**ICANN Bylaws – ANNEX E**

**GNSO Expedited Policy Development Process**

The following process shall govern the specific instances where the GNSO Council invokes the GNSO Expedited Policy Development Process ("EPDP"). The GNSO Council may invoke the EPDP in the following limited circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to create new or additional recommendations for a specific policy issue that had been substantially scoped previously such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects. The following process shall be in place until such time as modifications are recommended to and approved by the ICANN Board of Directors. Where a conflict arises in relation to an EPDP between the PDP Manual (se Annex 2 of the GNSO Operating Procedures) and the procedures described in this Annex E, the provisions of this Annex E shall prevail.

The role of the GNSO is outlined in Article X of these Bylaws. Provided the Council believes and documents via Council vote that the above-listed criteria are met, an EPDP may be initiated to recommend amendment to an existing Consensus Policy; however, in all cases where the GNSO is conducting policy-making activities that do not meet the above criteria as documented in a Council vote, the Council should act through a Policy Development Process (see Annex A).

**Section 1. Required Elements of a GNSO Expedited Policy Development Process**

The following elements are required at a minimum to develop expedited GNSO policy recommendations, including recommendations that could result in amendments to an existing Consensus Policy, as part of a GNSO Expedited Policy Development Process (EPDP):

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

**Section 2. Expedited Policy Development Process Manual**

The GNSO shall include a specific section(s) on the EPDP process as part of its maintenance of the GNSO Policy Development Process Manual (PDP Manual), described in Annex 2 of the GNSO Operating Procedures. The EPDP section(s) of the PDP Manual shall contain specific additional guidance on completion of all elements of an EPDP, 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 at minimum, as well as Board oversight and review, as specified at Article X, Section 3.6.

**Section 3. Initiation of the EPDP**

The Council may initiate an EPDP as follows:

The Council may only initiate the EPDP by a vote of the Council. Initiation of an EPDP requires an affirmative Supermajority vote of the Council (as defined in these Bylaws) in favor of initiating the EPDP. My two cents is that the Board or AC could initiate a Guidance Process, but that only the GNSO Council should be able to initiate an EPDP.

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

1. Name of requestor / SG / C;
2. Origin of issue (e.g. previously completed PDP);
3. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
4. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either: (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation, or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information in either case;
5. If not provided as part of item 4, the opinion of the ICANN General Counsel as to whether the issue proposed for consideration is properly within the scope of the ICANN’s mission, policy process and more specifically the role of the GNSO;
6. Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
7. Method of operation, if different from GNSO Working Group Guidelines;
8. Decision-making methodology for EPDP mechanism, if different from GNSO Working Group Guidelines;
9. Target completion date.

**Section 4. Council Deliberation**

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

Approval of EPDP Recommendation(s) requires an affirmative vote of the Council meeting the thresholds set forth in in Article X, Section 3, paragraphs 9(d) to (f), as supplemented by the PDP Manual.

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

If the EPDP Recommendation(s) contained in the Final EPDP Recommendation(s) Report are approved by the GNSO Council, a Recommendation(s) 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 EPDP recommendation(s) as soon as feasible, but preferably not later than the second meeting after receipt of the Recommendations Report from the Staff Manager. Board deliberation on the EPDP Recommendations contained within the Recommendations Report shall proceed as follows:

a. Any EPDP 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 policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine 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 proposed EPDP Recommendations are 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 Policies**

Upon a final decision of the Board adopting the EPDP recommendations, the Board shall, as appropriate, give authorization or direction to ICANN staff to implement the EPDP Recommendations. If deemed necessary, the Board shall direct ICANN staff to work with the GNSO Council to create a guidance implementation plan, based upon the guidance recommendations identified in the Final EPDP Recommendation(s) Report. Is an IRT mandatory for implementation of policy guidance?

**Section 11. Maintenance of Records**

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

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**Section 12. Applicability**

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

**GNSO Expedited Policy Development Process Manual**

1. **GNSO EPDP – Applicability**

These guidelines and processes supplement the requirements for the EPDP described in Annex E of the ICANN Bylaws [include link]. An EPDP can be initiated by the GNSO Council only in the following specific circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects.

For the avoidance of doubt, the following sections of the PDP Manual shall not apply to an EPDP:

Section 2 (Requesting an Issue Report);

Section 4 (Recommended Format of Issue Report Requests);

Section 5 (Creation of the Preliminary Issue Report);

Section 6 (Public Comment on the Preliminary Issue Report); and

Section 7 (Initiation of the PDP)

Except as otherwise expressly modified or excluded herein, all other provisions of the PDP Manual shall apply in full to an EPDP, including without limitation the publication of an Initial Report for public comments. In the event of a conflict in relation to an EPDP between the provisions of the PDP Manual and the specific provisions in this EPDP Manual, the provisions herein shall prevail.

1. **Planning for Initiation of an EPDP**

Consistent with ICANN’s commitment to fact-based policy development, the GNSO and staff are encouraged to provide advice in advance of a GNSO Council vote on the initiation of an EPDP, specifying any additional research, discussion, or outreach that should be conducted prior to or immediately following the vote.

1. **Recommended Format for EPDP Initiation Request – Is this format “recommended” or mandatory? The text below says “must at a minimum”.**

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

1. Name of requestor / SG / C
2. Origin of issue (e.g. previously completed PDP)
3. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
4. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information;
5. If not provided as part of item 4, the opinion of the ICANN General Counsel regarding whether the issue proposed for consideration 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:
	* Is within the scope of ICANN's mission statement, and more specifically the role of the GNSO;
	* Is broadly applicable;
	* Is likely to have lasting value or applicability, albeit with the need for occasional updates;
	* Is likely to enable ICANN to carry out its commitments under the Affirmation of Commitments;
	* Will establish a guide or framework for future decision-making;
	* Will implicate or affect an existing ICANN policy.
6. If not provided as part of item 4, the opinion of ICANN staff and their rationale as to whether the Council should initiate the EPDP on the issue;
7. Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
8. Method of operation, if different from GNSO Working Group Guidelines;
9. Decision-making methodology for the proposed EPDP mechanism, if different from GNSO Working Group Guidelines;
10. Target completion date.

The request for an EPDP may also include a proposed EPDP Team Charter, which the Council may consider at the same time as the EPDP Initiation Request. If no such Charter is provided, or if the proposed Charter is not approved, Section 8 of the PDP Manual, with the exception of the provision on the voting threshold required for adoption of the Charter, will apply to the drafting of the EPDP Team Charter. Adoption of a Charter drafted in accordance with Section 8 of the PDP Manual requires an affirmative Supermajority Vote of the Council. Not sure how the interaction of the two highlighted provisions works. Please explain.

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

1. **Initiation of an EPDP**

At the request of any Council member duly and timely submitted and seconded as a motion, the Council may initiate the EPDP by a Supermajority vote of the Council in favor of initiating the EPDP. A motion which fails to carry a Supermajority vote of Council may be resubmitted at the same Council meeting as a motion to initiate a GNSO Guidance Process.

1. **EPDP Processes and Outcomes**

Section 9 of the PDP Manual (Outcomes and Processes) shall apply fully to an EPDP, with the exception that in relation to the soliciting of statements from GNSO Stakeholder Groups and Constituencies in the early stage of an EPDP, the GNSO Council may, either of its own accord or at the request of the EPDP Team, direct that the time period for such statements be less than the 35 days recommended by the PDP Manual. In no event, however, shall such time period be less than [21] days.

How does this time period relate to/take into account the 21 public comment period on the initial report?

1. **Termination or Suspension of an EPDP Prior to Final Recommendation(s) Report**

The GNSO Council may terminate or suspend an EPDP prior to the publication of a Final Recommendations Report in accordance with Section 15 of the PDP Manual. In addition to the illustrative reasons contained in Section 15, termination or suspension of an EPDP may be considered if events have occurred since the initiation of the EPDP that have rendered the EPDP moot or no longer necessary.

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

1. **Miscellaneous**

These provisions for an EPDP, as incorporated into the PDP Manual, may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Procedures.

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