

# **GNSO Policy & Implementation Working Group Final Recommendations Report**

## **STATUS OF THIS DOCUMENT**

This is the Final Recommendations Report of the GNSO Policy & Implementation Working Group that has been submitted to the GNSO Council for its consideration.

## **PREAMBLE**

This Final Recommendations Report is submitted to the GNSO Council in response to a request received from the Council pursuant to a Motion proposed and carried during the Council teleconference meeting on 17 July 2013.

## TABLE OF CONTENTS

<b>1 EXECUTIVE SUMMARY</b>	<b>3</b>
<b>2 BACKGROUND</b>	<b>7</b>
<b>3 WORKING DEFINITIONS</b>	<b>9</b>
<b>4 POLICY &amp; IMPLEMENTATION PRINCIPLES / REQUIREMENTS</b>	<b>12</b>
<b>5 PROPOSED ADDITIONAL NEW GNSO PROCESSES</b>	<b>18</b>
<b>6 IMPLEMENTATION RELATED RECOMMENDATIONS</b>	<b>21</b>
<b>7 CONCLUSION AND RECOMMENDATIONS</b>	<b>29</b>
<b>ANNEX A – POLICY &amp; IMPLEMENTATION WG CHARTER</b>	<b>31</b>
<b>ANNEX B – GNSO PROCESS OPTIONS</b>	<b>40</b>
<b>ANNEX C – PROPOSED GNSO INPUT PROCESS MANUAL</b>	<b>44</b>
<b>ANNEX D – PROPOSED GNSO GUIDANCE PROCESS MANUAL</b>	<b>50</b>
<b>ANNEX E - PROPOSED GNSO GUIDANCE PROCESS BYLAW PROVISION</b>	<b>59</b>
<b>ANNEX F – PROPOSED EXPEDITED GNSO POLICY DEVELOPMENT PROCESS MANUAL</b>	<b>63</b>
<b>ANNEX G - PROPOSED EXPEDITED POLICY DEVELOPMENT PROCESS BYLAW PROVISION</b>	<b>67</b>
<b>ANNEX H - SCENARIO PLANNING – NEW GNSO PROCESSES</b>	<b>72</b>
<b>ANNEX I - ESTIMATED TIMELINES FOR NEW PROCESSES (IN DAYS)</b>	<b>75</b>
<b>ANNEX J - CONSENSUS POLICY IMPLEMENTATION FRAMEWORK</b>	<b>77</b>
<b>ANNEX K – IMPLEMENTATION PROCESS GRAPHIC</b>	<b>86</b>
<b>ANNEX L – IMPLEMENTATION REVIEW TEAM PRINCIPLES &amp; GUIDELINES</b>	<b>87</b>
<b>ANNEX L – WG MEMBERSHIP AND PARTICIPATION</b>	<b>91</b>

# 1 Executive Summary

## 1.1 Background

Mainly as a result of discussions stemming from implementation related issues of the new generic Top-Level Domain (gTLD) program, there has been an increased focus on which topics call for policy and which call for implementation work, including which processes should be used, at what time and how issues which are the subject of diverging opinions during the implementation process should be acted upon. Following several discussions, including the publication of a [staff discussion paper](#) and a [community session](#) during the ICANN meeting in Beijing in April 2013, the Generic Names Supporting Organization (GNSO) Council decided in July 2013 to form a Working Group (WG) which was tasked to provide the GNSO Council with a set of recommendations on a number of questions that specifically relate to policy and implementation in a GNSO context.

## 1.2 Public comment on Initial Recommendations Report

A 58-day [public comment forum](#) was held on the Initial Recommendations Report in conjunction with a survey. A total of 12 contributions were received (see [report of public comments](#)). The WG reviewed all comments (see the public comment review tool at <https://community.icann.org/x/iSmfAg>) and has updated the report as deemed appropriate.

## 1.3 Policy & Implementation Working Definitions

In order to facilitate its deliberations, the Working Group developed a number of working definitions to facilitate its deliberations, which can be found in section 3.

## 1.4 Policy & Implementation Principles

In response to charter question 1 (recommendations concerning a set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures), the WG recommends adhering to the principles outlined in section 4 when policy or implementation related issues arise in the implementation phase (Preliminary Recommendation #1).

## 1.5 Proposed Additional GNSO Processes

Past experience shows that diverging opinions may arise during the implementation of GNSO policy recommendations and which may or may not involve policy issues. After reviewing several past cases of such issues which were addressed using ad-hoc processes, the Policy & Implementation Working Group (WG) concluded that defining such issues as either “policy” or “implementation” was not as important as developing standardized mechanisms for addressing such issues smoothly and efficiently regardless of characterization. This is especially true in situations where the issues that arise are time sensitive. In light of ICANN’s Core Value 4 in support of informed participation in all policy and decision-making, the WG proposes three new standardized processes for GNSO deliberations regarding such issues (Recommendation #2 and Recommendation #3), as also outlined in the high level overview in Annex B namely:

- **GNSO Input Process (GIP)** – to be used for those instances for which the GNSO Council intends to provide non-binding advice, which is expected to typically concern topics that are not gTLD specific and for which no policy recommendations have been developed to date. “Non-binding advice” means advice that has no binding force on the party it is provided to. For example, this process could be used to provide input on the ICANN Strategic Plan or recommendations from an Accountability and Transparency Review Team. It is the expectation that such input would be treated in a similar manner as public comments are currently considered by the entity (e.g. Board, NPOC, or WG) to which the input is provided.
- **GNSO Guidance Process (GGP)** – to be used in those instances for which the GNSO Council intends to provide guidance that is required to be considered by the ICANN Board, but which is not expected to result in new contractual obligations for contracted parties. Guidance developed through a GGP means advice that has a binding force on the ICANN Board to consider the guidance and it can only be rejected by a vote of more than two-thirds (2/3) of the Board, if the Board determines that such guidance is not in the best interests of the ICANN community or ICANN. It is expected that this would typically involve clarification of, or advice on existing gTLD policy recommendations. This could be in response to a specific request from the ICANN Board but could also be at the initiative of the GNSO Council to an issue that has been identified. For example, such a process could have been used in relation to the request from the ICANN Board to provide input on the .brand registry agreement, specification 13.

- **GNSO Expedited Policy Development Process** - to be used in those instances in which the GNSO Council intends to develop recommendations that would result in new contractual obligations for contracted parties that meet the criteria for “consensus policies”<sup>1</sup> as well as the qualifying criteria to initiate an expedited PDP. Those qualifying criteria are (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP.

The details of each of these processes can be found in Annex C (GNSO Input Process), Annex D and E (GNSO Guidance Process) and Annex F and G (GNSO Expedited Policy Development Process).

**1.1.1.1.1 Note, none of these new processes should be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available.**

## 1.6 Implementation Related Recommendations

The Policy & Implementation Working Group was also tasked to provide the GNSO Council with a set of recommendations on:

- A framework for implementation related discussions associated with GNSO Policy Recommendations;
- Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;

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<sup>1</sup> For further information about ‘consensus policies’, please see <http://gns0.icann.org/en/basics/consensus-policy/about>.

- Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

In its deliberations on these charter questions, the WG reviewed the Consensus Policy implementation framework that has been developed by the ICANN Global Domains Division (GDD) to support predictability, accountability, transparency, and efficiency in the Consensus Policy implementation process (see Annex J) and identified a number of questions on which it requested input as part of the public comment forum on the Initial Recommendations Report (see section 6). As a result of this, the WG recommends that:

- The Policy Development Process Manual be modified to require the creation of an Implementation Review Team following the adoption of PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. if another IRT is already in place that could deal with the PDP recommendations). (Recommendation #4)
- The WG recommends that the principles as outlined in Annex L are followed as part of the creation as well as operation of IRTs. (Recommendation #5)

### **1.7 Consensus Designation**

The report and its recommendations have obtained the full consensus support of the Policy & Implementation Working Group.

### **1.8 Conclusion & Next Steps**

As can be deduced from the materials presented in this Final Recommendations Report, the mailing list archives, numerous conferences calls and extensive deliberations, the WG has made best efforts to consider all relevant materials and viewpoints while reviewing the charter questions. As such, the WG is of the view that the materials contained in this report as well as its recommendations will enhance, clarify, standardise and increase the transparency of all GNSO policy as well as implementation related processes and activities. Next, the GNSO Council will consider this Final Report and its recommendations for adoption.

## 2 Background

Mainly as a result of discussions stemming from implementation related issues of the new generic Top-Level Domain (gTLD) program, there has been an increased focus on which topics call for policy and which call for implementation work, including which processes should be used, at what time and how issues which are the subject of diverging opinions during the implementation process should be acted upon.

Following several discussions, including the publication of a [staff discussion paper](#) and a [community session](#) during the ICANN meeting in Beijing in April 2013, the Generic Names Supporting Organization (GNSO) Council decided in July 2013 to form a Working Group (WG) which was tasked to provide the GNSO Council with a set of recommendations on:

1. A set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures;
2. A process for developing gTLD policy, perhaps in the form of “Policy Guidance”, including criteria for when it would be appropriate to use such a process (for developing policy other than “Consensus Policy”) instead of a GNSO Policy Development Process;
3. A framework for implementation related discussions associated with GNSO Policy Recommendations;
4. Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;
5. Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

The Working Group commenced its deliberations in August 2013 and contacted all ICANN Supporting Organizations, Advisory Committees as well as GNSO Stakeholder Groups and Constituencies at an early stage for input to help inform its deliberations. In response, feedback was received from the Registries Stakeholder Group (RySG), the At-Large Advisory Committee (ALAC) and the Internet Service Providers and Connectivity Providers Constituency (ISPCP) (see <https://community.icann.org/x/iSmfAg>) which was duly considered by the WG during its deliberations.

Through various iterations of its [work plan](#) and the publication of its [Initial Recommendations Report](#) for [public comment](#), the WG has now published its Final Recommendations Report for GNSO Council consideration.

The details of its deliberations, including all draft documents, can be found on the WG workspace at <https://community.icann.org/x/y1V-Ag>.



### 3 Working Definitions

In order to facilitate its deliberations, the WG agreed on the following set of working definitions. (Note, these working definitions have been developed for the limited use by the GNSO Policy & Implementation Working Group as a starting point to facilitate their discussions and deliberations on the questions outlined in the WG’s charter. These definitions were expected to evolve during and as a result of the WG deliberations. The WG reviewed these definitions in light of public comments and its own work, and has updated these as deemed appropriate.

Term	Draft Definition
<b>1. GNSO Consensus</b>	'A position where, only a small minority disagrees, but most agree' <sup>2</sup> after all views on a matter have been expressed, understood, documented and discussed.
<b>2. GNSO Consensus Policy</b>	A Policy established (1) pursuant to the procedure and required minimum elements set forth in ICANN's Bylaws, and (2) covering those topics listed in Section 1.2 of the consensus policies and temporary policies specification of the 2013 RAA (see Annex I) or the relevant sections in the gTLD registry agreements (see Annex II). GNSO Consensus Policies, adopted following the outlined procedures, are applicable and enforceable on contracted parties as of the implementation effective date.
<b>3. GNSO Implementation Review Team</b>	A team that may be formed at the discretion of the GNSO Council to assist Staff in developing the implementation details for a GNSO policy. <sup>3</sup>
<b>4. Policy</b>	A set of decisions and/or applied principles selected to determine and steer present and future actions.
<b>GNSO Policy<sup>4</sup></b>	Any gTLD-related policy recommendation that is approved by the ICANN Board <sup>5</sup> .

<sup>2</sup> As defined in section 3.6 of the [GNSO Working Group Guidelines](#)

*In addition to “consensus” there are also other designations referring to degrees of agreement defined in a GNSO context such as: full consensus; and strong support but significant opposition. For further details, please see section 3.6 of the GNSO Working Group Guidelines. Also note that consensus may have different meanings outside of the GNSO context.*

<sup>3</sup> Further discussion required concerning the definition of this term as per Charter Question 5 to, for example, determine whether to include Implementation Review Team as a concept defined as a team formed to review implementation of a policy in order to confirm that the implementation comports with and effectively embodies the Policy.

<sup>4</sup> This term is included to emphasize the distinction between GNSO Policy (which has a specific meaning and procedures within ICANN) from general policymaking, but GNSO Policy is nevertheless acknowledged to be a form of Policy.

<sup>5</sup> GNSO Policy may be developed through a formal policy development process as set forth in Annex A of the ICANN Bylaws or through other means. Note also that there are multiple kinds of “policy” within the ICANN world: There are formal policies developed through the policy development processes as set forth in the Bylaw; operational policies generally not subject to a

<b>5. Implement or Implementation</b>  <b>Implementation of a GNSO Policy</b>	<p>The process of putting into effect, carrying out, executing or accomplishing a policy.</p> <p>The process of carrying out or applying a GNSO Policy.</p>
<b>6. Policy Advice</b>  <b>GNSO Policy Guidance<sup>6</sup></b>	<p>Community input on policy-related issues. Such advice may be requested by the Board or offered independently.</p> <p>A term suggested in the PI WG Charter<sup>7</sup> for policy-related input from the GNSO other than recommendations developed through currently established policy development processes.</p>
<b>7. Policy Development</b>  <b>GNSO Policy Development</b>	<p>The process through which policy is developed.</p> <p>The development of Policy pursuant to the policy development procedures, including the Policy Development Process (“PDP”) set forth in <a href="#">Annex A</a> to the ICANN Bylaws. This PDP procedure is required to be used for the development of ‘Consensus Policy’ (see below)<sup>8</sup>.</p>
<b>8. Principle<sup>9</sup></b>	<p>A principle is a kind of foundational value, belief, or idea that guides a person, organization, or community.</p> <p>Alternatively, a basic belief, truth or theory that underpins and influences actions, represents that which is considered to be positive and desirable for an organization, and guides and governs that organization’s policies, internal processes and objectives.</p>

PDP or considered implementation, such as the Conflicts of Interest Policy, but for which public comment is sought and considered (see ATRT Rec 6 Paper for further details; and general practices that are sometimes referred to as “little p” policies or more accurately “procedures”, such as the 30-day public comment requirement for Bylaw changes. This Working Group is charged with looking at whether there are other times during which policy processes may need to be invoked.

<sup>6</sup> As ‘Advice’ is a term defined in the ICANN Bylaws in relation to ICANN Advisory Committees, it was deemed more appropriate to use the term ‘Guidance’ in the context of the GNSO.

<sup>7</sup> See Charter Question 2: The Policy & Implementation Working Group is tasked to provide the GNSO Council with a set of recommendations on: A process for developing gTLD policy, perhaps in the form of “Policy Guidance”, including criteria for when it would be appropriate to use such a process (for developing policy other than “Consensus Policy”) instead of a GNSO Policy Development Process.

<sup>8</sup> For other policies, the GNSO Council may use the PDP but is not required to do so.

<sup>9</sup> A principle is generally a normative statement, representing an axiological preference, and rooted in a philosophical or other foundational document generally accepted by the community to which it applies.

<b>9. Stakeholder</b>	Any individual, group or organization that has a direct or indirect interest or stake in a possible outcome. <sup>10</sup>
<b>Multistakeholder Model</b>	An organizational framework or structure for organizational governance or policymaking which aims to bring together all stakeholders affected by such governance or policymaking to cooperate and participate in the dialogue, decision making and implementation of solutions to identified problems or goals.
<b>ICANN Multistakeholder Model</b>	The Multistakeholder Model adopted by ICANN is composed of diverse self-selected Internet stakeholders from around the world organized or self-organized into various Supporting Organizations, Constituencies, and Advisory Committees, and utilizes a bottom-up, consensus-based policy development processes, open to anyone willing to participate.
<b>Bottom up in a GNSO PDP</b>	A fundamental principle of ICANN's participation and policy development decision-making process whereby the formulation of analyses and decisions originate with stakeholders who participate in the process and then develop recommendations for consideration by the broader community and ultimately by the Board as applicable. The request to consider such processes may come from anywhere within ICANN, or even from outside of ICANN. The processes used are designed to provide equal opportunity for participation by all Stakeholders as practically possible.

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<sup>10</sup> See ICANN Wiki: [http://icannwiki.com/index.php/Multistakeholder\\_Model](http://icannwiki.com/index.php/Multistakeholder_Model)

## 4 Policy & Implementation Principles / Requirements

In response to charter question 1 (A set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures), the WG recommends adhering to the following principles when policy or implementation related issues arise in the implementation phase.

### **Recommendation #1.**

The WG recommends that the following principles / requirements are adopted by the GNSO Council and ICANN Board to guide any future policy and implementation related work:

#### **A. Overarching Principle**

Since its inception, ICANN has embraced the bottom-up multistakeholder model (MSM) as a framework for the development of global DNS policy. “Multistakeholder Model” is an organizational framework or structure for organizational governance or policymaking which aims to bring together all stakeholders affected by such governance or policymaking to cooperate and participate in the dialogue, decision making and implementation of solutions to identified problems or goals. A “stakeholder” refers to an individual, group or organization that has a direct or indirect interest or stake in a possible outcome.<sup>11</sup>

ICANN’s implementation of the Multistakeholder Model is composed of different Internet stakeholders from around the world organized in various Supporting Organizations, Stakeholder Groups, Constituencies and Advisory Committees, and utilizes bottom-up, consensus-based policy development processes, open to anyone willing to participate.

In the case of the GNSO, policy development processes and in particular the GNSO Policy Development Process<sup>12</sup> (PDP) enshrines this concept of a robust MSM and to that end the following Principles apply.

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<sup>11</sup> See ICANN Wiki: [http://icannwiki.com/index.php/Multistakeholder\\_Model](http://icannwiki.com/index.php/Multistakeholder_Model)

<sup>12</sup> See Annex A of the ICANN Bylaws.

## **B. Principles / Requirements that apply to Policy & Implementation**

Both GNSO Policy and Implementation processes must be based on the ICANN Multistakeholder Model.

To ensure this, the following Principles are proposed:

1. Policy development processes must function in a bottom-up manner. The process must not be conducted in a top-down manner and then imposed on stakeholders<sup>13</sup>, although an exception may be made in emergency cases such as where there are risks to security and stability, as defined in ICANN's Security, Stability and Resiliency framework<sup>14</sup>.
2. The development and implementation of policy must have a basis in and adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability and due process consistent with ICANN's core values (see <http://www.icann.org/en/about/governance/bylaws#!>)
3. Implementation should be regarded as an integral and continuing part of the process rather than an administrative follow-on, and should be seen as a process that allows for dialogue and collaboration among those implementing the policy (e.g. Board, staff, and IRT) and those that developed it and/or any stakeholders affected by and/or interested in the implementation (e.g. GNSO or any SO or AC).
4. Whilst implementation processes as such need not always function in a purely bottom-up manner, in all cases the relevant policy development body (e.g., the chartering organization) must have the opportunity to be involved during implementation, to provide guidance<sup>15</sup> on the implementation of the policies as recommended by the GNSO.
5. In cases where potentially new or additional policy issues are introduced during an implementation process, these issues should be communicated to the relevant policy development body (e.g., the chartering organization) prior to the completion of the implementation process. In this regard, reference should be made to certain other Principles in

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<sup>13</sup> This Principle is applicable regardless of when a Policy Development Process is initiated, and by whom. For example, under the ICANN Bylaws a GNSO PDP may be initiated by the Board, the GNSO Council or another ICANN Supporting Organization or Advisory Committee.

<sup>14</sup> <http://www.icann.org/en/about/staff/security/ssr/ssr-plan-fy14-06mar13-en.pdf>

<sup>15</sup> The word "guidance" is being used here in its ordinary generic sense, and should not be read as referring to the phrase "Policy Guidance" as defined by this Working Group.

this document that may be applicable in such situations (see e.g. Principles D-1(b), D-1(c) and D-2(a).)

6. Policy and Implementation are not two separate phases entirely, but require continuous dialogue and communication between those that developed the policy (e.g., GNSO) and those that are charged with operationalizing/implementing it (e.g., contracted parties, staff).

### **C. Principles / Requirements that apply primarily to Policy**

#### 1. Policy Standards:

- a) As outlined in the ICANN Bylaws, the GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. As such, gTLD policy development should not take place outside of the GNSO.
- b) GNSO policy recommendations should be clear and unambiguous and should include performance timelines as well as other targets and standards<sup>16</sup> as appropriate.
- c) Policy processes must be designed to be as time-sensitive as possible without compromising the multistakeholder process.
- d) Policy staff is expected to provide PDP WGs assistance, as outlined in the GNSO WG Guidelines, in a transparent and neutral manner, including drafting, if required, which should reflect faithfully the deliberations of the Working Group.

#### 2. Policy and the Community:

- a) An analysis of the impact of new policy on stakeholders is an essential part of the policy development process.
- b) The GNSO, with the assistance of Policy Staff, must provide timely notification to the rest of the community about policy development efforts and/or implementation processes in which it is engaged. It is the responsibility of the other SOs and ACs and stakeholders in general to determine whether or not they are impacted by that activity, and to provide their input in a timely manner. The GNSO is responsible for reviewing

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<sup>16</sup> These standards should be developed in coordination with, or with reference to, definitions and other work underway in relation to data gathering and metrics, e.g. by the GNSO's Working Group on Data & Metrics for Policy Making.

and considering all such input. Final documents should include references to the input received and its disposition in the final outcome.

- c) Each of the principles in this document must be considered in terms of the degree to which they adhere to and further the principles defined in ICANN's Core Values as documented in article 2 of the ICANN by-laws (<http://www.icann.org/en/about/governance/bylaws#!>). Particular note should be made to core value 4: "Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making".
- d) Whenever the Board determines that the recommendations of the GNSO do not, in its view, reflect a broader consensus including the advice of the Advisory Committees and public comments, it will use existing process mechanisms to send the issue back to the GNSO for further consideration to initiate broader community discussion. All final recommendations would still be the responsibility of the GNSO.

#### **D. Principles / Requirements that apply primarily to implementation**

##### 1. Implementation Standards:

- a. The development and implementation of policy must have a basis in and adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability and due process consistent with ICANN's core values and in particular its commitment to the global public interest as outlined in the ICANN Articles of Incorporation.
- b. All GNSO PDP WGs should be encouraged to provide as much implementation guidance as possible within a reasonable timeframe as outlined in the PDP Manual. To the extent implementation guidance cannot be provided, the PDP recommendations should strive to identify areas where additional policy work may be identified during implementation.
- c. Changes to the proposed GNSO implementation guidance need to be examined by the GNSO Council or another appropriate entity as designated by the GNSO Council on where they fall in the spectrum of policy and implementation. In all cases, the community maintains the right to challenge whether such updates need further review

for policy implications, while at the same time recognising that all stakeholders have the right to bring specific issues to the GNSO Council and to contribute to the GNSO challenge process.

- d. ICANN staff tasked by the Board with the implementation of the approved GNSO Policy recommendations should be able to make changes to the proposed implementation of the policy recommendations into an implementation plan as long as these do not affect the intent of the policy recommendations and as long as they are fully transparent. Examples of such changes include administrative updates, error corrections and process details. In all cases, any such changes should be communicated to the GNSO Council or appropriate entity as designated by the GNSO Council, which should, based on the Working Principles enumerated above, have standardized and efficient mechanisms for challenging whether such changes would affect the intent of the policy recommendations.
- e. In all cases, all material changes that are made in the development of the implementation plan that affect the implementation guidance, intent of and/or policy recommendations as adopted by the GNSO Council should be communicated to the GNSO Council or appropriate entity as designated by the GNSO Council. The Council or its designated entity should then use standardized processes to review the changes, determine whether they are supported by the intent of the policy recommendations, and make recommendations to modify the implementation plan accordingly.
- f. Each of the principles in this document must be considered in terms of the degree to which it adheres to and further the principles defined in ICANN's Core Values as documented in article 2 of the ICANN by-laws (see <http://www.icann.org/en/about/governance/bylaws#l>).
- g. The resolution of unexpected policy or implementation related issues identified during the implementation phase should not delay implementation more than the minimum amount of time that is necessary.



## 2. Limitation of Implementation:

- a. There should be a mechanism to flag and address unanticipated outcomes of implementation decisions that may significantly impact<sup>17</sup> the community.
- b. There should be a mechanism to flag and address situations where there may be a deviation between the implementation and the policy as it was originally intended.
- c. If substantive policy implications are identified during implementation<sup>18</sup>, the GNSO Council should be notified and involved in the process of resolving the issue(s) and it should not be left to ICANN staff (or to whomever ICANN has delegated this task) to resolve by themselves.

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<sup>17</sup> Some possible examples include but are not limited to: if new obligations are imposed on parties; substantive changes to burdens such as related privacy, accessibility, rights protections, costs, risks, etc.

<sup>18</sup> Identified via a process as defined by the PI WG in this report.

## 5 Proposed Additional New GNSO Processes

In relation to charter question 2 (A process for developing gTLD policy, perhaps in the form of “Policy Guidance”, including criteria for when it would be appropriate to use such a process (for developing policy other than “Consensus Policy”) instead of a GNSO Policy Development Process), the WG discussed extensively whether additional processes would be needed, and if so, how these should look.

In order to gain a better understanding of what process or processes might be necessary in addition to the existing GNSO Policy Development Process (PDP), the WG reviewed a number of ad-hoc processes that the GNSO Council has used to provide feedback and input that was not restricted to ‘Consensus Policy’ development for which a PDP is required. The PDP is currently the only formal process the GNSO Council has available to take action. The results of this review can be found [here](#), with the summary results available [here](#). On the basis of this analysis as well as a review of some of the questions outlined in the charter and input received (see [here](#)), the WG concluded that the GNSO could benefit from the creation of the following three new processes (see also the high level overview in Annex B):

1. **GNSO Input Process (GIP)** – to be used for those instances for which the GNSO Council intends to provide non-binding advice, which is expected to typically concern topics that are not gTLD specific and for which no policy recommendations have been developed to date. “Non-binding advice” means advice that has no binding force on the party it is provided to. For example, this process could be used to provide input on the ICANN Strategic Plan or recommendations from an Accountability and Transparency Review Team. It is the expectation that such input would be treated in a similar manner as public comments are currently considered by the entity (e.g. Board, NGPC, or WG) to which the input is provided.
2. **GNSO Guidance Process (GGP)** – to be used in those instances for which the GNSO Council intends to provide guidance that is required to be considered by the ICANN Board, but which is not expected to result in new contractual obligations for contracted parties. Guidance developed through a GGP has a binding force on the ICANN Board to consider the guidance and it can only be rejected by a vote of more than two-thirds (2/3) of the Board, if the Board determines that such guidance is not in

the best interests of the ICANN community or ICANN. It is expected that this would typically involve clarification of, or advice on existing gTLD policy recommendations. This could be in response to a specific request from the ICANN Board but could also be at the initiative of the GNSO Council to an issue that has been identified. For example, such a process could have been used in relation to the request from the ICANN Board to provide input on the .brand registry agreement, specification 13. The GGP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available

- 3. GNSO Expedited Policy Development Process (EPDP)** - to be used in those instances in which the GNSO Council intends to develop recommendations that would result in new contractual obligations for contracted parties that meet the criteria for “consensus policies”<sup>19</sup> as well as the qualifying criteria to initiate an expedited PDP. Those qualifying criteria are (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP. The EPDP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group did not like the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available.

The details of each of these processes can be found in the proposed manuals to be included as part of the GNSO Operating Procedures namely Annex C (GNSO Input Process), Annex D (GNSO Guidance Process) and Annex F (GNSO Expedited Policy Development Process). Furthermore, in order to implement these processes, a number of changes to the bylaws are expected to be necessary as outlined in Annex E (GGP) and Annex G (EPDP).

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<sup>19</sup> For further information about ‘consensus policies’, please see <http://gns0.icann.org/en/basics/consensus-policy/about>.

Those interested in viewing these three processes in comparison can do so [here](#).

Estimated timelines for these new processes have been included in Annex I, while Annex H outlines a number of scenarios in which these new processes could have been used for illustration purposes.

### **Recommendation #2.**

The WG recommends the creation of three additional GNSO Processes, namely a GNSO Input Process, a GNSO Guidance Process and a GNSO Expedited Policy Development Process following the model as outlined in Annex C (GNSO Input Process), Annex D and E (GNSO Guidance Process) and Annex F and G (GNSO Expedited Policy Development Process). The purpose of these processes is to both standardize and expedite resolution of issues of concern to the community which history has shown are bound to arise in, whether such issues are characterized as policy or implementation.

### **Recommendation #3.**

The WG recommends to add a provision to the GNSO Operating Procedures that clarifies that parallel efforts on similar / identical topics should be avoided. As the manager of the process, the GNSO Council is expected to resolve which process would be the most appropriate to use. This could, for example, be clarified as follows: 'Where two or more requests (e.g. in the form of motions) are received by the GNSO Council that propose different processes for addressing the same issue, the GNSO Council as the manager of the overall policy development process must have the flexibility to determine the most appropriate course of action. In determining the most appropriate course of action, the GNSO Council should take into account all of the following: (1) the scope of each process, as expressly delineated in the ICANN Bylaws and the relevant portions of the GNSO Operating Procedures (including the PDP, GGP and EPDP Manuals, as applicable); (2) the information contained in the relevant motion, form or scoping document requesting the initiation of each process; and (3) any other materials and information the Council deems relevant, such as the original Board, SO or AC request to the GNSO (if applicable)'.

## 6 Implementation Related Recommendations (Charter Questions 3, 4 and 5)

The Policy & Implementation Working Group was also tasked to provide the GNSO Council with a set of recommendations on:

3. A framework for implementation related discussions associated with GNSO Policy Recommendations;
4. Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;
5. Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

In its deliberations on these charter questions, the WG reviewed the Consensus Policy implementation framework that has been developed by the ICANN Global Domains Division (GDD) to support predictability, accountability, transparency, and efficiency in the Consensus Policy implementation process (see Annex J). In reviewing this framework, a review of Implementation Review Teams (IRTs) to date (see [here](#)) and charter questions 3, 4 and 5, the WG identified that the following underlying questions would need to be answered in order to address these charter questions (see also the implementation process chart in annex K):

- GNSO Implementation Review Team
  - Currently optional, should this be mandatory? (charter question 5) ;
  - How is the IRT expected to operate, what is its decision-making methodology? (charter question 5);
  - What additional mechanisms, if any, should be foreseen for implementation related discussions? (beyond those that take place with the IRT); How should feedback via public comments on proposed policy language be handled where attempts to change the consensus recommendation are evident? (charter question 3);
  - How is feedback as well as the flagging of potential issues to the GNSO Council by the

- IRT managed and what mechanism should be used to formally 'object' (should there be a way to first address this in the IRT or is there an immediate need to escalate to GNSO Council)? (charter question 4 & 5)
- Composition - How to balance the need between expert input / participation and ensuring that participants are familiar with the original policy recommendations and PDP WG deliberations? What is the appropriate level of knowledge for participation in an IRT? (charter question 5)
  - Could/should an IRT or implementation effort proceed if even after outreach there are not sufficient qualified volunteers to ensure that key affected parties are participating? (charter Question 5)
  - Implementation project plan
    - Determine if/how/when the IRT should be involved and how consultations with staff should take place, if specific guidance is deemed necessary (Charter Question 3)
    - How to maintain continuity in the issue even if the development of the implementation plan takes longer than originally anticipated? (charter question 3)
  - GNSO Council
    - What process(es) is (are) to be used for addressing implementation / policy issues raised by the IRT? (charter question 4)
    - What role does the Board play, if any, in addressing implementation concerns from the GNSO Council? (charter question 3 & 4)

As part of its deliberations, the WG considered the following, which resulted in the recommendations listed hereunder:

## **1. GNSO Implementation Review Team**

### **1.1. Should IRT be mandatory?**

- The question was raised what the typical make-up of IRTs is. It was noted that the initial focus has been on original PDP WG members but in certain cases additional expertise may be needed / desirable. More complex IRTs may need a different level of expertise than more straight

forward policy recommendations. It was agreed that at a minimum volunteers should be invited from the PDP WG that developed the policy recommendations, but that staff / IRT should have the flexibility to reach out to other parties / experts if deemed necessary to ensure the required expertise as well as involvement of directly affected parties.

- It was suggested that an opt-out option should be provided if there is no need for an IRT, but it was noted that if the choice is whether an IRT should be mandatory or not, it probably should be mandatory.
- It was also pointed out that the level of participation / interest in joining an IRT may also provide an indication of whether there is a community interest or need to have an IRT.
- It was agreed that the processes associated with Implementation Review Teams should be flexible as a one-size fits all model would probably not work or be very effective.
- It was suggested to consider modifying the existing language in the PDP manual to require the creation of an Implementation Review Team following the adoption of the policy recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. in certain cases there may not be an implementation or another IRT may already be in place to deal with the implementation of policy recommendations).
- It was also suggested that in certain cases an IRT could consist of a limited number of people, even one, which would mainly serve the function of liaison between the staff efforts and the GNSO Council.

#### **Recommendation #4.**

The Working Group recommends that the PDP Manual be modified to require the creation of an Implementation Review Team following the adoption of PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. if another IRT is already in place that could deal with the PDP recommendations. However, in such case the membership of the IRT will need to be reviewed to ensure that adequate expertise and representation is present to take on the implementation of the additional PDP recommendations).

## 1.2. How is the IRT expected to operate?

- The WG reviewed the different IRTs to date (see [here](#)) and derived a number of additional questions as well as lessons learned from that exercise.
- The WG noted that flexibility is critical as an IRT is very different from a PDP WG, and each IRT is different depending on the issues addressed. As such, the WG agreed that specific rules might not be desirable, but a set of general principles might assist in setting expectations and help guide IRTs. (See Annex L.)
- Noting that IRTs serve an advisory role compared to PDP WGs responsible for developing policy recommendations, the WG noted that normally staff would take a leadership role but as needed others such as the Council liaison could also take on such a role. However, the WG recognized the importance of a permanent link with the GNSO Council as well as participation of someone in the effort who would be in a position to take a leadership role, if necessary. As such, the WG agreed that the GNSO Council should appoint a GNSO Council liaison to each IRT.
- The WG noted that the principles should be used to guide issues such as how to deal with disagreement in an IRT, without providing too many specifics to allow for flexibility. For example, it was suggested that the Council liaison to the IRT could serve in a role that could step up if/when needed and issues need to be addressed to the Council. It was also noted that in considering these principles, the GNSO WG Guidelines should be considered as a basis for resolving differences related to the policy-making intent.
- The WG noted that IRTs should not be used as an opportunity to reopen policy recommendations. The main objective of the IRT is to ensure that implementation is carried out in conformance with the intent of the policy recommendations. As such, it would be important to emphasize this aspect to any members joining an IRT, especially if they were not involved in developing the original policy recommendations.
- The WG also highlighted the importance of building confidence in the model by ensuring that in critical moments appropriate outreach is undertaken. Furthermore robust transparency aspects would need to be built in, such as staff keeping the IRT updated on a regular basis on progress and expected next steps.
- The WG also considered the process that should be followed in order for the IRT to raise issues with the GNSO Council. (See 1.4 below.)



**1.3. What additional mechanisms, if any, should be foreseen for implementation related discussions (beyond those that take place with the IRT)?**

- The WG suggests that flexibility in this regard is important as certain issues may require additional discussions or consultations, in addition to those outlined in this chapter. At a minimum, the WG expects that a public comment forum would be conducted on the proposed implementation to allow for broader community input.
- In addition to regular updates to the IRT, staff is also expected to provide regular status updates, including progress and expected next steps to the broader community, which could be in the form of a publicly accessible wiki page or web-site that would contain such information as well as including such updates in the GNSO project list.

**1.4. How is feedback as well as the flagging of potential issues to the GNSO Council by the IRT managed, what mechanism should be used to formally 'object' (should there be a way to first address this in the IRT or is there an immediate need to escalate to GNSO Council)? (charter questions 4 & 5)**

- The WG discussed that in the event of disagreement between ICANN Staff and the IRT or any of its members on the implementation approach proposed by ICANN Staff for it not being considered conform the intent of the policy recommendations, all reasonable efforts should be taken to resolve such disagreement. It was suggested that the GNSO Council liaison could play a mediator role in such efforts, if deemed appropriate.
- Should the disagreement prove irreconcilable despite such efforts and the consensus view of the IRT is that the proposed implementation does not conform to the intent of the policy recommendations, the IRT is expected to formally raise the issue with the GNSO Council. There should be the ability for IRT members to include a minority statement as part of the communication of the consensus view to the GNSO Council, should any exist.

**1.5. Composition - How to balance the need between expert input / participation and ensuring that participants are familiar with the original policy recommendations and PDP WG deliberations?, What is the appropriate level of knowledge for participation in an IRT? (charter question 5)**

- The WG agreed that the IRT volunteer recruitment process should take into account what areas of expertise are expected to be needed. Identification of necessary areas of expertise should preferably be done before issuing a call for volunteers.
- The WG also recognized that in some cases, additional outreach at the start or at a later stage of the IRT may be necessary to ensure that appropriate expertise is available and that directly affected parties are involved in the IRT.
- The WG recommends that the call for IRT volunteers should at a minimum be sent to all members of the PDP working group that was responsible for developing the policy recommendations. The call for volunteers may need to reach beyond the working group members to ensure broad participation by parties directly impacted by the implementation and parties with specialized expertise needed for implementation. However, as noted above, it will be important to ensure that all IRT members understand the role and remit of the IRT, especially IRT members that may not have been involved in developing the original policy recommendations. As such, familiarity with the policy recommendations as well as the deliberations that informed the policy recommendations is a minimum requirement for all IRT members.

**1.6. Could/should an IRT or implementation effort proceed if even after outreach there are not sufficient qualified volunteers to ensure that key affected parties are participating? (charter Question 5)**

- The WG is of the view that all reasonable efforts should be made to encourage participation in an IRT. However, it was also recognized that it is not possible to require participation and lack of volunteers or participation should not prevent implementation from going forward as long as all reasonable efforts are made by staff to inform and reach out to the broader community, especially directly affected parties.

**Recommendation #5.**

The WG recommends that the principles as outlined in L are followed as part of the creation as well as operation of IRTs.

## 2. Implementation project plan

### 2.1. Determine if/how/when the IRT is involved and how consultations with staff should take place, if specific guidance is deemed necessary (Charter Question 3)

- The WG agrees that staff must provide regular updates to the IRT on the status of the implementation and conduct appropriate outreach to the IRT at critical milestones. In some cases, status updates and communications about key implementation developments may also need to be pushed out to the broader community.
- At a minimum such updates should include:
  - A. A Consensus Policy Implementation status page hosted on icann.org that contains a summary of the project, primary tasks as shaped by the consensus recommendations, percent complete, and expected delivery dates (note this page is currently under construction)
  - B. The GNSO Council Project List, hosted on gns0.icann.org contains a summary of the project, latest accomplishments, and expected delivery. The Project List is reviewed periodically by the GNSO Council.
- Furthermore, the WG suggests that staff must set clear deadlines for IRT feedback on documents and implementation plans and send documents to the IRT in a timely manner to ensure sufficient time for IRT review.

### 2.2. How to maintain continuity in the issue even if the development of the implementation plan takes longer than originally anticipated? (charter question 3)

- The WG noted that ideally the time between the adoption of the policy recommendations by the ICANN Board and starting the development of the implementation process would be as short as possible. However, the WG recognized that there are certain circumstances in which a delay could occur, for example in cases where there is a dependence on other activities completing or limited resources. In such circumstances, the WG noted that the above mentioned mechanisms (status page, regular updates etc.) could assist in this regard.

### **3. GNSO Council**

#### **3.1. What process(es) is (are) to be used for addressing implementation / policy issues raised by the IRT (charter question 4)**

The WG is of the view that the processes as outlined in Section 4, Proposed Additional New GNSO Processes, of this report are likely to be suitable to address any issues that are raised by the IRT to the GNSO Council (via the GNSO Council Liaison). Depending on the intended outcome, a GIP, GGP, EPDP or PDP could be used.

#### **3.2. What role does the Board play, if any, in addressing implementation concerns from the GNSO Council (charter question 3 & 4)**

As the ICANN Board directs ICANN staff to implement policy recommendations following their adoption, the Board would need to be kept abreast should there be any issues that may result in additional consideration by the GNSO Council during the implementation process. Similarly, should the GNSO Council decide to initiate a GGP, EPDP or PDP, the ICANN Board would be involved per the procedures as outlined in Annex C, D, E, F and G.

## 7 Conclusion and Recommendations

As can be deduced from the materials presented in this Initial Recommendations Report, the mailing list archives, numerous conferences calls and extensive deliberations, the WG has made best efforts to consider all relevant materials and viewpoints while reviewing the charter questions. As such, the WG is of the view that the materials contained in this report as well as its recommendations will enhance, clarify, standardise and increase the transparency of all GNSO policy as well as implementation related processes and activities. In summary, the WG recommends:

### **Recommendation #1.**

The WG Recommends that the principles as outlined in section 4 are adopted by the GNSO Council and ICANN Board to guide any future policy and implementation related work.

### **Recommendation #2.**

The creation of three additional GNSO Processes, namely a GNSO Input Process, a GNSO Guidance Process and a GNSO Expedited Policy Development Process following the model as outlined in Annex C (GNSO Input Process), Annex D and E (GNSO Guidance Process) and Annex F and G (GNSO Expedited Policy Development Process).

### **Recommendation #3.**

The WG recommends to add a provision to the GNSO Operating Procedures that clarifies that parallel efforts on similar / identical topics should be avoided. As the manager of the process, the GNSO Council is expected to resolve which process would be the most appropriate to use. This could, for example, be clarified as follows: 'Where two or more requests (e.g. in the form of motions) are received by the GNSO Council that propose different processes for addressing the same issue, the GNSO Council as the manager of the overall policy development process must have the flexibility to determine the most appropriate course of action. In determining the most appropriate course of action, the GNSO Council should take into account all of the following: (1) the scope of each process, as expressly delineated in the ICANN Bylaws and the relevant portions of the GNSO Operating Procedures (including the PDP, GGP and EPDP Manuals, as applicable); (2) the information contained in the relevant motion, form or scoping

document requesting the initiation of each process; and (3) any other materials and information the Council deems relevant, such as the original Board, SO or AC request to the GNSO (if applicable)'.

**Recommendation #4.**

The PDP Manual be modified to require the creation of an Implementation Review Team following the adoption of the PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. if another IRT is already in place that could deal with the PDP recommendations. However, in such case the membership of the IRT will need to be reviewed to ensure that adequate expertise and representation is present to take on the implementation of the additional PDP recommendations).).

**Recommendation #5.**

The principles as outlined in Annex L are followed as part of the creation as well as operation of IRTs.

## Annex A – Policy & Implementation WG Charter

<b>WG Name:</b>	<b>Policy &amp; Implementation Working Group</b>	
<b>Section I: Working Group Identification</b>		
<b>Chartering Organization(s):</b>	GNSO Council	
<b>Charter Approval Date:</b>	17 July 2013	
<b>Name of WG Chair:</b>	J. Scott Evans / Chuck Gomes	
<b>Name(s) of Appointed Liaison(s):</b>	Amr Elsadr / Brian Winterfeldt	
<b>WG Workspace URL:</b>	<a href="https://community.icann.org/x/y1V-Ag">https://community.icann.org/x/y1V-Ag</a>	
<b>WG Mailing List:</b>	<a href="http://forum.icann.org/lists/gnso-policyimpl-wg/">http://forum.icann.org/lists/gnso-policyimpl-wg/</a>	
<b>GNSO Council Resolution:</b>	<b>Title:</b>	
	<b>Ref # &amp; Link:</b>	
<b>Important Document Links:</b>	<ul style="list-style-type: none"> <li>• GNSO Policy Development Process Manual - <a href="http://gnso.icann.org/council/annex-2-pdp-manual-16may13-en.pdf">http://gnso.icann.org/council/annex-2-pdp-manual-16may13-en.pdf</a></li> <li>• Annex A of the ICANN Bylaws - <a href="http://www.icann.org/en/about/governance/bylaws#AnnexA">http://www.icann.org/en/about/governance/bylaws#AnnexA</a></li> <li>• Staff Discussion Paper - <a href="http://gnso.icann.org/en/correspondence/policy-implementation-framework-08jan13-en.pdf">http://gnso.icann.org/en/correspondence/policy-implementation-framework-08jan13-en.pdf</a></li> <li>• Public comments received on staff discussion paper - <a href="http://forum.icann.org/lists/comments-policy-implementation-31jan13/">http://forum.icann.org/lists/comments-policy-implementation-31jan13/</a></li> <li>• Session at ICANN Meeting in Beijing - <a href="http://beijing46.icann.org/node/37133">http://beijing46.icann.org/node/37133</a></li> </ul>	
<b>Section II: Mission, Purpose, and Deliverables</b>		
<b>Mission &amp; Scope:</b>		
Key assumptions:		
<ul style="list-style-type: none"> <li>• Processes are fairly well defined as far as policy development is concerned, understanding that there is plenty of room for improvement.</li> <li>• Implementation processes are less well defined and hence will likely need to be a larger focus of the WG.</li> <li>• While the exact delineation between policy and implementation may be difficult to define, there is a need to establish a framework that takes the relationship between the two into account.</li> <li>• All processes, policy, implementation and the framework for interaction between the two, should incorporate the appropriate level of multi-stakeholder participation.</li> </ul>		

The Policy & Implementation Working Group is tasked to provide the GNSO Council with a set of recommendations on:

1. A set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures.
2. A process for developing gTLD policy, perhaps in the form of “Policy Guidance”, including criteria for when it would be appropriate to use such a process (for developing policy other than “Consensus Policy”) instead of a GNSO Policy Development Process;
3. A framework for implementation related discussions associated with GNSO Policy Recommendations;
4. Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;
5. Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

### **Objectives & Goals:**

To develop, at a minimum, an Initial Recommendations Report and a Final Recommendations Report addressing the recommendations outlined above, following the processes described in the GNSO Working Group Guidelines. These recommendations may include proposed changes to the GNSO Operating Procedures and/or relevant sections of the ICANN Bylaws.

The Recommendations are expected to:

1. Provide a clearer understanding of the potential goals and end states of the PDP and any alternatives to the PDP<sup>20</sup>
2. Improve the collection/documentation of gTLD-related policies and best practices created by the GNSO
3. Provide a better understanding of the transition between policy and implementation stages, with expected outcomes from each
4. Provide a framework for implementation work that is predictable, consistent, efficient and timely and that includes appropriate multi-stakeholder feedback
5. Include guidance on how feedback from the policy apparatus is needed in the implementation process
6. Include mechanisms to adjust policy in response to learning from implementation

### **Recommended WG Tasks**

1. Develop a projected work schedule that contains:
  - a. Frequency and scheduling of meetings
  - b. Estimated time targets for each deliverable
2. Review a sampling of previous implementation efforts and create a list of lessons learned

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<sup>20</sup> In particular, for situations in which the output of the policy development effort is not a “Consensus Policy”, it may be desirable to have a more streamlined process than the current PDP. Alternately, it may be that the PDP is initiated in a different manner or its work is concluded differently if the output is not intended to be a “Consensus Policy”.



3. Identify applicable ICANN core values and
  - a. Describe how they directly or indirectly apply to policy development and/or implementation of policy
  - b. If possible, make a determination as to whether the identified core values apply differently to policy development work than to implementation of policy; e.g., do any of the core values apply only to policy development and not to implementation?
4. Review previous policy development efforts and follow-on implementation work to determine whether particular approaches have resulted in better or worse outcomes historically.
5. Analyze the ‘Proposed Principles’ contained in the Policy versus Implementation Draft Framework prepared by ICANN staff and
  - a. Prepare WG recommendations regarding the principles, i.e., revised principles
  - b. Incorporate revised principles as applicable into WG recommendations regarding policy and implementation
6. Review the ICANN Bylaws, with a particular focus on the [GNSO PDP](#), and the associated [GNSO PDP Manual](#), to determine:
  - a. What elements of the process provide guidance regarding implementation of policies
  - b. Whether there are any gaps in the Bylaws or process that leave ambiguity regarding implementation

**The WG may find the following questions helpful for completing the work:**

1. What guidance do ICANN core values (Bylaws Article 1, Section 2) directly provide with regard to policy development work and policy implementation efforts? (e.g., multi-stakeholder participation)
2. What guidance do other ICANN Core values provide that relate *indirectly* to policy development and policy implementation? (e.g., effective & timely processes)
3. ‘Questions for discussion’ contained in the Policy versus Implementation Draft Framework prepared by ICANN staff (<http://www.icann.org/en/news/public-comment/policy-implementation-31jan13-en.htm> )
4. What lessons can be learned from past experience?
  - a. What are the consequences of an action being considered “policy” vs. “implementation”?
  - b. Why does it matter if something is “policy” or “implementation”?
  - c. Under what circumstances, if any, may the GNSO Council make recommendations or state positions to the Board on matters of policy and implementation as a representative of the GNSO as a whole?
  - d. How do we avoid the current morass of outcome-derived labeling (i.e., I will call this policy because I want certain consequences/“handling instructions” to be attached to it)?
  - e. Can we answer these questions so the definitions of “policy” and “implementation” matter less, if at all?
5. What options are available for policy (“Consensus Policy”<sup>21</sup> or other) and implementation efforts and what are the criteria for determining which should be used?
  - a. Are policy and implementation on a spectrum rather than binary?

<sup>21</sup> As defined in the ICANN Bylaws and contracted party agreements.

- b. What are the flavors of “policy” and what consequences should attach to each flavor?
  - c. What happens if you change those consequences?
- 6. Who determines the choice between whether something is policy or implementation?
  - a. How is policy set/recommended/adopted and do different paths lead to different “flavors”?
  - b. Who makes these determinations and how?
  - c. How are the policy vs implementation decisions reviewed and approved?
  - d. What happens if the reviewing bodies come to a deadlock?
- 7. What is the process by which this identification, analysis, review and approval work is done?
  - a. How are “policy and implementation” issues first identified (before, during and after implementation)?
  - b. What is the role of the GNSO in implementation?
  - c. In order to maintain multi-stakeholder processes, once policy moves to implementation how should the community be involved in a way that is meaningful and effective?
  - d. Should policy staff be involved through the implementation process to facilitate continuity of the MSM process that already occurred?

### **Deliverables & Timeframes:**

At a minimum, the Working Group is expected to:

- I. Develop a work plan per the GNSO Working Group Guidelines that outlines the necessary steps and expected timing in order to achieve these milestones and submit this to the GNSO Council.
- II. Reach out at the beginning of the process to the different GNSO Stakeholder Groups and Constituencies as well as other ICANN Supporting Organizations and Advisory Committees to obtain input on:
  - a) The charter questions outlined above;
  - b) Lessons learned from previous implementation efforts;
  - c) How ICANN Core Values relate to policy and implementation efforts and whether the identified core values apply differently to policy development work than to implementation of policy;
  - d) Strengths and weaknesses of previous approaches to implementation of GNSO policy development;
  - e) Recommended principles about policy & implementation.
- III. Produce an Initial Recommendations Report for community review and comment;
- IV. Produce a Final Recommendations Report, addressing the comments received on the Initial Recommendations Report, for submission to the GNSO Council.

### **Deliverables**

- 1. Projected work schedule
- 2. Request for input from GNSO Stakeholder Groups and Constituencies as well as other ICANN Supporting Organizations and Advisory Committees
- 3. List of lessons learned from previous implementation efforts
- 4. WG conclusions with regard to how ICANN Core Values relate to policy and implementation

<p>efforts and whether the identified core values apply differently to policy development work than to implementation of policy</p> <ol style="list-style-type: none"> <li>5. WG responses to key questions</li> <li>6. WG analysis of results of previous approaches to implementation of GNSO policy development</li> <li>7. WG recommendations regarding             <ol style="list-style-type: none"> <li>a. Principles about policy &amp; implementation</li> <li>b. Policies with regard to implementation</li> </ol> </li> <li>8. Recommended changes to ICANN Bylaws and/or GNSO policy procedures</li> <li>9. Initial Recommendation Report for public comment</li> <li>10. Final Recommendation Report for the GNSO Council</li> </ol>
<b>Section III: Formation, Staffing, and Organization</b>
<b>Membership Criteria:</b>
The Working Group will be open to all interested in participating. New members who join after certain parts of work has been completed are expected to review previous documents and meeting transcripts.
<b>Group Formation, Dependencies, &amp; Dissolution:</b>
<p>This WG shall be a standard GNSO Working Group. The GNSO Secretariat should circulate a 'Call For Volunteers' as widely as possible in order to ensure broad representation and participation in the Working Group, including:</p> <ul style="list-style-type: none"> <li>- Publication of announcement on relevant ICANN web sites including but not limited to the GNSO and other Supporting Organizations and Advisory Committee web pages; and</li> <li>- Distribution of the announcement to GNSO Stakeholder Groups, Constituencies and other ICANN Supporting Organizations and Advisory Committees</li> </ul>
<b>Working Group Roles, Functions, &amp; Duties:</b>
<p>The ICANN Staff assigned to the WG will fully support the work of the Working Group as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.</p> <p>Staff assignments to the Working Group:</p> <ul style="list-style-type: none"> <li>• GNSO Secretariat</li> <li>• 1 ICANN policy staff member</li> </ul> <p>The standard WG roles, functions &amp; duties shall be applicable as specified in Section 2.2 of the Working Group Guidelines.</p>
<b>Statements of Interest (SOI) Guidelines:</b>
Each member of the Working Group is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.
<b>Section IV: Rules of Engagement</b>
<b>Decision-Making Methodologies:</b>
<i>{Note: The following material was extracted from the Working Group Guidelines, Section 3.6. If a Chartering</i>

*Organization wishes to deviate from the standard methodology for making decisions or empower the WG to decide its own decision-making methodology, this section should be amended as appropriate}.*

The Chair will be responsible for designating each position as having one of the following designations:

- **Full consensus** - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as **Unanimous Consensus**.
- **Consensus** - a position where only a small minority disagrees, but most agree. *[Note: For those that are unfamiliar with ICANN usage, you may associate the definition of 'Consensus' with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term 'Consensus' as this may have legal implications.]*
- **Strong support but significant opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.
- **Divergence** (also referred to as **No Consensus**) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
- **Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus**; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, an effort should be made to document that variance in viewpoint and to present any **Minority View** recommendations that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence**, the WG Chair should encourage the submission of minority viewpoint(s).

The recommended method for discovering the consensus level designation on recommendations should work as follows:

- i. After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review.
- ii. After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.
- iii. Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group.
- iv. In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:
  - A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
  - It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant**

**Opposition and Divergence.**

Care should be taken in using polls that they do not become votes. A liability with the use of polls is that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the WG's needs, the Chair may direct that WG participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process. It is the role of the Chair to designate which level of consensus is reached and announce this designation to the Working Group. Member(s) of the Working Group should be able to challenge the designation of the Chair as part of the Working Group discussion. However, if disagreement persists, members of the WG may use the process set forth below to challenge the designation.

If several participants (see Note 1 below) in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:

1. Send email to the Chair, copying the WG explaining why the decision is believed to be in error.
2. If the Chair still disagrees with the complainants, the Chair will forward the appeal to the CO liaison(s). The Chair must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison(s) supports the Chair's position, the liaison(s) will provide their response to the complainants. The liaison(s) must explain their reasoning in the response. If the CO liaison disagrees with the Chair, the liaison will forward the appeal to the CO. Should the complainants disagree with the liaison support of the Chair's determination, the complainants may appeal to the Chair of the CO or their designated representative. If the CO agrees with the complainants' position, the CO should recommend remedial action to the Chair.
3. In the event of any appeal, the CO will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the CO (see Note 2 below).

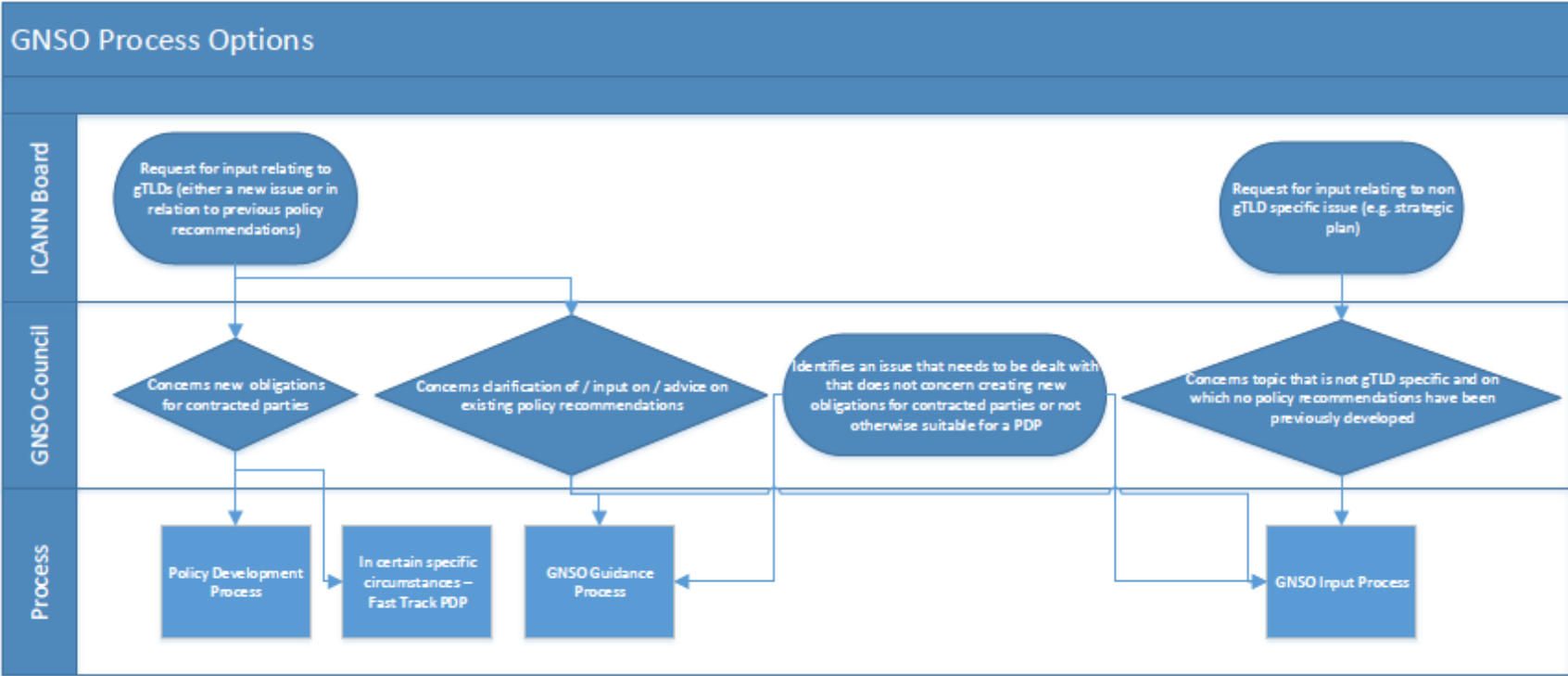
**Note 1:** Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or Liaison of their issue and the Chair and/or Liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

**Note 2:** It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process.

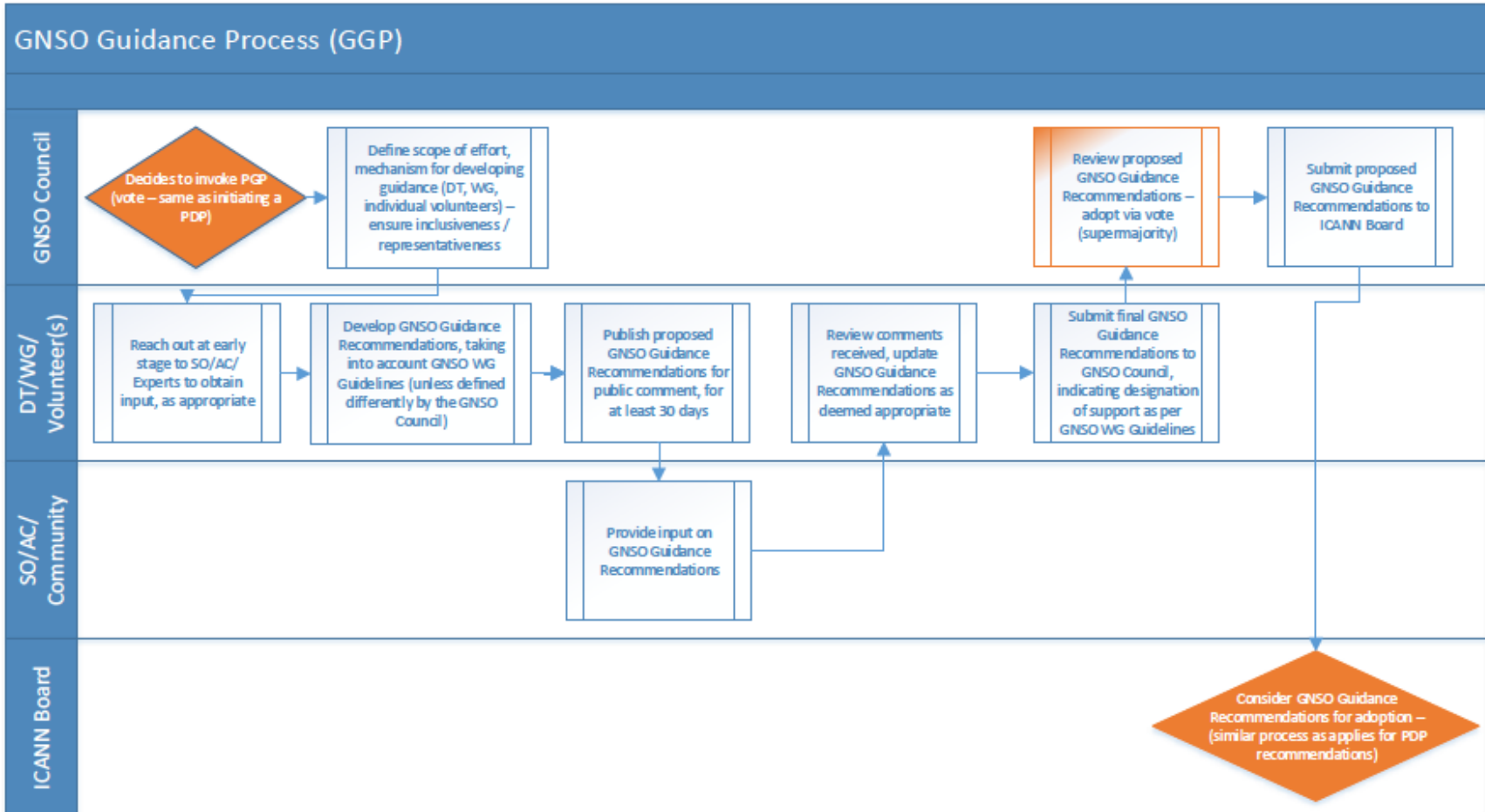
<b>Status Reporting:</b>		
As requested by the GNSO Council, taking into account the recommendation of the Council liaison to this group.		
<b>Problem/Issue Escalation &amp; Resolution Processes:</b>		
<i>{Note: the following material was extracted from Sections 3.4, 3.5, and 3.7 of the Working Group Guidelines and may be modified by the Chartering Organization at its discretion}</i>		
<p>The WG will adhere to <a href="#">ICANN's Expected Standards of Behavior</a> as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.</p> <p>If a WG member feels that these standards are being abused, the affected party should appeal first to the Chair and Liaison and, if unsatisfactorily resolved, to the Chair of the Chartering Organization or their designated representative. It is important to emphasize that expressed disagreement is not, by itself, grounds for abusive behavior. It should also be taken into account that as a result of cultural differences and language barriers, statements may appear disrespectful or inappropriate to some but are not necessarily intended as such. However, it is expected that WG members make every effort to respect the principles outlined in ICANN's Expected Standards of Behavior as referenced above.</p> <p>The Chair, in consultation with the Chartering Organization liaison(s), is empowered to restrict the participation of someone who seriously disrupts the Working Group. Any such restriction will be reviewed by the Chartering Organization. Generally, the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances, this requirement may be bypassed.</p> <p>Any WG member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the WG or CO should first discuss the circumstances with the WG Chair. In the event that the matter cannot be resolved satisfactorily, the WG member should request an opportunity to discuss the situation with the Chair of the Chartering Organization or their designated representative.</p> <p>In addition, if any member of the WG is of the opinion that someone is not performing their role according to the criteria outlined in this Charter, the same appeals process may be invoked.</p>		
<b>Closure &amp; Working Group Self-Assessment:</b>		
The WG will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council.		
<b>Section V: Charter Document History</b>		
<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	4 July 2013	Charter submitted to the GNSO Council for approval

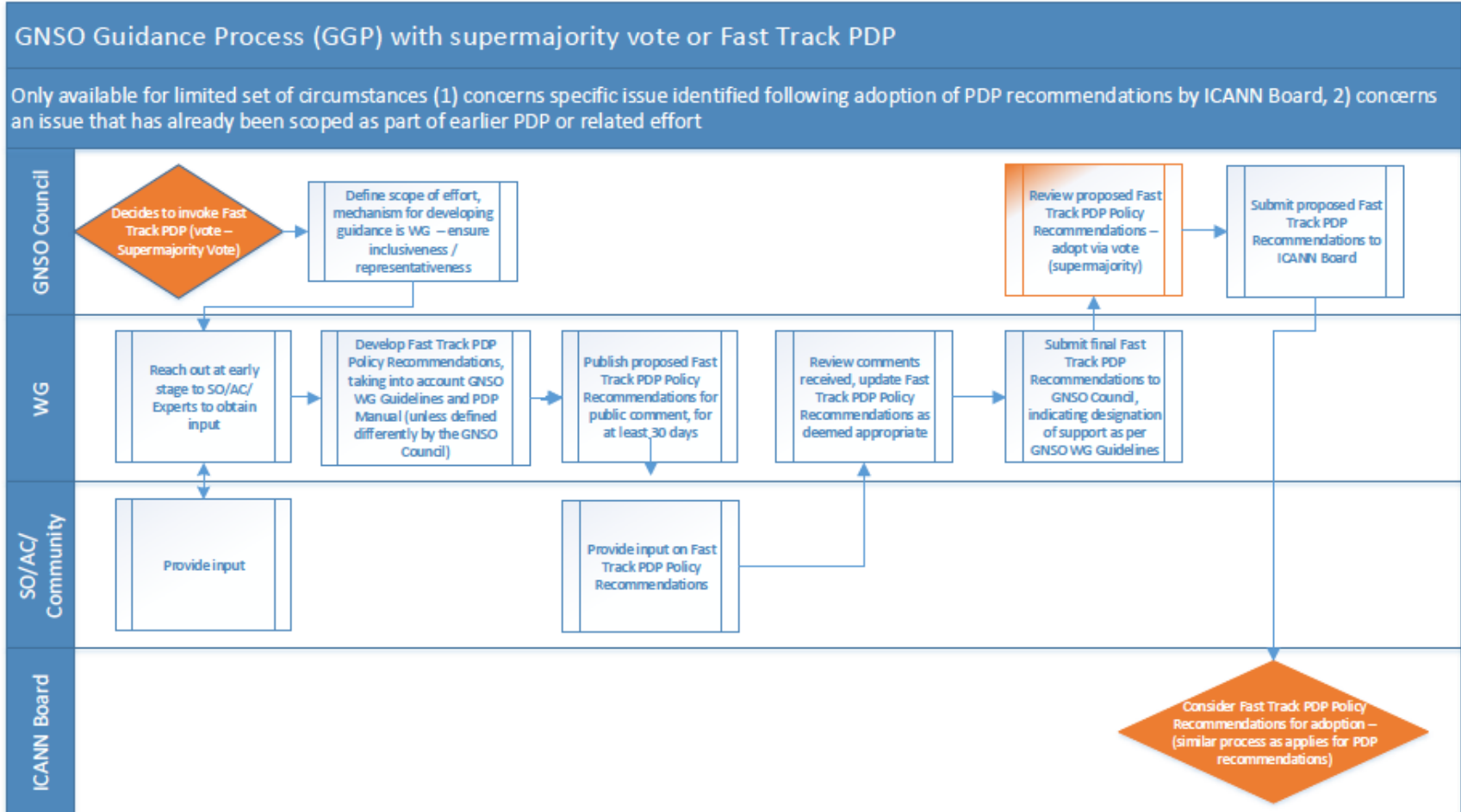
<b>Staff Contact:</b>	Marika Konings	<b>Email:</b>	Policy-staff@icann.org

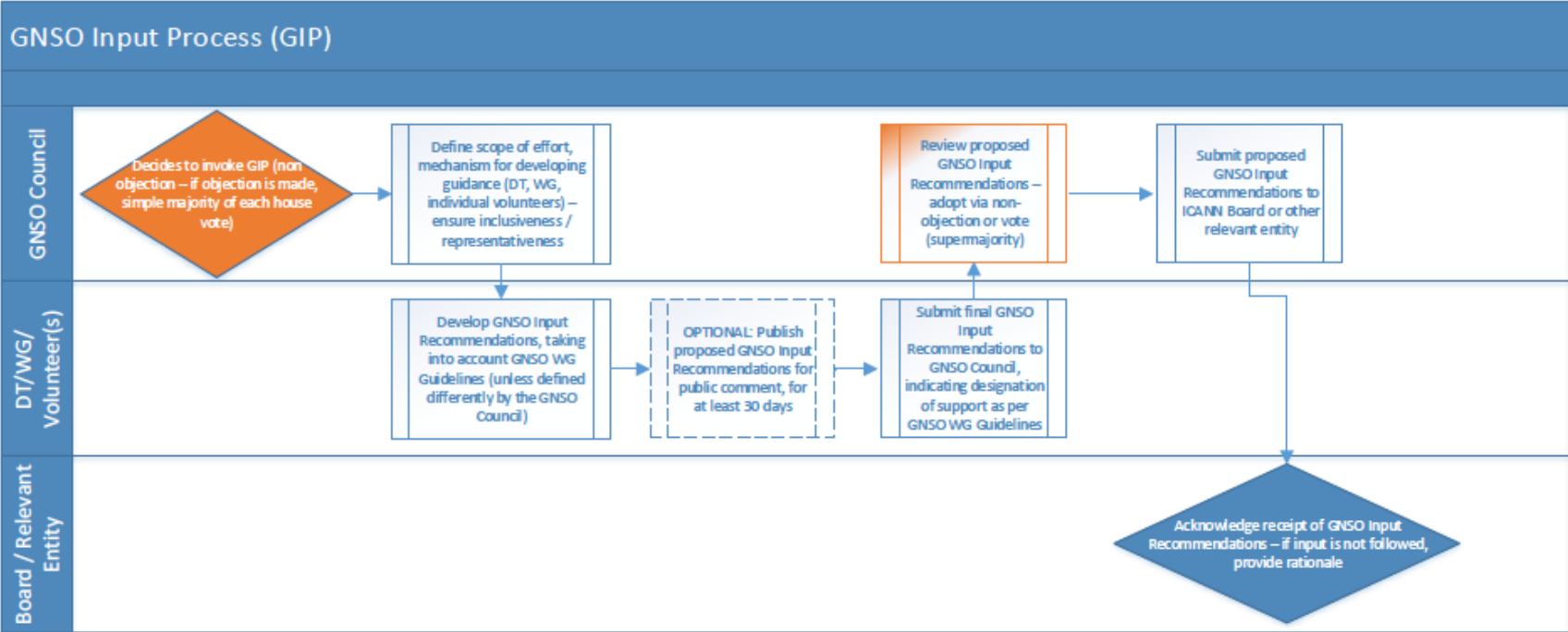
# Annex B – GNSO Process Options











## Annex C – Proposed GNSO Input Process Manual

### 1. GNSO Input Process (GIP) Manual – Introduction

A GIP is the process through which the GNSO provides input on matters that may not involve gTLD policy, for example in response to a request from the ICANN Board or in response to a public comment forum as further described in this GIP Manual. Any such requests should include as much information as possible.

A GIP may be initiated by the GNSO Council at any time it considers appropriate, for example, when a request for GNSO input is received from the ICANN Board or other entity that does not involve the creation of new obligations for ICANN contracted parties and does not relate to a topic otherwise suitable for a GNSO Policy Development Process or GNSO Guidance Process, for example providing GNSO Input to a public comment forum.

### 2. Planning for Initiation of a GIP

The GNSO community and staff are encouraged to provide advice, where possible in advance of a decision on the initiation of a GIP, specifying any additional research, discussion, or outreach that should be conducted prior to or immediately following the decision on the initiation of a GIP. In cases where it concerns a specific request from the ICANN Board or any other SO/AC, the requestor is expected to make available a point of contact to provide further information or clarification in relation to the request for input if needed.

The GNSO Council should take into full account the resources available, both volunteers and staff, when making its decision on whether or not to initiate a GIP.

### 3. Minimum requirements for a GIP Initiation Request

To initiate a GIP, a GNSO Council member must submit a request to the GNSO Council that includes at a minimum the following information:

1. Name of Council member (SG/C)

2. Origin of issue (e.g., Board request)
3. Scope of the effort (description of the issue or question that the GIP is expected to address)
4. Proposed GIP mechanism (e.g. WG, DT, individual volunteers – hereinafter referred to as the “GIP Team”)
5. Method of operation, if different from GNSO Working Group Guidelines
6. Decision-making methodology for the GIP Team, if different from GNSO Working Group Guidelines
7. Desired completion date and rationale for this date

Any additional information that can facilitate the work on the GIP, such as information that should be considered and/or other parties that should be consulted, is encouraged to be provided as well.

#### **4. Initiation of a GNSO Input Process**

Any Council member can request that a GIP is initiated following the steps in section 3. A Council vote is not required to initiate a GIP, except in the situation where one or more GNSO Council members object to the initiation. In such an instance, the GNSO Council may initiate the GIP if the default threshold to pass a GNSO Council motion (a simple majority vote of each House) in favor of initiating the GIP is achieved.

#### **5. GIP Outcomes and Processes**

Upon initiation of the GIP, the GNSO Council will form the GIP Team as outlined in the GIP request. The GIP Team is required to review and become familiar with the GNSO Working Group Guidelines, if applicable, as well as this GNSO Input Process Manual.

Once formed, the GIP Team is responsible for engaging in the collection of information. If deemed appropriate or helpful by the GIP Team, the GIP Team may solicit the opinions of outside advisors, experts, or other members of the public. The GIP Team should carefully consider the budgetary impacts, implementability, and/or feasibility of its proposed information requests and/or subsequent recommendations.

The GIP Team is encouraged to solicit input from each Stakeholder Group and Constituency in the early stages of the GIP. Stakeholder Groups and Constituencies should be provided sufficient time to provide input from the moment that the input is requested by the GIP Team, noting that in certain circumstances such as an external deadline that affects the GIP Team's ability to complete its work, this timeframe may be short.

The GIP Team is also encouraged to seek the input of other ICANN Advisory Committees and Supporting Organizations, if deemed relevant and as appropriate, that may have expertise, experience or an interest in the issue under consideration in the GIP. In this regard, it is recommended that the GIP Chair consult with the GNSO Council Liaison to the GAC or equivalent regarding the best way to achieve early GAC participation or consultation with respect to the issues under consideration. Solicitation of opinions should be done in the early stages of the GIP.

At the end of its deliberations, the GIP Team shall develop proposed GNSO input relating to the topic for which the GIP was initiated. At the same time, the GIP Team may also conclude that no input is desirable or needed.

The Staff Manager<sup>22</sup> is responsible for coordinating with the Chair(s) of the GIP Team to supervise and to carry out the GIP activities as necessary or appropriate, including, without limitation, making available the standard technical resources for the GIP Team, scheduling and attending GIP meetings, drafting GIP reports, and providing expertise where needed.

## **6. Preparation of Proposed GNSO Input**

After collection and review of information, the GIP Team and staff are responsible for producing the Proposed GNSO Input. At a minimum, this should include the proposed recommendation(s), if any. Additionally, the following information may be provided, if available and if the GIP Team considers it desirable to do so:

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<sup>22</sup> As per the ICANN Bylaws: '1. A member of the ICANN staff shall be assigned to support the GNSO, whose work on substantive matters shall be assigned by the Chair of the GNSO Council, and shall be designated as the GNSO Staff Manager (Staff Manager)'.

- i. Compilation of Stakeholder Group and Constituency Statements (where these were sought and provided)
- ii. Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee (where these were sought and provided)
- iii. Statement of level of consensus for Proposed GNSO Input
- iv. Information regarding the members of the GIP Team
- v. A statement on the GIP Team discussion concerning the impact of the proposed input which could include areas such as economic impact, competition, operations, privacy and other rights, scalability and feasibility.

If available or deemed desirable, these elements may be included as part of the Proposed GNSO Input or by reference to information posted on an ICANN website or wiki (such as through a hyperlink).

The Proposed GNSO Input should be delivered to the GNSO Council for its consideration. This may be done in the form of a motion for the Council's action.

## **7. Preparation of Final GNSO Input**

This Section 7 applies where Proposed GNSO Input has been posted for public comment at the direction of the GNSO Council.

At the end of the public comment period, the Staff Manager will prepare a summary and analysis of the public comments received for the GIP Team. Such a summary and analysis should be provided at the latest 2 weeks after the closing of the public comment period, absent exigent circumstances. The GIP Team shall review and take into consideration the public comments received. The GIP Team may update the Proposed GNSO Input Report if there are any recommendations that require modification to address the public comments received. The GIP Team is not obligated to include all comments received during the comment period in the updated Proposed GNSO Input Report, including comments made by any one individual or organization.

The GIP Team is expected to deliberate as appropriate to properly evaluate and address concerns raised during the public comment period. This should include the careful consideration and analysis of the public comments, explaining the rationale for agreeing and disagreeing with the different comments received, and, if appropriate, how these will be addressed in the Final GNSO Input. Following the review of the comments received and any additional deliberations, the GIP Team is expected to produce the Final GNSO Input for transmission to the Council. The GIP Team's analysis of the public comments is expected to be included or referenced as part of the Final GNSO Input.

While the Final GNSO Input that is prepared (following a public comment period on the Proposed GNSO Input) is not required to be posted for further public comment, the GIP Team should consider whether the report should be posted for public comment as Draft Final GNSO Input, with the goal of maximizing accountability and transparency with regard to the GIP, especially when substantial changes have been made to the contents of the Proposed GNSO Input.

When posted for public comment, staff should consider translating the executive summaries (if any) of the Proposed GNSO Input and Draft Final Input into the six UN languages, to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English is not to be delayed while translations are being completed. Upon completion of the public comment period, if any, and incorporation of any additional comments identified therein, or if no further comment period is deemed necessary, the GIP Team shall forward the Final GNSO Input to the GNSO Council.

In addition to any public comment periods as described herein, the GIP Team may seek public comment on any item that the GIP Team believes will benefit from public input. The GIP Team does not have to seek approval from the GNSO Council to seek public comment on interim items. The minimum duration of a public comment period that does not concern the Proposed GNSO Input is twenty (21) days.



## **8. Council Deliberations**

The GNSO Council is encouraged to take action on the Proposed and/or Final GNSO Input (as applicable) in a timely manner, and preferably no later than the second GNSO Council meeting after the input is presented.

Approval of the GIP recommendations submitted to the Council does not require a Council vote, except in the case where one or more GNSO Council members object to the adoption of the report. In such an instance, the GIP recommendations may be adopted only by the default threshold to pass a GNSO Council motion (a simple majority vote of each House), as set forth at Article X, Section 3-9 of the ICANN Bylaws. The outcome of the vote should be recorded and provided together with the results of the GIP to the entity that initially requested the input.

## **9. Transmission of the Outcome of the GIP**

The GNSO Council shall transmit the results of a GIP, including any recommendations adopted by the GNSO Council, to the entity that originally requested the input as soon as practicable following the Council's decision pursuant to Section 8 above.

## **10. Termination or Suspension of a GIP Prior to Final Report**

The GNSO Council may terminate or suspend a GIP at any time on the recommendation of the GIP Team or any Council member. Termination or suspension could be considered if events have occurred since the initiation of the GIP that have rendered the GIP moot, no longer necessary or another process such as a PDP more appropriate.

## **11. Miscellaneous**

This Manual may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Rules and Procedures.

In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the ICANN Bylaws shall supersede.

## Annex D – Proposed GNSO Guidance Process Manual

### 1. GGP Manual – Introduction

These guidelines and processes supplement the requirements for GGPs described in Annex D of the ICANN Bylaws [include link]. A GGP may be initiated by the GNSO Council when a request for input relating to gTLDs (either a new issue or in relation to previous policy recommendations) has been received from the ICANN Board or a gTLD issue has been identified by the GNSO Council that would benefit from GNSO Guidance, and it has determined that the intended outcome of the GGP is not expected to create new “Consensus Policy” recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a PDP would need to be initiated). However, the GGP may provide interpretation or assist in providing clarity with regards to the implementation of GNSO policy recommendations. The GGP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available.

### 2. Planning for Initiation of a GGP

Consistent with ICANN’s commitment to fact-based policy development, the GNSO and Staff are encouraged to provide advice in advance of a vote on the initiation of a GGP specifying any additional research, discussion, or outreach that should be conducted prior to or immediately following the vote on the initiation of a GGP. In cases where it concerns a specific request from the ICANN Board or any other SO/AC, the requestor is expected to make available a point of contact to provide further information or clarification in relation to the request to inform a vote on the initiation of a GGP if needed.

The GNSO Council should take into full account the resources available, both volunteers and staff, when making its decision on whether or not to initiate a GGP.

### 3. Minimum requirements for a GGP Initiation Request

The request to initiate a GGP, a GNSO Council member must submit a motion accompanied by a GGP scoping document to the GNSO Council, which is expected to include at a minimum the following information:

1. Name of Council member / SG / C
2. Origin of issue (e.g. board request)
3. Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
4. Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
5. Method of operation, if different from GNSO Working Group Guidelines
6. Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
7. Desired completion date and rationale for this date

Any additional information that can facilitate the work on the GGP, such as information that should be considered and/or other parties that should be consulted, is encouraged to be provided as well.

#### **4. Initiation of a GNSO Guidance Process**

Any Council member can request that a GGP is initiated following the steps in section 3. The Council may initiate a GGP as follows:

The Council may only initiate the GGP by a vote of the Council. Initiation of a GGP requires a vote as set forth in Article X, Section 3, paragraph 9.[X] in favor of initiating the GGP.

As part of its decision on the initiation of a GGP, the GNSO Council may include consideration of how ICANN's budget and planning can best accommodate the GGP and/or its possible outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

Furthermore, upon a formal request of the ICANN Board which is expected to include at a minimum a detailed description of the issue or question that the GGP is expected to address, the GGP will be

automatically initiated, unless the GNSO Council votes against the initiation of a GGP as set forth in Article X, Section 3, paragraph 9 [X]<sup>23</sup>. If the ICANN Board has not identified the proposed GGP mechanism and/or desired completion date in its request, the GNSO Council is expected to confirm these elements as soon as possible, if needed in consultation with the ICANN Board.

## 5. GGP Outcomes and Processes

Upon initiation of the GGP, the GNSO Council will form the GGP Team as outlined in the GGP scoping document. The GGP Team is required to review and become familiar with the GNSO Working Group Guidelines as well as the GNSO Guidance Process Manual.

Once formed, the GGP Team is responsible for engaging in the collection of information. If deemed appropriate or helpful by the GGP Team, the GGP Team may solicit the opinions of outside advisors, experts, or other members of the public. The GGP Team should carefully consider the budgetary impacts, implementability, and/or feasibility of its proposed information requests and/or subsequent recommendations.

The GGP Team should formally solicit statements from each Stakeholder Group and Constituency in the early stages of the GGP. Stakeholder Groups and Constituencies should ideally have 35 days at a minimum to complete such a statement from the moment that the statement is formally requested by the GGP Team. However, in certain circumstances such as an external deadline that affects the GGP Team to complete its work, this timeframe may be shorter.

The GGP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations that may have expertise, experience or an interest in the GGP issue, as appropriate. In this regard, it is recommended that the GGP Chair consult with the GNSO Council Liaison to the GAC or equivalent regarding the best way to achieve early GAC participation or consultation with respect to the issues under consideration. Solicitation of opinions should be done in the early stages of the GGP.

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<sup>23</sup> A supermajority vote of the GNSO Council will be required to not initiate a GGP following a formal request from the ICANN Board.

The GGP Team is encouraged to establish communication in the early stages of the GGP with other departments, outside the policy department, within ICANN that may have an interest, expertise, or information regarding the implementability of the issue. The GGP Staff Manager<sup>24</sup> is responsible for serving as the intermediary between the GGP Team and the various ICANN departments. The GGP Team Chair may escalate to the Vice President of Policy if the GGP Team is of the opinion that such communications have been hindered through the involvement of ICANN policy staff. ICANN Staff may perform additional distinct roles for a GGP Team as requested and appropriate (see GNSO Working Group Guidelines for further details).

This section illustrates the types of outcomes that are permissible from a GGP. GGP Teams may make recommendations to the GNSO Council regarding, but not limited to:

- a. Advice to the ICANN Board
- b. Advice to other Supporting Organizations or Advisory Committees
- c. Best Practices
- d. Implementation Guidelines
- e. Agreement terms and conditions
- f. Technical Specifications
- g. Research or Surveys to be Conducted
- h. Budget issues
- i. Requests for Proposals
- j. Recommendations on future guidance or policy development process activities

At the same time, the GGP Team may also conclude that no recommendation is necessary.

The GGP Staff Manager is responsible for coordinating with the Chair(s) of the GGP Team to supervise and to carry out the GGP activities as necessary or appropriate, including, without limitation, making

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<sup>24</sup> As per the ICANN Bylaws: "GGP Staff Manager" means an ICANN staff person(s) who manages the GGP).

available the standard technical resources for the GGP Team, scheduling and attending GGP meetings, drafting and publishing GGP reports for public comment, and providing expertise where needed.

## **6. Publication of Proposed GNSO Guidance Recommendation(s) Report**

After collection and review of information, the GGP Team and Staff are responsible for producing a Proposed GNSO Guidance Recommendation(s) Report. This report should include at a minimum:

### Main body

- vi. Executive Summary
- vii. GNSO Guidance Recommendation(s)
- viii. Statement of level of consensus for recommendation(s)
- ix. A statement on the GGP Team discussion concerning the impact of the proposed recommendations which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility.

### Appendices

- x. Information regarding the members of the GGP Team
- xi. Compilation of Stakeholder Group and Constituency Statements
- xii. Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee
- xiii. GGP analysis of public comments

The Appendix elements may be included in full in the appendices or may be referenced to information posted on an ICANN website or wiki (such as through a hyperlink) within the main body of the report .

The Proposed GNSO Guidance Recommendation(s) Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days. If such a public comment period would coincide with an ICANN Public Meeting, the GGP Team is strongly encouraged to extend the public comment period for a minimum of seven (7) days. The GGP Team is encouraged to explore other means

to solicit input than the traditional public comment forum such as, for example, the use of a survey which might allow for asking more targeted questions.

## **7. Preparation of Final GNSO Guidance Recommendation(s) Report**

At the end of the public comment period, the Staff Manager will prepare a summary and analysis of the public comments received for the GGP Team. Such a summary and analysis should be provided at the latest 21 days after the closing of the public comment period, absent exigent circumstances. The GGP Team shall review and take into consideration the public comments received. The GGP Team may update the Proposed GNSO Guidance Recommendation(s) Report if there are any recommendations that require modification to address comments received through public comment. The GGP Team is not obligated to include all comments received during the comment period in the updated Proposed GNSO Guidance Recommendation(s) Report, including each comment made by any one individual or organization.

The GGP Team is expected to deliberate as appropriate to properly evaluate and address comments received during the public comment period. This should include the careful consideration and analysis of the public comments; explaining the rationale for agreeing and disagreeing with the different comments received, and, if appropriate, how these will be addressed in the report of the GGP Team. Following the review of the comments received and, if required, additional deliberations, the GGP Team is expected to produce a Final Report for transmission to the Council. The analysis of the comments by the GGP Team is expected to be included or referenced as part of the Final GNSO Guidance Recommendation(s) Report.

While the Final Recommendation(s) Report is not required to be posted for public comment, in preparing the Final Recommendation(s) Report, the GGP Team should consider whether the Final Recommendation(s) Report should be posted for public comment as a [Draft] Final Recommendation(s) Report, with the goal of maximizing accountability and transparency with regards the GGP, especially when substantial changes have been made compared to the contents of the Proposed Recommendation(s) Report. When posted for Public Comment, Staff should consider translating the executive summaries of the Proposed Recommendation(s) Report and Draft Final Recommendation(s)

Report into the six UN languages, to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English is not to be delayed while translations are being completed. Upon completion of the Public Comment period, if any, and incorporation of any additional comments identified therein, or if no further comment period is necessary, the Final Recommendation(s) Report is to be forwarded to the GNSO Council to begin the GNSO Council deliberation process.

In addition to any required public comment periods, the GGP Team may seek public comment on any item that the GGP Team notes it will benefit from further public input. The GGP Team does not have to seek approval from the GNSO Council to seek public comment on interim items. The minimum duration of a public comment period that does not concern the Proposed Recommendation(s) Report is twenty (21) days.

Each recommendation in the Final Report should be accompanied by the appropriate consensus level designation (see section 3.6 – Standard Methodology for Making Decisions in the GNSO Working Group Guidelines).

## **8. Council Deliberations**

The GNSO Council is strongly encouraged to allow sufficient time for Stakeholder Group, Constituency and Councilor review of the Final GNSO Guidance Recommendation(s) Report prior to a motion being made to formally adopt the Final Recommendation(s) Report. The GNSO Council is required to take formal action on a Final Recommendation(s) Report in a timely manner, and preferably no later than the second GNSO Council meeting after the report is presented. At the request of any Council member, for any reason, consideration of the Final Recommendation(s) Report may be postponed for no more than one (1) meeting, provided that such Council member details the rationale for such a postponement. Consideration of the Final Recommendation(s) Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement. The GNSO Council may, if deemed appropriate, schedule a separate session with the GGP Team to discuss the Final Report and ask any clarifying questions that might arise.



The GNSO Council is expected to vote on the recommendations contained in the Final Recommendation(s) Report. Approval of the GGP recommendations contained in the Final Recommendation(s) Report requires an affirmative vote meeting the thresholds set forth at Article X, Section 3(9) [X]<sup>25</sup>. If this voting threshold is not met, the vote fails and the GGP is considered complete, unless the GNSO Council decides to ask the GGP Team to reconsider its recommendations in light of the GNSO Council vote.

In the event that the Final Recommendation(s) Report includes recommendations that did not achieve the consensus within the GGP Team, the GNSO Council should deliberate on whether to adopt them or remand the recommendations for further analysis and work. Although the GNSO Council may adopt all or any portion of the recommendations contained in the Final Recommendation(s) Report, it is recommended that the GNSO Council take into account whether the GGP Team has indicated that any recommendations contained in the Final Report are interdependent. The GNSO Council is strongly discouraged from itemizing recommendations that the GGP Team has identified interdependent or modifying recommendations wherever possible. In the event the GNSO Council expresses concerns or proposes changes to the GGP recommendations, it must pass these concerns or recommendations for changes back to the respective GGP Team for input and follow-up.

## **9. Preparation of the Board Report**

If the GNSO Guidance Recommendations contained in the Final Recommendation(s) Report are approved by the GNSO Council, the GNSO Council may designate a person or group responsible for drafting a Recommendations Report to the Board. If feasible, the Draft Recommendations Report to the Board should be submitted to the Council in time for consideration at the next GNSO Council meeting following adoption of the Final Recommendation(s) Report. Staff should inform the GNSO Council from time to time of the format requested by the Board. These GNSO Council Reports supplement any Staff Reports that may highlight any legal, implementability, financial, and other operational concerns related to the GNSO Guidance recommendations contained in the Final Recommendation(s) Report. In order to enhance ICANN's accountability and transparency, Staff is encouraged to publish its Staff Reports with

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<sup>25</sup> Approval of GGP recommendations requires a GNSO Supermajority vote as defined in the GNSO Operating procedures and/or ICANN Bylaws.

minimal redactions wherever possible, without jeopardizing information that may be protected under attorney/client or other legal privileges.

### **10. Termination or Suspension of a GGP Prior to Final Recommendation(s) Report**

The GNSO Council may terminate or suspend a GGP prior to the publication of a Final Recommendations Report on the recommendation of the GGP Team and a majority vote of the Council. Termination or suspension could be considered if events have occurred since the initiation of the GGP that have rendered the GGP moot, no longer necessary or another process such as a PDP is deemed more appropriate.

The GNSO Council will prepare a formal report on the proposed termination or suspension of a GGP outlining the reasons for the proposed action, current status of the GGP, and the points of view represented in the GGP Team and the consensus status, as applicable (as defined by the GNSO Working Group Guidelines) and expected next steps, if any. If the GGP was initiated in response to a request from the ICANN Board, the GNSO Council will share this formal report with the ICANN Board for its information.

### **11. Miscellaneous**

This Manual may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Rules and Procedures.

In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the ICANN Bylaws shall supersede.

## Annex E - Proposed GNSO Guidance Process Bylaw Provision

The following process shall govern the GNSO guidance process ("GGP") until such time as modifications are recommended to and approved by the ICANN Board of Directors ("Board"). The role of the GNSO is outlined in Article X of these Bylaws. If the GNSO is conducting activities that are intended to result in a Consensus Policy, the Council should act through a Policy Development Process (see Annex A).

### Section 1. Required Elements of a GNSO Guidance Process

The following elements are required at a minimum to develop GNSO guidance:

1. Formal initiation of the GNSO Guidance Process by the Council, including a GGP scoping document;
2. Identification of the types of expertise needed on the GGP Team;
3. Recruiting and formation of a GGP Team or other designated work method;
4. Proposed GNSO Guidance Recommendation(s) Report produced by a GGP Team or other designated work method;
5. Final GNSO Guidance Recommendation(s) Report produced by a GGP Team, or other designated work method, and forwarded to the Council for deliberation;
6. Council approval of GGP Recommendations contained in the Final Recommendation(s) Report, by the required thresholds;
7. GGP Recommendations and Final Recommendation(s) Report shall be forwarded to the Board through a Recommendations Report approved by the Council]; and
8. Board approval of GGP Recommendation(s).

### Section 2. GNSO Guidance Process Manual

The GNSO shall maintain a GNSO Guidance Process (GGP Manual) within the operating procedures of the GNSO maintained by the GNSO Council. The GGP Manual shall contain specific additional guidance on completion of all elements of a GGP, including those elements that are not otherwise defined in these Bylaws. The GGP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Article X, Section 3.6.

### Section 3. Initiation of the GGP

The Council may initiate a GGP as follows:

The Council may only initiate the GGP by a vote of the Council or at the formal request of the ICANN Board. Initiation of a GGP requires a vote as set forth in Article X, Section 3, paragraph 9.[X] in favor of initiating the GGP. In the case of a GGP requested by the ICANN Board, a GGP will automatically be initiated unless the GNSO Council votes against the initiation of a GGP as set forth in Article X, Section 3, paragraph 9 [X]<sup>26</sup>.

The request to initiate a GGP must be accompanied by a GGP scoping document, which is expected to include at a minimum the following information:

1. Name of Council Member / SG / C
4. Origin of issue (e.g., board request)
5. Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
6. Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
7. Method of operation, if different from GNSO Working Group Guidelines
8. Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
9. Desired completion date and rationale

In the event the Board makes a request for a GGP, the Board should provide a mechanism by which the GNSO Council can consult with the Board to provide information on the scope, timing, and priority of the request for a GGP.

### Section 4. Council Deliberation

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<sup>26</sup> A supermajority vote of the GNSO Council will be required to not initiate a GGP following a formal request from the ICANN Board.

Upon receipt of a Final Recommendation(s) Report, whether as the result of a GGP Team or otherwise, the Council chair will (i) distribute the Final Recommendation(s) Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the GGP Manual.

The Council approval process is set forth in Article X, Section 3, paragraph 9 [X]<sup>27</sup> as supplemented by the GGP Manual.

### **Section 5. Preparation of the Board Report**

If the GGP recommendations contained in the Final Recommendation(s) Report are approved by the GNSO Council, a Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN Board.

### **Section 6. Board Approval Processes**

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

- a. Any GGP 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 guidance is not in the best interests of the ICANN community or ICANN.
- b. In the event that the Board determines, in accordance with paragraph a above, that the proposed GNSO Guidance recommendation(s) adopted by a GNSO Supermajority Vote is 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.
- 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. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.

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<sup>27</sup> Approval of GGP recommendations requires a GNSO Supermajority vote.

d. 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.

### **Section 7. Implementation of Approved GNSO Guidance**

Upon a final decision of the Board adopting the guidance, the Board shall, as appropriate, give authorization or direction to ICANN staff to implement the GNSO Guidance. If deemed necessary, the Board may direct ICANN Staff to work with the GNSO Council to create a guidance implementation plan, if deemed necessary, based upon the guidance recommendations identified in the Final Recommendation(s) Report.

### **Section 8. Maintenance of Records**

Throughout the GGP, from initiation to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each GGP issue. Such status page will outline the completed and upcoming steps in the GGP process, and contain links to key resources (e.g. Reports, Comments Fora, GGP Discussions, etc.).

### **Section 9. Additional Definitions**

"Comment Site", "Comment Forum", "Comments For a" and "Website" refer to one or more websites designated by ICANN on which notifications and comments regarding the GGP will be posted.

"Supermajority Vote" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body, with the exception of the GNSO Council.

"GGP Staff Manager" means an ICANN staff person(s) who manages the GGP.

"GNSO Supermajority Vote" shall have the meaning set forth in the Bylaws.

# Annex F – Proposed Expedited GNSO Policy Development Process Manual

## 1. GNSO EPDP – Applicability

These guidelines and processes supplement the requirements for the EPDP described in Annex E of the ICANN Bylaws [include link]. An EPDP may be initiated by the GNSO Council only in the following specific circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP. The EPDP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available.

For the avoidance of doubt, the following sections of the PDP Manual shall not apply to an EPDP:

Section 2 (Requesting an Issue Report);

Section 4 (Recommended Format of Issue Report Requests);

Section 5 (Creation of the Preliminary Issue Report);

Section 6 (Public Comment on the Preliminary Issue Report); and

Section 7 (Initiation of the PDP)

Except as otherwise expressly modified or excluded herein, all other provisions of the PDP Manual shall apply in full to an EPDP, including without limitation the publication of an Initial Report for public comments. In the event of a conflict in relation to an EPDP between the provisions of the PDP Manual and the specific provisions in this EPDP Manual, the provisions herein shall prevail.

## 2. Planning for Initiation of an EPDP

Consistent with ICANN's commitment to fact-based policy development, the GNSO and staff are encouraged to provide advice in advance of a GNSO Council vote on the initiation of an EPDP, specifying any additional research, discussion, or outreach that should be conducted prior to or immediately following the vote.

The GNSO Council should take into full account the resources available, both volunteers and staff, when making its decision on whether or not to initiate a EPDP.

## 3. Minimum requirements for a EPDP Initiation Request

The request to initiate an EPDP, a GNSO Council member must submit a motion accompanied by an EPDP scoping document, to the GNSO Council which is expected to include at a minimum the following information:

- a. Name of Council member / SG / C
- b. Origin of issue (e.g. previously completed PDP)
- c. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
- d. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information;
- e. If not provided as part of item d, the opinion of the ICANN General Counsel regarding whether the issue proposed for consideration is properly within the scope of the ICANN's mission, policy process and more specifically the role of the GNSO. In determining whether the issue is properly within the scope of the ICANN policy process, General Counsel's opinion should examine whether the issue:
  - a. Is within the scope of ICANN's mission statement, and more specifically the role of the



- GNSO;
  - b. Is broadly applicable;
  - c. Is likely to have lasting value or applicability, albeit with the need for occasional updates;
  - d. Is likely to enable ICANN to carry out its commitments under the Affirmation of Commitments;
  - e. Will establish a guide or framework for future decision-making;
  - f. Will implicate or affect an existing ICANN policy.
- f. If not provided as part of item 4, the opinion of ICANN staff and their rationale as to whether the Council should initiate the EPDP on the issue;
  - g. Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
  - h. Method of operation, if different from GNSO Working Group Guidelines;
  - i. Decision-making methodology for the proposed EPDP mechanism, if different from GNSO Working Group Guidelines;
  - j. Desired completion date and rationale for this date.

The request for an EPDP may also include a proposed EPDP Team Charter, which the Council may consider at the same time as the EPDP Initiation Request. If no such Charter is provided, or if the proposed Charter is not approved, Section 8 of the PDP Manual, with the exception of the provision on the voting threshold required for adoption of the Charter, will apply to the drafting of the EPDP Team Charter. Adoption of a Charter drafted in accordance with Section 8 of the PDP Manual requires an affirmative Supermajority Vote of the Council.

Any additional information that can facilitate the work on the EPDP, such as information that should be considered and/or other parties that should be consulted, should be provided as well.

#### **4. Initiation of an EPDP**

At the request of any Council member duly and timely submitted and seconded as a motion, the Council may initiate the EPDP by a Supermajority vote of the Council in favor of initiating the EPDP. A motion

which fails to carry a Supermajority vote of Council may be resubmitted at the same Council meeting as a motion to initiate a GNSO Guidance Process.

## **5. EPDP Processes and Outcomes**

Section 9 of the PDP Manual (Outcomes and Processes) shall apply fully to an EPDP, with the exception that in relation to the soliciting of statements from GNSO Stakeholder Groups and Constituencies in the early stage of an EPDP, the GNSO Council may, either of its own accord or at the request of the EPDP Team, direct that the time period for such statements be less than the 35 days recommended by the PDP Manual. In no event, however, shall such time period be less than [21] days.

## **6. Termination or Suspension of an EPDP Prior to Final Recommendation(s) Report**

The GNSO Council may terminate or suspend an EPDP prior to the publication of a Final Recommendations Report in accordance with Section 15 of the PDP Manual. In addition to the illustrative reasons contained in Section 15, termination or suspension of an EPDP may be considered if events have occurred since the initiation of the EPDP that have rendered the EPDP moot or no longer necessary.

Upon the request of any GNSO Council Member, the GNSO Council will prepare a formal report on the proposed termination or suspension of an EPDP outlining the reasons for the proposed action, current status of the EPDP and expected next steps, if any.

## **7. Miscellaneous**

These provisions for an EPDP, as incorporated into the PDP Manual, may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Procedures.

In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the ICANN Bylaws shall supersede.

## Annex G - Proposed Expedited Policy Development Process

### Bylaw Provision

The following process shall govern the specific instances where the GNSO Council invokes the GNSO Expedited Policy Development Process ("EPDP"). The GNSO Council may invoke the EPDP in the following limited circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to create new or additional recommendations for a specific policy issue that had been substantially scoped previously such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP. The following process shall be in place until such time as modifications are recommended to and approved by the ICANN Board of Directors. Where a conflict arises in relation to an EPDP between the PDP Manual (see Annex 2 of the GNSO Operating Procedures) and the procedures described in this Annex E, the provisions of this Annex E shall prevail.

The role of the GNSO is outlined in Article X of these Bylaws. Provided the Council believes and documents via Council vote that the above-listed criteria are met, an EPDP may be initiated to recommend amendment to an existing Consensus Policy; however, in all cases where the GNSO is conducting policy-making activities that do not meet the above criteria as documented in a Council vote, the Council should act through a Policy Development Process (see Annex A).

#### **Section 1. Required Elements of a GNSO Expedited Policy Development Process**

The following elements are required at a minimum to develop expedited GNSO policy recommendations, including recommendations that could result in amendments to an existing Consensus Policy, as part of a GNSO Expedited Policy Development Process (EPDP):

- a) Formal initiation of the GNSO Expedited Policy Development Process by the GNSO Council, including an EPDP scoping document;

- b) Formation of an EPDP Team or other designated work method;
- c) Initial Report produced by an EPDP Team or other designated work method;
- d) Final EPDP Policy Recommendation(s) Report produced by an EPDP Team, or other designated work method, and forwarded to the Council for deliberation;
- e) GNSO Council approval of EPDP Policy Recommendations contained in the Final EPDP Policy Recommendation(s) Report, by the required thresholds;
- f) EPDP Recommendations and Final EPDP Recommendation(s) Report forwarded to the Board through a Recommendations Report approved by the Council]; and
- g) Board approval of EPDP Recommendation(s).

## **Section 2. Expedited Policy Development Process Manual**

The GNSO shall include a specific section(s) on the EPDP process as part of its maintenance of the GNSO Policy Development Process Manual (PDP Manual), described in Annex 2 of the GNSO Operating Procedures. The EPDP section(s) of the PDP Manual shall contain specific additional guidance on completion of all elements of an EPDP, including those elements that are not otherwise defined in these Bylaws. The PDP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Article X, Section 3.6.

## **Section 3. Initiation of the EPDP**

The Council may initiate an EPDP as follows:

The Council may only initiate the EPDP by a vote of the Council. Initiation of an EPDP requires an affirmative Supermajority vote of the Council (as defined in these Bylaws) in favor of initiating the EPDP.

The request to initiate an EPDP must be accompanied by an EPDP scoping document, which is expected to include at a minimum the following information:

1. Name of Council Member / SG / C;
2. Origin of issue (e.g. previously completed PDP);

3. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
4. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either: (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation, or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information in either case;
5. If not provided as part of item 4, the opinion of the ICANN General Counsel as to whether the issue proposed for consideration is properly within the scope of the ICANN's mission, policy process and more specifically the role of the GNSO;
6. Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
7. Method of operation, if different from GNSO Working Group Guidelines;
8. Decision-making methodology for EPDP mechanism, if different from GNSO Working Group Guidelines;
9. Target completion date.

#### **Section 4. Council Deliberation**

Upon receipt of an EPDP Final Recommendation(s) Report, whether as the result of an EPDP Team or otherwise, the Council chair will (i) distribute the Final EPDP Recommendation(s) Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the PDP Manual.

Approval of EPDP Recommendation(s) requires an affirmative vote of the Council meeting the thresholds set forth in Article X, Section 3, paragraphs 9 [X-Y], as supplemented by the PDP Manual.

#### **Section 5. Preparation of the Board Report**

If the EPDP Recommendation(s) contained in the Final EPDP Recommendation(s) Report are approved by the GNSO Council, a Recommendation(s) Report shall be approved by the GNSO Council for delivery to the ICANN Board.

## 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:

- a. 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.
- b. 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.
- 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. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.
- d. 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.

## Section 7. Implementation of Approved Policies

Upon a final decision of the Board adopting the EPDP recommendations, the Board shall, as appropriate, give authorization or direction to ICANN staff to implement the EPDP Recommendations. If deemed

necessary, the Board shall direct ICANN staff to work with the GNSO Council to create a guidance implementation plan, based upon the guidance recommendations identified in the Final EPDP Recommendation(s) Report.

### **Section 8. Maintenance of Records**

Throughout the EPDP, from initiation to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each EPDP issue. Such status page will outline the completed and upcoming steps in the EPDP process, and contain links to key resources (e.g. Reports, Comments Fora, EPDP Discussions, etc.).

### **Section 9. Applicability**

The procedures of this Annex E shall be applicable from [date] onwards.

## Annex H - Scenario planning – new GNSO Processes

Note, for informational purposes, the WG put together the scenarios below based on issues that the GNSO Council has dealt with previously using ad-hoc processes to see how these could potentially be handled using the new processes. Please note these are just examples – in each case the first step would need to be for the Council to consider which of the processes available would be most appropriate to deliver the desired outcome.

### GNSO INPUT PROCESS

Step	ATRT2
1.	A public comment forum was opened for the ATRT2 to obtain community input on its Draft Report & Recommendations and Correction Issued 7 November 2013, with the goal of producing a Final Report by 31 December 2013.
2.	Council discusses and agrees it would like to submit a comment
3.	Council member submits GIP initiation request via email indicating that a small group of volunteers will prepare draft comments for Council review
4.	No objections are received to the GIP initiation request
5.	The GIP Team reaches out to the GNSO Council / SG / C to ask for any input that it should consider in preparing its draft comments
6.	The GIP Team deliberates via email or call, reviews any input that has been received and prepares the proposed comments
7.	The GIP Team submits the proposed comments to the GNSO Council for its consideration
8.	Council members deliberate on proposed comments and provide suggestions for changes which are incorporated by the GIP Team
9.	Proposed comments are finalized – no objections are received to submitting the comments
10.	Comments are submitted to public comment forum as GNSO Input.



**GNSO GUIDANCE PROCESS**

Step	Specification 13 <sup>28</sup>
1.	Letter received from the NGPC requesting GNSO Council to advise as to whether the GNSO Council believes that this additional clause is inconsistent with the letter and intent of GNSO Policy Recommendation 19 on the Introduction of New Generic Top Level Domains. In case additional time for review is necessary beyond the 45 days, please advise the NGPC along with an explanation as to why this additional time is required.
2.	GNSO Council discusses request and determines that it is not the expectation that the Council's advice will result in new contractual obligations but is expected to provide interpretation or assist in providing clarity with regards to the implementation of GNSO policy recommendations (or if it does expect new contractual obligations, refer to EPDP)
3.	Council member submits GGP Initiation Request (motion plus scoping document), including proposal to form a working group to review the Board Request
4.	Council votes on GGP Initiation
5.	GGP Working Group call for volunteers is circulated and GGP WG formed
6.	GGP WG reaches out to GNSO SG/C and ICANN SO/ACs for input, if deemed appropriate / necessary
7.	GGP WG deliberates and publishes GNSO Guidance Recommendation Report for public comment
8.	GGP WG reviews public comments received and updates recommendation, if deemed appropriate
9.	GGP WG submits Final GNSO Guidance Recommendation Report to the GNSO Council
10.	GNSO Council adopts Final GNSO Guidance Recommendation Report with supermajority support
11.	GNSO Council submits GNSO Guidance Recommendation Board Report to the ICANN Board
12.	Board reviews GNSO Guidance Recommendation Board Report and adopts the guidance unless by a vote of more than two-thirds (2/3) of the Board, the Board determines that such guidance is not in the best interests of the ICANN community or ICANN

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<sup>28</sup> Note, under the PI recommendations an IRT would have been in place to deal with this question. If the IRT would not have been able to confirm the intent, it would have referred the issue to the GNSO Council for guidance which could have also resulted in a GGP or EPDP.

**GNSO EXPEDITED POLICY DEVELOPMENT PROCESS**

Step	Defensive Registrations
1.	ICANN received comment describing an apparent need to submit gTLD applications for defensive purposes to protect established legal rights. In response the New gTLD Program Committee resolved not to direct 'any changes to the Applicant Guidebook to address defensive gTLD applications at this time, the New gTLD Program Committee directs staff to provide a briefing paper on the topic of defensive registrations at the second level and requests the GNSO to consider whether additional work on defensive registrations at the second level should be undertaken'.
2.	GNSO Council discusses NGPC request and staff briefing and determines that additional work is needed and will likely result in new contractual obligations. As the issue is specific to the new gTLD program and it has been determined that it has been scoped accordingly, the GNSO Council decides to consider addressing this issue via an EPDP.
3.	A GNSO Council member submits a motion accompanied by an EPDP scoping document
4.	The GNSO Council initiates the EPDP by a Supermajority vote of the Council in favor of initiating the EPDP
5.	EPDP Working Group call for volunteers is circulated and EPDP WG formed
6.	EPDP WG reaches out to GNSO SG/C and ICANN SO/ACs for input
7.	EPDP WG deliberates and publishes EPDP Initial Report for public comment
8.	EPDP WG reviews public comments received and updates recommendations, if deemed appropriate
9.	EPDP WG submits EPDP Final Report to the GNSO Council
10.	GNSO Council adopts EPDP Final Report per PDP voting thresholds
11.	GNSO Council submits GNSO EPDP Recommendation Board Report to the ICANN Board
12.	Board reviews GNSO EPDP Recommendation Board Report and considers the recommendations per the requirements of the PDP

## Annex I - Estimated Timelines for new processes (in days)

### Assumptions:

- The issues that are subject to an EPDP and GGP are narrowly scoped and often more limited than subjects under consideration in a PDP.
- In the case of a GIP, most of the times, no public comment period will be required as it is expected to mostly concern input in response to an open public comment period or specific request from an entity other than the Board.
- As with a PDP, the actual duration of each phase will depend on a number of factors such as complexity of the issue, resources available to undertake the work (both community and staff) as well as general support (or lack thereof) for possible recommendations. These are just estimates – the actual duration may be longer or shorter (note, it cannot be shorter than the absolute minimum indicated).

	PDP <sup>29</sup> (Median)	EPDP Steps	EPDP Average (Estimate)	EPDP Absolute Minimum (estimates)	GIP Steps	GIP (Estimate)	GIP Absolute Minimum (estimates)	GGP Steps	GGP (Estimate)	GGP Absolute Minimum (estimates)
Request for an Issues Report	0									
Preliminary Issue Report	54									
Submission of Final Issue Report	52,5									
Initiation of PDP	130,5	Initiation of EPDP	0	0	Initiation of GIP	0	0	Initiation of GGP	0	0
Approval of WG Charter	157	Approval of WG Charter	0 <sup>30</sup>	0						
Publication Initial Report	408	Publication of Initial Report	150	70				Publication of Initial Guidance Report	150	60
Publication Final Report	578	Publication of Final Report	235	120	Submission of GNSO Input <sup>31</sup>	60	5	Publication of Final Report	235	110
Council Vote	588	Council Vote	245	130	GNSO Approval / non-objection	70	10	Council Vote	245	120
Board Vote	849	Board Vote	380	180	Submission	80	11	Board Vote	380	170
Implementation Effective Date	1143	Implementation Effective Date	527	370				Implementation <sup>32</sup>	527	260

<sup>29</sup> See table on next page from which this information is derived

<sup>30</sup> Assuming that per current practice the charter could be approved at the same time as the initiation

<sup>31</sup> This assumes no public comment period.

**Actual PDP Timelines**

	IRTP Denials	IRTP Part A	Fast Flux	Domain Tasting	IRTP Part B	PEDNR	IRTP Part C	UDRP Lock	Thick Whois	IGO/INGO	IRTP Part D	Curative Rights	Median
<b>Request for an Issues Report</b>	0 (20 Sep07)	0 (8 May08)	0 (6 March08)	0 (9 May07)	0 (16 April09)	0 (20 Nov08)	0 (22 Jun11)	0 (3 Feb11)	0 (22 Sept11)	0 (12 Apr12)	0 (17 Oct12)	0 (20 Nov13)	
<b>Preliminary Issue Report<sup>33</sup></b>							<b>34</b> (25 Jul11)	<b>114</b> (27 May11)	<b>61</b> (21 Nov11)	<b>54</b> (4 Jun12)	<b>27</b> (12 Nov12)	111 (10 March14)	<b>54</b>
<b>Submission of Final Issue Report</b>	<b>29</b> (19 Oct07)	<b>15</b> (23 May08)	<b>19</b> (25 March08)	<b>36</b> (14 June07)	<b>29</b> (15 May09)	<b>15</b> (5 Dec08)	<b>69</b> (29 Aug11)	<b>243</b> (3 Oct11)	<b>134</b> (2 Feb12)	<b>173</b> (1 Oct12)	<b>84</b> (8 Jan13)	<b>198</b> (5 June14)	<b>52,5</b>
<b>Initiation of PDP</b>	<b>61</b> (20 Nov07)	<b>48</b> (25 June08)	<b>63</b> (8 May08)	<b>175</b> (31 Oct07)	<b>69</b> (24 June09)	<b>168</b> (7 May09)	<b>93</b> (22 Sept11)	<b>316</b> (15 Dec11)	<b>175</b> (14 Mar12)	<b>189</b> (17 Oct12)	<b>93</b> (17 Jan13)	<b>218</b> (25 June14)	<b>130,5</b>
<b>Approval of WG Charter</b>		<b>70</b> (17 July08)	<b>84</b> (29 May08)		<b>98</b> (23 July09)	<b>216</b> (24 June09)	<b>93</b> (22 Sept11)	<b>406</b> (14 Mar12)	<b>383</b> (8 Oct12)	<b>218</b> (15 Nov12)	<b>93</b> (17 Jan13)	<b>218</b> (25 June14)	<b>157</b>
<b>Publication Initial Report</b>	<b>179</b> (17 March08)	<b>245</b> (8 Jan09)	<b>326</b> (26 Jan09)	<b>243</b> (7 Jan08)	<b>408</b> (29 May10)	<b>557</b> (31 May10)	<b>346</b> (1 Jun12 <sup>34</sup> )	<b>772</b> (15 Mar13)	<b>639</b> (21 Jun13)	<b>429</b> (14 Jun13)	<b>503</b> (3 Mar14)		<b>408</b>
<b>Publication Final Report</b>	<b>202</b> (9 April08) <sup>35</sup>	<b>315</b> (19 March09)	<b>518</b> (6 August09)	<b>332</b> (4 April08)	<b>775</b> (30 May 2011)	<b>937</b> (14 June11)	<b>476</b> (9 Oct 12)	<b>884</b> (5 July13)	<b>761</b> (21 Oct13)	<b>578</b> (10 Nov13)	709 (25 Sept14)		<b>578</b>
<b>Council Vote</b>	<b>392</b> (16 Oct08)	<b>343</b> (16 April09)	<b>546</b> (3 Sept09)	<b>345</b> (17 April08)	<b>798</b> (22 June 2011)	<b>1005</b> (21 July 2011)	<b>484</b> (17 Oct 12)	<b>911</b> (1 Aug13)	<b>771</b> (31 Oct13)	<b>588</b> (20 Nov13)	<b>729</b> (15 Oct14)		<b>588</b>
<b>Board Vote</b>	<b>415</b> (7 Nov08)	No board vote	No board vote	<b>415</b> (26 June08)	<b>862</b> (25 Aug11)	<b>1073</b> (28 Oct11)	<b>548</b> (20 Dec12)	<b>969</b> (28 Sept13)	<b>870</b> (7 Feb 2014)	<b>749<sup>36</sup></b> (30 Apr14)	<b>849</b> (12 Feb15)		<b>849</b>
<b>Implementation Effective Date</b>	<b>543</b> (15 Mar09)	N/A	N/A	<b>694</b> (1 Apr09)	<b>1143</b> (1 June 2012 <sup>37</sup> )	<b>1746</b> (31 Aug 2013)		<b>1640</b> (31 July15)					<b>1143</b>

<sup>32</sup> It is expected that in most cases there will be no separate implementation for a GGP as the input is likely linked to an existing implementation process.

<sup>33</sup> Required per the revised GNSO PDP approved in December 2011

<sup>34</sup> Target date

<sup>35</sup> Followed by launch of drafting team on 17 April 2008, which produced its final report on 4 June 2008, whose recommendations were adopted by the GNSO Council in October 2008.

<sup>36</sup> Part of the recommendations were considered by the ICANN Board on that date

<sup>37</sup> Part of the recommendations were implemented by this date

## Annex J – Global Domains Division - Consensus Policy Implementation Framework (Updated May 2015)

- I. **Goals and Objectives:** ICANN’s Consensus Policy implementation framework is designed to support predictability, accountability, transparency, and efficiency in the Consensus Policy implementation process.
  
- II. **Working Principles:**
  - A. ICANN staff’s implementation of GNSO Consensus Policy recommendations<sup>38</sup> should be transparent throughout the project lifecycle. Staff communications regarding the status of an implementation – including to the Implementation Review Team and the GNSO Council— are a central component of the implementation lifecycle from beginning to end.
  - B. ICANN staff strive to follow the letter and the intent of GNSO Consensus Policy recommendations when implementing Consensus Policy recommendations. Staff is accountable to the GNSO Council (or its agent, such as an implementation review team) for ensuring that the implementation of policies is consistent with the policy recommendations and the reasoning underlying the policy recommendations as outlined in the Final Report. Where there is uncertainty surrounding the intent underlying a policy recommendation, staff will consult with the IRT to clarify that intent.
  - C. ICANN staff will use the Consensus Policy Implementation Framework as a guide when implementing Consensus Policy recommendations. Staff will follow an implementation checklist, outlined below, to ensure that all necessary steps are followed during each implementation phase before contracted parties must physically implement a Consensus Policy.
  - D. The implementation process must ensure that the integrity of Consensus Policy recommendation(s) is maintained as these are transformed into implementable processes, systems, and standards. The implementation process must enable staff to plan and manage the capacity and resources required to package, build, test, and deploy a release into production and establish the service(s) and support structure.
  - E. ICANN staff will follow a formal transition process (GNSO Policy Team to GDD, GDD implementation, and GDD to Compliance checklists) for use by project sponsors as each new implementation project is executed.

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<sup>38</sup> More information about the GNSO Consensus Policy Development Process is available at <http://gns0.icann.org/en/basics/consensus-policy/pdp>.

- F. Policy implementation activities should follow a life cycle according to standardized implementation phases or windows. To support contracted parties' implementation efforts, the policy implementation activities should be coordinated as much as possible according to deployment cycles and implementation deadlines, taking into account factors such as other related activities or events with conflicting or simultaneous timelines.
- G. Any change or release that is required due to immediate security and stability issues will be deployed in an expedited manner, per Consensus Policies and temporary policies specifications within the Registry Agreement and Registrar Accreditation Agreement. In such cases, ICANN staff will collaborate with the community and consider throttling back on other implementations in the pipeline to ease the burdens of emergency changes.
- H. ICANN staff will continually review the implementation framework and related materials to encapsulate additional best-practices or to adjust the steps as a result of lessons learned with previous Consensus Policy projects. The current version of this framework will be available on ICANN's implementation status webpage, which is currently in development.

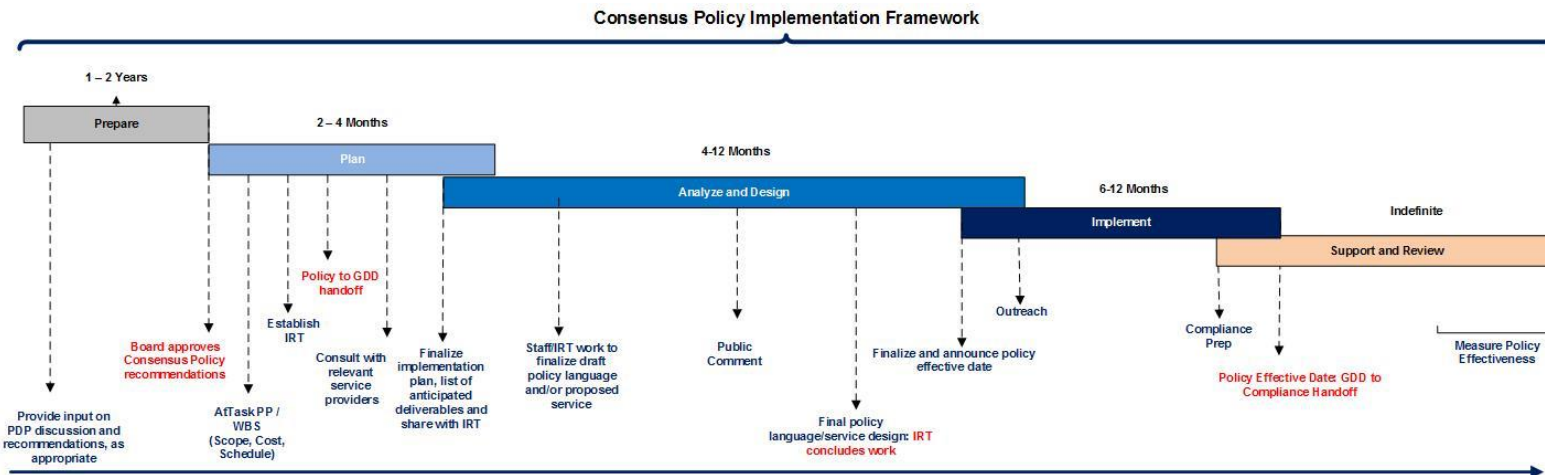
### III. Roles and Responsibilities

- A. GNSO Council: The GNSO Council is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. Once policies are adopted by the Board, the GNSO serves as a resource for staff who have questions about the background or intent of the policy recommendations during its implementation. The GNSO may continue to provide input on the implementation of a policy, for example, if the GNSO believes that the implementation is inconsistent with the policy.
- B. GNSO Policy Staff: The Policy staff support the GNSO in its policy development activities. As such, the Policy staff are responsible for handing off GNSO policies for implementation to the GDD staff once the policies are approved by the Board. Policy staff can also serve as a resource for GDD staff should questions arise surrounding the intent or history of a policy recommendation.
- C. Global Domains Division (GDD) Staff: The GDD staff are responsible for the entire implementation lifecycle, from creating an implementation plan, engaging the Implementation Review Team (if there is one), consulting with relevant ICANN staff and any outside parties that are required, and conducting outreach surrounding the implementation, including communicating with the public and relevant stakeholders regarding the progress of implementation.
- D. Implementation Review Team (IRT): The Implementation Review Team, if convened by the GNSO Council, will serve as a resource to implementation staff on policy and technical questions that arise. An IRT will typically consist of, but will not be limited to, volunteers who were also involved in the development of the policy recommendations. As such, the IRT is expected to serve as a resource to staff on the background and rationale of the policy recommendations and return to the GNSO Council

for additional guidance if and when required (see also IRT Principles & Guidelines). Where relevant, the IRT should also include technical or subject-matter experts and contracted parties who can assist staff in the planning for the technical implementation of a policy change.

- E. ICANN Supporting Organizations and Advisory Committees: SO/ACs may serve as a resource to ICANN staff during implementation as specific projects require.
- F. General Counsel’s Office: Legal staff will review all amended policy language to ensure the changes are legally sound and that amendments will not create issues under any other policies or contracts.
- G. Contractual Compliance: Contractual Compliance staff is involved in the implementation lifecycle to ensure that changes are implemented in a manner that creates clear and enforceable obligations on contracted parties (and also in a way that is efficiently tracked and enforceable for compliance).
- H. Enterprise Risk Management: Enterprise risk management staff will review the policy advice, the implementation plan, and amended policy language and/or new services to evaluate associated risks.
- I. Third-Party Service Providers: Contractors may carry out, offer, and/or support a service at ICANN’s direction. These contractors may be expected to provide recommendations on the feasibility of certain approaches or assist with proposed solutions to issues raised during implementation.

**IV. Consensus Policy Implementation Framework (time ranges are estimated)**



- **Prepare:** GDD staff will follow policy development activities to engage on implementation-related matters, as appropriate. Consideration and feedback to policy work products and Consensus Policy recommendations as it relates to implementation will occur through the various phases of the GNSO Policy Development Process. The Board’s approval of Consensus Policy recommendations marks the formal endpoint of this phase.
- **Plan:** Policy and GDD staff arrange for the recruitment of the IRT at the beginning of this stage. Policy formally hands off the project to GDD for implementation. GDD staff will organize the activities required to implement Consensus Policy recommendations. A project plan with complete work breakdown structure is the primary output; including a draft requirements document. GDD’s initial contacts with relevant service providers and the Implementation Review Team (IRT) will occur during this stage. This phase is completed when the implementation project plan is posted.
- **Analyze and Design:** GDD staff will work with the IRT, if convened, during this stage to develop and complete new Consensus Policy language (if required) and any new service that may be needed. Public comments regarding the implementation will also be solicited at this stage. This stage is completed when the final implementation and effective date is announced.
- **Implement:** GDD staff will announce final implementation details to the community and conduct targeted outreach to contracted parties during this phase. The implementation project is formally handed off from GDD to Contractual Compliance staff at the conclusion of this phase, when the Consensus Policy goes into effect.
- **Support and Review:** GDD staff may serve as a resource to Contractual Compliance in its enforcement of new Consensus Policies. GDD staff may also review Consensus Policy implementations,

**V. Implementation Process and Milestones**

Phase	Step	Responsible	Requirements
PREPARE	Provide input on staff Preliminary Issue Reports	GDD staff	Designated GDD staff member will monitor Policy staff’s creation of Issue Reports and provide input on behalf of the team(s) as appropriate.
PREPARE	Follow policy development projects with an eye toward	GDD staff	Designated GDD staff member will monitor PDP activities with an eye toward implementation issues. The staff member(s) will participate in PDP discussions as required to share an implementation perspective.



	implementation		
<b>PREPARE</b>	Provide input on GNSO PDP Initial Report	GDD staff	Designated GDD staff member will coordinate the teams’ input on the GNSO PDP initial report.
<b>PREPARE</b>	Provide input on GNSO PDP Final Report	GDD staff	Designated GDD staff member will coordinate the teams’ input on the GNSO PDP Final Report.
<b>PREPARE</b>	Provide input on GNSO recommendations to ICANN Board Report and/or Staff Recommendations Report to ICANN Board	GDD staff	Designated GDD staff member will coordinate the teams’ input on WG materials to prepare the ICANN Board with their consideration of the Consensus Policy recommendations and other SO/AC advice where necessary.
<b>PLAN</b>	Recruit Implementation Review Team (if applicable)	GNSO Policy staff, GDD staff	1.1.1.1.2 GNSO Policy staff, in consultation with GDD staff, will issue a call for IRT volunteers and create a listserv for the IRT <sup>39</sup> . GDD staff will consult with the IRT regarding meetings schedule and convene one or two ad-hoc sessions to establish agreement on the rules of engagement and deliverables of the IRT.
<b>PLAN</b>	Conduct GNSO Policy Team to GDD	GNSO Policy staff, GDD staff	Once the Board passes a resolution, the Registry/Registrar Services teams will designate a staff member to lead implementation. This GDD staff member will coordinate with GNSO Policy staff to complete the policy to implementation handoff. At handoff, GDD

<sup>39</sup> See ICANN Bylaws, at Annex A, Section 10, “The GNSO Council may, but is not required to, direct the creation of an implementation review team to assist in implementation of the policy.”

	Implementation team turnover		assumes responsibility for reporting and communicating on project status.
<b>PLAN</b>	Recruit Implementation Review Team (if applicable)	GNSO Policy staff, GDD staff	GNSO Policy staff, in consultation with GDD staff, will issue a call for IRT volunteers and create a listserv for the IRT <sup>40</sup> . GDD staff will consult with the IRT regarding meetings schedule and convene one or two ad-hoc sessions to establish agreement on the rules of engagement and deliverables of the IRT.
<b>PLAN</b>	Create draft Consensus Policy language (if applicable) and service requirements (if applicable)	GDD staff, GCO	<p>When a PDP requires changes to an existing consensus policy or the creation of a new consensus policy, GDD staff will create a draft consensus policy language proposal to kick off implementation discussions.</p> <p>When policy recommendations requires the creation of a new service or changes to an existing service, GDD staff will also create draft requirements for systems and third party engagement for new/changed services.</p>
<b>ANALYZE AND DESIGN</b>	Engage Implementation Review Team	GDD staff, GNSO Policy staff, in consultation with IRT	<p>Draft consensus policy language should be distributed to the IRT and call(s) should be held to clarify or improve the language consistent with the intent of the policy recommendations.</p> <p>If the IRT concludes that staff’s planned implementation of Consensus Policy recommendations is inconsistent with the stated intent of the Consensus Policy recommendations, the IRT may consult with the GNSO Council as outlined in the IRT principles and guidelines.</p> <p><i>Note: The role and working of IRT is also actively under consideration by the P &amp; I WG and any recommendations coming out of that effort that are approved by the GNSO Council will be factored in here.</i></p>

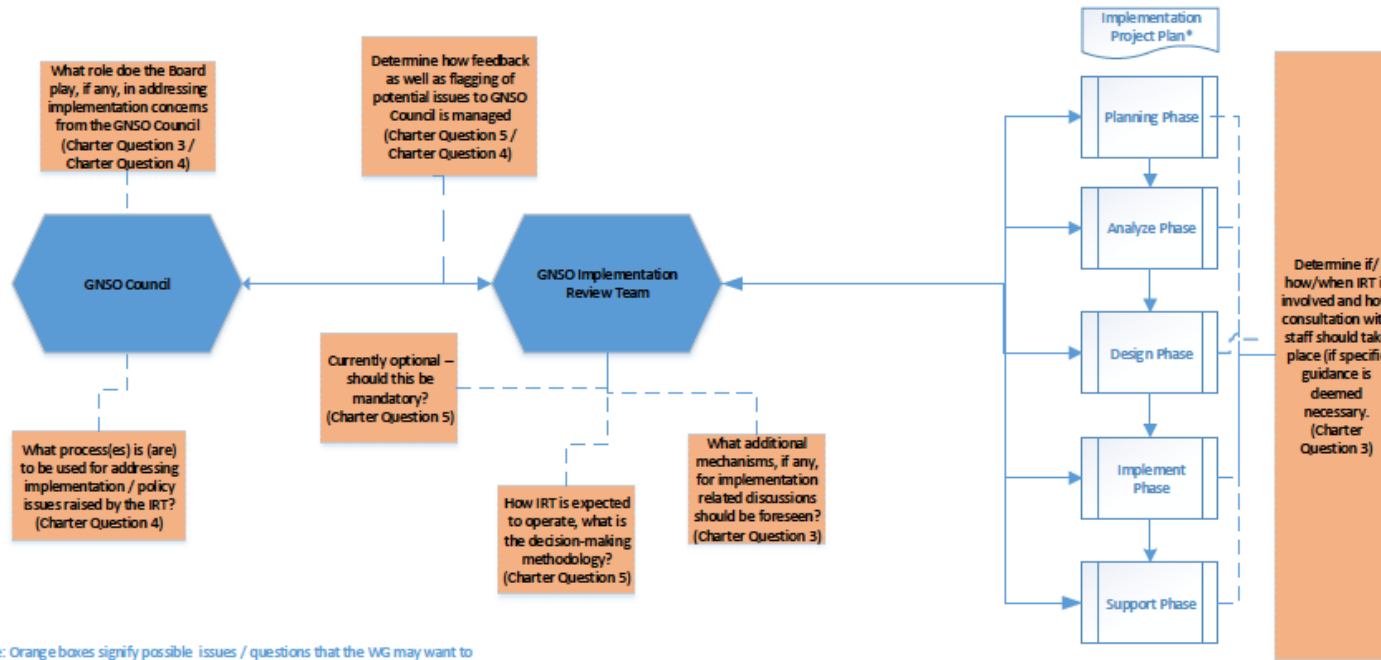
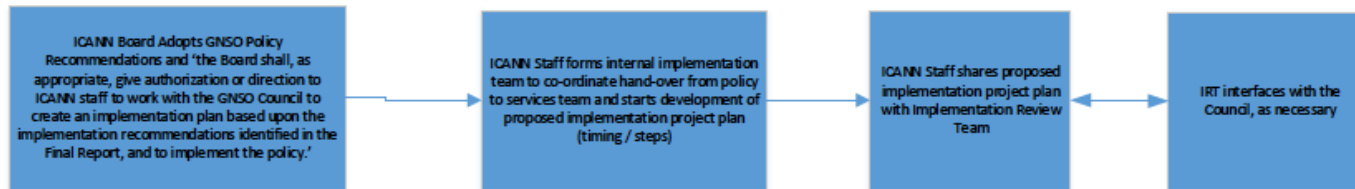
<sup>40</sup> See ICANN Bylaws, at Annex A, Section 10, “The GNSO Council may, but is not required to, direct the creation of an implementation review team to assist in implementation of the policy.”

<b>ANALYZE AND DESIGN</b>	Engage additional third parties as may be needed for implementation (service providers, technical experts, etc)	GDD staff, in consultation with IRT	If the implementation will require changes to existing services or the building of a new service, the implementation lead should consult service providers and tech experts as early as possible to ensure that these viewpoints are included from the outset of the implementation. This process could include issuing a RFI or RFP.
<b>ANALYZE AND DESIGN</b>	Solicit public comment on proposed policy language and implementation plan (if applicable)	GDD staff, in consultation with IRT	GDD staff will decide whether the proposed implementation should be posted for public comment (there is a strong presumption that items will be posted for public comment). If so, the proposed consensus policy language and/or details of the new service as well as the implementation plan will be posted for public comment.
<b>ANALYZE AND DESIGN</b>	Draft final policy language (if applicable)	GDD staff, in consultation with IRT	GDD staff will adjust policy language based on public comments, in consultation with the IRT (if applicable).
<b>ANALYZE AND DESIGN</b>	Complete new proposed service (if applicable)	GDD staff, in consultation with IRT	GDD staff will complete all required elements of new proposed service based on public comments, in consultation with the IRT (if applicable) after consulting with relevant service providers.
<b>ANALYZE AND DESIGN</b>	Consult with IRT and relevant staff regarding draft final policy language and/or new proposed	GDD staff, in consultation with IRT	The GDD staff will consult with relevant staff (as needed) and the IRT (or GNSO in cases where there is not an IRT) on final policy language and/or service.

	service		
<b>ANALYZE AND DESIGN</b>	Solicit additional public comments, if required	GDD staff	If the final policy language and/or proposed service is materially changed following the initial public comment period, the GDD staff will seek public comments on the updated language/service before it is implemented.
<b>ANALYZE AND DESIGN</b>	Complete policy language and/or new service	GDD staff, in consultation with IRT	Once all relevant staff, service providers and the IRT have reviewed the final policy language/service, the final product should be announced to the public and to relevant stakeholders.
<b>ANALYZE AND DESIGN</b>	Establish Policy Effective Date	GDD staff, in consultation with IRT	Define a reasonable date in which contracted parties can implement changes to become compliant with the intent of the Consensus Policy.
	Announce Policy Effective Date	GDD staff	<p>A proposed policy effective should already have been scheduled/published, but this marks the formal milestone.</p> <p>Formal legal notice, as required under the Registry and Registrar Accreditation Agreements, should be provided to contracted parties.</p> <p>Notice should be emailed to the contracted parties and posted on the ICANN website in the “consensus policies” section.</p>
	Develop education and outreach materials	GDD staff	GDD staff will coordinate with Communications to create any materials needed for socializing the policy changes across the contracted parties and general internet community. Items include webinars, FAQs, online documentation, service/compliance requests, etc.
	Conduct outreach	GDD staff	GDD staff will schedule a series of webinars to educate affected stakeholders on the pending policy changes (if needed).
	Send reminder notices	GDD staff	Reminder notices about the upcoming Policy Effective Date should be sent to contracted parties 30 days before the effective date and on the effective date.
	Deploy Consensus Policy change	GDD staff	This represents a milestone rather than a task. The draft implementation plan, any requirements docs, and/or AtTask project plans should contain a detailed schedule of

			sub-tasks and details associated with its execution.
<b>SUPPORT AND REVIEW</b>	Initiate Compliance monitoring & enforcement based on PED	Compliance	This marks the formal commencement of enforcement of the new Consensus Policy. Contractual Compliance should be fully prepared to respond to any enforcement activities and able to take a proactive approach to monitoring for compliance.
<b>SUPPORT AND REVIEW</b>	Continuous improvement & measure of policy effectiveness	All	Measurement of the Consensus Policy effectiveness is important to understand if the policy changes met the objectives defined by the GNSO. A series of metrics should be defined and created to measure the policy as required across the contracted parties or ICANN services.
<b>SUPPORT AND REVIEW</b>	Formal review (if applicable)	GDD staff, Policy staff	If a Consensus Policy has a scheduled formal staff review following its effective date, or if the GNSO Council or ICANN Board calls for a formal review, GDD and/or Policy staff will initiate this process.
<b>SUPPORT</b>	Policy status report	Compliance, GNSO Policy Staff	Compliance and GNSO Policy Staff should provide a report to the GNSO Council when there is sufficient data and there has been adequate time to highlight the impact of the policy recommendations, which could serve as the basis for further review and/or revisions to the policy recommendations if deemed appropriate.

## Annex K – Implementation Process Graphic



\* See GDD Consensus Policies Implementation Framework for further details on each phase

## ANNEX L – Implementation Review Team Principles & Guidelines

- I. IRT Recruitment
  - A. The Implementation Review Team (IRT) volunteer recruitment process should take into account what areas of expertise are expected to be needed. Identification of necessary areas of expertise should preferably be done before issuing a call for volunteers. The PDP working group may elect to issue guidance on relevant areas of expertise for the IRT along with its policy recommendations. Additional expert participation in the IRT may be sought throughout implementation as needs are identified.
  - B. The call for IRT volunteers should clearly identify the needed areas of expertise, the scope and approximate time frame of the work, the roles of IRT participants, and the value the group is expected to bring.
  - C. The call for IRT volunteers should at a minimum be sent to all members of the PDP working group that was responsible for developing the policy recommendations. The call for volunteers may need to reach beyond the working group members to ensure broad participation by parties directly impacted by the implementation and parties with specialized expertise needed for implementation. In some cases, additional outreach at the start or at a later stage of the IRT may be necessary to ensure that appropriate expertise is available and that directly affected parties are involved in the IRT.
  - D. Where there is a lag in time between the PDP WG's adoption of Consensus Policy recommendations and the launch of an IRT, staff and community efforts to recruit IRT members should include components to support education and awareness. Staff should also keep the larger community and the GNSO Council up to date on the status of convening the IRT.
  - E. Where there are stakeholder groups who are identified as being significantly impacted by the policy implementation, recruitment activities should seek to enhance awareness of the effort and the opportunity to participate in the IRT among these groups. To the extent

feasible and applicable, composition of the IRT should be balanced among stakeholder groups.

## II. IRT Composition

- A. IRTs should include at least one participant from the original PDP WG who can provide insight into the original reasoning behind consensus policy recommendations.
- B. The GNSO Council is expected to designate a GNSO Council liaison to each IRT to ensure a direct link to the GNSO Council if/when needed.
- C. IRTs should be open to all interested parties, but may not necessarily be representative of the ICANN community, as actual participation may depend on interest and relevance of the topic under discussion.

## III. IRT Role

- A. As provided in the PDP Manual, the IRT is convened to assist staff in developing the implementation details for the policy to ensure that the implementation conforms to the intent of the policy recommendations.
- B. The IRT is not a forum for opening or revisiting policy discussions. Where issues emerge that may require possible policy discussion, these will be escalated using the designated procedure as outlined in section V.E (see hereunder).

## IV. ICANN Staff interaction with IRT

- A. Staff must provide regular updates to the IRT on the status of the implementation and conduct appropriate outreach to the IRT at critical milestones. In some cases, status updates and communications about key implementation developments may also need to be pushed out to the broader community. At a minimum:
  - a. A Consensus Policy Implementation status page hosted on icann.org that contains a summary of the project, primary tasks as shaped by the consensus recommendations, percent complete, and expected delivery dates (note this page is currently under construction)



- b. The GNSO Council Project List, hosted on [gnso.icann.org](http://gnso.icann.org) contains a summary of the project, latest accomplishments, and expected delivery. The Project List is reviewed at each GNSO Council meeting.
  - B. Staff must set clear deadlines for IRT feedback on documents and implementation plans and send documents to the IRT in a timely manner to ensure sufficient time for IRT review.
- V. IRT Operating Principles
  - A. Meetings of the IRT must be scheduled by GDD Staff in a timely manner, in consultation with the members of the IRT. The draft agenda is expected to be circulated by GDD Staff to the IRT at least 24 hours in advance and will send out the call-in details and other relevant materials to all the members of the IRT.
  - B. There is a presumption that all IRTs will operate with full transparency, with at a minimum a publicly archived mailing list and recording of all IRT calls. In the extraordinary event that the IRT should require confidentiality, the IRT is normally encouraged to conduct its meeting(s) in accordance with the Chatham House Rule<sup>41</sup> as the preferred option, and if necessary, additional rules and procedures may be developed by the IRT in co-ordination with staff.
  - C. The GDD Project Manager will lead the meetings of the IRT.
  - D. If there is lack of participation resulting in meetings being cancelled and/or decisions being postponed, the GDD Project Manager is expected to explore the reasons (e.g. issues with the schedule of meetings, conflict with other activities or priorities) and attempt to address them (e.g. review meeting schedule). However, should the lack of participation be reasonably deemed to be the result of IRT members seeing no specific need to attend the calls as they are content with the direction the implementation is going, ICANN Staff can continue with the proposed implementation plan as long as: (i) a notice to this effect is sent to the IRT; and (ii) regular meetings are held and regular updates are provided for the public record, including on decisions being taken, on the mailing list and deadlines for input are clearly communicated.

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<sup>41</sup> See <http://www.chathamhouse.org/about/chatham-house-rule> for a description of the Chatham House Rule.

- E. In the event of disagreement between ICANN Staff and the IRT or any of its members on the implementation approach proposed by ICANN Staff, the GDD Project Manager, in consultation with the GNSO Council liaison<sup>42</sup> if appropriate, shall exercise all reasonable efforts to resolve the disagreement. Should the disagreement prove irreconcilable despite such efforts, the GNSO Council liaison in consultation with the IRT is expected to make an assessment as to the level of consensus within the IRT on whether to raise the issue with the GNSO Council for consideration, using the standard decision making methodology outlined in the GNSO Working Group Guidelines. If the GNSO Council liaison makes the determination that there is consensus for such consideration, the liaison will inform the GNSO Council accordingly which will deliberate on the issue and then make a determination on how to proceed which could include, for example, the initiation of a GGP, a PDP or further guidance to the IRT and/or GDD staff on how to proceed. This process also applies to cases in which there is agreement between the IRT and GDD staff concerning the need for further guidance from the GNSO Council and/or when issues arise that may require possible policy discussion.
- F. Any IRT member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the IRT or GDD Staff should first discuss the circumstances with the GNSO Council liaison to the IRT. In the event that the matter cannot be resolved satisfactorily, the IRT member should request an opportunity to discuss the situation with the Chair of the GNSO Council or their designated representative. In addition, an IRT member always has the option to involve the ombudsman (see <https://www.icann.org/resources/pages/accountability/ombudsman-en> for further details).
- G. IRT deliberations should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available

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<sup>42</sup> Should the Council Liaison not be willing or available to carry out this role, the IRT will inform the GNSO Council accordingly and identify a member of the IRT to take on the role of the GNSO Council liaison for this specific purpose.

## ANNEX M – WG Membership and Participation

Name	Affiliation	Meetings Attended (Total # of WG Meetings = 52)
Gregory S Shatan	IPC	48
Chuck Gomes (Co-Chair)	RySG	47
Alan Greenberg	ALAC	47
Cheryl Langdon-Orr	ALAC	46
Michael Graham (Vice-Chair)	IPC	40
Tom Barrett	RrSG	35
Olevie Kouami (Vice-Chair)	NPOC	34
J. Scott Evans (Co-Chair)	BC	34
Amr Elsadr (Council Liaison)	NCUC	34
Anne Aikman-Scalese	IPC	32
Avri Doria	NCSG	28
Wolf-Ulrich Knoblen	ISPCP	22
Klaus Stoll	NPOC	21
Nic Steinbach	RrSG	15
Stephanie Perrin	NCUC	15
Philip V. Marano	IPC	14
Jonathan Frost	RySG	12
Brian J. Winterfeldt (Council Liaison)	IPC	9
James Bladel	RrSG	9
Marie-Laure Lemineur <sup>43</sup>	NPOC	9
Olga Cavalli	GAC	8

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<sup>43</sup> Resigned from the WG in April 2014

Name	Affiliation	Meetings Attended (Total # of WG Meetings = 52)
Gideon Rop	Individual	6
Kiran Malancharuvil <sup>44</sup>	IPC	6
Maureen Cubberley	Individual	6
Kristina Rosette <sup>45</sup>	IPC	5
Tim Ruiz <sup>46</sup>	RrSG	5
Brian Beckham	IPC	4
Holly Raiche <sup>47</sup>	ALAC	4
Philip Karnofsky	IPC	4
Carlos Raul Gutierrez	Individual	4
Aparna Sridhar	BC	3
Eric Brunner-Williams	Individual	3
Jeff Neuman	RySG	3
Becky Burr	RySG	2
Edward Morris	NCSG	2
Bertrand de la Chapelle	Individual	1
Seun Ojedeji	NCUC	1
David Cake	NCUC	0
Garth Bruen	ALAC	0
Philip Sheppard	Brand Owners	0
Zeeshan Shoki	Individual	0
Jennifer Chung	RySG	0

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<sup>44</sup> Resigned from the WG in March 2014

<sup>45</sup> Resigned from the WG in August 2014

<sup>46</sup> Resigned from the WG in July 2014

<sup>47</sup> Resigned from the WG in November 2013

Attendance log: <https://community.icann.org/x/-rbhAg>

Mailing list archive: <http://forum.icann.org/lists/gnso-policyimpl-wg/>

WG workspace: <https://community.icann.org/x/y1V-Ag>