**Background on GNSO Working Group Guidelines Consensus Levels**

1. **Which group do you represent?** GNSO Council
2. **To which rules or processes do you refer?** GNSO Working Group Guidelines Consensus Levels as listed in section 3.6, Standard Methodology for Making Decisions as follows:

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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[[1]](#footnote-1).
* **Strong support but significant opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.
* **Divergence** (also referred to as **No Consensus**) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
* **Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus;** or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

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

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

1. 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.
2. After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.
3. Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group.
4. In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:
	* A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
	* It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence.**

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

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

If a Chartering Organization wishes to deviate from the standard methodology for making decisions or empower the WG to decide its own decision-making methodology it should be affirmatively stated in the WG Charter.

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

If several participants[[2]](#footnote-2) in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:

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

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1. **Please outline the problems:** The Working Group on IGO/INGO Identifiers in All gTLDs raised a question concerning the adequacy of the consensus levels in the GNSO Working Group Guidelines; specifically, in relation to the classification of Divergence as No Consensus. The WG’s experience shows that it is possible to arrive at a position where there is No Consensus on a proposed recommendation, but without any Divergence in the opposition to such a proposal. Rather, the WG can arrive at a Consensus AGAINST the proposal – as such this would not be a case where there are “many different points of view” about a proposal but a clearly dominant point of view against a proposed recommendation. The WG felt that the current Consensus Levels in the GNSO Working Group Guidelines do not adequately cover this situation. Subsequently, at its meeting on 20 November 2013 in Buenos Aires the GNSO Council agreed to request that the SCI should review the adequacy of the consensus levels. These appear in Section 3.6 of the Guidelines, Standard Methodology for Making Decisions. The text of the Council’s motion states, “The GNSO Council requests the GNSO Standing Committee on Improvements Implementation (SCI) to review the current consensus levels defined and described in the GNSO Working Group Guidelines, and specifically requests the SCI to review and, if deemed appropriate, recommend revised or additional language to apply to situations where working groups may reach sufficient consensus against a particular proposal such that the appropriate consensus level cannot accurately be described as No Consensus/Divergence)” See the Consent Agenda at: <http://buenosaires48.icann.org/en/schedule/wed-gnso-council/agenda-gnso-council-20nov13-en> and page 4 of the transcript at: <http://buenosaires48.icann.org/en/schedule/wed-gnso-council/agenda-gnso-council-20nov13-en>.
2. **What specific changes do you propose to address the identified problems?** The GNSO Council did not propose specific changes to be examined by the SCI; it simply requested that the SCI should review the consensus levels as currently defined in the GNSO Working Group Guidelines. In light of the recent IGO-INGO WG experience, the SCI may wish to first identify the nature and extent of the problem, followed by an analysis of various possible methods to resolve it, including considering possible amendments or additions to the currently-defined consensus levels. In so doing it may wish to consult the IGO-INGO WG Chair and members, or at least the transcripts and recordings that documented the problem identified by the WG.
3. **Do you have any additional suggestion for making the rules/processes easier to administer?** The GNSO Council did not provide specific suggestions for making the rules/processes easier to administer. The SCI may wish to consolidate any recommendations for any potential changes to the GNSO Working Group Guidelines, whether emanating from this or other requests, into a single submission to the GNSO Council at the appropriate time, in order to present a more holistic set of proposed changes to the community for public comment.
1. For those that are unfamiliar with ICANN usage, you may associate the definition of ‘Consensus’ with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term ‘Consensus’ as this may have legal implications. [↑](#footnote-ref-1)
2. Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support for initiating an appeal before the formal process outlined in Section 3.7 can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or Liaison of their issue and the Chair and/or Liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial the appeal process set forth in Section 3.7. [↑](#footnote-ref-2)
3. It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process. [↑](#footnote-ref-3)