

## Minutes of the GNSO Council Meeting 22 August 2019

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

Coordinated Universal Time: 12:00 UTC: <https://tinyurl.com/y2qdox2m>

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 (absent)

#### **Contracted Parties House**

Registrar Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell

gTLD Registries Stakeholder Group: Maxim Alzoba (apologies, proxy to Rubens Kühl) , 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 (absent)

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

**Guest speakers:** ICANN Org: Cyrus Namazi, Trang Ngyuen, Brian Aitchison

#### **ICANN Staff**

David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional (apologies)

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 (apologies)

Ariel Liang – Policy Support Specialist

Caitlin Tubergen – Policy Senior Manager

Sara Caplis - Manager, Meetings Technical Services

Nathalie Peregrine – Manager, Operations

Andrea Glandon - Operations Support - GNSO Coordinator

[MP3 Recording](#)

[Transcript](#)

#### **Item 1. Administrative Matters**

1.1 - Roll Call.

1.2 - Updates to Statements of Interest

**Scott McCormick** has left HackerOne and moved to Reciprocity (SOI to be updated). Flip Petillion has been added to the lists of Panelists of NOMINET ([SOI](#)).

1.3 - Review / Amend Agenda

**Keith Drazek** reviewed the agenda. A 10.6 item was added to AOB.

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 26 June 2019 were posted on the 13 July 2019

[Minutes](#) of the GNSO Council meeting on the 18 July 2019 were posted on the 02 August 2019

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

**Keith Drazek** reviewed the Action items which were not to be discussed under this meeting's main agenda:

- IRP IOT: There was a call from ICANN Board to repopulate the IRP IOT, seven GNSO community members were recommended by the GNSO Council. A small team is finalising questions for Council consideration which will be submitted to ICANN Org and presented to Council before the September 2019 meeting.
- RPM Charter amendments specific to the IGO INGO protections: the first step is a focus on a small team and then work on Charter updates in regards to the PDP3.0 improvements.
- Legislative Tracker: GNSO Council sent a draft letter with recommended improvements. Input from ICANN Org is awaited.
- The CSC Effectiveness Review Final Report action item is ongoing.
- IRT Policy Status Report: it was initially hoped that EPDP IRT would provide further input on the gaining registrar FOA issue. Council can now expect a letter from the RrSG Chair for the Council to write to ICANN Board and address the issue.
- IANA Functions Review team: there are further questions regarding repopulating the IANA Review team in terms of availability of community members. This is an open action item for the broader community.
- International Domain Names (IDN) Variant TLDs: the GNSO Council small team including subject matter experts has set up a mailing list, has met for one conference call and is working on a time rotation for future meetings, as well as mapping out the task at hand. The small team has an action item to request the GNSO Council send two liaisons to the ccNSO parallel effort, once it begins, to ensure consistency.
- IGO INGO Curative Rights Protection Mechanisms action item regarding the 3.7 appeal process is in progress.
- Evolution of the Multistakeholder model: there is an upcoming Public Comment for which the GNSO Council will have to identify areas of concern and encourage Stakeholder Groups (SGs) and Constituencies (Cs) to provide input. Staff has an open action item to look into the cost of the effort.
- PDP Updates: GNSO Chair needs to draft letter to ICANN Board, cc-ing SSAC, regarding the Name Collisions Analysis Project (NCAP). Engagement needs to be sought with the ccNSO on discussions concerning NCAP, string similarity and IDNs.

Action Items:

- *ICANN Staff* to follow up with GSE staff about input from GNSO Council on the legislative tracker (i.e., Global Engagement to take into account feedback, in particular, inclusion of rationale for including a piece of legislation on the legal / regulatory tracker.)
- *ICANN Staff* to add to the existing action item that Council is anticipating input from RrSG on the Review of the Transfer Policy as well as the request for the suspension of the contractual compliance enforcement of the FOA.
- *ICANN Staff* to ensure that GNSO liaison(s) are assigned to the IDN ccPDP, when the ccNSO initiates that effort.

### **Item 3: Consent Agenda (none)**

### **Item 4: COUNCIL DISCUSSION - GNSO Council Letter on Status of Consultation in Relation to Non-Adopted EPDP Phase 1 Parts of Recommendations (purpose 2 and recommendation #12)**

On 15 May, the ICANN Board informed the GNSO Council of the Board's action in relation to non-adoption of two GNSO's EPDP Phase 1 policy recommendations. The GNSO Council has a responsibility to follow through in instances where consensus policy recommendations from a PDP, approved by the GNSO Council, are not approved in full by the Board. This was further discussed during ICANN65 during the joint GNSO Council - ICANN Board session and during the Council meeting on 18 July 2019. The GNSO Council leadership has updated the [draft response](#) which incorporated the different views among the Councilors. The latest draft seeks to clarify Council's understanding from the discussion with the Board during ICANN65 in order to determine the next steps.

**Marie Pattullo** thanked Keith Drazek for the requested amendments to the draft, but stressed that the Business Constituency was still very concerned by recommendation 1, purpose 2 and would like the EPDP 2 team to work to replace the placeholder language as soon as possible. The BC would also appreciate clarification that not all councilors agree with the recommendation.

**Keith Drazek** explained that the GNSO Council is not challenging the Board's decision but is acknowledging that it is placeholder language and that there is further work for the EPDP 2 team.

**Tatiana Tropina** suggested bullet point 2 of the draft letter be modified to reflect the position of the different constituencies.

**Flip Petillion** supported Tatiana Tropina's suggestion whilst reminding councilors that the Council is responsible for developing policy for the entire community. He equally supported Marie Pattullo's intervention, whilst encouraging Keith Drazek to promote the fact the EPDP 2 team should concentrate on the issue.

**Darcy Southwell** raised that bullet point 2 needed clarification regarding what the GNSO Council was asking of the ICANN Board.

**Keith Drazek** welcomed the suggestion and encouraged councilors to provide further edits. He agreed that the letter was not communicating a decision, but requesting confirmation of common understanding of the verbal conversation held during ICANN65.

**Elsa Saade** raised the notion of 'global public interest' which was mentioned in the letter sent by ICANN Board, and questioned its definition, noting that the GNSO Council should use such terms with care.

**Keith Drazek** responded that “global public interest” is one of thresholds that the ICANN Board must attain in the event that it does not agree with policy recommendations. He agreed that the term could be lacking in definition and noted that staff had provided further information in the Zoom room.

**Michele Neylon** expressed his dissatisfaction at the focus on minor points by one or two constituencies. He reminded councilors that all constituencies were represented within the EPDP team and that it was not the GNSO Council’s remit to rewrite recommendations. He supported Elsa Saade’s concern with the expression “global public interest”.

**Keith Drazek** stated that the procedural issue was the focal point in order to set a constructive precedent.

**Tatiana Tropina** agreed that the Council cannot change recommendations substantively. She raised that the Board’s letter and annex were lacking in clarity, and could be interpreted as asking the EPDP 2 team to consider general public interest.

**Rafik Dammak** mentioned that recommendation 1, purpose 2 will be worked on with the Standardized System for Access/Disclosure (SSAD).

**Keith Drazek** noted that further exchanges had taken place in the Zoom room [chat](#).

Action items:

- *Councilors* to work to complete the letter, which may include integrating elements such as:
  - When the letter references that some Councilors having dissenting views, that the group holding those dissenting views are identified.
  - Add clarity about the ask of the ICANN Board (e.g., confirm that the Board and Council have a common understanding).
- *Rafik Dammak* to confirm when recommendation one, purpose 2 will be expected to be discussed by the EPDP phase 2.

**Item 5: COUNCIL DISCUSSION – ICANN Org’s Request for Clarification on Data Accuracy and Phase-2 of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data**

**Keith Drazek** reminded the councilors that on 21 June 2019, the GNSO Council received a [letter](#) from ICANN Org requesting clarification on data accuracy and specifically the WHOIS Accuracy Reporting System (ARS), which was then discussed during the GNSO Council meeting on the 19 July 2019. On the 15 August, a draft [response](#) was circulated on the mailing list acknowledging receipt of the ICANN Org’s letter, but **Keith Drazek** confirmed that Council needed to provide a more substantive response shortly.

**Elsa Saade** raised the concern that accuracy was not mentioned in the EPDP charter and should not be of the EPDP 2 team’s remit. **Elsa Saade** in the Zoom chat<sup>1</sup>, further referred to “Annex 4 of GNSO Operating Procedures on EPDP - the VERY FIRST paragraph on this annex says the following: These guidelines and processes supplement the requirements for the EPDP described in Annex E of the ICANN Bylaws.

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<sup>1</sup> Addition requested by Elsa Saade via email <https://mm.icann.org/pipermail/council/2019-August/023007.html>

An EPDP may be initiated by the GNSO Council only in the following specific circumstances:

(1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation or

(2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g.

(a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP.

The EPDP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available."

She added that accordingly, ARS should not whatsoever be a part of the EPDP work, procedurally.

**Keith Drazek** added that a review has been initiated with ICANN Org to assess EPDP 1 recommendations impacted contracts or policy, and where there are inconsistencies and incompatibilities with existing policies, specifically regarding the Whois ARS.

**Marie Pattullo** raised that the Business Constituency had no issue with the draft letter, but that they would appreciate clarification regarding ICANN Org next steps, especially if they have taken any preparatory steps in finding a lawful solution for ARS (e.g. for ICANN itself disclosing data based on its own purposes) and confirmation from the GNSO Council that ARS is included in the EPDP 2 team's work.

**Keith Drazek** agreed that having further information about ICANN Org's next steps would be useful.

**Elsa Saade** clarified that her point was procedural and that EPDP 2 team should only focus on tasks with which the group was chartered. If there are points which are not in the charter, they should be discussed within the broader community.

**Keith Drazek** suggested a small team of councilor with a focus on accuracy broadly and the Whois accuracy more specifically especially within the discussion about what will replace Whois eventually.

**Michele Neylon** expressed his objection to the above suggestion as it would be unproductive given the lack of clear definition of the term "accuracy" but supported an exchange with ICANN Org.

**Keith Drazek** reminded councilors that a substantive response needed to be sent to ICANN Org within a short timeframe and that volunteers were needed for that task. Marie Pattullo volunteered for the small group.

Action items:

- *ICANN staff* to include an agenda item on the September Council meeting, inviting ICANN Org to speak on the impact of GDPR as well as the EPDP 1 recommendations on the enforcement and implementation of existing policies, procedures, and contractual provisions related to accuracy (including ARS).
- *Council* to convene a small group to draft a substantive response on data accuracy for Council review to send to ICANN Org in response to 21 June letter (<https://gns0.icann.org/en/correspondence/marby-to-drazek-21jun19-en.pdf>) (volunteers: Marie, Darcy, Flip)

## **Item 6: COUNCIL DISCUSSION – ICANN Board referrals of CCT-RT recommendations to GNSO Council and GNSO PDP WGs**

In the interest of time, agenda item 6 was deferred to the September 2019 Council meeting.

### Action item:

- *Councilors* to review draft text and provide input, if applicable, prior to the September 2019 Council meeting, 13 September 2019 at the latest.

## **Item 7: COUNCIL DISCUSSION - ICANN Org assumptions for new round of new gTLDs**

ICANN org [compiled](#) a number of fundamental operationally focused assumptions to help with the preliminary planning and operational readiness of the organization and circulated these to the GNSO Council on 17 June 2019. The Global Domains Division (GDD) is now awaiting community input. Cyrus Namazi, Trang Nguyen, Christine Willett and Chris Gift joined the call to exchange with councilors.

**Cyrus Namazi** provided background on the origins of the document insisting on the complexity of the implementation of the policies into a new gTLD round. The first steps were to focus on the operability of the program. Four assumptions were made and feedback was received from ICANN Board. Cyrus reminded councilors that these are assumptions based on incomplete information as community input has not yet been received in total.

**Keith Drazek** acknowledged that the effort was not presupposing what the policy work would entail, but establishing baseline structures.

**Darcy Southwell** asked about the underlying data which supports some of the assumptions, for instance the number of 2000 applications. This data is key to understanding the processing and how ICANN Org will support the effort.

**Cyrus Namazi** responded that the number 2000 is an operational assumption on which to build future capabilities. Any number above 2000 will increase the complexity and have impacts on cost.

**Philippe Fouquart** raised that the document refers to 1000 gTLDs a year, maximum delegation rate, and asked whether given the experience gained since the last round, processing could be speedier.

**Cyrus Namazi** replied that at its peak during the 2012 round, the maximum number TLDs delegated into the root, was 400 a year. SSAC and RSSAC have advised the Board in terms of the rate at which the root is going to expand and have asked ICANN Org to maintain a reasonable rate.

**Darcy Southwell** followed up raising concerns about the significant impact on cost with working on assumptions, and encouraged marketing research be done by ICANN Org to better estimate numbers.

**Cyrus Namazi** acknowledged that having more realistic expectations would be helpful and welcomed community input on the matter.

**Michele Neylon** understood the challenge of having exact numbers but insisted on the considerable impact on staff and resourcing. One solution would be to look at it by tranches of scale, looking at the number of applications per fiscal year for instance.

**Cyrus Namazi** responded that closer to the application window, it will be easier to build appropriate systems. Regarding staffing, there will be core staff, but certain functions are short term and would be staffed with temporary positions. ICANN Org will update the assumptions paper with community input whilst observing EPDP work in parallel and present the Board with updated assumptions to receive the authorisation to begin planning the next round. Input provided by the GNSO Council by the end of September 2019 would be ideal.

**Keith Drazek** stated that GNSO Council input would be received within the deadline.

Action items:

- *Council* to consider if they would like to provide a written response to ICANN Org, to be delivered by the end of September. *Councilors* to inform their respective SG/Cs of the timeline for providing input.

**Item 8: COUNCIL DISCUSSION – Proposed Amendments to Consensus Policy Implementation Framework (CPIF)**

**Brian Aitchison**, ICANN Org, joined the GNSO Council to [present](#) the latest updates concerning CPIF. He reminded councilors that the CPIF was being constructed as a roadmap for the community to follow as GDD implements policy recommendations. ICANN Org is mandated to continuously review the framework, this was done in 2018 for the first time. For 2019, the review should be more structured and this is reflected in the amendments. Two new sections have been added: the Post-Implementation Consensus Review Process which has been in discussion for a long time, with precise guidelines being sought and an amendment process has also been added, with proposals to undertake it every five years rather than every time a review is initiated. Efforts have been made to remove inconsistencies. GNSO councilors are being asked to provide feedback on the amendments by the 25th October 2019 deadline.

**Keith Drazek** suggested a small team focus on providing feedback on behalf of the Council.

**Rafik Dammak** thanked Brian for his presentation and asked about what will happen past the input deadline.

**Brian Aitchison** replied that the process would be similar to 2018. The input will be reviewed and added to the document in collaboration with those who provided the input.

**Pam Little** inquired as to the process of providing input, as previously individual councilors had provided input without constituency or stakeholder group differences having to be reconciled. The Registrar Stakeholder Group (RrSG) is already working on input which could be put to the Council as starting document for their deliberations.

**Keith Drazek** acknowledged that this would be the best solution moving forward and thanked Brian Aitchison for his efforts.

Action items:

- *Councilors* to ensure that their respective SG/Cs are aware that they are able to provide input to ICANN Org by 25 October 2019 at the latest. To the extent the Council can agree on any unified feedback, *Council* to provide written input by 25 October as well.
- *Pam Little* to share proposed edits from the RrSG with the Council.

### **Item 9 - PDP 3.0 Small Group Update/Discussion**

**Keith Drazek** reminded councilors of the importance of the PDP3.0 small group efforts.

**Rafik Dammak** provided an [update](#) to the Council on PDP3.0 small team activities. Work on 5 out of 14 of the improvements has been completed by the small team, but only 4 submitted to the Council as a package for review as they cover similar topics. The team is continuing to work on the other improvements. The chosen approach is to have a designated small team member per improvement as lead to collaborate closely with ICANN staff. Improvements completed are: terms of participation for Working Group members which was based on collaboration with EPDP leadership, three alternatives to open working group models to assist the charter drafting teams in defining the structure of the future Working Group, criteria for new members joining once PDP work has begun and expectations for Working Group leaders.

The PDP3.0 team has a deadline to complete the work by the Annual General Meeting, and will therefore welcome councilors input.

**Rafik Dammak** thanked the PDP3.0 team members and staff for their dedication to the task at hand.

#### Action Item:

- *Councilors* to review and provide feedback on the finalized implementation elements (1, 2, 3, 6) by 13 September 2019 at the latest.

### **Item 10: ANY OTHER BUSINESS**

#### **10.1 - ICANN66 Draft Schedule Review & travel booking reminder**

<https://gnso.icann.org/en/drafts/icann66-draft-gnso-schedule-21aug19-en.pdf>

**Keith Drazek** reminded councilors to review the schedule ahead of ICANN66.

#### Action item:

- *ICANN Staff* to send reminder to Councilors to book their travel

#### **10.2 - GNSO Strategic Planning Session January 2020**

**Keith Drazek** reminded councilors to plan their travel in keeping with the communicated session dates.

#### **10.3 - Confirmation of volunteers for Council liaisons to PDP/IRTs beginning at the AGM:**

- Sebastian Ducos – EPDP IRT
- Maxim Alzoba - Translation/Transliteration IRT
- John McElwaine – RPMs PDP WG



**Keith Drazek** stated he would keep this topic open on the Council list for a week following the Council meeting for any input.

Action items:

- If applicable, *Councilors* to ask questions or note objections by 28 August.
- Subsequently, *ICANN Staff* to facilitate handover meetings between incoming and outgoing liaisons, as well as PDP/IRT leadership.

**10.4 - EPDP Phase 2 Work plan package** (see <https://gns0.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-project-management-work-plan-15aug19-en.pdf>)

**Keith Drazek** asked councilors to review the Work Plan package as early as possible.

Action item:

- *Councilors* to review EPDP Phase 2 work plan package and share any comments or questions with the mailing list

**10.5 - ATRT3 Survey - volunteers to develop Council response**

**Keith Drazek** requested a small team of councilors volunteer to draft a Council response.

Action item:

- *Councilors* to draft response to ATRT3 Survey (volunteers: none)

**10.6 - Questions from the Review of All Rights Protection Mechanisms (RPMs) PDP Working Group Co-Chairs** [<https://gns0.icann.org/sites/default/files/file/field-file-attach/beckham-et-al-to-gns0-council-rpm-pdp-liaison-19aug19-en.pdf>] and **GNSO Council leadership reply** [<https://gns0.icann.org/sites/default/files/file/field-file-attach/gns0-council-to-rpm-pdp-co-chairs-22aug19-en.pdf>]

**Keith Drazek** encouraged councilors to review the exchanges and submit any comments or questions to the GNSO Council leadership team and Council liaison, Paul McGrady.

Action item:

- *Councilors* to review Council leadership response to RPM leadership (see <https://gns0.icann.org/en/correspondence/gns0-council-to-rpm-pdp-co-chairs-22aug19-en.pdf>) and advise Council leadership of any questions, comments or concerns in relation to the response.

**Keith Drazek** adjourned the GNSO Council meeting on Thursday 22 August 2019 at 14:04 UTC.