Final GNSO Council Agenda 28 May 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/p4GjBg
This agenda was established according to the GNSO Operating Procedures [gnso.icann.org] 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/yxwsy8v5** [tinyurl.com]
14:00 Los Angeles; 17:00 Washington; 22:00 London; 02:00 Islamabad; 06:00 Tokyo; 07:00 Melbourne

GNSO Council Meeting Audio Cast

Listen in browser: http://stream.icann.org:8000/stream02 [stream.icann.org]

Listen in application such as iTunes: http://stream.icann.org:8000/stream02.m3u [stream.icann.org]

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 (10 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 [gnso.icann.org]of the GNSO Council meeting on the 18th April were posted on the 4th May 2019
Minutes of the GNSO Council meeting on the 16th May will be posted on the 31st May 2019

Item 2: COUNCIL DISCUSSION - Expedited PDP on the Temporary Specification Phase 1 (50 minutes)

On 15 May, the ICANN Board informed [gnso.icann.org] the GNSO Council of the Board's action in relation to the GNSO's Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data policy recommendations. The Board did not adopt two of the recommendations in full, where the Board has identified that portions of those

recommendations are not in the best interests of the ICANN Community or ICANN and is initiating the consultation process between the Board and the GNSO Council. This concerns recommendation #1, purpose 2 and recommendation #12, deletion of data in the Organization field. As required under the ICANN Bylaws at Annex A-1,Section 6.b, a Board Statement is attached as Annex A to the letter, articulating the reasons for the Board's determination on these two items. As per the Bylaw requirements (Annex A-1, Section 6.c), "the Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement." During this meeting, the Council shall review the Board Statement and consider next steps. See also Annex A-1, Section 6. Board Approval Process below for further details.

Section 6. **Board Approval Processes**

The Board will meet to discuss the EPDP recommendation(s) as soon as feasible, but preferably not later than the second meeting after receipt of the Recommendations Report from the Staff Manager. Board deliberation on the EPDP Recommendations contained within the Recommendations Report shall proceed as follows:

a.   Any EPDP 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.

b.   In the event that the Board determines, in accordance with paragraph a above, that the proposed EPDP Recommendations are not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.

c.   The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, email, or otherwise) by which the Council and Board will discuss the Board Statement.

At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the guidance in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.

2.1 – Introduction of topic (Council leadership)

2.2 – Council discussion

2.3 – Next steps

Item 3: COUNCIL DISCUSSION – IGO-INGO Access to Curative Rights Protection Mechanisms (25 minutes)

On 9 July 2018, the PDP WG submitted its Final Report [gnso.icann.org] 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 [gnso.icann.org] 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 developed a summary document (Summary Paper [gnso.icann.org] and Slide Deck [gnso.icann.org]) 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 [gnso.icann.org] 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 [gac.icann.org]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. On 18 April 2019, the Council resolved [gnso.icann.org] to approve recommendations 1-4 and refer recommendation 5 to be considered by the RPMs PDP as part of its Phase 2 work.

As part of its Consent Agenda, on 16 May 2019, the Council confirmed the transmission of the Recommendations Report [gnso.icann.org] to the ICANN Board. On 23 May, the GAC sent a letter [gnso.icann.org] to the GNSO Council, noting that approving recommendations 1-4 and referring recommendation 5 to the RPMs PDP is contrary to longstanding GAC Advice. The GAC therefore hopes the Council can confirm its willingness to participate in a Board facilitated discussion and requests response by 31 May 2019.

Here, the Council will consider the letter received from the GAC and consider the best path forward.

3.1 – Introduction of topic (Council leadership)

3.2 – Council discussion

3.3 – Next steps

Item 4: ANY OTHER BUSINESS (5 minutes)

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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 [icann.org].
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 [gnso.icann.org]

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+1 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+10 (+1 day) 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 [timeanddate.com] and https://tinyurl.com/yxwsy8v5 [tinyurl.com]