**Minutes of the GNSO Council Meeting held on 29 September 2016**[Agenda and Documents](https://gnso.icann.org/en/meetings/agenda-council-29sep16-en.htm)
Coordinated Universal Time: 21:00 UTC <http://tinyurl.com/hxoe7sh>
14:00 Los Angeles; 17:00 Washington; 22:00 London; **00:00 Istanbul; 07:00 Hobart – next day**

**List of attendees:**
**NCA – Non Voting** – Carlos Raúl Gutierrez
**Contracted Parties House**
Registrar Stakeholder Group: James Bladel, Darcy Southwell, absent – proxy Volker Greimann, Volker Greimann
gTLD Registries Stakeholder Group:

Donna Austin, absent, apologies proxy to Keith Drazek, Keith Drazek, Rubens Kühl
Nominating Committee Appointee (NCA):

Hsu Phen Valerie Tan
**Non-Contracted Parties House**
Commercial Stakeholder Group (CSG);

Philip Corwin, Susan Kawaguchi, Wolf-Ulrich Knoben, Tony Harris, Paul McGrady, Heather Forrest
Non-Commercial Stakeholder Group (NCSG): Amr Elsadr, Stephanie Perrin, David Cake, Stefania Milan, Edward Morris, Marilia Maciel -absent apologies, proxy to Stephanie Perrin

Nominating Committee Appointee (NCA):

Julf (Johan) Helsingius
**NCA – Non Voting** –

Carlos Raúl Gutierrez
GNSO Council Liaisons/Observers:
Olivier Crèpin LeBlond– ALAC Liaison
Patrick Myles - ccNSO Observer - absent
Mason Cole – GNSO liaison to the GAC

**ICANN Staff**
David Olive – Senior Vice President, Policy Development Support and General Manager, ICANN Regional Headquarters - Istanbul
Marika Konings - Senior Policy Director
Mary Wong – Senior Policy Director
Julie Hedlund – Policy Director
Steve Chan - Sr. Policy Manager
Berry Cobb – Policy consultant
David Tait– Policy Specialist

Emily Barabas – Policy Analyst
Glen de Saint Géry - GNSO Secretariat
Nathalie Peregrine - Specialist, SO/AC Support (GNSO)
Mike Brennan - Meetings Technical Services Specialist

[Adobe Connect Recording](http://audio.icann.org/gnso/gnso-council-29sep16-en.mp3)
Adobe Chat Transcript – technical issue not available
[Transcript](https://gnso.icann.org/en/meetings/transcript-council-29sep16-en.pdf)

**Item 1: Administrative matters**

1.1 – Roll call

1.2 – Updates to Statements of Interest

1.3 – Review/amend [agenda.](https://gnso.icann.org/en/meetings/agenda-council-29sep16-en.htm)

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

[Minutes](https://gnso.icann.org/mailing-lists/archives/council/msg19228.html) of the GNSO Council Meeting on 1 September 2016  to be posted on 15 October 2016.

**Item 2: Opening Remarks / Review of Projects & Action List (5 minutes)**

2.1 – Review focus areas and provide updates on specific key themes / topics, to include review of [Projects List [gnso.icann.org]](https://urldefense.proofpoint.com/v2/url?u=http-3A__gnso.icann.org_meetings_projects-2Dlist.pdf&d=DQMFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=U4IBJYYYko8geLjSlTyOXbvtmoVER-_lK-PAQ64rKHs&m=55oYi9y1UeIL5juaxAkqpioz33PyWqjoetRz4HfuZU0&s=SV8BNXhfsR4Gy5Z5gULLoZnhL1CQtIKbpfSDzkxjdjI&e=)and [Action List[community.icann.org]](https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_display_gnsocouncilmeetings_Action-2BItems&d=DQMFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=U4IBJYYYko8geLjSlTyOXbvtmoVER-_lK-PAQ64rKHs&m=55oYi9y1UeIL5juaxAkqpioz33PyWqjoetRz4HfuZU0&s=y4f5QIsl4llURc6N6lvtbX7cXMMLT9ZMadSC7VvByUw&e=)

**Item 3: Consent agenda**No Items on the consent agenda

**Item 4: COUNCIL VOTE – GNSO Validation of the FY17 Budget and Cost-Control Processes for the CCWG-Accountability**

**James Bladel**, seconded by both **Julf Helsingius** and **Keith Drazek** proposed a motion for the GNSO Validation of CCWG-Accountability Budget Request

WHEREAS,

1.      Per its Charter, the Project Cost Support Team (PCST) has supported the CCWG-Accountability in developing a draft budget and cost-control processes for the CCWG-Accountability activities for FY17, and has also developed a historical analysis of all the transition costs to date (see <https://gnso.icann.org/mailing-lists/archives/council/pdfpklU5q6Ojg.pdf>).

2.      The CCWG-Accountability FY17 budget was presented at its plenary meeting of June 21st and approved for transmission to the Chartering Organizations for validation as per the process agreed with the PCST. This request for validation was received on 23 June.

3.      Following review and discussion during ICANN56, the GNSO Council requested a webinar on this topic which was held on 23 August (see transcript at <https://gnso.icann.org/en/meetings/transcript-ccwg-accountability-webinar-23aug16-en.pdf>, recording at <http://audio.icann.org/gnso/gnso-ccwg-accountability-webinar-23aug16-en.mp3> and AC recording at <https://icann.adobeconnect.com/p8fu99qpt7d/>).

4.     The GNSO Council notes that many members of the GNSO community have expressed the view that the projected budget does not likely support revisiting the topic of the jurisdiction of ICANN’s organization in that such exploration would likely require substantial independent legal advice on alternative jurisdictions and their potential impact on the text and structure of ICANN’s Bylaws.

5.      The GNSO Council has discussed and reviewed all the relevant materials.

RESOLVED,

1.      The GNSO Council hereby accepts the proposed CCWG-Accountability FY17 budget, as well as the cost-control processes presented in conjunction with the CCWG budget, expects the working groups to be restrained and judicious in their use of outside legal assistance, and believes that the Legal Committee should exercise reasonable and effective controls in evaluating requests for outside legal assistance and should approve them only when deemed essential to assist a working group to fully and objectively understand and develop a particular course of action for which the group has reached a substantial degree of consensus and requires legal advice on its risks and feasibility.

2.      The GNSO Council expects to receive regular updates on actual expenditures as tracked against this adopted budget, and reserves the right to provide further input on the budget allocation in relation to the CCWG-Accountability related activities.

3. The GNSO Council expects ICANN staff, including its office of General Counsel, to provide the assistance requested by the CCWG and its working groups in an expeditious, comprehensive, and unbiased manner.

4.      The GNSO Council expects the CCWG-Accountability and staff to work within the constraints of this approved budget, and that excess costs or requests for additional funding beyond said budget should be recommended by the Legal Committee only when deemed essential to completion of the CCWG’s work and objectives. .

5.      It is the position of the GNSO Council that revisiting the jurisdiction or organization of the ICANN legal entity, as established by CCWG-Accountability Work Stream 1,  would not likely be supported by this projected budget and, further, that such inquiry should not be undertaken at this time because the new accountability measures are all premised and dependent on California jurisdiction for their effective operation, and any near-term changes in organizational jurisdiction could be extremely destabilizing for ICANN and its community.

6.      The GNSO Council requests the GNSO Secretariat to communicate this resolution to the CCWG-Accountability Chairs, and to the office of the ICANN CFO.

**The motion carried unanimously**
[Voting results](https://gnso.icann.org/en/meetings/gnso-council-motion-recorder-29sep16-en.pdf)

**Action items:**

* GNSO Secretariat to communicate voting result to the CCWG-Accountability chairs and the ICANN CFO

**Item 5: COUNCIL VOTE – Adoption of Implementation Advisory Group Recommendations to Update Procedure on WHOIS Conflicts with National Laws**

[**Voting results**](https://gnso.icann.org/en/meetings/gnso-council-motion-recorder-29sep16-en.pdf)**:**

The [Motion](https://community.icann.org/display/gnsocouncilmeetings/Motions%2B29%2BSeptember%2B2016) was withdrawn after concerns were raised about conforming with the process for starting a Policy Development Process (PDP), the current PDP workload, and the need to deal substantively with the Implementation Advisory Group’s (IAG's) recommendations and how these factor into next steps. It was agreed to resubmit a motion for Council consideration at the Council meeting at ICANN57 in Hyderabad, with potential modifications following additional discussions

**Action items:**

* Motion withdrawn; to be resubmitted for Council consideration at ICANN57 in Hyderabad, with potential modifications following additional discussions
* Discussions to continue with Stephanie and other interested Councilors as well as affected parties (e.g. Registries, Registrars) to discuss path forward and rework motion language

**Item 6: COUNCIL VOTE – Approval of Appointment of an Interim GNSO Representative to the Empowered Community Administration

Steve Delbianco** chair of the GNSO Bylaws Drafting Team, which has nine participants among whom are Amr Elsadr and Ed Morris, provided Council with an update . The drafting team which started on 22 August 2016 has had five 90 minute calls and has produced three draft reports. The motion before Council is consistent with the views of the drafting team.

The drafting team considered three questions :

* nominations for GNSO representatives on the empowered community customer standing committee and review teams
* decisions made by the GNSO to initiate or respond to petitions that happen in the empowered community
* decisions that the GNSO can make on its own, such as initiating a document inspection request per the bylaws 22.7. But that doesn't even require the empowered community.

The drafting team looked at two levels to address the Council resolution.

* who should represent the GNSO as the decisional participant? Namely, should it be council or should it be the GNSO stakeholder groups and constituencies directly?

The drafting team report, in response to who should represent the GNSO pronounced a majority in favor of having Council speak for the GNSO.

* how should that entity reach their decisions? What are the voting thresholds for those kinds of decisions?

The drafting team suggested that Council could do this by a simple majority vote.

The drafting team has not yet reached a majority decision with regard to the question of nominations for GNSO representatives on the Empowered community.
The drafting team believes and the Council agreed that given an additional two weeks there could be a set of actionable recommendations.
The Council accorded the drafting team more time to continue to discuss this issue.

The IPC believes that more discussion is needed to determine whether Council is the appropriate body to be dealing with this issue, and it should not automatically be assumed that these new responsibilities arising from the new Bylaws fall on the Council.

**Heather Forrest** noted for the record the Intellectual Property Constituencies (IPC's), concerns and resentment for the time pressure in relation to this decision and the impact on the drafting team work. In addition another key deficiency is that there is no clear picture as to how the GNSO community would instruct the temporary representative to the Empowered Community.

**James Bladel** seconded by **Amr Elsadr** proposed a motion for the approval of the appointment of an Interim GNSO Representative to the Empowered Community Administration

WHEREAS

1. As stated in Section 1.1(a) of Article 6 of the new ICANN Bylaws, concerning the composition and organization of the Empowered Community (EC), “The Empowered Community (“EC”) shall be a nonprofit association formed under the laws of the State of California consisting of the ASO, the ccNSO, the GNSO, the ALAC and the GAC (each a “Decisional Participant” or “associate,” and collectively, the “Decisional Participants”).”

2. The sole purpose of the EC is to exercise its rights and perform its obligations under ICANN’s Articles of Incorporation and the ICANN Bylaws, and the EC shall have no other powers or rights except as expressly provided in the ICANN Bylaws. The EC may only act as provided in these Bylaws. Any act of the EC that is not in accordance with these Bylaws shall not be effective.

3. As outlined in section 6.3 of the new ICANN Bylaws, the GNSO, as a Decisional Participant, shall act through its respective chair or such other person as may be designated by the GNSO (collectively, such persons from all communities are the “EC Administration”). Each Decisional Participant shall deliver annually a written certification from its chair or co-chairs to the ICANN Secretary designating the individual who shall represent the Decisional Participant on the EC Administration.

4. The GNSO created a Drafting Team (DT) on 30 June 2016 to identify the GNSO’s new rights and obligations, and work with ICANN staff to prepare an implementation plan to address any needed changes by 30 September (see <http://gnso.icann.org/en/council/resolutions> - 201606).

RESOLVED

1. The GNSO Council hereby confirms that the GNSO Chair (currently James Bladel) will represent the GNSO as the Decisional Participant on the Empowered Community Administration on an interim basis.

2.  The GNSO representative shall act solely as directed by the GNSO Council in accordance with the ICANN Bylaws and other related GNSO Operating Procedures.

3. Within three months after the completion of the work of the GNSO Rights & Obligations under Revised ICANN Bylaws Drafting Team and adoption of its recommendations by the GNSO Council, the GNSO is expected to finalize its decision on the appointment of the person designated to represent the GNSO as the Decisional Participant on the Empowered Community Administration and will communicate this accordingly to the ICANN Secretary.

4. The GNSO Council requests the GNSO Secretariat to communicate this decision to the ICANN Secretary which will serve as the required written certification from the GNSO Chair designating the individual who shall represent the Decisional Participant on the EC Administration.

[Voting results](https://gnso.icann.org/en/meetings/gnso-council-motion-recorder-29sep16-en.pdf)
**Motion passed, with 2 abstentions (Heather Forrest, IPC; Paul McGrady, IPC)**

**Reasons for abstention:**

**Heather Forrest** - Intellectual Property Constituency (IPC) "I appreciate the robust discussion that we had on this. And would like to reiterate that the abstention is not on the basis of any personal issue, personal conflict. Rather the Intellectual Property Constituency (IPC) reiterates its concerns with the speed with which these decisions have to be made and making decisions without, procedures in mind."

**Paul McGrady** - Intellectual Property Constituency (IPC) stated "my reasons (for abstention) are reflected by what Heather said.

We have great faith in the work being done by Steve DelBianco and his team and are confident that they can help us resolve a number of these problems. So hence we’re not voting no. We’re simply abstaining. Thank you."

**Action items:**

* GNSO Secretariat to communicate voting result to the ICANN Secretary (this notice will serve as the required written certification from the GNSO Chair designating the individual who shall represent the Decisional Participant on the EC Administration)
* GNSO Bylaws Drafting Team (DT) to continue with work on report to the Council; goal to complete report within the next two weeks
* Three months after completion and adoption of DT report, GNSO to finalize decision on appointment of GNSO representative to the EC Administration

**Item 7: COUNCIL DISCUSSION – Proposed Draft Charter for a New Cross Community Working Group concerning Auction Proceeds from the 2012 New gTLD Program**

**Jonathan Robinson** provided Council with an update on the proposed draft Charter for a New Cross Community Working Group concerning Auction Proceeds from the 2012 New gTLD Programstating that all the Chartering Organizations have been asked to review the draft charter and express their concerns or issues so that eventually Council will be well informed when this does come up for a vote. The drafting team, among other members had two Board liaisons as participants, engagement work has been undertaken, and broad community consultation which resulted in a preparatory document. The draft charter before Council is the result of extensive input and deliberations and represents a careful balance between the different viewpoints and perspectives.

The following points were emphasized:

The funds are ring-fenced.

They are a single revenue source.

There has been substantial discussion about conflict of interest provisions.

There has been substantial discussion and care taken so as not to prejudice or impact ICANN’s tax status. There’s recognition of issues like transparency that you expect, lean and effective work, diversity issues.

**Jonathan Robinson** proposed that Cross Community Working Group be formed along the concepts that have been developed and refined by recent Cross Community Working Groups. The planned course of action is to run the charter by the different chartering organisations

**Action items:**

* Council to continue discussion, including on mailing list, with a view toward considering adoption of a finalized Charter at ICANN57 in Hyderabad

**Item 8: COUNCIL DISCUSSION – ICANN Board Letter on New gTLD Subsequent Procedures

Staff** compiled a consolidated chart which lists the various positions of the stakeholder groups and constituencies

(Input - ICANN Board Letter on New gTLD Subsequent Procedures - 27 Sept 2016.docx)
**Phil Corwin** to go through the responses to see if there is mention of the Rights Protection Mechanisms Review, Working Group as a factor that should be on the critical path to a subsequent round of new gTLDs.

**Action items:**

* Staff to convene volunteer group (comprising Councilors and interested community members) to synthesize coordinated response to the Board, based on WG & SG/C responses received
* Volunteer group to present proposed response to Council for adoption on 13 October, with goal to transmit response to Board before ICANN57 in Hyderabad
* Volunteers so far – Carlos Raúl Gutierrez, Phil Corwin, Keith Drazek, James Bladel, Stefania Milan

**Item 9: COUNCIL DISCUSSION – Proposed Final Framework for Future Cross Community Working Groups**

Deferred to the next Council meeting on 13 October 2016

**Action Item:**

* Staff to circulate Final Framework to Council list for discussion

**Item 10: COUNCIL DISCUSSION – GNSO Meeting Schedule for ICANN57**

**Action items:**

* Councilors to review latest agenda when that is made available by the ICANN Meetings Team
* Councilors to coordinate with their respective SG/Cs on feedback, especially on proposed arrangements for Constituency Day
* Councilors to confirm attendance in Hyderabad, including for GNSO Council Development Session
* Councilors and GNSO community members who are having problems with visas to contact Glen for information about assistance available

**Item 11: Any Other Business**11.1 – Staff to follow up on call for volunteers for the GNSO Review Working Group with Stakeholder Groups and Constituencies (SG/Cs) who have not yet provided their primary and/or alternate members

11.2

**CWG-Stewardship** [**letter**](https://gnso.icann.org/mailing-lists/archives/council/msg19190.html)

https://gnso.icann.org/mailing-lists/archives/council/msg19190.html

Jonathan Robinson, one of the CWG IANA Stewardship co-chairs noted that a [letter](https://gnso.icann.org/mailing-lists/archives/council/msg19190.html) was posted to the council mailing list requesting that the GNSO Council sign the letter as one of the Supporting Organisations together with the Advisory Committees instructing ICANN to execute these agreements.

Concern was expressed about the timing of the letter to the Council which did not allow for consultation with the members of the Constituencies and Stakeholder groups.
Olivier Crepin-LeBlond mentioned that the ALAC was also consulted at the very last minute and has agreed to move forward.

**Action Items**

11.2 – Councilors to report any concerns/objections with the GNSO signing-on to the CWG-Stewardship letter within the next 24 hours (Friday 30 September); if none are received, staff will proceed to notify the CWG-Stewardship co-chairs of GNSO sign-on.

**James Bladel** adjourned the GNSO Council meeting and thanked everyone for their participation.

The meeting was adjourned at 23:26 UTC.

The next GNSO Council Teleconference will take place on Thursday, 13 October 2016 at 12:00 UTC.
For other places see:[**http://tinyurl.com/j3f4pbe**](http://tinyurl.com/j3f4pbe)