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Policy Development Process Work Team

Final Report & Recommendations

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STATUS OF THIS DOCUMENT

This document is the Final Report of the Policy Development Process Work Team concerning the development of, and transition to, a new GNSO policy development process. This Final Report has been prepared following review of public comment on the Initial as well as Proposed Final Report and has been submitted to the GNSO Council for its review and approval.

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57 1 Executive Summary

58 ▪ The Policy Development Process Work Team (PDP-WT) was tasked by the Policy Process
59 Steering Committee (PPSC) to be 'responsible for developing a new policy development
60 process that incorporates a working group approach and makes it more effective and
61 responsive to ICANN's policy development needs'. The primary tasks of the PDP-WT were to
62 develop:

- 63 1 Appropriate operating principles, rules and procedures applicable to a new policy
64 development process; and
- 65 2 An implementation/transition plan.

66
67 ▪ This Final Report presents the PDP-WT's views and recommendations in relation to tasks 1
68 and 2. The proposed recommendations seek to:

- 69 ○ Codify existing practices and procedures already utilized by the GNSO community in
70 policy development processes (PDPs);
- 71 ○ Clarify existing rules, methods and procedures set forth in the ICANN Bylaws and GNSO
72 Council's Operating Procedures
- 73 ○ Suggest new approaches, methods and procedures to be used in the new policy
74 development process.

75
76 ▪ To this end, the PDP-WT has developed dozens of recommendations to improve the existing
77 PDP process. Some of the key recommendations of the new PDP include:

- 78 ○ Recommending the use of a standardized "Request for an Issue Report Template"
79 (recommendation 4)
- 80 ○ The introduction of a "Preliminary Issues Report" which shall be published for public
81 comment prior to the creation of a Final Issues Report to be acted upon by the GNSO
82 Council (recommendations 10 & 11).
- 83 ○ A Requirement that each PDP Working Group operate under a Charter
84 (recommendation 19)

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Comment [1]: To be updated following finalization of the rest of the report.

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

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

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114 ▪ For purposes of its discussions, the PDP-WT divided the policy development process into the
115 separate distinct stages and initially considered each of these stages consecutively. The
116 details of the discussion on each of these stages can be found in the Initial Report (see
117 <http://gns0.icann.org/issues/pdp-initial-report-31may10-en.pdf>).

118
119 In addition, a number of overarching issues that are present in multiple stages of the policy
120 development process, including timing, translation, development of definitions, voting
121 thresholds and decision-making methodology, were also discussed following the review of
122 the five different stages (see section 3).

123
124 ▪ The WT, supported by ICANN staff, has developed a first outline of the new Annex A (see
125 section 4) as well as a supporting document that is envisioned to be included in the GNSO
126 Council Operating Procedures as the PDP Manual (see section 5).

127
128 ▪ In section 2, you will find an overview of the recommendations of the PDP-WT. For further
129 background information on how these recommendations were developed, you are strongly
130 encouraged to review the [Initial Report](#), [the proposed Final Report](#), the WT's review of the
131 public comments (see Annex A) and the WT's [deliberations on the outstanding issues](#), to
132 appreciate the deliberations of the PDP-WT that form the basis for these recommendations.

133
134 ▪ To facilitate visualization of the new PDP, the WT has also developed a flow chart that
135 includes that provides a high-level overview of the main elements of the new PDP that can
136 be found hereunder.

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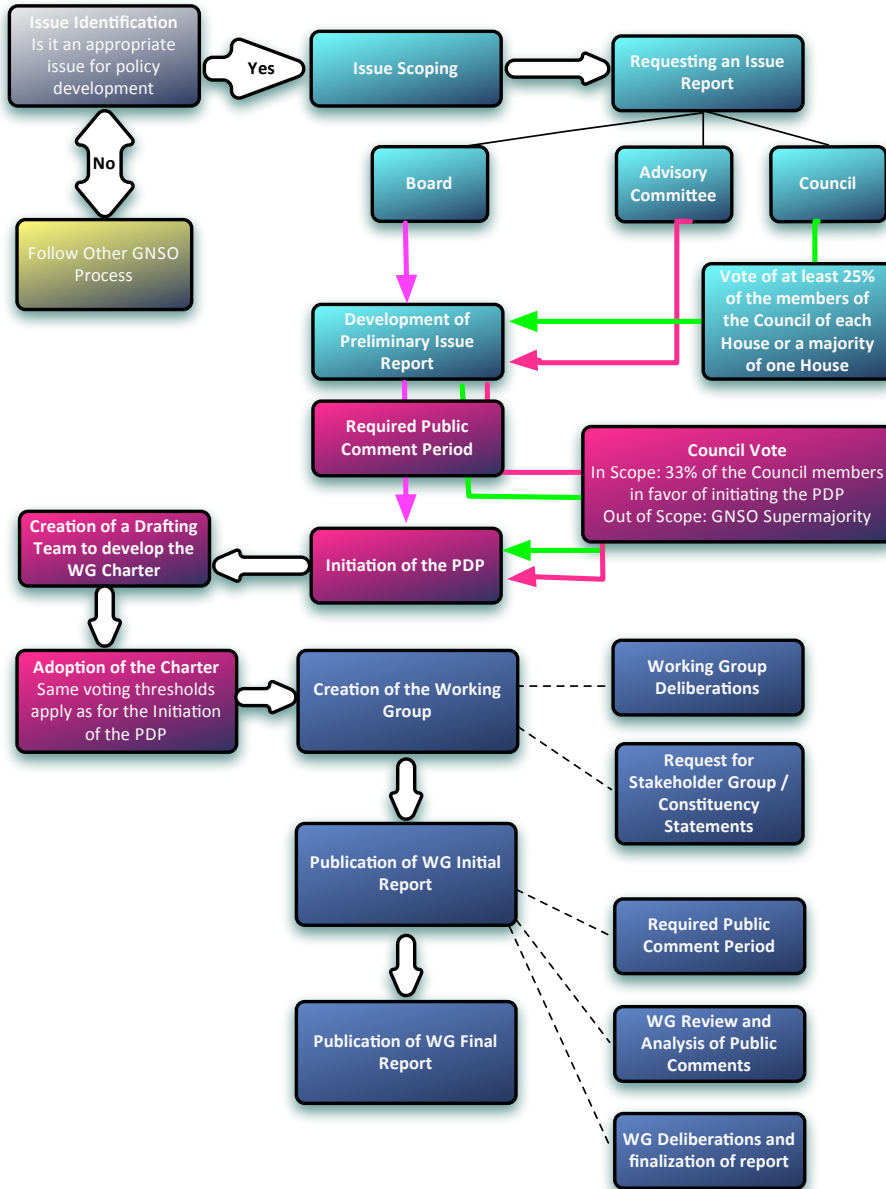
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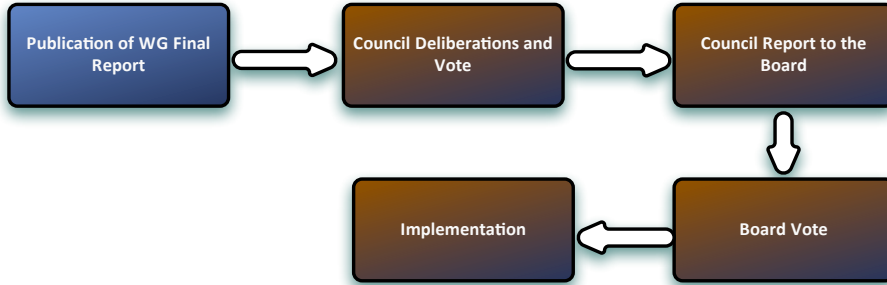
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Deleted: <#>Public input is encouraged as part of the public comment period on the Proposed Final Report on the proposed recommendations, the proposed elements for the new Annex A, the proposed PDP Manual, as well as which elements should be included in the ICANN Bylaws and which ones should be part of the GNSO Council Operating Rul... [1]

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157 2 Approach taken & Proposed Recommendations

158

159 Following the publication of the [Initial Report](#), and a subsequent public comment period, the WT
160 reviewed and addressed the comments received (see [public comment review tool](#)). In addition,
161 the WT discussed the outstanding issues it had not been able to cover in time for the Initial
162 Report and updated the recommendations accordingly. In order for the ICANN Community to
163 review these updated recommendations, especially those not included in the Initial Report, the
164 WT published [a Proposed Final Report](#) for public comment. Following review of the public
165 comments received [\[include link to public comment review tool\]](#), the WT updated the report
166 where deemed appropriate [and finalized the report for submission to the GNSO Council](#). [Upon](#)
167 [approval by the GNSO Council, the recommendations would be forwarded to the ICANN Board](#)
168 [for its review and approval as appropriate](#).

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

172

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

179

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

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195 surveys and interim notes, please visit the PDP-WT Workspace:
196 <https://community.icann.org/display/gnsoppsc/PDP-WT+Home>

197
198 For each of these stages a number of recommendations were developed (see hereunder) that
199 form the basis of the proposed new GNSO Policy Development Process. These
200 recommendations are provided below. Please note that in order to make this section of the
201 document concise, most of the context for the recommendations have been removed and the
202 PDP-WT urges the community to read the [Initial Report](#) for further context on the
203 recommendations. [It has been indicated for each of the recommendations whether these have](#)
204 [been incorporated into the proposed new Annex A of the ICANN Bylaws \("B"\) and/or the PDP](#)
205 [Manual \("M"\)](#).

207 **Stage 1 – Planning and Request for an Issues Report**

209 Recommendation 1. [Who can request an Issue Report \(B\)](#)

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

216 Recommendation 2. [Definition of 'Raising an Issue' and 'Initiating a PDP' \(B\)](#)

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

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229 Recommendation 3. [Development of a Policy Development Manual \(M\)](#)

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

236

237 Recommendation 4. [Request for an Issue Report Template \(M\)](#)

- 238 ▪ [The PDP-WT recommends that a 'request for an Issue Report' template should be developed](#)
239 [including items such as: definition of issue; identification and quantification of problems, to](#)
240 [the extent feasible; supporting evidence; economic impact\(s\); effect\(s\) on competition and](#)
241 [consumer trust and privacy and other rights, and; rationale for policy development. Any](#)
242 [request for an Issue Report, either by completing the template included in the PDP Manual](#)
243 [or in another form, must include at a minimum: the name of the requestor and the](#)
244 [definition of the issue. The submission of any additional information, such as the](#)
245 [identification and quantification of problems, and other as outlined for example in the](#)
246 [template, is strongly encouraged, but not required.](#)

247

248 Recommendation 5. [Issue Scoping \(M\)](#)

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

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269 Recommendation 6. [Creation of an Issue Report \(B/M\)](#)

270 ■ The PDP-WT recommends that the currently required elements of an Issue Report¹ continue
271 to be required for all future PDPs. However the PDP-WT recommends that only certain of
272 the elements be identified in Annex A of the Bylaws and others in the PDP Manual. More
273 specifically, the Bylaws should continue to require elements a (the proposed issue raised for
274 consideration), b (the identity of the party submitting the issue) and c (how that party is
275 affected by the issue), while elements d (support for the issue to initiate the PDP) and e
276 (recommendation from the Staff Manager) should be added to the PDP Manual. In addition,
277 the PDP-WT notes that element e (recommendation from the Staff Manager) should be split
278 in two parts; the first part dealing with the question of whether a PDP is considered "in
279 scope" (see recommendation 23 for the definition of "in scope") and the second part
280 addressing whether the PDP should be initiated. Although currently included as one element
281 in the ICANN Bylaws, the reality is that these two elements should be treated separately.
282 Furthermore, the PDP-WT recommends including in the PDP Manual a recommendation for
283 the entity requesting an Issue Report to indicate whether there are any additional items it
284 would like to have addressed in the Issue Report. This in turn which could then be taken into
285 consideration by the Staff Manager and/or Council when reviewing the request for an Issue
286 Report. In addition, the PDP Manual should allow for ICANN Staff or the Council to request
287 additional research, discussion, or outreach to be conducted as part of the development of
288 the Issue Report.

289

290 Recommendation 7. [Outcomes of a PDP \(M\)](#)

291 ■ The PDP-WT recommends better information and communication with Working Group
292 members on the potential outcomes of a policy development process. There are more
293 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

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

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306 Recommendation 8. [Scope – General Counsel’s opinion \(B/M\)](#)

- 307
- 308 ▪ The PDP-WT recommends retaining the requirement for obtaining the opinion of the ICANN
309 General Counsel’s office in the Issues Report as to whether a proposed PDP is within the
310 scope of the GNSO. Further details regarding the opinion of counsel are expected to be
311 included in the PDP Manual as opposed to the Bylaws. For more clarification of the meaning
312 of “in scope” please see Recommendation 23 below.

313 Recommendation 9. [Role of ICANN Staff \(M\)](#)

- 314
- 315 ▪ The PDP-WT recommends that additional guidance on the different roles ICANN staff can
316 perform, as outlined in the GNSO Working Group Guidelines, is to be included in the PDP
317 Manual.

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... [8]

318 Recommendation 10. [Timeframe for delivery of Preliminary Issue Report \(B\)](#)

- 319
- 320 ▪ The PDP-WT recommends the modification of timeframes included in clause 1 – Creation of
321 an Issue Report in Annex A in relation to the development and delivery of an issues report as
322 follows:
323 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board;
324 (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory
325 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

330 Issue Report, the Staff Manager may request an extension of time for completion of the
331 Preliminary Issue Report, which request should be discussed with the Requestor.
332

333 Recommendation 11. [Mandatory Public comment period on Preliminary Issue Report \(B\)](#)

334 ■ The PDP-WT recommends that that there is a mandatory public comment period that
335 follows the publication of a Preliminary Issue Report and before the GNSO Council is asked
336 to consider the initiation of a PDP. Such a Public Comment period would, among other
337 things, allow for additional information that may be missing from the Preliminary Issue
338 Report, or the correction or updating of any information in the Preliminary Issue Report. In
339 addition, this would allow for members of the ICANN Community to express their views to
340 the Council on whether or not to initiate a PDP. Depending on the comments received,
341 ICANN staff would include public inputs and any necessary corrections to the Preliminary
342 Issue Report turning it into the Final Issue Report and/or summarize the comments received
343 for Council consideration. [If no comments are received on the Preliminary Issue Report, the](#)
344 [content of the Final Issue Report should be substantially similar to the Preliminary Issue](#)
345 [Report.](#)
346

347 Recommendation 12. [Role of workshops prior to initiating a PDP \(M\)](#)

348 ■ The PDP-WT recognizes the value of workshops on substantive issues prior to the initiation
349 of a PDP. It is therefore recommending that information on the potential role of workshops
350 and information gathering events be provided in the PDP Manual. In addition, the PDP-WT
351 recommends that the GNSO Council should consider requiring such a workshop, on-line or
352 face-to-face, on a specific issue during the planning and initiation phase for a specific issue,
353 [when deemed appropriate. The PDP-WT does not recommend mandating the use of](#)
354 [workshops prior to initiating a PDP.](#) Furthermore, the PDP-WT recommends that, [if a](#)
355 [workshop is held,](#) invitations and/or announcements for workshops are communicated as
356 broadly as possible.
357

358 Recommendation 13. [Consideration of Resources \(M\)](#)

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10. Impact Analyses - ... [10]

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Comment [2]: Following further review of the WT deliberations on the comments in relation to recommendation #13, the WT agreed that an 'impact assessment' at the time of the initiation of a PDP did not make sense and noted that a 'scope assessment' is already carried out as part of the Issue Report. The WT is therefore considering deleting recommendation #13. (James to provide alternative language for consideration).

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

372

373 Recommendation 14. [No fast-track procedure \(B/M\)](#)

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

381

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

383 **Process**

384

385 Recommendation 15. [Timeframes for Initiation of a PDP \(M\)](#)

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

390

391 Recommendation 16. [Flexibility \(M\)](#)

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

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.

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397

398 Recommendation 17. [Appeals mechanism for Advisory Committees \(M\)](#)

- 399
- 400 The PDP-WT recommends that if the GNSO Council votes to not initiate a PDP following an
401 Issue Report requested by an Advisory Committee (AC), the AC or its representatives should
402 have the opportunity to meet with representatives of the GNSO to discuss the rationale for
403 the rejection and why the AC feels that reconsideration is appropriate⁵. Following this
404 meeting, the AC may submit a statement to the GNSO Council requesting a re-vote on the
405 initiation of a PDP and giving its rationale for such a request. This process may be followed
406 just once for any given Issue Report.

406

407 Recommendation 18. [Chartering of a Working Group \(M\)](#)

- 408
- 409 The PDP-WT recommends updating clause 7 of Annex A of the ICANN Bylaws to reflect that
410 a charter is required for all Working Groups, and to specify the voting threshold that should
411 apply to the adoption of the working group charter which is identical to the one that applies
412 to the initiation of the PDP. Any modifications to a Working Group Charter made after
413 adoption by the GNSO Council of such Charter, however, may be adopted by a majority vote
414 of the GNSO Council (as such term is currently defined in [article X, section 3 of the ICANN](#)
415 Bylaws).

415

416 Recommendation 19. [Link to new PDP in GNSO Working Group Guidelines \(M\)](#)

- 417
- 418 The PDP-WT recommends that a link to the new Annex A and the PDP Manual, once
419 finalized and approved, are included in the GNSO Working Group Guidelines, as these two
420 documents provide an overview of the requirements for PDP WGs.

420

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

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

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Deleted: 6. How to involve advice from SOs, and obtain consistent input from the Board? -

432 Recommendation 20. **Input from SOs and ACs (M)**

433 ▪ The PDP-WT recommends that further explanation on how to involve Advisory Committees
434 or Supporting Organisations in a PDP be included as part of the PDP Manual. Much of this
435 will involve the codification of existing practice. It is the belief of the PDP-WT that input
436 from other SOs and ACs must be sought and treated with the same due diligence as other
437 comments and input processes. In addition, comments from ACs and SOs should receive a
438 response from the WG. This may include, for example, direct reference in the applicable
439 Report or embedded in other responsive documentation or a direct response. [The PDP WG](#)
440 [is expected to detail in its report how input was sought from ACs and SOs and how, if input](#)
441 [was received, such input has been considered.](#)

443 Recommendation 21. **Optional public comment period after the Initiation of a PDP (M)**

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

450 Recommendation 22. **Clarification of 'in scope' (B)**

451 ▪ The PDP-WT recommends modifying clause 3 – Initiation of a PDP to clarify that within
452 scope means 'within scope of ICANN's mission and more specifically the role of the GNSO' as
453 opposed to within scope of the contracted parties' definition of "consensus policies"⁶.
454 Furthermore, the PDP-WT recommends that issues raised should be mapable against
455 specific provisions in the ICANN Bylaws, the Affirmation of Commitments and/or ICANN's

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⁶ See for example section 3.3.4 of the Registrar Accreditation Agreement (<http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm>) or section 3.1 b of the .com Registry agreement (see <http://www.icann.org/en/tlds/agreements/verisign/registry-agmt-com-22sep10.htm>).

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

465

466 **Stage 3 – Working Group**

467

468 Recommendation 23. **Mode of operation for a PDP (M)**

- 469 ▪ The PDP-WT recommends that even though a Working Group currently forms the basic
470 mode of operation for a PDP, there should be flexibility to accommodate different working
471 methods if deemed appropriate by the GNSO Council, in accordance with the GNSO
472 Operating Rules. For example, in the past use has been made of “Task Forces” as well as a
473 “Committee of the Whole”. Any such new working methods must contain each of the
474 mandatory elements set forth in the ICANN Bylaws and PDP Manual.

475

476 Recommendation 24. **Information for PDP Working Groups (M)**

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

481

482 Recommendation 25. **Communication with different ICANN Departments (M)**

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

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496 Recommendation 26. [Alignment with ICANN's Strategic Plan \(M\)](#)

- 497 ▪ The PDP-WT recommends that the initiation of a PDP may include consideration of how
498 ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes,
499 and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.
500

501 Recommendation 27. [Duration of Public Comment Periods \(B/M\)](#)

- 502 ▪ The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to change the
503 duration of the public comment period on the Initial Report from 20 days to a minimum of
504 thirty calendar days. This same minimum should also apply to the public comment period on
505 the Preliminary Issue Report, while other public comment periods that a WG / GNSO Council
506 opt to have as part of a PDP should have a minimum duration of 21 days. The minimum
507 durations for the Preliminary Issue Report and Initial Report should be included in the ICANN
508 Bylaws while the minimum requirement of 21 days for other public comment periods should
509 be included in the PDP Manual. Further guidance on the recommended duration, for
510 example taking into account overlap with ICANN meetings, should be included in the PDP
511 Manual.
512

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513 Recommendation 28. [Summary and Analysis of Public Comments \(M\)](#)

- 514 ▪ The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to reflect the
515 current practice that a summary and analysis of the public comments received is to be
516 provided by the staff manager to the Working Group. [Such a summary and analysis of the
517 public comments should be provided at the latest 30 days after the closing of the public
518 comment period, absent exigent circumstances.](#) The Working Group shall review and take
519 into consideration the public comments received.
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521 Recommendation 29. [Guidance on Public Comment Periods \(M\)](#)

- 522 ▪ The PDP-WT recommends providing further guidance in the PDP Manual on how to conduct
523 public comment periods and review public comments received. Such guidance should
524 include the expectation that public comments are carefully considered and analyzed by the

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531 WG; encouraging WGs to explain their rationale for agreeing or disagreeing with the
532 different comments received and, if appropriate, how these will be addressed in the report
533 of the WG, and; other means to solicit input than the traditional public comment forums
534 such as surveys.

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535 Recommendation 30. **Implementation, Impact and Feasibility (M)**

536 ▪ The PDP-WT recommends that PDP WGs **be required to** provide input on issues related to
537 implementation **on all policy recommendations. This input could include an analysis of the**
538 **impacts of the policy, both positive and negative, including but not limited to** economic,
539 **competition, operations, privacy and other rights, scalability and** feasibility. **When**
540 **appropriate the following should be considered:**

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- 542 ○ Recommend the inclusion of implementation guidelines as part of the Final
- 543 Report;
- 544 ○ Consultation with the WG / Council on the draft implementation plan;
- 545 ○ The creation of an implementation team that consists of representatives of the
- 546 WG, amongst others, which would be tasked to review / provide input during
- 547 the implementation phase

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

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549 Recommendation 31. **ICANN Staff Resources (M)**

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

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554 Recommendation 32. **Stakeholder Group and Constituency Statements (M)**

555 ▪ The PDP-WT recommends amending clause 7 of Annex A of the ICANN Bylaws to reflect the
556 practice that Stakeholder Group / Constituency statements are requested by the Working
557 Group and the timeline for submission should start from that point instead of the initiation
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572 of the PDP. It should be noted in the PDP Manual that a WG can request Stakeholder Group
573 / Constituency statements more than once if so desired.

574

575 Recommendation 33. **Mandatory Working Group Output (B)**

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

579

580 Recommendation 34. **Initial Report vs. Final Report (B)**

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

586

587 Recommendation 35. **Mandatory Public Comment Period on Initial Report (B)**

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

592

593 Recommendation 36. **Termination of a PDP prior to publication of a Final Report (M)**

594 ▪ The PDP recommends that a provision be added to the PDP Manual to allow for the
595 termination of a PDP prior to the publication of a Final Report if the GNSO Council finds
596 significant cause and passes a motion with a Supermajority vote, as defined in the ICANN
597 Bylaws, in favour of termination.

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603 **Stage 4 – Voting and Implementation**

604

605 Recommendation 37. **Timing of consideration of Final Report (M)**

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

613

614 Recommendation 38. **Consideration of Working Group Recommendations (M)**

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

627

628 Recommendation 39. **GNSO Council Report to the Board (B/M)**

629 ■ The PDP-WT recommends that all reports to the ICANN Board concerning a PDP should be
630 publicly disclosed. In addition, it notes that the GNSO Council is responsible for the Board

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

654 Recommendation 40. [Voting Thresholds \(B/M\)](#)

- 656 The PDP-WT discussed whether the voting thresholds currently in place might need to be
657 reviewed (see also overarching issues) but agrees that this issue should be covered as part
658 of the next overall review of the GNSO. The WT does note that it has proposed two new
659 voting thresholds in relation to the adoption of the WG Charter (see recommendation 19), [as](#)
660 [well as](#) a new voting threshold for the termination of a PDP (see recommendation 37), [and](#)
661 [the definition of "Supermajority Vote" \(see recommendation 48\)](#).

662 Recommendation 41. [Board Vote \(B\)](#)

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671 ▪ The PDP-WT recommends that the provisions in relation to the Board Vote in the ICANN
672 Bylaws remain essentially unchanged, but recognizes that the current provision 13f⁷ is not
673 clear especially in relation to what ‘act’ means. [Following further review and clarification by](#)
674 [ICANN Staff \(see <http://forum.icann.org/lists/gnso-ppsc-pdp/docUUZkcHBh3A.doc>\), the WT](#)
675 [recognizes that provision 13f relates to when the Board can reject \(‘act’\) a GNSO](#)
676 [recommendation, if the GNSO recommendation was not adopted by a GNSO Supermajority.](#)
677 [The WT notes that the current placing of provision 13f is confusing and therefore](#)
678 [recommends to clarify this section by linking provision 13f to 13b, and make it clear that in](#)
679 [both instances the desired next steps would be further discussion with the GNSO Council as](#)
680 [outlined in provisions 13 c, d and e.](#) In addition, an explanation needs to be added in the
681 PDP Manual to clarify that all recommendations, [including](#) those not recommending new or
682 changes to Consensus Policies, should be communicated to the Board.

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684 Recommendation 42. **Implementation Review Team (M)**
685 ▪ The PDP-WT recommends the use of WG Implementation Review Teams, when deemed
686 appropriate, which would be responsible in dealing with implementation issues. A PDP WG
687 should provide recommendations for whether a WG Implementation Review Team should
688 be established and any other recommendations deemed appropriate in relation to such a
689 Review Team (e.g. composition) as part of its Final Report. [ICANN Staff should inform the](#)
690 [GNSO Council of its proposed implementation of a new GNSO recommended policy. If the](#)
691 [proposed implementation is considered inconsistent with the GNSO Council’s](#)
692 [recommendations, the GNSO Council may notify the Board and request that the Board](#)
693 [review the proposed implementation.](#) (see also recommendation 32)
694

⁷ 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.

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714 **Stage 5 – Policy Effectiveness and Compliance**

715

716 Recommendation 43. [Periodic Assessment of PDP Recommendations / Policy \(M\)](#)

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

720

721 Recommendation 44. [GNSO Council Review of the PDP Working Group \(M\)](#)

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

729

730 Recommendation 45. [Periodic Assessment of the overall PDP Process \(M\)](#)

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

735

736 Recommendation 46. [Review of the Working Group Model \(M\)](#)

737 ▪ The PDP-WT recommends that such an overall review also includes the review of the
738 Working Group Model in the context of the PDP, which should assess whether there are
739 stages in the PDP that are more suitable for Working Groups and those that might be more
740 suitable for formal advice from Stakeholder Groups and Constituencies.

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Other

Recommendation 47. Definition of GNSO Supermajority (B)

▪ The WT recommends that the definition of a ‘GNSO Supermajority vote’ be redefined in the ICANN Bylaws as 2/3 of the Council members of each house or 75% of one House and a majority of the other house, Specifically, Section 3.9(c) of Article X, should be modified from:
“c. Initiate a PDP Not Within Scope: requires an affirmative vote of more than 75% of one House and a majority of the other House (“GNSO Supermajority”);
to:
“c. Initiate a PDP Not Within Scope: requires an affirmative vote of a GNSO Supermajority.”
And a new stand-alone definition of GNSO Supermajority should be included at the end of Section 3.9 as follows:
“3.9 g. A “GNSO Supermajority” shall mean: (a) two-thirds (66.67%) of the Council members of each House, or (b) seventy-five percent (75%) of one House and a majority of the other 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

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

788

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

792

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

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801 3 Overarching Issues

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

808

- 809 ○ Timing
- 810 ○ Translation
- 811 ○ Development of definitions
- 812 ○ Voting thresholds
- 813 ○ Decision-making methodology
- 814 ○ Transition / Implementation of the new PDP

815

816 The initial deliberations on a number of these issues can be found in the Initial Report (see
817 <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>). On the basis of these initial
818 deliberations, the review of the public comments received [on the Initial Report as well as the](#)
819 [proposed Final Report](#) and further discussions, the PDP-WT has reached the following
820 conclusions.

821

822 1. Timing

823

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

826

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Task	Duration
Development of Preliminary Issue 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 Issue Report	Minimum of 30 Days (See Recommendation 27)
Submission of Final Issue 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 Final Issue Report by GNSO Council	At the Council meeting following the receipt of a Final 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

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	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 15)
Development of WG Charter	Council may set timeline for delivery of WG Charter at its discretion considering existing resources (both Volunteer and ICANN staff). <u>Such a timeframe should be realistic, but at the same time ensure that this task is completed as soon as possible and does not unnecessarily delay the formation of a Working Group</u>
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.

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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 32)
Public Comment Period on the Initial Report	Minimum of 30 days (See Recommendation 27)
Consideration of Final Report by GNSO Council	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.

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	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 37)
Approval of Council Recommendations Report to the Board	If feasible, at the next GNSO Council meeting following adoption of the Final Report (See Recommendation 39)
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.

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

846

847 2. Translation

848

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

853

854 The following are ICANN's current translation principles:

855

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

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- 863 - The bottom layer contains those specific documents and publications that
864 address the organisation's overall strategic thinking. They will be translated
865 into an agreed block of languages.
- 866 - The next layer contains a class of documents that ICANN undertakes to provide
867 in different languages to allow interaction within ICANN processes by non-
868 English speakers.
- 869 - The third layer comprises documents suggested by ICANN staff as being helpful
870 or necessary in ongoing processes; and documents requested by the Internet
871 community for the same reasons. These documents will be run through a
872 translation approval system.
- 873 - The top layer is where the community is encouraged to use online collaborative
874 tools to provide understandable versions of ICANN materials as well as material
875 dynamically generated by the community itself. ICANN will provide the
876 technology for community editing and rating, and a clear and predictable
877 online location for this interaction to occur. It will also seek input from the
878 community to review the tools.
- 879
- 880 English will remain the operating language of ICANN for business consultation and legal
881 purposes.
- 882
- 883 Every effort will be made to ensure equity between comments made in languages other
884 than English and those made in English. If it is not possible to arrange the release of
885 particular documents in the agreed languages at the same time, then each language will be
886 provided with the same time period in which to make comments.
- 887
- 888 ICANN will adopt the International Organisation for Standardisation's 639-2 naming system

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889 *for identifying and labelling particular languages*⁸.

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891 **PDP-WT 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 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.

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⁸ See <http://www.icann.org/en/transparency/acct-trans-frameworks-principles-23jun07.htm#trans>

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894 **3. Development of Definitions**

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

900

901 **4. Voting thresholds**

902

903 1. The WT discussed whether the voting thresholds as adopted as part of the new GNSO
904 bi-cameral structure in 2009 are still appropriate and effective. Overall, the PDP-WT
905 decided to substantially keep the existing thresholds intact and added a couple of
906 others. Below are listed the thresholds recommended by the PDP-WT followed by some
907 notes by the PDP-WT. Raising an Issue: Council initiation: 25% of the members of the
908 Council of each house or a majority of one house.

909 2. Initiating PDP:

910 a. More than 33% of the Council members of each House; or More than 66% vote
911 of one House if within scope

912 b. GNSO Supermajority Vote required if not in scope (2/3 of the Council Members
913 of each House or 75% of one House and a majority of the other house)

914 3. Vote on Approving the Charter (as recommended by the WT – see recommendation 19)

915 a. More than 33% of the Council members of each house; or More than 66% of
916 one House if within Scope

917 b. GNSO Supermajority vote required if not in scope

918 4. Vote to terminate a PDP (as recommended by the WT – see recommendation 37)

919 5. Vote of Council (From Article 10, Section 3, #9)

920 a. Approve a PDP Recommendation without a GNSO Supermajority – requires an
921 affirmative vote of majority of each House and further requires that one GNSO

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- 924 Council member representative of at least 3 of the 4 Stakeholder Groups
925 supports the Recommendation
- 926 b. Approve a PDP Recommendation with a GNSO Supermajority – requires an
927 affirmative vote of a GNSO Supermajority; and
- 928 c. Approve a PDP Recommendation Imposing New obligations on certain
929 Contracting Parties: where an ICANN contract provision specifies that “a two-
930 thirds vote of the council” demonstrates the presence of a consensus, the GNSO
931 Supermajority vote threshold will have to be met or exceeded with respect to
932 any contracting party affected by such contract provision.
- 933 6. Board Vote
- 934 a. The Board will meet to discuss the GNSO Council recommendation as
935 soon as feasible after receipt of the Board Report from the Staff
936 Manager.
- 937 b. In the event that the Council reached a GNSO Supermajority Vote, the
938 Board shall adopt the policy according to the GNSO Supermajority Vote
939 recommendation unless by a vote of more than sixty-six (66%) percent
940 of the Board determines that such policy is not in the best interests of
941 the ICANN community or ICANN.
- 942 c. In the event that the Board determines not to act in accordance with
943 the GNSO Supermajority Vote recommendation, the Board shall (i)
944 articulate the reasons for its determination in a report to the Council
945 (the "Board Statement"); and (ii) submit the Board Statement to the
946 Council.
- 947 d. The Council shall review the Board Statement for discussion with the
948 Board within twenty (20) calendar days after the Council's receipt of the
949 Board Statement. The Board shall determine the method (e.g., by
950 teleconference, e-mail, or otherwise) by which the Council and Board
951 will discuss the Board Statement.

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- 952 e. At the conclusion of the Council and Board discussions, the Council shall
953 meet to affirm or modify its recommendation, and communicate that
954 conclusion (the "Supplemental Recommendation") to the Board,
955 including an explanation for its current recommendation. In the event
956 that the Council is able to reach a GNSO Supermajority Vote on the
957 Supplemental Recommendation, the Board shall adopt the
958 recommendation unless more than sixty-six (66%) percent of the Board
959 determines that such policy is not in the interests of the ICANN
960 community or ICANN.
- 961 f. In any case in which the Council is not able to reach GNSO
962 Supermajority vote, a majority vote of the Board will be sufficient to act.
- 963 g. When a final decision on a GNSO Council Recommendation or
964 Supplemental Recommendation is timely, the Board shall take a
965 preliminary vote and, where practicable, will publish a tentative
966 decision that allows for a ten (10) day period of public comment prior to
967 a final decision by the Board
968

969 **PDP-WT Conclusion:**

- 970 ■ The PDP-WT agreed that the existing voting threshold 1 for 'Raising an Issue' is appropriate
971 as the initial gauge should continue to be low.
- 972 ■ The PDP-WT discussed voting threshold 2 'Initiating a PDP' and discussed whether a higher
973 voting threshold should apply if staff recommended against the initiation of a PDP (as
974 opposed to the ICANN General Counsel opining that the PDP is not "in scope" as set out in
975 recommendation 23). Most agreed that no higher voting threshold should be required, as it
976 would otherwise give staff indirectly a vote in the process. PDP-WT members discussed the
977 issue of prioritization and the role the current threshold, which is considered low by some,
978 plays in creating work the community and staff has difficulty keeping up with. Some were
979 of the opinion that keeping the threshold as it currently is would be appropriate. Others
980 considered there to be a strong relationship between this threshold and the prioritization

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982 effort the GNSO Council is currently undertaking and were of the opinion that if there is no
983 effective prioritization this threshold may need to be raised in order to avoid GNSO
984 community and staff overload. No consensus was reached on how best to address this issue
985 and therefore no recommendation is presented.

- 986 ▪ The WT recommends that the definition of a ‘GNSO Supermajority vote’ is redefined as 2/3
987 of the Council members of each house or 75% of one House and a majority of the other
988 house, (see recommendation 48)
- 989 ▪ In line with recommendation 19, the WT recommends the proposed voting threshold for the
990 adoption of a WG charter (voting threshold number 3 above), noting that this would require
991 every WG to have a charter. In cases where two or more competing charters would be
992 proposed, the GNSO Council Chair should facilitate a meeting between the proponents of
993 the different charter to determine whether a compromise charter can be developed ahead
994 of the GNSO Council vote. If no compromise is found, the two or more competing charters
995 are put forward for GNSO Council consideration whereby the charter with the most votes is
996 adopted. Any modifications to a Working Group Charter may be adopted by a simple
997 majority vote of the GNSO Council.
- 998 ▪ In relation to voting threshold 4 – Vote of the Council, the WT confirms its earlier conclusion
999 that the Council should be strongly discouraged from separating recommendations that a
1000 PDP Working Group has identified as interdependent. (see recommendation 39)
- 1001 ▪ In relation to 4c, it was noted that only registrars have a clause in their agreement that
1002 specifies that “a two-thirds vote of the council” demonstrates the presence of a consensus.
1003 Registries have a general definition of consensus in their agreements. A staff memorandum
1004 circulated to the group (see <http://forum.icann.org/lists/gnso-ppsc-pdp/msg00359.html>)
1005 recommends the standardization of ‘all of the voting requirements for all registries and all
1006 registrars in order to adopt Consensus Policies that would be enforceable against them.’ In
1007 addition, ICANN Staff proposed that the PDP-WT recommend that the GNSO Supermajority
1008 Vote apply in all instances where the GNSO Council intends to adopt Consensus Policies to
1009 be enforceable against all registrars and registries’. Some argued that the current wording
1010 could also imply the lower threshold vote and this clarification would ensure that the higher

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- 1018 threshold would apply, while others argued this might be a lower standard than currently
1019 applicable as 'consensus' in the registry agreement does not only relate to the vote of the
1020 GNSO Council. No consensus was reached within the PDP-WT to adopt the ICANN Staff
1021 recommendation.
- 1022 ▪ In relation to 6a, the WT discussed whether it would be possible to word this provision in a
1023 positive way (instead of noting how many are needed to reject, note how many are needed
1024 to approve).
 - 1025 ▪ In relation to 6b, the WT highlighted the importance of the board statement with info on
1026 why something was rejected. The WT discussed whether a timeframe should be included as
1027 to when the board is required to submit its statement to the GNSO Council and it was
1028 suggested that a certain timeframe should be included (e.g. Board shall within x days submit
1029 the board statement to the GNSO Council with guidance on how to cure the identified
1030 deficiencies).
 - 1031 ▪ In relation to 6c, the WT agreed to consider including a similar timeframe as for earlier
1032 discussed items (i.e. consider at next meeting if received 8 days ahead of the meeting, or at
1033 the following meeting if not received 8 days ahead of the meeting).
 - 1034 ▪ The WT also discussed whether the board should be able to pick and choose
1035 recommendations or whether they should be adopted or rejected 'en block' as has been
1036 current practice. Most agreed that the board should only be able to adopt or reject the
1037 GNSO Council recommendations as a whole as policy development is supposed to be done
1038 at the SO level, not by the board.
 - 1039 ▪ The WT discussed [6f](#) and noted that there were different interpretations of what 'will be
1040 sufficient to act' means. Some members of the contracted parties interpret this as meaning
1041 that without supermajority vote of the Council, the Board can act and adopt the
1042 recommendations with a majority vote, but these would not be binding on the contracted
1043 parties. Other members of the non-contracted parties were of the opinion that it meant that
1044 the board could act and adopt policy recommendations that would be enforceable on
1045 contracted parties even without a supermajority vote of the GNSO Council. [Following](#)
1046 [further review and clarification by ICANN Staff \(see \[Marika Konings 18/5/11 09:44\]\(http://forum.icann.org/lists/gnso-ppsc-</div><div data-bbox=\)](#)

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[pdp/docUUZkcHBh3A.doc](#)), the WT recognizes that provision 13f relates to when the Board can reject ('act') a GNSO recommendation, if the GNSO recommendation was not adopted by a GNSO Supermajority. The WT notes that the current placing of provision 13f is confusing and therefore recommends to clarify this section by linking provision 13f to 13b, and make it clear that in both instances the desired next steps would be further discussion with the GNSO Council as outlined in provisions 13 c, d and e. (see recommendation 42).

- The WT discussed [6g](#) 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 [is outlined in the GNSO Working Group Guidelines, which were adopted by the GNSO Council](#), 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. [In addition, the WT recommends](#)

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1091 [that, upon review by the GNSO Council, existing PDP Working Groups may be transitioned to the](#)
1092 [new policy development process.](#)

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1105 4 New GNSO PDP – Basis for new Annex A

1106 Based on the PDP-WT recommendations and deliberations, the PDP-WT, with the support of
1107 ICANN Staff, has developed the outline below of a new Annex A which is intended to replace the
1108 current Annex A contained in the ICANN Bylaws.

1109

1110 **Annex A – GNSO Policy Development**

1111

1112 The following process shall govern the GNSO policy development process (“PDP”) until such
1113 time as modifications are recommended to and approved by the ICANN Board of Directors
1114 (“Board”). The role of the GNSO is outlined in Article X of these Bylaws. If the GNSO is
1115 conducting activities that are not intended to result in a Consensus Policy, the Council may act
1116 through other processes.

1117

1118 **Section 1. Required Elements of a Policy Development Process**

1119

1120 The following elements are required at a minimum to form Consensus Policies as defined within
1121 ICANN contracts, [and any other policies for which the GNSO Council requests application of this](#)
1122 [Annex A](#):

1123

- 1124 a. Final Issue Report requested by the Board, the GNSO Council (“Council”) or Advisory
1125 Committee, which should include at a minimum a) the proposed issue raised for
1126 consideration, b) the identity of the party submitting the issue, and c) how that party is
1127 affected by the issue;
- 1128 b. Formal initiation of the Policy Development Process by the Council;
- 1129 c. Formation of a Working Group;
- 1130 d. Initial Report produced by a Working Group;
- 1131 e. Final Report produced by a Working Group and forwarded to the Council for
1132 deliberation;

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- 1133 f. Council approval of PDP Recommendations contained in the Final Report, by the
1134 required thresholds;
1135 g. PDP Recommendations and Final Report shall be forwarded to the Board through a
1136 Recommendations Report approved by the Council; and
1137 h. Board approval of PDP Recommendations.

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1139 Section 2. Policy Development Process Manual

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1141 The GNSO shall maintain a Policy Development Process Manual (PDP Manual) within the
1142 operating procedures of the GNSO maintained by the GNSO Council. The PDP Manual shall
1143 contain specific additional guidance on completion of all elements of a PDP, including those
1144 elements that are not otherwise defined in these Bylaws. The PDP Manual and any amendments
1145 thereto are subject to a twenty-one (21) day public comment period, as well as Board oversight
1146 and review, as specified at Article X, Section 3.6.

1147

1148 Section 3. Requesting an Issue Report

1149

1150 *Board Request.* The Board may request an Issue Report by instructing the GNSO Council
1151 ("Council") to begin the process outlined the PDP Manual.

1152

1153 *Council Request.* The GNSO Council may request an Issue Report by a vote of at least twenty-
1154 five percent (25%) of the members of the Council of each House or a majority of one House.

1155

1156 *Advisory Committee Request.* An Advisory Committee may raise an issue for policy development
1157 by action of such committee to request an Issue Report, and transmission of that request to the
1158 Staff Manager and GNSO Council.

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1161 Section 3: **Creation of an Issue Report**

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1163 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a
1164 properly supported motion from the GNSO Council; or (iii) a properly supported motion from an
1165 Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the
1166 event the Staff Manager determines that more time is necessary to create the Preliminary Issue
1167 Report, the Staff Manager may request an extension of time for completion of the Preliminary
1168 Issue Report.

1169

1170 The following elements should be considered in the Issue Report:

- 1171 a) The proposed issue raised for consideration;
- 1172 b) The identity of the party submitting the request for the Issue Report;
- 1173 c) How that party is affected by the issue, if known;
- 1174 d) Support for the issue to initiate the PDP, if known;
- 1175 e) The opinion of the ICANN General Counsel regarding whether the issue proposed for
1176 consideration within the Policy Development Process is properly within the scope of
1177 the ICANN's mission, policy process and more specifically the role of the GNSO as
1178 set forth in the PDP Manual.
- 1179 f) The opinion of the Staff Manager as to whether the Council should initiate the PDP
1180 on the issue

1181 Upon completion of the preliminary Issue Report, the Preliminary Issue Report shall be posted
1182 on the ICANN website for a public comment period of no less than 30 days

1183

1184 The Staff Manager is responsible for drafting a summary and analysis of the public comments
1185 received on the Preliminary Issue Report and producing a final Issue Report based upon the
1186 comments received. The Staff Manager should forward the Final Issue Report, along with any
1187 summary and analysis of the public comments received, to the Chair of the GNSO Council for
1188 consideration for initiation of a PDP.

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1190 Section 4: **Initiation of the PDP**

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1192 The Council may initiate the PDP as follows:

1193

1194 *Board Request:* If the Board requested an Issue Report, the Council, within the timeframe set
1195 forth in the PDP Manual, shall initiate a PDP. No vote is required for such action.

1196

1197 *GNSO Council or Advisory Committee Requests:* The Council may only initiate the PDP by a vote
1198 of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph](#)
1199 [9\(b\) and \(c\)](#) in favor of initiating the PDP.

1200

1201 Section 5: **Reports**

1202

1203 An Initial Report should be delivered to the GNSO Council and posted for a public comment
1204 period of not less than 30 days, which time may be extended in accordance with the PDP
1205 Manual. Following the review of the comments received and, if required, additional
1206 deliberations, a Final Report shall be produced for transmission to the Council.

1207

1208 Section 6. **Council Deliberation**

1209 Upon receipt of a Final Report, whether as the result of a [working group](#) or otherwise, the
1210 Council chair will (i) distribute the Final Report to all Council members; and (ii) call for Council
1211 deliberation on the matter in accordance with the PDP Manual .

1212

1213 The Council approval process is set forth in [Article X, Section 3, paragraph 9\(d\) through \(g\), as](#)
1214 [supplemented by the PDP Manual](#).

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1218 Section 7: **Preparation of the Board Report**

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1220 If the PDP recommendations contained in the Final Report are approved by the GNSO Council, a

1221 Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN

1222 Board.

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1224 Section 8. **Board Approval Processes**

1225 The Board will meet to discuss the GNSO Council recommendation as soon as feasible after

1226 receipt of the Board Report from the Staff Manager. Board deliberation on the PDP

1227 Recommendations contained within the Recommendations Report shall proceed as follows:

1228 a. Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted

1229 by the Board unless, by a vote of more than sixty-six (66%) percent of the Board, the

1230 Board determines that such policy is not in the best interests of the ICANN community

1231 or ICANN.

1232 b. In the event that the Board determines, in accordance with paragraph a above, that the

1233 policy recommended by a GNSO Supermajority Vote is not in the best interests of the

1234 ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons

1235 for its determination in a report to the Council (the "Board Statement"); and (ii) submit

1236 the Board Statement to the Council.

1237 c. The Council shall review the Board Statement for discussion with the Board as soon as

1238 feasible after the Council's receipt of the Board Statement. The Board shall determine

1239 the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and

1240 Board will discuss the Board Statement.

1241 d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm

1242 or modify its recommendation, and communicate that conclusion (the "Supplemental

1243 Recommendation") to the Board, including an explanation for the then-current

1244 recommendation. In the event that the Council is able to reach a GNSO Supermajority

1245 Vote on the Supplemental Recommendation, the Board shall adopt the

1249 recommendation unless more than sixty-six (66%) percent of the Board determines that
1250 such policy is not in the interests of the ICANN community or ICANN.

1251 e. [In any case in which the Council is not able to reach GNSO Supermajority vote, a
1252 majority vote of the Board will be sufficient, to determine that such policy is not in the
1253 best interests of the ICANN community or ICANN.]

1254 Section 9. Implementation of Approved Policies

1255 Upon a final decision of the Board adopting the policy, the Board shall, as appropriate, give
1256 authorization or direction to ICANN staff to work with the GNSO Council to create an
1257 implementation plan based upon the implementation recommendations identified in the Final
1258 Report, and to implement the policy. The GNSO Council may, but is not required to, direct the
1259 creation of an implementation review team to assist in implementation of the policy.
1260
1261
1262

1263 Section 10. Maintenance of Records

1264 Throughout the PDP, from policy suggestion to a final decision by the Board, ICANN will
1265 maintain on the Website, a status web page detailing the progress of each PDP issue. Such
1266 status page will outline the completed and upcoming steps in the PDP process, and contain links
1267 to key resources (e.g. Reports, Comments Fora, WG Discussions, etc.).
1268
1269

1270 Section 11: Additional Definitions

1271 [TO BE DETERMINED]

1272 Section 12: Transition

1273
1274

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Comment [3]: Awaiting draft language from ICANN legal to reflect WT view (see recommendation 42)

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Comment [4]: Awaiting draft language from ICANN legal to reflect WT's view (see overarching issues).

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1285 5 Policy Development Process Manual

1286

1287 As outlined before, in order to enhance flexibility of the Policy Development Process, the PDP-
1288 WT proposes to incorporate the details as well as further guidance on how to manage a PDP in a
1289 Policy Development Process Manual that would become an integral part of the GNSO Council
1290 Operating Procedures. Below is [the WT proposed form of](#) a PDP Manual that contains the main
1291 elements based on the recommendations outlined in the previous chapters.

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1292

1293 5.1 PDP Manual - Introduction

1294

1295 These guidelines and processes supplement the requirements for PDPs described in Annex A of
1296 the ICANN Bylaws [insert link].

1297

1298 5.2 Requesting an Issue Report

1299 As outlined in Annex A of the ICANN Bylaws, a request for an Issue Report may be initiated upon
1300 Board, Council or Advisory Committee request.

1301

1302 Requests for an Issue Report by the Board or by an Advisory Committee do not require any
1303 GNSO Council action, but are to be reviewed by Staff and prepared in accordance with Section
1304 5.4 below.

1305

1306 5.3 Planning for Initiation of a PDP

1307

1308 Consistent with ICANN's commitment to fact-based policy development, the GNSO Council and
1309 Staff are encouraged to provide advice in advance of a vote on the request for an [Issue Report](#)
1310 specifying any additional research, discussion, or outreach that should be conducted as part of
1311 the development of the [Issue Report](#), in order to ensure a balanced and informed [Issue Report](#).

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1312

1319 The GNSO Council is encouraged to consider scheduling workshops on substantive issues prior
 1320 to the initiation of a PDP. Such workshops could, amongst others; facilitate community
 1321 understanding of the issue; assist in scoping and defining the issue; gather support for the
 1322 request of an Issue Report, and/or; serve as a means to gather additional data and/or
 1323 information before a request is submitted. Where appropriate, the GNSO Council should
 1324 consider requiring such a workshop during the planning and initiation phase for a specific issue.
 1325 To the extent such workshops are utilized by the GNSO Council, the invitations and/or
 1326 announcements for workshops should be communicated as broadly as possible.

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1327
 1328 The GNSO Council should take into full account the resources available, both volunteers and
 1329 staff, when making its decision on whether or not to initiate a PDP.

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1330
 1331 **5.4 Recommended Format of Issue Report Requests**

1332
 1333 The recommended format of requests for Issue Reports under paragraphs (b) and (c) of Section
 1334 2 is described below:

1335

Request for Issue Report	
Name of Requestor:	
Name of Stakeholder Group/Constituency/ Advisory Committee (if applicable) in support of request:	
Please provide rationale for policy development:	
Brief explanation of how issue affects your SG Constituency / Advisory Committee :	
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, including quantification to the extent feasible :	

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Comment [5]: Based on public comments received, WT to review template and determine which elements of the template should be required and how sufficient flexibility can be guaranteed.

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What is the economic impact or effect on competition, consumer trust, privacy and other rights:	
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:	

1341

1342 **5.5 Creation of the Preliminary Issue Report**

1343

1344 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a
1345 properly supported motion from the GNSO Council; or (iii) a properly supported motion from an
1346 Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the
1347 event the Staff Manager determines that more time is necessary to create the Preliminary Issue
1348 Report, the Staff Manager may request an extension of time for completion of the Preliminary
1349 Issue Report, which request should be discussed with the Requestor.

1350

1351 In the event that the Issue Report was initially requested by the Board or an Advisory
1352 Committee, the requestor shall be informed of any extension of time for completion of the Issue
1353 Report. Any request for extension of time should include consideration of the complexity of the
1354 issue, the extent of research and outreach recommended, and the ICANN Staff workload.

1355

1356 The following elements should be considered in the Issue Report:

- 1357 a) The proposed issue raised for consideration;
- 1358 b) The identity of the party submitting the request for the Issue Report;
- 1359 c) How that party is affected by the issue, if known;

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- 1360 d) Support for the issue to initiate the PDP, if known;
- 1361 e) The opinion of the ICANN General Counsel regarding whether the issue proposed for
- 1362 consideration within the Policy Development Process is properly within the scope of
- 1363 the ICANN's mission, policy process and more specifically the role of the GNSO. In
- 1364 determining whether the issue is properly within the scope of the ICANN policy
- 1365 process, General Counsel's opinion should examine whether the issue:
- 1366 a. is within the scope of ICANN's mission statement, and more specifically the
- 1367 role of the GNSO;
- 1368 b. is broadly applicable;
- 1369 c. is likely to have lasting value or applicability, albeit with the need for
- 1370 occasional updates;
- 1371 d. is likely to enable ICANN to carry out its commitments under the Affirmation
- 1372 of Commitments;
- 1373 e. will establish a guide or framework for future decision-making;
- 1374 f. will implicate or affect an existing ICANN policy.
- 1375 f) The opinion of the Staff Manager as to whether the Council should initiate the PDP
- 1376 on the issue

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1378 5.6 Public Comment on the Preliminary Issue Report

1379

1380 Upon completion of the preliminary Issue Report, the preliminary Issue Report shall be posted

1381 on the ICANN website for a public comment period of no less than 30 days. When posted for

1382 Public Comment, Staff is encouraged to translate the executive [summary](#) of Preliminary Issue

1383 Reports into the six UN languages to the extent permissible under the ICANN translation policy

1384 and the ICANN budget, though the posting of any version in English shall not be delayed while

1385 translations are being completed.

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1386

1387 The Staff Manager is responsible for drafting a summary and analysis of the public comments

1388 received on the Issue Report and producing a [Final](#) Issue Report based upon the comments

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1395 received. The Staff Manager should forward the Final Issue Report, along with any summary and
1396 analysis of the public comments received, to the Chair of the GNSO Council for consideration for
1397 initiation of a PDP.

1398

1399 The summary and analysis and the Final Issue Report are expected to be delivered to the Chair
1400 of the GNSO Council within 30 days of the closing of the public comment forum, though the Staff
1401 Manager may request an extension of that 30-day time for delivery.

1402

1403 **5.7 Initiation of the PDP**

1404

1405 The Council may initiate the PDP as follows:

1406

1407 *Board Request:* If the Board requested an Issue Report, the Council, within the timeframe set
1408 forth in the paragraph below, shall note for the record the confirmation of receipt of the Issue
1409 Report and the formal initiation of the PDP. No vote is required for such action.

1410

1411 *GNSO Council or Advisory Committee Requests:* The Council may only initiate the PDP by a vote
1412 of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph](#)
1413 [9\(b\) and \(c\)](#) in favor of initiating the PDP.

1414

1415 *Timing of vote on Initiation of the PDP.* The Council should endeavour to vote on whether to
1416 initiate the policy development process at the next scheduled Council meeting following the
1417 receipt of a [Final](#) Issue Report; provided that the Issue Report is received at least eight (8)
1418 calendar days prior to the GNSO Council meeting. If the Issue Report is forwarded to the GNSO
1419 Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council
1420 meeting, the Council should endeavour to vote on the initiation of the PDP at the subsequent
1421 GNSO Council meeting. At the written request of any voting Council member, for any reason,
1422 consideration of the Issue Report may be postponed by not more than one (1) meeting,
1423 provided that that the Council member details the precise rationale for such a postponement.

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1425 Consideration of the Issue Report may only be postponed for a total of one (1) meeting, even if
1426 multiple Council members request postponement.

1427

1428 Upon consideration of the Issue Report the GNSO Council may, when necessary, vote to suspend
1429 further consideration of the Issue Report. Any motion to suspend further consideration of the
1430 Issue Report shall fail if the votes in favor of continuing consideration of the Issue Report is
1431 sufficient to initiate a PDP under Article X Section 9.b or 9.c of the Bylaws, as appropriate. The
1432 basis for suspension could include prioritization reasons such as insufficient Staff or community
1433 support available due to other ongoing PDP work, requests for additional data and requests for
1434 additional discussion. The GNSO Council is expected to use this procedure sparingly, and should
1435 generally endeavour to vote on the initiation of a PDP within 90 calendar days of the receipt of
1436 the Final Issue Report. Any decision to suspend consideration of the Final Issue Report is to be
1437 accompanied by a proposed timeline for further consideration, including a timeline for a vote on
1438 the initiation of the PDP.

1439

1440 In the event that the GNSO Council does not approve the initiation of the PDP, not including the
1441 possible suspension of further consideration of the Issue Report as described above, any
1442 Councillor may appeal the denial, and request that the GNSO Council hold a renewed vote on
1443 the initiation of the PDP at the next subsequent GNSO Council meeting.

1444

1445 In the event that the GNSO Council does not approve the initiation of the PDP following an Issue
1446 Report requested by an Advisory Committee (AC), the AC or its representatives should have the
1447 opportunity to meet with representatives of the GNSO, and in particular, those voting against
1448 the initiation of the PDP, to discuss the rationale for the rejection and why the AC feels that
1449 reconsideration is appropriate. Following this meeting, the AC may submit a statement to the
1450 GNSO Council requesting a re-vote and giving its rationale for such a re-vote. This process may
1451 be followed just once for any given Issue Report.

1452

1453 As part of its decision on the initiation of the PDP, the GNSO Council may include consideration
1454 of how ICANN's budget and planning can best accommodate the PDP and/or its possible
1455 outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.
1456

1457 **5.8 Development and Approval of the Charter for the PDP**

1458
1459 Upon initiation of the PDP, a group formed at the direction of Council should be convened to
1460 draft the charter for the PDP Team. The Council should indicate the timeframe within which a
1461 draft PDP Charter is expected to be presented to the Chair of the GNSO Council. [Such a](#)
1462 [timeframe should be realistic, but at the same time ensure that this task is completed as soon as](#)
1463 [possible and does not unnecessarily delay the formation of a Working Group.](#) The elements of
1464 the Charter should include, at a minimum, the following elements as specified in the GNSO
1465 Working Group Guidelines: Working Group Identification; Mission, Purpose and Deliverables;
1466 Formation, Staffing and Organization, and; Rules of Engagement.
1467

1468 The Council should consider whether to approve the proposed PDP Charter at the Council
1469 meeting following the Chair's receipt of the proposed PDP Charter; provided that the proposed
1470 PDP Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the
1471 proposed PDP Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days
1472 immediately preceding the next GNSO Council meeting, the Council should endeavour to
1473 consider the proposed PDP Charter at the meeting after the next GNSO Council meeting.
1474

1475 The same voting thresholds that apply to the initiation of the PDP also apply to the approval of
1476 the proposed PDP Charter. Specifically, the proposed PDP Charter is to be approved with an
1477 affirmative vote of more than 33% of the Council members of each House or more than
1478 66% vote of one House in favour of approval of a Charter for a PDP within scope; unless the Staff
1479 Recommendation stated that the issue is not properly within the scope of the ICANN policy
1480 process or the GNSO, in which case a GNSO Supermajority Vote as set forth in [Article X, Section](#)

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1481 [3, paragraph 9\(c\)](#) in favour of approving the PDP Team Charter is specified to approve the PDP
1482 Charter.

1483

1484 Once approved, modification of any PDP Charter is discouraged, absent special circumstances.

1485 Approved charters may be modified or amended by a simple majority vote of each House.

1486

1487 In exigent circumstances, upon approval of the initiation of the PDP, the GNSO Council may

1488 direct certain work to be performed prior to the approval of the PDP Charter.

1489

1490 **5.9 PDP Outcomes and Processes**

1491

1492 Upon approval of the PDP Charter, the GNSO Council may form a working group, task force,

1493 [committee of the whole](#) or drafting team (the “PDP Team”), to perform the PDP activities. The

1494 preferred model for the PDP Team is the Working Group model due to the availability of specific

1495 Working Group rules and procedures that are included in the GNSO Operating Rules and

1496 Procedures. The GNSO Council should not select another model for conducting PDPs unless the

1497 GNSO Council first identifies the specific rules and procedures to guide the PDP Team’s

1498 deliberations which should at a minimum include those set forth in the ICANN Bylaws and PDP

1499 Manual. The PDP Team is required to review and become familiar with the GNSO Working

1500 Group Guidelines, which also apply to PDP Working Groups ([see](#)

1501 <http://gnso.icann.org/council/annex-1-gnso-wg-guidelines-07apr11-en.pdf>), which includes

1502 further information and guidance on the functioning of GNSO Working Groups.

1503

1504 Once formed, the PDP Team is responsible for engaging in the collection of information. If

1505 deemed appropriate or helpful by the PDP Team, the PDP Team may solicit the opinions of

1506 outside advisors, experts, or other members of the public. The PDP Team should carefully

1507 consider the budgetary impacts, implementability, and/or feasibility of its proposed information

1508 requests and/or subsequent recommendations.

1509

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1512 The PDP Team should formally solicit statements from each Stakeholder Group and
1513 Constituency in the early stages of the PDP. Stakeholder Groups and Constituencies should at a
1514 minimum have 35 days to complete such a statement from the moment that the statement is
1515 formally requested by the PDP Team. If appropriate, such statements may be solicited more
1516 than once by the PDP Team throughout the PDP process. The PDP Team is also encouraged to
1517 formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as
1518 appropriate that may have expertise, experience, or an interest in the PDP issue. Solicitation of
1519 opinions should be done during the early stages of the PDP.

1520

1521 In addition, the PDP Team should seek input from other SOs and ACs. Such input should be
1522 treated with the same due diligence as other comments and input processes. In addition,
1523 comments from ACs and SOs should receive a response from the PDP Team. This may include,
1524 for example, direct reference in the applicable Report or embedded in other responsive
1525 documentation or a direct response. [The PDP Team is expected to detail in its report how input](#)
1526 [was sought from other SOs and ACs.](#)

1527

1528 The PDP Team is encouraged to establish communication in the early stages of the PDP with
1529 other departments, outside the policy department, within ICANN that may have an interest,
1530 expertise, or information regarding the implementability of the issue. The Staff Manager is
1531 responsible for serving as the intermediary between the PDP Team and the various ICANN
1532 departments (finance, legal, compliance, etc.). The PDP Team Chair may escalate to the Vice
1533 President of Policy if the PDP Team is of the opinion that such communications have been
1534 hindered through the involvement of ICANN policy Staff. ICANN Staff may perform additional
1535 distinct roles for a PDP Team as requested and appropriate (see [GNSO Working Group](#)
1536 [Guidelines](#) for further details).

1537

1538 This Section illustrates the types of outcomes that are permissible from a PDP. PDP Teams may
1539 make recommendations to the GNSO Council regarding:

1540

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- 1541 i. Consensus policies
1542 ii. Other policies
1543 iii. Best Practices
1544 iv. Implementation Guidelines
1545 v. Agreement terms and conditions
1546 vi. Technical Specifications
1547 vii. Research or Surveys to be Conducted
1548 viii. Advice to ICANN or to the Board
1549 ix. Advice to other Supporting Organizations or Advisory
1550 Committee
1551 x. Budget issues
1552 xi. Requests for Proposals
1553 xii. Recommendations on future policy development activities
1554

1555 At the same time, a PDP Team may also conclude that no recommendation is necessary.
1556

1557 The Staff Manager is responsible for coordinating with the Chair(s) of the PDP Team to supervise
1558 and to carry out the PDP activities as necessary or appropriate, including, without limitation,
1559 making available the standard technical resources for the PDP Team, scheduling and attending
1560 PDP Team meetings, drafting and publishing PDP reports for public comment, and providing
1561 expertise where needed.
1562

1563 5.10 Publication of the Initial Report

1564

1565 After collection and review of information, the PDP Team and Staff are responsible for
1566 producing an Initial Report. The Initial Report should include the following elements:

- 1567 • Compilation of Stakeholder Group and Constituency Statements
1568 • Compilation of any statements received from any ICANN Supporting Organization or
1569 Advisory Committee

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- 1570
- Recommendations for policies, guidelines, best practices or other proposals to address the issue
- 1571
- Statement of level of consensus for the recommendations presented in the Initial Report
- 1572
- Information regarding the members of the PDP Team, such as the attendance records, Statements of Interest, etc.
- 1573
- [Impact analysis, both positive and negative, on all issues related to implementation including but not limited to economic, competition, operations, privacy and other rights, scalability and feasibility.](#)
- 1574
- 1575
- 1576
- 1577
- 1578
- 1579

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1580 These elements may be included as content within the Initial Report or by reference to

1581 information posted on an ICANN website (such as through a hyperlink).

1582

1583 The Initial Report should be delivered to the GNSO Council and posted for a public comment

1584 period of not less than 30 days. If such a public comment period would coincide with an ICANN

1585 Public Meeting, the PDP Team is strongly encouraged to extend the public comment period a

1586 minimum of seven (7) days. Any public comment period on items other than the Issue Report

1587 and Initial Report shall be for a minimum of 21 days. The PDP Team is encouraged to explore

1588 other means to solicit input than the traditional public comment forum such as, for example, the

1589 use of a survey which might allow for asking more targeted questions.

1591 5.11 Preparation of the Final Report

1592

1593 At the end of the public comment period, the Staff Manager [will prepare a summary and](#)

1594 [analysis of the public comments received for the Working Group. Such a summary and analysis](#)

1595 [of the public comments should be provided at the latest 30 days after the closing of the public](#)

1596 [comment period, absent exigent circumstances. The Working Group shall review and take into](#)

1597 [consideration the public comments received. Following this review, the Staff Manager,](#) in close

1598 coordination with the PDP Team, [shall add those comments](#) deemed appropriate for inclusion to

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1608 the Initial Report. In addition, the Staff Manager and the PDP Team may update the Initial
1609 Report if there are any recommendations within the Initial Report that require modification to
1610 address comments received through public comment. Such a revised Report shall be put
1611 forward for consideration by the PDP Team. The Staff Manager and the PDP Team are not
1612 obligated to include all comments made during the comment period, including each comment
1613 made by any one individual or organization.
1614
1615 The PDP Team is expected to deliberate as appropriate to properly evaluate and address
1616 comments raised during the public comment period. This should include the careful
1617 consideration and analysis of the public comments; explaining the rationale for agreeing and
1618 disagreeing with the different comments received, and, if appropriate, how these will be
1619 addressed in the report of the PDP Team. Following the review of the comments received and, if
1620 required, additional deliberations, the PDP Team is expected to produce a Final Report for
1621 transmission to the Council. The analysis of the comments by the PDP Team is expected to be
1622 included or referenced as part of the Final Report.
1623
1624 While the Final Report is not required to be posted for public comment, in preparing the Final
1625 Report, the PDP Team should consider whether the Final Report should be posted for public
1626 comment as a [Draft] Final Report, with the goal of maximizing accountability and transparency
1627 with regards the PDP, especially when substantial changes have been made compared to the
1628 contents of the Initial Report. When posted for Public Comment, Staff should consider
1629 translating the executive summaries of the Initial Reports and Draft Final Reports into the six UN
1630 languages, to the extent permissible under the ICANN translation policy and the ICANN budget,
1631 though the posting of any version in English is not to be delayed while translations are being
1632 completed. Upon completion of the Public Comment period, if any, and incorporation of any
1633 additional comments identified therein, or if no further comment period is necessary, the Final
1634 Report is to be forwarded to the GNSO Council Chair to begin the GNSO Council deliberation
1635 process.
1636

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... [33]

1643 In addition to any required public comment periods, the PDP Team may seek public comment on
1644 any item that the PDP Team notes it will benefit from further public input. The PDP Team does
1645 not have to seek approval from the GNSO Council to seek public comment on interim items. The
1646 minimum duration of a public comment period that does not concern the Initial Report is twenty
1647 (21) days.

1648
1649 Each recommendation in the Final Report should be accompanied by the appropriate consensus
1650 level designation (see [section 3.6 – Standard Methodology for Making Decisions in the GNSO](#)
1651 [Working Group Guidelines](#)).

1653 5.12 Council Deliberation

1654
1655 The GNSO Council is strongly encouraged to consider the recommendations within the Final
1656 Report at the next meeting after the Final Report is forwarded to the Council Chair, provided
1657 that the Final Report is forwarded to the Council Chair at least eight (8) calendar days prior to
1658 the GNSO Council meeting. If the Final Report is forwarded to the GNSO Council Chair within the
1659 eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council
1660 should consider the Final Report at the meeting after the next GNSO Council meeting. At the
1661 written request of any voting Council member, for any reason, consideration of the Final Report
1662 may be postponed for no more than one (1) meeting, provided that that such Council member
1663 details the precise rationale for such a postponement. Consideration of the Final Report may
1664 only be postponed for a total of one (1) meeting, even if multiple Council members request
1665 postponement. The GNSO Council may, if deemed appropriate, schedule a separate session with
1666 the PDP Team to discuss the Final Report and ask any clarifying questions that might arise.

1667
1668 The GNSO Council is expected to vote on the recommendations contained in the Final Report.
1669 Approval of the PDP recommendations contained in the Final Report requires an affirmative
1670 vote meeting the thresholds set forth at Article X, Section 3(9) d – f.

1671

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1680 In the event that the Final Report includes recommendations that did not achieve the consensus
1681 within the PDP Team, the GNSO Council should deliberate on whether to adopt them or remand
1682 the recommendations for further analysis and work. Although the GNSO Council may adopt all
1683 or any portion of the recommendations contained in the Final Report, it is recommended that
1684 the GNSO Council take into account whether the PDP Team has indicated that any
1685 recommendations contained in the Final Report are interdependent. The GNSO Council is
1686 strongly discouraged from itemizing recommendations that the PDP Team has identified
1687 interdependent or modifying recommendations wherever possible. In the event the GNSO
1688 Council expresses concerns or proposes changes to the PDP recommendations, it may be more
1689 appropriate to pass these concerns or recommendations for changes back to the respective PDP
1690 Team for input and follow-up.

1691

1692 5.13 Preparation of the Board Report

1693

1694 If the PDP Recommendations contained in the Final Report are approved by the GNSO Council,
1695 the GNSO Council may designate a person or group responsible for drafting a Recommendations
1696 Report to the Board. If feasible, the Recommendations Report to the Board should be submitted
1697 to the Board [in time for consideration at the next GNSO Council meeting](#) following adoption of
1698 the Final Report. Staff should inform the GNSO Council from time to time of the format
1699 requested by the Board. These GNSO Council Reports supplement any Staff Reports that may
1700 highlight any legal, implementability, financial, and other operational concerns related to the
1701 PDP recommendations contained in the Final Report. In order to enhance ICANN's accountability
1702 and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions
1703 wherever possible, without jeopardizing information that may be protected under
1704 attorney/client or other legal privileges.

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1706 5.14 GNSO Council Role in Implementation

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1709 Upon a final decision of the Board adopting the GNSO PDP policy, the Board may, as
1710 appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to
1711 create an implementation plan based upon the implementation recommendations identified in
1712 the Final Report, and to implement the policy in as timely a fashion as possible. The GNSO
1713 Council may, but is not required to, direct the creation of an Implementation Review Team to
1714 assist Staff in developing the implementation details for the policy. In its Final Report, the PDP
1715 Team should provide recommendations to the GNSO Council on whether an Implementation
1716 Review Team should be established and any other recommendations deemed appropriate in
1717 relation to such an Implementation Review Team (e.g. composition).

1718
1719 ICANN Staff should inform the GNSO Council of its proposed implementation of a new GNSO
1720 recommended policy. If the proposed implementation is considered inconsistent with the GNSO
1721 Council's recommendations, the GNSO Council may notify the Board and request that the Board
1722 review the proposed implementation. Until the Board has considered the GNSO Council request,
1723 ICANN Staff should refrain from implementing the policy, although it may continue developing
1724 the details of the proposed implementation while the Board considers the GNSO Council
1725 request.

1726

1727 **5.15 Termination of PDP prior to Final Report**

1728 The GNSO Council, may terminate a PDP prior to the publication of a Final Report only for
1729 significant cause, upon a motion that passes with a Supermajority Vote in favour of termination.
1730 The following are illustrative examples of possible reasons for a premature termination of a PDP:

1731

- 1732 1. **Deadlock.** The PDP Team is hopelessly deadlocked and unable to identify
1733 recommendations or statements that have either the strong support or a consensus
1734 of its members despite significant time and resources being dedicated to the PDP;
- 1735 2. **Changing Circumstances.** Events have occurred since the initiation of the PDP that
1736 have rendered the PDP moot or no longer necessary; or

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1737 3. **Lack of Community Volunteers.** Despite several calls for participation, the work of
1738 the PDP Team is significantly impaired and unable to effectively conclude its
1739 deliberations due to lack of volunteer participation.
1740

1741 If there is no recommendation from the PDP Team for its termination, the Council is required to
1742 conduct a public comment forum first prior to conducting a vote on the termination of the PDP
1743 (as described above).
1744

1745 5.16 Amendments or Modifications of Approved Policies

1746
1747 Approved GNSO Council policies may be modified or amended by the GNSO Council at any time
1748 prior to the final approval by the ICANN Board as follows:
1749

- 1750 1. The PDP Team is reconvened or, if disbanded, reformed, and should be consulted with
1751 regards to the proposed amendments or modifications;
- 1752 2. The proposed amendments or modifications are posted for public comment for not less
1753 than thirty (30) days;
- 1754 3. The GNSO Council approves of such amendments or modifications with a SuperMajority
1755 Vote of both Houses in favour.
1756

1757 Approved GNSO Council policies that have been adopted by the ICANN Board and have been
1758 implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue.
1759

1760 5.17 Periodic Assessments of Approved Policies

1761
1762 Periodic assessment of PDP recommendations and policies is an important tool to guard against
1763 unexpected results or inefficient processes arising from GNSO policies. PDP Teams are
1764 encouraged to include proposed timing, assessment tools, and metrics for review as part of their

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1767 Final Report. In addition, the GNSO Council may at any time initiate reviews of past policy
1768 recommendations.

1769

1770 **5.18 Miscellaneous**

1771

1772 This Manual may be updated by the GNSO Council from time to time following the same
1773 procedures as applicable to amendments to the GNSO Council Operating Rules and Procedures.

1774

1775 In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the
1776 ICANN Bylaws shall supersede.

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Annex I - Public Comment Forum on the Initial Report

A public comment forum was held on the Initial Report which ran from 31 May to 30 September (see

<http://www.icann.org/en/announcements/announcement-2-31may10-en.htm>). A summary of the comments received can be found [here](#). In addition, the WT developed a public comment review tool to facilitate review and discussion of the comments received as well as providing an overview of how the different comments have been addressed in this report. You can review the public comment review tool hereunder.

PDP WT – Public Comments Review Tool

Updated 11 November 2010

	Comment (Summary)	Who	WG Response	Recommended Action/Change
General Issues				
Working Group Model	Prior to formally institutionalizing the WG model, the PDP WT should undertake or commission a review of whether the WG model is in fact optimal for addressing PDP issues	ALAC	There are some concerns from the ALAC if the PDP would mandate the WG model as there are known weaknesses, e.g. uneven representation. It was suggested that the PDP-WT could call for the evaluation of the WG model which should assess whether there are stages in the PDP that are more suitable for WGs and those that might be more suitable for formal advice from SGs / Constituencies. It was also noted that	<ul style="list-style-type: none"> ▪ Recommend review of WG model for PDP ▪ Ensure a structure that is flexible enough to accommodate different working methods, possibly requiring some core principles

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			new models might emerge, therefore, the PDP should not be restricted to only WGs but leave flexibility for future adoption of alternative mechanisms. The WT debated whether there should be overall principles that any method should contain such e.g. representativeness.	
Evidence / data	PDPs should be based on responsibly document evidence of an issue to be addressed. A reasonable data-driven threshold for introduction of a PDP is a necessary step.	RrSG	The basis of the comment is that anecdotal evidence is not sufficient, there should be a push to provide as much information as possible. The question was raised whether there are certain areas where there should be some flexibility. It was suggested that in those cases additional efforts should be made to gather information, but if there is community agreement, this might be circumvented. Some noted that the GNSO is the manager of the process and should have the discretion to make these kinds of decisions, a black/white rule would not make sense here.	None
Stage 3 – 3a	ICANN was established with parameters for good reasons – to keep the organization from overreaching and causing disruption, to clearly define its role, etc. If the GNSO is willing to continue accepting every issue	RrSG	Some noted that not every issue that is raised at the GNSO Council level is a gTLD policy issue, e.g. Internet Governance, DNS Cert. Not every issue that is raised will meet the GNSO scope test.	

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	that's raised, whether in scope or not, ICANN will continue to experience the difficulties it does now. Setting reasonable boundaries about scope should not be difficult.			
Stage 3 – 3b	No potential outcomes should be dictated as part of the PDP, though the SG agrees a requestor should identify potential outcomes if possible, without bias.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
Stage 3 – 3c	The proposed suggestion (if there is not sufficient information available, an issue does not pass to the next stage) is a reasonable one. Proceeding blindly on policy development without sufficient information is irresponsible.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
Stage 3 – 3d	The RrSG agrees that a variety of alternatives should be employed to address issues of concern to the community. A PDP may or may not be the appropriate method.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
PDP and other activities	It is important to distinguish between what constitutes a PDP and 'other' GNSO Council activities that might also result in creation of WGs or development of charters but for which no formal process	BXL meeting	The WT discussed that although it might be helpful to provide further details on the significance of a PDP and when a PDP is supposed to be utilized to distinguish it from 'other' GNSO activities.	<ul style="list-style-type: none"> ▪ Develop introductory paragraph on what constitutes a PDP to be added to the report.

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	has been defined at this point in time.			
GNSO Council / GNSO	Need to distinguish between GNSO Council and GNSO as these are not synonyms	BXL meeting	The WT agreed with this comment and will update the report accordingly.	<ul style="list-style-type: none"> Review report and verify that the terms GNSO Council and GNSO are used correctly
By-laws	By-laws should provide high-level overview of PDP process, with further details going into rules of procedure.	BXL meeting	The WT agreed that the by-laws should provide a high-level overview of the PDP process by outlining the main principles and constraints in the by-laws, while other elements would be incorporated in the rules of procedure.	<ul style="list-style-type: none"> Ensure that any draft by-law language follows this principle
PDP Flow Chart	<p>The RySG notes that the PDP Flowchart shows the 'Initiation of a PDP' prior to the 'Creation if a Drafting Team to develop the WG Charter'. In recent GNSO PDPs, it has appeared to be helpful to have a draft charter prepared before initiating the PDP; that then makes it easier to decide whether a PDP should be initiated because the desired objectives and deliverables are defined.</p> <p>For 'Adoption of the Charter', the "Same voting thresholds apply as</p>	RySG	<p>The WT noted that the flowchart did not allow for the flexibility that might be needed in this case and it expressed its support for the flexibility of having a draft of the charter prepared before or after initiation of the PDP. Further guidance on such flexibility should be provided in the rules of procedure.</p> <p>The WT pointed out that by applying the default threshold, the vote to adopt a charter would be higher than the actual initiation of a PDP which could result in possible gaming (i.e. those opposed to initiating the PDP could block the adoption of the charter). The WT did</p>	<ul style="list-style-type: none"> Update recommendation 19 by adding that modifications to a WG charter may be adopted by a simple majority vote of the GNSO Council

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	for the Initiation of the PDP". The voting thresholds for initiating a PDP are as follows: To initiate a PDP within scope requires an affirmative vote of more than 33% of each House or more than 66% of one House. To initiate a PDP not within scope requires an affirmative vote of more than 75% of one House and a majority of the other House ("GNSO Supermajority"). It might be simpler to apply the default threshold, a simple majority of each house.		agree that modifications to the charter should be adopted by a simple majority vote of the GNSO Council.	
Relating to Recommendation #¹²				
1 (Who -Request for Issues Report)	The PDP ought to address the manner in which unaffiliated groups and individuals can properly raise issues they would like to be considered. For instance, a funneling mechanism through which issues are vetted and/or passed to the GNSO or AC or relevant constituencies likely to have similar concerns, may be	INTA	The WT did discuss this question as part of its deliberations. In its view, if the issue would be considered important enough, it would be picked up by one of the constituencies or stakeholder groups. In addition, if there is no interest from constituencies or stakeholder groups to take up the issue, the unaffiliated group or individual can reach out to the Board or one of the Advisory Committees to get	

¹² Please note that the numbering refers to the numbering of the recommendations as marked in the Initial Report

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	considered.		the issue raised.	
1 (Who -Request for Issues Report)	<p>It is appropriate that the current mechanisms for initiating a request for an Issues Report be maintained and not expanded. The language of the current Recommendation may itself create further confusion. For example, is it the WT's intention to equate the necessary action as between the GNSO Council and an AC? If so, that would have been clearer had the recommended language for (b) (where the Council raises an issue) read "raise an issue for policy development" (as it currently reads in relation to ACs) rather than simply "raise an issue". Another option might simply be to re-title Section 1 of Annex A of the latest ICANN Bylaws, to read "Raising an Issue for Consideration Before Initiation of a PDP" (instead of just "Raising An Issue", which is the current wording.) A separate section dealing with Board initiation of a PDP (bypassing an Issues Report and Council vote) should then be added. In similar vein, the words "Issue Raised by the Board" in Section 3(a) of Annex</p>	Mary Wong	<p>Noted and agreed. The WT agrees with the clarification and will take the recommendation into account when reviewing the proposed new Annex A.</p>	

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	A should be amended to read "Initiation of PDP by the Board".			
2 (Language – Request for Issues Report)	Although this was presumably not part of the WT’s charge, striking the “members present” language should be reviewed against other parts of the Bylaws (and any other applicable rules to ICANN constituent bodies, offices, committees, teams and groups, as the case may be) to see if similar problems present themselves in those situations and respects. A template for requesting an Issues Report would be useful, but ought not to be mandatory.	Mary Wong	The WT notes that this will be addressed in the new Annex A. The WT agrees that the use of a template is to be recommended but not mandatory.	
3 (How – Request for Issues Report)	Support for recommendation 3 and suggests that said Manual will also be open for public comment as it is developed.	INTA	Noted. The WT confirmed that it does have the intention to put out the manual or rules of procedure (which might be a more appropriate term) for public comment in due time.	
3 (How – Request for Issues Report)	How are the contents of the PDP Manual/Guidebook going to be developed? Note also that Recommendation 5 appears to duplicate Recommendation 3.	RySG	The WT discussed that the rules of procedure would together with the by-laws form one whole, with the by-laws outlining the basic (mandatory) principles and the rules of procedures providing the details including examples and optional steps. Normally the WT report should provide the ingredients for the rules of	

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			procedure which might be further worked out by the WT with the support of ICANN staff.	
4 (How – Request for Issues Report)	Some basic template detail should probably be mandatory, including for instance a statement as to why the issue is important to the relevant constituency.	INTA	The WT did discuss as part of its deliberations whether a template or certain elements of the template should be mandatory, but the WT is of the opinion that its use should be strongly recommended, but not mandatory. The WT also noted that in combination with some of the other recommendations, such as additional research and discussion in advance of making a request would contribute to making additional information available in support of a request for an issues report.	
4 (How – Request for Issues Report)	Issues for consideration should be raised through an electronic/online process that is linked to relevant sections of the PDP Manual.	INTA	The WT agreed that it might be worth exploring in due time, but as a ‘nice to have’, not a mandatory function.	
4 (How – Request for Issues Report)	The RrSG believes this is a responsible step toward making future policies based on evidence and facts. A template that includes a clearly defined problem, well-documented supporting evidence, and a rationale for the use of increasingly very limited resources for development of policy, would	RrSG	The WT agreed noting that there the limited resources apply both to staff as well as community volunteers.	

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	be a useful tool.			
4 (How – Request for Issues Report)	Any manual or guidebook should encourage that ICANN participants are mindful and respectful of ICANN’s limited resources.	RrSG	The WT noted that limited resources apply both to staff as well as community volunteers.	
4 (How – Request for Issues Report)	The RrSG looks forward to a continued discussion of what would constitute a reasonable threshold for initiating a PDP.	RrSG	Noted, and this will be covered in further detail in the discussion on ‘overarching issues’ that addresses voting thresholds.	
3, 4 & 5 (How – Request for Issues Report & Issue Scoping)	A manual and/or guidelines would be helpful. It is not clear at this point how, and by whom, these manuals and guidelines will be developed. They ought to be a community process. Similarly, suggestions for identifying potential outcomes and ways to define the issue should be accomplished with community input. Recommendation #5 seems repetitive in light of previous recommendations. Are there specific issues or concerns that were not addressed by, say, Recommendation #3, that the WT intended be addressed here?	Mary Wong	Noted and agreed. The content of the manual will be open for community input as the basic outline for such a manual is expected to be part of the draft Final Report. Agreed, but recommendation #5 is the result of a different discussion and therefore does serve a specific purpose.	
6 (Creation of Issues Report)	Should there be certain requirements for which elements	BXL Meeting	The WT is of the opinion that certain elements should be encouraged, but not	

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	an Initial Report should contain, e.g. draft recommendations / conclusions?		necessarily mandated.	
6 (Creation of Issues Report)	In some cases it might be useful to do additional research, hold discussions or conduct outreach before an Issues Report is requested, so it might be useful to include this possibility in the manual/guidebook.	RySG	Noted	
6 (Creation of Issues Report)	The Bylaws should not be complicated with too much detail, particularly (in this regard) the precise contents of an Issues Report. The WT recommendation that this be taken up as part of the preparation of the manual and guidelines is a good way of ensuring that sufficient guidance is given such that an Issues Report will serve as both a precise and informative document upon which to base a vote to initiate a PDP (or not.)	Mary Wong	Noted and agreed.	
7 (End result of PDP)	The RrSG welcomes this recommendation. Issues should be met with the solution that most appropriately resolves them.	RrSG	Noted	
7 (End result of	Although other outcomes are	BXL	The WT noted that although nothing	

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PDP)	possible, the focus of a PDP should be foremost on the development of consensus policies relating to issues that are within the 'picket fence'.	meeting	prevents issues that are not focused on developing consensus policies going through a PDP, other GNSO processes that might be applicable (as indicated with 'follow other GNSO process' in the diagram) should be encouraged. Some noted that the reason for using a PDP could be that its outcome cannot easily be dismissed by the Board.	
7 (End result of PDP)	The fact that potential outcomes of a PDP can be other than the development of consensus policies ought to be further highlighted to the ICANN community, in line with the WT's recommendation.	Mary Wong	Noted and agreed.	
8 & 9 (Role of ICANN staff)	The General Counsel's role in opining whether a proposed PDP is "within scope" is both useful and necessary, thus the WT's recommendation in this respect should be followed. It would, additionally, be helpful if ICANN staff's function with respect to a particular Issues Report (e.g. whether technical expertise was provided or sought) could be included, where possible. The proposed manual/guidelines could further explore this question.	Mary Wong	Noted. The WT agrees with the suggestion and proposes to include a description of the role of ICANN Staff in the Manual.	Include description of the role of ICANN staff in the PDP Procedure Manual.

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<p>10 (Timeline Issues Report)</p>	<p>Maximum time frames in the current PDP in the Bylaws have for the most part have had to be ignored because they were unrealistic for many issues. Timeframes are better put into the manual/guidebook instead of any Bylaws. The practice of asking Staff to provide estimates of time needed has worked fairly well in GNSO history and better accommodates the variability of issue complexity.</p>	<p>RySG</p>	<p>Agreed</p>	
<p>10 (Timeline Issues Report)</p>	<p>It may be possible to combine options (c) and (d); for example, prescribing the time frame (minimum to maximum) in the Bylaws, with the added provision that if ICANN staff requests a modification of the time frame, then the estimate requirements in (d) be provided as soon as possible upon the request for an Issues Report.</p>	<p>Mary Wong</p>	<p>Noted. This seems in line with the WT's current thinking and will be taken into account when finalizing the recommendation.</p>	
<p>11 (Community Input)</p>	<p>INTA agrees with this position as it would allow relevant stakeholders and community members to have input on new issues that may not be reflected in the Issues Report.</p>	<p>INTA</p>	<p>Noted</p>	

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11 (Community Input)	Considering the nature of ICANN as a multi-stakeholder, consensus-building organization, the recommendation for a mandatory public comment period, after the preparation of an Issues Report and prior to the Council vote in favor (or not) of a PDP, should be implemented.	Mary Wong	Noted	
12 (Role of workshops)	What is meant by a workshop? Workshops traditionally have been held at ICANN international meetings but those are held only three times a year. Note that drafting teams have been used successfully in the GNSO in recent years for several purposes including drafting charters, developing recommendations for consideration before initiating a PDP, etc. Does the WT see a place for DTs in the PDP process and, if so, what would that be?	RySG	The workshop / DTs mentioned in the report were optional not mandatory. Workshops would be intended to introduce an issue to the community and see if there is community interest, while a DT seems more appropriate if there is a certain product that is expected / needed. The WT is open to considering other mechanisms such as briefings or webinars that might be used in between ICANN meetings. Workshops do not need to be organized by ICANN; an interested party could also undertake such an effort to socialize an issue.	<ul style="list-style-type: none"> ▪ Recommend that invitations / announcements for workshops or other events are communicated as broadly as possible.
12 (Role of workshops) & 13 (Impact Analysis)	This should be discussed, and possible processes recommended, by those tasked with preparing the relevant manual/guidelines.	Mary Wong	Noted	
13 (Impact Analysis)	INTA generally agrees with this recommendation with the caveat	INTA	These comments (also other ones made in relation to this issue) are in line with	

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	that more detailed guidance should be in the Manual on what constitutes 'appropriate or necessary' and how the GNSO Council should consider and use such analyses. The design of such studies so early in the process might be flawed or could bias the outcome or decision on whether to proceed with a PDP. Public comment period could provide adequate bases for parties to argue or support undue fiscal hardship economic impact.		the comments expressed by the WT in its report. An Issues Report might include recommendations for further study or impact analysis which is then subsequently considered by the Council. Although the Council could also request a study or impact analysis as a separate step from the PDP. Some suggested that an impact analysis as part of a PDP should be preceded by an Issues Report.	
13 (Impact Analysis)	The RrSG agrees with this recommendation and believes it would be a prudent step in a PDP. It recommends that the PDP-WT add to this recommendation that impact analyses include, to the extend possible, an assessment of the impact to: the operations of registries, registrars and service providers; ICANN as an entity (including ICANN's revenue); end-users and customers of the DNS.	RrSG	See above	
13 (Impact Analysis)	Further consideration should be given on how the request for an impact analysis could be abused to	BXL meeting	Some disagreed with this comment, noting that it is important that the potential impact an issue might have	

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	delay a decision on the initiation of a PDP and how this can be avoided		<p>before starting a PDP. If there is a concern to start a PDP, it might be even more reason to conduct an impact analysis. Some noted that there is a potential under the guise of studies or impact analysis to delay moving forward with a PDP.</p> <p>The WT noted that this kind of issue should be handled by the Council as part of its role as manager of the process, also noting that launching an impact analysis would require resources and co-ordination from policy staff.</p>	
13 (Impact Analysis)	The RySG believes that this is a very constructive recommendation.	RySG	Noted	
14 (Prioritization)	The RrSG supports this recommendation and looks forward to a continued discussion of prioritization methods.	RrSG	<p>The WT noted that it is not clear yet what will come out of Council's prioritization effort. It was pointed out that is not only the number of PDPs that are running simultaneously, but also all the other initiatives, Working Groups, Work Teams and Drafting Teams that are going on, especially those with tight deadlines. It was suggested that one of the solutions is to get more people involved to share the workload.</p> <p>The WT noted that the Council hasn't considered yet how to deal with future issue and has focused for now on the</p>	<ul style="list-style-type: none"> ▪ Reword in the report that it is not only PDPs, but also other initiatives that need to be taken into account when prioritizing ▪ Change some of the terminology (managing workload)

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			ongoing projects. It might therefore be appropriate for the WT to give more consideration to this. Another issue that was identified is that as WGs progress, the interest in the issue seems to disappear resulting in fewer volunteers trying to finish the task. This becomes especially apparent when a new 'hot' topic is launched which attracts many new volunteers at the expense of other efforts.	
14 (Prioritization) & 15 (Fast Track Process)	Given the possibility of unexpected or urgent issues that can arise from time to time, it will be difficult for the GNSO Council to accomplish a truly meaningful prioritization of the various tasks (including a PDP.) It would be unfortunate if a particularly important issue (e.g. as demonstrated by strong support for a PDP amongst numerous constituencies or committees) could not be pursued due to a lack of resources. Specific indicators (e.g. level of support; existence of third party economic impact studies) could be identified as aids to the GNSO Council when determining prioritization or initiation of PDPs.	Mary Wong	The WT would favor some kind of prioritization even if it would be a simple method like 'first in, first out'. The WT suggests exploring how other organizations prioritize as this might serve as an example. It was pointed out that it is not only PDPs that create workload, but especially other initiatives and working groups. The WT is of the opinion that activities should be limited to what the volunteer community and staff resources can sustain. The WT debated three different options to manage workload: <ul style="list-style-type: none"> - Put PDPs on temporary hold - Develop elaborate calendar with timeframes and set milestones for WGs. If any milestones are missed, the Council should 	

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	A “fast track” procedure would be a useful option. However, as identified by the WT, due consideration needs to be given to questions relating to gaming and ensuring broad (and diverse) participation.		<p>review why milestones are missed and address issue.</p> <ul style="list-style-type: none"> - Acknowledge at the start of a PDP what resources are available and which other initiatives contend for the same resources. <p>The WT agrees that a fast track procedure would be a useful option.</p>	
15 (Fast Track Process)	For issues that need urgent attention, the ALAC supports the development of a streamlined process which will require less volunteer and staff time, and less elapsed time.	ALAC	To be discussed in further detail at one of the upcoming meetings. (see separate note)	
15 (Fast Track Process)	INTA agrees that, under certain circumstances, emergency procedures (requiring by-law amendment) may be necessary. INTA concurs with a sunset period that requires a subsequent (full) PDP procedure to confirm or adapt any temporary policy.	INTA		
15 (Fast Track Process)	Recent experiences in the GNSO have demonstrated the need for such a procedure so the RySG supports this recommendation. But it should be recognized that some issues will be too complex to adequately cover in a fast-track	RySG		

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	process so it would be helpful if there were some guidelines that could be used to decide when to consider a fast track procedure.			
16 (Flexibility)	INTA agrees with the proposed modified language set out in the report, but suggests that the clarifying language 'calendar' days be inserted in sub-clause 'b'.	INTA	Agreed and should be updated	<ul style="list-style-type: none"> Update in report
16 & 17 (Flexibility)	Where a PDP is initiated by Board action, it is not clear what (if any) role public comment (which, as recommended, should be provided after the issuance of an Issues Report) would play in this regard. As such, the 8 calendar days proposed by the WT may be either unnecessary (if the Council has no choice but to act on the Board's instruction) or insufficient (if public comment is to be considered.) The recommendation that a Stakeholder Group or constituency may defer a vote on a PDP for no more than one meeting, and needs to detail its reasons for such a request, is necessary to ensure timely action on issues of importance, and minimize gaming	Mary Wong	A PDP requested by the Board will also start with the development of an Issue Report, followed by a comment period.	

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	or other similarly strategic actions.			
18 (Appeals mechanism)	For the reasons stated by the WT in its report, requiring the Council to state its reasons in the absence of a formal appeal mechanism would help ensure transparency and accountability.	Mary Wong	Noted	
19 & 20 (Chartering)	The WT's rationale and recommendations regarding, in particular, the nomenclature for, participation in, and chartering processes for, a Working Group (as opposed to a "task force") are timely and should be adopted.	Mary Wong	Noted	
21 (AC/SO input)	It is encouraging that AC/SO cooperation is being contemplated on a more formal basis and will be institutionalized.	ALAC	Noted, the recent CWG Rec6 might serve as a model. Further examples to promote AC/SO cooperation were also included in the notes relating to this issue.	
21 (AC/SO input)	The WT's recommendation that further consideration be given as to how to further involve other SOs and ACs in the PDP process are welcome and should be adopted.	Mary Wong	Noted	
22 (timeframe for taking a decision)	This recommendation presumably applies to situations where the Council (as opposed to Councilors representing particular Stakeholder Groups or constituencies) believe a vote should be deferred, e.g. in	Mary Wong	Agreed and the WT will incorporate this in the recommendation. As a general rule, a vote can be deferred to the next Council meeting but for a maximum of three meetings.	Incorporate suggestion in the recommendation.

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	<p>order to obtain expert advice. To ensure timely action (one way or the other), however, it does not seem advisable to leave the question of how long such a deferral can last unanswered. Similarly, the question of whether a certain threshold of Council members is required before a deferral is confirmed is also important. To leave these questions to guidelines may not be the optimal solution, although it is certainly better than the current lack of guidelines and clarity. The WT may wish to explore the possibility of at least requiring that a deferral be made for no longer than the next Council meeting (unless the reason for the deferral reveals the need for a longer deferral period, in which case there should be a maximum time limit set, to be amended only upon further vote of the Council.)</p>			
<p>23 (Public Comment Period after Initiation)</p>	<p>INTA believes that the public comment period must be mandatory, noting that the public comment period is ample and the scope of comments is not</p>	<p>INTA</p>	<p>Some suggested it should be recommended, but not mandatory. Some suggested that this should be considered in combination with the public comment period on Issues Report. Should one of</p>	<ul style="list-style-type: none"> ▪ Clarify section in the report as outlined in the notes.

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	restricted to the WG's initial questions.	<p>the two or both be mandatory? If there is a public comment period, the WG should have the opportunity to ask specific questions, but should also solicit input on the issues within the scope of that WG. Most agreed that there shouldn't be an obligation for a WG to respond to comments that are outside of scope of the WG. The WT supported that a public comment period on the issues report should take place. The second public comment period after the initiation of the PDP would then be optional, unless no public comment period had taken place on the Issues Report in which case it would become 'highly recommendable'.</p> <p>It was pointed out that the Council and/or WG both have the flexibility to run additional public comment periods as deemed appropriate.</p> <p>The WT discussed how comments on the Issues Report would need to be dealt with and noted that this would depend on the nature of the comments received: some might require updating of the Issues Report, some might be passed on the Council for further consideration and</p>	
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			some might be passed on to the WG for consideration.	
23 (Public Comment Period after Initiation)	The function – and nature – of public comments in relation to a Working Group (WG) request after its initiation can be different from public comments solicited and received in response to an Issues Report. As such, a public comment period should be mandatory, unless the WG specifically deems it – and documents its reasons – unnecessary. Even so, this should not preclude the WG from initiating a public comment period at some later point in its processes.	Mary Wong		
24 (Clarify ‘in scope’)	INTA agrees with the proposed language	INTA	Noted	
24 (Clarify ‘in scope’)	The RrSG found this language to be confusing and would appreciate clarification from the WT. With regard to the general issue, it believes that ICANN’s role should be limited to that of a technical coordination body and avoid mission creep. Furthermore, the GNSO should not confuse policy development with policy implementation.	RrSG	It was noted that ‘in scope’ is frequently used, but also frequently misunderstood. It was suggested that there is a general feeling amongst registrars that if something bad is happening on the Internet that ICANN is supposed to be doing something about it. ICANN has a role to play, but it is not the ‘end all – be all’ target for complaints about the Internet. Further clarification of ‘scope’ might therefore be helpful. The WT	<ul style="list-style-type: none"> Update report to include that issues identified should be mapable to provisions in the by-laws, incl. annexes or AoC

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			agreed that issues should be readily able to be mapped to ICANN's mission or AoC at the outset of a PDP, and if it is not clear where an issue falls, then it is a problem that needs to be further considered. It was suggested that the (
24 (Clarify 'in scope')	Further review of 'in scope' definition by ICANN legal Counsel, including consideration of how 'scope' is defined elsewhere in the by-laws (such as Article 10, section 1) which might form the reference point. At the same time, further details / examples on what 'in scope' in practice means might be included in the rules of procedure or PDP handbook.	BXL meeting	The WT noted that it might be difficult to come up with examples.	
24 (Clarify 'in scope')	The WT's recommendation to clarify the "in scope" question, to distinguish this issue from that of "consensus policy", is necessary and should be adopted.	Mary Wong		
25 (Maximize effectiveness of WGs)	INTA agrees with the proposed recommendation	INTA	Noted	
25 (Maximize effectiveness of WGs)	Development of a "cheat sheet" for WGs could facilitate implementation of this recommendation	RySG	It was pointed out that the WG Guidelines do include a chairs check sheet for first meeting. The WT expressed support for providing training	

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			<p>on the WG Guidelines to new Working Groups, incl. PDP WGs. It was also pointed out that there is a placeholder in the GNSO WG Guidelines to include specific details concerning PDP WGs, which could also be translated in a presentation or cheat sheet in due time. Some expressed concern about cheat sheets as certain details and/or links with other provisions might be left out. Some suggested that an annotated index might be more appropriate (e.g. if you want to know about issue x, look at section y). The WT did agree that further information on WG basic should be provided to make it easier for newcomers, while at the same time encouraging review of the complete WG Guidelines.</p>	
<p>26 (Communication with ICANN departments)</p>	<p>INTA agrees that such inquiry is worthy and that mechanisms for communication with ICANN departments should be clearly established.</p>	<p>INTA</p>	<p>Noted. WT agreed to change language in report to make it a firm recommendation instead of a suggested approach.</p>	<ul style="list-style-type: none"> ▪ Update language to reflect recommendation instead of suggested approach.
<p>26 (Communication with ICANN departments)</p>	<p>Clarification over appropriate and available means and channels of communication with various ICANN departments, will be necessary and should be developed.</p>	<p>Mary Wong</p>		

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<p>27 (Link with strategic plan & budget)</p>	<p>The initiation of a PDP might include consideration of how ICANN’s budget and planning can best embrace the PDP and/or its possible outcomes, the priority must be on ensuring that GNSO policy development can address the public’s needs, and ICANN should adequately budget and plan to meet those requirements.</p>	<p>INTA</p>	<p>Noted and agreement with comment.</p>	<ul style="list-style-type: none"> ▪ Reflect comment in report.
<p>27 (Link with strategic plan & budget)</p>	<p>The fact that policy issues do not arise in organized fashion according to a calendar (budgetary or otherwise) renders it practically impossible to implement a single process to determine how best to link a PDP with an overall strategic plan or central budget (e.g. the fact that emergency and fast track processes are being considered demonstrates this.) It is important, however, that financial constraints not be the major factor curtailing the initiation, timing or workings of a PDP. Much responsibility therefore devolves by default to the GNSO Council in its current role as manager of overall GNSO processes and work. It would be helpful, however, if through the</p>	<p>Mary Wong</p>		

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	<p>Issues Report and constituency/stakeholder group input as well as SO and AC feedback prior to and during a PDP, as much detailed information (such as costs, timing and the need for further expert analysis) can be provided to the Council, to assist its deliberations as to whether to initiate a PDP, and (if applicable) to the WG once a PDP is initiated and a charter approved. Suggestions as to what and how such information could consist of and be compiled could be made part of the manual/guidelines under consideration.</p>			
<p>28 / 29 (Public comment)</p>	<p>INTA agrees with the extension of timing for public comments, but believes the minimum should be 45 days to ensure that all members of the public have adequate time to comment. In addition, there may be circumstances under which more than 45 days is necessary, either because of the likely interest in the issue, or the calendaring of the request, and that provision should be made for extending the</p>	<p>INTA</p>	<p>See below</p>	

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	period for public comment under certain defined circumstances.			
28 (Public comment)	Timeframes are better placed in the manual / guidebook than in the Bylaws because the former are much easier to change as needed. GNSO experience to date has shown that flexibility is often needed; in that regard, it might be better to suggest comments periods of 20 to 30 days, the latter being preferred if possible.	RySG	The WT agreed that there needs to be flexibility and suggested that the absolute minimum should be noted in the by-laws (21 days), while the guidebook should indicate reasonable parameters, for example taking into account when a public comment period coincides with a public comment period. The guidebook could also indicate what the recommended length is for a 'typical' public comment period (30 days), noting that there is flexibility to extend but also taking into account the overall milestones and target dates of the WG as outlined in its Charter.	<ul style="list-style-type: none"> Reflect WT position in the report and update recommendation accordingly.
28, 29 & 30 (Public Comment)	Given ICANN's reliance on volunteer input and the importance of public comments, the proposed extension of a public comment period to 30 days is welcome and should be adopted. Although it might not be feasible to expect a WG to review and acknowledge all public comments received, nor would it be fair to add unnecessarily to ICANN staff workload, it is still important that	Mary Wong		

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	the WG have easy access to all public comments submitted. The recommended language should therefore be amended such that, at a minimum, the ICANN staff manager must provide, a full list of all public comments received and an indication of which comments were deemed appropriate to be included in the summary and analysis provided to the WG, and which not.			
31 (Implementation / impact)	The first option seems like it could have value but it is not clear that it would be practical in some PDPs. It may depend on what is meant by implementation guidelines, so that may need some clarification. For example, the New gTLD PDP contained implementation guidelines but they were at a fairly high level; if the final report had to contain more detail, the PDP would have taken considerably longer than the 1.5 years it lasted. And we have seen that the implementation process has taken even longer than the PDP took. To the extent possible, it would be helpful to consult with WGs during	RySG	Taking into account the comments made in relation to recommendation 31 and 42, the WT noted that there seems to be general support for the concept of an implementation team, noting the need for flexibility on when and how such a team should be used.	

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	<p>the implementation process, but for PDPs that last a long time, WG membership tends to change a lot so that reality needs to be considered. Also, it is important to do that in a way that does not too easily provide an avenue for redoing recommendations in cases where some parties may not have been totally satisfied with the results unless there is strong justification for doing so. Consultation with the GNSO should definitely happen during the implementation plan development. The GNSO Council should mainly be a channel through which that happens. In cases where an implementation team is formed, it would be useful to include members of the WG as possible.</p>			
<p>31 (Implementation / impact)</p>	<p>To the extent that a WG can provide recommendations as to implementation, they would doubtless be useful. A WG ought in all cases to consider including these as part of its report, and should also consider whether to recommend the formation of an</p>	<p>Mary Wong</p>		

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	implementation team, which should consist of a broad base of participants and preferably include at least a few WG members. Recognizing the periodic difficulty of distinguishing between “policy” and “implementation”, it would be helpful (particularly in soliciting public comment) also if a WG could indicate which issues discussed or raised crossed the line, in its view, from one to the other.			
32 (Staff resources)	The RrSG concurs with this recommendation and encourages adoption of this provision as part of the PDP reform.	RrSG	Noted	<ul style="list-style-type: none"> Update recommendation to include language that encourages staff to provide that information.
32 (Staff resources)	The RySG strongly supports this recommendation.	RySG	Noted	
33 (Constituency Statements)	The RySG thinks this is a good change. It might also be a good idea to note that in some cases constituency statements may be requested more than once.	RySG	Noted, this flexibility is also acknowledged in the report.	
33 (Constituency Statements)	The WT’s note that the lack of a statement from a constituency or Stakeholder Group may reflect that	Mary Wong		

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	group's belief as to the relative importance of that issue to it, or simply the group's current workload, is important as it recognizes that there are numerous stakeholders in the ICANN community with varying interests in different issues. The reliance on volunteer participation and the recent increase in overall GNSO workload has also taken its toll on volunteer time and resources. Regardless of the amendment to Clause 7, therefore, the WT's suggestion of additional follow-up with constituencies and Stakeholder Groups should be incorporated into the proposed manual and/or guidelines, and perhaps included as part of the charter for all WGs tasked with a PDP, where possible.			
34, 35, 36 (WG Output) & 37 (WG Recommendations)	The WT's recommendations in these respects make sense and should be adopted.	Mary Wong		
36 (Public Comment period Initial Report)	INTA agrees that such a public comment period should be mandatory. Optional additional comment periods may be useful in	INTA	Noted and in line with the recommendations.	

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	certain circumstances, such as when a final report differs substantially from the Initial Report.			
38 (WG Recommendations)	The RrSG has no currently formed position on this issue, but agrees it is an issue that deserves attention and looks forward to contributing to further discussion.	RrSG	The WT noted that the different comments in relation to this recommendation express different points of view. In its discussion, some suggested that recommendation that have full consensus of the WG, cannot be altered or picked / chosen by the WG. Some suggested that the WG should have the obligation to indicate if there are interdependencies between recommendations to the Council. Most agreed that it should not be the Council's job to change recommendations, especially those that have consensus. Some suggested that the Council does make the final call and weigh the different recommendations and pick which ones they send to the Board. Some expressed concern about recommendations that would come out of a WG that is unbalanced, but it was noted that the issue of balance should be addressed at the WG level before recommendations are even developed.	
38 (WG Recommendations)	It is important to note that WGs do not necessarily have balanced representation. In contrast, the Council structure is designed to facilitate balanced representation of the stakeholder groups. Assuming that Councilors are consulting with their SGs and constituencies, Council decisions should reflect the consensus or lack thereof of the broader GNSO community and hopefully the broader ICANN Community as applicable.	RySG		
38 (WG Recommendations)	No, the GNSO Council should not have the flexibility to 'pick and choose' recommendations. It is very important for PDP Final Reports to give an objective	Naomasa Maruyama		

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	description of the level of each consensus for each opinion / recommendation.			
38 (WG Recommendations)	The Council should not be able to “pick and choose” recommendations, where these have not received full consensus within a WG, without at least fully documenting its reasons for doing so. In such a case, Council members should also indicate for the record whether it consulted with his/her constituency and Stakeholder Group as well as the outcome of such consultations. Where WG recommendations have not received full consensus, the WG report should indicate the actual level of support each recommendation received and (subject to a WG participant’s consent) a list of WG members in support of, or against, particular recommendations.	Mary Wong		
39 (Board Report)	ALAC strongly supports this recommendation.	ALAC	Noted	
39 (Board Report)	INTA’s view is that Staff should be allowed to provide its opinion to the Board, in an open, and non-	INTA	It was noted that there should be flexibility for issues for which confidential information has been provided by staff to	<ul style="list-style-type: none"> ▪ Reword the recommendation to clarify that staff can

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	confidential manner. Staff may be in a better position than most to decipher positive and negative suggestions and recommendations and should be heard in this capacity.		the board, noting that this should not become an excuse to not make information public.	<p>have its say but in an open and transparent manner</p> <ul style="list-style-type: none"> Reflect in recommendation that in cases where privileged/confidential information is concerned, ICANN staff should indicate that privileged advice was given and as much information as possible should be provided without breaking attorney-client privilege.
39 (Board Report)	The RySG suggests rewording this sentence along the lines of the following: "Reports on PDPs should be delivered from the GNSO Council to the Board and any summaries needed should be approved by the Council after consultation with the Working Group (if necessary)". This would more clearly allow the Council to enlist GNSO policy staff support in preparing and delivering	RySG		<ul style="list-style-type: none"> Update recommendation to reflect suggestion made by RySG

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	<p>summaries and reports while still leaving approval of such to the Council in its representative capacity of GNSO Community members.</p> <p>In relation to the last sentence, as this initial report illustrates, reports need to be much more concise. Detailed background and supporting information can be referenced as appendices or attachments.</p>			
39 (Board Report)	<p>All reports to the Board should be public. ICANN staff may be requested by the GNSO Council to assist in providing summary and analysis to the Board, but (as recommended by the WT) ultimate responsibility for the content of such summary and analysis should lie with the Council, who should work with the relevant WG to determine the need for and extent of ICANN staff assistance.</p>	Mary Wong	Noted and agreed (see also previous comment)	
40 (Agreement of the Council)	<p>Although not presumably within the scope of this WT, it should be noted that the actual procedures regarding absentee voting in the GNSO Council Operating Rules are</p>	Mary Wong	WT to review new procedures in further detail in future meeting (see http://gns0.icann.org/council/docs.html).	

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	currently being clarified. The WT should take note of the official interpretation (if any) of the pertinent part of the Rules, and review whether or not to revisit this issue in light of it.			
41 (Board Vote)	Should there be a Board vote for recommendations that are not changes to existing or recommendations for new consensus policies, recognizing that a PDP might have different outcomes?	Brussels meeting	The WT agreed that any recommendations adopted as the result of a PDP should be communicated to the Board, noting that some recommendations might have cost implications or an impact on staff resources. The same process should apply as for the adoption of consensus policies.	<ul style="list-style-type: none"> Update report to reflect that all recommendations adopted as a result of a PDP should be communicated to the Board.
42 (Implementation)	INTA agrees with the recommendation to create an implementation review team as it will ensure that policy is implemented as agreed to in other stages of the process.	INTA	Noted. The WT supports that a PDP WG should provide guidance if needed and appropriate on how an implementation DT might be composed, but this should not be binding or obligatory.	<ul style="list-style-type: none"> Update recommendation to reflect that WG may provide guidance on the composition of an implementation DT.
42 (Implementation)	The RrSG has no objection to this recommendation, but it should be considered in the context of the RrSG's other comments about an overtaxed staff and volunteer community.	RrSG		
42 (Implementation)	Should there be a provision for when a sub-element is determined	BXL meeting		

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	not to be final -- or not to be finished in terms of its policy implementation and that sub-element needs to be returned to the Council for further work. At the same time, if there is a certain oversight by the Council / WG on implementation, how can you avoid stakeholders trying to influence the implementation process? Appropriate safeguards would need to be in place to avoid gaming. Potential concerns with WG transforming into Implementation Review Team (anti-trust); staff should be responsible for implementation.			
42 (Implementation)	The RySG supports the idea contained in the first sentence of the recommendation and suggests that the recommended composition of such review team be made in the WG final report. The review team then could serve as an ongoing resource for the GNSO Council and ICANN implementation staff.	RySG		
42 (Implementation)	A WG Implementation Review Team would likely facilitate	Mary Wong		

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	<p>implementation efforts, and could act as the main conduit between the GNSO Council and ICANN staff charged with actual implementation of adopted policy recommendations. If a WG has included implementation recommendations as part of its report, the Implementation Review Team should ensure that these recommendations are either followed or amendments/departures from them justified. In addition, ICANN staff should consult regularly with the Team and update it frequently on the status of implementation efforts, as well as refer questions that might raise policy issues to it promptly, for review as to whether these should be referred to the Council.</p>			
<p>43 / 44 (Review of policy and WG)</p>	<p>Providing a policy now on these issues might create an avenue to appeal policy decisions rather than provide meaningful insights. Other aspects of the report already address avenues for measuring whether specific policy implementations are successful.</p>	<p>INTA</p>	<p>The WT noted that for an individual PDP the WG may/should provide recommendations on which steps should be taken to review and measure the outcome.</p>	

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	Review can be positive and beneficial, but the multiple layers of review and assessment proposed may be overly extensive and might hinder the PDP process.			
45 (Review of PDP process)	A periodic review of the effectiveness of the PDP Process would probably be beneficial. It may be that this review should be undertaken after a threshold number of PDPs have been completed.		The WT agreed that a periodic review of the overall PDP process would be appropriate, as also acknowledged in the Affirmation of Commitments, noting that a certain thresholds of completed PDPs should be met before an overall review is carried out. There was support for a Standing Committee being responsible for such a review, but there was no strong view whether the PPSC should be this Standing Committee or whether a new body should be created.	
Overarching Issues				
	Without firm recommendations or, in some cases, any roadmap suggesting the direction of the WT's discussions to date on a particular overarching issue, it is difficult for the public to comment. INTA hopes that the public will have another opportunity to comment upon any recommendations relating to the overarching issues before the	INTA	Noted, another public comment forum is foreseen on the draft Final Report.	

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	Council considers them.			
Timing	INTA agrees that an overall assessment of timing needs to be conducted. It hopes that the public will have a further opportunity to comment on any overarching timing recommendations that may be propounded following this public comment period.	INTA	Noted, the draft Final Report will include an overview of the overall timing, noting that it will be difficult to give a precise number of days due to the flexibility built in the different stages. As noted above, another public comment forum is foreseen on the draft Final Report.	<ul style="list-style-type: none"> Include overview of overall timing of new PDP in draft Final Report
Translation	INTA believes that provisions in the new PDP relating to translations should, where possible, be consistent with the translation policy being developed by ICANN.	INTA	WT agrees, but notes that there currently is no ICANN translation policy.	
Translation	INTA does not support the idea of utilizing volunteers to translate key documents or public comments, however, it may support the role of a volunteer editorial group that would review professionally prepared translations to ensure that the translations use technically terms correctly. The qualifications for volunteers seeking to participate on a translation editorial review group should be outlined and how and by whom those individuals would be selected.	INTA	Noted	

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Translation	Further consideration should be given to how the proposed translation of key documents and public comments will impact the new timelines proposed for public comment periods. Fairness and inclusion dictate that non-English speakers should have the same length of time to comment on initial reports. Providing translations of public comments may improve inclusiveness, but may have a negative effect on the efficiency of the PDP.	INTA	The WT agrees that when public comment periods are run in other languages, the same amount of time to submit comments should be allocated to the other languages.	<ul style="list-style-type: none"> Update Report to reflect support for this concept.
Definitions	INTA hopes that the public will have a further opportunity to comment on any proposed definitional changes once the PDP-WT has an opportunity to complete its work on this overarching issue.	INTA	Noted, another public comment forum is foreseen for the draft Final Report.	
Voting Thresholds	INTA agrees that a higher voting threshold should not apply if ICANN staff recommends against initiating a PDP.	INTA	Noted	
Voting Thresholds	The PDP-WT should make recommendations about how to handle competing WG charters and supports the proposal that in the case of competing charters, the	INTA	The WT agrees and discussed the following approach: In cases where two or more competing charters would be proposed, the GNSO Council Chair should facilitate a meeting between the	<ul style="list-style-type: none"> Update report accordingly

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	Council should select the charter by majority vote.		proponents of the different charters 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.	
Voting Thresholds	INTA supports the recommendation that a majority of both houses should be required to change administrative elements of an approved charter, but that a supermajority should be required to modify the charter questions themselves.	INTA	Noted, but after further discussion, the WT is of the view that any modifications to the charter should be adopted by a simple majority vote of the GNSO Council.	
Transition	INTA hopes that the public will have a further opportunity to comment on any proposed recommendations relating the transition to the new PDP. Of particular note will be the recommendations relating to (1) the timeline for the adoption of the new PDP, and (2) the effect of that adoption on working groups already convened under the 'old' PDP.	INTA	Noted	

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Annex II - Background

On 26 June 2008 the ICANN Board [approved a set of recommendations](#) designed to improve the effectiveness of the GNSO, including its policy activities, structure, operations, and communications. The [GNSO Improvements Report](#), approved by the Board, identified the following key objectives:

- Maximize the ability for all interested stakeholders to participate in the GNSO’s policy development processes;
- Ensure that recommendations can be developed on gTLD “consensus policies” for Board review and that the subject matter of “consensus policies” is clearly defined;
- Ensure that policy development processes are based on thoroughly-researched, well-scoped objectives, and are run in a predictable manner that yields results that can be implemented effectively;
- Align policy development more tightly with ICANN’s strategic and operations plans; and
- Improve communications and administrative support for GNSO objectives.

The Board emphasized the need to improve inclusiveness and representativeness in the GNSO’s work while increasing its effectiveness and efficiency. The following pertains to the PDP-WT’s mission:

Revising the PDP: The Policy Development Process (PDP) needs to be revised to make it more effective and responsive to ICANN’s needs. It should be brought in-line with the time and effort actually required to develop policy and made consistent with ICANN’s existing contracts (including, but not limited to, clarifying the appropriate scope of GNSO “consensus policy” development). While the procedure for developing “consensus policies” will need to continue to be established by the Bylaws as long as required by ICANN’s contracts, the GNSO Council and Staff should propose new PDP

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rules for the Board’s consideration and approval that contain more flexibility. The new rules should emphasize the importance of the preparation that must be done before launch of a working group or other activity, such as public discussion, fact-finding, and expert research in order to properly define the scope, objective, and schedule for a specific policy development goal and the development of metrics for measuring success.

The charter of the PDP-WT is to develop and document a revised GNSO Policy Development Process that achieves the goals established by the ICANN Board. The PDP-WT, with staff assistance, will need to determine what changes to the bylaws will be required. New processes will need to be documented properly to ensure that the bylaws (and any related operational rules or procedures) are updated accurately. The revised PDP, after review and approval by the PPSC, GNSO Council, and ICANN Board, would replace the current PDP defined in Annex A of the ICANN bylaws.

This mandate arises not from a change in the mission or role of the GNSO, but from the accumulation of experience with the current PDP and the decisions that have been made by the ICANN Board concerning an organizational restructuring of the GNSO.

The PDP-WT’s mission is closely related to that of the parallel Working Group Work Team (WG-WT) also chartered by the PPSC. The charter of the WG-WT is to “[d]evelop a new GNSO Working Group Model that improves inclusiveness, improves effectiveness, and improves efficiency”. The two PPSC Work Teams are expected to work independently, but in consultation with each other.

For further details please visit [the GNSO Improvements Home Page](#).

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ANNEX III - Working Group Charter¹³

I. TEAM CHARTER/GOALS:

The GNSO Council's responsibility in recommending substantive policies relating to generic top-level domains is a critical part of ICANN's function. The mechanism by which the GNSO makes such recommendations to the ICANN Board of Directors is through the GNSO Policy Development Process (PDP) set forth in the ICANN Bylaws. The PDP Work Team is 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 are to develop:

1. Appropriate operating principles, rules and procedures applicable to a new policy development process; and
2. An implementation/transition plan.

Specifically, the GNSO Improvements Report approved by the ICANN Board recommended that a new PDP:

1. Be better aligned with the contractual requirements of ICANN's consensus policies as that term is used in its contracts with registries and registrars and clearly distinguishes the development of "consensus policies" from general policy advice the GNSO Council may wish to provide to the Board. In addition, the Bylaws should clarify that only a GNSO recommendation on a consensus policy can, depending on the breadth of support, be considered binding on the Board, unless it is rejected by a supermajority vote.

¹³ [Updated following the adoption of resolution 20010428-2](#)

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2. Emphasize the importance of the work that must be done before launching a working group or other policy development activity, such as public discussion, fact-finding and expert research in order to define properly the scope, objective and schedule for a specific policy development goal.
3. Be more flexible than the current model, containing timelines that are consistent with the task.
4. Provide for periodic assessment to determine the effectiveness of revised rules, processes, and procedures on policy development work including self-reporting by each working group of any lessons learned, as well as input on metrics that could help measure the success of the policy recommendation. In addition the GNSO Council Chair should present an annual report to the ICANN community on the effectiveness of new GNSO policies using the metrics developed at the end of each PDP. The report should also contain a synthesis of lessons learned from policy development during the year with a view to establishing best practices. The report should be presented annually at an ICANN public meeting each year, and the material should be incorporated into the ICANN Annual Report prepared by Staff.
5. Better align the PDP process with ICANN's strategic plan and operations plan. The Council, constituencies and staff should publish an annual "policy development plan" for current and upcoming work, to better align resources with strategic objectives, and to create a stronger nexus between the work plan of the GNSO Council and the ICANN planning process. The plan should be linked to ICANN's overall strategic plan, but be sufficiently flexible to accommodate changes in priority determined by rapid evolution in the DNS marketplace and unexpected initiatives.
6. Contain rules, processes and procedures that are more effective and efficient and that meet consensus policy requirements as detailed further in the Report, to include specifying certain policy activities that should be done, including: research, consultation with constituencies, periods for public comment, timelines consistent with the complexity of the task, regular reporting to the Council as established in the scoping phase, and a final report and public comment period as in the current PDP.

The PDP Team shall work independently from, but in close consultation with, the Working Group Team of the Policy Process Steering Committee (PPSC). The Policy Development Process Team shall be responsible for making recommendations concerning the development of and transition to a new PDP for [the GNSO Council's review](#).

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ANNEX IV - The Working Group

- Following the adoption of the charter by the GNSO Council, a call for volunteers was launched. The following individuals are part of the PDP-WT. Statements of Interests can be found [here](#).

NAME	AFFILIATION	Meetings Attended (Total # of meetings: [tbc])
James Bladel	Registrar	▼
Jeff Neuman (Chair)	RyC	▼
Paul Diaz	Registrar	▼
Alan Greenberg	ALAC	▼
Wolf-Ulrich Knoblen	ISP	▼
Tatyana Khramtsova	Registrar	▼
David Maher	RyC	▼
Avri Doria	NCA/NCSG ¹⁴	▼
Alex Gakuru	NCUC	▼
Marilyn Cade	Individual	▼
Gabriel Pineiro	NCUC	▼
Brian Winterfeldt	IPC	▼
Mike Rodenbaugh	CBUC	▼
Sophia Bekele	Individual	▼
Bertrand de la Chapelle	Individual	▼
Robin Gross ¹⁵	NCUC	▼
John Berard ¹⁶	CBUC	▼
Jean-Christophe Vignes	Registrar	▼
Liz Williams ¹⁷	CBUC	▼
Tony Harris	ISP	▼
Cheryl Langdon-Orr	ALAC (Alternate)	▼

¹⁴ NCA until 26 Oct 09, NCSG after

¹⁵ Joined WT in September 2010

¹⁶ Joined WT in January 2011

¹⁷ Resigned from WT in January 2011

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Zbynek Loebel	IPC	
Kristina Rosette	IPC	
Jaime Wagner ¹⁸	ISP	
J. Scott Evans (Observer)	IPC	
Antonio Tavares	ISP	

To view the attendance sheet, please click [\[include link\]](#).

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¹⁸ Resigned from WT June 2009

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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.

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

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2. Procedures for Requesting an Issues Report

See also recommendation 2.

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3. Issue Scoping

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4. Creation of the Issues Report

Recommendation 1.

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

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6. The role of ICANN staff

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7. Community input / How to incorporate public comments

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8. Role of Workshops / Information Gathering events

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9. Efficiency and flexibility during planning / initiation phase

See recommendation 12 above.

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10. Impact Analyses

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 participation¹ [as well as the impact on human rights]²[1].

11. Resources and Prioritization

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1. Flexibility when launching a policy development process

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2.

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

¹ As outlined in section 3 of the Affirmation of Commitments

² 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.

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?

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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

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

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1. How to maximize the effectiveness of Working Groups

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

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5. Implementation, Impact and Feasibility

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6. ICANN Staff Resources

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7. Stakeholder Group / Constituency Statements

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8. Working Group Output

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9. Termination of a PDP

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1. Working Group Recommendations

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2. Public Comments

See recommendation 36.

3. Delivery of Recommendations to the Board

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4. Agreement of the Council

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5. Board Vote

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1. Periodic assessment of PDP Recommendations / Policy

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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.

Council Expedited Procedures

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

~~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 participation³ [as well as the impact on human rights]⁴.~~

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.

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.

³ As outlined in section 3 of the Affirmation of Commitments

⁴ 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.