

Minutes of the GNSO Council Meeting 16 February 2017

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

Coordinated Universal Time: 12:00 UTC <http://tinyurl.com/gpnsgbw>

04:00 Los Angeles; 07:00 Washington; 12:00 London; 15:00 Istanbul; 23:00 Hobart

The meeting started at: 12:01 UTC

List of attendees:

NCA – Non-Voting – Erika Mann

Contracted Parties House

Registrar Stakeholder Group: James Bladel, Michele Neylon, Darcy Southwell

gTLD Registries Stakeholder Group: Donna Austin, 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 (Proxy for Tony Harris), Tony Harris (apologies), Paul McGrady, Heather Forrest

Non-Commercial Stakeholder Group (NCSG): Amr Elsadr (resigned– temporary alternate Avri Doria), Stephanie Perrin, Stefania Milan, Ed Morris, Marilia Maciel, Rafik Dammak, Avri Doria

Nominating Committee Appointee (NCA): Julf (Johan) Helsingius

GNSO Council Liaisons/Observers:

Cheryl Langdon-Orr– ALAC Liaison

Patrick Myles - ccNSO Observer – (absent)

Carlos Raul Gutierrez– GNSO liaison to the GAC

ICANN Staff

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

Regional Headquarters- Istanbul– absent apologies

Marika Konings - Senior Policy Director

Mary Wong – Senior Policy Director

Julie Hedlund – Policy Director

Steve Chan - Senior Policy Manager, Policy Development Support

Berry Cobb – Policy consultant

Emily Barabas – Policy Analyst

Nathalie Peregrine - Specialist, SO/AC

Terri Agnew - Secretariat Services Coordinator, GNSO

Josh Baulch - Senior Manager, Meeting Planning Operations, Meetings Team

Robert Hoggarth - Senior Director, Policy & Community Engagement, Policy Development Support – absent apologies

Ariel Liang - Policy Analyst, Policy Development Support

[MP3 Recording](#)

[Adobe Chat Transcript](#)

[Transcript](#)

Item 1: Administrative matters

1.1 – Roll call

1.2 – Updates to Statements of Interest

Stefania Milan indicated an update to her Statement of Interest. Avri Doria is temporary alternate to NCSG Councilor Amr Elsadr, who has resigned from the GNSO Council, who has joined ICANN policy staff.

1.3 – Review/amend [agenda](#)

There were no changes proposed to the agenda, which was considered adopted.

1.4 - The draft [minutes](#) of the meeting of the GNSO Council on 19 January 2017 were posted as approved on 10 February 2017.

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](#).

In reviewing the Project List, it was noted that the IGO-INGO Curative Rights Protection Mechanisms Policy Development Process (PDP) Working Group (WG) has published its Final Report for Public Comment.

Regarding the Action item list, scheduling conflicts for ICANN58 remain, though the scheduling effort is proving more efficient than it had been for ICANN57. Concerns were raised regarding the perceived lack of policy prioritization, based on time assigned to working group work. Staff provided clarification as to several meeting overlaps and exchanges were held about the coordination of the Cross-Community sessions between community members and staff with an emphasis of reducing the number of panelists invited.

Councilors were informed that the GNSO Bylaws Drafting Team will be providing a draft report shortly.

Item 3. Consent Agenda

3.1 – Confirmation of Continuation of GNSO Chair’s Term as Interim GNSO Representative to the Empowered Community (EC) Administration

Discussion was held on the continuation of an interim representative to the empowered community on behalf of the GNSO, a position currently held by the Chair of the GNSO Council per the Council resolution of 29 September 2016. The options of an interim or permanent position were raised as well as the role of the Standing Selection Committee (SSC).

Councilors agreed unanimously to extend the interim position by another 90 days via voice vote. Chair expressed view that GNSO should select a different interim representative in 90 days, if necessary.

Voting results

Action Items

- Council to finalize chartering of the new SSC at the earliest opportunity.
- Council to request the new SSC to consider appointing a permanent GNSO Representative to the EC Administration as one of its first tasks, and, amongst others, also to consider whether it will be necessary for the appointee to be a member of the GNSO Council.

Item 4. COUNCIL VOTE – Approval of Final Report from the WHOIS Conflict with National Laws Procedure Implementation Advisory Group

James Bladel seconded by **Rubens Kühl** proposed a motion covering the following points: whether the proposed Implementation Advisory Group (IAG) modification to the Procedure conforms to the intent of the original GNSO Policy, a request that ICANN staff review the feasibility of the proposed additional trigger, and a proposal that the next periodic review of the Procedure commence no later than 31 May 2017.

Discussion was held about the start date of the review, ultimately agreeing on 1 October 2017.

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. ICANN launched a review of the procedure in May 2014. Following a Call for Volunteers addressed to all interested parties, an Implementation Advisory Group (IAG) was formed to review the implementation of the policy recommendations and began its work in January 2015. The IAG devoted most of its time discussing whether additional triggers to invoke the procedure should be incorporated and if so how to ensure that they remain consistent with the existing policy.

5. On 26 May 2016, the IAG submitted its final report and recommendation to the GNSO Council.

6. In its final report, the IAG recommends a modification to the existing Whois Conflicts Procedure. The modification would allow a party to trigger the procedure by obtaining a written statement from the government agency charged with enforcing its data privacy laws indicating that a particular Whois obligation conflicts with national law and then submitting that statement to ICANN, in addition to the existing trigger.

Resolved,

1. The GNSO Council has reviewed the IAG Final Report (<http://gns0.icann.org/en/drafts/iag-review-whois-conflicts-procedure-23may16-en.pdf>) and concludes that the proposed modification to the procedure conforms to the intent of the original policy recommendations and as such the GNSO Council confirms its non-objection to the modification being implemented by Global Domains Division Staff as outlined in Appendix I (<http://gns0.icann.org/en/drafts/iag-review-whois-conflicts-procedure-appendix-1-23may16-en.pdf>) as soon as practically feasible.

2. The GNSO Council recommends that as soon as the modification has been implemented all affected parties are informed accordingly.

3. Furthermore, the GNSO Council requests 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 reports back accordingly to the GNSO Council.

4. This assessment will inform the next periodic review of the effectiveness of the process, as directed by the policy, which will commence no later than 1 October 2017. The GNSO requests ICANN staff to report within 45 days on a projected timeline for this review and the assessment described in (3), and a draft charter for this working group.

5. The GNSO Council thanks the IAG for its work and takes note of the minority views included in the Final Report. The GNSO Council requests that these are shared with the Next-Generation Registration Directory Services PDP Working Group as the broader WHOIS issues raised in these views are expected to be dealt with in that PDP.

The councilors unanimously accepted the motion via roll call vote.

Voting results

Action items:

- ICANN policy staff to communicate results of motion to Global Domains Division (GDD) colleagues.
- GDD staff to report back to the Council within 45 days, with a projected timeline, the requested feasibility assessment, and a draft Charter for the next review of the Procedure, which is to commence no later than 1 October 2017.
- ICANN policy staff to inform the Next Generation Registration Data Services Policy Development Process Working Group of the IAG Final Report (including minority views).

Item 5. COUNCIL DISCUSSION – Proposal to Limit the Scope of the Upcoming Third Accountability and Transparency Review (ATRT)

An exchange was held concerning the proposal from the co-Chairs of the Cross Community Working Group on Accountability to limit the scope of ATRT 3 to items of the ATRT 2, avoiding overlap with work of CCWG-Accountability's Work Stream 2 (WS2), and items of WS1 that are still being implemented. Concern was expressed that the communication from the GNSO on this matter should go no further than in the form of advice pointing out work effort overlap without mention of restriction of scope.

Action items:

- ICANN policy staff to draft a note for circulation to the Council list for approval, addressed to the CCWG-Accountability co-chairs and ICANN staff responsible for supporting the ATRT-3, to include a recommendation that in developing its scope of work the ATRT-3 Review Team should consider the work being done within Work Stream 2 of the CCWG-Accountability, and aim to avoid overlap as far as possible.

Item 6. COUNCIL DISCUSSION – Proposed Charter for a GNSO Standing Selection Committee for Selection of GNSO Representatives/Nominees to Future Review Teams and Other ICANN Structures

Susan Kawaguchi and Ed Morris presented recent changes to the [draft Charter for the GNSO Standing Selection Committee](#).

Highlights of the discussion were:

- The need for representation, whether from all Stakeholder Groups (SG) or SGs and Constituencies (C).
- The timeline for the SSC to be created, given that other reviews will be starting in the interim.
- The level of consensus required in light of the composition of the committee and the role of the GNSO Council in reviewing and approving its recommendations.
- The topic of rotation of SG appointments based on the needs and requirements of particular representative positions.

Action items:

- Council to continue discussion on the mailing list, with a view toward agreement on a final version of the Charter of the SSC for voting on at the next Council meeting, which will take place on 15 March at ICANN58 in Copenhagen.
- ICANN staff to prepare placeholder motion to allow for consideration of charter and/or formation of SSC at ICANN58.

Item 7: COUNCIL DISCUSSION – Selection of GNSO Nominees for the Second Registration Directory Service (formerly WHOIS) Review Team

Exchanges were held as to the use of the SSC Draft Charter as a reference point for the selection of GNSO nominees for the second RDS Review Team, with interim selection committee members being the Council leadership as well as Susan Kawaguchi and Ed Morris and further volunteers. Susan noted, that being a candidate for the Review Team, she could not be part of the selection committee; Phil Corwin would replace her. Concerns were voiced about the timeline of the nomination deadline.

Action item:

- Council to continue discussion on the mailing list.
- If the proposed GNSO Standing Selection Committee (SSC) is not chartered at ICANN58 or otherwise in time to conduct this selection process, the small group of Councilors that proposed the slate of GNSO nominees for the upcoming Security, Stability and Resiliency Review Team (with Philip Corwin standing in for Susan Kawaguchi) is to review the candidates seeking GNSO endorsement for this Review, and propose a slate of GNSO nominees to the Council, based on the criteria and process currently contained in the draft GNSO SSC Charter.
- If the SSC is chartered in Copenhagen, then the SGs and Cs are encouraged to have their members identified as soon as feasible, so this group can convene to review candidates immediately following ICANN58.

Item 8: COUNCIL DISCUSSION – Appointment of New GNSO Co-Chair for the Cross Community Working Group on New gTLD Auction Proceeds

Jonathan Robinson, current co-Chair of the CCWG on New gTLD Auction Proceeds having announced his resignation, and there having been no other GNSO candidates for the position in the runner up, it was decided a new call for volunteers be sent out rapidly. Councilors were reminded of the workload involved in the position.

Action items:

- Council leadership to issue a Call for Volunteers. Volunteers will be advised to consider both the potential conflicts associated with this work, and the anticipated workload, in particular that of the GNSO co-Chair.
- Councilors to work with their Stakeholder Groups and Constituencies to identify possible candidates for consideration as soon as possible.

Item 9: COUNCIL DISCUSSION – Preparation for Joint Meetings at ICANN58 – 11–16 March 2017

Topics for the GAC/GNSO meeting are to avoid IGO and Red Cross issues, as these will be covered in a separate session.

It was noted that no meeting is currently scheduled between the GNSO Council and ICANN CEO, Göran Marby, and that the GNSO Council has yet to have a face-to-face discussion with him. The discussion was to continue on the mailing list regarding items of discussion and possible meetings with GDD and ICANN executive staff.

Action items:

- Council to continue discussion on the mailing list.
- Council leadership to review current GNSO block schedule, to identify possible slots in which to invite GDD staff, CEO Göran Marby, and CFO Xavier Calvez (including possibly as part of the Council's Public Meeting on Wednesday 15 March 2017).

Item 10: COUNCIL DISCUSSION – Finalizing the GNSO Meeting Schedule for ICANN58 11- 16 March 2017

This item was covered during the review of the Project list and Action items under agenda item 2.1

Action items :

- Councilors to identify remaining major conflicts as soon as possible, as the aim is to circulate a final GNSO schedule as much in advance as is feasible.
- Council and GNSO community to be mindful of the difficulties of minimizing conflicts when requesting SG, C and other sessions for future ICANN meetings.

Item 11: COUNCIL DISCUSSION – Proposed Council Request in relation to Letter from Thick WHOIS Implementation Review Team

Erika Mann presented the [draft Council Request in relation to the Letter from the Thick Whois Implementation Review Team](#). The purpose of the document was to demonstrate the need to receive an updated review from ICANN Legal highlighting the potential difficulties the ICANN ecosystem might face because of the various data protection or data privacy law developments around the world. Feedback was requested of the Council prior to ICANN58 in anticipation of the scheduled meeting with EU Data Protection authorities in Copenhagen. Further circulation of this updated review to the RDS PDP WG was also considered. Discussion to be continued on the GNSO Council mailing list.

Action items:

- Council to review draft request from Councilor Erika Mann, and submit comments to the mailing list including further details on which questions an updated legal review is expected to address, as well as who would be the audience for this updated legal review.

Item 12: Any other business

The question of whether the Informal Council session during ICANN Public meetings should be formally open or closed was raised. After discussion, it was decided that the Informal session should be open to councilors and SG/C leaders only, with recordings and transcription pending further exchanges on the mailing list.

Action items:

- Informal Council session before the Council Public Meeting at ICANN58 to remain open to Councilors and invitees only (Stakeholder Group and Constituency leaders), but will be recorded.
- Council to continue discussing whether to change this arrangement for future ICANN meetings.

There were no other items of business.

James Bladel, GNSO Council Chair, adjourned the GNSO Council teleconference and thanked everyone for participating.

The meeting was adjourned at 14:10 UTC, Thursday 16 February 2017

The next GNSO Council Meeting will take place in Copenhagen on Wednesday 15 March 2017 at 10:00 UTC (11:00 local time)

For other places see: <http://tinyurl.com/zeulrgp>

