

Minutes of the GNSO Council Meeting 14 April 2022

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

GNSO Council meeting held 13:00 UTC: <https://tinyurl.com/mwkm43zr>

06:00 Los Angeles; 09:00 Washington DC; 14:00 London; 15:00 Paris; 16:00 Moscow; 23:00 Melbourne

List of attendees:

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

Contracted Parties House

Registrar Stakeholder Group: Antonia Chu, Theo Geurts, Greg Dibiasi,

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

Nominating Committee Appointee (NCA): Desiree Miloshevic

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Marie Pattullo (apologies, proxy to Mark Datysgeld), Mark Datysgeld, Philippe Fouquart, Thomas Rickert, John McElwaine, Flip Petillion

Non Commercial Stakeholder Group (NCSG) Manju Chen, Wisdom Donkor, Farrell Folly, Stephanie Perrin, Juan Manuel Rojas, Tomslin Samme-Nlar,

Nominating Committee Appointee (NCA): Paul McGrady

GNSO Council Liaisons/Observers:

Justine Chew – ALAC Liaison

Jeffrey Neuman – GNSO liaison to the GAC

Maarten Simon – ccNSO observer

Guest speakers: Chris Disspain, Chair of EPDP on Specific Curative Rights Protections for IGOs

ICANN Staff

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

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

Marika Konings - Vice President Policy Development Support

Julie Hedlund – Policy Development Support Director

Steve Chan – Senior Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Senior Manager

Ariel Liang – Policy Senior Specialist

Caitlin Tubergen – Policy Director

Terri Agnew - Operations Support, Lead Administrator

Nathalie Peregrine – Manager, Operations GNSO

[Zoom recording](#)

[Transcript](#)

Item 1. Administrative Matters

1.1 - Roll Call

1.2 - Statements of Interest

There were no updates to 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 17 February 2022 were posted on 07 March 2022.

[Minutes](#) of the GNSO Council meeting on 09 March 2022 were posted on 24 March 2022.

Item 2. Opening Remarks / Review of Projects and Action List

Berry Cobb, ICANN org, briefly commented on the [Projects List](#) and [Action Item List](#), including the Project Management [portfolio](#), as [circulated](#) previously on the GNSO Council mailing list.

He highlighted that the portfolio suite of tools is updated for every monthly meeting. There are two key components: the [Action Decision Radar](#) (ADR) and the [Project List](#).

Berry Cobb, ICANN org, highlighted the following points on the [Action Decision Radar](#):

- ADR Unplanned section: DNS Abuse has been there for a while. Now a small team is active, and another small team has been formed to respond to the Board on Modifying Consensus Policies. These items in the unplanned section are indicative of the additional work which will be triggered by the outputs of these small groups.
- 0 - 1 month range marker: Small team EPDP Phase 2 SSAD Review is working on responding to the ODA and the ICANN Board. The EPDP on Curative Rights Protections on IGOs is on the Council April agenda. Planning is underway for ICANN74.
- 1 - 3 month range marker: active Public Comment open on Review of Rights Protections Mechanisms on UDRP. Council to send the EPDP CRP IGO Final Report recommendations to ICANN Board. The Transfer Policy Review Working Group is still on target.
- 3 - 6 month range marker: End of June/July timeframe. All required activities regarding the Operations program (Customer Standing Committee GNSO representative, ICANN74 GAC Advice for GNSO response, Council to consider requesting a Policy Status Report on the Expiration Policy) will start to kick in.

Philippe Fouquart, GNSO Chair, added staff and leadership are working on a paper related to the PDP Improvements.

Action items: none

Item 3. Consent Agenda: no item

Item 4. COUNCIL DISCUSSION - Small Team Reviewing the System for Standardized Access/Disclosure (SSAD) Operational Design Assessment Preliminary Draft Report

Sebastien Ducos, small team Chair, reminded councilors that the small team's [preliminary report](#) was [circulated](#) to Council on the 4th April 2022. The small team reviewed the ODA to see if it accurately reflected the EPDP Phase 2 team's recommendations. The small team found a number of inaccuracies and errors of interpretation. This was due to the fact the ODP team had made a few decisions which did not reflect the view of the EPDP team, but were necessary to make some evaluations. The small team asked these errors to be recorded to avoid carrying them over to the IRT. Regarding the cost analysis, there was not enough information in the ODA for the small team to come to a clear-cut decision. The small team shared views on the Board's concerns, specifically referring to the [letter](#) received before the ODA publication at the end of January. The Board's concern was towards the enormity of the cost, and was therefore envisioning reducing the SSAD's ambitions to look at a tool with a reduced set of features. The small team thought that it would be wise for the Board to pause any decision and to go into a pilot phase of a simplified version of the SSAD for up to two years, with a 6 month periodic review. This would allow for time to test hypotheses around usage, traffic, outcomes. The [preliminary report](#) goes into more detail about proof of concept.

The small team exchanged with the Board GDPR Caucus on the topic of proof of concept. It was well received and then shared with the ODP team which was tasked preemptively with evaluating the solutions described in the proof of concept and putting a price tag and a precise timeline on the project. The ODP team suggested that they take 4 to 6 weeks to review the proof of concept and to send a response back to the small team prior to June 2022. The GNSO Council needs to approve this way forward, and the Board will need to follow for the ODP to have the green light to move ahead. Steve Crocker and Michael Palage have communicated their thoughts, concerns and alternative solutions to the small team. They have been taken onboard, and the outreach is appreciated. The small team is moving forward. Not taking action on these correspondences at this moment does not hinder the suggestions being taken into account further down the line.

Manju Chen, Non Commercial Stakeholder Group (NCSG), raised a question about the document "the SSAD Light Concept note" being similar but different to another document called "Proof of Concept".

Sebastien Ducos responded that the group found it difficult to agree on a name for the proof of concept. The SSAD Light Concept is the ODP's response to the small team's request to look into a proof of concept.

Tomslin Samme-Niar, GNSO Vice Chair, NCSG, asked who is going to pay for the light proof of concept, and also, procedurally, how will the GNSO Council give the small team a green light to move forward.

Sebastien Ducos responded that regarding the first question, the ODP estimate of costs withstanding, the Board would cover the costs. He added that there would be no formal vote on the green light today, only Council's informal agreement that the small team can proceed.

Theo Geurt, Registrar Stakeholder Group (RrSG), raised that a proof of concept is generally useful, but maybe not useful here where the idea seems to be stripping the SSAD to a bare functional tool to gather data. Gathering data is a good move, but how does one organize getting participants to use a proof of concept? From the report, it does not seem to factor in if a disclosure request was successful in giving back data or not.

Sebastien Ducos responded that in order to rally interest and people, success needs to be tangible. Success can be defined differently depending on perception. In this situation, it is defined as someone making a request and receiving a positive answer if the question is formulated properly, or receiving a clear negative response with justification to allow for constructive follow up. The first stage of the SSAD may not fully represent the market, but its aim is to get there.

Kurt Pritz, RySG, thanked the small team for their work. He asked about the Council green light and whether it signaled the small team can continue working on the project or whether it was to send a response to the Board in form of the letter.

Sebastien Ducos clarified that it was for both.

Kurt Pritz, RySG, suggested that with the financial and staffing investment involved, the proof of concept should highlight what the results could/should be. His reading of the paper is that financial sustainability is excluded from proof of concept. The revenue and also cost of SSAD should be clarified. He added that user surveys would be informative. The proof of concept is key and should be properly scoped.

Sebastien Ducos agreed that the conversation is not closed, and a green light is needed for it to continue in this direction.

Tomslin Samme Nlar, NCSG, asked how to convey the green light and to understand the consequences. If the letter is sent to the Board allowing the investigation to proceed, is Council saying to go ahead with the proof of concept?

Sebastien Ducos confirmed it was the first proposal, to allow the investigation to proceed, and not a request to move forward with the proof of concept.

Philippe Fouquart, GNSO Chair, mentioned that a large number of Board members are involved in this and that Council's input as to future progress will be key.

Action Items:

- GNSO Council leadership to draft a letter to the ICANN Board of Directors for review by the GNSO Council on the review of the SSAD ODA in which it would:
 1. Share the EPDP Phase 2 small team preliminary report (with the necessary caveats);
 2. Recommend pausing consideration of the SSAD recommendations for now;
 3. Request ICANN org to proceed with the design of "SSAD Light," but make clear that a final decision on whether to proceed or not would need to be taken once further information is available with respect to costs, details and timing of implementing "SSAD Light."

Item 5. COUNCIL DISCUSSION - Overview of the EPDP on Specific Curative Rights Protections for IGOs Final Report

Chris Disspain, EPDP on Curative Rights Protections for IGOs Chair, provided an overview of the recommendations for Council to vote in support of the [Final Report](#) during the May 2022 Council meeting. The five recommendations found full consensus in the EPDP. The broad overview can be found on slide 3 of the [presentation deck](#).

Next steps are for the GNSO Council to consider the recommendations and send them to the Board.

Chris Disspain, EPDP on Curative Rights Protections for IGOs Chair, thanked everybody involved, the members of the working group who made it work with a full consensus-based set of recommendations, and the staff supporting the effort. He acknowledged the work of the previous PDP under Philip Corwin.

Berry Cobb, ICANN Org, added that there is annex A in the [Final Report](#) which outlines high level principles with respect to the formation and execution of any form of arbitration. If an IRT is created, the topic is specific and complex and community participation in the IRT will hopefully include several of the EPDP team members.

Paul McGrady, NomCom Appointee (NCA), congratulated Chris Disspain on his job as Chair of the EPDP, as he was inclusive and kept the work moving forward.

Philippe Fouquart, GNSO Chair, thanked Chris and encouraged him to share lessons learned with Council for future working groups. He asked councilors to review the draft motion in time for it to be submitted to Council for the May GNSO Council meeting.

Action Item: none

Item 6. COUNCIL DISCUSSION - DNS Abuse Small Team update

The small team was convened two months ago, refined their terms of reference and reached out to other Supporting Organizations and Advisory Committees (SOs and ACs) for their input. The small team is currently reviewing the inputs. The plan is to deliver the initial conclusions by June 2022.

Mark Datysgeld and Paul McGrady, small team co-chairs, updated the GNSO Council on the small team activities.

Mark Datysgeld, Business Constituency (BC), said the group has come a long way in a very short time. Starting with a vague goal, the collective work led to a clear goal. There has also been an outreach effort. All the SO/AC groups plus the DNS Abuse Institute have been involved in this conversation. All have provided or are in the process of providing replies. Most replies seem to indicate there is demand for this type of work, as most communities have developed impressions on what the community should be trying to accomplish. The GNSO Council taking a proactive step has been very welcome. The small team is reviewing input tentatively whilst waiting for all feedback to be reviewed. To date the ideas received seem very actionable. The small team should be able to deliver a guide of what the community expects.

Paul McGrady, NomCom Appointee (NCA), added that the aim will be to inform the GNSO Council on next steps.

Action Item: none

Item 7. COUNCIL DISCUSSION - Closed Generics Team update

Philippe Fouquart, GNSO Chair, provided context. In March 2022, the Board [invited](#) the GNSO & GAC to a dialogue on closed generics. A [framing paper](#) drafted by ICANN org was circulated shortly afterwards. A small team was convened to review the invitation by the Board. The task of the small team

is to reply positively or negatively to the invitation, the step after would be to initiate a dialogue with the GAC to agree on the scope, operating principles, and a working method. Other topics such as criteria could be added for consideration, as suggested by the Board in its role as facilitator. Council also needs to provide input on the participation model, should the ALAC be included for instance? He clarified none of the steps mentioned were substantive.

Four members of the small team reviewed the paper, three believed the question was straight forward and agreed to the dialogue. Some concerns were expressed by **Manju Chen, NCSG**, as reflected in the NCSG letter [sent](#) to Council a few hours before the call. Should this move forward, the group should be extended as GNSO diversity of views was not being represented correctly.

Manju Chen, NCSG, mentioned that the gating question tasked by GNSO Council to the small team should be answered by the full Council as the small team was not representative enough. She added that the NCSG opposes the idea of the dialogue because the GAC has had many opportunities to express their opinions (opinions other than mentioning that it should align with public interest) during the SubPro PDP WG for instance. The NCSG also doesn't believe that closed generics is a GAC specific issue and disapproves of the advantage the GAC is benefitting from the dialogue. The proposed role of the GAC in this dialogue is giving the advisory committee an exaggerated role in policy-making. In the interest of the multistakeholder model, a more balanced approach would be appreciated. The NCSG suggests seeking community comments on how the dialogue should take place; there are existing mechanisms to that aim.

Jeff Neuman, GNSO Liaison to the GAC, disagreed with the notion that the GAC hasn't provided input on the topic. There has not been new GAC advice in a while, but the GAC submitted many comments to the SubPro Working Group directly as well as during the Public Comment periods. He added that there had been no recommendation on the SubPro part on closed generics, so the topic is still in front of the Board, no group has been given priority yet. The issue is a unique one. But all the GNSO Council is being asked to do is talk to the GAC about how the facilitated dialogue will take place. It would be poor form for the GNSO Council to not move to the next step.

Philippe Fouquart, GNSO Chair, asked Manju Chen if the NCSG was refusing to talk with the GAC upfront, or that when it comes to the actual dialogue, the structure was too restricted. He added that turning down an invitation to discuss the form of a dialogue would be perceived as not wanting to try. Step two could also imply agreeing to a wider invitation.

Manju Chen, NCSG, responded that the NCSG opposes the dialogue being held between the GNSO & GAC. This is due to the fact it is an invented process, and appears in no document. The opposition is procedural.

Philippe Fouquart, GNSO Chair, expressed confusion as to the term "invented process" but noted the NCSG's concerns.

Paul McGrady, NCA, stated that the GAC had already accepted the invitation, and as such, the GNSO should accept the dialogue, as communication is key in the spirit of multistakeholderism.

Kurt Pritz, RySG, added that the GNSO Council needs to make the decision swiftly, as any additional delay casts a bad light on future discussions. The RySG supports the dialogue, which is not an open policy-making discussion as the Board put guardrails around the dialogue by making the question asked very specific. He did add that the small team was under-representing Council, but that this could be improved by a small group of councilors working on how the dialogue would be run.

Jeff Neuman, GNSO Liaison to the GAC, asked for confirmation that all the GNSO Council was being asked to do was to meet with the GAC to discuss the rules of engagement for a potential discussion on closed generics.

Philippe Fouquart, GNSO Chair, responded that if it is too difficult for councilors to accept the dialogue, the purpose of the first step is just to agree on discussing the format of the dialogue.

Jeff Neuman, GNSO Liaison to the GAC, added that the facilitated dialogue was not restricted to just one meeting.

Tomslin Samme Nlar, GNSO Council Vice Chair, NCSG, stated that the NCSG had asked for an inclusive community dialogue. Do we assume that the group from Council is representative of the GNSO community? Will there be an opportunity for non-council members, subject matter experts for example, to make up that group?

Philippe Fouquart, GNSO Chair, responded tentatively that the extended small team would be based on the representative model within Council but that it would be open to discussion in Council.

Jeff Neuman, GNSO Liaison to the GAC, mentioned the SubPro Final Report provision, fully approved, which made no mention of a representative model for future work on the topic of closed generics.

Paul McGrady, NCA, responded that this provision concerned policy work which this dialogue is not. It may be that in the future, but for now, a dialogue is all which is being considered.

Tomslin Samme Nlar, GNSO Council Vice Chair, NCSG, stated that the Board letter put no restriction on who should take part in the dialogue.

Philippe Fouquart, GNSO Chair, suggested that the small team be extended with other councilors to ensure views expressed are representative. The small group can come up with the elements needed for the dialogue including the concerns raised by the NCSG. On that basis, the facilitated dialogue could proceed with next steps and conditions to work on the process for the discussion. He added that declining the discussion was impossible.

Action Items:

- The GNSO Council to expand the Closed Generics Small Team with additional GNSO councilors for greater representativeness, and task the Small Team with determining whether it should be extended to the ALAC, and with developing the formal proposed conditions for that dialogue.
- The GNSO Council leadership to indicate to the ICANN Board of Directors the GNSO Council's willingness to have a facilitated dialogue, subject to agreement on the conditions and modalities for the dialogue.

Item 8: ANY OTHER BUSINESS

8.1 – ICANN74 update and planning

Staff encouraged councilors to register to the ICANN74 website.

8.2 - Council expertise survey reminder

Staff reminded councilors to complete the expertise survey reminder.

Action item:

- Councilors are reminded to complete the expertise survey.

8.3 - Working Group Self-Assessment - EPDP on Specific Curative Rights Protections for IGOs - Proposed pilot of updated questions recommended by the CCOICI

Philippe Fouquart, GNSO Chair, asked if there were objections or concerns to the pilot of updated questions, that they be sent to the Council mailing list shortly.

Action Item:

- Council leadership to follow up on the GNSO Council list by 15 April and give until 22 April for any objections to the suggested approach to be raised by Councilors on the list.

Philippe Fouquart, GNSO Chair, adjourned the meeting at 15:06 UTC.

The next GNSO Council meeting will take place on Thursday 19 May 2022.