Final Proposed Agenda 18 April 2019

Please note that all documents referenced in the agenda have been gathered on a Wiki page for convenience and easier access: https://community.icann.org/x/uhBIBg

This agenda was established according to the GNSO Operating Procedures v3.3, updated on 30 January 2018

For convenience:

- An excerpt of the ICANN Bylaws defining the voting thresholds is provided in Appendix 1 at the end of this agenda.
- An excerpt from the Council Operating Procedures defining the absentee voting procedures is provided in Appendix 2 at the end of this agenda.

Coordinated Universal Time: 21:00 UTC: https://tinyurl.com/y6jqgg5p

14:00 Los Angeles; 17:00 Washington; 22:00 London; (Friday) 02:00 Islamabad; 06:00 Tokyo; 07:00 Melbourne

GNSO Council Meeting Audio Cast

Listen in browser:http://stream.icann.org:8000/stream01

Listen in application such as iTunes:http://stream.icann.org:8000/stream01.m3u

Councilors should notify the GNSO Secretariat in advance if they will not be able to attend and/or need a dial out call.

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Item 1: Administrative Matters (5 mins)

1.1 - Roll Call

1.2 - Updates to Statements of Interest

1.3 - Review / Amend Agenda

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 4th March were posted on the 18 March 2019

Minutes of the GNSO Council meeting on the 13th March were posted on the 30 March 2019

Item 2: Opening Remarks / Review of Projects & Action List (15 minutes)

2.1 - Review focus areas and provide updates on specific key themes / topics, to include review of Projects List and Action Item List

Item 3: Consent Agenda (15 minutes)

- Motion to adopt the GNSO Council response to the GAC Communique
- Confirmation of the Recommendations Report to the ICANN Board regarding adoption of the Final Report from the Expedited PDP on the Temporary Specification for gTLD Registration Data PDP WG, Phase 1.

- Approval of the suggested amendments to the GNSO's Fellowship Selection criteria. (see https://gnso.icann.org/sites/default/files/file/field-file-attach/fellowship-application-criteria-13apr19-en.pdf)

Item 4: COUNCIL VOTE - Approval of the appointment of Janis Karklins as Chair for the Expedited Policy Development Process Team on the Temporary Specification for gTLD Registration Data (5 minutes)

Approval of the appointment of Janis Karklins as Chair for the Expedited Policy Development Process Team on the Temporary Specification for gTLD Registration Data. (see: https://mm.icann.org/pipermail/council/2019-April/022561.html). Note: Removed from the Consent Agenda (by Councilor request).

4.1 – Introduction of topic (Council leadership)

4.2 – Council discussion

4.3 – Council vote (voting threshold: simple majority)

Item 5: COUNCIL VOTE – IGO-INGO Access to Curative Rights Protection Mechanisms (20 minutes)

The IGO-INGO Access to Curative Rights Protection Mechanisms PDP WG worked to resolve a final recommendation relating to IGO jurisdictional immunity and registrants' rights to file court proceedings. The WG reached agreement on a single recommendation amongst several options for their final recommendation on this area, as well as for all other recommendations. The WG Chair proposed his determination of consensus levels for all recommendations, which the WG has affirmed. On 27 June 2018, the GNSO Council passed a resolution, thanking the PDP WG for its efforts and requesting that it submit its Final Report in time for the 19 July 2018 Council meeting.

After having agreed on consensus levels for its final recommendations, the WG considered the text of its Final Report. On 9 July 2018, the PDP WG submitted its Final Report to the GNSO Council for its consideration, which contains five consensus recommendations, along with three Working Group member minority statements, documenting their disagreement either with one or more of the final recommendations or other parts of the Final Report.

On its 19 July Council meeting, the Council resolved to accept the Final Report from the IGO-INGO Access to Curative Rights Mechanisms PDP Working Group, where it noted that it would consider the topic of curative rights protections for IGOs in the broader context of the appropriate overall scope of protection for all IGO identifiers.

On 9 October 2018, the Council held a question and answer webinar to review the recommendations and to ask itself a series of questions, 1) Does the Council believe that the PDP has addressed the issues that it was chartered to address (i.e. What questions/topics was the Working Group chartered to consider, did it consider those charter topics/questions, and did it do so in a legitimate way)?; 2) Has the PDP followed due process?; and 3) Did the PDP Working Group address GAC advice on the topic?

A motion to consider the Final Report was originally submitted on the 24 October 2018 Council meeting agenda but was withdrawn due to concerns around both the process followed by the PDP, as well as the substance of the PDP WG's recommendations. Council leadership and staff have developed a summary document (Summary Paper and Slide Deck) that lists issues raised by Councilors, options available, and potential considerations. During the November meeting, the Council considered a set of available options and briefly discussed possible next steps.

On 20 December 2018, Council leadership circulated a proposal for next steps. Council leadership has since sent a reply to the GAC, in response to a letter received during ICANN63. On the 24 January 2018 Council meeting, the Council discussed the proposal prepared by Council leadership. On 14 February 2019, the Council further discussed next steps and agreed to consult with the Governmental Advisory Committee, both before and at ICANN64. The GNSO Council and GAC had productive discussions, where the Council discussed procedural options that it is considering. The GAC's Kobe Communique noted the GAC's "fruitful exchanges with the GNSO Council regarding the possibility of restarting the PDP on curative protections, under conditions amenable to all interested parties, including IGOs and interested GAC members, with a view to achieving mutually acceptable results [with] a timeline with a targeted date associated with such a course of action."

Based on the Council discussions and consultation with the GAC, the Council believes that it has thoroughly considered the available options.

Here, the Council will vote to approve the set of actions as detailed in the relevant motion.

5.1 – Presentation of motion (Council Leadership)

5.2 – Council discussion

5.3 – Council vote (see directly below for additional detail)

GNSO voting threshold, per the ICANN Bylaws:

> *(viii) Approve a PDP Recommendation Without a GNSO Supermajority: requires an affirmative vote of a majority of each House and further requires that one GNSO Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation.*

> *(ix) Approve a PDP Recommendation With a GNSO Supermajority: requires an affirmative vote of a GNSO Supermajority,*

> *(x) Approve a PDP Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN contract provision specifies that "a two-thirds vote of the council" demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded.*

> *(xix) A "GNSO Supermajority" shall mean: (A) two-thirds (2/3) of the Council members of each House, or (B) three-fourths (3/4) of the Council members of one House and a majority of the Council members of the other House.*

Board Approval process:

> *Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN community or ICANN.*

Taking this action is within the GNSO's remit as outlined in ICANN's Bylaws as the GNSO 'shall be responsible for developing and recommending to the Board substantive policies relating to generic top-level domains and other responsibilities of the GNSO as set forth in these Bylaws' (Art.11.1). Furthermore, this action complies with the requirements set out in Annex A: GNSO Policy Development Process of the ICANN Bylaws.

Item 6: COUNCIL DISCUSSION – Managing IDN Variants TLDs (15 minutes)

The ICANN Board resolved in 2010 that IDN variant TLDs will not be delegated until relevant work is completed and directed ICANN org to develop a report identifying what needs to be done with the evaluation, possible delegation, allocation and operation of generic top-level domains (gTLDs) containing variant characters IDNs, in order to facilitate the development of workable approaches to the deployment of gTLDs containing variant characters IDNs. Based on analysis, ICANN org and the community identified two gaps to address: 1) that there is no definition of IDN variant TLDs, and; 2) that there is no IDN variant TLD management mechanism.

The Procedure to Develop and Maintain the Label Generation Rules for the Root Zone in Respect of IDNA Labels (RZ-LGR Procedure) has been developed by the community to define the IDN variant TLDs and, following the Board resolution in 2013 which approved the RZ-LGR Procedure, has been implemented to incrementally develop the Root Zone Label Generation Rules to address the first gap.

ICANN org has developed the Recommendations for Managing IDN Variant TLDs (the Variant TLD Recommendations), a collection of six documents finalized after incorporating the public comment feedback and published them as mechanisms for addressing the second gap identified by the community in the implementation of IDN variant TLDs.

On 14 March 2019, the ICANN Board resolved:

The Board approves the Variant TLD Recommendations and requests that the ccNSO and GNSO take into account the Variant TLD Recommendations while developing their respective policies to define and manage the IDN variant TLDs for the current TLDs as well as for future TLD applications.

The Board requests that the ccNSO and GNSO keep each other informed of the progress in developing the relevant details of their policies and procedures to ensure a consistent solution, based on the Variant TLD Recommendations, is developed for IDN variant ccTLDs and IDN variant gTLDs.

Here, the Council will receive an update and consult with Sarmad Hussain, managing director of ICANN's IDN Program, to better understand its responsibilities as dispensed by the ICANN Board.

6.1 – Introduction of topic (Council leadership)

6.2 – Update and council discussion (Sarmad Hussain, ICANN staff)

6.3 – Next steps

Item 7: COUNCIL UPDATE – Status of the EPDP on the Temporary Specification for gTLD Registration Data Phase 1 Informal Implementation Review Team (15 minutes)

On 11 May 2018, ICANN released the Temporary Specification on gTLD Registration Data, which served as the main agenda topic for the subsequent Board Workshop in Vancouver. This proposed Temporary Specification provides an interim solution until the community completes a policy development process on the temporary specification which is expected to complete within a one year period.

On 17 May 2017, the ICANN Board approved the proposed Temporary Specification for gTLD Registration Data, which establishes temporary requirements for how ICANN and its Contracted Parties will comply with both ICANN contractual requirements and the European Union's General Data Protection Regulation (GDPR).

The EPDP Team held its first meeting on 1 August 2018 and on 21 November 2018, the EPDP published its Initial Report for public comment. After taking into account public comment received, the EPDP Team worked to deliver its Final Report to the GNSO Council for its consideration on 20 February 2019. Due to the unique circumstances concerning the deadline for implementation, and in order to minimize the transition period, the EPDP Leadership and Team informally recommended that discussion around implementation deliverables be initiated immediately. This preliminary work will inform the deliberations of the formal Implementation Recommendation Team upon Board approval of the Policy Recommendations.

The EPDP team Final Report was adopted by the GNSO Council on 2 March 2019 and resolved to recommend that implementation efforts begin in an informal fashion.

Here, the Council will receive a status update on the progress of the informal implementation efforts.

7.1 – Update (Russ Weinstein, ICANN staff)

7.2 – Council discussion

7.3 – Next steps

Item 8: COUNCIL DISCUSSION - Updated Timeline for the PDP on the Review of All Rights Protection Mechanisms in All gTLDS (15 minutes)

At the GNSO Council's working session at ICANN64, on 10 March 2019, the Council welcomed updates from the chairs of the various GNSO PDPs underway, including the Review of All Rights Protection Mechanisms in All gTLDS (RPMs).

The Council, amongst other questions, asked the Co-chairs about the likelihood of the RPMs PDP completing its work by February of 2020. The responses from the three co-chairs expressed varying levels of confidence in meeting

that deadline and it was agreed that an updated timeline for the RPMs PDP would help the Council better carry out its role as manager of the PDP.

Here, the Council will receive an update on the progress of the PDP from the Council liaison and discuss possible next steps.

8.1 – Introduction of topic (Paul McGrady, GNSO Council Liaison to the PDP)

8.2 – Council discussion

8.3 – Next steps

Item 9: ANY OTHER BUSINESS (10 minutes)

9.1 - Reminder for funded travelers to book their travel for ICANN65

9.2 - GNSO Council - Input to Establish IRP Standing Panel

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Appendix 1: GNSO Council Voting Thresholds (ICANN Bylaws, Article 11, Section 11.3(i))

See https://www.icann.org/resources/pages/governance/bylaws-en/#article11.

Appendix 2: GNSO Council Absentee Voting Procedures (GNSO Operating Procedures, Section 4.4)

See https://gnso.icann.org/sites/default/files/file/field-file-attach/op-procedures-30jan18-en.pdf

References for Coordinated Universal Time of 21:00 UTC

Local time between March and October Summer in the NORTHERN hemisphere

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California, USA (PDT) UTC-7 14:00

San José, Costa Rica (CST) UTC-6 15:00

New York/Washington DC, USA (EDT) UTC-4 17:00

Buenos Aires, Argentina (ART) UTC-3 18:00

Rio de Janeiro, Brazil (BRT) UTC-3 18:00

London, United Kingdom (GMT) UTC+0 22:00

Kinshasa, Democratic Republic of Congo (WAT) UTC+1 22:00

Paris, France (CET) UTC+2 23:00

Moscow, Russia (MSK) UTC +3 (+1 day) 00:00

Islamabad, Pakistan (PKT) UTC+5 (+1 day) 02:00

Singapore (SGT) UTC+8 (+1 day) 05:00

Tokyo, Japan (JST) UTC+9 (+1 day) 06:00

Melbourne, Australia (AEDT) UTC+11 07:00

DST starts/ends on Sunday 27 of October 2019, 2:00 or 3:00 local time (with exceptions) for EU countries and on Sunday 03 of November 2019 for the US.

For other places see http://www.timeanddate.com and https://tinyurl.com/y6jqgg5p