

Julie Bisland:Welcome to the Reconvened IGO INGO PDP Working Group call on Red Cross Names on Thursday, 17 August 2017 at 13:00 UTC.

Julie Bisland:Agenda wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_-2Dg8hB&d=DwlFaQ&c=FmY1u3PJP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=Qif-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=k1wo94sSubWaoqtfbcQCj5rk4YOaypeUgXO53UhSvCk&s=l\\_16BY\\_qfDXIQ9fNax5rRL2xH8tGd-iAP7ADs611zJI&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_-2Dg8hB&d=DwlFaQ&c=FmY1u3PJP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=Qif-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=k1wo94sSubWaoqtfbcQCj5rk4YOaypeUgXO53UhSvCk&s=l_16BY_qfDXIQ9fNax5rRL2xH8tGd-iAP7ADs611zJI&e=)

Julie Bisland:looking for the beeping

Heather Forrest:Beeping noise?

Julie Bisland:Welcome Ken Stubbs :)

Julie Bisland:Welcome Giacomo Mazzone

ken stubbs:who is speaking ?

Heather Forrest:It's not clear to me how protection of "Red Cross", etc and symbols covers the national society names

ken stubbs:i have a question after ther speakers comments are over.

Thomas Rickert, WG Chair:Noted, Ken!

Jorge Cancio (GAC Switzerland):Thanks to Stephane for the explanations!

Greg Shatan:I second Heather's question.

Jorge Cancio (GAC Switzerland):Apart from change in the law, there is also the possibility that the PDP WG was not fully aware of the legal basis - as Thomas is hinting, I feel

Heather Forrest:So back to my earlier chat comment - it's not clear to me how the national society names fit here in the Geneva Convention

Greg Shatan:We are still not "fully aware" of the legal basis, if any, for this request.

Jorge Cancio (GAC Switzerland):I feel that Stephane has explained it quite well...

Greg Shatan:no, sorry, he talked around the specific issue, hence the question.

Chuck Gomes:My understanding is that staff was going to provide the WG with the legal basis for the national society names. Is that correct? If not, I think that would be a good action item before our next meeting.

Jorge Cancio (GAC Switzerland):As Stephane apparently is not on the adobe maybe the question could be read aloud and/or circulated in writing

Mary Wong:@Chuck, by circulating the Red Cross' position paper and the Briefing Document that was used in Copenhagen (which was prepared by staff and Bruce Tonkin), this group can fully discuss that question. We didn't feel it's our place (as staff) to draw legal conclusions specifically.

Chuck Gomes:@ Mary: You don't need to draw legal conclusions but you could summarize the legal basis for protection of the national names.

ken stubbs:your talking over each other

Mary Wong:@Chuck, understood - but note that the Geneva Conventions and the Protocols do not specifically mention the National Society names, or what specific names associaed with the Red Cross are intended by use of the terms "emblem" and "designations" therein. Hence, we felt it was for the WG - with the assistance of the RC reps - to clarify what, exactly, is the scope of the law as a result (especially in the DNS).

Jorge Cancio (GAC Switzerland):@Mary: could you circulate the conclusions of the facilitated dialogue of Copenhagen as well as the relevant Board Resolution? thanks

Mary Wong:@Jorge, of course - hang on just a moment.

Thomas Rickert, WG Chair:The use by individuals, societies, firms or companies either public or private, other than those entitled thereto under the present Convention, of the emblem or the designation "Red Cross" or "Geneva Cross", or any sign or designation constituting an imitation thereof, whatever the object of such use, and irrespective of the date of its adoption, shall be prohibited at all times.By reason

of the tribute paid to Switzerland by the adoption of the reversed Federal colours, and of the confusion which may arise between the arms of Switzerland and the distinctive emblem of the Convention, the use by private individuals, societies or firms, of the arms of the Swiss Confederation, or of marks constituting an imitation thereof, whether as trademarks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment, shall be prohibited at all times. Nevertheless, such High Contracting Parties as were not party to the Geneva

Thomas Rickert, WG Chair: That is the part of the Geneva Convention that in my view is relevant for this.

giacomo mazzone: Jorge you mean this: (2) Review of briefing paper from Copenhagen facilitated discussion (<http://mm.icann.org/pipermail/gnso-igo-ingo/2017-July/000046.html>)

Jorge Cancio (GAC Switzerland): I meant the conclusions drawn by Bruce Tonkin from the facilitated discussion

Heather Forrest: +1 Greg - it seems to me that the lack of clarity on legal basis is exactly why we're here now (to answer Ken's question that started this discussion)

Jorge Cancio (GAC Switzerland): the Board Resolution is here:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_www.icann.org\\_resources\\_board-2Dmaterial\\_resolutions-2D2017-2D03-2D16-2Dden-232.e.i&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=k1wo94sSubWaoqtfbcQCj5rK4YOaypeUgXO53UHSvCk&s=rKKnEHJ1PqpyngYHDIItH4ae8EPxlaAFXESSak4X7o&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_www.icann.org_resources_board-2Dmaterial_resolutions-2D2017-2D03-2D16-2Dden-232.e.i&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=k1wo94sSubWaoqtfbcQCj5rK4YOaypeUgXO53UHSvCk&s=rKKnEHJ1PqpyngYHDIItH4ae8EPxlaAFXESSak4X7o&e=)

Thomas Rickert, WG Chair: What I pasted here is Article 53

Jorge Cancio (GAC Switzerland): Both the Board Resolution and the conclusions of the facilitated discussion highlighted both the legal basis and the public policy considerations

Greg Shatan: We don't need an explicit reference to domain names to find a legal basis.

Greg Shatan: I thought we were looking at "rights protections." If we are not talking about legal rights, what kind of rights are we talking about?

Alan Greenberg: We (ICANN and the GNSO) have sufficient major issues to look at that we need to get this done quickly and move on.

Greg Shatan: Jorge, can you provide more specific citations, please.

Greg Shatan: Alan, I agree with the concern regarding bandwidth. You and I are in many of the same groups. But that doesn't support any particular conclusion.

Greg Shatan: One could conclude that it takes many pages of verbiage, because there is no clear and succinct statement that can be made to show a basis for the claimed right for which protections are being requested.

Mary Wong: @Jorge, the links to the Board resolution (which you also posted, thanks) and the GNSO Council resolution have been pasted in the Notes pod. Bruce's high level summary was in an email to the IGO-RC discussion group, dated 13 March: <http://mm.icann.org/pipermail/discussion-igo-rc/2017-March/000108.html>

Jorge Cancio (GAC Switzerland): @Greg: I hope Mary may find the conclusion/summary of the facilitated dialogue. As for the Board Resolution this part is relevant: "(3) In considering the Board's request, the Council is requested to duly take into account these factors and the public policy advice to reserve the finite list of names of the Red Cross and Red Crescent National Societies, as recognized within the International Red Cross and Red Crescent Movement, in all gTLDs."

Heather Forrest: +1 Chuck - basis in law had significant impacts on the recommendations of the Reserved Names WG in 2007

Greg Shatan: Jorge, what "factors" is the quoted language referring to? The quoted language provides no support for any particular conclusions.

Jorge Cancio (GAC Switzerland):@Mary: I feel you found the summary about IGOs - not the one on ICRC  
Mary Wong:@Chuck, @Thomas, I've pasted the factors that the discussion group, Board and Council considered in the Notes pod.

Jorge Cancio (GAC Switzerland):"factors" refers I guess to the preceding parts of the Resolution, where legal basis and GAC Advice etc. are mentioned

Jorge Cancio (GAC Switzerland):sorry no sound

Greg Shatan:Then I guess that is what we should be looking at, to see what they've said about legal basis.

Jorge Cancio (GAC Switzerland):audio problems, sorry!

Julie Bisland:would you like our operator to dial out to you?

Jorge Cancio (GAC Switzerland):I'm ready I think

Julie Bisland:yes, I see you have your speaker on now. Excellent!

Jorge Cancio (GAC Switzerland):the Board Resolution mentions the following public policy arguments included in GAC Advice: "and the global public policy considerations in the protections of the identifiers of the respective Red Cross and Red Crescent organizations from forms of misuse in the domain name system, including from fraud and embezzlement in times of humanitarian crises."

Greg Shatan:Public policy is not a legal basis.

Mary Wong:@Jorge, my apologies (re the wrong message from Bruce). I cannot at the moment find a summary of the Red Cross discussion but will resume looking after this call.

Jorge Cancio (GAC Switzerland):@Mary: maybe the summary took the form of the proposed Board language?

Greg Shatan:Where does the Geneva Convention mention the names of the national societies? (Not individually but as a class of "strings").

Mary Wong:@Greg, I believe there is mention in Article 44.

Chuck Gomes:Am I the only one that would like us to use a systematic approach to deliberate on the questions we are tasked with answering? We seem to continue to talk about all questions together, which in my opinion makes it difficult to make progress. Why not focus on one charter question at a time, discuss whether the three Council criteria are satisfied and if not discuss whether there is a reasonable basis for making an exception?

Alan Greenberg:Red Cross fraud is a bad thing, but protecting the country names will do nothing to protect against such fraud. We cannot stop similar names from being registered and we cannot protect against words such as tsumani or flod. SO let's not confuse the rationale.

Greg Shatan:Chuck, I think that would be a very helpful and appropriate approach.

Mary Wong:@Chuck, @Greg, our (staff) assumption was that the group is already on the question of "what is the reasonable basis" (e.g. law and/or public policy), as the Council's (and Board's) list of factors/criteria have already defined the scope for the group.

Chuck Gomes:On which charter question Mary?

Greg Shatan:I'm not asking for perfection. Just a reasonable and objective legal basis.

Mary Wong:@Chuck, on the specific request to possibly amend the PDP recommendation concerning the names of the Red Cross National Societies and the two International Movement names., plus a limited, defined set of variants.

Chuck Gomes:What charter question are we discussing now?

Greg Shatan:Mary, where in Article 44? I'm looking at Art 44 and not seeing it.

Mary Wong:@Chuck, all - the charter (scope) for this group was outlined in the Council resolution i.e. amend the original PDP recommendation regarding the national society names, the two international movement names, and the agreed limited variant list.

Greg Shatan:Art 44 is entitled "Combatants and prisoners of war."

giacomo mazzone:I agree with what Jorge just said. it's a matter of public policy mainly (legal aspects are important but are a plus). aim of the group is to identify what's the best way to ensure this protection with the minimum of hurdles.

Mary Wong:@Greg, it is Article 44 of the First Geneva Convention 1949, I believe.

Mary Wong:<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=5CCB6DD2AB618FABC12563CD0051A251>

Jennifer Breckenridge:GC Convention 1- ARTICLE 44 With the exception of the cases mentioned in the following paragraphs of the present Article, the emblem of the Red Cross on a white ground and the words "Red Cross", or "Geneva Cross" may not be employed, either in time of peace or in time of war, except to indicate or to protect the medical units and establishments, the personnel and material protected by the present Convention and other Conventions dealing with similar matters. The same shall apply to the emblems mentioned in Article 38, second paragraph [ Link ] , in respect of the countries which use them. The National Red Cross Societies and other Societies designated in Article 26 [ Link ] shall have the right to use the distinctive emblem conferring the protection of the Convention only within the framework of the present paragraph. Furthermore, National Red Cross (Red Crescent, Red Lion and Sun) Societies may, in time of peace, in accordance with their national legislation, make use of the name and emblem of the Red Cross

Jorge Cancio (GAC Switzerland):I feel the document really is clear enough, when the purpose is to understand

Jorge Cancio (GAC Switzerland):question to Greg: have you read the 44-pager?

Chuck Gomes:The language is not at all clear to me.

Jorge Cancio (GAC Switzerland):@Chuck: of course, it is legal language

Jennifer Breckenridge:continued.....for their other activities which are in conformity with the principles laid down by the International Red Cross Conferences. When those activities are carried out in time of war, the conditions for the use of the emblem shall be such that it cannot be considered as conferring the protection of the Convention; the emblem shall be comparatively small in size and may not be placed on armlets or on the roofs of buildings. The international Red Cross organizations and their duly authorized personnel shall be permitted to make use, at all times, of the emblem of the Red Cross on a white ground. As an exceptional measure, in conformity with national legislation and with the express permission of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to identify vehicles used as ambulances and to mark the position of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick.

Jorge Cancio (GAC Switzerland):I feel the burden is on who is making questions and to refer to the 44-doc

Mary Wong:All, will it help for staff to recirculate the provisions that Jennifer and Stephane cited/quoted, as well as Jennifer's statement on this call?

Greg Shatan:The burden of proof is always on those trying to prove something.

Chuck Gomes:Legal language can be clear and often is. This legal language is not. The explanations given may be valid but without them I never would have concluded that the national names need to be protected. All that seems clear is that they can use the emblems.

Jorge Cancio (GAC Switzerland):well, they have in my view... with 44 pages...

Greg Shatan:Your view is not in doubt, Jorge.

Jorge Cancio (GAC Switzerland):when you make such an effort, the minimum is to be specific in the follow-up questions

Greg Shatan:A for Effort, perhaps, but not an A for clarity.

Jorge Cancio (GAC Switzerland):I was a bit unsure about whether all had read it, as comments were being made to a completely unrelated provision of the Conventions...

Greg Shatan:Having heard what has been said here, one can now form some more specific questions.

Greg Shatan:Jorge, blame Google for pulling up the wrong Geneva Convention Art. 44.

Jennifer Breckenridge:sorry its long and keeps cutting off the end of the clause...

Mary Wong:@Jennifer, I put the link to the specific Article in the chat above. This entire chat will also be saved and circulatd to the list.

Jorge Cancio (GAC Switzerland):@Greg: I'll agree on that ;P

Greg Shatan:If we can avoid 1300-1400 UTC we can avoid overlap with CCWG.

giacomo mazzone:who shall prepare the summary requested for point 2 ? it was not clear tome ...

Julie Bisland:I'll send out an email invite shortly, for 7 September 2017 at 14 :00 UTC

Mary Wong:@Giacomo, staff will work with Thomas to follow up on the requests made on this call.

Heather Forrest:just noting that 1400 utc is 00:00 for parts of APAC

giacomo mazzone:thank Mary, could you circulate in advance to avoid that discussion endless will go on during the call

Mary Wong:@Giacomo, yes, we will circulate to the list.

Jorge Cancio (GAC Switzerland):thanks Thomas, all and regards