**ICANN Bylaws – ANNEX D**

**GNSO Guidance Process**

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

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

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

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

**Section 2. Policy Development Process Manual**

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

**Section 3. Initiation of the GGP**

The Council may initiate a GGP as follows:

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

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

* Name of requestor / SG / C
* Origin of issue (e.g. board request)
* Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
* Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
* Method of operation, if different from GNSO Working Group Guidelines
* Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
* Expected completion date

**Section 4. Council Deliberation**

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

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

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

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

**Section 6. Board Approval Processes**

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

a. Any GGP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such guidance is not in the best interests of the ICANN community or ICANN. If the GNSO guidance recommendation(s) was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such guidance is not in the best interests of the ICANN community or ICANN.

b. In the event that the Board determines, in accordance with paragraph a above, that the proposed GNSO Guidance recommendation(s) adopted by a GNSO Supermajority Vote or less than 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 two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the guidance in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.

**Section 10. Implementation of Approved GNSO Guidance**

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

**Section 11. Maintenance of Records**

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

**Section 12. Additional Definitions**

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

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

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

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

**Section 13. Applicability**

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

**GNSO Guidance Process Manual**

1. **GGP Manual – Introduction**

These guidelines and processes supplement the requirements for GGPs described in Annex D of the ICANN Bylaws [include link]. A GGP can be initiated by the GNSO Council when a request for input relating to gTLDs (either a new issue or in relation in to previous policy recommendations) has been received from the ICANN Board or a gTLD issue has been identified by the GNSO Council that would benefit from GNSO Guidance, and it has determined that the intended outcome is not expected to result in new contractual obligations for contracted parties (in which case a PDP would need to be initiated).

1. **Planning for Initiation of a GGP**

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

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

1. **Recommended format for GGP Initiation Request**

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

* Name of requestor / SG / C
* Origin of issue (e.g. board request)
* Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
* Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
* Method of operation, if different from GNSO Working Group Guidelines
* Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
* Expected completion date

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

1. **Initiation of a GNSO Guidance Process**

The Council may initiate a GGP as follows:

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

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

1. **GGP Outcomes and Processes**

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

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

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

The GGP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as appropriate that may have expertise, experience or an interest in the GGP issue. Solicitation of opinions should be done in the early stages of the GGP.

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

This section illustrates the types of outcomes that are permissible from a GGP. GGP Teams may make recommendations to the GNSO Council regarding:

1. Advice to the ICANN Board
2. Advice to other Supporting Organizations or Advisory Committees
3. Best Practices
4. Implementation Guidelines
5. Agreement terms and conditions
6. Technical Specifications
7. Research or Surveys to be Conducted
8. Budget issues
9. Requests for Proposals
10. Recommendations on future guidance or policy development process activities

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

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

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

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

* Compilation of Stakeholder Group and Constituency Statements
* Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee
* GNSO Guidance Recommendation(s)
* Statement of level of consensus for recommendation(s)
* Information regarding the members of the GGD Team
* A statement on the GGP Team discussion concerning the impact of the proposed recommendations which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility.

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

The Proposed GNSO Guidance Recommendation(s) Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days. If such a public comment period would coincide with an ICANN Public Meeting, the GGP Team is strongly encouraged to extend the public comment period for a minimum of seven (7) days. The GGP Team is encouraged to explore other means to solicit input than the traditional public comment forum such as, for example, the use of a survey which might allow for asking more targeted questions.

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

At the end of the public comment period, the Staff Manager will prepare a summary and analysis of the public comments received for the GGP Team. Such a summary and analysis should be provided at the latest 30 days after the closing of the public comment period, absent exigent circumstances. The GGP Team shall review and take into consideration the public comments received. The GGP Team may update the Proposed GNSO Guidance Recommendation(s) Report if there are any recommendations that require modification to address comments received through public comment. The GGP Team is not obligated to include all comments during the comment period, including each comment made by any one individual or organization.

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

While the Final Recommendation(s) Report is not required to be posted for public comment, in preparing the Final Recommendation(s) Report, the GGP Team should consider whether the Final Recommendation(s) Report should be posted for public comment as a [Draft] Final Recommendation(s) Report, with the goal of maximizing accountability and transparency with regards the GGP, especially when substantial changes have been made compared to the contents of the Proposed Recommendation(s) Report. When posted for Public Comment, Staff should consider translating the executive summaries of the Proposed Recommendation(s) Report and Draft Final Recommendation(s) Report into the six UN languages, to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English is not to be delayed while translations are being completed. Upon completion of the Public Comment period, if any, and incorporation of any additional comments identified therein, or if no further comment period is necessary, the Final Recommendation(s) Report is to be forwarded to the GNSO Council to begin the GNSO Council deliberation process.

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

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

1. **Council Deliberations**

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

The GNSO Council is expected to vote on the recommendations contained in the Final Recommendation(s) Report. Approval of the GGP recommendations contained in the Final Recommendation(s) Report requires an affirmative vote meeting the thresholds set forth at Article X, Section 3(9) [X].

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

1. **Preparation of the Board Report**

If the GNSO Guidance Recommendations contained in the Final Recommendation(s) Report are approved by the GNSO Council, the GNSO Council may designate a person or group responsible for drafting a Recommendations Report to the Board. If feasible, the Recommendations Report to the Board should be submitted to the Board in time for consideration at the next GNSO Council meeting following adoption of the Final Recommendation(s) Report. Staff should inform the GNSO Council from time to time of the format requested by the Board. These GNSO Council Reports supplement any Staff Reports that may highlight any legal, implementability, financial, and other operational concerns related to the GNSO Guidance recommendations contained in the Final Recommendation(s) Report. In order to enhance ICANN’s accountability and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions wherever possible, without jeopardizing information that may be protected under attorney/client or other legal privileges.

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

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

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

1. **Miscellaneous**

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

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