

## **Minutes of the GNSO Council Meeting 19 December 2019**

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

Coordinated Universal Time: 21:00 UTC: <https://tinyurl.com/w82k6rn>

13:00 Los Angeles; 16:00 Washington DC; 21:00 London; (Friday) 02:00 Islamabad; (Friday) 06:00 Tokyo; (Friday) 08:00 Melbourne

### **List of attendees:**

Nominating Committee Appointee (NCA): – Non-Voting – Erika Mann

#### Contracted Parties House

Registrar Stakeholder Group: Pam Little, Michele Neylon, Greg DiBiase (incoming RrSG councilor following Darcy Southwell's resignation)

gTLD Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Sebastien Ducos

Nominating Committee Appointee (NCA): Tom Dale

#### Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa (arrived after first vote), John McElwaine, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Elsa Saade, Tatiana Tropina, Rafik Dammak, Farell Folly, Sam Lanfranco (temporary alternate after Farzaneh Badii's resignation)

Nominating Committee Appointee (NCA): Carlton Samuels (arrived after first vote)

#### GNSO Council Liaisons/Observers:

Cheryl Langdon-Orr– ALAC Liaison

Julf (Johan) Helsingius– GNSO liaison to the GAC

Maarten Simon – ccNSO observer

### **ICANN Staff**

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

Marika Konings – Senior Advisor, Special Projects

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

Nathalie Peregrine – Manager, Operations

Terri Agnew - Operations Support - GNSO Lead Administrator

[Audio Recording](#)

[Transcript](#)

### **Item 1: Administrative Matters**

1.1 - Roll Call

## 1.2 - Updates to Statements of Interest

There were no updates to Statements of Interest (SOI) on the call. It was noted that **Julf Helsingius** has [circulated](#) an update to his SOI on the Council mailing list prior to the call.

## 1.3 - Review / Amend Agenda

**Keith Drazek**, in the interest of time, suggested moving Item 2 to the end of the call. This was accepted by councilors on the call.

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 24 October 2019 were posted on 13 November 2019  
Minutes Part 1 Part 2 of the GNSO Council meetings on the 06 November 2019 were posted on 26 November 2019

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

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

In the interest of time, this agenda item was deferred to the end of the meeting.

## **Item 3: Consent Agenda**

**Tatiana Tropina**, seconded by **Michele Neylon**, submitted a [motion](#) for GNSO Council approval GNSO Review of the ICANN66 GAC Communiqué for submission to the 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 co-ordination 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 [Montréal GAC Communiqué](#) (see <https://gns0.icann.org/sites/default/files/file/field-file-attach/review-gac-communique-09dec19-en>).

[pdf](#)) and requests that the GNSO Council Chair communicate the GNSO Council Review of the Montréal 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.

**Pam Little**, seconded by **Rafik Dammak**, submitted a [motion](#) for the GNSO Council to approve Keith Drazek as GNSO Representative to the Empowered Community:

Whereas,

1. The GNSO Council confirmed in November 2019 that the GNSO Chair (currently Keith Drazek) will represent the GNSO as the Decisional Participant on the Empowered Community (EC) Administration on an interim basis.
2. The GNSO Council leadership team subsequently met to agree who from the Council leadership should perform the role of GNSO representative to the Empowered Community Administration and communicated this decision to the Council mailing list on 9 December 2019.

Resolved,

1. The GNSO Council hereby confirms that Keith Drazek, GNSO Chair will represent the GNSO as the Decisional Participant on the Empowered Community Administration until the end of his term at ICANN69.
2. The GNSO representative shall act solely as directed by the GNSO Council in accordance with the ICANN Bylaws and other related GNSO Operating Procedures.
3. The GNSO Council requests the GNSO Secretariat to communicate this decision to the ICANN Secretary which will serve as the required written certification from the GNSO Chair designating the individual who shall represent the Decisional Participant on the EC Administration

As part of the [Consent Agenda](#), there was equally a request the councilors to confirm Anne Aikman-Scalese as one of the GNSO appointees to the Cross Community Working Group (CCWG) Auction Proceeds.

Councilors present on the call unanimously voted in support of the Consent Agenda motions and vote.

[Vote results](#)

Action items:

- *ICANN Staff* to send the GNSO Council response to the GAC Communiqué to ICANN Board cc-ing the GAC Chair and GAC support staff,
- *ICANN Staff* to inform the Empowered Community Administration the confirmation of Keith Drazek as the GNSO Representative to the Empowered Community Administration
- *ICANN Staff* to inform the Chair and support staff of the CCWG Auction Proceeds the confirmation of Anne Aikman-Scalese as on the GNSO appointees

#### **Item 4: COUNCIL VOTE - Approval of the Supplemental Recommendation Related to the Non-Adopted EPDP Phase 1 Recommendations (recommendation #12)**

**Keith Drazek** reminded councilors that ICANN Board did not accept parts of two consensus policy recommendations which were approved previously by the GNSO Council after being submitted by the EPDP Phase 1 team. After discussions with the Board, it was decided to allay concerns about the organisation field data deletion. Following exchanges with the EPDP Phase 1 team, the GNSO Council reaffirmed the recommendation but included implementation guidance which would imply applying the EPDP Phase 1 approach to the administrative field, to the organisation field.

As maker of the motion, **Rafik Dammak** mentioned that following the Board's feedback, he approached the EPDP Phase 1 team to ask for their feedback regarding the suggestion from the GNSO council, but that there had been no consensus from the team. **Rafik Dammak** said however that he believed the Board's concerns had been dealt with and encouraged councilors to avoid delaying the process further, reminding Council that its responsibility was to the Policy Development Process (PDP) and not to substantive content.

**Keith Drazek** raised that **Marie Pattullo** had [circulated](#) an amendment on behalf of the Business Constituency (BC) on the email list prior to the Council call. **Keith Drazek** reminded councilors that the amendment could be accepted as friendly if the makers (Rafik Dammak and Pam Little) of the motion accepted, otherwise it would need to be voted on via simple majority by Council prior to voting on the motion itself.

**Pam Little**, as seconder of the motion and on behalf of the Registrar Stakeholder Group (RrSG), did not accept the amendment as friendly given that the additional language and reference to Section 3.7.7.1 of the Registrar Amendment Agreement (RAA) would introduce additional obligations on the part of the registrar which is not contemplated in the original provision. **Pam Little** invited councilors to consider this in conjunction with 3.7.7 of the RAA which stipulates a number of provisions that the registrars must include in their registration agreements with registered name holders including 3.7.7.1. **Pam Little** added that 3.7.7.1 is an obligation on the part of the registered name holders to provide up to date contact information to the registrar. The proposed amendment would shift the responsibility to registrars. **Pam Little** also mentioned that the BC-proposed amendment have the potential of adding confusion as section 3.7.7.1 and other provisions of the RAA have already been amended or superseded by the temporary policy and by EPDP Phase 1 recommendations which are being development into policy by the Implementation Review Team (IRT).

**Rafik Dammak** stated that he would not accept the BC-proposed amendment as friendly based on the explanation provided by Pam Little but welcomed further input from Marie Pattullo.

**Marie Pattullo**, as proposer of the amendment, thanked Pam Little for her input. She also explained that the BC shared the same concerns as the ICANN Board regarding the data deletion and needed confirmation that there would still be ways to contact the registrant.

**Sebastien Ducos** mentioned that the IRT were in agreement with the position coming out of the last ICANN meeting. He agreed with Pam Little regarding the wording proposed by the BC. He also reminded councilors that the IRT were awaiting the result of the vote on the motion to continue their work.

**John McElwaine** supported Marie Pattullo's concerns and emphasized that further clarity around contact information was needed. There are issues with terminology, "valid", for instance as well as a need for better definition of contact information.

**Flip Petillion** expressed his appreciation of councilors' input, but regretted that the amendment proposal was provided last minute, with no time to take the input back to Stakeholder Groups (SGs) and Constituencies (Cs).

**Keith Drazek** acknowledged the lateness of the amendment proposal, and reminded Council that while a deferral was possible, discussions had been held with ICANN Board who had confirmed that the additional implementation guidance sufficed to allay their concerns.

**Michele Neylon** clarified that there is no contact detail in the organization field in Whois, adding that registrars do not rely on Whois to contact a client, as there are other means (billing information, email information, social media for instance), and therefore opposed the deferral.

**Keith Drazek** added that the organisation field was an optional field in Whois. There is a process under recommendation 12 where registrars need to validate this information with their clients. The recommendation seeks to deal with the situation where a registrar is unable to validate this information, for instance if a registrant does not respond. Recommendation 12 then allows registrars to clean up the information after having followed a certain number of compulsory steps.

**Philippe Fouquart**, on behalf of the ISPCP, raised that whereas there had not been sufficient time to consult with his colleagues, he would follow the EPDP recommendations as GNSO Council should not be discussing substance.

There was no request for a deferral.

- **Councilors voted against the proposed amendment to the motion.**

**Oswaldo Novoa, John McElwaine, Philippe Fouquart, Sam Lanfranco, Flip Petillion** abstained due to lack of time to consult with their groups.

[Vote results](#)

- **Councilors voted in favour of the motion.**

**Marie Pattullo** shared a [statement](#) on behalf of the BC.

[Vote results](#)

Action item:

- *GNSO Chair* to communicate the Supplemental Recommendation to the ICANN Board, including the vote result of the GNSO Council Supermajority supporting the Supplemental Recommendation.

**Item 5: COUNCIL DISCUSSION – Discussion on the Addendum to the Review of All Rights Protection Mechanisms in All gTLDs Charter to Integrate Recommendation 5 From IGO-INGO Access to Curative Rights Protection Mechanisms Final Report**

**Keith Drazek** reminded Council that in April 2019 all recommendations from the IGO-INGO Access to Curative Rights Protection Mechanisms Final Report were approved, except for Recommendation 5 which should be handled by the Review of All Rights Protection Mechanisms (RPM) PDP Working Group. Discussions with the Governmental Advisory Committee and IGOs were held at ICANN64 to ensure IGOs' participation in the new Work Track. Concerns had been raised on Council about the four GNSO Council approved recommendations not being approved by ICANN Board yet, and potentially being impacted by Work Track discussions.

The current [draft revisions to the Addendum to the RPMs PDP charter](#) developed by the GNSO Council leadership team, John McElwaine and Martin Valent, takes into account GAC redline edits, IGO input, PDP3.0 work and protects the GNSO Operating Procedures.

**Keith Drazek** added that Brian Beckham from WIPO had reviewed the document and expressed his support.

**Tatiana Tropina** thanked the small team for their work and asked for clarity regarding the term “policy proposal” on page 3, first paragraph. **Keith Drazek** explained that these referred to the recommendations currently submitted to the Board and thanked her for the input.

**Maxim Alzoba** raised that the Registry Stakeholder Group (RySG) had previously mentioned that the team composition should include members of the Contracted Party House to ensure the operational aim is feasible. The current terms of participation should therefore be modified to be more inclusive as it currently appears to exclude members who are not international law experts.

**Keith Drazek** pointed out that there is a requirement for the CPH to be consulted in regards to operational feasibility. Regarding membership criteria, the “must” requirement has been modified to “should”. He acknowledged that Maxim's input would be considered by the small team.

Action items:

- *GNSO Councilors* to ask additional questions and/or provide comments about the proposed charter addendum on the GNSO Council list before 13 January 2020.
- *GNSO Council small team*, in consultation with the GNSO Council leadership, to finalize the charter addendum and submit the final version to the GNSO Council no later than 13 January 2020.

**Item 6: COUNCIL UPDATE - Expedited PDP on the Temporary Specification for gTLD Registration Data - Phase 2 Work**

**Rafik Dammak**, Council liaison to the EPDP, shared with the Council the adjustment to the EPDP Phase 2 work timeline and Project Change Request form which were [circulated](#) earlier this week on the GNSO Council mailing list. This is the first time a Project Change Request form is being used. The initial EPDP 2 aim was to publish the Initial Report in December 2019 and have the Final Report ready in April 2020. The new target date is early February for the Initial Report publication. The EPDP Phase 2 team will hold a face-to-face meeting in January 2020 and will be working on the report during the session. The key is to

have the Final Report ready and published before the end of the fiscal year for budgeting reasons. The content of the Project Change Request highlights the ambitious timeline for the EPDP 2 team and the various dependencies the team has to take into account (European Data Protection Board (EDPB) advice, issues which require further legal consultation, awaiting cost prediction of a centralised SSAD model).

**Berry Cobb**, policy consultant, added that councilors would be focusing on the topic of project change forms for PDP working groups during the Strategic Planning Session in January 2020.

**Pam Little** thanked both for their input. She questioned the date of the document submission being later than the deadline of submission for the Initial Report. The Project Change Request ought to be submitted prior to the target date. She suggested that the Change description field should be more explicit about the “ask” in the request.

**Rafik Dammak** mentioned that the decision was made in December 2019 to adjust the timeline based on EPDP team members comments .

**Keith Drazek** asked how the recently received letter from the EDPB impacted the EPDP 2 team’s next steps.

**Rafik Dammak** reminded councilors that an EDPB letter had been received a few days ago, confirming that policy regarding choice of model should come from the EPDP 2 team, and that the CPH cannot move all their liability to the joint controller. That is an initial analysis pending further discussion early 2020.

Action item: None

#### **Item 7: COUNCIL DISCUSSION - GNSO Council Strategic Planning Session**

The GNSO Council Strategic Planning (SPS) session will take place in Los Angeles from the 22-24 January 2020 with the aim of working together, prioritising the workload, promoting engagement with SGs and Cs and strategising efforts for the rest of the Council term.

**Pam Little** mentioned that a high-level draft agenda would be sent to the Council list shortly and that a webinar would be held early January 2020 to allow all to better prepare for the SPS.

**Rafik Dammak** added that there would be a focus on PDP3.0 next steps and reminded for those who couldn’t attend the PDP 3.0 webinar to listen to the recordings.

**Keith Drazek** insisted that reading the materials sent ahead of time was key to the success of the face-to-face meeting. The webinar will also allow for the SPS to begin with more substantive discussions on Council engagement.

**Maxim Alzoba** added that the best way to understand PDP3.0 work efforts would be to join the small team.

**Steve Chan**, ICANN Org, mentioned that PDP3.0 materials were at this stage fairly abstract, discussions amongst councilors at the face-to-face would allow them to become a reality.

Action items:

- *GNSO Council leadership* to send the detailed proposed agenda for SPS2020 on list by Friday, 20 December.

- *All GNSO Councilors* to participate in a Pre-SPS webinar in January 2020 as part of the preparation.
- *GNSO Councilors* to read all relevant materials/documents (e.g., PDP 3.0 implementation documents, GNSO guidelines related to its role & responsibility in the Empowered Community) ahead of SPS 2020.

## **Item 8: ANY OTHER BUSINESS**

### **8.1 - Consideration of previous GNSO Council Additional Budget Requests (ABRs) and whether they should be pursued in the future, as well as if other ABRs should be submitted**

**Berry Cobb**, policy consultant, reminded councilors that the ABR submission period opened on the 11 December 2019 and would close at the end of January 2020. The Board Finance Committee approval process will take place mid-April 2020.

**Steve Chan**, ICANN Org, confirmed that this item concerned ABRs submitted on behalf of Council, SGs and Cs will submit their own requests. In the past, Council has submitted three: the SPS, the PDP Travel Pilot and a one time ABR for a consensus- building playbook stemming from PDP3.0 recommendations. He invited councilors to reflect on whether other areas the Council worked on would warrant additional funding.

#### Action item:

- *GNSO Councilors* to provide ideas/suggestions, if any, for FY21 ABRs on list, in time for the Council review of potential ABRs during its January 2020 meeting. FY21 ABR submissions are due at the end of January 2020.

### **8.2 - Letter from ICANN org - EPDP Phase 1 Recommendation 28**

The GNSO Council received a [letter](#) from ICANN Org on the 18th December 2019 relating to the timing for implementation of the EPDP Phase 1 recommendations, acknowledging that the IRT will most likely miss the target date of 29 February 2019. This date was included in recommendation 28 from the EPDP, and the ensuing Board resolution. Council must now draft a response to ICANN Org after further discussion.

#### Action item:

- *GNSO Council leadership*, in coordination with ICANN staff, to draft a response to the ICANN Org letter and share the draft with the Council by January 2020 Council meeting.

**Keith Drazek** then commented on the [Project List](#), insisting on its importance and that it would be a key document for the SPS. He encouraged all councilors to familiarise themselves with the document and to follow the updates. **Berry Cobb** pointed out the importance of the status and condition codes and what Council actions should be when projects signal that they need extra attention to keep to deadlines. The addition of PDP3.0 improvements as well as the impact of dependencies need to be considered when reflecting what can be done to move a project forward.

#### Action item:



- *GNSO Councilors* to review the entire Project List document as part of the homework for the SPS 2020 preparation.

***Keith Drazek*** adjourned the meeting at 22:53 UTC on Thursday 19 December 2019.