

Final Proposed Agenda 06 November 2019 - Part I

Please note that all documents referenced in the agenda have been gathered on a Wiki page for convenience and easier access: <https://community.icann.org/x/uoXkBg>

This agenda was established according to the [GNSO Operating Procedures](#) v3.3, updated on 30 January 2018

For convenience:

- An excerpt of the ICANN Bylaws defining the voting thresholds is provided in Appendix 1 at the end of this agenda.
- An excerpt from the Council Operating Procedures defining the absentee voting procedures is provided in Appendix 2 at the end of this agenda.

GNSO Council meeting held in Montreal 13:00 - 15:00 local time

Coordinated Universal Time: 18:00 UTC: <https://tinyurl.com/y33pl34a>

10:00 Los Angeles; 13:00 Washington; 18:00 London; 23:00 Islamabad; (Thursday) 03:00 Tokyo; (Thursday) 05:00 Melbourne

GNSO Council Meeting Remote Participation: <https://community.icann.org/x/LYvkBg>

Item 1: Administrative Matters (10 mins)

1.1 - Roll Call

1.2 - Updates to Statements of Interest

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 Council meeting on the 19 September 2019 were posted on 10 October 2019

Minutes of the GNSO Council meeting on the 24 October 2019 will be posted on 08 November 2019

Item 2: Opening Remarks / Review of Projects & Action List (20 minutes)

2.1 - Review focus areas and provide updates on specific key themes / topics, to include review of [Projects List](#) and [Action Item List](#)

Item 3: Consent Agenda (15 minutes)

- Reconfirmation of Julf Helsingius as GNSO Council Liaison to the Governmental Advisory Committee
- Approval of the amended IANA Naming Function Service Level Agreement (SLA) regarding Internationalized Domain Name (IDN) tables and Label Generation Rulesets (LGRs) in the IDN Practices Repository
- Approval of Tomsin Samme-Nlar to serve as the GNSO Co-Chair for the IANA Naming Function Review.

Item 4: COUNCIL VOTE – Approval and adoption of the Drafting Team’s New Templates and Guidelines for the GNSO as a Decision Participant in the Empowered Community (EC) (15 minutes)

Following the adoption by the GNSO Council of the revised GNSO Operating Procedures, as well as the proposed modifications to the ICANN Bylaws which were [adopted](#) by the ICANN Board of Directors on 13 May 2018, staff identified additional proposed steps to be taken to ensure preparedness as well as facilitate the ability for the GNSO Council to act in relation to the new roles and responsibilities outlined in the post-transition Bylaws.

The [Drafting Team](#) was established to develop guidelines, including any recommendations for changes to GNSO Operating Procedures if applicable, that clarify additional details or steps related to a particular action to be completed by the GNSO that falls within its existing process or procedure. These guidelines are meant to help the GNSO effectively participate as a Decision Participant in the Empowered Community (EC) in accordance with the post-transition ICANN Bylaws.

The Drafting Team provided an update and explanation of the guidelines and motion templates to the GNSO Council during the October 2019 meeting, noting that two documents relating to joint ccNSO/GNSO actions relating to Special IANA Function Reviews (IFRs) remain to be completed. The Drafting Team has now completed its duties and fulfilled its [work plan](#) and provided the guidelines and motion templates to the GNSO Council in time for the November meeting.

The GNSO and ccNSO Councils will discuss the Joint Consultation Guidelines for the ccNSO/GNSO actions related to Special IFRs and seek to jointly adopt them in Montreal.

Here, the GNSO Council will vote to adopt the updated processes and procedures.

4.1 – Presentation of [motion](#) (Council Leadership)

4.2 – Council discussion

4.3 – Council vote (voting threshold: simple majority)

Taking this action is within the GNSO's remit to ensure that the GNSO, as a Decisional Participant in the Empowered Community, is able to "exercise its rights and perform its obligations under ICANN's Articles of Incorporation and these Bylaws" as described under Annex D: EC Mechanism under the ICANN Bylaws.

Item 5: COUNCIL DISCUSSION – Discussion on the Addendum to the Review of All Rights Protection Mechanisms in All gTLDs Charter to Integrate Recommendation 5 From IGO-INGO Access to Curative Rights Protection Mechanisms Final Report (15 minutes)

On 18 April 2019, the Council [voted](#) to approve recommendations 1-4 of Final Report from the IGO-INGO Access to Curative Rights Protection Mechanisms PDP WG. The Council also resolved to not approve Recommendation 5 and, "directs the Review of All Rights Protection Mechanisms in All gTLDs (RPM) PDP to consider, as part of its Phase 2 work, whether an appropriate policy solution can be developed that is generally consistent with Recommendations 1, 2, 3 & 4 of the PDP Final Report and:

- accounts for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances;
- does not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction;
- preserves registrants' rights to judicial review of an initial UDRP or URS decision; and
- recognizes that the existence and scope of IGO jurisdictional immunity in any particular situation is a legal issue to be determined by a court of competent jurisdiction."

The GNSO Council resolved also to, "amend the charter for the RPMs PDP Working Group to reflect this new instruction accordingly." Some members of the GNSO Council met with certain members of the GAC and IGOs at ICANN65, where there appeared to be agreement from the GAC/IGOs to support the chartering of this separate work.

A small team of Councilors was convened to prepare a draft Addendum to the RPMs PDP charter, which was discussed during the Council's September 2019 meeting. After integrating Councilor feedback, the revised [Addendum](#) was shared with the GAC and IGOs for their consideration. The Council will consider GAC/IGO [feedback](#) received on 1 November 2019, as well as feedback from the meeting with the GAC at ICANN66.

Here, the Council will discuss what changes are needed, if applicable, in order to adopt the Addendum to the RPMs PDP charter.

5.1 – Introduction of topic (Council leadership)

5.2 – Council discussion

5.3 – Next steps

Item 6: COUNCIL DISCUSSION - ICANN Board Response to the GNSO Council Letter Regarding the Consultation on Non-Adopted EPDP Phase 1 Parts of Recommendations (purpose 2 and recommendation #12) (15 minutes)

On 15 May, the ICANN Board [informed](#) the GNSO Council of the Board's action in relation to the GNSO's EPDP Phase 1 policy recommendations. The Board did not adopt two of the recommendations in full, where the Board has identified that portions of those recommendations are not in the best interests of the ICANN Community or ICANN and is initiating the consultation process between the Board and the GNSO Council. This concerns recommendation #1, purpose 2 and recommendation #12, deletion of data in the Organization field. As required under the ICANN Bylaws at Annex A-1, Section 6.b, a Board Statement is attached as Annex A to the letter, articulating the reasons for the Board's non-adoption of these two items. As per the Bylaw requirements (Annex A-1, Section 6.c), "the Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement." During the Council's Extraordinary Meeting on 28 May 2019, it reviewed the Board Statement and conducted a lengthy discussion on the best path forward.

On 30 May 2019, Keith Drazek, the GNSO Chair provided an update to the EPDP Team on the expected next steps in relation to the ICANN Board's action on Phase 1 recommendations and requested that the EPDP Team provide input to identify any questions, comments or concerns in relation to ICANN Board's action on the EPDP Phase 1 Recommendations. Subsequently, on 9 June 2019, Janis Karklins, Chair of the EPDP, informed the GNSO Chair of the following preliminary input noting that there was not sufficient time to formalize and agree on an EPDP Team response:

“• In relation to purpose 2, there is a general understanding for why the Board decided to not adopt this purpose and the EPDP Team confirms that it considers it firmly within its scope for phase 2 to further review this purpose in the context of the System for Standardized Access / Disclosure (SSAD);

- For recommendation #12, some additional context has been provided that may help explain the thinking behind the EPDP Team's original recommendation. However, there is no agreement at this stage on whether or not the Board's non-adoption should be supported.”

During the Council's June 2019 meeting, it continued to consider the [next steps](#), taking into account a discussion with the ICANN Board at ICANN65. The reasoning and intent of the deletion part of recommendation #12 was explained to the Board, as well as the intent of purpose 2 and it was agreed that a letter should be drafted and sent to the ICANN Board as well as the EPDP Team to provide an update on the current thinking of the GNSO Council and likely next steps. The Council discussed a draft response on its 18 July 2019 meeting, subsequent discussion on the mailing list, and additional dialogue on the 22 August 2019 meeting. On 9 September 2019, the GNSO Council sent its [response](#) to the ICANN Board. On 14 October 2019, the ICANN Board provided its [response](#) to the GNSO Council's update.

On the Council's October 2019 meeting, the Council considered the Board's response and discussed next steps. The Council agreed to consult with the EPDP Team regarding some potential ways of addressing Board's concerns (such as additional rationale or implementation guidance), in preparation for discussions with the ICANN Board at ICANN66.

Here, the Council, taking into account feedback from the EPDP Team and the ICANN Board, will seek to agree on next steps.

See also Annex A-1, Section 6. Board Approval Process below for further details.

Section 6. **Board Approval Processes**

The Board will meet to discuss the EPDP recommendation(s) as soon as feasible, but preferably not later than the second meeting after receipt of the Recommendations Report from the Staff Manager. Board deliberation on the EPDP Recommendations contained within the Recommendations Report shall proceed as follows:

- *Any EPDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN community or ICANN.*
- In the event that the Board determines, in accordance with paragraph a above, that the proposed EPDP Recommendations are not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.
- The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, email, or otherwise) by which the Council and Board will discuss the Board Statement.

At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the guidance in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.

6.1 – Introduction of topic (Council leadership)

6.2 – Council discussion

6.3 – Next steps

Item 7: COUNCIL DISCUSSION - PDP 3.0 Small Group Update/Discussion (15 minutes)

The PDP 3.0 Small Team has completed at least eight (8) out of fourteen (14) PDP 3.0 improvements and has delivered three packages to the GNSO Council. [Package one](#), on improvements 1, 2, 3, and 6 was delivered on 13 August 2019. [Package two](#), on improvements 11, 12, 14, and 16 was delivered on 25 September 2019. [Package three](#), on improvements 5 and 13 was delivered on 22 October 2019. The PDP 3.0 Small Team is making substantial progress on package four, which includes improvements 9 and 15.

The PDP 3.0 Small Team has prepared a work plan that covers items leading up to ICANN66 and continues to work against that work plan. The work plan also touches on the elements necessary after ICANN66 and leading up to the 2020 Strategic Planning Session.

Here, the Council will receive an update on progress made to date and the work plan to complete the PDP 3.0 implementation.

7.1 - Introduction of topic (Rafik Dammak)

7.2 - Council discussion

7.3 - Next steps

Item 8: ANY OTHER BUSINESS (15 minutes)

8.1 - GNSO Approval Action on Fundamental Bylaws Amendment re IANA Naming Function Review Composition - Notification that vote will be needed within 21 days.

8.2 - Open Microphone

8.3 - Thank you to outgoing Councilors (Ayden Féderline, Carlos Gutiérrez, Rubens Kühl, Paul McGrady, Syed Ismail Shah, and Arsène Tungali)

See <https://www.icann.org/resources/pages/governance/bylaws-en/#article11>.

Appendix 2: GNSO Council Absentee Voting Procedures (GNSO Operating Procedures, Section 4.4)

See <https://gnso.icann.org/sites/default/files/file/field-file-attach/op-procedures-30jan18-en.pdf>

References for Coordinated Universal Time of 18:00 UTC

Local time between March and October Summer in the NORTHERN hemisphere

California, USA (PST) UTC-8 10:00

San José, Costa Rica (CST) UTC-6 12:00

New York/Washington DC, USA (EST) UTC-5 13:00

Buenos Aires, Argentina (ART) UTC-3 15:00

Rio de Janeiro, Brazil (BRT) UTC-3 15:00

London, United Kingdom (GMT) UTC 18:00

Kinshasa, Democratic Republic of Congo (WAT) UTC+1 19:00

Paris, France (CET) UTC+1 17:00

Moscow, Russia (MSK) UTC +3 21:00

Islamabad, Pakistan (PKT) UTC+5 23:00

Singapore (SGT) UTC+8 (Thursday) 02:00

Tokyo, Japan (JST) UTC+9 (Thursday) 03:00

Melbourne, Australia (AEDT) UTC+11 (Thursday) 05:00

DST starts/ends on Sunday 29 March 2020, 2:00 or 3:00 local time (with exceptions) for EU countries and on Sunday 08 March 2020 for the US.

For other places see <http://www.timeanddate.com> and <https://tinyurl.com/y33pl34a>