

## Minutes of the GNSO Council Meeting 19 August 2021

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

Coordinated Universal Time: 19:00 UTC: <https://tinyurl.com/3u3fjdff>

12:00 Los Angeles; 15:00 Washington; 20:00 London; 21:00 Paris; 22:00 Moscow; (Friday) 05:00 Melbourne

### List of attendees:

Nominating Committee Appointee (NCA): – **Non-Voting** – Olga Cavalli

#### **Contracted Parties House**

Registrar Stakeholder Group: Pam Little, Greg Dibiase, Kristian Ørmen

gTLD Registries Stakeholder Group: Maxim Alzoba, Kurt Pritz, Sebastien Ducos

Nominating Committee Appointee (NCA): Tom Dale

#### **Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld, Philippe Fouquart, Osvaldo Novoa, John McElwaine, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Stephanie Perrin, Tatiana Tropina, Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly

Nominating Committee Appointee (NCA): Carlton Samuels (apology sent, proxy to Stephanie Perrin)

#### **GNSO Council Liaisons/Observers :**

Cheryl Langdon-Orr– ALAC Liaison

Jeff Neuman– GNSO liaison to the GAC

Maarten Simon – ccNSO observer

### **Guests:**

Chris Disspain – IGO WT Chair

### **ICANN Staff**

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

Marika Konings – Senior Advisor, Special Projects

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Senior Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager

Ariel Liang – Policy Senior Specialist (apologies)

Caitlin Tubergen – Policy Director

Nathalie Peregrine – Manager, Operations Support (apologies)

Terri Agnew - Operations Support - GNSO Lead Administrator (apologies)

Julie Bisland – GNSO SO/AC Support

[Zoom Recording](#)

[Transcript](#)

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

1.1 - Roll Call

**Philippe Fouquart, GNSO Chair**, welcomed all to the August 2021 Council meeting.

1.2 - Updates to Statements of Interest.

There were no updates to the Statements of Interest.

### 1.3 - Review / Amend Agenda

The agenda was accepted as presented.

1.4 - Note the status of minutes for the previous Council meetings per the GNSO Operating Procedures:

[Minutes](#) of the GNSO Council meeting on 16 June 2021 were posted on 03 July 2021.

[Minutes](#) of the GNSO Council meeting on 22 July 2021 were posted on 06 August 2021.

## **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](#).

**Berry Cobb, GNSO Policy Consultant**, presented the more recent updates of the [Portfolio Management Tool](#), the [Action Decision Radar](#) and the [Project List](#).

**Berry Cobb, GNSO Policy Consultant** gave a heads up on the range of work approaching Council in the next few months.

He clarified that all the tools need to be viewed together. The ADR serves to provide visibility on items which will warrant Council action. The portfolio management tool attempts to create an inventory of everything that will touch the GNSO directly or indirectly. This portfolio is a combination of very specific information (project plans) and more indirect information with educated guesses regarding timelines. He provided the example of a project with perfect Council visibility: the monthly project package destined to provide updated information. This was an output of PDP3.0. There is a new summary dashboard built in now, applied by Transfer Policy PDP, which is a collapsed view of tasks, durations of a project. It replaces the previous summary timeline. There is now greater connectivity between all tools in the portfolio.

He added as an example that it takes a standard of 3 months for the ICANN Board to review recommendations and 18 months if an Implementation Review Team (IRT) begins after that. Once the implementation of the IRT does take place, the tools will be updated accordingly.

The Action Decision Radar (ADR) is only as good as the information entered into the tool. The GNSO Council is working on several things right now as visible on the short term framework of the ADR (0 - 1 month) such as the Final Report on EPDP P2A and confirmation of the CSC Effectiveness Review slate of members, The Annual General Meeting (AGM) also adds items to the ADR which are visible in the 1 - 3 month framework such as the confirmation or selection of the GNSO Council Liaison to the GAC, election of the GNSO Chair, selection of the GNSO Representative to the Empowered Community, refresh the Standing Selection Committee (SSC) roster and confirm Chair, confirmation of the EPDP on

IDNs work plan, GNSO Representatives to the Fellowship program, planning for Council Strategic Planning Session (SPS) and comments to be submitted for the FY2023 PTI/ IANA Budget and Operations Plan.

These tools are an improvement on program planning in comparison to the ones used previously.

**Maxim Alzoba, Registries Stakeholder Group (RySG)**, asked if the EPDP P2A ODP timeframe has changed. **Berry Cobb, GNSO Policy Consultant**, explained that when the Board resolved to launch the ODP it was expected that it would conclude in 6 months time, so aiming for the end of September, it is still on track.

**Jeff Neuman, GNSO Council liaison to the GAC**, mentioned that SubPro & RPM IRTs are work still needed to be done. Could they be added to the ADR? **Berry Cobb, GNSO Policy Consultant**, clarified that the ADR's scope is for Council action/ decision only. In the program management tool, however, there is a generic line item for the IRT which could possibly start in September, but is yet to be confirmed, as the Board needs to take action on it. The Board has not yet resolved to kick off the SubPro ODP either. When the Board actions are known, the items will be clarified on the program management tool.

**Maxim Alzoba, RySG**, asked whether the line numbers on the program management tool be returned to the document for greater readability,

**Kurt Pritz, RySG**, it would be helpful to have further information from the Board, and in general, to plan even further ahead.

**Philippe Fouquart, GNSO Chair**, since these are guesstimates, for work items which are joint between different groups, the guesstimates ought to be aligned once the tools are aligned. He added that he distributed the document to his constituency, and that other councilors do too.

### **Item 3: Consent Agenda**

- Confirmation of Olga Cavalli to serve as the Chair of the Council Committee for Overseeing and Implementing Continuous Improvement

**Philippe Fouquart, GNSO Chair**, thanked Olga for stepping up for the role.

The GNSO Council voted unanimously in support of the Consent Agenda item.

[Vote results](#)

Action Items:

- Confirmation of Olga Cavalli to serve as the Chair of the Council Committee for Overseeing and Implementing Continuous Improvement

#### **Item 4: COUNCIL VOTE - EPDP on Specific Curative Rights Protections for Intergovernmental Organizations (IGO)**

**Pam Little, GNSO Council Vice Chair**, seconded by **John McElwaine**, submitted the [motion](#) to initiate the EPDP on Specific Curative Rights Protections for IGOs and approve the EPDP Charter.

Whereas:

1. The GNSO Council approved an Addendum to the Review of All Rights Protection Mechanisms (RPMs) Policy Development Process (PDP) Charter in January 2020 that created an IGO Work Track to address concerns arising from Recommendation #5 of the IGO-INGO Access to Curative Rights Protections PDP that Councilors had expressed during their discussion of the five recommendations in the Final Report;
2. The GNSO Council had approved the first four recommendations from the IGO-INGO Access to Curative Rights Protection PDP, but not Recommendation #5; which the GNSO Council decided to refer to the RPMs PDP, to consider as part of its Phase 2 work;
3. Taking into account that IGO representatives were eager to start the work and Phase 2 was anticipated to launch shortly after the completion of Phase 1, the GNSO Council launched the IGO Work Track in September 2020, during Phase 1 of the RPMs PDP;
4. Phase 1 of the RPMs PDP concluded with the GNSO Council's approval of all its final recommendations in January 2021;
5. Due to concerns raised as to the scope of Phase 2, including from the Phase 1 Working Group's feedback through its self-assessment exercise, the GNSO Council considered it necessary to review and revise the RPMs PDP Charter prior to launching Phase 2;
6. As Phase 2 will involve the first-ever comprehensive review of the Uniform Domain Name Dispute Resolution Policy, which has been an ICANN Consensus Policy since 1999, the time and effort involved in rechartering of Phase 2 of the RPMs PDP is likely to be significant;
7. The GNSO Council believes that the IGO Work Track has made substantial progress in its deliberations and that it is important to maintain the group's momentum, so as to allow the community to attempt to reach consensus on a long-standing issue;
8. The scope of work for the IGO Work Track focuses on a specific and defined policy issue that has been substantively scoped previously, such that extensive, pertinent information already exists;
9. The GNSO Council therefore believes that initiating an Expedited Policy Development Process (EPDP) to enable the policy work to continue without delay is the most appropriate procedural path forward. The GNSO Council recognizes that initiating this EPDP is entirely a procedural action and will not have a material negative impact; and

10. On 09 August 2021, in accordance with the EPDP Manual, Pam Little submitted an Initiation Request ([document](#) updated 18 August 2021) and a [draft EPDP Charter](#) to the Council for its consideration.

Resolved:

1. The GNSO Council hereby approves the Initiation Request for the EPDP and as such initiates the EPDP on Specific Curative Rights Protections for Intergovernmental Organizations (IGOs).
2. The GNSO Council hereby approves the EPDP Charter for Specific Curative Rights Protections for IGOs, which reflects the same scope of work as captured in the IGO Work Track Addendum and thus continues the work of the IGO Work Track, which is hereby disbanded.
3. The GNSO Council directs the Chair and members of the IGO Work Track to continue its work as the EPDP Team on Specific Curative Rights Protections for IGOs, and to deliver its reports and outcomes in accordance with the EPDP Charter and the [work plan](#) that was developed by the IGO Work Track and acknowledged by the Council on 22 April 2021 and amended by a [Project Change Request](#) on 22 July 2021.
4. The GNSO Council directs staff to communicate the results of this vote to the members of the IGO Work Track and all participating Supporting Organizations, Advisory Committees and GNSO Stakeholder Groups and Constituencies.

**Philippe Fouquart, GNSO Chair**, introduced the motion, and explained that initiating the EPDP is a procedural remedy, with no impact on resources but it is intended to provide the WT with a robust procedural remit, and will not impact the scope of the group. The EPDP mechanism does not change how Council will review the outcome. In addition, this will not impact the momentum either of the WT. Council leadership appreciates that this was not the initial path chosen by Council previously but the context was different. Currently waiting for RPM Phase 2 to start has too many drawbacks. However a GNSO Council discussion is at this time welcome.

**Pam Little, GNSO Council Vice Chair**, presented the motion ([Slide Deck](#)) . It's been three years since the IGO Curative Rights Final Report was delivered. Council then deliberated how to deal with the five recommendations from the group. Several months later, Council approved recommendations 1- 4 and referred recommendation 5 to RPMs Phase 2. Later, Council approved the IGO WT addendum to the RPMs Charter. The WT then kicked off a few months later, in September 2020, with a first meeting in September 2021. In January 2021, RPMs Phase 1 delivered the Final Report. Usually, after a Final Report, the group disbands, Now Council is in the process of deciding what to do with RPMs Phase 2, but the IGO WT does not have an umbrella group. The focus is on recommendation 5 on jurisdictional immunity to be specific. The problem statement included in the addendum for the WT is very technical, narrow and complicated. The charge to the WT was to see if an appropriate policy solution was possible, consistent with recommendations 1 - 4. Council approved these at the time, so the principle of the WT needs to be consistent. Regarding the deliverables under the current Addendum, Council contemplated that the RPM WG would have a chance to look at the WT initial Report and provide input, in an oversight

role. Council also recognised that the WT would consist of subject matter experts, so the RPM WG would be expected to accept them as a formality, unless the WG raises specific objections not previously raised by the IGO WT or in the public comments. This is an unusual situation, the WT has almost completed its Initial Report, in order to capture the momentum, it ought to be converted to an EPDP. Other options would be to wait for RPMs Phase 2 to launch, or reconvene Phase 1, but the work is important and must be completed. The main change in deliverables under the proposed EPDP Charter is the way in which the initial Report and Final Report will be delivered. The draft charter for the EPDP IGO has been created based on PDP3.0 guidelines, and in keeping with the addendum.

**Tomslin Samme-Nlar, Non Commercial Stakeholder Group (NCSG)**, asked about the possible scope change. **Philippe Fouquart, GNSO Chair**, replied that there is no change of scope, moving to an EPDP is a procedural remedy.

**Mark Datysgeld, Business Constituency (BC)**, stated that this topic has been taking a while, and asked whether the EPDP team will have the tools and information to do the work, as it does seem to be scattered amongst several groups. The work could be unrealistic or unfocussed.

**Philippe Fouquart, GNSO Chair**, clarified that the framework would take this into account, Council's role is mainly procedural. Substantive explanations would be provided by the WT Chair.

**Chris Disspain, WT Chair**, replied that there are no guarantees that the WT can come to a reasonable conclusion, but that the work was going well. He raised the scope question with Council leadership when they were discussing finding a home for the WT, as some parts of the community could find some items of the WT concern out of scope. However there is full understanding within the WT that the work must stay within Council instructions/expectations, only community perception could be slightly different. The current work of the WT, and the preliminary recommendations are within scope and consistent with the Council's approval of RPMs recommendations.

**Philippe Fouquart, GNSO Chair**, thanked Chris for his intervention, and added that having the WT Chair reassurance on the topic of scope was, for him, sufficient.

**Tatiana Tropina, GNSO Council Vice Chair**, recognised the scope issue had been unclear for her, and asked to confirm that the WT is not directed to change the scope now or before the preliminary report.

**Chris Disspain, WT Chair**, confirmed her interpretation of the current situation.

**Kurt Pritz, RySG**, asked if the EPDP can change the conclusion of a PDP or not, **Pam Little, GNSO Vice Chair**, responded that these are unchartered waters, however the language in the EPDP charter is consistent with that of the Addendum. Recommendations 1 - 4 have been approved by Council, not yet by ICANN Board, so they remain policy recommendations, which adds a little to the confusion but the Council instructions (regarding consistency with previous Recommendations 1-4, etc.) are reflected in the proposed EPDP Charter so if the Council decides to initiate the EPDP, the EPDP Team will be constrained by those instructions.

**Maxim Alzoba, RySG**, asked if there will be a PDP soon, as there are many EPDPs at the moment.

The GNSO Council voted unanimously in support of the motion.

#### [Vote results](#)

#### Action Items:

- The GNSO Council directs staff to communicate the results of the vote on the EPDP on Specific Curative Rights Protections for Intergovernmental Organizations to the members of the IGO Work Track and all participating Supporting Organizations, Advisory Committees and GNSO Stakeholder Groups and Constituencies.

#### **Item 5: COUNCIL VOTE: CSC Effectiveness Review Terms of Reference**

**Pam Little, GNSO Council Vice Chair**, seconded by **Maxim Alzoba**, submitted a [motion](#) for Council to vote to approve both the method of review and the GNSO representatives for the team.

Whereas,

1. The Customer Standing Committee (CSC) was established as one of the post IANA Transition entities and conducted its first meeting on 6 October 2016.
2. The ICANN Bylaws, Section 17.3 (b) states, "The effectiveness of the CSC shall be reviewed two years after the first meeting of the CSC; and then every three years thereafter. The method of review will be determined by the ccNSO and GNSO and the findings of the review will be published on the Website."
3. On 27 June 2018, in the process of adopting the amended CSC Charter as required by the ICANN Bylaws, Section 17.3 (c), the Council [resolved](#) that it, "... notes the recommendation in the Final Report that the ccNSO and GNSO Councils conduct an analysis of the requirements of the IANA Naming Function Review and the CSC Effectiveness Review with a view to creating synergies and avoiding overlap, and has appointed two Councilors to conduct the recommended analysis in cooperation with two representatives from the ccNSO."
4. Donna Austin and Philippe Fouquart, as the two appointed GNSO Councilors, and Debbie Monahan and Martin Boyle from the ccNSO, concluded that the most practical and efficient path forward was for the ccNSO and GNSO to each appoint two members to conduct the CSC Effectiveness Review that will consider the effectiveness of the CSC in performing its responsibilities as outlined in the CSC Charter.
5. On 27 September 2018, the GNSO Council approved the process for the first Customer Standing Committee (CSC) Effectiveness Review and appointed Donna Austin and Philippe Fouquart to serve as the GNSO representatives on that team.
6. That review team delivered its Final Report on 5 March 2019, where the team concluded that the CSC is operating effectively against 14 requirements from the CSC's Charter; the GNSO Council approved the Final Report on 13 March 2019.

7. As per the Bylaws, Section 17.3 (b), the ccNSO and GNSO Councils will need to determine the method for conducting the second CSC Effectiveness Review before 1 October 2021.
8. The template to conduct the second CSC Effectiveness Review was conditionally approved by the ccNSO Council and was shared with the GNSO Council on 9 August 2021.
9. The [template](#) has been reviewed and non-substantive changes recommended for the purposes of clarity and to make the timeline more achievable.
10. On 9 August 2021, Donna Austin and Jonathan Robinson were put forward to the GNSO Council as the GNSO appointees to serve on the second CSC Effectiveness Review.

Resolved,

1. The GNSO Council approves the amended template for conducting the second CSC Effectiveness Review as suggested.
2. The GNSO Council appoints Donna Austin and Jonathan Robinson as the GNSO Council representatives of the second CSC Effectiveness Review.
3. The GNSO Council requests that the GNSO Secretariat notify ICANN Org no later than 30 September 2021 that the GNSO has approved of the method of review and GNSO representatives for the second CSC Effectiveness Review.

**Philippe Fouquart, GNSO Chair**, introduced the motion for template approval which has been approved by the ccNSO Council already. In addition, two GNSO representatives, Donna Austin and Jonathan Robinson, have been added to the motion. Minor amendments were suggested, which were accepted as friendly by Pam Little, GNSO Vice Chair, submitter of the motion.

The GNSO Council voted unanimously in support of the motion. **Kurt Pritz, RySG**, mentioned that he was in a personal relationship with Donna Austin and clarified that he was voting as directed by the RySG,

[Vote results](#)

Action Items:

- The GNSO Secretariat notifies Donna Austin and Jonathan Robinson that the GNSO Council has appointed them as the GNSO Council representatives of the second CSC Effectiveness Review.
- The GNSO Secretariat notifies ICANN Org no later than 30 September 2021 that the GNSO has approved of the method of review and GNSO representatives for the second CSC Effectiveness Review.

#### **Item 6: COUNCIL DISCUSSION - Planning for the Virtual AGM, ICANN72**

**Philippe Fouquart, GNSO Chair**, presented the [Draft GNSO ICANN72 schedule](#) for ICANN72.



**Jeff Neuman, GNSO Liaison to the GAC**, raised that an hour for Board, GAC meeting prep, was maybe insufficient. He added that before ICANN71, topics of discussion and issues had been circulated between the GNSO and the GAC to allow for sufficient preparation time.

Action Items:

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**Item 7: ANY OTHER BUSINESS**

7.1 - Strategic Planning Session Planning

Current leadership is working on this, new 2021-2022 Council leadership will pick up on the effort closer to the time. Schedule drafting is taking into account survey input from the previous SPS. The format will be similar to SPS 2020.

**Marika Konings, ICANN org**, added that this was a notice to Council that planning had started. Draft documents will be shared shortly, and invites sent out. The main difference with the previous SPS is that several introductory sessions would take place before the AGM. There will be fewer break out sessions on the SPS 2021 schedule. Councilor suggestions would be welcome.

**Maxim Alzoba, RySG**, suggested preparing PDFs with the items supported by the participants from the previous SPS and numbering them clearly, to narrow down the focus of the SPS.

**Pam Little, GNSO Council Vice Chair**, encouraged councilors to provide suggestions and feedback ahead of time to take ownership.

7.2 - Expressions of Interest process for the expected SubPro Operational Design Phase liaison

Leadership with staff will develop a request for an Expression of Interest for the liaison role.

7.3 - EPDP Phase 2a status update

**Philippe Fouquart, GNSO Council liaison to EPDP Phase 2a**, provided an update on the team's latest activities. EPDP Phase 2a is reviewing the public comments aiming for a Final Report in September, No Project Change Request (PCR) has been submitted. There is no agreement on the topic of legal vs natural, so the contracted parties may choose to differentiate between the two, but are not required to. The EPDP is working on updating its guidance for the contracted parties who choose to differentiate. For this, the team is working on the Initial Report recommendation 3 and a potential standardised data element which would differentiate between both, this would require adapting the RDAP protocol and a parameter for the system, the SSAD being one example of that. On feasibility of unique contact, the Initial Report raised the issue of if feasible should be a requirement. On this matter, there is no consensus for a recommendation/ If feasible but not a requirement, a preliminary recommendation is being proposed to the contracted parties.

**Philippe Fouquart, GNSO Chair**, reminded Council of the deadline for councilors comments on the August report from the SSAD ODP liaison, notably concerning recommendation 14. He also reminded the need for an Accuracy Scoping team Chair, deadline 25th August 2021.

Action Items:

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***Philippe Fouquart, GNSO Chair, adjourned the meeting at 20:54 UTC on Thursday 19 August 2021***