Minutes of the GNSO Council Meeting 23 January 2020
Agenda and Documents

Coordinated Universal Time: 22:00 UTC: https://tinyurl.com/vjx8bub

14:00 Los Angeles; 17:00 Washington DC; 22:00 London; (Friday) 03:00 Islamabad; (Friday) 07:00 Tokyo; (Friday) 09:00 Melbourne

List of attendees:
Nominating Committee Appointee (NCA): – Non-Voting – Erika Mann
Contracted Parties House
Registrar Stakeholder Group: Pam Little, Michele Neylon, Greg DiBiase
gTLD Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Sebastien Ducos
Nominating Committee Appointee (NCA): Tom Dale
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa (participating remotely), John McElwaine, Flip Petillion
Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Elsa Saade, Tatiana Tropina (participating remotely), Rafik Dammak, Farell Folly, James Gannon (incoming NCSG councilor following Farzaneh Badii's resignation, participating remotely)
Nominating Committee Appointee (NCA): Carlton Samuels
GNSO Council Liaisons/Observers :
Cheryl Langdon-Orr– ALAC Liaison (participating remotely)
Julf (Johan) Helsingius– GNSO liaison to the GAC
Maarten Simon – ccNSO observer (participating remotely)

Guest speaker: Edmon Chung (participating remotely)

ICANN Staff
David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional (apologies)
Marika Konings – Senior Advisor, Special Projects
Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement
Julie Hedlund – Policy Director (participating remotely)
Steve Chan – Policy Director
Berry Cobb – Policy Consultant
Emily Barabas – Policy Manager (apologies)
Ariel Liang – Policy Support Specialist (participating remotely)
Caitlin Tubergen – Policy Senior Manager
Nathalie Peregrine – Manager, Operations
Terri Agnew - Operations Support - GNSO Lead Administrator

Audio Recording
Transcript

Item 1: Administrative Matters

1.1 - Roll Call

1.2 - Updates to Statements of Interest

There were no updates to Statements of Interest (SOI) on the call.

1.3 - Review / Amend Agenda

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

Minutes of the GNSO Council meeting on the 24 October 2019 were posted on 13 November 2019
Minutes of the GNSO Council meeting on the 19 December 2019 were posted on 02 January 2020

Item 2: Opening Remarks / Review of Projects & Action List

2.1 - Review focus areas and provide updates on specific key themes / topics, to include review of
Projects List and Action Item List

Keith Drazek reviewed the Project List, and reminded councilors that a Project Change Request had been received by the Rights Protection Mechanisms (RPM) PDP Working Group and that a new Project Change Request will be received from the New gTLDs Subsequent Procedures PDP Working Group (SubPro) in February 2020.

Michele Neylon mentioned that the Project List would need a heavier involvement on behalf of Council, and that this had been discussed during the GNSO Council Strategic Planning Session. **Keith Drazek** agreed that the detailed accounting of the current statuses of the different groups could warrant an independent agenda item, or a separate call for councilors to cover the entire document.

Keith Drazek reminded councilors that the action items in blue were the ones already taken into account in the agenda, the ones in yellow were still open:

- Schedule a session during ICANN67 to discuss the adoption of the Drafting Team's new templates and guidelines of the GNSO as Decisional Participant (DP) in the Empowered Community (EC);
- If applicable, ccNSO and GNSO to form a joint team to identify commonalities in budget and the 5-year Strategic Plan as part of the Evolution of the Multistakeholder Model of Governance project. On this last point, **Keith Drazek** mentioned that the GNSO Council could revert to focusing on the PDP3.0 project solely;
- Relating to EPDP Phase 1 recommendation 28, and the target date which will not be met, Council is expected to respond to the letter from ICANN Org.

Action item:

- GNSO Council Leadership to review draft February GNSO Council agenda and assess if there is sufficient time to comprehensively review the Project List. If the February agenda does not have sufficient time for this item, GNSO Support Staff to identify a separate meeting time for comprehensive Project List review.

Item 3: Consent Agenda

- Motion to approve the nomination of Amr Elsadr to serve as the ICANN Fellowship Program mentor.
- Confirmation of Johan Helsingius as the Chair and Carlton Samuels as Vice-Chair for the GNSO Standing Selection Committee (SSC).

 Carlton Samuels, seconded by **Rafik Dammak**, submitted a motion for Council to approve the nomination of Amr Elsadr as ICANN Fellowship Program mentor.

Whereas,

1. On 13 November 2019, the ICANN Fellowship Program invited ICANN's Supporting Organizations and Advisory Committees to nominate one individual each (total of 7) to serve on the capacity of Fellowship Program mentor for three consecutive ICANN meetings, beginning with ICANN68 (see https://www.icann.org/news/announcement-2019-11-13-en)
2. On 3 December 2019, the GNSO launched an Expression of Interest (EOI) process to solicit volunteers for the GNSO-nominated mentor position (see https://gnso.icann.org/en/announcements/announcement-03dec19-en.htm).
3. The GNSO Council tasked the GNSO Standing Selection Committee (SSC) with reviewing applications and recommending one individual for the GNSO to nominate.
4. The SSC reviewed the applications received, taking into account the criteria outlined in the EOI announcement.
5. The SSC submitted its full consensus recommendation to the GNSO Council on 13 January 2020, by way of submission of the relevant motion.
6. The GNSO Council considered the recommendations of the SSC.

Resolved,

1. The GNSO nominates Amr Elsadr to serve as an ICANN Fellowship Program mentor for three consecutive ICANN meetings, beginning with ICANN68.
2. The GNSO Council instructs the GNSO Secretariat to communicate resolved #1 to staff supporting the ICANN Fellowship Program.
3. The GNSO Council instructs the GNSO Secretariat to inform the nominated candidate that he or she has been selected.
4. The GNSO Council requests the GNSO Secretariat to send a response to those applicants who were not nominated, thanking them for their interest and encouraging them to apply for future opportunities as they arise.

Councilors present on the call unanimously voted in support of the Consent Agenda motion and vote.

Vote results

Action items:

- GNSO Secretariat to communicate resolved #1 to staff supporting the ICANN Fellowship Program.
- GNSO Secretariat to inform the nominated candidate that he has been selected.

- GNSO Secretariat to send a response to those applicants who were not nominated, thanking them for their interest and encouraging them to apply for future opportunities as they arise.
- GNSO Secretariat to inform SSC of confirmation of Chair and Vice-Chair

Item 4: COUNCIL VOTE – Vote on the Addendum to the Review of All Rights Protection Mechanisms in All gTLDs Charter to Integrate Recommendation 5 From IGO-INGO Access to Curative Rights Protection Mechanisms Final Report

Keith Drazek, seconded by **John McElwaine**, submitted a [motion](#) for Council to approve of the Addendum to the Review of the All Rights Protection Mechanisms in All gTLDs Charter to consider and address recommendation 5 from IGO-INGO Access to Curative Rights Protection Mechanisms Final Report.

WHEREAS:

1. On 9 July 2018, the Policy Development Process (PDP) Working Group on International Governmental Organizations (IGO) and International Non-Governmental Organizations (INGO) Access to Curative Rights Protection Mechanisms submitted its [Final Report](#) to the GNSO Council. The Final Report contains five policy recommendations on which the Working Group reached consensus.
2. On 19 July 2018, the GNSO Council [acknowledged](#) receipt of the PDP Final Report, noted that, "[i]n view of the need to consider the topic of curative rights protections for IGOs in the broader context of appropriate overall scope of protection for all IGO identifiers (including IGO acronyms), the GNSO Council intends to review this Final Report … with a view toward developing a possible path forward that will also facilitate the resolution of the outstanding inconsistencies between GAC advice and prior GNSO policy recommendations on the overall scope of IGO protections".
3. Between July 2018 and March 2019, the GNSO Council discussed the PDP Final Report at various meetings and considered the procedural options available to it under the GNSO's Operating Rules and ICANN Bylaws.
4. On 18 April 2019, the GNSO Council resolved to approve, and recommend that the ICANN Board adopt, Recommendations 1, 2, 3 & 4 of the PDP Final Report.
5. The GNSO Council elected not to approve Recommendation 5 of the PDP Final Report and directed the Review of All Rights Protection Mechanisms in All gTLDs (RPM) PDP to consider, as part of its Phase 2 work, whether an appropriate policy solution can be developed that is generally consistent with Recommendations 1, 2, 3 & 4 of the PDP Final Report and:
   a. accounts for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances;
   b. does not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction;
   c. preserves registrants' rights to judicial review of an initial UDRP or URS decision; and
   d. recognizes 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.

6. The GNSO Council had engaged with the GAC on several occasions during its deliberations on the PDP Final Report, including at the joint GAC-GNSO meeting at ICANN65 in Kobe, Japan, where the

GNSO Council had sought the GAC's feedback on the GAC's willingness to participate in a targeted effort focusing on the issue of curative rights for IGOs and possibly drawing on the community's recent experiences with the Expedited PDP on the Temporary Specification and Work Track 5 of the GNSO New gTLD Subsequent Procedures PDP.

7. At ICANN65 in Marrakech, members of the GNSO Council met with certain members of the GAC and IGOs, where there appeared to be agreement from the GAC/IGOs to support the chartering of this separate work. On 20 August, the GAC sent a letter to the ICANN Board, affirming, "its willingness to participate in such chartering effort." Dialogue between the GNSO Council, GAC, and IGOs continued at ICANN66 in Montreal, followed by further discussions within the Council.

8. The GNSO Council, in consultation with the GAC and IGOs, has prepared the necessary amendments to the RPMs Charter, in the form of an Addendum to that Charter ("Addendum").

RESOLVED:

1. The GNSO Council adopts the amendments to the RPMs Charter to create an IGO Work Track, as reflected in the Addendum.
2. The GNSO shall collaborate with each GNSO Stakeholder Group, Constituency, SO and AC to expeditiously issue a call for Members and Observers to join the IGO Work Track, each in accordance with its own rules. The GNSO Council specifically notes that Members and Observers, although appointed by community groups, must nevertheless meet the Membership Criteria as defined in the Addendum.
3. In accordance with the Addendum, the GNSO Council shall conduct an Expressions of Interest process as soon as is reasonably possible, in order to identify and confirm a single, qualified Work Track Chair, consistent with the criteria as defined in the Addendum.
4. The GNSO Council directs the Work Track Chair and Members to conduct its work in as efficient and effective a manner as possible; and as such, monthly written updates shall be submitted to the GNSO Council by the IGO Work Track Chair and/or Council liaison to the Work Track. These updates must include a report as to the progress of the Work Track according to the timeline and milestones identified in its Work Plan.
5. The GNSO Council further directs the Work Track Chair and Members to develop a Work Plan and timeline for its work as a matter of priority and as its first order of business. To facilitate this effort, the GNSO Council instructs ICANN staff to prepare a draft Work Plan and timeline for the Work Track, based on the model adopted for the Expedited Policy Development Process on gTLD Registration Data. The GNSO Council requests that the Work Track Chair submit a proposed Work Plan and timeline to the GNSO Council within four (4) weeks of the first meeting of the Work Track.
6. To facilitate communications between the GNSO and the GAC on this topic, the GNSO Council directs the GNSO liaison to the GAC to provide regular progress reports to the GAC, in accordance with the GAC's internal rules and processes.
7. The GNSO Council thanks the members of the GNSO Council, as well as those from the GAC and IGOs, for their contributions in developing the Addendum.

Keith Drazek provided background to the motion. Coming out of the original IGO INGO Curative Rights PDP, Council decided to approve 4 out of 5 of the recommendations of the Final Report in April 2019. Recommendation 5 was to be referred to the RPM WG, as it related to the UDRP which the working

group was to focus on in phase 2. GNSO Council engaged with the Governmental Advisory Committee (GAC) and the IGOs to ensure there was IGO engagement without which no valid policy could be attained. A draft charter was further developed in the form of an addendum by a small team of councilors including Paul McGrady, former council liaison to the working group. This addendum was shared in multiple draft formats with the GAC and IGOs during and after the Montreal meeting, several GAC and IGO edits were accepted, keeping in mind this was still a GNSO process. GAC and IGO feedback on the final draft was very positive.

Elsa Saade, on behalf of the Non Commercial Stakeholder Group, urged particular focus on the representation of this work track given that the full RPM PDP WG is an open working group, and to ensure the representation format mentioned in the Addendum be respected.

Councilors discussed an amendment to the resolved clause 6 (removing ""In accordance with the GAC's internal rules and processes") which was deemed friendly.

All councilors voted unanimously in favour of the amended motion.

Vote results

Action item:

- GNSO Secretariat to inform GAC leadership of vote result

Item 5: COUNCIL UPDATE – Review of All Rights Protection Mechanisms in All gTLDs PDP

Keith Drazek reminded the Council that a Project Change Request had been received by the RPM PDP WG.

John McElwaine, GNSO Council's liaison to the RPM WG, provided context to the request. The three co-chairs had anticipated a Final Report to be submitted to the Council in April 2020. This will be delayed by, amongst others, further discussions needed around the URS triggered by a considerable amount of individual proposals.

Keith Drazek informed councilors that a GNSO Council leadership discussion is scheduled for the following week with the RPM co-chairs and John McElwaine. A similar discussion was held with Paul McGrady (liaison at the time) and the co-chairs in March 2019 to develop a plan allowing the group to stick to a new timeline. The Project Change Request raises that this recent timeline will also slip. The GNSO Council needs to work with the co-chairs to bring the working group efforts forward.

Martin Silva Valent agreed that the GNSO Council needs to take responsibility for PDP WG delays and insist that the co-chairs bring the project to completion by refusing timeline extension requests.

Michele Neylon asked why the RPM PDP working group were still holding meetings whilst the GNSO Council takes the Project Change Request into consideration.

John McElwaine responded that the group is meeting weekly for 90 mins and that progress is being made slowly due to issues being reopened. He added that the working group work was at a turning point right now, which would be ideal for any Council input (suspension of work or other).

Martin SIlva Valent argued that a suspension would only further delay the output of the working group and that other solutions needed to be found.

Rafik Dammak reminded the GNSO Council of their role as PDP manager and asked if there was a bigger conversation taking place within the working group about improving the timeline and what would happen should this new timeline equally fail to be met. He also requested further information about what additional work items also needed to be considered by the working group or other mitigation measures were envisioned.

Marie Pattullo requested that Council leadership, during the call scheduled the following week, remind the co-chairs that the work needs to be completed. Outstanding questions can be put to the community via the phase 1 report. She added that a re-chartering would be necessary for phase 2, as well as a reconsideration of the co-chairs.

Maxim Alzoba asked when there would be notification if the new timeline was also to fail and how to stop a repetition of new timelines. He also questioned why the same leadership structure was to be considered for phase 2 and why the weekly calls were being increased when there were problems to solve prior to moving the work forward.

Keith Drazek agreed with the points raised and invited councilors to share their questions for the co-chairs ahead of the call with them the following week.

Michele Neylon agreed with Maxim Alzoba on the need for leadership to change and replace the current structure with a chair and vice-chair rather than co-chairs for phase 2.

Keith Drazek agreed and reminded councilors that the root of the problem of the RPM PDP Working Group was the charter (co-chairs with different interests, and no neutrality), and that PDP3.0 was focussed on ensuring this would no longer occur.

Flip Petillion asked to be allowed to observe the call between GNSO Council leads, the RPM co-chairs and the GNSO Council liaison to the RPM PDP taking place the following week.

Martin Silva Valent mentioned that there were many different processes the group had to follow (answering questions, understand which tools are needed to answer questions, provide information, gather and process data) and little forward warning of what the processes will entail.

Action items:

- Interested GNSO Council Members to send questions for RPM Co-Chairs to Council Leadership. Questions due by Wednesday 29 January.
- RPM Support staff to check with co-chairs if Flip Petillion can observe the WG.

Item 6: COUNCIL UPDATE – Cross-Community Working Group on new gTLD Auction Proceeds (Auction Proceeds CCWG)

Erika Mann, co-chair of the Auction Proceeds CCWG, presented an update on the CCWG's activities. The Final Report was published in December 2019 for Public Comment closing on the 14th February 2020. This is the second Public Comment period decided due to the sensitivity of the topics (membership divided on different options). The Final Report incorporates input and evaluation of input from the

previous Public Comment period as well as input from ICANN Org and the ICANN Board. There has been constant formalised dialogue with ICANN Board and Org (more specifically Finance and Legal Teams), to avoid problems after the second Public Comment period.

The CCWG did not wish to engage in a broad consultation but identified three main questions:

- Do you support the CCWG's recommendation in relation to the preferred mechanism(s)?
- Do you have any concerns about the updates the CCWG has made?
- Is there any further information you think the CCWG should consider that hasn't been considered previously?

There are three mechanisms remaining for discussion: "A" is an inhouse model, "B" is a merger between an inhouse model and an existing non-profit organization, "C" is an ICANN foundation.

Based on input received via an informal survey, the CCWG membership tends to support "A" over "B" and "C" and will probably recommend an internal department dedicated to the allocation of auction proceeds.

The Supporting Organisations (SOs) and Advisory Committees (ACs) need to provide input and feedback during this second Public Comment period before the 14 February 2020 and **Erika Mann** invited councilors to encourage input from their groups. Letters from the CCWG Auction Proceeds have been sent to the SOs and ACs. She added that model "B" is the more complicated one to develop as it will be burdensome and will trigger many legal questions. Model "A" would not hinder the inhouse model from seeking mergers with other entities for specific projects.

Keith Drazek raised that he would be meeting with the SO and AC leaders the following week and that he would bring the latest CCWG updates to their attention. The GNSO as Chartering Organisation of the CCWG will also need to approve the Final Report, he encouraged councilors to begin discussions with their groups now.

James Gannon agreed that the various groups should encourage their registered CCWG Auction Proceeds members to continue active participation. He also asked what Erika's perspective was on the outcome of the Initial Report in terms of number of mechanisms to be put forward. **Erika Mann** raised that, tentatively, there would be one recommendation put forward, if there was stability for the consensus call.

Pam Little asked about the scope of the Public Comment, whether all four mechanisms were put forward to discussion, or only the final three. She also asked about the informal survey among the CCWG members, which Erika further clarified. The CCWG put forward the three models "A" "B" and "C", with the first two being the favoured models.

Item 7: COUNCIL UPDATE – IDN Scoping Small Team

Edmon Chung, chair of the IDN Scoping team,updated the GNSO Council on the team's latest activities. Team members have put forward their Final Report, with two main items: the ICANN IDN Implementation Guidelines 4.0 which the GNSO Council asked the Board to delay voting on, and the IDN Variant TLDs staff papers put out last year and which the Board has asked the GNSO to focus on policy work and coordinate with the ccNSO.

There were a number of options to take on this effort. For the first, there was consensus as the IDN Implementation Guidelines are incorporated in the Registry Agreements (RA) and the Registrar

Accreditation Agreements (RAA), that certain items could be dealt with under policy work (GNSO review) and others under implementation. For the second, there was mostly approval of the staff papers with few items of concern which could be dealt with in the policy development process.

The Scoping team came up with two track recommendations:

Track 1: A Contracted Party House (CPH) team with ICANN staff to resolve operational and contractual compliance issues brought about by the staff implementation of the Guidelines 4.0. Upon GNSO Council approval, the 4.0 version could then be sent to the ICANN Board for approval.

Track 2: Create a PDP working group to consider the definitions, management, and coordination issues related to IDN Variant TLDs, as well as IDN variants at the second-level. Additionally, this track would consider the related issue of how the IDN Implementation Guidelines, which Contracted Parties are required to comply with, should be revised in the future.

Edmon Chung raised that there was a view within the Scoping team that the IDN Implementation Guidelines did not originate from the GNSO and thus needed to go via a PDP before adoption by the Contracted Party House. Other team members disagreed with this given that the IDN Implementation Guidelines were discussed in the previous round of gTLD policies and in the 2007 Policy Recommendations (recommendation 18).

For track 2 there was discussion about which steps were next: PDP or EPDP. Taking into account existing documents and previous studies, it was deemed there was sufficient information to bypass an Issue Report and to lean towards an EPDP. There was disagreement from Maxim Alzoba on this point.

Keith Drazek thanked the Scoping Team and Edmon Chung for their efforts over the last few months. He raised that the GNSO Council would review the documents, that the GNSO Registry Stakeholder Group (RySG) were going to hold further discussions in that regard.

Maxim Alzoba, RySG councilor, encouraged councilors to read the documents provided from a registry perspective and disagreed with the need to keep the pace with the ccNSO parallel efforts. He also raised the issue that topics raised in the small team would negatively impact the RPM PDP WG and SubPro PDP WG work.

Keith Drazek reminded councilors that the choice of one PDP, two PDPs or an EPDP was to be factored into any prioritization discussion the GNSO Council would hold.

 Action items: none

Item 8: ANY OTHER BUSINESS

8.1 - ICANN67 Planning

Keith Drazek mentioned that the Tuesday evening Informal Council session might be tentatively repurposed for the Strategic Trends session.

8.2 - Council response
[https://gnso.icann.org/sites/default/files/file/field-file-attach/draft-council-response-nomcom-outreach-que

stions-17jan20-en.pdf] to the NomCom Review Implementation Working Group's (NomCom RIWG) request for input on 27 recommendations.

Tom Dale mentioned that this response was the work of a small team of councilors, it was the first iteration of the exercise well received by the NomCom RIWG with further exchanges welcome. Deadline for input is the 31st January 2020. **Cheryl Langdon-Orr**, vice-chair of the NomCom RIWG, clarified that the RIWG was a separate entity to the NomCom.

8.3 - Council consideration of proposed GNSO Council Additional Budget Requests (ABRs) for FY21; review draft ABRs for the FY21 Strategic Planning Session and Travel support for PDP Leadership to ICANN Public Meetings.

Steve Chan, ICANN staff, reminded councilors of the deadline of the 31st January 2020. The two ABRs are similar to the previous requests, in the absence of new projects raised by councilors.

Michele Neylon asked for clarification as to why these requests were not yet part of the main budget.

Steve Chan explained that incorporating the SPS in the main budget was not a Policy responsibility, and was not guaranteed. Submitting it as an ABR was necessary to ensure the event gets funding.

John McElwaine asked where there were any Project Management tools available in regards to PDP3.0 which would need to be submitted.

Berry Cobb replied that these could be comments for the SCBO (Standing Committee for Budget and Operations) but would be better served as an ABR.

Action items:

- GNSO Council to review ABRs by 31 January.
- GNSO Councilors to encourage their SGs and Cs to review the NomCom RIWG recommendations and provide input.

Keith Drazek adjourned the meeting at 23:56 UTC on Thursday 23 January 2020