

Policy Development Process (PDP) Update

IGO & INGO Access to the Curative Rights Protection Mechanisms of the UDRP & URS

March 2016

Upcoming Important Dates

The WG continues to discuss the issue of IGO immunity and welcomes further engagement with the GAC. At the WG's request, ICANN engaged the services of an independent external legal expert to provide an opinion on the current state of international law as regards jurisdictional immunity for IGOs. The expert's final opinion is expected to be delivered by end-March/early April. The WG is also expecting an updated proposal from the IGO "small group" to further inform its work. It hopes to complete this Initial Report by ICANN56.

Summary

This Policy Development Process (PDP) originated in a consensus recommendation from the GNSO's prior PDP Working Group on the Protection of International Organization Names in All gTLDs (IGO-INGO WG). This was for the GNSO Council to request an Issue Report, as a preceding step to a possible PDP to explore possible amendments to existing curative rights protection mechanisms, i.e. the Uniform Dispute Resolution Policy (UDRP) and the Uniform Rapid Suspension (URS) procedure, to address the specific needs of International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs).

Engagement Opportunity Status



On 2 June 2014 the GNSO Council [resolved](#) to initiate the PDP following its review of the [Final Issue Report](#), and on 25 June the GNSO Council [adopted](#) the charter for the PDP Working Group to be formed. The WG has made significant progress in its deliberations over the topics outlined in its charter, which tasks it to also consider the possibility of developing a separate, narrowly tailored dispute resolution procedure

based on the UDRP and/or URS, to apply specifically to those IGOs and INGOs whose identifiers had previously been recommended for protection by the original IGO-INGO WG.

The WG has preliminarily determined: (1) to exclude INGOs from further consideration in the PDP, thus focusing only on IGOs; and (2) that standing to file a complaint may appropriately be based on an IGO's having affirmatively sought protection under Article 6ter of the Paris Convention for the Protection of Industrial Property. It is currently considering the issue of an IGO's jurisdictional immunity, and how this might affect the Mutual Jurisdiction requirement currently in the UDRP and URS. To ensure a full understanding of the state of international law on the issue, the WG requested ICANN to engage an external legal expert as it continues to await a concrete proposal from the IGO small group. The expert is expected to provide his full opinion to the WG by the end of March or early in April 2016.

In this regard, the WG welcomes further input from the GAC, especially on topics which may have public international law and policy implications.

Additional Information:

- Final Issue Report on IGO-INGO Access to UDRP & URS processes:
<http://gnso.icann.org/en/drafts/igo-ingo-crp-final-25may14-en.pdf>
- Charter for new PDP Working Group (as adopted by the GNSO Council on 25 June 2014): <http://gnso.icann.org/en/drafts/igo-ingo-crp-access-charter-24jun14-en.pdf>
- Amended Charter provisions:
<http://gnso.icann.org/en/council/resolutions#20150416-3>
- WG wiki space including background documents and latest research:
<https://community.icann.org/x/37rhAg>