

## Minutes of the GNSO Council Meeting 30 January 2018

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

Coordinated Universal Time: 22:00 UTC: <https://tinyurl.com/y8v2lryd>

14:00 Los Angeles; 17:00 Washington; 22:00 London; (Wednesday 31 January) 03:00 Islamabad;  
07:00 Tokyo; 09:00 Hobart

The meeting started at: 22:03 UTC

#### **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 Federline, Arsene Tungali

Nominating Committee Appointee (NCA): Syed Ismail Shah

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

Cheryl Langdon-Orr– ALAC Liaison

Ben Fuller - ccNSO Observer

Julf (Johan) Helsingius– GNSO liaison to the GAC

#### **ICANN Staff**

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

Marika Konings – Vice President, Policy Development Support - GNSO

Mary Wong – Senior Director, Special Adviser for Strategic Policy Planning

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy consultant

Emily Barabas – Policy Support Senior Specialist

Ariel Liang – Policy Analyst

Mike Brennan – Technical Support

Nathalie Peregrine – Manager, Operations Support

Terri Agnew - Operations Support - GNSO Lead Administrator

#### [MP3 Recording](#)

[Adobe Chat Transcript](#)

[Adobe Connect recording](#)

[Transcript](#)

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

1.1 – Roll call

1.2 – Updates to Statements of Interest.

**Michele Neylon, Erika Mann** both indicated updates to their Statements of Interest (SOI). Because of audio issues at the beginning of the call, **Syed Ismail Shah** committed to circulate his SOI update on the Council mailing list.

1.3 – Review/amend [agenda](#)

**Heather Forrest** noted that a 10.2 item would be added to the Any Other Business (AOB) to update Council liaisons participating remotely on the progress to date of the GNSO Council Strategic Planning session discussions.

1.4 – [Minutes](#) of the GNSO Council meeting on the 30 November were posted on 21 November 2017.

[Minutes](#) of the GNSO Council meeting on the 21 December 2017 were posted on 8 January 2018.

## **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 List](#).

**Heather Forrest** noted certain items, being of a specific group's remit, had been moved from the Action Item list to the Projects list. Reviewing the Action item list, focusing on items which were not scheduled to be discussed under a specific agenda item, **Heather Forrest** provided an update regarding GNSO Council leadership correspondence to the GNSO nominated Accountability and Transparency Review Team 3 (ATRT 3) members informing them namely that, in the light of the situation within the Security and Stability Review Team 2, ATRT3 membership appointment was delayed. It was also agreed to remove the Policy Development Process (PDP) Improvements from the Action List.

### **Action Items:**

- *ICANN Staff* to post GNSO Council Leadership letter to GNSO nominated ATRT3 members on the GNSO Correspondence page.
- *ICANN Staff* to remove PDP Improvements item from Council Action Items list.

## **Item 3. Consent Agenda**

The Consent Agenda was empty.

## **Item 4: COUNCIL VOTE – Adoption of the Revisions to GNSO Operating Procedures and Recommendations for Amendments to ICANN Bylaws**

**Rafik Dammak** submitted the [motion](#), seconded by **Darcy Southwell** to adopt the proposed revisions to the GNSO Operating Procedures and the recommended amendments to the ICANN Bylaws.

WHEREAS:

1. On 30 June 2016, the GNSO Council approved the creation of a Drafting Team (DT) that was to work with ICANN staff to "fully identify all the new or additional rights and responsibilities that the GNSO has under the revised Bylaws, including but not limited to participation of the GNSO within the Empowered Community, and to develop new or modified structures and procedures (as necessary) to fully implement these new or additional rights and responsibilities";

2. In creating the DT, the GNSO Council requested that the DT provide the GNSO Council with an implementation plan "which will have the consensus of the Drafting Team, including any recommendations for needed further changes to ICANN Bylaws and/or GNSO Operating Procedures to enable effective GNSO participation in ICANN activities under the revised ICANN Bylaws, not later than 30 September 2016";

3. The DT submitted its Final Report to the GNSO Council on 12 October 2016 (<https://gns0.icann.org/en/drafts/bylaws-drafting-team-final-report-12oct16-en.pdf>);

4. On 1 December 2016, the GNSO Council accepted the recommendations in the DT's Final Report and directed ICANN Policy Staff to draft proposed language for any necessary modifications or additions to the GNSO Operating Procedures and, if applicable, those parts of the ICANN Bylaws pertaining to the GNSO. The GNSO Council also requested that ICANN Legal evaluate whether the

proposed modifications were consistent with the post-transition Bylaws and report their findings to the GNSO Council;

5. Staff worked with the Bylaws DT to address any open issues, inconsistencies identified and confirm assumptions. As a result, the staff report on how each recommendation was addressed as well as proposed changes to GNSO Operating Procedures & ICANN Bylaws were published for public comment on 19 June 2017 (see <https://www.icann.org/public-comments/gnsop-procedures-2017-06-19-en>);

6. The public comment period closed on 10 August 2017, with the report of public comments published on 1 September 2017 (see <https://www.icann.org/en/system/files/files/report-comments-gnsop-procedures-31aug17-en.pdf>).

7. The GNSO Council reviewed and discussed the proposed changes as well as comments received during subsequent meetings in September and October and during the GNSO Council Strategic Planning Session (29-31 January 2018).

8. As resolved previously, the GNSO Council intends to subject the adoption of the proposed modifications to existing procedures and/or ICANN Bylaws to a GNSO Supermajority vote.

#### RESOLVED:

1. The GNSO Council adopts the proposed modifications to the GNSO Operating Procedures (see <https://gnso.icann.org/en/council/proposed-revisions-gnsop-procedures-redline-19jun17-en.pdf>), including the two minor updates as suggested by staff in the report of public comments in response to input received from the Registrar Stakeholder Group and Intellectual Property Constituency.

2. The GNSO Council instructs ICANN staff to post the new version of the GNSO Operating Procedures, effective immediately upon adoption.

3. The GNSO Council recommends that the ICANN Board of Directors adopt the proposed changes to section 11.3.i of the ICANN Bylaws to reflect new GNSO voting thresholds which are different from the current threshold of a simple majority vote of each House (see <https://www.icann.org/en/system/files/files/proposed-revisions-bylaws-article-11-gnsop-redline-19jun17-en.pdf>). Until such time as the ICANN Board adopts the proposed changes to section 11.3.i of the ICANN Bylaws, the existing voting thresholds will remain applicable to any GNSO Council decision.

**Rafik Dammak** noted for the record that he had raised edits to the GNSO Operating Procedures on the Council mailing list. (<http://mm.icann.org/pipermail/council/2018-January/020842.html>). **Heather Forrest** also reminded Council that the subject of this motion had been discussed as part of a broader conversation with councilors present at the GNSO Council Strategic Planning session earlier.

The usual voting threshold of a simple majority was suspended, in favour of a super-majority, for this agenda item only. Councilors voted unanimously, passing the required super-majority threshold.

#### [Vote results](#)

#### Action Items:

- *ICANN Staff* to post the new version of the GNSO Operating Procedures, effective immediately on the [GNSO Correspondence page](#).
- *ICANN Staff* to inform the ICANN Board of Directors that the GNSO Council recommends adoption of the proposed changes to section 11.3.i of the ICANN Bylaws to reflect new GNSO voting thresholds, which are different from the current threshold of a simple majority vote of each House (see <https://www.icann.org/en/system/files/files/proposed-revisions-bylaws-article-11-gnsop-redline-19jun17-en.pdf>).

**Item 5: COUNCIL VOTE – Adoption of the Charter related to the next steps for the ICANN Procedure of Handling WHOIS conflicts with Privacy Law**

**Donna Austin** submitted the [motion](#), seconded by **Heather Forrest**.

Whereas,

1. In November 2005, the Generic Names Supporting Organization (GNSO) concluded a policy development process (PDP) on WHOIS conflicts with privacy law, which recommended the creation of a procedure to address conflicts between a contracted party's WHOIS obligations and local/national privacy laws or regulations.

2. The ICANN Board of Directors adopted the recommendations in May 2006 and the final procedure was made effective in January 2008.

3. As noted in the GNSO Operating Procedures, “Periodic assessment of PDP recommendations and policies is an important tool to guard against unexpected results or inefficient processes arising from GNSO policies”. As called for in Step 6 of the [ICANN Procedure For Handling WHOIS Conflicts with Privacy Law](#), “ICANN will review the effectiveness of the process annually”.

4. Following a review of the procedure in May 2014 and the submission of the Final Report of the Implementation Advisory Group (IAG) in May 2016, the GNSO Council concluded that the proposed modification to the procedure with the alternative trigger as outlined in Appendix I of the [IAG Final Report](#) conforms to the intent of the original policy recommendations and confirmed its non-objection to the modification being implemented by Global Domains Division staff.

5. In conjunction, the GNSO Council requested that ICANN staff, based on their experience of administering the modification, assess the practicality and feasibility of this new trigger in comparison to the existing trigger as well as the other triggers discussed in the IAG Final Report, and report back accordingly to the GNSO Council.

6. Review of the WHOIS Procedure commenced on 3 May 2017 by [publishing for public comment](#) a paper outlining the new Alternative Trigger and soliciting public feedback on its implementation.

7. On 1 August 2017, Akram Atallah, President, ICANN Global Domains Division, [wrote](#) to the GNSO Council to provide an update on the comments received and outlining possible next steps for the GNSO Council to consider.

8. The GNSO Council reviewed the available materials, including the GDD's possible next steps, and agreed to form a drafting team to develop a charter for a new implementation advisory group to review the public comments in order to assess whether modifications to the Revised ICANN Procedure for Handling WHOIS Conflicts with Privacy Law are necessary and to make recommendations to the GNSO Council accordingly.

9. The drafting team submitted the [proposed charter](#) for the ICANN Procedure For Handling WHOIS Conflicts with Privacy Law Implementation Advisory Group (WHOIS Procedure IAG) to the GNSO Council on 20 January 2018, and a later edited version on 23 January 2018.

10. The GNSO Council has reviewed and discussed the [proposed charter](#).

Resolved,

1. The GNSO Council adopts the [proposed charter](#) for the ICANN Procedure For Handling WHOIS Conflicts with Privacy Law Implementation Advisory Group (WHOIS Procedure IAG).

2. The GNSO Council appoints Keith Drazek as the GNSO Council Liaison to the Implementation Advisory Group. Until such time the IAG has appointed a Chair, the GNSO Council Liaison will serve as the interim Chair.

3. The GNSO Council request staff to circulate the call for volunteers to the GNSO Stakeholder Holder Groups with the request for each Stakeholder Group to appoint up to 3 members to the IAG as soon

as possible. Further, staff are requested to circulate through the normal communication channels a call to the wider ICANN community for volunteers for interested participants and observers to join the IAG.

4. The GNSO Council thanks the drafting team for its efforts.

Councilors discussed the content of the motion at length. Highlights of the discussion were as follow:

- There has been a prior commitment to move ahead with the ICANN Procedure For Handling WHOIS Conflicts with Privacy Law Implementation Advisory Group (WHOIS Procedure IAG).
- The current workload in terms of Policy Development Process (PDP) Working Groups (WG) and Implementation Review Teams (IRT) is heavy, staffing the new Implementation Advisory Group (IAG) could be difficult.
- Several parallel discussions and work efforts are taking place within the ICANN community about the General Data Protection Regulation (GDPR), and overlap is a risk.
- Concerns were raised regarding community staffing of the IAG and there was discussion regarding the start date of the group's activity.
- The role of Council liaison to the Whois Procedure IAG will be a very important one, Keith Drazek volunteered for this position.
- It will be left to ICANN.org staff to determine who of Global Domains Division or Policy will support the effort.

Councilors decided to postpone decision-making to the next Council meeting. The motion was deferred to the GNSO Council meeting on 22 February 2018.

[Vote results](#)

#### **Item 6: COUNCIL DISCUSSION – Update on potential FY19 GNSO Additional Budget Requests (ABRs)**

**Heather Forrest** reminded the councilors of the ABRs to be put forth by Council by the 31 January 2018 deadline: Travel support for PDP Chairs, GNSO Council Strategic Planning session and Working Group Enrolment (WGE). Councilors expressed agreement that the GNSO Council Strategic Planning session was an essential part of Council work, even if the format could be modified slightly (duration, dates) to accommodate budget requirements. Travel support for the PDP Chairs also gathered support. It was agreed to defer the discussion on the WGE tool to the next day, day 3 of the GNSO Council Strategic Planning session.

#### **Action item:**

- *Team of Councilors* to revise and submit Additional Budget Requests based on discussions during the Council Meeting and GNSO Council Strategic Planning sessions.

#### **Item 7: COUNCIL DISCUSSION – GNSO Council Public Comment to the Proposed Incremental Changes to the ICANN Meetings Strategy**

**Donna Austin** presented the draft Council response to the Proposed Incremental Changes to the ICANN Meeting Strategy. The response, drafted with **Michele Neylon** and **Carlos Gutierrez**, concerned mainly the three-meeting structure. It was agreed by all to keep the substance of the response within the scope of the Public Comment request and to carry on discussing the higher-level comments at a Council level.

#### **Action item:**

*Team of Councilors* to revise and submit GNSO Council public comments to the Proposed Incremental Changes to the ICANN Meetings Strategy based on discussions during the Council Meeting.

## **Item 8: COUNCIL DISCUSSION – GNSO Council Public Comment to the Operating Standards for ICANN’s Specific Reviews**

**Donna Austin** presented the draft response to the [Public Comment](#) on Operating Standards for ICANN’s Specific Reviews. The point that members of a Review Team should be able to raise an issue out of the framework of the team was clarified. It was agreed that given that the role of the Complaints Officer was to deal with ICANN.org situations, addressing him/her would not be appropriate when raising an issue with a community member and that this item would be removed from the comment. The procedure concerning the removal of a chair or co-chair however is yet to be defined.

### Action items:

*Team of Councilors* to revise and submit GNSO Council public comments to the Operating Standards for ICANN’s Specific Reviews based on discussions during the Council Meeting.

## **Item 9: COUNCIL DISCUSSION – Review of Second Security, Stability, and Resiliency (SSR2-RT) Letter from GNSO Council to SO/AC leadership**

**Heather Forrest** presented the draft letter from the GNSO Council to the SO/AC Leadership in regard to the SSR-RT. The letter has gone through several edits triggered by input from the SO/AC Chairs discussion on the same topic. It is also mentioned that the Standing Selection Committee (SSC) is currently reviewing the skills matrix which was prepared by the SSR RT members and working towards identifying a pool of candidates to replace James Gannon as one of the GNSO appointed SSR RT members. Councilors then discussed the merit of an external facilitator being brought into SSR-RT with the aim of removing the perception of RT management by the SOAC Chairs. The principle of the independence of review teams in general was mentioned by several councilors.

### Action item:

*Council Leadership and Team of Councilors* to revise letter based on discussions during the Council Meeting and distribute to SO/AC leaders.

## **Item 10: ANY OTHER BUSINESS**

### **10.1 – Planning for ICANN61**

**Heather Forrest** provided the councilors with an update from the last ICANN61 Production call, and confirmed that the list of Cross Community topic had been finalized amidst some confusion regarding the selection process. She alerted councilors as to the need to select Board topics within the deadline of the 12<sup>th</sup> February 2018.

### **10.2 – Update on GNSO Strategic Planning session to date**

**Heather Forrest** provided a brief update on the discussions held during the GNSO Strategic Planning session, noting that Council was on Day 2 of a three-day meeting.

**Heather Forrest**, GNSO Council Chair, adjourned the GNSO Council meeting.

The meeting was adjourned at 00:03 UTC Wednesday 31 January 2018.

The next GNSO Council Meeting will take place on 22 February 2018 at 12:00 UTC  
For other places see: <https://tinyurl.com/y79wpaos>