

Minutes of the GNSO Council Meeting 16 May 2019

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

Coordinated Universal Time: 12:00 UTC: <https://tinyurl.com/y3sdmvgw>

05:00 Los Angeles; 08:00 Washington; 13:00 London; 17:00 Islamabad; 21:00 Tokyo; 22:00 Melbourne

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: 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, 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

Maarten Simon – ccNSO observer (attended the first half of the meeting)

Guest speakers: James Gannon, David McCauley, Chris Disspain, Brian Cute. From ICANN org, Samantha Eisner, Elizabeth Le, Brian Aitchison, Mandy Carver.

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 – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager (apologies sent)

Nathalie Peregrine – Manager, Operations

Terri Agnew - Operations Support - GNSO Lead Administrator

Sara Caplis – Technical Support

[MP3 Recording](#)

[Transcript](#)

Item 1. Administrative Matters

1.1 - Roll Call

Staff provided an introduction to Zoom as this was the first time the GNSO Council used the tool for a monthly meeting.

1.2 - Updates to Statements of Interest

Paul McGrady announced that he was now working for Taft Stettinius & Hollister. ([updated SOI](#))

1.3 - Review / Amend Agenda

Keith Drazek reviewed the agenda and noted the addition of an item, 10.3, under AOB. The 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 13th March were posted on the 30 March 2019

[Minutes](#) of the GNSO Council meeting on the 16th April were posted on the 4th May 2019

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

Keith Drazek, in the interest of time, updated the GNSO Council of the status of following [Action Items](#):

- **Rubens Kühl** is confirmed as GNSO Council liaison to the EPDP Implementation Review Team
- **Maxim Alzoba, Philippe Fouquart and Rubens Kühl** volunteered to form the GNSO Council small team working on managing IDN TLDs variants.
- The CSC Effectiveness Review Final Report action item requires no further action
- Comments ICANN's 2021-2025 Strat Plan, FY20 Operating Plan and Budget: common concerns: the Standing Committee on Budget and Operations is tasked with the action item.
- PDP update: discussion of New gTLD Subsequent Procedures progress: **Keith Drazek** and **Jeff Neuman** will collaborate on communication to ICANN Board.
- IANA Functions Review Team: Action item in progress, pending ccNSO appointment to the Review Team.

Item 3: Consent Agenda

There were two items for Council consideration on the Consent Agenda:

- Confirmation of Julf Helsingius to serve on the CCWG on New gTLD Auction Proceeds, replacing Stephanie Perrin
- Confirmation of the Recommendations Report to the ICANN Board regarding adoption of recommendations 1-4 contained in the Final Report from the IGO-INGO Access to Curative Rights Protection Mechanisms PDP

Councilors present on the call voted unanimously in favour of the Consent Agenda.

[Vote results](#)

Action items:

- *Staff* to inform CCWG on New gTLD Auction Proceeds of the confirmation of Julf Helsingius to serve on the working group.
- *Staff* to communicate the IGO-INGO Access to Curative Rights Protection Mechanisms PDP Recommendations Report to ICANN Board Operations.

Item 4: COUNCIL DISCUSSION – Amendments to the Review of All Rights Protection Mechanisms in All gTLDs (RPM) Charter to Integrate Recommendation 5 From IGO-INGO Access to Curative Rights Protection Mechanisms Final Report

Staff presented the document which is an [addendum](#), instead of a direct amendment of the Charter. The choice of format was dictated by the nature of the GNSO Council recommendations to the RPM Policy Development Process (PDP) Working Group (WG), the specificity of the work requested, the composition of the team and the deliverables, which would make working on separate documents easier. The addendum has taken into account the methodology and lessons learnt from Work Track 5, the advice received from ICANN Legal regarding the enforcement of the ICANN Expected Standards of Behaviour, and the ongoing work of PDP 3.0. The document also outlines a suggestion for team composition and requested levels of expertise.

Paul McGrady raised the question that grafting in PDP3.0 mechanisms under a PDP created prior to PDP3.0 could be premature. This could work for phase 2 of the RPMs, but it has not been decided yet. There would therefore be a risk of only one of the two groups functioning in line with PDP3.0. It would be good to consider revising the charter for Phase 2 in line with PDP3.0 in advance of Phase 1 being completed.

Keith Drazek commented that moving the effort to Phase 2 was decided to avoid delaying Phase 1 work. The new effort of the standalone subgroup would be independent of Phase 1 and potentially Phase 2 and would start relatively soon.

Darcy Southwell added that she equally shared concerns with **Paul McGrady**, having a subteam working on UDRP, with the main PDP working on UDRP with very different methods, it would make Phase 2 difficult to manage from a GNSO Council perspective. She suggested ending Phase 1 and rechartering Phase 2 incorporating the addendum.

Staff offered additional factors to take into consideration with a delayed start of the effort: community workload, the overall issue of IGO Protections and ICANN Board action.

Maxim Alzoba added concerns about the workload and the potential lack of available volunteers to staff the effort.

Marie Pattullo commented that the volunteers for the standalone team would not necessarily need to come from the PRM PDP WG, field experts could be found out of the WG and that parity would need to be considered over numbers.

Martin Silva Valent reminded councilors to seek advice and input from RPM members, to ensure that there would be no repetition of previous discussions and exchanges, but equally to benefit from the lessons learnt.

Maxime Alzoba added that operational and technical knowledge would be essential to the success of the effort.

Keith Drazek noted that **Paul McGrady** has suggested in the Zoom chat to call for a drafting team to look at the RPM Phase 2 rechartering.

Action items:

- *Staff* to circulate call for volunteers for Review of All Rights Protection Mechanisms in All gTLDs Phase 2 charter amendments.

Item 5: COUNCIL DISCUSSION – Discussion of the Inter-Registrar Transfer Policy (IRTP) Policy Status Report

Brian Aitchison, ICANN Org, was invited as a guest speaker to discuss possible next steps for the Transfer Policy with the GNSO Council. ([slide deck](#)). **Brian Aitchison** briefly presented the IRTP Policy Status Report (PSR). The consensus policy implementation framework enables the status report to serve as basis for further review and possible revisions of the policy recommendations. There could be a further review of the transfer policy in regard to the EPDP recommendation 25 which requests that the Council further review the implications of the transfer policy in light of GDPR (General Data Protection Regulation). This could be an extension of the report or a separate report. GNSO Council would then be invited to provide input on the PSR.

Pam Little commented that the Registrar Stakeholder Group had looked at the updated status report and discussed it within the group and at the GDD summit, especially focussing on next steps. As the Council has started the IRTP review process before the EPDP Phase 1 recommendation to review the IRTP as a result of GDPR, it seems to make sense to merge the two efforts and an EPDP with a narrow scope might be the most appropriate next step. **Pam Little** mentioned that the RrSG also discussed the current transfer policy which requires the gaining registrar to send a Form of Authorization (FOA) to the registrant and the language of the temporary specification which says a FOA is not required if the gaining registrar is unable to gain access to registration data and how these are negatively impacting implementation and are causing compliance issues for registrars. As such, the RrSG considers this FOA issue pressing and should be separated from the broader IRTP review..

Michele Neylon added that in terms of Forms Of Authorization (FOAs), the contact point which is causing an issue is the email address specifically. The email address can often be lacking or not actually be an email address. This would need to be fixed in the Phase 1 implementation.

Pam Little suggested that the Form Of Authorization (FOA) email issue be addressed as part of the EPDP Phase 1 implementation and queried whether a GNSO Guidance Process would be appropriate for this and an EPDP as the next step for a broader review of the transfer policy.

Keith Drazek mentioned that this could be a discussion to have with the Implementation Review Team, with the help of Rubens Kuhl as Council liaison.

Action items: none

Item 6: COUNCIL DISCUSSION – Legislative / Regulatory Report

Keith Drazek introduced the item reminding councilors that there had been progress made in tracking regulatory developments around the world, but that councilors had expressed concern that there was not enough information concerning the impact on policy work.

Mandy Carver, ICANN Org, provided councilors with an update on the current situation. ICANN Org began evaluating existing tools and field teams in an effort to monitor legislative and regulatory activities prioritizing those in a pending or developing situation. The aim now is to develop an early warning system to flag potential negative impacts on the Domain Name System (DNS) or the development of policy and allow the community to take appropriate corrective action. Three summary reports have to date come out of the process. Current developments include looking into feedback mechanisms to better engage community input but also to better understand internal community work in order to adapt the information provided.

Keith Drazek added that the effort would need to be a collaborative one for it to truly succeed.

Carlos Gutierrez suggested including government officers involved in the GAC.

Elsa Saade advised against focusing exclusively on local laws and suggested also looking at laws with an extra-territorial impact on policy development.

Ayden Férdeline expressed his concerns about the community providing feedback instead of ICANN Org providing the research results with a focus on key regions. He also asked what the criteria were for the risk assessment.

Tatiana Tropina added that the report was a good summary, but that it was lacking assessment information about how the developments affect ICANN's mission.

Keith Drazek agreed that adding a rationale and also suggestions for next steps would improve the document.

Philippe Fouquart questioned the validity of the assessment of the report, given the considerable work involved.

Michele Neylon thanked Mandy Carver for the update, and expressed his disagreement with expanding the scope of the assessment. He suggested that adding context would however be helpful in terms of clarifying importance, actions to take and who should take them.

Mandy Carver thanked all for their feedback and assured the GNSO Council that it would be taken into consideration.

Action item: none

Item 7: COUNCIL DISCUSSION - GNSO Input to the Independent Review Process (IRP) Standing Panel

David McCauley, Chair of the IRP, **Chris Disspain**, ICANN Board member of the Board Accountability Mechanisms Committee (BAMC), **Samantha Eisner** and **Elizabeth Le**, ICANN Org joined the GNSO Council meeting to take part in the discussion.

Samantha Eisner highlighted to the GNSO Council the importance of the IRP within ICANN's accountability structures. She reminded Council of a blog from Goran Marby on how to improve the Standing Panel which triggered considerable community feedback on the composition of the panel. The BAMC is also focussing on how to repopulate the IOT taking into account SO and AC input.

Chris Disspain added that the Standing Panel was a key concern, that volunteers were needed, in order to continue the effort for accountability mechanisms to be properly operational.

David McCauley presented in his personal capacity to put the IRP in context. ([slide deck](#)). The IRP went into an overhaul after the IANA transition. The IRP used to be a review of Board decisions, with a narrow standard of review. Following the transition, the panel can now review actions as well as inactions by Board, directors, officers and staff members and includes reviews about ICANN enforcing or not IANA contracts and PTI complaints. IRP is a form of arbitration and an alternative to litigation. Stakeholders groups can address the IRP too, if they incorporate. The supplementary rules of procedure are yet to be completed, and more work is yet to be done.

Keith Drazek reminded councilors that there has been a call for volunteers and encouraged councilors to read the list of outstanding work efforts to be completed.

Pam Little thanked the speakers for the briefing and asked what the workload, the time commitment would be, and what expertise is expected.

David McCauley responded that there is no current limitation on the composition of the team, that legal knowledge would be a requisite and that the time commitment would be approximately of under five hours a week.

Elizabeth Le added that judicial or legal experience, or dispute resolution, familiarity with ICANN's accountability mechanisms would be welcome.

Action Item:

- *Councilors* to reach out to their respective groups to communicate additional call for volunteers for additional members to serve on the IRP Implementation Oversight Team.

Item 8: COUNCIL DISCUSSION - Non-registry GNSO Liaison to the Customer Standing Committee

James Gannon, non-registry GNSO Liaison to the Customer Standing Committee (CSC), provided an update the GNSO Council. **James Gannon** has been the non-registry liaison for three years. The CSC was created by the IANA transition, it's a very procedural committee with an important role, overseeing the implementation SLAs that are contained within the IANA functions contract between the ICANN and the PTI. Much of the procedural work is now complete. James' term will come to term at the end of

2019, the GNSO Council will need to approve James' remaining in the role. The role is eligible for two terms.

Keith Drazek thanked James for his service and his willingness to remain in the role.

Rafik Dammak asked what criteria would be considered key to the role.

James Gannon responded that knowledge of the IANA transition and the CWG Stewardship in general would be highly important and that a transition period would be key should the Council decide to replace James. In terms of time commitment, there are monthly meetings of 90 mins to 120 mins.

Action Item:

- *Council* to determine their approach for the non-registry GNSO liaison to the Customer Standing Committee (CSC), which could include supporting James Gannon to serve a second term or to seek additional candidates.

Item 9: COUNCIL DISCUSSION - Evolution of the Multistakeholder Model of Governance

Brian Cute, independent facilitator, updated the Council on the efforts to improve the effectiveness of ICANN's multistakeholder model of governance. ([slide deck](#)) **Brian Cute** reminded councilors that this work stream is in support of ICANN's Strategic Plan 2020 - 2025 and will become part of the operational plan at the end of the year. There is a [Public Comment](#) open until the 4th June 2019. A list of issues was developed through community consultation in Barcelona, to better understand what is hindering the multistakeholder model. Phase two, once the issues have been consolidated and prioritized, will be to match the list to a work plan within the context of the operational plan to develop a new approach and methodology within the 5 year timeframe. Brian's role is to be a neutral facilitator to trigger discussion within the community, taking into account the community workload with a concern to avoid duplication with PDP3.0, ATRT 3, Workstream 2 for instance. These efforts are being mapped to outline commonality and add value and solutions to make work more effective overtime.

Tatiana Tropina raised the concern that the community developed recommendations within workstream 2 whose recommendations are not yet approved by the ICANN Board for implementation, and that resources have not yet been allocated to that effort. What would be the correlation between the two efforts?

Brian Cute assured Council that no previous effort would be discarded, and all is being taken into account with a focus on resources and costs.

Michele Neyon asked what the cost of the project is, and questioned the potential conflicts between other existing projects.

Brian Cute responded that he engages as a consultant and with staff support involved. He clarified that there is commonality, but that the purpose of the workstream was to work in coordination with the other projects to avoid duplication and to add value.

Action Item: none

Keith Drazek thanked Brian Cute for his presentation.

Item 10: ANY OTHER BUSINESS

10.1 - GNSO Chair election timeline

10.2 - Possible next steps for IDNs (IDN Implementation Guidelines and Variant TLD Recommendations)

10.3 - ICANN Board action in relation to the GNSO's Expedited Policy Development Process

Due to lack of time AOB was postponed. **Keith Drazek** announced an extraordinary GNSO Council meeting on the subject of EPDP Phase 1 recommendations to take place in the following weeks.

Keith Drazek adjourned the GNSO Council meeting on Thursday 16 May 2019 at 14:01 UTC.