

4. Guidelines for Using the GNSO Input Process for a Special IFR

4.1 Introduction

The process of developing and providing advice to the GNSO's Representative on the Empowered Community (EC) Administration includes whether to request the initiation of a Special IFR in consultation with the ccNSO. In deciding whether to request the initiation of a Special IFR, the GNSO Council must decide whether the following conditions have been met, per the Bylaws:

- (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.

Per the GNSO Operating Procedures, the GNSO Council may initiate a [GNSO Input Process \(GIP\)](#) per ANNEX 3 of the GNSO Operating Procedures "to provide input on matters that may not involve gTLD policy, for example in response to a request from the ICANN Board or in response to a public comment forum...".

Per the following guidelines, GNSO Council must select a decision process and document its deliberations and decisions. GNSO Council should consider using the GIP to determine whether either of the conditions for initiating a Special IFR has been satisfied, as set out in Bylaws section 18.12(a)(i) and (ii) above.

If the GNSO Council uses the GIP it will follow the procedures in ANNEX 3 of the GNSO Operating Procedures, except as noted in the guidelines below. Once the GIP is completed the GNSO Council will consider whether to approve the GIP recommendations. Upon approval of the GIP, the GNSO EC Representative shall notify the ccNSO of the outcome of the GIP. If the outcome is a request to initiate a Special IFR, the GNSO will engage in a consultation process with the ccNSO on whether to initiate a Special IFR. See section 5 below.

4.2 Planning for Initiation of a GIP

Although the GNSO Council is not mandated to use the GIP when determining whether to initiate a Special IFR, given the gravity of the situation presented by a possible failure of PTI performance it is extremely important for the GNSO Council to use a well-documented process such as the GIP provides.

4.3 Minimum requirements for a GIP Initiation Request

To initiate a GIP relating to a Special IFR, a GNSO Council member must submit a request to the GNSO Council as in Section 3 of ANNEX 3, but with the following minimum information as it pertains specifically to a Special IFR:

1. Name of Council member (SG/C)
2. Origin of issue: PTI Performance Failure as evidenced via 18.12 (a)(i) and (ii)
3. Scope of the effort: Review of 18.12 (a)(i) and (ii)
4. Proposed GIP mechanism: The GIP Team
5. Method of operation, if different from GNSO Working Group Guidelines (as appropriate in the context of the time and context constraints of a Special IFR).
6. Decision-making methodology for the GIP Team, if different from GNSO Working Group Guidelines (as appropriate in the context of the time and context constraints of a Special IFR)
7. Desired completion date and rationale for this date.

As in ANNEX 3, Section 3, Any additional information that can facilitate the work on the GIP, such as information that should be considered and/or other parties that should be consulted, is encouraged to be provided as well.

4.4 Initiation of a GIP

As in ANNEX 3, Section 4, any Council member can request that a GIP is initiated following the steps in section 4.3. However, in the case of a GIP relating to a Special IFR, given the importance of the situation, a Council vote is required to initiate via a motion that is approved by a simple majority vote of each House.

4.5 GIP Outcomes and Processes

The GNSO Council will follow the procedures in ANNEX 3, Section 5, with the exception of a GIP relating to a Special IFR as established in Bylaw Article 18, Section 18.12 (“Special IFR”).

For a Special IFR the ICANN Bylaws stipulate that the GNSO and ccNSO must:

- (i) consider the outcomes of both the CSC Remedial Action Procedures and the IANA Problem Resolution Process (both as set forth in the IANA Naming Function Contract), and
- (ii) conduct meaningful consultation with other SOs and ACs with respect to the PTI performance issue and whether or not to initiate a Special IFR.

With respect to the terminology used in the Bylaws in that the GNSO and ccNSO must “consider” the outcomes, the Bylaws provide further guidance as follows, in section 18.12(a)(i), (ii) and (iii) (relevant text bolded for emphasis):

(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;

Furthermore, in order to have “meaningful” consultation with other SOs and ACs jointly with the ccNSO (as per the separate Guidelines for GNSO-ccNSO Joint Consultation on Initiation of a Special IFR), the GIP Team must solicit input relating to whether or not to initiate a Special IFR from each GNSO Stakeholder Group and Constituency in the early stages of the GIP to be able to work quickly and efficiently with the ccNSO in carrying out this responsibility. Detailed records should be kept to document this solicitation of input, per 4.6 below. Given the criticality of a failure in PTI performance, the timeframe provided for responses may be short: failing to provide input is not a valid basis for delay or objection.

4.6 Preparation of Proposed GNSO Input

In the case of a GIP related to a Special IFR, it is critical for the GIP Team to document community input relating to whether or not to initiate a Special IFR. Thus, the following information is not optional per ANNEX 3, Section 6, but must be provided:

- I. Compilation of Stakeholder Group and Constituency Statements (where these were sought and provided);
- II. Statement of level of consensus for Proposed GNSO Input;
- III. Information regarding the members of the GIP Team; and
- IV. A statement on the GIP Team discussion concerning the impact of the proposed input which could include areas such as economic impact, competition, operations, privacy and other rights, scalability and feasibility.

As they are mandatory, these elements must be included as part of the Proposed GNSO Input and by reference to information posted on an ICANN website or wiki (such as through a hyperlink).

The Proposed GNSO Input should be delivered to the GNSO Council for its consideration in the form of a motion for the Council's action.

4.7 Preparation of Final GNSO Input

In the case of a GIP relating to a Special IFR, and contrary to ANNEX 3, Section 7, there will be no public comment period for further input. The final input will be developed based on the statements received as in 4.6 above.

4.8 Council Deliberations

As in ANNEX 3, Section 8, the GNSO Council is encouraged to take action on the Proposed and/or Final GNSO Input (as applicable) in a timely manner, and preferably no later than the second GNSO Council meeting after the input is presented, so long as such a timeline would qualify as timely in the circumstances.

As noted above, in the case of a GIP relating to a Special IFR, approval of the GIP recommendations submitted to the Council does require a Council vote via a motion that is approved by a simple majority vote of each House as set forth at Article X, Section 3-9 of the ICANN Bylaws. The outcome of the vote should be recorded and provided together with the results of the GIP to the entity that initially requested the input.

4.9 Transmission of the Outcome of the GIP

In the case of a GIP relating to a Special IFR, within 24 hours of its decision the GNSO Secretariat shall transmit the results of a GIP, including any recommendations adopted by the GNSO Council, to the GNSO's EC Representative and to the Chair of the ccNSO. The GNSO Secretariat will post the results on the GNSO web and wiki pages, and also convey it to the EC Administration.

4.10 Termination or Suspension of a GIP Prior to Final Report

The Special IFR GIP shall follow ANNEX 3, Section 10.