

GUIDELINES & MOTION TEMPLATES

Section 18.12 Special IANA Function Reviews (IFRs)

Guideline for GNSO Internal Review Process

1. Introduction

The purpose of this Guideline is to provide guidance to the GNSO Council on how to conduct an internal review of the outcome of Remedial Action Procedures of the CSC and the IANA Problem Resolution Process as set out in Section 18.12(a)(i) and (ii) of the ICANN Bylaws. This document is meant to be combined with the [Guidelines for GNSO-ccNSO Joint Consultation on Initiation of a Special IFR](#) (“Joint Consultation Guidelines”), and specifically, to provide additional details to Section 1.4 of the Joint Consultation Guidelines.

By way of explanatory introduction, the ICANN Bylaws leave specific details about how each Decisional Participant in the Empowered Community plans to carry out its stated responsibilities to be determined by such Decisional Participant.

For example, the Bylaws require that a request to take some action must be filed by the GNSO no later than a particular time, yet do not specify how to fulfill this requirement in the specific GNSO context. Questions that arose when developing these guidelines included, for example: Is such a request made by a Stakeholder Group or Constituency (SG/C) of the GNSO via its representatives on the GNSO Council? Or alternatively by the SG/C leadership? Or by an SG/C member to SG/C mailing list? Or by an SG/C member directly to the Council? Each Bylaws requirement generates a multitude of such questions.

To help the GNSO Council carry out its new roles and responsibilities outlined in the post-transition Bylaws, the GNSO Drafting Team to Further Develop Guidelines and Principles for the GNSO’s Roles and Obligations as a Decisional Participant in the Empowered Community (“the GNSO DT”) has outlined in the table below the additional proposed steps to be taken, including guidance and motion templates. These steps fall within the GNSO’s existing processes and procedures, and thus do not require any changes to the GNSO Operating Procedures or its Annexes.

Specifically, relevant Bylaws provisions have been quoted in order to differentiate those requirements that are explicitly provided by the Bylaws and the additional steps interpreted by the DT as needed to carry out the GNSO’s responsibilities.

For the avoidance of doubt, where requirements are expressly specified by the ICANN Bylaws, these are noted to clarify the distinction with additional steps that have been designated by the DT as appropriate (but not explicitly necessary under the Bylaws) for the GNSO's specific circumstances.

These Guidelines and Templates are internal to the GNSO. They apply only to the exercise of the GNSO's rights and responsibilities as a Decisional Participant in the Empowered Community, as those are set out in the currently applicable ICANN Bylaws, and not to any other Decisional Participant.

All references to actions of the GNSO Representative on the EC Administration in these Guidelines and Templates mean the actions of the currently designated GNSO Representative on the EC Administration. All such actions must be carried out under instruction from the GNSO; the GNSO Representative on the EC Administration is not empowered or authorized by these Guidelines and Templates to act independently or otherwise on his/her own initiative.

2. Background

Per the relevant excerpts from Section 18.12 of the ICANN Bylaws:

(a) A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI's performance under the IANA Naming Function Contract and IANA Naming Function SOW [under] the following conditions:

- (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures.
- (iii) The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations and Advisory Committees with respect to the PTI Performance Issue and whether or not to initiate a Special IFR; and
- (iv) After a public comment period that complies with the designated practice for public comment periods within ICANN, if a public comment period is requested by the ccNSO and the GNSO, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3) of the Council members) and

(B) a GNSO Supermajority.

Link to the graphics below:

https://www.icann.org/empowered_community_powers_file_download?file_name=download_english

HOW DOES THE EMPOWERED COMMUNITY USE THEIR POWERS?

The Empowered Community has a process to raise concerns with an action or inaction made by the ICANN Board or organization. This escalation process gives ICANN's Supporting Organizations (SOs) and Advisory Committees (ACs) opportunities to discuss solutions with the ICANN Board.



What is the Empowered Community?

The Empowered Community is the mechanism through which ICANN's SOs and ACs can organize under California law to legally enforce community powers. The community powers and rules that govern the Empowered Community are defined in the ICANN Articles of Incorporation and Bylaws.



Who can participate in the Empowered Community?

All of ICANN's SOs, as well as the At-Large and Governmental ACs, can participate in the Empowered Community including: the Generic Names Supporting Organization, the Country Code Names Supporting Organization, the Address Supporting Organization, the Governmental Advisory Committee and the At-Large Advisory Committee.



WHAT ARE THE EMPOWERED COMMUNITY POWERS?



The Empowered Community has nine powers to ensure the Internet Corporation for Assigned Names and Numbers (ICANN) Board and organization are accountable:



3. Bylaws and Additional Proposed Steps:

The following table sets out the applicable Bylaws provision/s, the guidance for the GNSO in relation to those Bylaws provisions, and the additional proposed steps that were tasked to the GNSO DT. The remaining sections of these Guidelines are intended to address the Additional Proposed Steps.

BYLAWS	GUIDANCE	ADDITIONAL PROPOSED STEPS
<p>SECTION 18.12 SPECIAL IFRS</p> <p>“(a) A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI’s performance under the IANA Naming Function Contract and IANA Naming Function SOW [under] the following conditions:</p> <p>(i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures;</p> <p>(ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures;”</p>	<p>In those instances where there is a reference to GNSO Supermajority, there is no need to add the voting threshold to section 11.3 as a GNSO Supermajority is already a defined term.</p> <p>For (a) there needs to be a process for conducting a review in either (i) and (ii) and then a consultation process developed with the ccNSO on whether to initiate the IFR. Only then the threshold comes into play.</p> <p>For the review referenced in (i) and (ii), the GNSO has processes available such as the GNSO Input Process (GIP) it could use.</p>	<p>Develop (a) guidance on conducting a review for (i) and (ii) and then a consultation process developed with the ccNSO on whether to initiate the IFR.</p>

4. Guidelines for the GNSO Internal Review Process to Consider the Outcome of Remedial Action Procedure and IANA Problem Resolution Process

4.1 Introduction

As a Decisional Participant in the Empowered Community, the GNSO has the power to request the initiation of a Special IANA Function Review (IFR). A Special IFR, which is outside of the cycle for the Periodic IFRs, addresses any deficiency problem or other issue that has adversely affected Public Technical Identifiers (“PTI”)’s performance under the IANA Naming Function Contract and IANA Naming Function Statement of Work (“SOW”).

For the avoidance of doubt, as specified in Section 18.12(a)(i) of the Bylaws and further specified by the Remedial Action Procedures (See Section V(f): <https://www.icann.org/en/system/files/files/csc-remedial-action-procedures-19feb19-en.pdf>), the process for considering and initiating a Special IFR formally starts when the Customer Standing Committee (“CSC”) notifies the ccNSO and GNSO Councils that a performance issue remains unresolved following escalation to the ICANN Board.

The GNSO cannot request the initiation of a Special IFR alone and must do so in consultation with the ccNSO. Hence, the GNSO and ccNSO have developed the [Guidelines for GNSO-ccNSO Joint Consultation Guidelines on Initiation of a Special IFR](#) (“Joint Consultation Guidelines”) to govern this process, including the establishment of the Special IFR Coordination Team (“SICT”) (See Section 1.2 of the Joint Consultation Guidelines).

Per the Bylaws Section 18.12(a)(i)-(ii), in order to request the initiation of a Special IFR, the following conditions must be met:

- “(i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures;
- (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures.”

In other words, as a condition to request the initiation of a Special IFR, the GNSO must conduct an “internal review process” of the outcome of the following and provide input to the SICT, which is detailed in Section 1.4 of Joint Consultation Guidelines:

- **The Remedial Action Procedures of the CSC** set forth in the IANA Naming Function

- Contract shall have been followed and failed to correct the PTI Performance Issue;
- **The IANA Problem Resolution Process** set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue.

As the ICANN Bylaws require that the GNSO conduct such internal review according to its operating procedures, this Guideline is developed to provide guidance to the GNSO Council on how to conduct an internal review and develop the GNSO input. Given the gravity of the situation presented by an unresolved PTI performance issue even after the escalation to the ICANN Board, it is important for the GNSO Council to use a detailed process as suggested in the sections in this Guideline below. Nevertheless, the GNSO Council has the discretion to define the specific procedures it will follow in the process of developing its input, so this Guideline serves as “guidance”, not a compulsory rule imposed on the GNSO Council.

4.2 The Beginning and the End of the Internal Review Process

Within five (5) days following the announcement of the establishment of the Special IFR Coordination Team (SICT)¹, the GNSO shall initiate the internal review of the outcome of the Remedial Action Procedures of the CSC and the IANA Problem Resolution Process as set out in Section 18.12(a)(i) and (ii) of the ICANN Bylaws, as well as develop the proposed GNSO input. The internal review process shall be concluded within thirty (30) days after its initiation.

In other words, the proposed GNSO input as an outcome of the internal review process shall be developed no later than Day 35 in the timeline table set out in Section 4.7 below.

4.3 Formation of a GNSO Council Small Group to Lead the Internal Review Process

Within five (5) days following the announcement of the establishment of the SICT, the GNSO Council shall form a Small Group to lead the internal review process.

The Small Group shall consist of the three (3) members appointed by the GNSO Council in the SICT, including the GNSO Chair, as well as any additional GNSO Council volunteers if they wish to join the effort.

The Small Group is tasked to solicit GNSO community feedback on the potential initiation of a Special IFR and develop the proposed GNSO input for the consideration by the GNSO Council.

4.4 GNSO Community Feedback on the Potential Initiation of a Special IFR

Upon the formation of the GNSO Council Small Group, the GNSO Stakeholder Groups and Constituencies will be asked to provide feedback, opinions, or comments on the outcome of

¹ The announcement of the establishment of the SICT is represented as “Day 0” in the timeline table set out in Section 4.7 below, which is also the date when the ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step and CSC subsequently informs the ccNSO and GNSO Councils.

the Remedial Action Procedures of the CSC and the IANA Problem Resolution Process, as well as their input relating to whether or not a Special IFR should be initiated.

This feedback period will close no later than the twenty-fifth (25th) day after the announcement of the establishment of the SICT.

The GNSO Council Small Group will work with GNSO support staff to compile any comments received, and post the compilation of comments to the GNSO Council list. The GNSO Secretariat will promptly post the compilation of comments to the GNSO website/wiki. If feasible and time permits, the GNSO Council leadership may work with GNSO support staff to categorize and summarize these comments to facilitate their review by the GNSO Council.

4.5 Development of the Proposed GNSO Input as the Outcome of the Internal Review Process

The GNSO Council Small Group will deliberate on any feedback, opinions, and comments sought and provided from GNSO Stakeholder Groups and Constituencies, and produce a statement of the proposed GNSO input for the consideration by the GNSO Council.

The statement should include the level of consensus for the proposed GNSO input among the Small Group members. The statement should also include the Small Group 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.

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

The Small Group should deliver the statement of the proposed GNSO input to the GNSO Council for its consideration in the form of a motion for the Council's action no later than the thirty-fifth (35th) day following the announcement of the establishment of the SICT. The GNSO Secretariat will promptly post the Small Group's statement to the mailing lists of the GNSO Council, Stakeholder Groups, and Constituencies, as well as publish it on the GNSO website/wiki.

4.6 GNSO Council Decision on Whether to Accept the Proposed GNSO Input as the Outcome of the Internal Review Process

The GNSO Council shall meet either in person or via tele-conference no later than the thirty-ninth (39th) day following the announcement of the establishment of the SICT to decide whether to accept the GNSO Council Small Group's proposed GNSO input as the outcome of the internal review process.

The decision shall be made by a GNSO Council simple majority vote of each house, which per Section 11.3(i) of the ICANN Bylaws is the default voting threshold for the GNSO Council. In other words, the acceptance of the proposed GNSO input requires an affirmative vote of a simple majority of each house of the GNSO Council.

In taking its decision, the GNSO Council shall consider:

- The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures; and
- The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process; and
- The feedback, opinions, and comments received from the GNSO Stakeholder Groups and Constituencies regarding the outcome of the aforementioned procedures/processes and input on the potential initiation of the Special IFR; and
- The level of consensus among the Small Group for the proposed GNSO input; and
- The impact of the proposed input discussed by the Small Group, which could include areas such as economic impact, competition, operations, privacy and other rights, scalability and feasibility; and
- Other factors deemed relevant by the GNSO Council.

Upon acceptance of the proposed GNSO input and no later than the fortieth (40th) day following the announcement of the establishment of the SICT, the GNSO Chair shall in writing inform the SICT of the input agreed by the GNSO Council as to the outcome of the GNSO internal review process (See Section 5.2 of the Joint Consultation Guidelines).

If the GNSO Council has not reached a decision or obtained the requisite level of support to accept the proposed GNSO input, the GNSO Chair shall in writing inform the SICT of the conclusion of the GNSO internal review process, the proposed GNSO input by the GNSO Council Small Team, and the lack of agreement within the GNSO Council with respect to the proposed GNSO input no later than the fortieth (40th) day following the announcement of the establishment of the SICT.

As soon as possible after the GNSO Council has taken its decision and no later than the fortieth (40th) day following the announcement of the establishment of the SICT, the GNSO Secretariat will publish the GNSO Council's decision on the mailing lists of the GNSO Council and Stakeholder Groups and Constituencies, as well as the GNSO website/wiki.

4.7 Timeline for the GNSO Internal Review Process

The following timeline may assist the GNSO Council in its actions with respect to the internal review process to consider the potential initiation of a Special IFR.

Note:

- *Absolute maximum date means the absolute last day certain action must occur*
- *Day 0 = the date when the ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step and CSC subsequently informs the ccNSO and GNSO Councils; the same date when the establishment of the SICT is announced*

Absolute Maximum Date	Action
Day 0	ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step, the CSC subsequently informs the ccNSO and GNSO Councils
	ccNSO and GNSO Councils, via the SICT, issue a joint statement informing the community of the establishment of the SICT and the start of the consultation process
Day 5	ccNSO and GNSO Councils start conducting internal review according to their respective operating procedures
	A GNSO Council Small Group is formed to lead the internal review process
	GNSO Secretariat sends requests for feedback from GNSO Stakeholder Groups and Constituencies
	GNSO Secretariat schedules an extraordinary Meeting of the GNSO Council to occur no later than on Day 39
Day 25	Deadline for GNSO Stakeholder Groups and Constituencies to provide feedback, if they wish to do so
Day 35	The GNSO Council Small Group delivers a statement of the proposed GNSO Input to the GNSO Council as the outcome of the internal review process
Day 39	GNSO Council meets to decide whether to accept the proposed GNSO Input by the GNSO Council Small Group
Day 40	If proposed GNSO input is accepted by the GNSO Council, the GNSO Chair in writing informs the SICT of the input agreed by the GNSO Council as to the outcome of the GNSO internal review process
	If the GNSO Council has not reached a decision or obtained the requisite level of support to accept the proposed GNSO input, the GNSO Chair in writing informs the SICT of the conclusion of the GNSO internal review process, the proposed GNSO input by the GNSO Council Small Team, and the lack of agreement within the GNSO Council with respect to the proposed GNSO input
	GNSO Secretariat publishes the GNSO Council's decision on the mailing lists of the GNSO Council and Stakeholder Groups and Constituencies, as well as the GNSO website/wiki

5. Motion Template

5.1 Motion to determine the level of support for accepting the proposed GNSO input regarding the Potential Initiation of a Special IFR

Made by:

Seconded by:

Whereas:

1. Per Section 18.12(a)(i) of the ICANN Bylaws, “The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures.”

2. Per Section 18.12(a)(ii), “The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures.”

3. Per Section 18.12(a)(iii), “The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) [...]”

4. On [date], the ICANN Board sent a notice to the CSC that the performance issue remains unresolved following the last escalation step, the CSC subsequently informs the ccNSO and GNSO Councils. ccNSO and GNSO Councils, via the Special IFR Coordination Team (SICT), issued a joint statement informing the community of the establishment of the SICT and the start of the consultation process.

5. On [date], a GNSO Council Small Group was formed to lead the internal review process of the outcome of the Remedial Action Procedures of the CSC and the IANA Problem Resolution Process as set out in Section 18.12(a)(i) and (ii) of the ICANN Bylaws, as well as develop the proposed GNSO input.

6. From [insert dates of GNSO community feedback period], the GNSO Stakeholder Groups and Constituencies had the opportunity to provide feedback, opinions, or comments on the outcome of the Remedial Action Procedures of the SCS and the IANA Problem Resolution Process. GNSO support staff’s compilation of any feedback received is available here: [insert link].

7. On [date], the GNSO Council Small Group delivered to the GNSO Council a statement of proposed GNSO input as the outcome of the internal review process and submitted the statement in the form of a motion for the GNSO Council's action.

8. The GNSO Council may waive the timeframes currently referenced in the GNSO Operating Procedures in relation to submission of motions with regard to the consideration of the proposed GNSO input on the potential initiation of a Special IFR, as well as scheduling of meetings to meet its obligations under the timelines outlined in the ICANN Bylaws.

Resolved:

1. The GNSO Council determines to accept the proposed GNSO input by the GNSO Council Small Group with respect to the potential initiation of a Special IFR.

2. [If the GNSO Council accepts the proposed GNSO input] The GNSO Council requests that the GNSO Chair inform the SICT in writing of the proposed input agreed by the GNSO Council as to the outcome of the GNSO internal review process.

3. The GNSO Council requests the GNSO Secretariat publish the GNSO Council decision on the GNSO website/wiki and inform the Stakeholder Groups and Constituencies accordingly via their mailing lists.