Minutes of the GNSO Council Meeting 30 November 2017

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

Coordinated Universal Time: 21:00 UTC: http://tinyurl.com/ybcbm2ev

13:00 Los Angeles; 16:00 Washington; 21:00 London; (Friday) 02:00 Islamabad; 08:00 Hobart

The meeting started at: 21:04 UTC

List of attendees:
NCA – Non-Voting – Erika Mann
Contracted Parties House
Registrar Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell
gTLD Registries Stakeholder Group: Donna Austin, Keith Drazek, Rubens Kühl (absent – apology sent – proxy to Keith Drazek)
Nominating Committee Appointee (NCA): Carlos Raul Gutierrez
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Steve DelBianco (temporary alternate for Phil Corwin after his resignation), Susan Kawaguchi, Philippe Fouquart, Tony Harris, Paul McGrady, Heather Forrest
Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Stephanie Perrin (absent – apology sent – proxy to Rafik Dammak), Tatiana Tropina, Rafik Dammak, Ayden Federline, Arsene Tungali
Nominating Committee Appointee (NCA): Syed Ismail Shah
GNSO Council Liaisons/Observers:
Cheryl Langdon-Orr– ALAC Liaison
Ben Fuller - ccNSO Observer
Julf (Johan) Helsingius– GNSO liaison to the GAC

ICANN Staff
Matthew Shears - ICANN Board Member
David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional (apology sent)
Marika Konings – Vice President, Policy Development Support - GNSO
Mary Wong – Senior Director, Special Adviser for Strategic Policy Planning
Julie Hedlund – Policy Director
Steve Chan – Policy Director
Berry Cobb – Policy consultant
Emily Barabas – Policy Support Senior Specialist
Ariel Liang – Policy Analyst
Mike Brennan – Technical Support
Nathalie Peregrine – Manager, Operations Support

[MP3 Recording](#)
[Adobe Chat Transcript](#)
[Transcript](#)

Item 1: Administrative matters

1.1 – Roll call

1.2 – Updates to Statements of Interest

Syed Ismail Shah informed the Council that his contract with the Pakistan Telecommunications Authority had ended and that he was currently unemployed.

1.3 – Review/amend [agenda](#)

There were no changes requested to the agenda.

1.4 – Minutes of Part 1 and minutes of Part 2 of the GNSO Council on the 1 November 2017 were posted on 23 November 2017.

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 List.

Heather Forrest reviewed the Projects list and the Action Items list and highlighted the most recent changes:
- Staff is working on an ICANN61 GNSO schedule.
- New gTLD Subsequent Procedures (SubPro) Policy Development Process (PDP) Work Track 5 (WT5) letter is being finalized by the SubPro co-chairs.
- Other items (GNSO Review of the GAC Communiqué, GNSO Strategic Planning session and the Standing Committee on Budget and Operations) are meeting agenda items and to be discussed further into the call.
- A meeting between GAC and GNSO Leadership to discuss the role of the GNSO GAC liaison is scheduled in January 2018.
- The request for data in form of surveys from the Review of all Rights Protection Mechanisms (RPM) PDP WG is being processed by staff who are in the midst of a Request For Proposal (RFP) and will keep members and Council updated.
- The GNSO and RSSAC have endorsed their candidates to the Third Review of Accountability and Transparency (ATRT3), concerns regarding Review Teams in general will be addressed at Supporting Organization and Advisory Committee (SOAC) levels.
- The GNSO Operating Procedures and ICANN Bylaws are part of the agenda of the GNSO Council Strategic Planning session in January 2018

Item 3. Consent Agenda
The Consent Agenda was empty.

Item 4: COUNCIL VOTE – Adoption of the GNSO Council response to the GAC Communique for submission to the ICANN Board

Donna Austin submitted the motion, seconded by Rafik Dammak.

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 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 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 Review of the Abu Dhabi GAC Communiqué (see https://gnso.icann.org/en/drafts/review-gac-communique-30nov17-en.pdf) and requests that the GNSO Council Chair communicate the GNSO Review of the Abu Dhabi 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.

After extensive discussion regarding a late amendment to the text of the GNSO Review of the GAC Communiqué submitted by the Business Constituency (BC), the GNSO Council updated the GNSO Review with changes that both the submitter and seconder of the motion considered friendly. The motion containing the updated GNSO Review of the GAC Communiqué was then voted unanimously by the Council.

Vote results

Action Item(s):

Heather Forrest, as GNSO Chair, to communicate the GNSO Review of the Abu Dhabi GAC Communiqué to the ICANN Board, with copy to the GAC Chair.

Item 5. COUNCIL VOTE – Referral of the privacy and proxy services issue, related to IRTP-C, to the PPSAI IRT

Darcy Southwell submitted the motion, seconded by Donna Austin.

Whereas,

1. The Generic Names Supporting Organization (GNSO) Council sent a letter (see https://gnso.icann.org/en/correspondence/bladel-to-crocker-01dec16-en.pdf) to the ICANN Board on 1 December 2016 regarding implementation concerns with the Inter-Registrar Transfer Policy ("Transfer Policy") – Part C for privacy/proxy registrations. Specifically, the concerns relate to whether the addition/removal of a privacy/proxy service potentially triggers the 60-day inter-registrar transfer lock described in the updated Transfer Policy. The policy recommendations were silent with respect to the addition/removal of privacy/proxy services, and at the time the policy was implemented, the current issue and potential harms described by the GNSO Council were not brought to ICANN org's attention.

2. In this letter, the GNSO Council requested the Board to instruct ICANN Org to work with the Registrar Stakeholder Group and other interested parties to evaluate alternatives for the implementation concerns related to Transfer Policy Part C.

3. On 16 March 2017, the Board instructed the ICANN President and CEO, or his designee(s), to work with the Registrar Stakeholder Group and other interested parties to evaluate alternatives for the implementation concerns related to Transfer Policy Part C and to report back to the GNSO Council with the results of the discussion." During this time, enforcement of the policy related to this specific issue has been deferred.

4. The Registrar Stakeholder Group discussed this issue and reached out to other interested parties to evaluate alternatives for the implementation concerns related to IRTP Part C and recommended that this issue is further evaluated by the Privacy & Proxy Services Accreditation Issues Implementation Review Team (PPSAI IRT) as this group is best placed to determine if/how implementation of IRTP Part C for privacy / proxy registrations can be carried out.

Resolved,

1. The GNSO Council directs the PPSAI IRT to consider the issue of privacy/proxy registrations and IRTP Part C as outlined in the annex to the GNSO Council letter (see https://gnso.icann.org/en/correspondence/bladel-to-crocker-01dec16-en.pdf) and to put forward recommendations for implementation that are consistent with the IRTP Part C policy recommendations as well as the PPSAI policy recommendations.

2. The GNSO Council requests that this work be undertaken only after the upcoming PPSAI IRT comment period, and that if it appears as though it will cause any significant or unreasonable delay in implementation of privacy/proxy service accreditation implementation, that the GNSO Council Liaison must alert the Council.

3. The GNSO Council encourages registrars and other impacted parties to join the PPSAI IRT to collaborate in these discussions.

4. The GNSO Council requests the GNSO Council Liaison to the PPSAI IRT (in consultation with ICANN org and the IRT) provides regular updates on the timeline for incorporating the issue of privacy/proxy registrations and the Transfer Policy into the work of the PPSAI implementation plan. Where issues emerge during implementation that may require possible policy discussion, the Council requests GNSO Council Liaison to the PPSAI IRT to escalate these issues using the designated procedure outlined in the Final Recommendations Report on Policy & Implementation.

5. The GNSO Council requests the GNSO Council Liaison to the PPSAI IRT to communicate this decision to the PPSAI IRT as soon as possible.

After noting that both the BC and the Intellectual Property Constituency (IPC) thanked Graeme Bunton, Chair of the GNSO Registrar Stakeholder Group, for his efforts, and that the IPC despite expressing reserves about the timing of the motion, still supported it overall, the GNSO Council voted in favor of the motion unanimously.

Vote results

Action item(s):

Council liaison to the PPSAI IRT to communicate Council decision to refer IRTP C Privacy / Proxy implementation issues to the PPSAI IRT. The Council liaison should direct the PPSAI IRT to the additional directives contained in the Resolved clauses here: https://gnso.icann.org/en/council/resolutions#201711

Item 6: COUNCIL VOTE – Confirmation of GNSO Representative to the Empowered Community Administration

Donna Austin submitted the motion, seconded by Rafik Dammak.

Whereas,

1. The GNSO Council adopted the proposed process and criteria for the selection of the GNSO representative to the Empowered Community Administration during its meeting on 28 June 2017 (see https://gnso.icann.org/en/council/resolutions#201706).

2. Per that process, the GNSO Council confirmed on 9 November 2017 that the GNSO Chair (currently Heather Forrest) will represent the GNSO as the Decisional Participant on the Empowered Community Administration on an interim basis.

3. Per that process, 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 [include date].

Resolved,

1. The GNSO Council hereby confirms Heather Forrest will represent the GNSO as the Decisional Participant on the Empowered Community Administration until the end of the ICANN Annual General Meeting (ICANN63).

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.

The motion passed unanimously.

Vote results

Action Items:

GNSO Secretariat to communicate decision by GNSO Council, confirming Heather Forrest will represent the GNSO as the Decisional Participant on the Empowered Community Administration until the end of the ICANN Annual General Meeting (ICANN63), to the ICANN Secretary. This communication will serve as the required written certification from the GNSO Chair, designating the individual who shall represent the Decisional Participant on the EC Administration.

Item 7: COUNCIL VOTE – Confirmation that modification to the procedure that implements the Whois conflicts with privacy law policy recommendation with the Contracted Party Request and Legal Opinion triggers is consistent with the intent of the policy recommendation

Keith Drazek, submitter of the motion, requested that this item be changed from a Council vote to a Council discussion. The aim was to allow input from councilors regarding their concerns about the new legal trigger in particular mentioned in the letter received from Akram Atallah being in contradiction with conclusions from the Implementation Advisory Group (IAG). During the discussion, the following points were raised:
- The legal trigger could be the start of a dialogue between the Contracted Party House (CPH) and ICANN's Legal team and not necessarily a definitive tool allowing the CPH to implement changes.
- There is a need to consider the issues at stake as not all IAG recommendations work for the CPH despite being consistent with the process outlined.
- To remove the question of responsibility in resolving this issue from the GNSO Council, the creation of an Implementation Group focusing on the legal trigger only was proposed.
- A reminder that the role of the GNSO Council in this discussion is to determine consistency with existing policies and if not, determine whether it is the Council's role to propose a solution or propose the creation and structure of a new group.
- Following the decision to create a small group to consider these issues, the motion was withdrawn with the aim of adding a new motion to the December GNSO Council meeting agenda.

Action Items:

ICANN Staff to circulate call for volunteers to establish group of Councilors to develop draft guidelines and parameters around scope, deliverables, membership, operating procedures, etc. for subsequent group that will seek to determine Council's next steps for addressing the feedback received in relation to the public comment forum on the new and possible alternative triggers for the ICANN Procedure For Handling Whois Conflicts with Privacy Law. Target date is 11 December, the Motions and Documents deadline for the 21 December meeting.

Following approval by the GNSO Council of charter for this subsequent group, *Subsequent Group* to determine Council's next steps for addressing the limitations of the ICANN Procedure For Handling Whois Conflicts with Privacy Law.

Item 8: COUNCIL DISCUSSION – Update on the GNSO Council Strategic Planning Session

Heather Forrest presented the latest draft of the agenda, produced by the GNSO Leadership as well as Jonathan Robinson, facilitator for this session, for the GNSO Strategic Planning Session taking place in January 2018 in Los Angeles. It was confirmed that James Bladel, former GNSO Chair, will also take part in the discussions. Councilors were reminded of the themes per session day: role and remit of the GNSO Council on day one, the GNSO and the Empowered Community on day two and strategic planning and workload on day three and also that an external-facing report would be drafted at the end of the session.

Item 9: COUNCIL DISCUSSION – Update on the GNSO Council Standing Committee on ICANN budget

The GNSO Council discussed the draft responses (https://gnso.icann.org/en/drafts/draft-comments-plan-budget-26nov17-en.pdf and https://gnso.icann.org/en/drafts/draft-comments-icann-reserve-fund-27nov17-en.pdf) prepared by the interim GNSO Council Standing Committee (SC) on ICANN budget to two public comments 1) Draft PTI and IANA FY19 Operating Plans and Budgets and 2) ICANN Reserve Fund – Public Comment on Rationale and Target Level.

Highlights of the discussion were as follow:

- Given the diversity of views within the GNSO Council and the fact that Stakeholder Groups (SGs) and Constituencies (Cs) are already providing input on the budget, it is understandable and acceptable that the GNSO Council refrain from submitting comments on all aspects of ICANN's budget.
- Taking into account the importance of the GNSO Council providing input on ICANN's budget however, the solution might be in drafting a high-level response whilst noting that SGs and Cs have submitted their individual comments.
- The high-level response would highlight concerns about where funding comes from and the need for fiscal prudence.
- The interim SC on ICANN Budget is scheduled to meet on the 4th December 2017 to review the draft charter in the aim of submitting a motion for the January 2018 Council meeting at which time the GNSO Council would consider the SC on ICANN Budget within the role of the GNSO in the Empowered Community.

Action Items:

Heather Forrest and ICANN Staff to attempt to re-draft possible public comment response regarding the Reserve Fund, to show Council's awareness of the issue and to highlight comments from specific Stakeholder Groups and Constituencies.
Council members to consider re-draft and indicate possible objections within the timeframe provided (less than 24 hours to meet the deadline)

Item 10: ANY OTHER BUSINESS

10.1 – Discussion of Council meeting dates and rotation for 2018

Heather Forrest noted that the new meeting dates and times had been drafted taking into account the new formation of the GNSO Council and a rotation of three, instead of the previous two, meeting times had been decided to decrease the inconvenience of difficult meeting times.

10. 2 – Update on the status of the Second Security, Stability, and Resiliency Review Team (SSR2-RT)

Heather Forrest provided an update on the recent developments concerning SSR2-RT. There is an opportunity for the GNSO Council to review the skill set matrix that was prepared by SSR-RT2 members. SO/AC Chairs will also provide SSR-RT2 members with a confidential survey aimed as gathering members' input on potential issues and concerns regarding the RT It was also raised that it is key for SOAC Chairs to provide clear directives to the co-chairs of SSR2-RT.

Action Items:

ICANN Staff to circulate call for volunteers to establish group of Councilors to review SSR2-RT scoping information and skills matrix and prepare a draft response for Council consideration. Susan Kawaguchi and Carlos Raúl Gutiérrez have volunteered to date.
Council leadership to explore options for discussing challenges within the SSR2-RT with the GNSO appointed members of that review team (i.e., Denise Michel, James Gannon, and Norm Ritchie).

Heather Forrest, GNSO Council Chair, adjourned the GNSO Council meeting and thanked everyone for participating.
The meeting was adjourned at 23:10 UTC Thursday 30 November 2017.

The next GNSO Council Meeting will take place on 20 December 2017 at 12:00 UTC
For other places see: https://tinyurl.com/ybc6l7pl