

Policy Development Process Work Team Proposed Final Report & Recommendations (Without Annexes)

STATUS OF THIS DOCUMENT

This document is the Proposed Final Report of the Policy Development Process Work Team concerning the development of, and transition to, a new GNSO policy development process. A Final Report will be prepared following public comment on this report and shall be referred to the Policy Process Steering Committee for review and ultimately to the GNSO Council for approval.

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1 Executive Summary

- The Policy Development Process Work Team (PDP-WT) was tasked by the Policy Process Steering Committee (PPSC) to be ‘responsible for developing a new policy development process that incorporates a working group approach and makes it more effective and responsive to ICANN’s policy development needs’. The primary tasks of the PDP-WT were to develop:
 - 1 Appropriate operating principles, rules and procedures applicable to a new policy development process; and
 - 2 An implementation/transition plan.

- This Proposed Final Report presents the PDP-WT’s views and recommendations in relation to tasks 1 and 2. The proposed recommendations seek to:
 - Codify existing practices and procedures already utilized by the GNSO community in policy development processes (PDPs);
 - Clarify existing rules, methods and procedures set forth in the ICANN Bylaws and GNSO Council’s Operating Procedures
 - Suggest new approaches, methods and procedures to be used in the new policy development process.

- To this end, the PDP-WT has developed dozens of recommendations to improve the existing PDP process. Some of the key recommendations of the new PDP include:
 - Recommending the use of a standardized “Request for an Issue Report Template” (recommendation 4)
 - The introduction of a “Preliminary Issues Report” which shall be published for public comment prior to the creation of a Final Issues Report to be acted upon by the GNSO Council (recommendations 10 & 11).
 - A Requirement that each PDP Working Group operate under a Charter (recommendation 19)

- Dialogue between the GNSO Council and an Advisory Committee in the event that an the GNSO Council decides not to initiate a PDP following an Issues Report requested by such Advisory Committee (recommendation 18)
- Changing the existing Bylaws requiring a mandatory public comment period upon initiation of a PDP to optional at the discretion of the PDP Working Group (recommendation 22)
- Clarification of 'in scope of ICANN policy process or the GNSO' (recommendation 23)
- Changing the timeframes of public comment periods including (i) a required public comment period of no less than 30 days on a PDP Working Group's Initial Report and (ii) a minimum of 21 days for any non-required public comment periods the PDP WG might choose to initiate at its discretion (recommendation 28)
- Maintaining the existing requirement of PDP Working Groups producing both an Initial Report and Final Report, but giving PDP Working Groups the discretion to produce additional outputs (recommendation 34)
- A recommendation allowing for the termination of a PDP prior to delivery of the Final Report (recommendation 37)
- Guidance to the GNSO Council on the treatment of PDP WG recommendations (recommendation 39)
- New procedures on the delivery of recommendations to the Board including a requirement that all reports presented to the Board are reviewed by either the PDP Working Group or the GNSO Council and made publicly available (recommendation 40)
- The use of Implementation Review Teams (recommendation 43)
- A redefinition of 'GNSO Supermajority vote' to include the original meaning of GNSO Supermajority i.e. 2/3 of Council members of each house so a GNSO Supermajority vote would be 75% of one House and a majority of the other house or 2/3 of Council members of each house (recommendation 48)

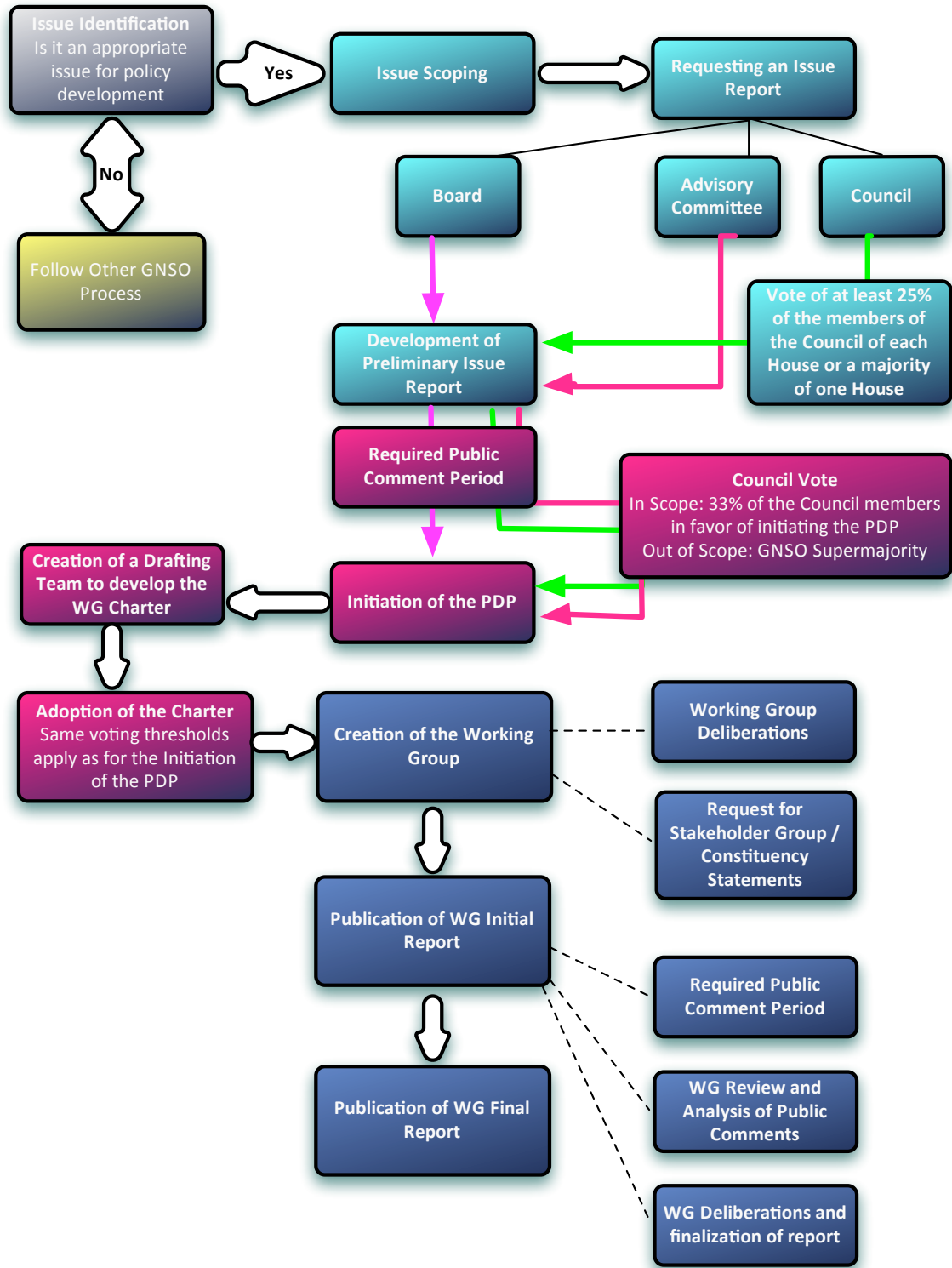
For a complete overview of all the recommendations, please see Section 2.

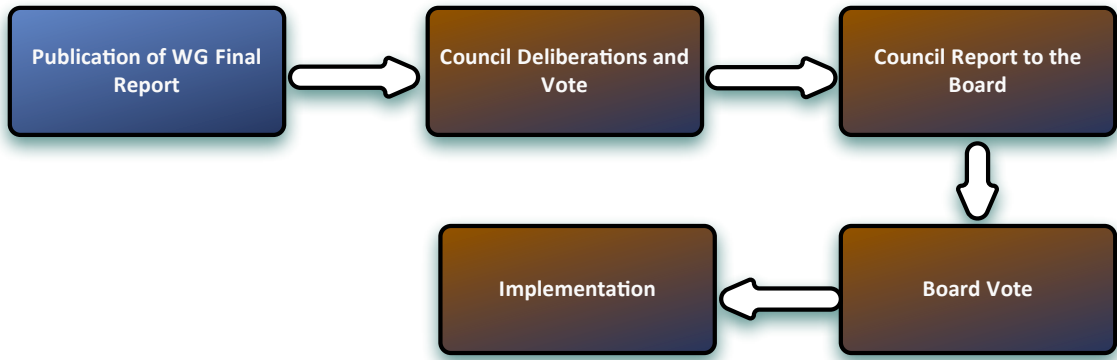
- For purposes of its discussions, the PDP-WT divided the policy development process into the separate distinct stages and initially considered each of these stages consecutively. The

details of the discussion on each of these stages can be found in the Initial Report (see <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>).

In addition, a number of overarching issues that are present in multiple stages of the policy development process, including timing, translation, development of definitions, voting thresholds and decision-making methodology, were also discussed following the review of the five different stages (see section 3).

- The WT, supported by ICANN staff, has developed a first outline of the new Annex A (see section 4) as well as a supporting document that is envisioned to be included in the GNSO Council Operating Procedures as the PDP Manual (see section 5).
- In section 2, you will find an overview of the recommendations of the PDP-WT. For further background information on how these recommendations were developed, you are strongly encouraged to review the Initial Report (see <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>), the WT's review of the public comments (see Annex A) and the WT's [deliberations on the outstanding issues](#), to appreciate the deliberations of the PDP-WT that form the basis for these recommendations.
- Public input is encouraged as part of the public comment period on the Proposed Final Report on the proposed recommendations, the proposed elements for the new Annex A, the proposed PDP Manual, as well as which elements should be included in the ICANN Bylaws and which ones should be part of the GNSO Council Operating Rules.
- To facilitate visualization of the new PDP, the WT has also developed a flow chart that includes that provides a high-level overview of the main elements of the new PDP that can be found hereunder.





- Stage I - Planning and Request of the Issues Report
- Stage II - GNSO Council Review of the Issues Report and Initiation of a PDP
- Stage III - Working Group
- Stage IV - Voting and Implementation

2 Approach taken & Proposed Recommendations

Following the publication of the Initial Report (see <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>) and a subsequent public comment period, the WT reviewed and addressed the comments received (see [public comment review tool](#)). In addition, the WT discussed the outstanding issues it had not been able to cover in time for the Initial Report and updated the recommendations accordingly [include link to outstanding issues document]. In order for the ICANN Community to review these updated recommendations, especially those not included in the Initial Report, the WT has published this Proposed Final Report for public comment. Following review of the public comments received, the WT plans to review the comments received and update the report where deemed appropriate before submitting it to the Policy Process Steering Committee for its review.

The PDP WT agreed to divide the policy development process into the following separate stages and consider each of these stages consecutively:

- Stage 1 – Planning and Request for an Issues Report
- Stage 2 – GNSO Council Review of the Issues Report and Initiation of the Policy Development Process
- Stage 3 – Working Group
- Stage 4 – Voting and Implementation
- Stage 5 – Policy Effectiveness and Compliance

Each of these stages were then broken down into related issues areas that were discussed by the PDP-WT. The following sections provide an overview of these deliberations, including proposed recommendations to address issues identified. To encourage input from the members of the WT, a number of surveys were conducted to solicit feedback. For further details on the

surveys and interim notes, please visit the PDP-WT Workspace: https://st.icann.org/icann-ppsc/index.cgi?pdp_team.

For each of these stages a number of recommendations were developed (see hereunder) that form the basis of the proposed new GNSO Policy Development Process. These recommendations are provided below. Please note that in order to make this section of the document concise, most of the context for the recommendations have been removed and the PDP-WT urges the community to read the Initial Report for further context on the recommendations.

Stage 1 – Planning and Request for an Issues Report

1. Who has the ability to initiate a request for an issues report?

Recommendation 1.

- Although a request for a GNSO Issues Report has never been issued directly by the ICANN Board, or any Advisory Committee (other than the At-Large Advisory Committee), the PDP-WT recommends that the current three mechanisms for initiating a request for an Issue Report (Board request, Advisory Committee Request or GNSO Council Member Request) should be maintained.

Recommendation 2.

- The current language in Annex A of the Bylaws contains several references to the term “PDP” which over the years have been the source of confusion. The phrase “initiating a PDP” is currently used to refer to initiating an issue report, for example, and is also used to refer to the process of formally establishing Task Forces or working groups. Therefore, the PDP-WT has distinguished the two concepts into (1) Raising an Issue and (2) Initiating a PDP. The PDP-WT has recommended clarification of this language in the Bylaws and whenever such terms are used by the community.

2. Procedures for Requesting an Issues Report

See also recommendation 2.

Recommendation 3.

- The PDP-WT recommends the development of a Policy Development Process Manual, which will constitute an integral part of the GNSO Council Operating Rules, intended to provide guidance and suggestions to the GNSO and ICANN communities on the overall PDP process, including those steps that could assist the community, working group members, and Councillors in gathering evidence and obtaining sufficient information to facilitate an effective and informed policy development process.

Recommendation 4.

- The PDP-WT recommends that a 'request for an Issue Report' template should be developed including items such as definition of issue, identification of problems, supporting evidence, economic impact(s), effect(s) on competition and consumer trust, and rationale for policy development. The use of such a template should be strongly encouraged, but should not be mandatory. Such a template should be included in the PDP Manual.

3. Issue Scoping

Recommendation 5.

- The PDP-WT recommends adopting the proposed Policy Development Process Manual, to provide guidance and suggestions to those parties raising an issue on which steps could be considered helpful in gathering evidence and obtaining sufficient information to facilitate an effective and informed policy development process.

4. Creation of the Issues Report

Recommendation 6.

- The PDP-WT recommends that the currently required elements of an Issue Report¹ continue to be required for all future PDPs. However the PDP-WT recommends that only certain of the elements be identified in Annex A of the Bylaws and others in the PDP Manual. More specifically, the Bylaws should continue to require elements a (the proposed issue raised for consideration), b (the identity of the party submitting the issue) and c (how that party is affected by the issue), while elements d (support for the issue to initiate the PDP) and e (recommendation from the Staff Manager) should be added to the PDP Manual. In addition, the PDP-WT notes that element e (recommendation from the Staff Manager) should be split in two parts; the first part dealing with the question of whether a PDP is considered in scope and the second part addressing whether the PDP should be initiated. Although currently included as one element in the ICANN Bylaws, the reality is that these two elements should be treated separately. Furthermore, the PDP-WT recommends including in the PDP Manual a recommendation for the entity requesting an Issue Report to indicate whether there are any additional items it would like to have addressed in the Issue Report. This in turn which could then be taken into consideration by the Staff Manager and/or Council when reviewing the request for an Issue Report. In addition, the PDP Manual should allow for ICANN Staff or the Council to request additional research, discussion, or outreach to be conducted as part of the development of the Issue Report.

5. What can the end result of a PDP be?

Recommendation 7.

- The PDP-WT recommends better information and communication with Working Group members on the potential outcomes of a policy development process. There are more potential outcomes of the PDP process than just the formation of “consensus policies” as

¹ See provision 2 of Annex A of the ICANN Bylaws

defined under the applicable gTLD Registry and Registrar agreements. Acceptable outcomes also include the development of best practices, recommendations to other supporting organizations, recommendations that no changes are necessary, recommendations for future policy development, recommendations for additional research or study, etc. If known in advance, this information could be included in the Charter of a Working Group or in the Council's instructions to a WG. The PDP Manual should clearly advise the Council and Working Group members of these other potential outcomes.

6. The role of ICANN staff

Recommendation 8.

- The PDP-WT recommends retaining the requirement for obtaining the opinion of the ICANN General Counsel's office in the Issues Report as to whether a proposed PDP is within the scope of the GNSO. Further details regarding the opinion of counsel are expected to be included in the PDP Manual as opposed to the Bylaws. For more clarification of the meaning of "in scope" please see Recommendation 23 below.

Recommendation 9.

- The PDP-WT recommends that additional guidance on the different roles ICANN staff can perform, as outlined in the GNSO Working Group Guidelines, is to be included in the PDP Manual.

7. Community input / How to incorporate public comments

Recommendation 10.

- The PDP-WT recommends the modification of timeframes included in clause 1 – Creation of an Issue Report in Annex A in relation to the development and delivery of an issues report as follows:
Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the event the Staff Manager determines that more time is necessary to create the Preliminary

Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report, which request should be discussed with the Requestor.

Recommendation 11.

- The PDP-WT recommends that there is a mandatory public comment period that follows the publication of a Preliminary Issue Report and before the GNSO Council is asked to consider the initiation of a PDP. Such a Public Comment period would, among other things, allow for additional information that may be missing from the Preliminary Issue Report, or the correction or updating of any information in the Preliminary Issue Report. In addition, this would allow for members of the ICANN Community to express their views to the Council on whether or not to initiate a PDP. Depending on the comments received, ICANN staff would include public inputs and any necessary corrections to the Preliminary Issue Report turning it into the Final Issue Report and/or summarize the comments received for Council consideration.

8. Role of Workshops / Information Gathering events

Recommendation 12.

- The PDP-WT recognizes the value of workshops on substantive issues prior to the initiation of a PDP. It is therefore recommending that information on the potential role of workshops and information gathering events be provided in the PDP Manual. In addition, the PDP-WT recommends that the GNSO Council should consider requiring such a workshop, on-line or face-to-face, on a specific issue during the planning and initiation phase for a specific issue. Furthermore, the PDP-WT recommends that invitations and/or announcements for workshops are communicated as broadly as possible.

9. Efficiency and flexibility during planning / initiation phase

- See recommendation 12 above.

10. Impact Analyses

Recommendation 13.

- The PDP-WT recommends that the PDP Manual describe the option for the GNSO Council to request that an impact analysis be conducted if appropriate or necessary prior to the vote for the initiation of a PDP. Such an impact analysis could include the assessment of the impact on (i) the public interest, (ii) the security, stability and resiliency of the DNS, (iii) competition, consumer trust and consumer choice, and (iv) international participation² [as well as the impact on human rights]³.

11. Resources and Prioritization

Recommendation 14.

- The PDP-WT believes that the GNSO Council should take into full account the resources available, both volunteers from the community as well as ICANN staff, when making its decision on whether or not to initiate a PDP.

Recommendation 15.

- The PDP-WT discussed the notion of a fast-track procedure extensively but did not come to agreement on whether such a process is truly needed, and if so, what such a fast-track procedure might look like. The PDP-WT recommends that the GNSO Council re-evaluates the need for a fast-track procedure in due time as part of the review of the new PDP, as it is of the view that the new PDP will offer additional flexibility and would allow for 'faster' PDPs provided that the necessary resources are available without the need for a formal 'fast track' proces.

² As outlined in section 3 of the Affirmation of Commitments

³ The bracketed language only received minority support from within the PDP-WT. The WT hopes to receive input as part of the public comment period on whether the bracketed language should be maintained or not.

Stage 2 - GNSO Council Review of the Issues Report and Initiation of the Policy Development

Process

1. Flexibility when launching a policy development process

Recommendation 16.

- The PDP-WT recommends modifying the timeframes currently included in clause 3 of Annex A – “Initiation of a PDP” to reflect current practice and experience. In addition, it proposed to add language to codify the current practice that any voting⁴ Council members may request the deferral of the consideration of an initiation of a PDP for one Council meeting.

Recommendation 17.

- The PDP-WT recommends that further guidance be included in the PDP Manual on how to deal with situations where further flexibility is required e.g. additional research, ensuring that the Council provides clear indications on expected timing of next steps.

2. Consider an appeals mechanism in case the GNSO Council votes against initiating a PDP requested by an AC

Recommendation 18.

- The PDP-WT recommends that if the GNSO Council votes to not initiate a PDP following an Issue Report requested by an Advisory Committee (AC), the AC or its representatives should have the opportunity to meet with representatives of the GNSO to discuss the rationale for the rejection and why the AC feels that reconsideration is appropriate⁵. Following this meeting, the AC may submit a statement to the GNSO Council requesting a re-vote on the

⁴ The term “voting Council Member” is intentionally used by the PDP-WT to refer to only those persons serving on the GNSO Council that have a vote as opposed to liaisons and others that do not.

⁵ In particular those meeting with the AC should include members of the GNSO Council that voted against the initiation of the PDP.

initiation of a PDP and giving its rationale for such a request. This process may be followed just once for any given Issue Report.

3. Should the approved voting thresholds apply to the entire GNSO Council or just members present (as is current practice)?

- As it is expected that a recommendation for absentee voting / ballot will be included in the GNSO Council Operating Rules, the PDP-WT considers this question no longer valid as all Councillors will have the opportunity to vote whether they are present at the meeting or not, therefore no recommendation is made with respect to this issue.

4. Where in the process is chartering done?

Recommendation 19.

- The PDP-WT recommends updating clause 7 of Annex A of the ICANN Bylaws to reflect that a charter is required for all Working Groups, and to specify the voting threshold that should apply to the adoption of the working group charter which is identical to the one that applies to the initiation of the PDP. Any modifications to a Working Group Charter made after adoption by the GNSO Council of such Charter, however, may be adopted by a majority vote of the GNSO Council (as such term is currently defined in the Bylaws).

Recommendation 20.

- The PDP-WT recommends that a link to the new Annex A and the PDP Manual, once finalized and approved, are included in the GNSO Working Group Guidelines, as these two documents provide an overview of the requirements for PDP WGs.

5. Should expedited procedures be available in case of urgency?

See recommendation 15

6. How to involve advice from other ACs or SOs, and obtain consistent input from the Board?

Recommendation 21.

- The PDP-WT recommends that further explanation on how to involve Advisory Committees or Supporting Organisations in a PDP be included as part of the PDP Manual. Much of this will involve the codification of existing practice. It is the belief of the PDP-WT that input from other SOs and ACs must be sought and treated with the same due diligence as other comments and input processes. In addition, comments from ACs and SOs should receive a response from the WG. This may include, for example, direct reference in the applicable Report or embedded in other responsive documentation or a direct response.

7. Evaluate the ICANN Staff costs and resources needed to conduct the PDP and prioritize existing policy work and revisit their existing deadlines and deliverables.

See recommendation 14

8. Public Comment Period after the Initiation of a PDP

Recommendation 22.

- Taking into account the required public comment period on the Preliminary Issue Report (see recommendation 11), the PDP WT considers it no longer necessary to require a public comment period on the initiation of a PDP. However, a WG may, at its discretion, decide to conduct a public comment period at the start of their deliberations to obtain input on issues raised in the Charter.

9. Clarification of ‘in scope of ICANN policy process or the GNSO’

Recommendation 23.

- The PDP-WT recommends modifying clause 3 – Initiation of a PDP to clarify that within scope means ‘within scope of ICANN’s mission and more specifically the role of the GNSO’ as opposed to within scope of the contracted parties’ definition of “consensus policies”. Furthermore, the PDP-WT recommends that issues raised should be mapable against specific provisions in the ICANN Bylaws, the Affirmation of Commitments and/or ICANN’s

Articles of Incorporation. This information would be required to be included in the request for an Issue Report and should be added as a category in the Issue Report request template.

Stage 3 – Working Group

Recommendation 24.

- The PDP-WT recommends that even though a Working Group currently forms the basic mode of operation for a PDP, there should be flexibility to accommodate different working methods if deemed appropriate by the GNSO Council, in accordance with the GNSO Operating Rules. Any such new working methods must contain each of the elements set forth in the ICANN Bylaws and PDP Manual.

1. How to maximize the effectiveness of Working Groups

Recommendation 25.

- The PDP-WT recommends that each PDP WG will be strongly encouraged to review and become familiar with the GNSO Working Group Guidelines and the PDP Manual (once published), which includes further information and guidance on the functioning of GNSO Working Groups.

2. Communication with different ICANN Departments (e.g. Legal, Compliance, Services)

Recommendation 26.

- The PDP-WT recommends that further guidance should be included in the PDP Manual on the mechanisms and protocols for Working Groups to communicate with different ICANN departments. It may be necessary for PDP Working Groups to consult with the General Counsel's office, Compliance, Operations, Finance, etc. The PDP-WT recommends that ICANN policy staff serve as the official intermediaries between a Working Group and the various ICANN departments, provided that a procedure is in place which allows for escalation via the WG Chair if the WG is of the opinion that communication is hindered through the involvement of ICANN policy staff.

3. Linking policy development with ICANN's strategic planning and budgeting

Recommendation 27.

- The PDP-WT recommends that the initiation of a PDP may include consideration of how ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

4. Public Comment

Recommendation 28.

- The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to change the duration of the public comment period on the Initial Report from 20 days to a minimum of thirty calendar days. This same minimum should also apply to the public comment period on the Preliminary Issue Report, while other public comment periods that a WG / GNSO Council opt to have as part of a PDP should have a minimum duration of 21 days. The minimum durations for the Preliminary Issue Report and Initial Report should be included in the ICANN Bylaws while the minimum requirement of 21 days for other public comment periods should be included in the PDP Manual. Further guidance on the recommended duration, for example taking into account overlap with ICANN meetings, should be included in the PDP Manual.

Recommendation 29.

- The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to reflect the current practice that a summary and analysis of the public comments received is to be provided by the staff manager to the Working Group. The Working Group shall be responsible for reviewing and taking into consideration the public comments received.

Recommendation 30.

- The PDP-WT recommends providing further guidance in the PDP Manual on how to conduct public comment periods and review public comments received. Such guidance should include the expectation that public comments are carefully considered and analyzed by the WG; encouraging WGs to explain their rationale for agreeing or disagreeing with the

different comments received and, if appropriate, how these will be addressed in the report of the WG, and; other means to solicit input than the traditional public comment forums such as surveys.

5. Implementation, Impact and Feasibility

Recommendation 31.

- The PDP-WT recommends that PDP WGs provide input on issues related to implementation, impact (economic, business, social, operational, etc.) and feasibility including, when considered appropriate:
 - Recommend the inclusion of implementation guidelines as part of the Final Report;
 - Consultation with the WG / Council on the draft implementation plan;
 - The creation of an implementation team that consists of representatives of the WG, amongst others, which would be tasked to review / provide input during the implementation phase

Further guidance on this issue is to be included in the PDP Manual.

6. ICANN Staff Resources

Recommendation 32.

- The PDP-WT recommends that staff resources needed or expected in order to implement the policy recommendations should be evaluated as part of the WG recommendations, and as part of the Council's review of those recommendations. This could be included as part of the feasibility analysis and/or impact statement (see also recommendation 31).

7. Stakeholder Group / Constituency Statements

Recommendation 33.

- The PDP-WT recommends amending clause 7 of Annex A of the ICANN Bylaws to reflect the practice that Stakeholder Group / Constituency statements are requested by the Working Group and the timeline for submission should start from that point instead of the initiation

of the PDP. It should be noted in the PDP Manual that a WG can request Stakeholder Group / Constituency statements more than once if so desired.

8. Working Group Output

Recommendation 34.

- The PDP-WT recommends that PDP Working Groups continue to be required to produce at least an Initial Report and a Final Report, noting that additional outputs can be produced if desirable.

Recommendation 35.

- The PDP-WT does note that the description of the difference between an Initial Report and a Final Report as currently described in the Bylaws is not in line with actual practice, and recommends that this language is updated to reflect that an Initial Report may reflect the initial ideas of a WG which are then finalized, in combination with review and analysis of the public comment period in the second phase leading to the Final Report.

Recommendation 36.

- The PDP-WT recommends that a public comment period on the Initial Report remains mandatory. Additional guidance on further optional public comment periods, e.g. when there are substantial differences between the Initial Report and Final Report are to be included as part of the PDP Manual.

9. Termination of a PDP

Recommendation 37.

- The PDP recommends that a provision be added to the PDP Manual to allow for the termination of a PDP prior to the publication of a Final Report if the GNSO Council finds significant cause and passes a motion with a Supermajority vote in favour of termination.

Stage 4 – Voting and Implementation

1. Working Group Recommendations

Recommendation 38.

- The PDP-WT recommends modifying clause 10 – “Council Deliberations of Annex A” of the ICANN Bylaws to reflect current practice and requirements in the rules of procedure to consider a report if it is received at least eight (8) days in advance of a Council meeting, otherwise the report shall be considered at the next Council meeting. In addition, the PDP-WT recommends adding language to codify the current practice that any voting Council member can request the deferral of the consideration of a final report for one Council meeting..

Recommendation 39.

- The PDP-WT recommends providing additional guidance to GNSO Council in the PDP Manual on how to treat Working Group recommendations, especially those that have not received full consensus and the expected / desired approach to adoption of some, but not all, or rejection of recommendations. PDP WGs should be encouraged to indicate which, if any, recommendations are interdependent so the GNSO Council can take this into account as part of their deliberations. The Council should be strongly discouraged from separating recommendations that the PDP WT has identified as interdependent. The PDP-WT would like to express its concern about the GNSO Council ‘picking and choosing’ or modifying recommendations, but recognizes that this is the Council’s prerogative. The PDP-WT would like to encourage the GNSO Council that there were it does have concerns or would propose changes to recommendations, it passes these concerns and/or recommendations for changes back to the respective PDP Working Group for their input.

2. Public Comments

See recommendation 36.

3. Delivery of Recommendations to the Board

Recommendation 40.

- The PDP-WT recommends that all reports to the ICANN Board concerning a PDP should be publicly disclosed. In addition, it notes that the GNSO Council is responsible for the Board Report either as author of the report or by approving the report before it is sent to the Board. Board Reports on PDPs should be delivered from the GNSO Council directly to the Board and if any summaries or addenda are needed by request of the Board, those should be assembled by the GNSO council (upon consultation of the Working Group if necessary). If feasible, the Board Report should be delivered to the Board within 21 days following the adoption of the Final Report. The PDP-WT discussed at length the current practice of ICANN Policy Staff submitting a separate report to the Board, which is not disclosed to the community and is drafted without the aid of the Council or applicable PDP Working Group. The PDP-WT unanimously believes that these reports should not be kept confidential. If ICANN Policy Staff would like to submit a separate report related to a PDP to the Board or is requested to do so, it should be done in an open and transparent matter and disclosed to the community at the same time it is delivered to the Board. The PDP-WT notes that there might be cases where certain confidential information cannot be publicly disclosed due to its privileged nature. Nevertheless, even in those circumstances, as much information as possible, without disclosing business confidential information, must be provided. This may include a description by ICANN Staff of the general nature of such information and the rationale for its non-disclosure.

4. Agreement of the Council

Recommendation 41.

- The PDP-WT discussed whether the voting thresholds currently in place might need to be reviewed (see also overarching issues) but agrees that this issue should be covered as part of the next overall review of the GNSO. The WT does note that it has proposed two new

voting thresholds in relation to the adoption of the WG Charter (see recommendation 19) as well as a new voting threshold for the termination of a PDP (see recommendation 37).

5. Board Vote

Recommendation 42.

- The PDP-WT recommends that the provisions in relation to the Board Vote in the ICANN Bylaws remain essentially unchanged, but recognizes that the current provision 13f⁶ is not clear especially in relation to what ‘act’ means. Some members of the WT suggest that this should be interpreted in a narrow sense (the Board cannot declare a recommendation as a Consensus Policy under the applicable ICANN Contracts if that recommendation was not approved by the required GNSO voting threshold). Other members of the WT suggest that this should be interpreted in a broader sense (the Board can approve a Consensus Policy even if it was not approved by the required GNSO voting threshold). The PDP-WT is in the process of seeking further input on this issue by the ICANN Board, Staff and the community in order to determine whether this provision needs to stay as is, be clarified or be removed. In addition, an explanation needs to be added in the PDP Manual to clarify that all recommendations, also those not recommending new or changes to Consensus Policies, should be communicated to the Board.

6. Implementation

Recommendation 43.

- The PDP-WT recommends the use of WG Implementation Review Teams, when deemed appropriate, which would be responsible in dealing with implementation issues. A PDP WG should provide recommendations for whether a WG Implementation Review Team should be established and any other recommendations deemed appropriate in relation to such a Review Team (e.g. composition) as part of its Final Report. (see also recommendation 32)

⁶ From the ICANN Bylaws – 13 Board Vote f. In any case in which the Council is not able to reach GNSO Supermajority vote, a majority vote of the Board will be sufficient to act.

Stage 5 – Policy Effectiveness and Compliance

1. Periodic assessment of PDP Recommendations / Policy

Recommendation 44.

- The PDP-WT notes that a periodic assessment of PDP recommendations and/or policy is important. WGs should be encouraged to include proposed timing, assessment tools and metrics for review as part of their Final Report.

2. GNSO Council Review of the PDP Working Group

Recommendation 45.

- The PDP Work Team notes that several documents, including the PPSC-WG WT and the WG Guidelines, reference a "Working Group Self-Assessment," which all WGs are encouraged to conduct. The Work Team believes that this could be a valuable exercise, and encourages PDP WGs to complete a candid and objective self-assessment at the conclusion of their work. However, the Work Team also notes that there are no ICANN guidelines and recommends that the GNSO Council develops such guidelines after some experience is gained in WG self-assessments...

3. Periodic assessment of overall PDP process

Recommendation 46.

- The PDP-WT notes that the periodic assessment of the overall PDP process is important, noting that a certain threshold of completed PDPs should be met before an overall review is carried out. The WT does not have a specific view on whether the PPSC or a new Standing Committee should be responsible for such a periodic assessment.

Recommendation 47.

- The PDP-WT recommends that such an overall review also includes the review of the Working Group Model in the context of the PDP, which should assess whether there are

stages in the PDP that are more suitable for Working Groups and those that might be more suitable for formal advice from Stakeholder Groups and Constituencies.

Other

Recommendation 48.

- The WT recommends that the definition of a 'GNSO Supermajority vote' is redefined to include the original meaning of GNSO Supermajority i.e. 2/3 of Council members of each house so a GNSO Supermajority vote would be 75% of one House and a majority of the other house or 2/3 of Council members of each house.

In addition, a number of overarching issues were identified which were deemed to have an impact on the overall policy development process or related to various stages of the new PDP and therefore needed to be considered once an initial outline of the new PDP would have been completed. These overarching issues consist of:

- Timing
- Translation
- Development of definitions
- Voting thresholds
- Decision-making methodology
- Transition / Implementation of the new PDP

Based on the discussions and deliberations to date, a flow chart which outlines the main elements of the proposed GNSO Policy Development Process can be found in the executive summary.

The WT, supported by ICANN staff, has also developed a first outline of the new Annex A (see section 4) as well as a supporting document that is envisioned to be included in the GNSO Council Operating Procedures as the PDP Manual (see section 5).

Based on the input received on the Initial Report and subsequent discussions, the PDP-WT has updated this report to a Proposed Final Report to allow for further input and feedback from the ICANN Community. Following review and analysis of the public comments received, the PDP-WT is expected to finalize its report recommendations for submission to the Policy Process Steering Committee (PPSC).

3 Overarching Issues

In addition to the five stages discussed in the previous sections of this report, the PDP-WT also identified a number of ‘overarching issues’ which were deemed to have an impact on the overall policy development process or related to various stages of the new PDP and therefore needed to be considered once an initial outline of the new PDP would have been completed. These overarching issues consist of:

- Timing
- Translation
- Development of definitions
- Voting thresholds
- Decision-making methodology
- Transition / Implementation of the new PDP

The initial deliberations on a number of these issues can be found in the Initial Report (see <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>). On the basis of these initial deliberations, the review of the public comments received and further discussions, the PDP-WT has reached the following preliminary conclusions. It is the intention of the PDP-WT to finalize these conclusions following the review and analysis of public comments on this Proposed Final Report.

1. Timing

Based on the different recommendations that have timing included, the following timeline would be applicable to every PDP, noting the flexibility in a number of the different stages.

Task	Duration
Development of Preliminary Issues Report	Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory Committee. (See Recommendation 10)
Public Comment Period on Preliminary Issues Report	Minimum of 30 Days (See Recommendation 28)
Submission of Issues Report, including summary of comments received	Within 30 days of the closing of the public comment forum, though the Staff Manager may request an extension of that 30-day time for delivery based upon the considerations set forth in the PDP Manual. (Recommendation 11)
Consideration of Issue Report by GNSO Council	At the Council meeting following the receipt of an Issue Report; provided that the Issue Report is received at least eight (8) calendar days prior to the GNSO Council meeting. If the Issue Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council shall consider the Issue Report at the subsequent meeting following the next GNSO Council meeting. At the written request of any Stakeholder Group or constituency, for any reason, consideration of the Issue Report may be postponed by not more than one (1) meeting, provided that that

	such Stakeholder Group or constituency details the precise rationale for such a postponement. Consideration of the Issue Report may only be postponed for a total of one (1) meeting, even if multiple Stakeholder Groups or constituencies request postponement. (See Recommendation 16)
Development of WG Charter	Council may set timeline for delivery of WG Charter at its discretion considering existing resources (both Volunteer and ICANN staff).
Approval of WG Charter	The Council shall consider whether to approve the proposed Working Group Charter at the Council meeting following the Chair's receipt of the proposed Working Group Charter; provided that the proposed Working Group Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the proposed Working Group Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council shall consider the proposed Working Group Charter at the meeting after the next GNSO Council meeting.
Formation of WG	To determined by the GNSO Council at its discretion considering existing resources (both Volunteer and ICANN staff).
Working Group	Milestones / timetable may be included in Charter if deemed appropriate by the GNSO

	Council.
Request for Constituency / Stakeholder Group Statements on issues presented in the Charter.	35 days (See Recommendation 33)
Public Comment Period on the Initial Report	Minimum of 30 days (See Recommendation 28)
Consideration of Final Report by GNSO Council	<p>The GNSO Council shall consider whether to adopt the recommendations within the Final Report at the next meeting after the Final Report is forwarded to the Council Chair, provided that the Final Report is forwarded to the Council Chair at least eight (8) calendar days prior to the GNSO Council meeting. If the Final Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council shall consider the Final Report at the meeting after the next GNSO Council meeting. At the written request of any Stakeholder Group or constituency, for any reason, consideration of the Final Report may be postponed by not more than one (1) meeting, provided that that such Stakeholder Group or constituency details the precise rationale for such a postponement.</p> <p>Consideration of the Final Report may only be postponed for a total of one (1) meeting, even if multiple Stakeholder Groups or constituencies request postponement. (See Recommendation 38)</p>

Submission of Council Recommendations Report to the Board	If feasible, within 21 days following adoption of the Final Report (See Recommendation 40)
Consideration by the ICANN Board	Where feasible, the Board shall consider the Recommendations Report at the Board's next meeting after receipt of the Recommendations Report from the GNSO Council.

Given the greater flexibility introduced in to the process, and the variable time periods in which a Working Group has to complete its work, it might be worth pointing out that based on review of recent PDPs the average length varies between 350 – 550 days.

2. Translation

The PDP-WT considered a number of issues related to translations, including: (i) what translations should be provided at each stage of the policy development process, (ii) how will translations impact timing / delay e.g. in relation to a public comment period, and (iii) how to assess the success and/or additional needs for translation?

The following are ICANN's current translation principles:

ICANN will provide timely and accurate translations, and move from an organisation that provides translation of texts to one that is capable of communicating comfortably with a range of different languages. The translation framework comprises a four-layer system:

- *The bottom layer contains those specific documents and publications that address the organisation's overall strategic thinking. They will be translated into an agreed block of languages.*
- *The next layer contains a class of documents that ICANN undertakes to provide in different languages to allow interaction within ICANN processes by non-English speakers.*
- *The third layer comprises documents suggested by ICANN staff as being helpful*

or necessary in ongoing processes; and documents requested by the Internet community for the same reasons. These documents will be run through a translation approval system.

- *The top layer is where the community is encouraged to use online collaborative tools to provide understandable versions of ICANN materials as well as material dynamically generated by the community itself. ICANN will provide the technology for community editing and rating, and a clear and predictable online location for this interaction to occur. It will also seek input from the community to review the tools.*

English will remain the operating language of ICANN for business consultation and legal purposes.

Every effort will be made to ensure equity between comments made in languages other than English and those made in English. If it is not possible to arrange the release of particular documents in the agreed languages at the same time, then each language will be provided with the same time period in which to make comments.

ICANN will adopt the International Organisation for Standardisation's 639-2 naming system for identifying and labelling particular languages⁷.

PDP-WT Preliminary Conclusion:

- The WT recognizes the importance of translation to facilitate participation of non-English speakers in the GNSO Policy Development Process. At the same time, the WT acknowledges the costs and timing implications that might result from enhanced translation of documents. Furthermore, the WT wants to emphasize the importance of a coherent and consistent approach across ICANN as an organization

⁷ See <http://www.icann.org/en/transparency/acct-trans-frameworks-principles-23jun07.htm#trans>

when it comes to translation. Awaiting and encouraging an overall ICANN policy on translation, the WT recommends the following in relation to the GNSO Policy Development Process:

1. At a minimum the following PDP outputs should be translated in the 5 UN languages:
 - Working Group Charter (including any amendments)
 - Executive Summary of Initial, Final or any other report that is put out for public comment, including recommendations (if not included in the Executive Summary)
2. Public comments should be received in other languages and where feasible, these comments should also be translated back into English.
3. ICANN is encouraged to consider whether the use of volunteers to assist with translation is appropriate and practical as a cost-cutting measure while it is considering the enhancements of the translation strategy, which is part of the overall strategic plan.

3. Development of Definitions

PDP-WT Preliminary Conclusion: the WT recommends that, where appropriate, definitions are added to the new Annex A and PDP Manual based on the PDP-WT discussions and recommendations. These would include definitions related to “PDP”, “in scope”, “Consensus Policies”, “Working Groups”, etc.

4. Voting thresholds

1. The WT discussed whether the voting thresholds as adopted as part of the new GNSO bi-cameral structure in 2009 are still appropriate and effective. Overall, the PDP-WT decided to keep the existing thresholds and add a couple of others. Below are listed the thresholds recommended by the PDP-WT followed by some notes by the PDP-WT.

Raising an Issue: Council initiation: 25% of the members of the Council of each house or a majority of one house.

2. Initiating PDP:
 - a. More than 33% of the Council members of each House; or More than 66% vote of one House if within scope
 - b. GNSO Supermajority Vote required if not in scope (75% of one House and a majority of the other house)
3. Vote on Approving the Charter (as recommended by the WT – see recommendation 19)
 - a. More than 33% of the Council members of each house; or More than 66% of one House if within Scope
 - b. GNSO Supermajority vote required if not in scope
4. Vote to terminate a PDP (as recommended by the WT – see recommendation 37)
5. Vote of Council (From Article 10, Section 3, #9)
 - a. Approve a PDP Recommendation without a GNSO Supermajority – requires an affirmative vote of majority of each House and further requires that one GNSO Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation
 - b. Approve a PDP Recommendation with a GNSO Supermajority – requires an affirmative vote of a GNSO Supermajority; and
 - c. Approve a PDP Recommendation Imposing New obligations on certain Contracting Parties: where an ICANN contract provision specifies that “a two-thirds vote of the council” demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded with respect to any contracting party affected by such contract provision.
6. Board Vote
 - a. The Board will meet to discuss the GNSO Council recommendation as soon as feasible after receipt of the Board Report from the Staff Manager.
 - b. In the event that the Council reached a GNSO Supermajority Vote, the Board shall adopt the policy according to the GNSO Supermajority Vote

recommendation unless by a vote of more than sixty-six (66%) percent of the Board determines that such policy is not in the best interests of the ICANN community or ICANN.

- c. In the event that the Board determines not to act in accordance with the GNSO Supermajority Vote recommendation, 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.
- d. The Council shall review the Board Statement for discussion with the Board within twenty (20) calendar days 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.
- e. 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 its 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 sixty-six (66%) percent of the Board determines that such policy is not in the interests of the ICANN community or ICANN.
- f. In any case in which the Council is not able to reach GNSO Supermajority vote, *a majority vote of the Board will be sufficient to act*
- g. When a final decision on a GNSO Council Recommendation or Supplemental Recommendation is timely, the Board shall take a preliminary vote and, where practicable, will publish a tentative decision that allows for a ten (10) day period of public comment prior to a final decision by the Board

PDP-WT Preliminary Conclusion:

- The PDP-WT agreed that the existing voting threshold 1 for ‘Raising an Issue’ is appropriate as the initial gauge should continue to be low.
- The PDP-WT discussed voting threshold 2 ‘Initiating a PDP’ and discussed whether a higher voting threshold should apply if staff recommended against the initiation of a PDP (as opposed to the ICANN General Counsel opining that the PDP is not “in scope” as set out in recommendation 23). Most agreed that no higher voting threshold should be required, as it would otherwise give staff indirectly a vote in the process. PDP-WT members discussed the issue of prioritization and the role the current threshold, which is considered low by some, plays in creating work the community and staff has difficulty keeping up with. Some were of the opinion that keeping the threshold as it currently is would be appropriate. Others considered there to be a strong relationship between this threshold and the prioritization effort the GNSO Council is currently undertaking and were of the opinion that if there is no effective prioritization this threshold may need to be raised in order to avoid GNSO community and staff overload. No consensus was reached on how best to address this issue and therefore no recommendation is presented.
- The WT recommends that the definition of a ‘GNSO Supermajority vote’ is redefined to include the original meaning of GNSO Supermajority i.e. 2/3 of Council members of each house so a GNSO Supermajority vote would be 75% of one House and a majority of the other house or 2/3 of Council members of each house. (see recommendation 48)
- In line with recommendation 19, the WT recommends the proposed voting threshold for the adoption of a WG charter (voting threshold number 3 above), noting that this would require every WG to have a charter. In cases where two or more competing charters would be proposed, the GNSO Council Chair should facilitate a meeting between the proponents of the different charter to determine whether a compromise charter can be developed ahead of the GNSO Council vote. If no compromise is found, the two or more competing charters are put forward for GNSO Council consideration whereby the charter with the most votes is adopted. Any modifications to a Working Group Charter may be adopted by a simple majority vote of the GNSO Council.

- In relation to voting threshold 4 – Vote of the Council, the WT confirms its earlier conclusion that the Council should be strongly discouraged from separating recommendations that a PDP Working Group has identified as interdependent. (see recommendation 39)
- In relation to 4c, it was noted that only registrars have a clause in their agreement that specifies that “a two-thirds vote of the council” demonstrates the presence of a consensus. Registries have a general definition of consensus in their agreements. A staff memorandum circulated to the group (see <http://forum.icann.org/lists/gnso-ppsc-pdp/msg00359.html>) recommends the standardization of ‘all of the voting requirements for all registries and all registrars in order to adopt Consensus Policies that would be enforceable against them.’ In addition, ICANN Staff proposed that the PDP-WT recommend that the GNSO Supermajority Vote apply in all instances where the GNSO Council intends to adopt Consensus Policies to be enforceable against all registrars and registries’. Some argued that the current wording could also imply the lower threshold vote and this clarification would ensure that the higher threshold would apply, while others argued this might be a lower standard than currently applicable as ‘consensus’ in the registry agreement does not only relate to the vote of the GNSO Council. No consensus was reached within the PDP-WT to adopt the ICANN Staff recommendation.
- In relation to 6a, the WT discussed whether it would be possible to word this provision in a positive way (instead of noting how many are needed to reject, note how many are needed to approve).
- In relation to 6b, the WT highlighted the importance of the board statement with info on why something was rejected. The WT discussed whether a timeframe should be included as to when the board is required to submit its statement to the GNSO Council and it was suggested that a certain timeframe should be included (e.g. Board shall within x days submit the board statement to the GNSO Council with guidance on how to cure the identified deficiencies).
- In relation to 6c, the WT agreed to consider including a similar timeframe as for earlier discussed items (i.e. consider at next meeting if received 8 days ahead of the meeting, or at the following meeting if not received 8 days ahead of the meeting).

- The WT also discussed whether the board should be able to pick and choose recommendations or whether they should be adopted or rejected ‘en block’ as has been current practice. Most agreed that the board should only be able to adopt or reject the GNSO Council recommendations as a whole as policy development is supposed to be done at the SO level, not by the board.
- The WT discussed 6e and noted that there were different interpretations of what ‘will be sufficient to act’ means. Some members of the contracted parties interpret this as meaning that without supermajority vote of the Council, the Board can act and adopt the recommendations with a majority vote, but these would not be binding on the contracted parties. Other members of the non-contracted parties were of the opinion that it meant that the board could act and adopt policy recommendations that would be enforceable on contracted parties even without a supermajority vote of the GNSO Council. There was support to clarify this provision to note that the board can adopt enforceable policy recommendations if there is no supermajority vote of the GNSO Council, but only if there is a supermajority vote of the Board in support. It was pointed out that it would be presumed that there was at least a majority vote in favor of the recommendations before the Board would consider any recommendations from the GNSO Council. The WT agreed that further clarification is needed in order to determine what should be done with this provision (see recommendation 42).
- The WT discussed 6f and the meaning of ‘timely’. Some suggested this could mean time-sensitive, critical or urgent. The question was raised who makes the assessment on whether something is timely? Most agreed that it would be the role of the ICANN Board to make this assessment, although the GNSO Council could make a recommendation to this end. ICANN staff has been requested to ask for clarification from Legal on this provision.
- The WT agreed to add a new voting threshold for the termination of a PDP (see recommendation 37).
- Overall, the WT agreed that the existing voting thresholds should be reviewed as part of the next cycle of GNSO Review.

5. Decision-making methodology

The PDP-WT recommends that PDP Working Groups are required to use the decision-making methodology that has been proposed in the [GNSO Working Group Guidelines](#), at least for a certain period of time, following which its effectiveness and usability could be reviewed and assessed as part of the overall review of the new PDP.

6. Transition

The WT agreed that following the adoption and implementation, the new PDP should apply to all issued raised and PDPs initiated after the date of adoption. The WT discussed whether it would / should be possible for existing PDPs to adopt the new model upon request. The Office of the General Counsel confirmed that a transition to the new PDP model for ongoing PDPs would be possible should the GNSO Council approve that concept. The PDP-WT is soliciting comments from the comments from the public on this issue.

4 New GNSO PDP – Basis for new Annex A

Based on the PDP-WT recommendations and deliberations, the PDP-WT, with the support of ICANN Staff, has developed the outline below of a new Annex A which is intended to replace the current Annex A contained in the ICANN Bylaws.

Annex A – GNSO Policy Development

The following process shall govern the GNSO policy development process (“PDP”) 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 not intended to result in a Consensus Policy, the Council may act through other processes.

Section 1. Required Elements of a Policy Development Process

The following elements are required at a minimum to form Consensus Policies as defined within ICANN contracts:

- a. Final Issue Report requested by the Board, the GNSO Council (“Council”) or Advisory Committee, which should include at a minimum a) the proposed issue raised for consideration, b) the identity of the party submitting the issue, and c) how that party is affected by the issue;
- b. Formal initiation of the Policy Development Process by the Council;
- c. Formation of a Working Group;
- d. Initial Report produced by a Working Group;
- e. Final Report produced by a Working Group and forwarded to the Council for deliberation;

- f. Council approval of PDP Recommendations contained in the Final Report, by the required thresholds;
- g. PDP Recommendations and Final Report shall be forwarded to the Board through a Recommendations Report approved by the Council; and
- h. Board approval of PDP Recommendations.

Section 2. **Policy Development Process Manual**

The GNSO shall maintain a Policy Development Process Manual (PDP Manual) within the operating procedures of the GNSO maintained by the GNSO Council. The PDP Manual shall contain specific additional guidance on completion of all elements of a PDP, 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, as well as Board oversight and review, as specified at Article X, Section 3.6.

Section 3. **Requesting an Issue Report**

Board Request. The Board may request an Issue Report by instructing the GNSO Council (“Council”) to begin the process outlined the PDP Manual.

Council Request. The GNSO Council may request an Issue Report by a vote of at least twenty-five percent (25%) of the members of the Council of each House or a majority of one House.

Advisory Committee Request. An Advisory Committee may raise an issue for policy development by action of such committee to request an Issue Report, and transmission of that request to the Staff Manager and GNSO Council.

Section 3: **Creation of an Issue Report**

Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a properly supported motion from the GNSO Council; or (iii) a properly supported motion from an Advisory Committee, the Staff Manager will create a report (a “Preliminary Issue Report”). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report.

The following elements should be considered in the Issue Report:

- a) The proposed issue raised for consideration;
- b) The identity of the party submitting the request for the Issue Report;
- c) How that party is affected by the issue, if known;
- d) Support for the issue to initiate the PDP, if known;
- e) The opinion of the ICANN General Counsel regarding whether the issue proposed for consideration within the Policy Development Process is properly within the scope of the ICANN’s mission, policy process and more specifically the role of the GNSO as set forth in the PDP Manual.
- f) The opinion of the Staff Manager as to whether the Council should initiate the PDP on the issue

Upon completion of the preliminary Issue Report, the Preliminary Issue Report shall be posted on the ICANN website for a public comment period of no less than 30 days

The Staff Manager is responsible for drafting a summary and analysis of the public comments received on the Preliminary Issue Report and producing a final Issue Report based upon the comments received. The Staff Manager should forward the Final Issue Report, along with any summary and analysis of the public comments received, to the Chair of the GNSO Council for consideration for initiation of a PDP.

Section 4: **Initiation of the PDP**

The Council may initiate the PDP as follows:

Board Request: If the Board requested an Issue Report, the Council, within the timeframe set forth in the PDP Manual, shall initiate a PDP. No vote is required for such action.

GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph 9\(b\) and \(c\)](#) in favor of initiating the PDP.

Section 5: **Reports**

An Initial Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days, which time may be extended in accordance with the PDP Manual. Following the review of the comments received and, if required, additional deliberations, a Final Report shall be produced for transmission to the Council.

Section 6. **Council Deliberation**

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

The Council approval process is set forth in [Article X, Section 3, paragraph 9\(d\) through \(f\), as supplemented by the PDP Manual](#).

Section 7: Preparation of the Board Report

If the PDP recommendations contained in the Final Report are approved by the GNSO Council, a Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN Board within 21 days following adoption of the Final Report ("Board Report").

Section 8. Board Approval Processes

The Board will meet to discuss the GNSO Council recommendation as soon as feasible after receipt of the Board Report from the Staff Manager. Board deliberation on the PDP Recommendations contained within the Recommendations Report shall proceed as follows:

- a. Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than sixty-six (66%) percent of the Board, the Board determines 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 policy recommended 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.
- 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 sixty-six (66%) percent of the Board determines that such policy is not in the interests of the ICANN community or ICANN.

- e. [In any case in which the Council is not able to reach GNSO Supermajority vote, a majority vote of the Board will be sufficient to act]⁸

Section 9. **Implementation of Approved Policies**

Upon a final decision of the Board adopting the policy, the Board shall, as appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to create an implementation plan based upon the implementation recommendations identified in the Final Report, and to implement the policy. The GNSO Council may, but is not required to, direct the creation of an implementation review team to assist in implementation of the policy.

Section 10. **Council Expedited Procedures**

The PDP Manual may define expedited procedures for policy development work in exigent circumstances.

Section 11. **Maintenance of Records**

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

Section 12: **Additional Definitions**

[TO BE DETERMINED]

⁸ See recommendation 42 - The WT to seek further input on this issue in order to determine whether this provision needs to stay as is, be clarified or be removed.

5 Policy Development Process Manual

As outlined before, in order to enhance flexibility of the Policy Development Process, the PDP-WT proposes to incorporate the details as well as further guidance on how to manage a PDP in a Policy Development Process Manual that would become an integral part of the GNSO Council Operating Procedures. Below is a first draft of such a PDP Manual that contains the main elements based on the recommendations outlined in the previous chapters.

5.1 PDP Manual - Introduction

These guidelines and processes supplement the requirements for PDPs described in Annex A of the ICANN Bylaws [insert link].

5.2 Requesting an Issue Report

As outlined in Annex A of the ICANN Bylaws, a request for an Issue Report may be initiated upon Board, Council or Advisory Committee request.

Requests for an Issue Report by the Board or by an Advisory Committee do not require any GNSO Council action, but are to be reviewed by Staff and prepared in accordance with Section 5.4 below.

5.3 Planning for Initiation of a PDP

Consistent with ICANN's commitment to fact-based policy development, the GNSO Council and Staff are encouraged to provide advice in advance of a vote on the request for an issues report specifying any additional research, discussion, or outreach that should be conducted as part of the development of the Issues Report, in order to ensure a balanced and informed Issues Report.

The GNSO Council is encouraged to consider scheduling workshops on substantive issues prior to the initiation of a PDP. Such workshops could, amongst others; facilitate community understanding of the issue; assist in scoping and defining the issue; gather support for the request of an Issue Report, and/or; serve as a means to gather additional data and/or information before a request is submitted. Where appropriate, the GNSO Council should consider requiring such a workshop during the planning and initiation phase for a specific issue. To the extent such workshops are utilized by the GNSO Council, the invitations and/or announcements for workshops should be communicated as broadly as possible.

The GNSO Council should consider requiring an impact analysis to be conducted if appropriate or necessary prior to the vote for the initiation of a PDP. Such an impact analysis could include the assessment of the impact on the public interest; the security, stability and resiliency of the DNS; competition, consumer trust and consumer choice, and; international participation⁹ [as well as the impact on human rights]¹⁰.

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 PDP.

5.4 Recommended Format of Issue Report Requests

The recommended format of requests for Issue Reports under paragraphs (b) and (c) of Section 2 is described below:

⁹ As outlined in section 3 of the Affirmation of Commitments

¹⁰ The bracketed language only received minority support. The WT hopes to receive input as part of the public comment period on whether the bracketed language should be maintained or not.

Request for Issue Report	
Name of Requestor:	
Name of Stakeholder Group/Constituency (if applicable) in support of request:	
Please provide rationale for policy development:	
Brief explanation of how issue affects your SG or Constituency:	
Suggestions on specific items to be addressed in the Issue Report (if any):	
Please provide a concise definition of the issue presented and the problems raised by the issue:	
Please provide supporting evidence (if any):	
How does this issue relate to the provisions of the ICANN Bylaws, the Affirmation of Commitments and/or ICANN’s Articles of Incorporation:	
Date Submitted:	
Expected Completion Date:	

5.5 Creation of the Preliminary Issue Report

Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a properly supported motion from the GNSO Council; or (iii) a properly supported motion from an Advisory Committee, the Staff Manager will create a report (a “Preliminary Issue Report”). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report, which request should be discussed with the Requestor.

In the event that the Issue Report was initially requested by the Board or an Advisory Committee, the requestor shall be informed of any extension of time for completion of the Issue Report. Any request for extension of time should include consideration of the complexity of the issue, the extent of research and outreach recommended, and the ICANN Staff workload.

The following elements should be considered in the Issue Report:

- a) The proposed issue raised for consideration;
- b) The identity of the party submitting the request for the Issue Report;
- c) How that party is affected by the issue, if known;
- d) Support for the issue to initiate the PDP, if known;
- e) The opinion of the ICANN General Counsel regarding whether the issue proposed for consideration within the Policy Development Process 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 ~~to multiple situations or organizations~~;
 - 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; implicates or affects an existing ICANN policy.
 - f. will implicate or affect an existing ICANN policy.
- f) The opinion of the Staff Manager as to whether the Council should initiate the PDP on the issue

5.6 Public Comment on the Preliminary Issue Report

Upon completion of the preliminary Issue Report, the preliminary Issue Report shall be posted on the ICANN website for a public comment period of no less than 30 days. When posted for Public Comment, Staff is encouraged to translate the executive summaries of Preliminary Issue Reports 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 shall not be delayed while translations are being completed.

The Staff Manager is responsible for drafting a summary and analysis of the public comments received on the Issue Report and producing a final Issue Report based upon the comments received. The Staff Manager should forward the Final Issue Report, along with any summary and analysis of the public comments received, to the Chair of the GNSO Council for consideration for initiation of a PDP.

The summary and analysis and the Final Issue Report are expected to be delivered to the Chair of the GNSO Council within 30 days of the closing of the public comment forum, though the Staff Manager may request an extension of that 30-day time for delivery.

5.7 Initiation of the PDP

The Council may initiate the PDP as follows:

Board Request: If the Board requested an Issue Report, the Council, within the timeframe set forth in the paragraph below, shall note for the record the confirmation of receipt of the Issue Report and the formal initiation of the PDP. No vote is required for such action.

GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph 9\(b\) and \(c\)](#) in favor of initiating the PDP.

Timing of vote on Initiation of the PDP. The Council should endeavour to vote on whether to initiate the policy development process at the next scheduled Council meeting following the receipt of an Issue Report; provided that the Issue Report is received at least eight (8) calendar days prior to the GNSO Council meeting. If the Issue Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should endeavour to vote on the initiation of the PDP at the subsequent GNSO Council meeting. At the written request of any voting Council member, for any reason, consideration of the Issue Report may be postponed by not more than one (1) meeting, provided that that the Council member details the precise rationale for such a postponement. Consideration of the Issue Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement.

Upon consideration of the Issue Report the GNSO Council may, when necessary, vote to suspend further consideration of the Issue Report. Any motion to suspend further consideration of the Issue Report shall fail if the votes in favor of continuing consideration of the Issue Report is sufficient to initiate a PDP under Article X Section 9.b or 9.c of the Bylaws, as appropriate. The basis for suspension could include prioritization reasons such as insufficient Staff or community support available due to other ongoing PDP work, requests for additional data and requests for additional discussion. The GNSO Council is expected to use this procedure sparingly, and should generally endeavour to vote on the initiation of a PDP within 90 calendar days of the receipt of the Final Issue Report. Any decision to suspend consideration of the Final Issue Report is to be accompanied by a proposed timeline for further consideration, including a timeline for a vote on the initiation of the PDP.

In the event that the GNSO Council does not approve the initiation of the PDP, not including the possible suspension of further consideration of the Issue Report as described above, any Councillor may appeal the denial, and request that the GNSO Council hold a renewed vote on the initiation of the PDP at the next subsequent GNSO Council meeting.

In the event that the GNSO Council does not approve the initiation of the PDP following an Issue Report requested by an Advisory Committee (AC), the AC or its representatives should have the opportunity to meet with representatives of the GNSO, and in particular, those voting against the initiation of the PDP, to discuss the rationale for the rejection and why the AC feels that reconsideration is appropriate. Following this meeting, the AC may submit a statement to the GNSO Council requesting a re-vote and giving its rationale for such a re-vote. This process may be followed just once for any given Issue Report.

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

5.8 Development and Approval of the Charter for the PDP

Upon initiation of the PDP, a group formed at the direction of Council should be convened to draft the charter for the PDP Team. The Council should indicate the timeframe within which a draft PDP Charter is expected to be presented to the Chair of the GNSO Council. The elements of the Charter should include, at a minimum, the following elements as specified in the GNSO Working Group Guidelines: Working Group Identification; Mission, Purpose and Deliverables; Formation, Staffing and Organization, and; Rules of Engagement.

The Council should consider whether to approve the proposed PDP Charter at the Council meeting following the Chair's receipt of the proposed PDP Charter; provided that the proposed PDP Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the proposed PDP Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should endeavour to consider the proposed PDP Charter at the meeting after the next GNSO Council meeting.

The same voting thresholds that apply to the initiation of the PDP also apply to the approval of the proposed PDP Charter. Specifically, the proposed PDP Charter is to be approved with an

affirmative vote of more than 33% of the Council members of each House or more than 66% vote of one House in favour of approval of a Charter for a PDP within scope; unless the Staff Recommendation stated that the issue is not properly within the scope of the ICANN policy process or the GNSO, in which case a GNSO Supermajority Vote as set forth in [Article X, Section 3, paragraph 9\(c\)](#) in favour of approving the PDP Team Charter is specified to approve the PDP Charter.

Once approved, modification of any PDP Charter is discouraged, absent special circumstances. Approved charters may be modified or amended by a simple majority vote of each House.

In exigent circumstances, upon approval of the initiation of the PDP, the GNSO Council may direct certain work to be performed prior to the approval of the PDP Charter.

5.9 PDP Outcomes and Processes

Upon approval of the PDP Charter, the GNSO Council may form a working group, task force, or drafting team (the “PDP Team”), to perform the PDP activities. The preferred model for the PDP Team is the Working Group model due to the availability of specific Working Group rules and procedures that are included in the GNSO Operating Rules and Procedures. The GNSO Council should not select another model for conducting PDPs unless the GNSO Council first identifies the specific rules and procedures to guide the PDP Team’s deliberations which should at a minimum include those set forth in the ICANN Bylaws and PDP Manual. The PDP Team is required to review and become familiar with the GNSO Working Group Guidelines, which also apply to PDP Working Groups [include link to the GNSO Working Group Guidelines once published], which includes further information and guidance on the functioning of GNSO Working Groups.

Once formed, the PDP Team is responsible for engaging in the collection of information. If deemed appropriate or helpful by the PDP Team, the PDP Team may solicit the opinions of outside advisors, experts, or other members of the public. The PDP Team should carefully

consider the budgetary impacts, implementability, and/or feasibility of its proposed information requests and/or subsequent recommendations.

The PDP Team should formally solicit statements from each Stakeholder Group and Constituency in the early stages of the PDP. Stakeholder Groups and Constituencies should at a minimum have 35 days to complete such a statement from the moment that the statement is formally requested by the PDP Team. If appropriate, such statements may be solicited more than once by the PDP Team throughout the PDP process. The PDP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as appropriate that may have expertise, experience, or an interest in the PDP issue. Solicitation of opinions should be done during the early stages of the PDP.

In addition, the PDP Team should seek input from other SOs and ACs. Such input should be treated with the same due diligence as other comments and input processes. In addition, comments from ACs and SOs should receive a response from the PDP Team. This may include, for example, direct reference in the applicable Report or embedded in other responsive documentation or a direct response.

The PDP Team is encouraged to establish communication in the early stages of the PDP with other departments, outside the policy department, within ICANN that may have an interest, expertise, or information regarding the implementability of the issue. The Staff Manager is responsible for serving as the intermediary between the PDP Team and the various ICANN departments (finance, legal, compliance, etc.). The PDP Team Chair may escalate to the Vice President of Policy if the PDP 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 PDP 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 PDP. PDP Teams may make recommendations to the GNSO Council regarding:

- i. Consensus policies
- ii. Other policies
- iii. Best Practices
- iv. Implementation Guidelines
- v. Agreement terms and conditions
- vi. Technical Specifications
- vii. Research or Surveys to be Conducted
- viii. Advice to ICANN or to the Board
- ix. Advice to other Supporting Organizations or Advisory Committee
- x. Budget issues
- xi. Requests for Proposals
- xii. Recommendations on future policy development activities

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

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

5.10 Publication of the Initial Report

After collection and review of information, the PDP Team and Staff are responsible for producing an Initial Report. The Initial Report should include the following elements:

- Compilation of Stakeholder Group and Constituency Statements
- Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee

- Recommendations for policies, guidelines, best practices or other proposals to address the issue
- Statement of level of consensus for the recommendations presented in the Initial Report
- Information regarding the members of the PDP Team, such as the attendance records, Statements of Interest, etc.
- If applicable, input on issues related to implementation, impact (economic, business, social, operational, etc) and feasibility including the inclusion of implementation guidelines

These elements may be included as content within the Initial Report or by reference to information posted on an ICANN website (such as through a hyperlink).

The Initial 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 PDP Team is strongly encouraged to extend the public comment period a minimum of seven (7) days. Any public comment period on items other than the Issue Report and Initial Report shall be for a minimum of 21 days. The PDP 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.

5.11 Preparation of the Final Report

At the end of the public comment period, the Staff Manager, in close coordination with the PDP Team, is responsible for reviewing the comments received and adding those deemed appropriate for inclusion to the Initial Report, in order to produce a revised Report for consideration by the PDP Team. The Staff Manager and the PDP Team are not obligated to include all comments made during the comment period, including each comment made by any one individual or organization.

The Staff Manager and the PDP Team may update the Initial Report if there are any recommendations within the Initial Report that require modification to address comments received through public comment.

The PDP Team is expected to deliberate as appropriate to properly evaluate and address comments 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 report of the PDP Team. Following the review of the comments received and, if required, additional deliberations, the PDP Team is expected to produce a Final Report for transmission to the Council.

While the Final Report is not required to be posted for public comment, in preparing the Final Report, the PDP Team should consider whether the Final Report should be posted for public comment as a [Draft] Final Report, with the goal of maximizing accountability and transparency with regards the PDP, especially when substantial changes have been made compared to the contents of the Initial Report. When posted for Public Comment, Staff should consider translating the executive summaries of the Initial Reports and Draft Final Reports 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 Report is to be forwarded to the GNSO Council Chair to begin the GNSO Council deliberation process.

In addition to any required public comment periods, the PDP Team may seek public comment on any item that the PDP Team notes it will benefit from further public input. The PDP 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 Initial Report is twenty (21) days.

Each recommendation in the Final Report should be accompanied by the appropriate consensus level designation (see GNSO Working Group Guidelines for applicable standard methodology for making decisions, including consensus level designations). [include direct reference to appropriate section]

5.12 Expedited PDP Procedures

No expedited PDP Procedures are available. The GNSO Council should re-evaluate the need for an expedited mechanism in due time, as part of the review of the new Policy Development Process.

5.13 Council Deliberation

The GNSO Council is strongly encouraged to consider the recommendations within the Final Report at the next meeting after the Final Report is forwarded to the Council Chair, provided that the Final Report is forwarded to the Council Chair at least eight (8) calendar days prior to the GNSO Council meeting. If the Final Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should consider the Final Report at the meeting after the next GNSO Council meeting. At the written request of any voting Council member, for any reason, consideration of the Final Report may be postponed for no more than one (1) meeting, provided that that such Council member details the precise rationale for such a postponement. Consideration of the Final 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 PDP 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 Report. Approval of the PDP recommendations contained in the Final Report requires an affirmative vote meeting the thresholds set forth at Article X, Section 3(9) d – f.

In the event that the Final Report includes recommendations that did not achieve the consensus within the PDP 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 Report, it is recommended that the GNSO Council take into account whether the PDP Team has indicated that any recommendations contained in the Final Report are interdependent. The GNSO Council is strongly discouraged from itemizing recommendations that the PDP Team has identified interdependent or modifying recommendations wherever possible. In the event the GNSO Council expresses concerns or proposes changes to the PDP recommendations, it may be more appropriate to pass these concerns or recommendations for changes back to the respective PDP Team for input and follow-up.

5.14 Preparation of the Board Report

If the PDP Recommendations contained in the Final 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 Recommendations Report to the Board should be submitted to the Board within 21 days following adoption of the Final 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 PDP recommendations contained in the Final Report. In order to enhance ICANN's accountability and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions wherever possible, without jeopardizing information that may be protected under attorney/client or other legal privileges.

5.15 GNSO Council Role in Implementation

Upon a final decision of the Board adopting the GNSO PDP policy, the Board may, as appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to

create an implementation plan based upon the implementation recommendations identified in the Final Report, and to implement the policy in as timely a fashion as possible. The GNSO Council may, but is not required to, direct the creation of an Implementation Review Team to assist Staff in developing the implementation details for the policy. In its Final Report, the PDP Team should provide recommendations to the GNSO Council on whether an Implementation Review Team should be established and any other recommendations deemed appropriate in relation to such an Implementation Review Team (e.g. composition).

5.16 Termination of PDP prior to Final Report

The GNSO Council, may terminate a PDP prior to the publication of a Final Report only for significant cause, upon a motion that passes with a Supermajority Vote in favour of termination. The following are illustrative examples of possible reasons for a premature termination of a PDP:

1. **Deadlock**. The PDP Team is hopelessly deadlocked and unable to identify recommendations or statements that have either the strong support or a consensus of its members despite significant time and resources being dedicated to the PDP;
2. **Changing Circumstances**. Events have occurred since the initiation of the PDP that have rendered the PDP moot or no longer necessary; or
3. **Lack of Community Volunteers**. Despite several calls for participation, the work of the PDP Team is significantly impaired and unable to effectively conclude its deliberations due to lack of volunteer participation.

If there is no recommendation from the PDP Team for its termination, the Council is required to conduct a public comment forum first prior to conducting a vote on the termination of the PDP (as described above).

5.17 Amendments or Modifications of Approved Policies

Approved GNSO Council policies may be modified or amended by the GNSO Council at any time prior to the final approval by the ICANN Board as follows:

1. The PDP Team is reconvened or, if disbanded, reformed, and should be consulted with regards to the proposed amendments or modifications;
2. The proposed amendments or modifications are posted for public comment for not less than twenty-one (21)thirty (30) days;
3. The GNSO Council approves of such amendments or modifications with a SuperMajority Vote of both Houses in favour.]

Approved GNSO Council policies that have been adopted by the ICANN Board and have been implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue

5.18 Periodic Assessments of Approved Policies

Periodic assessment of PDP recommendations and policies is an important tool to guard against unexpected results or inefficient processes arising from GNSO policies. PDP Teams are encouraged to include proposed timing, assessment tools, and metrics for review as part of their Final Report. In addition, the GNSO Council may at any time initiate reviews of past policy recommendations.

5.19 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 Council 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.