

## Minutes of the GNSO Council Meeting 19 July 2018

### [Agenda](#) and [Documents](#)

Coordinated Universal Time: 12:00 UTC: <https://tinyurl.com/y77sb7h6>

05:00 Los Angeles; 08:00 Washington; 13:00 London; 17:00 Islamabad; 21:00 Tokyo; 22:00 Hobart

#### **List of attendees:**

Nominating Committee Appointee (NCA): – **Non-Voting** – Erika Mann

#### **Contracted Parties House**

Registrar Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell

gTLD Registries Stakeholder Group: Donna Austin, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA): Carlos Raul Gutierrez

#### **Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Marie Pattullo, Susan Kawaguchi, Philippe Fouquart, Tony Harris, Paul McGrady, Heather Forrest

Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Stephanie Perrin, Tatiana Tropina, Rafik Dammak, Ayden Férdeline, Arsène Tungali

Nominating Committee Appointee (NCA): Syed Ismail Shah

#### **GNSO Council Liaisons/Observers:**

Cheryl Langdon-Orr– ALAC Liaison

Julf (Johan) Helsingius– GNSO liaison to the GAC

Adebiyi Oladipo – ccNSO observer

#### **ICANN Staff**

David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional (apology sent)

Marika Konings – Vice President, Policy Development Support – GNSO

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

Sara Caplis – Technical Support

Nathalie Peregrine – Manager, Operations Support

Terri Agnew - Operations Support - GNSO Lead Administrator

#### [MP3 Recording](#)

#### [Transcript](#)

### **Item 1: Administrative matters**

1.1 – Roll call

1.2 – Updates to Statements of Interest.

Ayden Férdeline indicated that changes had been made to his Statement of Interest:

<https://community.icann.org/x/LZhlAw>

### 1.3 – Review/amend [agenda](#)

The GNSO Review of the GAC communiqué was added as additional Any Other Business (AOB) item.

1.4 – [Minutes](#) of the GNSO Council meeting on the 12 June 2018 were posted on the 27 June 2018

[Minutes](#) of the GNSO Council meeting on the 27 June 2018 were posted on the 16 July 2018

## **Item 2. Opening Remarks / Review of Projects & Action List**

**Heather Forrest** noted the following updates to the [Projects List](#) :

There had been few changes in the Projects list since the last GNSO Council meeting in June, principally that IGO INGO Curative Rights Protection Mechanisms Policy Development Process (PDP) and CCWG Accountability Work Stream 2 had both shifted from Working Group (category 4) to Council deliberations (category 5).

**Heather Forrest** raised the following points from the [Action Items' list](#) (which would not be discussed under agenda items during the meeting):

- A [draft response](#) to the Board request in relation to the use of emojis in domain names has been posted to the GNSO Council list, input from councilors is requested before sending to Board.
- Registration Directory Services (RDS) PDP leadership will provide a RDS PDP post-mortem to the Council upon Expedited PDP (EPDP) initiation. This could trigger the end of the PDP, upon GNSO Council approval via vote.
- The new gTLD Subsequent Procedures (SubPro) PDP and the GNSO Review of All Rights Protection Mechanisms (RPM) PDP consolidated timeline as well as the work on the updated charter for the Cross Community Engagement Group on Internet Governance are still in progress.
- Efforts are still underway to overcome the potential duplication between the IANA naming Function Review (IFR) and the Customer Standing Committee (CSC) effectiveness review requirement.
- The ccNSO approved the CSC Charter amendment during ICANN62 in Panama, this will be communicated shortly to the broader community.

### Action Items:

- *Council leadership* to consider and propose options for closure of the PDP on gTLD Registration Data Services. Include as a discussion item on August Council meeting agenda. .

## **Item 3. Consent Agenda**

There was no item on the Consent Agenda.

#### **Item 4: COUNCIL VOTE – IGO-INGO Access to Curative Rights Protection Mechanisms**

**Susan Kawaguchi**, seconded by **Michele Neylon**, presented the [motion](#) relative to the IGO-INGO Access to Curative Rights Protection Mechanisms (CRP) PDP [Final Report](#).

Whereas:

1. In November 2013, as a result of its adoption of consensus recommendations from the Working Group that had concluded work on a Policy Development Process (PDP) concerning the Protection of International Organization Identifiers in All gTLDs (IGO-INGO PDP WG), the GNSO Council requested an Issue Report on the topic of amending the Uniform Dispute Resolution Policy (UDRP) and the Uniform Rapid Suspension procedure (URS) to enable International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs) to access and use these curative rights protection mechanisms;

2. On 5 June 2014, following its review of the Final Issue Report published by ICANN staff on the Access by IGOs and INGOs to the Curative Rights Protections of the UDRP and URS (<http://gnsso.icann.org/en/drafts/igo-ingo-crp-final-25may14-en.pdf>), the GNSO Council initiated this PDP to evaluate: (i) whether the UDRP and/or URS should be amended (to enable their access and use by IGOs and INGOs whose identifiers had been recommended for protection by the IGO-INGO PDP WG) and if so, in what way; or (ii) whether a separate narrowly-tailored procedure modeled on these curative rights protection measures to apply only to protected IGO and INGO identifiers should be developed;

3. In initiating this PDP, the GNSO Council had requested that the PDP Working Group be convened as soon as possible in order to fulfill the requirements of this PDP in an expedited manner (<https://gnsso.icann.org/en/council/resolutions#20140605-2>);

4. On 25 June 2014, the GNSO Council adopted the PDP Working Group Charter (<https://gnsso.icann.org/en/council/resolutions#20140625-1>), which was subsequently amended in April 2015 following initial work by the PDP Working Group on the scope of the list of IGOs and INGOs to be considered in this PDP (<https://gnsso.icann.org/en/council/resolutions#20150416-3>);

5. Between October 2015 and June 2016, the PDP Working Group consulted with an external legal expert to determine the applicability and scope of the doctrine of IGO jurisdictional immunity in relation to its Charter, and in October 2016 the PDP Working Group considered the proposal that had been forwarded by the ICANN Board as a result of work by the “IGO Small Group” comprising Governmental Advisory Committee (GAC), IGO and ICANN Board representatives;

6. In January 2017, the PDP Working Group published its Initial Report for public comment, which included several preliminary recommendations and two possible policy options on the remaining issue of IGO jurisdictional immunity. The GAC, 21 IGOs and a number of GNSO Stakeholder Groups and Constituencies submitted comments on the Initial Report, which were reviewed by the PDP Working Group and which included feedback on the policy options for handling the issue of IGO jurisdictional immunity (<https://www.icann.org/public-comments/igo-ingo-crp-access-initial-2017-01-20-en>);

7. Since October 2012, the GAC has issued advice on the topic of IGO identifier protections, including specific advice concerning what in the GAC’s view could constitute appropriate curative rights protections for IGOs as objectively different rights-holders (see, e.g. <https://gac.icann.org/contentMigrated/icann57-hyderabad-communicue>). The GAC has also expressed concern over the possibility that this PDP Working Group’s final recommendations may differ from GAC advice on the topic (see, e.g. <https://gac.icann.org/contentMigrated/icann60-abu-dhabi-communicue>);

8. Since October 2017, the PDP Working Group has been focused on developing agreed policy recommendations that it believes can balance the needs and concerns of IGOs with the rights of registrants;

9. On 9 July 2018, the PDP Working Group submitted its Final Report to the GNSO Council (<https://gns0.icann.org/sites/default/files/file/field-file-attach/igo-ingo-crp-access-final-17jul18-en.pdf>), which contains five consensus recommendations and in which several Working Group members had indicated their intentions to file minority statements documenting their disagreement either with one or more of the final recommendations or other parts of the Final Report;

10. The GNSO Council notes that several inconsistencies between GAC advice and consensus recommendations from the IGO-INGO PDP WG have yet to be reconciled, including on the topic of appropriate protections for IGO acronyms (both preventative and curative). The GNSO Council notes that until these issues are resolved, IGO acronyms remain reserved on an interim basis at the second level of the domain name system for those gTLDs delegated under the 2012 New gTLD Program round.

Resolved:

1. The GNSO Council thanks the Working Group for its hard work and acknowledges receipt of the Final Report.

2. In 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 from the IGO-INGO Access to Curative Rights Mechanisms PDP Working Group between now and its August 2018 meeting, 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. The GNSO Council confirms its intention to act on the recommendations that have been developed by the Working Group at the earliest opportunity following its review and deliberations on these topics.

3. To this end, ICANN staff is directed to inform the ICANN Board and the GAC that the IGO-INGO Access to Curative Rights Mechanisms PDP Working Group has completed its work and forward a copy of the Final Report to them.

Councilors voted in favour of the motion unanimously.

**Heather Forrest** thanked Petter Rindforth, current Chair, Phil Corwin, previous co-chair, and Susan Kawaguchi, Council liaison to the WG, for their efforts.

[Vote results](#)

Action items:

- *Councilors* to review Final Report, especially in the broader context of the appropriate overall scope of protection for all IGO identifiers, in preparation for consideration as early as the August Council meeting.
- *ICANN staff* to inform the ICANN Board and the GAC that the IGO-INGO Access to Curative Rights Mechanisms PDP Working Group has completed its work and forward a copy of the Final Report to them.

**Item 5: COUNCIL VOTE – Initiation of Expedited Policy Development Process on the ICANN Board Temporary Specification on gTLD Registration Data**

Heather Forrest seconded by Michele Neylon submitted the [motion](#) requiring GNSO Council to [initiate an EPDP on the Temporary Specification](#), as well as to adopt the [EPDP's charter](#).

WHEREAS,

1. On [17 May 2018](#), the ICANN Board adopted the [Temporary Specification for gTLD Registration Data](#) pursuant to the procedures in the Registry Agreement and Registrar Accreditation Agreement concerning the establishment of temporary policies.
2. Following the adoption of the Temporary Specification, and per the procedure for Temporary Policies as outlined in the Registry Agreement and Registrar Accreditation Agreement, a Consensus Policy development process as set forth in ICANN's Bylaws needs to be initiated immediately and completed within a one-year time period from the implementation effective date (25 May 2018) of the Temporary Specification
3. The GNSO Council has had a number of discussions about next steps to clarify issues around scope, timing and expectations, including on [21 May 2018](#) that included the GNSO Stakeholder Group and Constituency Chairs, during the Council meeting on [24 May 2018](#), a meeting between the ICANN Board and the GNSO Council on [5 June 2018](#) and an extraordinary GNSO Council meeting on [12 June 2018](#).
4. Subsequently, the GNSO Council agreed to form a drafting team, consisting of Council leadership and interested Council members, to develop the EPDP Initiation Request and EPDP Team Charter. The drafting team submitted the proposed EPDP Initiation Request and EPDP Team Charter to the GNSO Council on 19 July 2018.
5. The GNSO Council has reviewed and discussed the EPDP Initiation Request as well as the Charter for the EPDP Team.
6. The GNSO Council advised on 12 July 2018 the GNSO Stakeholder Groups, ICANN Supporting Organizations, and Advisory Committees to select EPDP Team members, with a closing date of 20 July 2018.

RESOLVED,

1. The GNSO Council hereby approves the EPDP Initiation Request [\[https://gns0.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-initiation-request-19jul18-en.pdf\]](https://gns0.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-initiation-request-19jul18-en.pdf) and as such initiates the EPDP.
2. The GNSO Council approves the EPDP Team Charter [\[https://gns0.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-19jul18-en.pdf\]](https://gns0.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-19jul18-en.pdf) and appoints Rafik Dammak as the GNSO Council liaison to the EPDP Team on the Temporary Specification for gTLD Registration Data;
3. The GNSO Council hereby appoints Kurt Pritz as the Chair of the EPDP Team.
4. The GNSO Council directs staff to communicate the results of this motion to the GNSO SG/Cs as well as ICANN SO/ACs and to make arrangements for the EPDP Team to commence its deliberations as soon as feasible.

**Heather Forrest** pointed out the considerable progress made on the EPDP drafting team mailing list and thanks to the efforts of the EPDP small team (Keith Drazek, Stephanie Perrin, Susan Kawaguchi, Paul McGrady, facilitated by Donna Austin as Council leadership).

Highlights of the GNSO Council discussion were:

- The need to move forward rapidly.
- Concerns about scope relating to the uniform model for access, and emphasis that should the EPDP team have questions about scope they should address the GNSO Council for guidance.
- Key roles of the chair regarding neutrality and of the GNSO Council as manager of the process as per ICANN Bylaws.
- Appointment of Rafik Dammak as GNSO Council liaison to the EPDP team supported by all councilors, and approved by the maker and seconder of the motion.
- Appointment of Kurt Pritz as EPDP team Chair after unanimous selection by the GNSO Council leadership and the co-chairs of the Standing Selection Committee (SSC), supported by all councilors, and approved by the maker and seconder of the motion.

The motion passed by supermajority with three abstentions: Tatiana Tropina ([abstention statement](#)), Ayden Férdeline ([abstention statement](#)) and Stephanie Perrin ([abstention statement](#)).

**Heather Forrest** noted that this was a major milestone for the GNSO in demonstrating its ability to carry out responsibilities under ICANN's Bylaws.

#### [Vote results](#)

Action items:

- *ICANN staff* to communicate the results of this motion to the GNSO SG/Cs as well as ICANN SO/ACs and to make arrangements for the EPDP Team to commence its deliberations as soon as feasible.

### **Item 6: COUNCIL DISCUSSION – Short- and Long-Term Options to Adjust the Timeline for Specific Reviews and Organizational Reviews**

**Donna Austin** provided an update on the short-term and long-term review options paper response by GNSO Council, and what GNSO Council recommendations should cover.

Short-term review options:

- Would only apply to the Third Review of ICANN Accountability and Transparency (ATRT3) given that the Registration Directory Services (RDS) WHOIS2 Review Team has already begun their work.
- Limit the review to implementation of prior recommendations

- Delay the start of the work to enable some time to consider the recommendations from the CCWG Work Stream 2

Long-term review options:

- Stagger the reviews
- Need to consider the differences between specific reviews and organisational reviews.
- Recommendations would be that specific reviews last for 12 months maximum and in keeping with the operational guidelines for conducting the specific reviews.
- Council would need to recommend an appropriate timeline for long-term reviews and request a calibration of those reviews in the light of the recent ALAC review.

Councilors then discussed the need for short-term reviews to not be delayed, but also the need to an in-depth look at reviews to better understand the problem.

Action Items:

- *Donna Austin and Carlos Raúl Gutiérrez* to prepare draft response(s) and share with the Council the week of 23 July 2018.

### **Item 7: COUNCIL DISCUSSION – Consideration of CCWG-Accountability WS2 Final Report**

**Thomas Rickert**, CCWG-Accountability Work Stream 2 Co-Chair, provided councilors with an update on the CCWG's [Final Report](#) highlighting what Council would need to consider prior to conducting a vote.

CCWG sub-teams put out individual reports to public comment, which were then aggregated in a [Final Report](#) and submitted to public comment once again. The [Final Report](#) contains, in addition, implementation guidance as a response to concerns raised by ICANN Board regarding 4 recommendations. As a Chartering Organization, the GNSO will be requested to formally approve the Final Report.

Action items:

- *Councilors* and their respective Stakeholder Groups (SG) and Constituencies (C) to consider Final Report in preparation for future vote at Council.

### **Item 8: COUNCIL DISCUSSION – GNSO Policy Development Process 3.0**

On 11 May 2018, a [summary paper](#) was shared with the Council, summarizing input received to date, as well as some proposed incremental improvements. The Council members and their respective Stakeholder Groups and Constituencies are invited to provide input by 15 August 2018. **Heather Forrest** mentioned that while Council focus had been mainly on the EPDP since ICANN62, it was important to reflect on how community recommendations would be added to the document and whether a wider community consultation would be needed (this had been requested by the Government Advisory Committee (GAC) during ICANN62).

**Donna Austin** pointed out that several councilors who had committed time and effort to PDP3.0 would be leaving the Council at the Annual General Meeting (AGM) in October 2018, and asked for Council commitment that progress would be made before the next Council is seated. **Heather Forrest** and **Rafik**

**Dammak** agreed that targeting a community consultation during ICANN63 would be the best way forward.

Action Items:

- *Council Leadership* to develop proposed plan and timeline to progress project in preparation for a public consultation at ICANN63.

**Item 9: COUNCIL DISCUSSION - Instruct the Standing Selection Committee to reconfirm the GNSO appointments on the Third Accountability and Transparency Review Team (ATRT3)**

Stéphane Van Gelder, one of the 3 GNSO appointed candidates guaranteed a seat for the ATRT3, tragically passed away in May 2018. It was suggested that the Standing Selection Committee (SSC) return to the original pool of candidates for ATRT3 to fill the vacancy.

**Donna Austin** raised that as the call for candidates took place 18 months ago, there was potentially a need for a new call for candidates given that candidates' circumstances might have changed in the meantime. **Susan Kawaguchi**, chair of the SSC, concurred adding that selected candidates should be asked individually whether they were still able to take up the position and that it was key to ensure the Review Team was going ahead before proceeding with the confirmation of candidates and the possible new call for volunteers. **Tatiana Tropina** proposed a compromise of confirming with the existing candidates if they were still willing to participate in the effort and then launch a call for volunteers for the vacant positions. **Heather Forrest** reminded councilors that the initial call for volunteers was issued by ICANN Org so Org should be consulted in regard to a new call for volunteers. Furthermore, it would make sense to wait until after the long and short-term review comments are received and a timeline for commencing ATRT3 is announced.

Action Items:

- *Standing Selection Committee* to check with selected candidates and determine if they are still interested in serving on the ATRT3.
- *ICANN staff* to ask MSSI what the expected timeline to begin work is, once the short/long-term review public comment periods conclude. Inquire as well if they are intending to run an additional call for volunteers.
- *Council Leadership* to ask other SO/ACs if they have a need for an additional call for volunteers.

**Item 10: ANY OTHER BUSINESS**

10.1 – ICANN63 planning

**Heather Forrest** noted that GNSO Council leadership had communicated with all of the PDP working groups in relation to the travel support pilot and that a final decision was expected on the 20th July 2018.

**Donna Austin** reminded councilors of the difference between a high interest topic and a cross-community topic session. **Michele Neylon** raised the issue of these sessions being mainly used as update providers rather than opportunities for interaction.

The next production call is on the 2nd August 2018, and **Heather Forrest** reminded councilors that a meeting slot for PDP3.0 discussion will need to be scheduled into the ICANN63 planning.

10.2 - Update on proposed updates to the Consensus Policy Implementation Framework and Post-Implementation Consensus Policy Review Framework



GNSO Council input is expected at the end of July 2018. Staff noted that there had been no substantive changes to the document which would warrant a deadline extension, but if councilors, upon reviewing the document, were to find areas of contention, then additional time could be granted to further discuss those points. **Heather Forrest** agreed and stated that if by the 30th July 2018 further information was required, this could be done in the form of an informational webinar.

### 10.3 - GNSO Review of the GAC Communiqué

**Julf Helsingius** updated the Council on the current status of the GNSO Review of the GAC Communiqué noting that adjustments would need to be made in light of the GNSO Council meeting discussions, the revised version would be circulated shortly on the GNSO Council mailing list.

**Heather Forrest**, GNSO Council Chair, adjourned the GNSO Council meeting at 14:05 UTC Thursday 19 July 2018.

The next GNSO Council Meeting will take place is scheduled for the 16 August 2018 at 21:00 UTC. For other places see: <https://tinyurl.com/y82s88vu>