting in Working Groups.

George Kirikos:[https://en.wikipedia.org/wiki/British\\_Columbia\\_electoral\\_reform\\_referendum,\\_2005](https://en.wikipedia.org/wiki/British_Columbia_electoral_reform_referendum,_2005)

Mary Wong:It is a consensus call, and the chairs have the discretion as to when to make that call and in what format.

George Kirikos:That's your opinion, Petter. However, in my view, Options 1, 2, 3, 4, 6 etc are still on the table, right?

George Kirikos:Or, are you saying this is the only option?

Mason Cole:All, I must depart sooner than expected. Have a successful discussion.

George Kirikos:My hand is a new one.

Paul Tattersfield:Will there be an opportunity to advocate for each of the final choices of options are settled prior to any consensus call?

Jay Chapman:Is it also still possible that we do not provide any option at all?

Mary Wong:@Paul, the idea is for the Working Group to evaluate the feasibility and advisability of each option rather than to advocate for any particular one.

Poncelet Ileleji:Am thinking like wise too

George Kirikos:Thanks, Phil. That was my understanding, that all the options are still on the table. But, the language of this document should be revised accordingly, to not call it "the WG agreed", etc.

Jay Chapman:10-4. thanks for clarifying, Mary and Phil

George Kirikos:I'm calling this an "Option 7", i.e. an attempt to refine Option 2 with 3+6 added.

Mary Wong:@George, the email is referring to provsional agreement on the option under discussion, not on the entirety of all teh options

George Kirikos:i.e. Option 7 is an attempt to gain a broad consensus, to appeal to those who prefer Option #1.

Paul Tattersfield:I think there are errors in Prof. Swaine reasoning that can be easily demonstrated, and much of the preliminary WG report is premised on his reasoning, as such it doesn't articulate well the most equitable options

Mary Wong:Note also that the impact analysis that we tried to do previously is part of the exercise of evaluating which option is likely to be the most appropriate, and implementable, policy recommendation.

Jay Chapman:Mary, this is how I understood Steve's email as well. My response on the list was to simply be clear on the bigger picture

Mary Wong:Thank you, Jay, understood!

Paul Tattersfield:during?

Mary Wong:@Petter, yes - one main premise here is that both parties must voluntarily agree to arbitrate (though of course the timing and mechanism for this agreement is TBD).

Paul Tattersfield:do the IGO's and the registrants already have that option Mary?

Mary Wong:@Paul T, I suppose they do (in the way that all parties to any dispute does); but in terms of it being expressly accommodated or specified in the current ICANN policies and processes, then, no.

Paul Tattersfield:so can we realitically expect the IGOs to support such an option? Or would it be more likely they will simply say no to eveything that isn't demanded/requested [depending on your pov] by the IGO Small Group?

George Kirikos:If you look at the "placeholder" text for Rec #3, it's basically echoing the draft "option #7" (i.e. no mention of Option #1, Option #2, Option #3, Option #4, Option #6, etc.).

George Kirikos:Which seems at odds with the prior discussion that all the other options are still on the table, etc.

Mary Wong:@GEorge, yes - as noted, it is just a placeholder. We already have all the other options listed in a different document, so this is just a placeholder to capture the current discussions.

George Kirikos:We've not fully discussed how an arbitration provider would even be selected. i.e. would there be a fixed one for all disputes, or could the complainants/respondents have one selected that resides in the jurisdiction of the Mutual Jurisdiction (e.g. a Canadian arbitration provider, for a Canadian dispute, rather than having NAF or ICC or some other arbitration provider do them all).

George Kirikos:i.e. there's too much of a "skeleton" here, without many of the details.

Paul Tattersfield:exactly george - it needs far more work

George Kirikos:i.e. many of the details of Option #2 (or #7 as revised) haven't been fleshed out yet.

Mary Wong:@George, this is intended to be the actual recommendations text - with the details included in a separate part of the report.

Mary Wong:For this point, the details will be based on Paul Keating's (I think) list of points to consider for arbitration, as further discussed by the Working Group.

Mary Wong:This is nowhere close to the full text of the report - just the list of recommendations with further text to explain them.

George Kirikos:i.e. the "devil is in the details". I might be able to back Option #7, if Option #6 was fully incorporated, etc., but it depends on the exact text.

George Kirikos:@Mary: right, we still need to discuss those....i.e. there hasn't been a fully fleshed out proposal.

George Kirikos:i.e. Option #1 is a complete proposal (pretty easy for that one)

George Kirikos:Option #2 (or Option #7) still haven't been fleshed out.

George Kirikos:Option #4 is a complete proposal (albeit it depends on Option #2 being fleshed out, since it refers to it).

George Kirikos:Option #6, for example, doesn't require mutual consent -- it tells the registrar to simply keep the domain name locked/unchanged, pending the in rem lawsuit that was filed (as opposed to just keeping the status quo for in personam).

George Kirikos:Option #2 can't be NAF, for example.

George Kirikos:NAF is so heavily criticized.

George Kirikos:People file in court just to avoid NAF.

George Kirikos:Arbitration provider can be appointed by the court, for example.

George Kirikos:Since, we only get to this option if a \*court\* finds for immunity.

Paul Tattersfield:George a 'complete proposal' is only a starting point, the report needs to articulate clearly the reasoning and process of getting to the proposal because very few people will have even tried nevermind have managed to get their mind around the principles behind the proposals

Poncelet Ileleji:+1

George Kirikos:Right, Paul. Because, after this PDP, there would be an "implementation working group", and if we didn't give the correct guidance, they could then interpret our intent incorrectly.

George Kirikos:And they could implement things that we'd find horrifying.

Paul Tattersfield:exactly

George Kirikos:We need to be precise, to not give the IGOs (who might participate in an implementation working group) or others a way to twist things, to the disadvantage of registrants.

Mary Wong:FYI that the Implementation Review Team that's formed normally comprises mostly Working Group members, precisely to ensure that the implementation path reflects the intent of the policy recommendations.

Mary Wong:While those teams are run by our operational colleagues, Policy staff that supported the PDP are part of the team as advisers for the same purpose.

George Kirikos:hehe I know, Mary....more work ahead (unless we go for Option #1, which is easy to implement).

Mary Wong:Sorry, yes, that is correct, George

Paul Tattersfield:I think we should reach out again if the IGO's choose not to participate that is their decision

Paul Tattersfield:Arbitration isn't going to be cheap they'll complain

George Kirikos:Even th GAC had a participant in this PDP for a while (the gentleman from Jamaica, I think? Can't remember his name), but they've not done much in this PDP.

George Kirikos:Gary something, I think.

George Kirikos:Gary Campbell, found it.

Paul Tattersfield:the verbal feedback of meeting has it's place but written comments often prove to be more substantive

Mary Wong:@Paul T, that may be a very good reason to run a public comment period overlapping with ICANN60

George Kirikos:The IGOs are really just 2 people, it seems, Brian Beckham and Jonathan Passaro. Those were the main commenters.

George Kirikos:(others just echoed their ideas)

Mary Wong:Note - the public comment period will have to be BEFORE the final report is sent to the GNSO Council

George Kirikos:It could be a way of showing we've bent over backwards, by having another comment period.

Paul Tattersfield:Very true George those two people seem to have a lot of influence and certainly the submissions to this working group from one of them have been troublingly poor

Paul Tattersfield:I would like to see public comment on option #1 and the new option #2

Mary Wong:As for duration of this optional public comment period - the GNSO rules say "not less than 21 days" so Phil's suggestion of a 21-day period would work

Mary Wong:@Paul T, that can be specifically called out for sure

Jay Chapman: Thanks, all

George Kirikos:Bye folks.

Paul Tattersfield:thanks all bye