

Guidelines for GNSO-ccNSO Joint Consultation on Initiation of a Special IFR

5.1 Introduction

For Special IFRs ICANN Bylaws Section 18.12(a) states:

A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI's performance under the IANA Naming Function Contract and IANA Naming Function SOW (a "**PTI Performance Issue**"), following the satisfaction of each of the following conditions:

- (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (iii) The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations and Advisory Committees with respect to the PTI Performance Issue and whether or not to initiate a Special IFR; and
- (iv) After a public comment period that complies with the designated practice for public comment periods within ICANN, if a public comment period is requested by the ccNSO and the GNSO, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3) of the Council members) and (B) a GNSO Supermajority.

The following are guidelines for the GNSO and ccNSO to use in their consideration, pursuant to ICANN Bylaw 18.12(a)(iv), of whether their Councils should vote by supermajority to approve the initiation by the ICANN Board of a Special IFR upon satisfaction of each of the conditions specified in Bylaw sections 18.12(a)(i) through (iii).

Each time period specified in this document within which any decision or other action must be made shall be understood as being a 'not-greater-than' time period. It is being understood that in all instances, as well as cumulatively, the individual or group (e.g. Council Chair or Special IFR Initiation Coordination Team - SICT) having to decide or act shall decide or act so as to

remain within the times specified under the ICANN Bylaws (including the Annexes to such Bylaws).

It is further noted that these guidelines are intended to assist the GNSO and ccNSO Council in the establishment of the SICT and engaging in joint consultation as required by the Bylaws. Nevertheless, the Councils are able to modify these guidelines as appropriate to meet the circumstances at hand.

5.2 Establishing the SICT

After the CSC has informed the ICANN Board about a performance issue as defined in the CSC Remedial Action Procedure, the GNSO and ccNSO Council shall as soon as possible, but no later than 15 business days, each appoint three (3) members including the Chairs in accordance with their own procedures to a SIFR Initiation Coordination Team (SICT). The GNSO and ccNSO Chairs shall jointly chair the SICT. The GNSO and ccNSO shall issue a joint statement accordingly, to be posted on their respective web sites.

In order to ensure that the GNSO and ccNSO Councils can quickly constitute the SICT, in January of each year the respective Councils will remind their members of the possibility that volunteers may be needed for the SICT at some point during the year, including a brief update on the purpose and role of the SICT.

In addition, the SICT shall take steps to remain informed of developments at resolving the PTI Performance Issue by other means. The SICT shall consider such developments as they may reasonably influence the work of the SICT, and the actions of the GNSO and ccNSO Councils, without jeopardizing the SICT's ability to remain within the timeline(s) specified by the Bylaws (including Annexes to the Bylaws).

Once the ICANN Board initiates an SIFR to address a specific PTI Performance Issue(s) pursuant to Bylaw section 18.12(a), the work of the SICT that was formed to address such PTI Performance Issue(s) shall be deemed concluded and the SICT wound up, with the ccNSO and GNSO Councils posting a message to such effect on their respective websites.

If at any time during the work of an SICT under this guideline the PTI Performance Issue(s) shall be otherwise resolved to the satisfaction of either the ccNSO Council or the GNSO Council or both, then the work of the SICT that was formed to address such PTI Performance Issue(s) shall be deemed concluded and the SICT wound up, with the ccNSO and GNSO Councils posting a message to such effect on their respective websites.

5.3 Initiating the Joint Consultation

When the GNSO has completed the GNSO Input Process for a Special IFR (Section 4.0 above), and the ccNSO has completed its internal processes, the GNSO and ccNSO shall begin a joint consultation process to determine whether to approve that the ICANN Board should initiate a Special IFR.

The GNSO Chair shall formally provide to the ccNSO Chair the input agreed by the GNSO Council as the outcome of the GNSO Input Process for a Special IFR. The GNSO Chair shall arrange for this input to be posted to the GNSO website and wiki, subject to redaction requested by input provider. The ccNSO Chair shall formally confirm receipt of the input.

The ccNSO Chair shall formally provide to the GNSO Chair the input agreed by the ccNSO Council per its internal processes. The ccNSO Chair shall arrange for this input to be posted to the ccNSO website and wiki, subject to redaction requested by input provider. The GNSO Chair shall formally confirm receipt of the input.

The GNSO and ccNSO Councils shall jointly release a statement through the SICT, with approval indicated by each Council, that they are initiating a Joint Consultation on whether to approve that the ICANN Board should initiate a Special IFR. The statement shall be posted on the GNSO and ccNSO websites and wikis. It also will be posted as an announcement on the main ICANN org website.

5.4 Consultation with Supporting Organizations (SOs) and Advisory Committees (ACs)

For a Special IFR ICANN Bylaws Section 18.12(a)(iii) states:

“(iii) The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations and Advisory Committees with respect to the PTI Performance Issue and whether or not to initiate a Special IFR”

Thus, the SICT must gather statements from any ICANN Supporting Organization (SO) or Advisory Committee (AC) (where these were sought and provided). The SICT shall issue a call for input from the SOs and ACs as soon as possible but no later than five (5) business days after both Councils have completed their internal reviews (per the timeline in Section 5.8 below). The call for input shall include a summary of section 18 of the ICANN Bylaws and call out the applicable sub sections. The call shall request a response within thirty (30) days after its issuance.

5.5 Deciding Whether to Request a Public Comment Period

Per ICANN Bylaws Section 18.12(a)(iv):

“(iv) After a public comment period that complies with the designated practice for public comment periods within ICANN, if a public comment period is requested by the ccNSO and the GNSO, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such

procedures do not define a supermajority, two-thirds (2/3) of the Council members) and (B) a GNSO Supermajority.”

Accordingly, the GNSO and ccNSO Councils shall jointly decide whether to request a public comment period on the draft joint recommendation developed by the SICT that complies with the designated practice for public comment periods within ICANN. See: <https://www.icann.org/public-comments>.

If they jointly decide not to recommend a Public Comment Period, the GNSO and ccNSO Councils shall request that the SICT should provide the final recommendation to the GNSO and ccNSO Councils.

If a public comment period does take place pursuant to Bylaw section 18.12(a)(iv), at its completion the SICT shall review the comments and staff shall post a public comment summary report.

5.6 Developing the Joint Recommendation

The SICT shall review:

1. The input and recommendations from the GNSO and ccNSO as separately developed based on their respective internal procedures;
2. Input, if any, received from the SOs and ACs;
3. Input, if any, from the Public Comment Forum.

After analyzing the inputs, the SICT shall determine whether they can be reconciled on whether or not to initiate a Special IFR.

If they can be reconciled, the SICT shall develop a draft joint recommendation for consideration by the GNSO and ccNSO Councils.

If the input and recommendations cannot be reconciled, the GNSO and ccNSO Chairs shall issue a joint statement that they do not agree to jointly initiate a Special IFR. The statement shall be delivered to the ICANN Board of Directors, the EC Administration, and posted to the respective websites and wikis, including the main ICANN org website.

5.7 ccNSO and GNSO Council Votes

The GNSO and ccNSO Councils shall each conduct a vote on the SICT final recommendation. The recommendation will be either to initiate a Special IFR or not to initiate a Special IFR. Per Section 18.12(a)(iv) of the ICANN Bylaws, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3)) and (B) a GNSO Council Supermajority.

If both the GNSO and ccNSO do not approve the initiation of a Special IFR, or if one approves and one does not approve, they shall issue a joint statement that they do not agree to jointly initiate a Special IFR. The statement shall be delivered to the ICANN Board of Directors, the EC Administration, and posted to the organizations' respective websites and wikis.

If both the GNSO and ccNSO approve the initiation of a Special IFR, they shall issue a joint statement that they agree to jointly initiate a Special IFR. The statement shall be delivered to the ICANN Board of Directors, the EC Administration, and posted to the respective websites and wikis, including the main ICANN org website.

5.8 Timeline of Activity

Step #	Action	Entity taking action	Entity receiving action	Time: Min	Time: Max	Source	Comments
1.	Notice that Remedial Action Procedures did not result in resolution of Performance Issue	CSC	ICANN Board ccNSO & GNSO Councils	Day 0	Day 0	Remedial Action Procedure Section V(f)	Template for CSC notice that defines the scope of the issue and the requirements
2.	Constitute SICT	ccNSO & GNSO Councils	ccNSO and GNSO communities	Day 10 (10 days)	Day 15 (15 days)		Inform CSC and community
3.	Internal reviews	ccNSO & GNSO Councils internal procedures	ccNSO & GNSO Councils	Day 40 (30 days)	Day 75 (60 days)	Article 18.12(a)(ii)	Each Council's internal procedures
4.	Consult other SOs & ACs	SICT	SOs & ACs	Day 75 (35 days)	Day 110 (35 days)	Article 18.12(a)(iii) second part	
5.	Public Comment	Joint Request ccNSO & GNSO	Inform ICANN	Day 75 (0 days, no public comment)	Day 160 (50 days, public comment and review)	Article 18.12(iv)	Requires a decision of both Councils
6.	Report to GNSO & ccNSO Councils	SICT	GNSO & ccNSO Councils	Day 85 (10 days)	Day 180 (20 days)		
7.	Vote on whether to request that the ICANN Board should	GNSO & ccNSO Councils	Inform ICANN	Day 95 (10 days)	Day 200 (20 days)	Article 18.1(b)	If both Council's approve Board is obligated to proceed to initiate

	initiate a SIFR						an SIFR
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