Minutes of the GNSO Council Meeting 20 July 2023
Agenda and Documents

GNSO Council meeting on Thursday, 20 July 2023 at 21:00 UTC: https://tinyurl.com/5n99j4vt.

14:00 Los Angeles; 17:00 Washington DC; 22:00 London; 23:00 Paris; (Friday) 00:00 Moscow; (Friday) 07:00 Melbourne

List of attendees:
Nominating Committee Appointee (NCA): **– Non-Voting** – Anne Aikman Scalese
Contracted Parties House
Registrar Stakeholder Group: Antonia Chu, Greg DiBiase, Theo Geurts (apologies – proxy to Greg DiBiase)
gTLD Registries Stakeholder Group: Nacho Amadoz (apologies – proxy to Kurt Pritz), Kurt Pritz , Sebastien Ducos
Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evans
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld, Osvaldo Novoa (apologies – proxy to Thomas Rickert), Thomas Rickert, John McElwaine, Susan Payne
Non-Commercial Stakeholder Group (NCSG): Stephanie Perrin, Bruna Martins dos Santos, Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly, Manju Chen
Nominating Committee Appointee (NCA): Paul McGrady
GNSO Council Liaisons/Observers :
Justine Chew : ALAC Liaison
Jeff Neuman: GNSO liaison to the GAC
Everton Rodrigues: ccNSO observer

Guest: Donna Austin, IDNs EPDP Chair

ICANN Staff:
David Olive - Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional (apologies)
Marika Konings - Vice President, Policy Development Support
Mary Wong - Vice President, Strategic Policy Management (apologies)
Steve Chan – Vice President, Policy Development Support & GNSO Relations
Julie Hedlund - Policy Development Support Director (GNSO)
Berry Cobb - Senior Program Manager, Policy Development Support
Emily Barabas - Policy Development Support Senior Manager (GNSO) (apologies)
Ariel Liang - Policy Development Support Manager (GNSO)
Caitlin Tubergen - Policy Development Support Director (GNSO)
Terri Agnew - Policy Operations Specialist (GNSO)
Devan Reed - Secretariat Operations Coordinator

Item 1. Administrative Matters

1.1 - Roll Call

1.2 - Statements of Interest (SOI).

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 Extraordinary Council meeting on 05 June were posted on 19 June 2023.

[Minutes](#) of the GNSO Council meeting on 14 June were posted on 01 July 2023.

Action items:

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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.](#)

Sebastien Ducos, GNSO Chair, noted that the Applicant Support GNSO Guidance Process (GGP) is scheduled to deliver their report at the end of July 2023. There will be a 40 day public comment period starting 31 July 2023 that will end on 09 September 2023. Please be aware that there are a number of groups that are understaffed in August.

Action items:

Item 3: Consent Agenda

Greg DiBiase, GNSO Council Vice Chair, took the floor to introduce the Consent Agenda items and acknowledged Susan Payne, IPC.

Susan Payne, IPC, shared that the IPC would like to make a statement on the Accuracy item of the consent agenda.

Anne Aikman-Scalese, NCA, asked whether the response to the GAC Communiqué is a matter for the consent agenda. Anne Aikman-Scalese, NCA, noted that she had made a comment on the mailing list about SubPro Recommendation 17.2 language revisions to remove the word "yet" as the ICANN Board has indicated non-adoption.

Greg DiBiase, GNSO Council Vice Chair, shared that Anne Aikman-Scalese, NCA's update does not seem controversial and upon hearing no objection will make that change part of the consent agenda.

John McElwaine, GNSO Council Vice Chair, suggested that the Council votes on the consent agenda and then the GNSO Operating procedures allow for the IPC statement to be made after the vote.

Jeffrey Neuman, GNSO Liaison to the GAC, suggested not making the change to 17.2 as it may be interpreted differently, as to say that the Board has indicated non-adoption in an official response to the communiqué might cause consternation with the GAC.

Anne Aikman Scalese, NCA asked to delete the word "yet" as the Board already indicated to the GAC that they are discussing non-adoption.

Stephanie Perrin, NCSG, affirmed that deleting the word "yet" to remain diplomatic while avoiding any errors.

Greg DiBiase, GNSO Council Vice Chair, stated that he saw Manju Chen, NCSG, indicating support to remove the word "yet" in chat.

There were four items on the consent agenda:
- Registration Data Accuracy Scoping Team Recommendations #1 and #2 – extending deferral of consideration by six months

Action Items:
1. The GNSO Council extends the deferral of consideration of recommendations #1 and #2 of the Registration Data Accuracy Scoping Team write up for another six months; reflects as such in its Program/Project Management Tools; and requests the GNSO Secretariat to communicate this decision to the Scoping Team and ask them to communicate the outcome to their respective groups.
2. GNSO Council Leadership to send a letter to ICANN org and Contracted Parties to request a status update on the DPA negotiations.
3. The GNSO Council commits to considering the Scoping Team recommendations at an earlier date if the DPA negotiations have been completed before six months have passed and/or there is feedback from ICANN org if/how it anticipates the requesting and processing of registration data will be undertaken in the context of measuring accuracy.

- GNSO Review of GAC Communiqué

Action Items:
1. The GNSO Council Chair communicates the GNSO Council Review of ICANN77 GAC Communiqué Advice to the ICANN Board and copies the GAC Chair.
2. The GNSO Liaison to the GAC also informs the GAC of the communication between the GNSO Council and the ICANN Board with respect to the GNSO Council Review of ICANN77 GAC Communiqué Advice.

- GNSO Non-Registry Liaison to the Customer Standing Committee (CSC) - Milton Mueller; GNSO Alternate Non-Registry Liaison to the CSC - John Gbadamosi

Action Items:
1. The GNSO Secretariat communicates to staff supporting the Customer Standing Committee that the GNSO re-appointed Milton Mueller to serve as GNSO Non-Registry Liaison to the Customer Standing Committee for a two-year term beginning 01 October 2023.
2. The GNSO Secretariat informs Milton that he has been re-appointed.

3. The GNSO Secretariat communicates the appointed candidate as GNSO Alternate Non-Registry Liaison to the CSC to staff supporting the CSC.
4. The GNSO Secretariat informs the candidate that he has been appointed.

Councilors present on the call voted in favor of all Consent Agenda items.

Vote results.

The IPC made a statement regarding the item Registration Data Accuracy Scoping Team Recommendations #1 and #2 – extending deferral of consideration by six months.

Item 4: COUNCIL DISCUSSION - Accuracy

4.1 – Introduction of topic (Greg DiBiase, Council Vice Chair)

Greg DiBiase, GNSO Council Vice Chair, introduced the topic of Accuracy, specifically regarding the European Union's Second Network and Informations Systems Directive (NIS2) which entered into force on 16 January 2023. Greg DiBiase, GNSO Council Vice Chair introduced Thomas Rickert, ISPCP, to further discuss this topic.

Thomas Rickert, ISPCP, shared the idea that it would be good for the Council to communicate that it is appreciated to be indirectly mentioned in this tool as a multistakeholder organization and explain what ICANN has done on the topic of Accuracy relating to NIS2. Thomas Rickert, ISPCP, volunteered to hold the pen for a drafting team for this document. There are two questions, is the Council interested, and who would be interested in joining this effort, including non-councilors?

Greg DiBiase, GNSO Council Vice Chair, thanked Thomas Rickert, ISPCP, and shared that Registrars have already done some of this work and are available to help provide an objective overview of the Accuracy requirements currently in place.

Kurt Pritz, RySG, asked to pause and consider unintended consequences of such a communication before proceeding to drafting. Suggested that the first task for the small team should be to consider this, and to consult some of those who have experience working in the arena.

Thomas Rickert, ISPCP, asked Kurt Pritz, RySG, if he has any specific concerns in mind, and indicated interest in a small impact assessment. Thomas Rickert, ISPCP responded to comments made in chat by sharing that GAC should receive a copy of the communication if it is published.

Kurt Pritz, RySG, applauded Thomas Rickert's work to make ICANN's work more relevant and warned that this could invite sharper criticism and more calls for immediate action.

Anne Aikman-Scalese, NCA, agreed that a procedural review is a good idea, and that it would be great to thank the EU for noticing ICANN and the GNSO. She asked if this is a letter that should come from the GNSO Council, or if it should come from the ICANN Board?

Jeffrey Neuman, GNSO Liaison to the GAC, shared that the European Commission is a member of the GAC, and if Council goes around the GAC it may imply that GNSO Council is going outside of the system around the GAC, and could be perceived (unintentionally) as the GNSO criticizing the EC GAC Rep. He suggested communicating with the governments via GAC and potentially the Board.

Stephanie Perrin, NCSG, shared that it is not the first time that ICANN has gone outside of the GAC, and that GAC primarily supports public safety and telecom concerns.

Greg DiBiase, GNSO Council Vice Chair, thanked Stephanie Perrin, NCSG, for her statement and noted support for exploring the language here. He proposed to allow a small team to draft language and then Council can decide what to do with the language.

Marie Pattullo, BC, shared a concern that this could come across as lobbying the 27 member-states of the European Union.

Thomas Rickert, ISPCP, noted that all of these points are valid and should be considered. His idea was not to lobby member states, as lobbying indicates the desire of a specific outcome.

Action Items: GNSO Council leadership to consider how best to proceed, namely whether to seek volunteers for a drafting team to consider informal options of responding to the recital text to highlight the standards that are currently applicable and consider who should be the sender and the recipient(s) of such a response.

Item 5: COUNCIL DISCUSSION - Operational Design Phase and Operational Design Assessment Liaison & Small Team Survey Feedback

5.1 - Introduction of topic (Sebastien Ducos, Council Chair)
Sebastien Ducos, GNSO Chair, introduced the Operational Design Phase (ODP) and Operational Design Assessment (ODA) survey. Since Council completed two ODP processes, staff has conducted a survey and prepared findings on those surveys. He introduced Caitlin Tubergen, ICANN org to introduce the findings.

Caitlin Tubergen, ICANN org, presented the results of the ODP and ODA Assessment Liaison and small team survey feedback. Slides 6 - 10 review the purpose and principles of the ODP and the Liaison role. Some of the main themes from the ODP Liaisons responses are on slide 11. The small team feedback varied greatly and is reflected in slides 13 - 14.

Anne Aikman-Scalese, NCA, commented on the observation that GNSO Council may not be the appropriate body to respond to questions about the ODA, and noted that none of the responses stated who may be the appropriate body to discuss the ODA.

Sebastien Ducos, GNSO Chair, agreed that answers about the ODA may not only need to come from the GNSO.

Jeffrey Neuman, GNSO Liaison to the GAC, stated that small teams for the two different ODPs were used for very different purposes, and he is unsure whether the SubPro small team reviewed the ODA.

Sebastien Ducos, GNSO Chair, noted that this is something to take into consideration and will be clarified on the list.

<u>Action Items:</u> Staff to confirm with GNSO Council leadership that they can convey the survey results to GDS or whether further input is expected from Council prior to any subsequent community input being sought.

Item 6: COUNCIL DISCUSSION - SubPro Small Team Update on Pending Recommendations - Clarifying Statement

6.1 – Introduction of Topic (Paul McGrady, Chair of SubPro Small Team)
Paul McGrady, SubPro Small Team Chair, shared that coming out of ICANN77, the small team assignment was to develop a clarifying statement for the council to consider and pass onto the board for the recommendations that needed clarification from the Council. The other part of the homework that is ongoing, the items that are slated for non-adoption are being reviewed and discussed as to next steps. Paul reviewed the [draft statement](#) and asked council members to provide comments after each topic.

Mark Datysgeld, BC, asked if Topic 9 relates to Registry Voluntary Commitments (RVCs) in the upcoming round.

Paul McGrady, SubPro Small Team Chair, confirmed that the Public Interest Commitments (PICs) and RVCs from the last round are already past and that this is only forward looking. He continued to introduce [Topics 26 and 29](#).

Kurt Pritz, RySG, stated that the Council has ignored the Name Collision Analysis Project (NCAP) secretive discussions and asked why that is not on the critical path to launching the next round.

Anne Aikman-Scalese, NCA, shared that she is part of the NCAP discussion group, they meet publicly once a week and have regular progress updates during ICANN meetings.

Paul McGrady, SubPro Small Team Chair, continued to review [Topics 30 - 35](#).

Stephanie Perrin, NCSG, asked if there was an independent analysis done of the private auctions after the 2012 round?

Paul McGrady, SubPro Small Team Chair, requested Jeffery Neuman, GNSO Liaison to the GAC, to respond.

Jeffery Neuman, GNSO Liaison to the GAC, confirmed that there was input from ICANN org in the program implementation review report, but the amount of knowledge of what happened in private auctions is limited.

Anne Aikman-Scalese, NCA, commented that the Council has been advised that the Board retains an expert regarding incentivizing auctions that would potentially provide a way to encourage the ICANN auction process, to commission a study on the auctions.

Paul McGrady, SubPro Small Team Chair, confirmed that the Board has retained experts to disincentivize private auctions. The Board does have other things they will pursue on this and this will remain to be seen. GNSO Council topic 35 response is narrow, it made a historic reference to the auctions and nothing more.

<u>Action Items:</u>

1. Staff to notify the SubPro Board Caucus leads that they can inform the ICANN Board that the clarifying statement is stable.
2. Leadership to prepare a motion to allow for formal adoption during the next Council meeting.

Item 7: Follow up on IGO Curative Rights IRT and Other Work Necessary to Achieve Release of the IGO Acronyms Under Interim Reservation

7.1 - Introduction of Topic (Sebastien Ducos, GNSO Council Chair)

Sebastien Ducos, GNSO Chair, introduced the follow up on the IGO Curative rights IRT. The Board responded to a letter sent by Com Laude, a group present in a number of groups in the GNSO community, stating that there is still work to be done before releasing the strings reserved in this context. A number of concerns have been raised from staff. Mary Wong sent a letter to GNSO Council Leadership but is not available for this meeting. Staff also noted that there is a heavy workload of projects right now.

Susan Payne, IPC, shared that it was her colleague that communicated with the Board as they have clients who would like to release two-letter codes at the second level, and there are a handful of them that are on hold. She noted a lack of clarity with the post registration notification system and asked Council to get a clear update on outstanding matters and timing regarding IGOs.

Sebastien Ducos, GNSO Chair, shared that Mary Wong, ICANN org's note should answer many of Susan Payne, IPC's questions. He will check with Mary Wong, ICANN org, to ensure that she is comfortable making her note public and will share it with the Council once he receives confirmation.

Kurt Pritz, RySG, noted that Council is 10 years into the temporary reservation and that making Mary Wong, ICANN org's note public would be a good step and suggests writing to the Board urgently to request a timeline.

Sebastien Ducos, GNSO Chair, noted Kurt Pritz, RySG's comment and reminded all that it is important to not assume that nothing is being done just because the council is not seeing it.

Action Items: GNSO Chair to confirm with Mary Wong as to whether she can share her status update with Council.

Item 8: IDNs EPDP Timeline

8.1 Introduction of Topic (Donna Austin, IDNs EPDP Chair)- SLIDES

Donna Austin, IDNs EPDP Chair, shared that based on progress made, the IDNs EPDP team has reviewed the timeline and has agreed that the Phase 2 timeline can be improved by 13 months, aiming for October 2024 to complete Phase 2 work. Phase 2 will not be reorganized to discuss items identified to impact the Applicant Guidebook (AGB) and registry agreement, as if the IDNs EPDP team did that, they could potentially have to do lots of public comments and reports which would extend the timeline. More information regarding revised dates and compressed work can be found in the slides.

Susan Payne, IPC, thanked the IDNs EPDP group for their work and appreciates the timeline will be shorter than originally anticipated. She asked why Phase 2 items are dependencies for the next round as most of them appear to apply to both future Top-Level Domains (TLDs) and existing TLDs. As such, isn't this just like any other policy change that applies to all TLDs, where some existing TLDs will have to change what they do to comply with the new policy?

Donna Austin, IDNs EPDP Chair, thanked Susan Payne, IPC, for her question and explained that initially, the IDNs EPDP charter was split into two phases because the team considered Phase 1 to be the priority work regarding SubPro. Regarding Phase 2, this is a trickier question. The second level issues are consensus policy and going to impact everyone, not just new applicants, but what is trying to be addressed is to have any new requirements captured within the application itself or made a requirement for a new registry operator. It probably makes sense that the applicant guidebook is as complete as it can be so that those second-level issues are captured as well. But I take your point that the Phase 2 stuff is going to impact every registry operator that is operating an IDN. I don't have an argument one way or the other.

Steve Chan, ICANN org, responded to the Phase 2 timeline, informally staff was aware of the new updated date as communicated today. The GDS colleagues working on the 01 August deliverable to the Board are also aware of the updated timeline informally. If there are no objections, the ICANN77 deliverable will be updated to include this timeline and fix any errors discovered after initial publication.

Sebastien Ducos, GNSO Chair, acknowledged that they noted this at ICANN77 and appreciated that the IRT and team would be informed officially.

Donna Austin, IDNs EPDP Chair, shared that comments were received about .québec, which is a situation where the same entity could be allowed to apply for a string that they consider to be similar to another string or TLD (ergo .québec and .quebec) but which the Root Zone LGR rules determines are not variants of each other. IDNs EPDP could take another charter question to address the issue, but doing so would extend the timeline. This issue has been sent to Council for consideration.

Sebastien Ducos, GNSO Chair, thanked Donna Austin, IDNs EPDP Chair for joining and moved on to the Any Other Business portion of the agenda.

Action Items: Staff to update the ICANN77 deliverable to capture the updated timeline for the IDNs EPDP and related contextual language.

Item 9: ANY OTHER BUSINESS

9.1 ccNSO Liaison update (Desiree, ccNSO liaison to the GNSO Council)

Desiree Miloshevic, ccNSO liaison to the GNSO Council, shared that she is looking to make this report more structured to the GNSO Council, and updated the GNSO Council on ongoing ccNSO meetings and efforts to collaborate with the GNSO.

9.2 Closed Generics Update (John McElwaine, Council Vice Chair)

John McElwaine, GNSO Council Vice Chair, updated council on Facilitated Dialogue on Closed Generics. The group met on Wednesday, 19 July 2023 and some changes resulted from the meeting. Concerns were raised about reviewing comments as there were some who thought there was not sufficient community support for the Framework. They are considering canceling the 24 July meeting to review comments and the framework with their groups while staff works with GAC, GNSO, and ALAC leadership to address discussions that occurred at ICANN77.

Paul McGrady, NCA, asked what would happen if there is no support for the Closed Generics Framework.

John McElwaine, GNSO Council Vice Chair, responded that no support would result in a discussion between the Board and the GNSO Council.

Sebastien Ducos, GNSO Chair, reminded all that the discussion regarding the critical path was repeated during ICANN77 and he also stated that the new date that Donna Austin communicated today aligns the timeline of the work of the IDNs EPDP with the work on Closed Generics.

Anne Aikman-Scalese, NCA, shared that herself and Susan Payne, IPC, anticipate bringing a discussion regarding their roles in the SubPro IRT with respect to forming a small team in relation to the Standing Predictability Implementation Review Team (SPIRT) charter to the next Council meeting.

Action Items: Sebastien to follow up with Desiree.

Sebastien Ducos, **GNSO Chair,** adjourned the meeting at 22:59 UTC.

The next GNSO Council meeting will take place on Wednesday, 24 August 2023 at 13:00 UTC.