

## DRAFT WORKING GROUP CHARTER



### Working Group Charter for a Policy Development Process for IGO and INGO Access to Curative Rights Protections

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| <b>WG Name:</b>                                       |  | <b>IGO-INGO Access to Curative Rights Protection Working Group</b>   |
| <b>Section I: Working Group Identification</b>        |  |  |
| <b>Chartering Organization(s):</b>                    | Generic Names Supporting Organization (GNSO) Council |  |
| <b>Charter Approval Date:</b>                         | TBD  |  |
| <b>Name of WG Chair:</b>                              | TBD  |  |
| <b>Name(s) of Appointed Liaison(s):</b>               | TBD  |  |
| <b>WG Workspace URL:</b>                              | TBD  |  |
| <b>WG Mailing List:</b>                               | TBD  |  |
| <b>GNSO Council Resolution:</b>                       | <b>Title:</b>  | Motion to initiate a Policy Development Process (PDP) for IGO and INGO Access to Curative Rights Protection Mechanisms |
|   | <b>Ref # &amp; Link:</b>                             | TBD  |
| <b>Important Document Links:</b>                      | 🕒  |  |
| <b>Section II: Mission, Purpose, and Deliverables</b> |  |  |
| <b>Mission &amp; Scope:</b>                           |  |  |

## **Background**

At its meeting on 20 November 2013, the GNSO Council unanimously adopted all the consensus recommendations made by the GNSO's PDP Working Group on the Protection of International Organization Names in All gTLDs (IGO-INGO WG) and requested an Issue Report to assist in determining whether a PDP should be initiated in order to explore possible amendments to the Uniform Dispute Resolution Policy (UDRP) and the Uniform Rapid Suspension procedure (URS), to enable access to and use of such curative rights protection mechanisms by protected IGOs and INGOs.

In 2007 a [GNSO Issue Report on Dispute Handling for IGO Names & Abbreviations](#) had analyzed some possible methods for handling domain name disputes concerning IGO names and abbreviations, but not those of INGOs. A PDP on the topic was however not initiated due to lack of the requisite number of votes in the GNSO Council. Previously, in 2003, an ICANN Joint Working Group comprising community members from the At Large Advisory Committee (ALAC), the Government Advisory Committee (GAC) and the GNSO had also discussed various possible dispute resolution mechanisms for IGOs in response to a 2001 report on the applicability of the UDRP to certain types of identifiers (including those of IGOs) by the World Intellectual Property Organization (WIPO). The Joint Working Group failed to reach consensus on WIPO's recommendations, and no formal action was taken by the GNSO Council or ICANN on the matter.

In January 2012 ICANN launched the New gTLD Program, which included a number of rights-protection mechanisms specifically developed for the Program. These included objection procedures to new gTLD applications (including a legal rights objection procedure for trademark owners and organizations with registrations in the .int TLD) and the URS for second level registrations in approved new gTLDs (modeled after the UDRP). The ICANN Board also granted certain temporary protections at the top and second levels in the New gTLD Program for the Red Cross movement, the International Olympic Committee and IGOs, which were to remain in place until a permanent solution based on GAC Advice and policy recommendations from the GNSO could be developed. The GNSO's recommendations, as approved by the GNSO Council on 20 November 2013, were submitted to the ICANN Board for consideration in February 2014. These were acknowledged by the Board in February 2014, in directing its New gTLD Program Committee (NGPC) to develop a comprehensive proposal taking into account the GAC advice received on the topic and the GNSO's recommendations. The NGPC developed and sent a proposal to the GAC in March 2014. In April 2014 the ICANN Board adopted those GNSO recommendations that are not inconsistent with GAC advice received on the same topic and resolved to facilitate dialogue among the GAC, GNSO and other affected parties to resolve the remaining differences between GAC advice and the GNSO recommendations.

## **Mission and Scope**

This Curative Rights Protection for IGOs and INGOs PDP Working Group (WG) is tasked to provide the GNSO Council with policy recommendations regarding whether to amend the UDRP and URS to allow access to and use of these mechanisms by IGOs and INGOs and, if so in what respects or whether a separate, narrowly-tailored dispute resolution procedure at the second level modeled on the UDRP and URS that takes into account the particular needs and specific circumstances of IGOs and INGOs should be developed. In commencing its deliberations, the WG should at an early stage gather data and research concerning the specific topics listed in Section X of the Final Issue Report as meriting

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| <b>Objectives &amp; Goals:</b>   |
| To develop, at a minimum, an Initial Report and a Final Report regarding the WG’s recommendations on issues relating to the access by IGOs and INGOs to curative rights protection mechanisms, following the processes described in Annex A of the ICANN Bylaws and the GNSO PDP Manual.   |
| <b>Deliverables &amp; Timeframes:</b>  |
| The WG shall respect the timelines and deliverables as outlined in Annex A of the ICANN Bylaws and the PDP Manual. As per the GNSO Working Group Guidelines, the WG shall develop a work plan that outlines the necessary steps and expected timing in order to achieve the milestones of the PDP as set out in Annex A of the ICANN Bylaws and the PDP Manual, and shall submit this to the GNSO Council.   |
| <b>Section III: Formation, Staffing, and Organization</b>  |
| <b>Membership Criteria:</b>  |
| The WG will be open to all interested in participating. New members who join after certain parts of work has been completed are expected to review previous documents and meeting transcripts.   |
| <b>Group Formation, Dependencies, &amp; Dissolution:</b>   |
| This WG shall be a standard GNSO PDP Working Group. The GNSO Secretariat should circulate a ‘Call For Volunteers’ as widely as possible in order to ensure broad representation and participation in the WG, including: <ul style="list-style-type: none"> <li>- Publication of announcement on relevant ICANN web sites including but not limited to the GNSO and other Supporting Organizations and Advisory Committee web pages; and</li> <li>- Distribution of the announcement to GNSO Stakeholder Groups, Constituencies and other ICANN Supporting Organizations and Advisory Committees</li> </ul> |
| <b>Working Group Roles, Functions, &amp; Duties:</b>   |
| The ICANN Staff assigned to the WG will fully support the work of the Working Group as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.<br>Staff assignments to the Working Group: <ul style="list-style-type: none"> <li>🕒 GNSO Secretariat</li> <li>🕒 ICANN policy staff members (Berry Cobb &amp; Mary Wong)</li> </ul> The standard WG roles, functions & duties shall be those specified in Section 2.2 of the GNSO Working Group Guidelines.   |
| <b>Statements of Interest (SOI) Guidelines:</b>  |
| Each member of the WG is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.  |
| <b>Section IV: Rules of Engagement</b>   |
| <b>Decision-Making Methodologies:</b>  |

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

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

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

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

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

**Status Reporting:**

As requested by the GNSO Council, taking into account the recommendation of the Council liaison(s) to the WG.

**Problem/Issue Escalation & Resolution Processes:**

The WG will adhere to [ICANN's Expected Standards of Behavior](#) as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.

If a WG member feels that these standards are being abused, the affected party should appeal first to the Chair and Liaison(s) and, if unsatisfactorily resolved, to the Chair of the CO or their designated representative. It is important to emphasize that expressed disagreement is not, by itself, grounds for abusive behavior. It should also be taken into account that as a result of cultural differences and language barriers, statements may appear disrespectful or inappropriate to some but are not necessarily intended as such. However, it is expected that WG members make every effort to respect the principles outlined in ICANN's Expected Standards of Behavior as referenced above.

The Chair, in consultation with the CO liaison(s), is empowered to restrict the participation of someone who seriously disrupts the Working Group. Any such restriction will be reviewed by the CO. Generally, the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances, this requirement may be bypassed.

Any WG member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the WG or CO should first discuss the circumstances with the WG Chair. In the event that the matter cannot be resolved satisfactorily, the WG member should request an opportunity to discuss the situation with the Chair of the CO or their designated representative.

In addition, if any member of the WG is of the opinion that someone is not performing their role according to the criteria outlined in this Charter, the same appeals process may be invoked.

**Closure & Working Group Self-Assessment:**

The WG will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council.

**Section V: Charter Document History**

| Version | Date | Description |
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| <b>Staff Contact:</b> | Mary Wong | <b>Email:</b> | <a href="mailto:Policy-staff@icann.org">Policy-staff@icann.org</a> |
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