

Agenda 1 September 2016

Proposed Agenda for the GNSO Council Meeting on 1 September 2016

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/MBWsAw>

This agenda was established according to the [GNSO Council Operating Procedures](#), approved and updated on 24 June 2015.

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.

Coordinated Universal Time: 12:00 UTC

<http://tinyurl.com/hbwu5tf>

05:00 Los Angeles; 08:00 Washington; 13:00 London; 15:00 Istanbul; 22:00 Hobart

GNSO Council Meeting Audio Cast

To join the event click on the link: <http://stream.icann.org:8000/gnso.m3u>

Councilors should notify the GNSO Secretariat in advance if they will not be able to attend and/or need a dial out call.

Item 1: Administrative matters (5 minutes)

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 [21 July 2016](#) to be approved on 27 August 2016.

Item 2: Opening Remarks / Review of Projects & Action List (5 minutes)

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

Item 3: Consent agenda (5 minutes)

3.1 – Confirm dates for selection of GAC-GNSO liaison (motion passed on 30 June 2016) based on updated ICANN57 meeting dates: <https://community.icann.org/display/gnsocouncilmeetings/Motions+30+June+2016>

Motion as passed, with dates to be updated highlighted as indicated below:

Resolved:

1. The GNSO Council hereby confirms the extension of the term of the current GNSO Liaison to the GAC, Mason Cole, until the end of the ICANN AGM in Hyderabad.

2. The GNSO Council instructs the GNSO Secretariat to inform the GNSO Stakeholder Groups and Constituencies of the extended selection timeline (Nominations Accepted for Candidates - 1 OCT 2016; Council Chairs consider candidates and notify first choice - 20 OCT; Chairs submit motion to Council by 29 OCT (change to 28 October) for consideration during Council meeting on 8 NOV (change to 7 November); GAC Leadership notified of new Liaison by 9 NOV).

Item 4: COUNCIL VOTE – Approval of Recommendations from the Standing Committee on GNSO Improvements (10 minutes)

In April 2015 the GNSO Council requested that the Standing Committee on GNSO Improvements (SCI) document the existing customary practices of the GNSO Council concerning (i) whether, how and by whom a properly submitted motion before the Council is to be seconded, and (ii) the treatment of proposed amendments to such motions as either “friendly” or “unfriendly”. The Council’s request also authorized the SCI to develop new processes for these practices if the SCI believed that the current practices are inappropriate. Separately, in November 2015, the GNSO Council requested that the SCI review Sections 2.2(b), (f) and (g) of the GNSO Operating Procedures with respect to, first, clarifying: (i) the eligibility of incoming Council members to run for the position of GNSO Chair; (ii) the start and end dates as well as the duration of the Chair and Vice-Chair terms in accordance with the ICANN Bylaws; and (iii) the timing of publication of the election results; and, secondly, recommending a general time table for election of the GNSO Chair.

In October 2015 and in accordance with the Council's April request, the SCI sent its documentation of the Council's practices on the seconding and amendment of motions to the Council (see <https://gnso.icann.org/en/correspondence/aikman-scalese-vansnick-to-robinson-09oct15-en.pdf>). Subsequently, the SCI reached Full Consensus on a proposal to codify the current customary practices in the GNSO Operating Procedures as a new Section 3.3.3: Submitting, Seconding, and Amending Motions. With respect to its review of the rules governing the GNSO Chair and Vice-Chair elections, the SCI reached Full Consensus on modifications to Section 2.2 and a proposal for a new Section 2.2.1: Procedures for a Situation Where a New GNSO Chair Has Not Been Elected by the End of the Previous Chair's Term in the GNSO Operating Procedures.

The SCI's proposals were published for public comment on 5 July 2016 (<https://www.icann.org/public-comments/gnso-op-procedures-2016-07-05-en>). By the close of the public comment period on 14 August, two public comments had been received supporting the SCI's proposals (<https://forum.icann.org/lists/comments-gnso-op-procedures-05jul16/>). Here the Council will consider whether or not to approve the SCI's recommendations for modifying the GNSO Operating Procedures as proposed.

4.1 – Presentation of the [motion](#) (Amr Elsadr)

4.2 – Discussion

4.3 – Council vote (voting threshold: simple majority)

Item 5: COUNCIL VOTE – Adoption of Implementation Advisory Group Recommendations to Update Procedure on WHOIS Conflicts with National Laws (15 minutes)

The GNSO's 2005 Policy on WHOIS Conflicts with National Laws (see <http://gnso.icann.org/en/issues/whois-privacy/council-rpt-18jan06.htm>) had recommended the creation of a procedure to address conflicts between a contracted party's WHOIS obligations and local/national privacy laws or regulations. Under the existing procedure dating from January 2008, a contracted party that credibly demonstrates that it is legally prevented from complying with its WHOIS obligations can invoke the procedure, which defines a credible demonstration as one in which the contracted party has received "notification of an investigation, litigation, regulatory proceeding or other government or civil action that might affect its compliance." The procedure has never been invoked.

In May 2014, ICANN launched a review of the procedure. An Implementation Advisory Group (IAG) was formed and began its work in January 2015. The IAG's Initial Report was published for public comment in November 2015 (see <https://www.icann.org/public-comments/iag-whois-conflicts-privacy-2015-10-05-en>). On 25 May 2016, the IAG's [Final Report](#), accompanying [Appendices](#) and a summary [Memo to the GNSO Council](#) was delivered to the GNSO Council. The IAG proposed modifications to the procedure that it believes do not affect the underlying Policy. The Council received an update on the proposed modifications at ICANN56 and discussed the matter further at its meeting on 21 July. Here the Council will confirm whether or not the IAG's proposed modifications conform with the underlying GNSO Policy.

5.1 – Presentation of the [motion](#) (James Bladel)

5.2 – Discussion

5.3 – Council vote (voting threshold: simple majority)

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Item 6: COUNCIL DISCUSSION – ICANN Board Letter on New gTLD Subsequent Procedures (20 minutes)

On 5 August 2016, ICANN Board Chair Dr. Steve Crocker sent a letter to the GNSO Council concerning work on the GNSO Policy Development Process (PDP) on New gTLD Subsequent Procedures (<https://gnso.icann.org/en/correspondence/crocker-to-bladel-05aug16-en.pdf>). The Board wished to know the GNSO Council's view of the current work in light of the existing GNSO policy and ongoing parallel review work on the 2012 New gTLD Program. The Board letter specifically asked for information on the PDP timeline and whether the GNSO believes that the current PDP must be completed prior to advancing a new application process under the current policy recommendations, including whether any consideration has been given in relation to whether a future application process could proceed while policy work continues and be iteratively applied to the process for allocating new gTLDs. On 16 August the GNSO Chairs sent a reply to the Board on behalf of the Council, acknowledging the Board's request (<https://gnso.icann.org/en/correspondence/council-leadership-to-crocker-16aug16-en.pdf>). Here the Council will discuss the subject of the Board's letter and its further response, including whether or not input from the PDP Working Group may be helpful.

6.1 – Status update on the Board letter and PDP progress (James Bladel / Paul McGrady)

6.2 – Discussion

6.3 – Next steps

Item 7: COUNCIL DISCUSSION – Next Steps for the Cross Community Working Group on Internet Governance (10 minutes)

The [Charter](#) for this Cross Community Working Group (CCWG) was [ratified](#) by the ccNSO Council (September 2014), the GNSO Council (October 2014), and the ALAC (April 2015). The ratified Charter provides that the CCWG scope includes doing "whatever it deems relevant and necessary to facilitate and ensure engagement and participation of the ICANN community in the global Internet governance scene and multi-stakeholder decision-making processes", with regular monthly updates to be provided to its Chartering Organizations and a periodic Progress Paper where appropriate. The Charter also provides that the Chartering Organizations should review the Charter and CCWG deliverables in order to determine whether the group should continue or be dissolved, with the proviso that the CCWG will continue if at least two of its Chartering Organizations extend the Charter and notify the other Chartering Organizations accordingly.

At ICANN55, there was some discussion over the most appropriate forum for SO/AC interaction on Internet governance matters, especially given the expected forthcoming finalization of a Uniform Framework of Principles for Future CCWGs. The co-chairs of the CCWG-IG provided the Council with a Progress Report on its recent activities at ICANN56. Here the Council will discuss appropriate next steps in relation to overseeing the work of the CCWG.

7.1 – Review of status of Council discussion (James Bladel)

7.2 – Discussion

7.3 - Next steps

Item 8: COUNCIL DISCUSSION – Proposed Cost Control Mechanisms and Request for GNSO Council Validation of the Budget for the Cross Community Working Group on Ensuring ICANN Accountability (CCWG-Accountability) (15 minutes)

On 10 July, the GNSO Council requested that the ICANN Board Finance Committee and the CCWG-Accountability co-chairs conduct a webinar to brief the Council and broader GNSO community on the Proposed Cost Control Mechanisms and the CCWG-Accountability's request for the GNSO Council to validate the proposed FY17 budget for the CCWG-Accountability (<https://gns0.icann.org/en/correspondence/bladel-to-bfc-ccwg-accountability-chairs-10jul16-en.pdf>). The proposed budget and costs had been reported to the GNSO Council on 21 June <https://gns0.icann.org/mailling-lists/archives/council/msg18841.html>) The requested webinar took place on 23 August. Here the Council will discuss the CCWG-Accountability's request for the Council to validate the proposed FY17 budget in light of the further information provided during the webinar (recording and slides available at <https://icann.adobeconnect.com/p8fu99qpt7d/>).

8.1 – Status update (James Bladel)

8.2 – Discussion

8.3 – Next steps

Item 9: COUNCIL DISCUSSION – Planning and Scheduling for ICANN57 (15 minutes)

ICANN57 will take place in Hyderabad, India, from 3-9 November 2016. This will be the first "Meeting C" under the new ICANN Meeting Strategy as well as the Annual General Meeting for ICANN. A [draft GNSO schedule](#) for the meeting was circulated to the GNSO Council on 11 July 2016 and reviewed at the Council meeting on 21 July. Here the Council will review all proposed GNSO sessions for ICANN57 in relation to the meeting schedule, including the face to face Policy Development Process (PDP) Working Group meetings, the customary annual Development Session for incoming and continuing GNSO Councilors, and the submission of High Interest Topics of interest to the GNSO.

9.1 – Overview of the proposed schedule (James Bladel)

9.2 – Discussion

9.3 – Next steps

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Item 10: Any Other Business (10 minutes)

10.1 – Discussion of note from Chris Disspain on status of IGO acronyms protection work (<https://gns0.icann.org/en/correspondence/disspain-to-gns0-council-22aug16-en.pdf>)

10.2 – Confirmation of Council liaisons to the the Translation & Transliteration of gTLD Contact Data PDP, IRTP-C PDP, IRTP-D PDP and GNSO Review Working Group

10.3 - Timeline for GNSO Chair/Vice-Chair elections leading up to and at ICANN57 to be shared following meeting – Councillors encouraged to share any questions / concerns with mailing list

10.4 Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Code

Appendix 1: GNSO Council Voting Thresholds (ICANN Bylaws, Article X, Section 3)

9. Except as otherwise specified in these Bylaws, Annex A hereto, or the GNSO Operating Procedures, the default threshold to pass a GNSO Council motion or other voting action requires a simple majority vote of each House. The voting thresholds described below shall apply to the following GNSO actions:

- a. Create an Issues Report: requires an affirmative vote of more than one-fourth (1/4) vote of each House or majority of one House.
- b. Initiate a Policy Development Process ("PDP") Within Scope (as described in [Annex A](#)): requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.
- c. Initiate a PDP Not Within Scope: requires an affirmative vote of GNSO Supermajority.
- d. Approve a PDP Team Charter for a PDP Within Scope: requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.
- e. Approve a PDP Team Charter for a PDP Not Within Scope: requires an affirmative vote of a GNSO Supermajority.
- f. Changes to an Approved PDP Team Charter: For any PDP Team Charter approved under d. or e. above, the GNSO Council may approve an amendment to the Charter through a simple majority vote of each House.
- g. Terminate a PDP: Once initiated, and prior to the publication of a Final Report, the GNSO Council may terminate a PDP only for significant cause, upon a motion that passes with a GNSO Supermajority Vote in favor of termination.
- h. Approve a PDP Recommendation Without a GNSO Supermajority: requires an affirmative vote of a majority of each House and further requires that one GNSO Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation.
- i. Approve a PDP Recommendation With a GNSO Supermajority: requires an affirmative vote of a GNSO Supermajority,

- j. Approve a PDP Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN contract provision specifies that "a two-thirds vote of the council" demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded.
- k. Modification of Approved PDP Recommendation: Prior to Final Approval by the ICANN Board, an Approved PDP Recommendation may be modified or amended by the GNSO Council with a GNSO Supermajority vote.
- l. A "GNSO Supermajority" shall mean: (a) two-thirds (2/3) of the Council members of each House, or (b) three-fourths (3/4) of one House and a majority of the other House."

Appendix 2: Absentee Voting Procedures (GNSO Operating Procedures 4.4)

4.4.1 Applicability

Absentee voting is permitted for the following limited number of Council motions or measures.

- a. Initiate a Policy Development Process (PDP);
- b. Approve a PDP recommendation;
- c. Recommend amendments to the GNSO Operating Procedures (GOP) or ICANN Bylaws;
- d. Fill a Council position open for election.

4.4.2 Absentee ballots, when permitted, must be submitted within the announced time limit, which shall be 72 hours from the meeting's adjournment. In exceptional circumstances, announced at the time of the vote, the Chair may reduce this time to 24 hours or extend the time to 7 calendar days, provided such amendment is verbally confirmed by all Vice-Chairs present.

4.4.3 The GNSO Secretariat will administer, record, and tabulate absentee votes according to these procedures and will provide reasonable means for transmitting and authenticating absentee ballots, which could include voting by telephone, e-mail, web-based interface, or other technologies as may become available.

4.4.4 Absentee balloting does not affect quorum requirements. (There must be a quorum for the meeting in which the vote is initiated.)

Reference (Coordinated Universal Time) UTC 12:00

Local time between October and March Winter in the NORTHERN hemisphere

California, USA (PDT) UTC-7+0DST 05:00
San José, Costa Rica UTC-5+0DST 07:00
Iowa City, USA (CDT) UTC-5+0DST 07:00
New York/Washington DC, USA (EST) UTC-4+0DST 08:00
Buenos Aires, Argentina (ART) UTC-3+0DST 09:00
Rio de Janeiro, Brazil (BRST) UTC-3+0DST 09:00
London, United Kingdom (BST) UTC+0DST 13:00
Bonn, Germany (CET) UTC+1+0DST 14:00
Cairo, Egypt, (EET) UTC+2+0DST 14:00
Istanbul, Turkey (EEST) UTC+3+0DST 15:00
Perth, Australia (WST) UTC+8+0DST 20:00
Singapore (SGT) UTC +8 +0DST 20:00
Sydney/Hobart, Australia (AEDT) UTC+11+0DST 22:00

DST starts/ends on last Sunday of October 2016, 2:00 or 3:00 local time (with exceptions)

For other places see <http://www.timeanddate.com>
<http://tinyurl.com/hbwu5tf>