

Minutes of the GNSO Council Meeting 21 February 2019

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

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

04:00 Los Angeles; 07:00 Washington; 12:00 London; 17:00 Islamabad; 21:00 Tokyo; 23:00 Melbourne

List of attendees:

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

Contracted Parties House

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

Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA): Carlos Raul Gutierrez

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa, Paul McGrady, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Elsa Saade, Tatiana Tropina (tentative proxy to Rafik Dammak in case of connectivity issues), 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

Special guests:

Jeff Neuman, co-chair of the New gTLDs Subsequent Procedures PDP WG.

ICANN Staff

David Olive -Senior Vice President, Policy Development Support and Managing Manager

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 (apology)

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

1.3 - Review / Amend Agenda

Agenda was approved without objection.

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 January 2019 were posted on the 7 February 2019

Minutes of the GNSO Council meeting on the 14 February will be posted on the 28 February 2019

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

Keith Drazek reviewed the [Projects list](#) and brought the following points to councilors' attention:

- The issue scope in the IRTTP Policy Review is underway
- Whois Procedure Implementation Advisory Group is on hold until the EPDP team finalises its work.
- IGO INGO Curative Rights Protection Mechanisms: a call is being scheduled between GAC and GNSO Council leadership teams to prepare for the discussion during the joint meeting in Kobe, ICANN64

Keith Drazek then reminded the GNSO Council of the following [Action Items](#):

- Cross Community Engagement Group on Internet Governance: GNSO Council overall view is that it supports the engagement here of GNSO members and GNSO councilors in the Cross Community Engagement Group but that a charter is not necessary and the group can continue on in an ad hoc manner
- Drafting Team on the charter related to the next steps for ICANN Procedure Handling Whois Conflicts is still on hold as are any action items related to this topic. **Michele Neylon** noted that it was yet to be decided whether the Drafting Team effort be triggered by the end of Phase 1 of the EPDP team work, or the end of Phase 2. **Keith Drazek** further clarified by adding that there were two phases at this time in terms of the delivery of a final report on replacing the Temporary Specification and a final report pending on the Uniform Access Model.
- IANA Functions Review (IFR) Team: this action item is on hold until the IFR is formed.

Action Items:

- *Council leadership* to research and develop guidance for if and when the work on the ICANN Procedure of Handling Whois conflicts with Privacy should begin.

Item 3: Consent Agenda - no item

Item 4: COUNCIL VOTE - Adoption of the Final Report on Expedited PDP (EPDP) on the Temporary Specification for gTLD Registration Data

Keith Drazek reminded councilors that they [received](#) the [Final Report](#) on Expedited PDP (EPDP) on the Temporary Specification for gTLD Registration Data on the 20th February 2019. The EPDP team has concluded its Phase 1 work having focused on developing policy recommendations to replace the Temporary Specification that was imposed by the ICANN Board back in May of 2018.

Keith Drazek thanked on the record, on behalf of the Council, the incredible work that went into the EPDP Phase 1 effort, with extremely heavy workload and under very tight timelines. He noted Council's appreciation and his personal appreciation and thanks to the EPDP team leadership team, including Rafik Dammak, who performed a couple of different roles as Council liaison to the group as well as vice chair,

to Kurt Pritz as the leader and to all of the participants, members of the group, alternates who stepped in and all of the support teams behind them that spent incredible number of hours in a very compressed timeframe to come up with the report.

Keith Drazek reminded councilors that the task at hand was to consider the final report and to vote to approve that report based on the GNSO Council's role as policy and process managers. He insisted on the fact that this was not the moment for the GNSO Council to be engaging in discussions on the substance of the work of the EPDP team in its final report.

Paul McGrady reminded the Council that Marie Pattullo, on behalf of the Business Constituency (BC) had [requested](#) a vote deferral and asked for procedural clarification in this situation.

Keith Drazek explained that a deferral as per the Standing Committee on GNSO Improvements (SCI), is to the Chair's discretion. He added that in the past, deferral requests had more often than not been granted in the GNSO Council, however a discussion needed to take place before a decision was made.

Michele Neylon, supported by **Elsa Saade**, expressed his strong objection to a deferral based on the fact the EPDP team was no longer going to meet to discuss the Final Report and no substantive modification was going to be made to the content of the report.

Marie Pattullo expressed her thanks to the considerable effort and time dedicated by the EPDP team to complete the Final Report. **Marie Pattullo** further clarified the rationale behind the BC's request for a deferral, after reminding the GNSO Council that the BC is keen to retain and keep the good faith collegiate atmosphere of the multistakeholder model. She also referred councilors to the BC and IPC's minority statement. The BC's main concern is the need for consumer protections, the need for cyber security, the need for law enforcement, and of course the need for intellectual property to all be included in Recommendation 1. The BC wishes to work towards getting a uniformed access model but that that access model be based on a specific set of purposes that will conform with and that allow conformity with the General Data Protection Regulation (GDPR).

Paul McGrady added that the main reason for deferral was that the updated Final Report was not delivered within reasonable time to allow councilors to review it prior to the GNSO Council meeting.

Keith Drazek responded that the edits taking the Initial Report to its Final Report version were not substantial and that the GNSO Council was, as PDP manager, to approve whether the PDP procedures had been respected. However a deferral would be considered if there was a request to take the Final Report back to respective Stakeholder Groups or Constituencies for internal discussion. He did encourage councilors to reflect on whether this would give the opportunity for councilors to change their possible objection to the motion into support.

Flip Petillion indicated his preference for a deferral to give further time for discussion.

Keith Drazek reminded Council that following the GNSO Operating Procedures and the charter of the EPDP, there was a consensus determination related to Recommendation 1 on Purpose 2, even if it wasn't full consensus, therefore, the report reached consensus, by definition in the GNSO Operating Procedures.

Michele Neylon expressed his frustration at the delays requested by the BC and the Intellectual Property Constituency (IPC) given that there had already been last minute changes to the Final Report on both constituencies' request.

Tatiana Tropina echoed Michele Neylon's point emphasizing that EPDP team work and discussion had already taken place within the team and that these efforts needed to be respected and future efforts should not be unnecessarily delayed.

Rafik Dammak reminded councilors of process followed and the work done within the EPDP team towards the definition of consensus after the EPDP team spent enough time on deliberations. He also reminded that GNSO Council designed the EPDP team with expectation that EPDP members keep their groups informed . He also encouraged councilors to approve Phase 1 efforts and enable members to start work on Phase 2.

Paul McGrady mentioned that the fact that a special GNSO Council meeting focussing on a Final Report second vote opportunity had been planned for the 4th March 2019 highlighted the fact that the GNSO Council had anticipated a potential delay and encouraged the GNSO Chair to not break with GNSO tradition by denying a deferral request. **Paul McGrady** noted that the time accorded by the delay would be used for internal discussions within the IPC to attempt to gather agreement for a vote in support of the motion.

Keith Drazek raised the fact that a deferral would be delaying talks about Phase 2 and would therefore negatively impact the EPDP face-to-face meetings in Kobe. **Keith Drazek** then asked the councilors their input on how the vote would take place: as a single vote on the Final Report, or as several votes separating out the recommendations which did not garner consensus from the bulk of the Final Report. **Keith Drazek** then asked councilors if anyone objected to including the two non-consensus recommendations in the Final Report and under a single vote? He specified that it was not typical in a PDP for the Council to approve divergent recommendations but that this specific situation might warrant it. **Staff** clarified that the designation of the recommendations was done by the EPDP team to help inform the Council deliberations and considerations of those recommendations but once the Council voted on those and they met the super-majority voting thresholds, those would all become recommendations that the GNSO Council would recommend to the ICANN Board. **Keith Drazek** noted that all minority statements and comments that were submitted by the various groups during the previous week were also included in the Final Report. Councilors expressed their support for a single vote via the Adobe Connect room chat.

Keith Drazek approved the deferral of the motion to the next Council meeting, on the 4th March 2019. Several councilors expressed their disappointment in the deferral decision, noting that councilors had been aware of the deadlines at the start of the process and insisted that the IPC and BC councilors should use the time to consult with their membership. **Maxim Alzoba** reminded Council that the duty for EPDP team members to keep their respective groups informed was a specific membership criteria under the EPDP Charter.

The adoption of the Final Report on Expedited PDP (EPDP) on the Temporary Specification for gTLD Registration Data was deferred to the GNSO Council meeting on the 4th March 2019.

[Vote results](#)

Action items:

- *Councilors* to engage with and consult with their Stakeholder Group / Constituency and ensure their respective communities understand current status and have provided instructions on how to vote for the EPDP team Final Report on 4 March (where applicable).
- *Rafik Dammak* to inform the EPDP team of decision to defer the vote and explain next steps.

Item 5: COUNCIL DISCUSSION - Expedited PDP on the Temporary Specification for gTLD Registration Data - Phase 2 Work

This agenda item was dependent upon successful adoption of the Final Report referenced in Item 4, it was decided to postpone this agenda item until the next Council meeting.

Item 6: COUNCIL UPDATE – Status of the New gTLD Subsequent Procedures PDP WG

Jeff Neuman and **Cheryl Langdon-Orr**, co-chairs of the New gTLD Subsequent Procedures PDP WG, presented the latest WG updates to the Council ([slide deck](#))

The WG published an Initial Report in July 2018, and worked through the comments received in subgroups in work tracks 1 - 4. These work tracks released an supplemental Initial Report in October 2018. Work Track 5, focussing on geographic names, released its Initial Report in December 2018, and work is ongoing reviewing the comments received. The subgroups undertook triage work to identify consensus patterns in the comments received. There are two options for next steps:

- No additional Public Comment leading to a Final Report delivered to the GNSO Council for Q3 2019
- Contingency for an additional Public Comment leading to a Final Report delivered to the GNSO Council for end of Q4 2019

Like in all PDPs, it can be difficult to gather consensus, there can be agreement on the existence of an issue, but lack of consensus on a solution. **Jeff Neuman** asked if this was a situation the GNSO Council could or should weigh in on.

Jeff Neuman thanked the GNSO Council for the work produced during the GNSO Council Strategic Planning session in January 2019, in particular the efforts made towards PDP3.0 and the reinforcing of the GNSO Council liaison role to the PDPs.

A few dependencies for Council to consider for the PDP WG's next steps: CCT Review recommendations and the Rights Protection Mechanisms (RPM) PDP WG. The co-chairs do not believe these serve as a dependency for the delivery of the Final Report. Once the Final Report is sent to the Board, WG would like to informally begin implementation work.

Keith Drazek noted that there were few recommendations in the Initial Report, and asked for further elaboration from **Jeff Neuman** who explained that this was intentional and that having consensus recommendations in the Initial Report could be counterproductive to Public Comment activity.

Paul McGrady asked for further information on the RPM dependencies and Council's possible role in requesting a hard deadline for the RPM PDP WG. **Cheryl Langdon-Orr** explained that whilst the SubPro charter anticipated dependencies between the two WGs and there is regular communication between the co-chairs of both WGs, the SubPro co-chairs did not at this time see any dependency.

Item 7: ANY OTHER BUSINESS

7.1 - ICANN64 Planning

GNSO Council leadership is working on the ICANN64 GNSO sessions and joint meetings. Further information will be sent to councilors closer to the meeting time.

7.2 - Lessons learned from the Council public comment formulation for the ICANN Draft FY20 Operating Plan and Budget and Five-Year Operating Plan Update and the ICANN Strategic Plan for Fiscal Years 2021-2025

Keith Drazek encouraged councilors to provide regular input and feedback to the Standing Committee on Budget and Operations (SCBO), reminding them that this is key to the SCBO producing comments which can be sent on behalf of the Council.

7.3 - Public Comment: [First Consultation on a 2-Year Planning Process](#)

Berry Cobb, GNSO Support, explained that the [document](#) covered project planning, workload management, operational planning, many topics in line with discussions held during the GNSO Strategic Planning Session and PDP3.0. Working on comments would contribute to helping the Council build a pipeline of current and planned activities with a positive impact on the draft budgeting process, from financial planning and operational perspectives.

Keith Drazek acknowledged that this was a Council proper task and not one to be delegated to the SCBO.

Action Items:

- *Keith Drazek* to send email to list seeking volunteers to prepare Council's draft public comment to the 2-Year Planning Process, in time to meet the 5 March 2019 close date.

7.4 - ICANN64 Board Discussion Topics

The ICANN Board request for input on specific topics and for discussion subjects in regards to the joint meetings during ICANN64 was [circulated](#) to the GNSO Council. **Keith Drazek** requested councilors provide their feedback as soon as possible.

Action Items:

- *Keith Drazek* to prepare draft ICANN64 Board questions / input and circulate to the list for input, in time to meet the 22 February 2019 due date

7.5 - 2018 Council Strategic Planning Session [Report](#)

Staff reminded councilors that the Council Strategic Planning Session Report was a compulsory condition of the Additional Budget Request approval. **Keith Drazek** encouraged councilors to provide feedback at their earliest convenience.

Action Items:

- *Councilors* to review and provide feedback to the Strategic Planning Session Report prior to the suggested deadline of Tuesday, 26 February 2019.

Keith Drazek adjourned the GNSO Council meeting on Thursday 21 February 2019 at 13:59 UTC.