

Minutes of the GNSO Council Meeting 18 April 2019

[Agenda and Documents](#)

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

List of attendees:

Nominating Committee Appointee (NCA): – **Non-Voting** – Erika Mann (joined first 30 minutes)

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 (absent, apology sent - proxy to Ayden Férdeline), Tatiana Tropina, Rafik Dammak, Ayden Férdeline, Arsène Tungali (absent, apology sent – proxy to Martin Silva Valent)

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 (first meeting as ccNSO liaison)

ICANN Staff

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

Marika Konings – Vice President, Policy Development Support – GNSO (apology sent)

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 (apologies sent)

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

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

1.2 - Updates to Statements of Interest

There was no update to Statements of Interest.

1.3 - Review / Amend Agenda

The agenda was approved with the Approval of the Appointment of Janis Karklins as Chair for the Expedited Policy Development Process Team item removed from the Consent Agenda upon Ayden Férdeline's request on behalf of the Non Commercial Stakeholder Group (NCSG) and placed in the main agenda to allow for Council discussion prior to the vote.

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

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

- An email has been sent to the Stakeholder Group (SG) and Constituency (C) Chairs reminding them that ICANN Travel deadlines for funded travellers have changed from 90 to 120 days. This will impact SG and C officer elections.
- The IRTP Policy Status Report and PPSAI items are in progress. **Pam Little** provided an update on the Council draft response to the PPSAI letter sent by Cyrus Namazi and on the IPC-proposed edits to include certain "factual background", including the Kobe GAC Communiqué on this topic, in the response letter. There were several views on whether PPSAI implementation should continue to pause within the Council. Regarding the IRTP Policy Status Report, **Pam Little** reminded Council that they were waiting for the updated Status Report to be provided by ICANN Org.
- Cross Community Working Group Auction Proceeds item: **Erika Mann**, co-chair of the CCWG, said the group was reviewing the public comments received, with support from staff, and would appreciate additional face-to-face time during the Policy Forum in Marrakech. It was agreed the review effort would not be finalized in Marrakech, but the CCWG would provide a "zero paper" ahead of the meeting.

Item 3: Consent Agenda

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

- [Motion](#) to adopt the [GNSO Council response](#) to the [GAC Communiqué](#)
- Confirmation of the GNSO Council [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://gns0.icann.org/sites/default/files/file/field-file-attach/fellowship-application-criteria-13apr19-en.pdf>)

Adoption of the GNSO Council Review of GAC Communiqué for submission to the ICANN Board

Whereas,

1. The Governmental Advisory Committee advises the ICANN Board on issues of public policy, and especially where there may be an interaction between ICANN's activities or policies and national laws or international agreements. It usually does so as part of a Communiqué, which is published towards the end of every ICANN meeting.
2. The GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains.
3. The GNSO Council has expressed a desire to provide feedback to the ICANN Board on issues in the GAC Communiqué as these relate to generic top-level domains to inform the ICANN Board as well as the broader community of past, present or future gTLD policy activities that may directly or indirectly relate to advice provided by the GAC.
4. The GNSO Council hopes that the input provided through its review of the GAC Communiqué will further enhance the coordination and promote the sharing of information on gTLD related policy activities between the GAC, Board and the GNSO.

Resolved,

1. The GNSO Council adopts the GNSO Council Review of the Kobe GAC Communiqué (see <https://gnso.icann.org/sites/default/files/file/field-file-attach/review-gac-communique-18apr19-en.pdf>) and requests that the GNSO Council Chair communicate the GNSO Council Review of the Kobe GAC Communiqué to the ICANN Board.
2. The GNSO Council requests that the GNSO Chair also informs the GAC Chair of the communication between the GNSO Council and the ICANN Board.

The GNSO Council voted unanimously in favour of the Consent Agenda.

Vote results

Action items:

- *GNSO Chair* to communicate the GNSO Council Review of the Kobe GAC Communiqué to the ICANN Board.
- *GNSO Chair* to inform GAC Chair of communication between GNSO Council and ICANN Board on the Kobe GAC Communiqué.
- *Staff* to communicate EPDP P1 Recommendations Report to Board Ops
- *Staff* to communicate approval of selection criteria to GNSO rep to the Fellowship Selection Committee

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

This item was removed from the Consent Agenda by **Ayden Férdeline's** request to discuss the appointment and next steps prior to the vote.

Ayden Férdeline reassured councilors that the NCSG would vote in favour of the candidate, Janis Karklins, but that it had process questions about the GNSO Council & Selection Standing Committee (SSC) leadership teams' selection of one candidate over the other and their notifying thereof prior to the motion vote. He also raised questions about the impartiality of the selected candidate regarding his involvement with the World Intellectual Property Organization (WIPO) and the Governmental Advisory Committee, as well as the skill sets retained over others. He also suggested keeping the second candidate, Chris LaHatte, in a leadership position.

Keith Drazek reminded Council that the current leadership structure of the EPDP team was decided with the argument of member representation equality. He agreed that the vice-chair role may need to be re-visited. To consider a co-chair role would imply re-opening the EPDP charter.

Tatiana Tropina echoed Ayden's concerns about the connections of Janis Karklins to WIPO and a possible conflict of interest, whilst insisting this would not hinder the NCSG vote. She reminded councilors about a previous conversation on resources, and that Chris LaHatte is a professionally qualified mediator.

Keith Drazek shared Tatiana's thoughts about resources and services when triggered by needs, as outlined in the list of preliminary resources requested by the EPDP team which would need to be confirmed by the incoming Chair. He also confirmed that Janis Karklins had mentioned his WIPO connection in his EPDP Phase 2 Chair application, and asked for further clarification about conflict. He also reminded councilors that most community members come from a known group, and have potential conflicts of interest, but are expected to be neutral when taking on a Chair role.

Maxim Alzoba added that the historical experience is to be taken into account also, regarding Chris LaHatte's previous role as ICANN Ombudsman.

Pam Little explained to councilors that the GNSO Council and SSC leadership teams did discuss potential conflicts of interest, but did not come to any negative conclusion given the near impossibility of finding a candidate with no potential conflict interest. Council needed to discuss what perceived or actual conflicts are of concern, and the EPDP team will, moving forward, be able to communicate any related issues to the GNSO Council.

Paul McGrady asked whether the EPDP team should be addressed the question as to how Chris LaHatte could be of service with a reminder of the charter restrictions and what next steps should be.

Keith Drazek suggested giving the new Chair, Janis Karklins, the space to get the new EPDP team work started, whilst being available to assist if need be. He also clarified that the emails sent to both candidates, which informed them of the recommendation made by both leadership teams, which would then be voted on by the GNSO Council during this session.

The GNSO Council voted unanimously in favour of the motion.

[Vote results](#)

Keith Drazek thanked his fellow councilors for providing the opportunity for a productive discussion prior to the vote.

Action items:

- *GNSO Chair* to inform Janis Karklins of his approval
- *Rafik Dammak*, EPDP Interim Chair to announce the new chair to EPDP team and finalize with staff the handover letter to Janis Karklins

Item 5: COUNCIL VOTE – IGO-INGO Access to Curative Rights Protection Mechanisms

Keith Drazek reminded Council that this item had been under discussion since the Final Report was published ten months ago. Councilors would be voting here to approve the first four recommendations to the ICANN Board and refer recommendation 5 to the Rights Protection Mechanisms Policy Development Process (PDP) Working Group (WG) by re-chartering the WG, or creating a sub-group chartered by the Council under PDP3.0 guidelines. This was [proposed](#) by Council leadership in December 2018. **Keith Drazek** admitted that there were many diverse views on the topic within the Council but that this proposal would be a good compromise. He also mentioned that the GAC had sent a [letter](#) on the matter on the 17th April 2019 expressing surprise and disappointment at the direction chosen by the GNSO, preferring a standalone structure without the GNSO Council approving the first four recommendations. He reminded Council that ICANN Board could still reject the GNSO Council's recommendations.

Paul McGrady requested clarification on what the Council vote would imply for all five recommendations. An approval vote would concern approval of 1-4 recommendations only, not recommendation 5. A vote against the motion would imply none of the recommendations would be approved.

Carlos Gutierrez expressed his support of a single motion whilst understanding the GAC position given the previous simple solution found for the Red Cross discussion.

Keith Drazek acknowledged the challenge before the Council taking into account the GAC reaction, but reminded councilors that the GNSO Council needed to follow procedures. He asked that if the effort were to be referred to the RPM PDP WG that the GNSO Council provide all the assistance required to see the work through to completion.

Tatiana Tropina reminded Council of GNSO procedures and the PDP specifically, and that there had already been compromises made since ICANN63 in Barcelona, in not voting for recommendation 5.

Philippe Fouquart stated that he understood the difficulty of the situation, but insisted that the position of the Council be one of process management and not substance management, by highlighting that the reason for not approving recommendation 5 was because it was out of scope.

Marie Pattullo thanked Keith Drazek for the information provided, and the solution suggested, given the complexity of recommendation 5.

Keith Drazek added that creating a small team within the RPM PDP would benefit from the experience and knowledge of the existing PDP membership.

Martin Silva Valent reminded councilors that the RPM PDP WG is a review working group, which would be very different from creating an effort from scratch, which would be warranted for recommendation 5 where mechanisms would need to be created.

Keith Drazek agreed that the subgroup would need to be able to take into account impacts in diverse areas, and that the chartering effort would be key in setting up the group to succeed.

Carlos Gutierrez asked whether a narrowly chartered RPM subgroup could deal with issues like a protection list similar to the Red Cross case.

Mary Wong reminded the Council that previously the IGO INGO WG was focussing on a list of GAC IGOs (192) and then asked the Council to amend their charter to broaden it to all eligible IGOs. Regarding recommendation 5, it is therefore focussing on a wider list than the original GAC list. But if the new subgroup were to come to the conclusion that the better rationale may be a more limited list, this would still be possible.

Rafik Dammak agreed that there would be flexibility from the Council regarding how to deal with recommendation 5.

Martin Silva Valent agreed that the RPM charter would need to be adjusted, but warned that Phase 2 of the RPM work would be difficult, and that any adjustment could be of negative impact.

Keith Drazek recognized the sensitivity of the subject and thanked councilors for their time and effort on the subject. He acknowledged that cooperation with the GAC to construct a path forward would be key moving forward as all interested parties would need to be able to contribute.

For the Contracted Party House there were 7 votes in favour, no vote against and no abstention. For the Non Contracted Party House, there were 11 votes in favour, 2 against and no abstention. The motion passed with 100% in the Contracted Party House and 84,62% in the Non Contracted Party House.

(Rationale for objections from Flip Petillion and Paul McGrady can be found here:

<https://gnso.icann.org/sites/default/files/file/field-file-attach/rationale-objections-council-vote-igo-ingo-crp-petillion-mcgrady-18apr19-en.pdf>)

Keith Drazek admitted this had been a difficult topic with no perfect solution, especially as ICANN Board could reject the recommendations, and there is still work to be done on recommendation 5.

Vote results

Action items:

- *GNSO Chair* to prepare communication to GAC/IGOs to explain rationale for vote and demonstrate how they will be able to participate
- *Staff* to prepare recommendations report IGO-INGO Access to Curative Rights Protection Mechanisms Final Report
- *Council leadership/staff* to prepare draft changes to RPMs Charter

Item 6: COUNCIL DISCUSSION – Managing IDN Variants TLDs

Sarmad Hussein, ICANN Org, presented to the GNSO Council latest updates on the IDN Variant Top Level Domains (TLDs) ([slide deck](#) and presentation comments: pg 50 - 55 of the [transcript](#)) and helped councilors better understand the responsibilities of the ICANN IDN Program as dispensed by the ICANN Board [resolution](#) of 14 March 2019.

Sarmad Hussein provided background information for context and then listed the possible next steps the GNSO could take.

Maxim Alzoba asked what had happened to IDN tables for the current TLDs which were approved by IANA, as during the GDD conversations, it was mentioned they would be considered legacy and not be changed. He also raised that historically, similarity between “1” and”l”, “0” and”O” caused many issues in English ASCII script, were there any investigations?

Sarmad Hussein replied that as far as IDN tables are concerned, they are relevant for second level domains, not top level domains. The IDN tables currently approved are already being applied, moving forward there are changes proposed to re-evaluate them.

Rubens Kuhl noted that IDN guidelines are similar to policy guidelines, so could need policy effort both from the GNSO and ccNSO.

Sarmad Hussein replied that IDN guidelines are developed by the community and are focused on reducing consumer confusion and therefore revised on community request, for example, the GNSO review request during the ICANN London meeting.

Keith Drazek suggested a small group of councilors work on providing further questions to Sarmad and thanked Sarmad for his participation. He reminded that this was just the beginning of a difficult and technical conversation which will need tight collaboration with the ccNSO.

Action item:

- Small group of Councilors to convene and then coordinate with ICANN to get further understanding, and potentially propose next steps for IDN TLD Variants.

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

Russ Weinstein, ICANN Org, standing in for provided an update on the EPDP Temp Spec Informal Implementation Review Team. The Implementation Project Team (IPT) , a cross functional team of ICANN staff, has been established to coordinate across all Implementation Reviews. The IPT is currently reviewing all recommendations, trying to define what the required deliverables are and creating the implementation plan with the February 2020 deadline in mind. Having a target date is a new feature in an IRT. A call for volunteers for a pre-IRT has been circulated, and the work is focussing on clarifications, with membership from the EPDP team. A Council liaison to the IRT is not mandatory but is possible if requested. For the moment, there are 12 community members signed up, all part of the EPDP Phase 1 team, and an observer mailing list. The team has agreed to meet up bi-weekly on Wednesdays.

Keith Drazek thanked Russ Weinstein and Council will discuss the need for a Council liaison.

Action Item:

- *Council Chair* to confirm that Rubens Kuhl has volunteered to serve as the Council liaison to, at a minimum, the informal IRT for the EPDP phase 1.

Item 8: COUNCIL DISCUSSION - Updated Timeline for the PDP on the Review of All Rights Protection Mechanisms in All gTLDs

Keith Drazek noted that in Kobe, the GNSO Council and RPM PDP WG leadership teams met, the outcome was a request for an updated timeline for Phase 1 recommendations. The new deadline is the 26th April, after the RPM co-chairs asked for an extension.

Item 9: ANY OTHER BUSINESS

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

9.2 - GNSO Council - Input to Establish IRP Standing Panel

These items were postponed to the GNSO Council mailing list due to lack of time.

Keith Drazek adjourned the GNSO Council meeting on Thursday 18 April 2019 at 23:07 UTC.