

# Motions 7 November 2016

## Draft motions for GNSO Council Meeting 7 November 2016 (as at 5 November 2016)

### Consent Agenda

#### 1. Adopt the GAC-GNSO Consultation Group on GAC Early Engagement in GNSO Policy Development Processes Final Status Report & Recommendations;

#### MOTION - Adoption of the GAC-GNSO Consultation Group on GAC Early Engagement in GNSO Policy Development Processes Final Status Report & Recommendations

**Made by:** Carlos Raúl Gutiérrez

**Seconded by:** Ed Morris

#### WHEREAS:

1. In March 2014 the GNSO and GAC formed a joint consultation group (CG) to explore mechanisms to facilitate GAC early engagement in GNSO Policy Development Processes.
2. As per its charter, the CG's deliberations have focused on two tracks, namely 1) a mechanism for day-to-day ongoing cooperation and 2) a mechanism for GAC early engagement in the GNSO PDP (see <https://community.icann.org/display/gnsogcgogeeipdp/3.+Charter>).
3. A number of recommendations, such as the Quick Look Mechanism and the GNSO Liaison to the GAC have already been piloted and subsequently implemented.
4. Following ICANN56, the CG reviewed the charter and noted a number of outstanding items that it considered, factoring in the input received as part of the survey amongst the GAC and GNSO to obtain input on the experiences to date with the Quick Look Mechanism as well as additional suggestions and ideas for opportunities for early engagement in the other phases of the PDP (see <https://www.surveymonkey.com/results/SM-6ZLVM39T/>).
5. As a result of this review, the CG submitted its Final Status Update and Proposed Recommendations to the GNSO and GAC on 10 October 2016 (see <https://gns0.icann.org/en/drafts/gac-status-report-rec-10oct16-en.pdf>).
6. The GNSO Council reviewed the Final Status Update and Proposed Recommendations and discussed it with the GAC during its joint session at ICANN57.

#### RESOLVED:

1. The GNSO Council adopts the Final Status Update and Proposed Recommendations (see <https://gns0.icann.org/en/drafts/gac-status-report-rec-10oct16-en.pdf>).
2. The GNSO Council instructs staff to work with the GNSO Council, the GAC Leadership team as well as the GNSO Liaison to the GAC on the implementation of these recommendations. An implementation status update is expected to be provided in time for the next joint GNSO-GAC meeting.
3. The GNSO Council thanks the members of the Consultation Group for all their efforts and considers the work of the CG hereby complete.
4. The GNSO Council requests that the GNSO Secretariat informs the GAC Secretariat of this decision.

#### 2. Approve appointment of a GNSO Liaison to the Governmental Advisory Committee (Carlos Gutiérrez).

#### MOTION – Appointment of a GNSO Liaison to the Governmental Advisory Committee

**Made by:** James Bladel

**Seconded by:** Paul McGrady

#### WHEREAS:

1. As part of the discussions within ICANN between the GNSO and GAC, on how to facilitate early engagement of the GAC in GNSO policy development activities, a GNSO liaison to the GAC was piloted during FY15 and FY16.
2. Based on the review of the GAC-GNSO Consultation Group (see <http://gnso.icann.org/en/drafts/review-liaison-gac-pilot-29feb16-en.pdf>) and discussions between the GAC and GNSO during their joint session at the ICANN meeting in Marrakesh, the GNSO Council confirmed on 14 April 2016 role and process for a GNSO Liaison to the Governmental Advisory Committee as a permanent feature (see <https://gnso.icann.org/en/drafts/request-liaison-gac-30mar16-en.pdf>).
3. Following a call for candidates (<https://gnso.icann.org/mailling-lists/archives/council/msg19176.html>) three applications were received all of which were evaluated by the GNSO Council Leadership based on the criteria outlined in the call for candidates.
4. Carlos Gutiérrez was unanimously recommended by the GNSO Council Leadership as the preferred candidate.

RESOLVED:

1. The GNSO Council hereby appoints Carlos Gutiérrez to the role of GNSO Liaison to the Governmental Advisory Committee until the end of the ICANN AGM 2017.
  2. The GNSO Council will review the role and is expected to annually reconfirm the appointment, unless the review indicates otherwise and/or the Liaison has indicated that he/she is no longer available to continue in this role in which case a new selection process will take place and/or the review indicates.
  3. The GNSO Council Leadership Team will co-ordinate with Carlos Gutiérrez as well as the GAC Leadership Team and GAC Secretariat on next steps and the successful implementation of this role.
  4. The GNSO Council thanks all who expressed an interest in this role, and noting that all candidates met or exceeded the published requirements for the position.
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**1. MOTION – Acceptance of the Report from the GNSO Bylaws Implementation Drafting Team - as amended**

**(Motion deferred to 7 November 2016 from 13 October 2016) deferred to 1 December 2016 from 7 November 2016)**

**Made by: James Bladel**

**Seconded by: Rubens Kuhl**

WHEREAS:

1. On 30 June 2016 the GNSO Council approved the creation of a Drafting Team (DT) that was to work with ICANN staff to “fully identify all the new or additional rights and responsibilities that the GNSO has under the revised Bylaws, including but not limited to participation of the GNSO within the Empowered Community, and to develop new or modified structures and procedures (as necessary) to fully implement these new or additional rights and responsibilities”;
2. In creating the DT, the GNSO Council requested that the DT provide the GNSO Council with an implementation plan “which will have the consensus of the Drafting Team, including any recommendations for needed further changes to ICANN Bylaws and/or GNSO Operating Procedures to enable effective GNSO participation in ICANN activities under the revised ICANN Bylaws, not later than 30 September 2016”;
3. During the course of the DT’s work, strongly divergent views were expressed on the role of the GNSO Council in the Empowered Community, leading to the production of a Final Report which included a minority report; and
4. The DT submitted its Final Report to the GNSO Council on 12 October 2016 (<https://gnso.icann.org/en/drafts/bylaws-drafting-team-final-report-12oct16-en.pdf>). The GNSO Council has reviewed the DT’s report.

RESOLVED:

1. The GNSO Council accepts the recommendations in the DT’s report as submitted.
2. The GNSO Council directs ICANN Policy Staff to draft proposed language for any necessary modifications or additions to the GNSO Operating Procedures and, if applicable, those parts of the ICANN Bylaws pertaining to the GNSO. The GNSO Council requests that ICANN Legal evaluate whether the proposed modifications are consistent with the post-transition Bylaws and report their findings to the GNSO Council.
3. The GNSO Council requests that members of the DT make themselves available for consultation by ICANN Policy Staff as needed.
4. In acknowledgement of the divergent views within the DT, the GNSO Council directs 4. ICANN Policy Staff to post the DT Final Report, including the minority report, and all proposed modifications or new procedures for public comment for no less than 40 days. The GNSO Council expects that any comments received will be given meaningful consideration.

5. As resolved previously, the GNSO Council intends to subject the adoption of the proposed modifications to existing procedures and/or ICANN Bylaws to a GNSO Supermajority vote.

6. The GNSO Council thanks the DT for its collaborative effort, especially in view the limited time frame available to the DT.

## **2. MOTION – Conditional participation of the GNSO as a chartering organization for the cross-community working group to discuss Internet governance issues affecting ICANN.**

**Made by: Darcy Southwell as amended**

**Seconded by: Paul McGrady**

### **WHEREAS:**

1. The GNSO Council adopted the charter for a Cross Community Working Group to discuss Internet governance (CWG-IG) issues affecting ICANN and make recommendations to the chartering organization on these issues on 15 October 2014, and as such became a Chartering Organization.
2. The Charter foresees that "At each ICANN Annual General Meeting, starting 2014, the Charter and deliverables of the WG shall be reviewed by the participating SO's and AC's to determine whether the WG should continue, or, close and be dissolved. Consistent with ICANN community practices, the WG will continue if at least two of the participating SO's or AC's extend the Charter of the WG and notify the other participating SO's and AC's accordingly one month after the annual review date".
3. The CWG-IG provided its first written status update on 23 June 2016 (see <https://gns0.icann.org/en/drafts/ccwg-internet-governance-23jun16-en.pdf> [gns0.icann.org]).
4. The GNSO Council recently adopted the "Uniform Framework of Principles and Recommendations for Cross Community Working Groups" (CWG Framework) which details the lifecycle of a CCWG including initiation, formation, operation, decision-making, adoption of Final Report by Chartering Organizations and closure of CCWG, and post-closure of CCWG.
5. The GNSO Council has observed that the CWG-IG does not follow this lifecycle, nor has it established or adopted an initial work plan and associated schedule as foreseen in its Charter.
6. The GNSO Council recognizes the importance of a continued dialogue and discussion in relation to the topic of Internet Governance within an ICANN context.
7. The GNSO Council has shared its concerns with the ccNSO Council and representatives of other SO/ACs on the subject of this CWG and its future.

### **RESOLVED:**

1. The GNSO Council will continue to participate as a Chartering Organization for the CWG-IG. However, this participation is conditioned upon a comprehensive review of the CWG-IG Charter by the CWG-IG, in accordance with the CWG Framework (<http://gns0.icann.org/en/drafts/uniform-framework-principles-recommendations-16sep16-en.pdf>) [gns0.icann.org]. In particular, the GNSO Council expects future work to be subject to a clear work plan, with regular updates and clear deliverables.
2. The GNSO Council expects that the CWG-IG will present by ICANN58 a report on its findings, which may include a revised charter or a recommendation to reconstitute the group under a new structure.
3. Following the submission of the CWG-IG report, the GNSO Council will consider the recommendations and decide whether or not it will continue as a Chartering Organization.
4. The GNSO Secretariat will communicate this decision to the CWG-IG Chairs as well as the other Chartering Organizations.

## **3. MOTION – Adoption of the Charter for a Cross-Community Working Group on new gTLD Auction Proceeds**

**Made by: James Bladel**

**Seconded by: Wolf-Ulrich Knoben**

### **WHEREAS:**

1. Following a number of sessions on the topic of new gTLD Auction proceeds during the ICANN53 in Buenos Aires (see <https://buenosaires53.icann.org/en/schedule/mon-soac-high-interest> and <https://buenosaires53.icann.org/en/schedule/wed-cwg-new-gtld-auction>), a discussion paper was published in September 2015 to solicit further community input on this topic as well as the proposal to proceed with a CCWG on this topic.
2. As the feedback received on the discussion paper confirmed the support for moving forward with a CCWG, James Bladel, GNSO Chair, reached out to all the ICANN Supporting Organizations and Advisory Committees to ask for volunteers to participate in a drafting team to develop a charter for a CCWG on this topic. All ICANN SO/ACs, apart from the ccNSO, responded to this request and put forward volunteers to participate in the drafting team.
3. The GNSO Council appointed Jonathan Robinson to chair the Drafting Team ('DT'), which commenced its deliberations on Tuesday 23 February 2016.
4. The DT published a draft charter for community discussion in advance of ICANN 56 which was discussed during the cross-community session held at ICANN56. Following ICANN56, the DT reviewed all the input received and updated the proposed charter accordingly. On 13 September, this proposed charter was shared with all ICANN SO/ACs with the request to review it and identify any pertinent issues that would prevent adoption of the charter, if any.
5. Subsequently, a webinar was held on 13 October to allow for some additional time and information to undertake this review (see [https://community.icann.org/x/gh\\_4Aw](https://community.icann.org/x/gh_4Aw)).
6. As no pertinent issues were raised, the DT submitted the proposed CCWG charter (see <https://community.icann.org/x/mRuOAaw>) for consideration to all ICANN SO/ACs on 17 October 2016.

RESOLVED:

1. The GNSO Council approves the Charter and appoints [Name] as the GNSO Appointed (Co-)Chair and Member to the CCWG.
  2. Each GNSO Stakeholder Group will identify one member for the CCWG by [date] taking into account the charter requirement that best efforts should be made to ensure that members:
    - o Have sufficient and appropriate motivation (and ideally expertise) to participate in the substance of the work of the CCWG. Appropriate experience could, for example, include experience with allocation and final disbursement of funds;
    - o Commit to actively participate in the activities of the CCWG on an on-going and long-term basis;
    - o Solicit and communicate (where appropriate) the views and concerns of individuals in the organization that appoints them;
    - o Commit to abide to the charter when participating in the CCWG;
    - o Understand the needs of the Internet communities that ICANN serves (standards, domains and numbers);
    - o Understand the broader ecosystem (the Internet Community) in which ICANN operates and the needs of those working on other aspects of the Internet industry, including those not yet connected.
- Furthermore, in addition to a Statement of Interest, all members and participants will be required to provide a declaration on intention to apply for (or in any way support the application for) new gTLD Auction Proceeds, either as an individual or through the entity you are representing or employed by or are otherwise funded by or affiliated with or support/endorse. It will be mandatory to report any changes in relation to these intentions throughout the CCWG life-cycle.
3. The GNSO will collaborate with the other SOs and ACs to issue a call for participants and observers to join the CCWG, each in accordance with its own rules.
  4. The GNSO Council thanks the members of the Auction Proceeds Drafting Team for their contributions developing this Draft Charter.