

# Final Proposed Agenda 21 October 2020 - Part 1

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/OAebC>

This agenda was established according to the [GNSO Operating Procedures](#) v3.5, updated on 24 October 2019

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.

GNSO Council meeting held 13:00 CET (Hamburg time)

Coordinated Universal Time: 11:00 UTC: <https://tinyurl.com/y3nxs8rf>

04:00 Los Angeles; 07:00 Washington; 12:00 London; 14:00 Moscow; 20:00 Tokyo; 22:00 Melbourne

GNSO Council Meeting Remote Participation: Not available until 24 hours before.

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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](#) of the GNSO Council meeting on 20 August 2020 were posted on 04 Sep 2020.

[Minutes](#) of the GNSO Council meeting on the 24 September 2020 were posted on 9 October 2020.

## Item 2: Opening Remarks / Review of Projects & Action List (10 minutes)

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

## Item 3: Consent Agenda (10 minutes)

3.1 - [Action Decision Radar](#) - Next Steps for WHOIS Conflicts Procedure Implementation Advisory Group

The GNSO Council has considered the proposed immediate actions and subsequent steps as outlined in the WHOIS Conflicts Procedure IAG (WHOIS IAG) Small Team's [proposal](#). The proposal outlines recommended next steps to consider with respect to modifying the implementation of the WHOIS Conflicts Procedure, in light of public comments received and changes to data protection law that may have affected the implementation of the Procedure. Specifically, the GNSO Council requests:

1. ICANN org, in consultation with contracted parties, to draft a proposal for a modification to the existing Procedure based on its past experience with both the WHOIS Conflicts Procedure and the registrar data retention waiver process. In formulating the draft proposal, the GNSO Council recommends that ICANN org consider changes to data protection law that may have affected the previous implementation of this

Procedure in light of the contractual requirements, e.g., the General Data Protection Regulation. For example, should the identification of a new trigger to activate the procedure be considered given potential financial penalties under GDPR?

2. Following receipt of the proposal from ICANN org, the GNSO Council will consider the proposal and assess next steps, including seeking input from the community, if appropriate, given the substance of the proposal. Following the GNSO Council's consideration, the GNSO Council may choose to adopt the proposal.
3. If the GNSO Council does not deem the proposal appropriate:
  1. the GNSO Council will recommend a small group of Council volunteers to review the [WHOIS IAG draft charter](#) and confirm it is still fit for purpose; and
  2. Following confirmation of the Charter by the GNSO Council, the GNSO Council recommends launching the call for volunteers for the WHOIS IAG, taking into consideration the GNSO Council's upcoming workload. For example, the call for volunteers may need to be postponed if no community bandwidth is available to immediately consider the issues. In the meantime, ICANN org, in conjunction with the EPDP Phase 1 IRT, will need to update relevant terminology pursuant to EPDP Phase 1, Rec. 27.
- Should the GNSO Council consider the outcome developed from the WHOIS IAG unacceptable, the GNSO Council will consider initiating an EPDP to either change or repeal the Consensus Policy.

3.2 - [Action Decision Radar](#) - Per the rationale circulated on 11 October 2020, Council agrees to launch a call for volunteers for a small team to develop both a draft charter and an EPDP scoping document for the IDN Policy Track 2.

3.3 - Following the GNSO Council's consideration of the proposed immediate actions and subsequent steps as outlined [here](#), the GNSO Council directs:

#### **EPDP Phase 2a – Legal/natural and feasibility of unique contacts**

1. The GNSO Policy Support Team communicate to the groups that have appointed members to the EPDP Team that the Council is expected to instruct the EPDP Team to further consider the topics of legal/natural and feasibility of unique contacts per the instructions above, as well as the expected timeframe, provided herein for reference, “[a]t the latest 3 months after reconvening, the Chair of the EPDP Team and GNSO Council Liaison to the EPDP will report back to the GNSO Council on the status of deliberations. Based on this report, which is expected to include an update on progress made and the expected likelihood of consensus recommendations, the GNSO Council will decide on next steps, which could include providing additional time for the EPDP to finalize its recommendations or termination of the EPDP if it is clear that no progress is being made or consensus is unlikely). Request groups to:
  1. Commence process of confirming members availability and/or re- appointing members to work on these topics. Proposed deadline: 15 November.
  2. Start developing proposals to address these topics, factoring in deliberations to date, that will allow the EPDP Team to kickstart deliberations on these topics when it reconvenes.”
- The Council leadership to initiate an Expression of Interest Process to identify a new Chair.

The EPDP Team shall recommence its deliberations upon selection and confirmation of a new Chair; however, should no suitable candidates be found or should the appointment process require significant time, Council leadership will inform the Council accordingly and recommend commencement of deliberations under the leadership of the GNSO Council liaison to the EPDP Team.

#### **Accuracy:**

1. The GNSO Policy Support Team communicates to GNSO SG/Cs, as well as ICANN Advisory Committees that have expressed an interest in the topic of accuracy, the intent of the GNSO Council to launch a scoping team on this topic. Request groups to:

1. Start thinking about members that have relevant knowledge and expertise that should join this effort once the scoping team launches.
2. Start compiling relevant information and suggestions that would allow kickstarting the discussions on 1. and 2. once the scoping team is formed (see [here](#) for resources already identified).
  - Council leadership to request ICANN Org to develop a briefing document that outlines both (i) existing accuracy requirements and programs and (ii) the corresponding impact that GDPR has had on implementing / enforcing these requirements and programs. The document, once delivered, will be provided to the scoping team to inform its deliberations.
  - GNSO Council to consider in the context of the Council Action / Decision Radar, the appropriate starting time for this effort, factoring in other projects that are in the pipeline.

3.4 - Confirmation of the [Recommendations Report](#) to the ICANN Board regarding adoption of recommendations 1-22 contained in the Final Report from the EPDP Temporary Specification for gTLD Registration Data – Phase 2.

3.5 - Appointment of the GNSO Liaison to the Governmental Advisory Committee ([motion](#))

#### **Item 4: COUNCIL DISCUSSION - Discuss Draft Motion to Affirm intent of EPDP Phase 1 Recommendation 7 and Initiation of the Thick WHOIS Transition Policy EPDP (25 minutes)**

In adopting the Expedited Policy Development Process (EPDP) on the Temporary Specification Final Report and Recommendations, the Council requested that an informal Implementation Review Team (IRT) be established, which was done. After the recommendations were approved by the ICANN Board, the informal IRT transitioned to a formal IRT and has diligently been working to implement the policy recommendations. Within the IRT, there are diverging views amongst some IRT members on how to implement recommendation 7, especially in relation to the Thick WHOIS Transition Policy for .COM, .NET, and .JOBS

The ICANN Board, taking note of the potential impasse, sent a [letter](#) to the GNSO Council on 11 March 2020. The Council considered the letter and agreed that recommendation 7 did not explicitly overturn the Thick Whois Transition Policy; to do so will require the GNSO Council to initiate policy development. The Council sent a [response](#) to the ICANN Board on 29 May 2020. The IRT has continued to try and implement recommendation 7 but has still been unable to reach agreement. As such and per the Council's letter, the Council requested a briefing from, "the GNSO Council liaison detailing the precise nature of the impasse so that the GNSO Council can make an informed determination on how to proceed." During its September Council meeting, the Council received a briefing from the GNSO Council liaison to the IRT, Sebastien Ducos. The Council agreed to convene a small team of Councilors that was charged with establishing a path forward to try and resolve the impasse. That small team met to determine what the best practical path forward may be.

Here, the Council will consider the options proposed by the small team, including a draft motion (to be sent under separate cover) that would do two things 1) Affirm the intent of EPDP Phase 1 Recommendation 7; and 2) initiate an EPDP on the Thick WHOIS Transition Policy.

4.1 - Introduction of topic (Council Vice-Chair, Pam Little)

4.2 – Council discussion

4.3 – Next steps

#### **Item 5: COUNCIL DISCUSSION - Draft Operational Design Phase for gTLD Policy Implementation (15 minutes)**

During the 23 September SO/AC Leaders call, the concept of an "Operational Design Phase" was introduced by Goran. The SO/AC Leaders had a preliminary discussion on the topic and Goran indicated that ICANN would produce a paper for community consideration and feedback. That [paper](#) was prepared and was shared with the Council on 5 October 2020.

The objective for this new proposed design phase is to better prepare the Board by providing operational and resourcing information before making decisions on GNSO-approved policy recommendations. The paper notes that while the GNSO Council is the manager of the PDP and gTLD policy development is within the GNSO's remit, consensus policy making involves all stakeholders (including ACs who give advice to the Board). Further, the paper seeks to be clear that this design phase concept doesn't affect policy development or the Consensus Policy Implementation Framework. It recognizes that if policy issues are impacted, they rightfully go back to the GNSO for its consideration, rather than permitting ICANN Org or Board to make unilateral changes.

The Stakeholder Groups and Constituencies were invited and encouraged to provide feedback to the paper. In addition, on a 6 October GNSO Council pre-ICANN working session, Karen Lentz from ICANN org provided additional information and rationale for the new concept.

Here, Councilors will be invited to share their initial thoughts on the concept and the paper.

5.1 - Introduction of topic (Council leadership)

5.2 - Council discussion

5.3 - Next steps

#### **Item 6: COUNCIL DISCUSSION - Board Consultation Regarding Questions Surrounding the financial Sustainability of the System for Standardized Access and Disclosure (20 minutes)**

On 24 September 2020, the GNSO Council adopted the recommendations contained in the Expedited Policy Development Process (EPDP) on the Temporary Specification Phase 2 [Final Report](#). Resolved clause 1b. states:

1. *[if 1a. is adopted] Noting some of the questions surrounding the financial sustainability of SSAD and some of the concerns expressed within the different minority statements, the GNSO Council requests a consultation with the ICANN Board as part of the delivery of the GNSO Council Recommendations Report to the ICANN Board to discuss these issues, including whether a further cost-benefit analysis should be conducted before the ICANN Board considers all SSAD-related recommendations for adoption.*

The request for a consultation with the ICANN Board is not usually an element of the transition of GNSO-approved recommendations from the GNSO Council to the ICANN Board. As such, the Council will need to consider how best to engage with the Board in seeking this consultation.

Here, the Council will discuss next steps as it relates to resolved clause 1b, including whether the draft [Transmittal Letter](#) accurately captures the agreed-upon approach of the Council.

6.1 - Introduction of topic (Council leadership)

6.2 - Council discussion

6.3 - Next steps

#### **Item 7: COUNCIL DISCUSSION - ADR Item - Council to Consider Delay of the Request for the Policy Status Report for the Expiration Policy(ies) (10 minutes)**

As indicated on the [Action Decision Radar](#), the GNSO Council is to consider when to request a Policy Status Report to conduct a review of the two Expiration Policies, the [Expired Domain Deletion Policy](#) (EDDP) and the [Expired Registration Recovery Policy](#) (ERRP). Given the concerns about capacity, along with the circumstances that no known issues have presented themselves, Council leadership is suggesting that the request for Policy Status Reports for these two Consensus Policies can be delayed by a period of 24 months, assuming no substantive issues arise during that time. This would have the effect of deferring the request for a Policy Status Report on the EDDP and ERRP until at least November 2022, where it would then be discussed again to determine if a request is timely.

Here, the Council will consider whether it agrees with this suggestion and if so, agree to include on the November consent agenda.

- 7.1 - Introduction of topic (Council leadership)
- 7.2 - Council discussion
- 7.3 - Next steps

**Item 8: ANY OTHER BUSINESS (20 minutes)**

- 8.1 - Farewell to outgoing Councilors (Elsa Saade, Erika Mann, James Gannon, Julf Helsingius, Keith Drazek, Michele Neylon, Rafik Dammak and Scott McCormick.)
- 8.2 - Open microphone

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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>.

Appendix 2: GNSO Council Absentee Voting Procedures (GNSO Operating Procedures, Section 4.4)

See <https://gns0.icann.org/sites/default/files/file/field-file-attach/op-procedures-30jan18-en.pdf>

References for Coordinated Universal Time of 11:00 UTC

Local time between March and October Summer in the NORTHERN hemisphere

- 
- California, USA (PDT) UTC-7 04:00
  - San José, Costa Rica (CST) UTC-6 06:00
  - New York/Washington DC, USA (EDT) UTC-4 07:00
  - Buenos Aires, Argentina (ART) UTC-3 08:00
  - Rio de Janeiro, Brazil (BRST) UTC-3 08:00
  - London, United Kingdom (GMT) UTC+1 12:00
  - Kinshasa, Democratic Republic of Congo (WAT) UTC+1 12:00
  - Paris, France (CEST) UTC+2 13:00
  - Moscow, Russia (MST) UTC+3 14:00
  - Singapore (SGT) UTC+8 19:00
  - Tokyo, Japan (JST) UTC+9 20:00
  - Melbourne, Australia (AEDT) UTC+11 22:00

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DST starts/ends on Sunday 25 of October 2020, 2:00 or 3:00 local time (with exceptions) for EU countries and on Sunday 01 of November 2020 for the US.

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For other places see <http://www.timeanddate.com> and <https://tinyurl.com/y3nxs8rf>