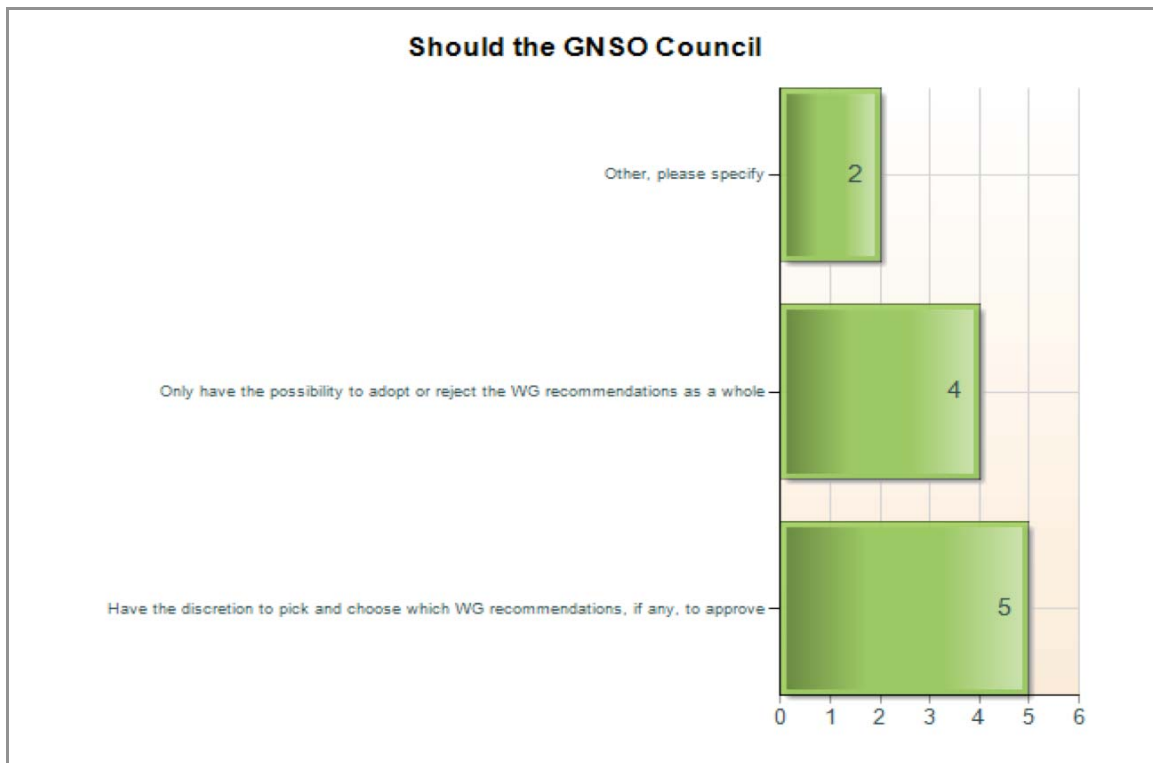


Results PDP-WT Survey – Stage IV
Voting & Implementation
15 December 2009

1 & 2	Name & Affiliation
1	Zbynek Loebel, IPC
2	Paul Diaz, Registrar
3	avri, NCSG
4	Wolf-Ulrich Knoblen, Deutsche Telekom, ISPCP
5	Liz Williams, Business Constituency
6	Tatiana Khramtsova, RU-Center (Registrar)
7	Mike Rodenbaugh, Rodenbaur Law – BC
8	Robin Gross, NCSG
9	Alex Gakuru, NCSG
10	James Bladel, GoDaddy.com (GNSO / Contracted / Registrar Stakeholder Group)
11	Jeff Neuman, Registries Stakeholder Group

Working Group Recommendations

3.



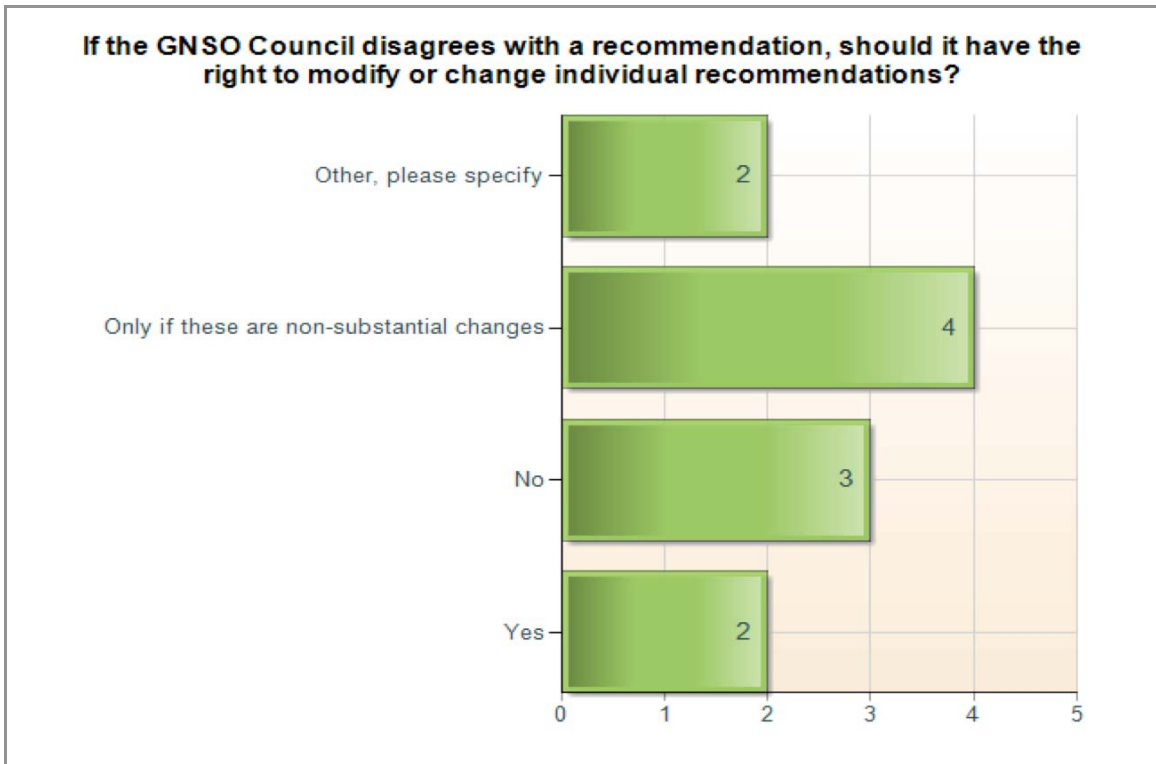
Should the GNSO Council	
Have the discretion to pick and choose which WG recommendations, if any, to approve	5 (45 %)
Only have the possibility to adopt or reject the WG recommendations as a whole	4 (36 %)
Other, please specify	2 (18 %)

3. Other, please specify

#	Response
---	----------

1	answer, but WG specify if some recommendations should be adopt a whole
2	It depends on the situation. I don't think we want a hard and fast rule either way. We need flexibility for package deals when appropriate and line-items when appropriate.

4.



If the GNSO Council disagrees with a recommendation, should it have the right to modify or change individual recommendations?	
Yes	2 (18 %)
No	3 (27 %)
Only if these are non-substantial changes	4 (36 %)
Other, please specify	2 (18 %)

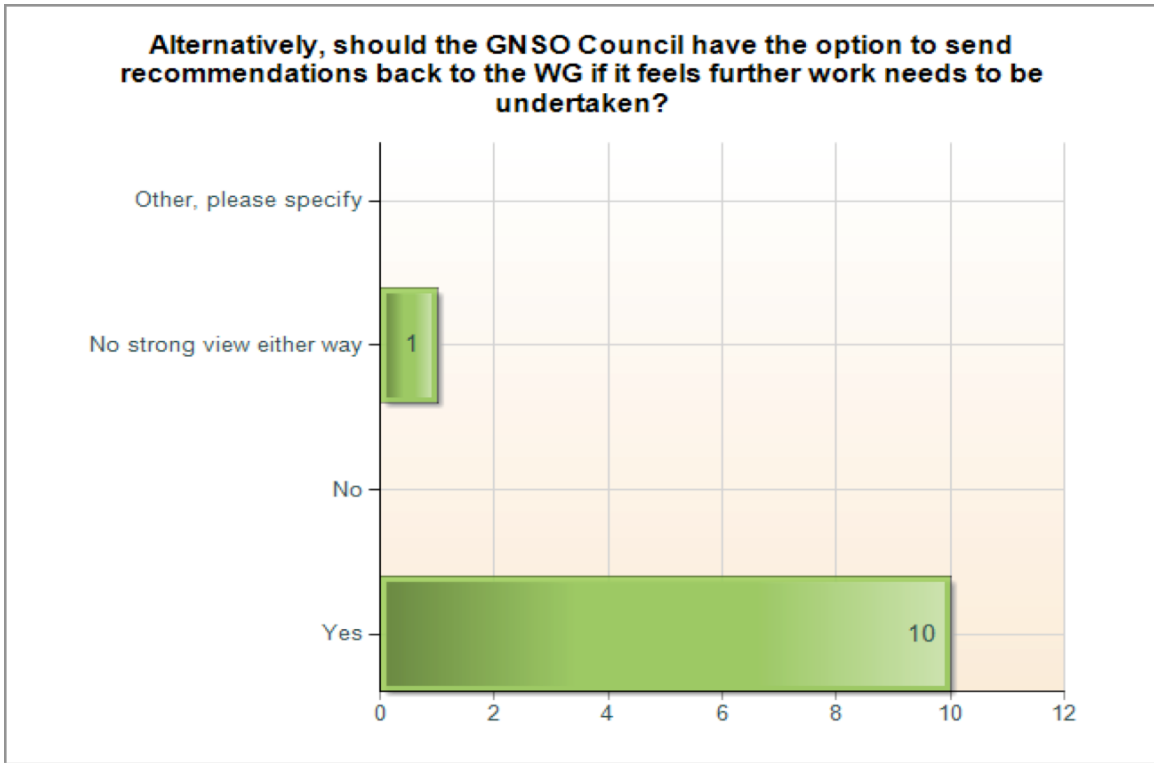
4. Other, please specify

#	Response
1	Yes but in close cooperation with the WG
2	

5. If you agree that the GNSO Council does have the right to change the recommendations or to pick and choose which recommendations to adopt, which procedure should be followed (i.e. does it need to go back to the WG for review and/or should a public comment period be held)?

#	Response
1	a public comment period should be held and the GNSO Council should also go back to the WG and request its view with the intended changes
2	There should be a difference in treating recs which pass through the council to be finally approved by the board and other recs. Public comment period seems to be advisable for "board-to-be-approved" recs. The council should have the flexibility to do both. In addition option 6 should apply.
3	The GNSO Council should not be able to change the recommendations from a working group - those are the recommendations of the working group (not the council). The council may choose to accept them or not, but not change the recommendation of another working group.
4	Agree that this should be a rare occurrence. GSNO Council should be made aware of any dependencies between recommendations, so as not to break any connected or linked items. Any deviation from these recommendations must be put back to the WG to confirm that they are non-material or improve the recommendations.
5	Absent an express intent otherwise by the WG, the Council should be free to adopt or not adopt individual recommendations, but it should not modify any recommendations unilaterally. It must send back any concerns it has to the WG to address and there should be a new public comment period on any substantive changes especially if they are to be "Consensus Policies" under the registry and registrar agreements.

6.



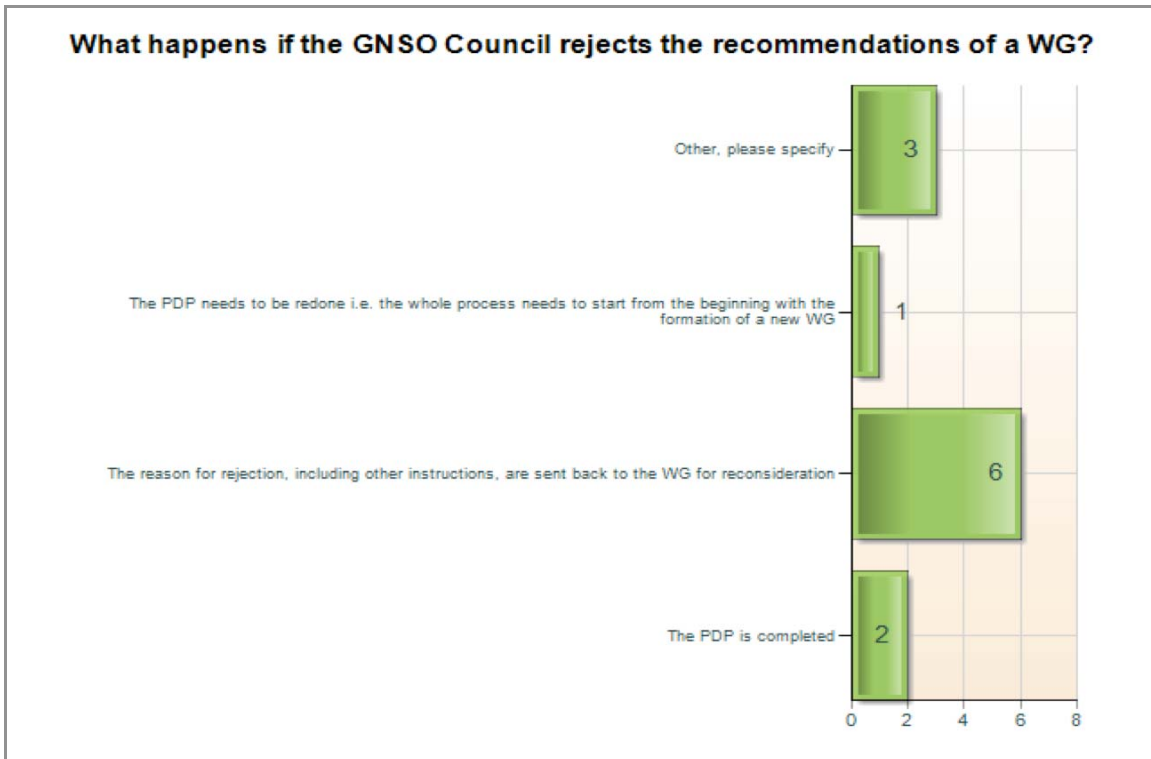
Alternatively, should the GNSO Council have the option to send recommendations back to the WG if it feels further work needs to be undertaken?	
Yes	10 (91 %)
No	0 (0 %)
No strong view either way	1 (9 %)
Other, please specify	0 (0 %)

7. How should the GNSO Council deal with recommendations that are not consensus recommendations, but that have rough consensus, strong support, etc.?

#	Response
1	GNSO Council should still be able to come to decisions
2	Set vote to approve threshold consistent with out of scope PDPs (75% of 1 house AND majority of other house).
3	Should make sure that it is not possible to reach full consensus and should make sure that the reasons full consensus cannot be reached is clearly document. but rough consensus should be as valid for new policy as full consensus.
4	Supposed the steps under 3-6 have already been taken (maybe in several rounds) then the council should move those recommendations according to the voting scheme fixed in the bylaws and/or rules of procedures
5	Note them for a Board report and determine whether further work could be done.

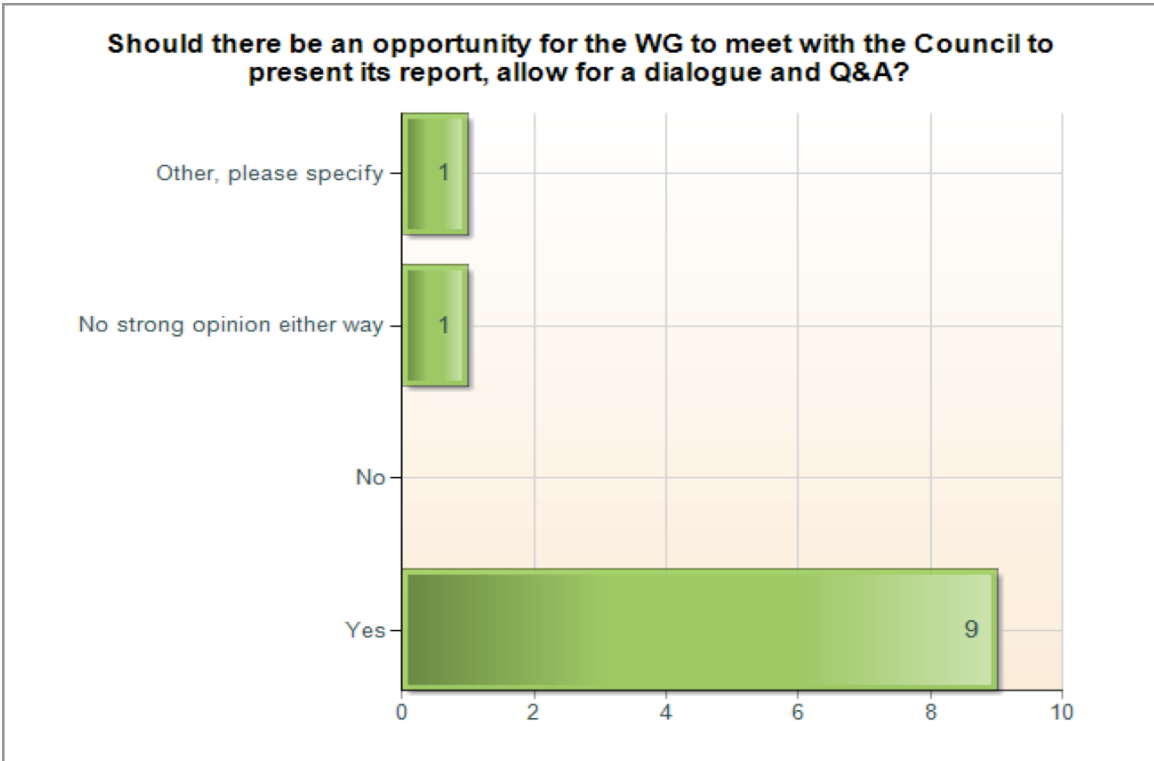
6	Council review it and in case of rejection return to the WG for reconsideration with remarks
7	Such recommendation still might find consensus on Council, or work as part of a consensus compromise among the Council. So such recommendations should be carefully considered.
8	Fully document the positions, their reasoning, who supported the position, and include that information in the full report to the board. We should not try to pretend there is broad consensus on something if it really just a bare majority.
9	Their actions on such recommendations ought to be based on the positive contribution to (global) public interest.
10	GNSO Council can accept any recommendations that have rough consensus, but should not be in the position of deciding between equal, competing positions. These issues must be negotiated by the WG to arrive at stronger consensus.
11	The GNSO Council should forward to the Board all recommendations to the Board indicating the level of support if they have strong support or consensus. For those recommendations that do not have at least strong support, they should either be rejected or sent back to the WG.

8.



What happens if the GNSO Council rejects the recommendations of a WG?	
The PDP is completed	2 (18 %)
The reason for rejection, including other instructions, are sent back to the WG for reconsideration	6 (55 %)
The PDP needs to be redone i.e. the whole process needs to start from the beginning with the formation of a new WG	1 (9 %)
Other, please specify	3 (27 %)

9.



Should there be an opportunity for the WG to meet with the Council to present its report, allow for a dialogue and Q&A?	
Yes	9 (82 %)
No	0 (0 %)
No strong opinion either way	1 (9 %)
Other, please specify	1 (9 %)

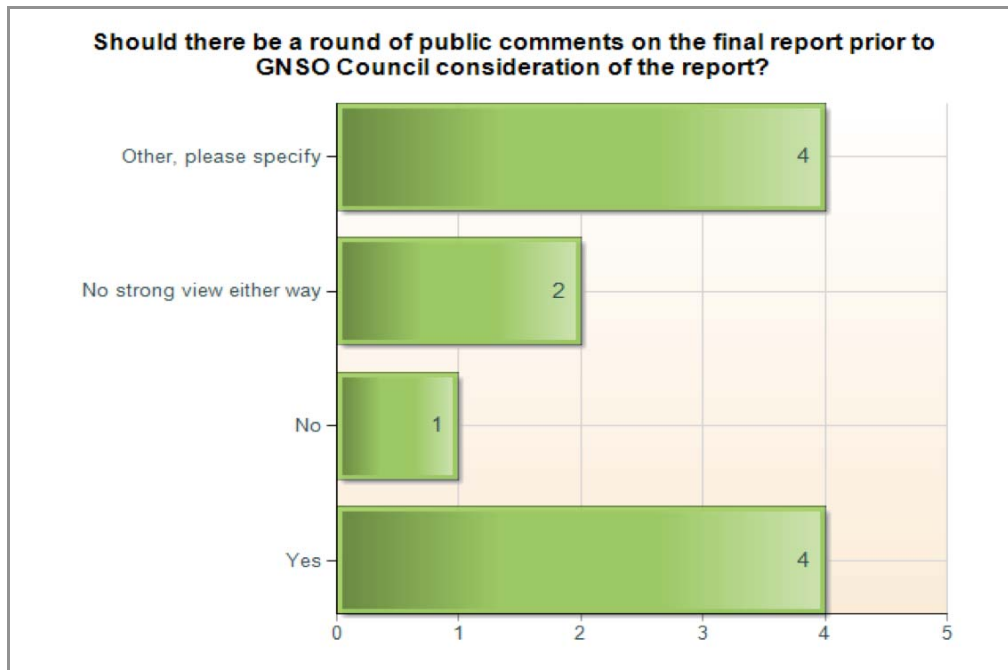
9. Other, please specify	
#	Response
1	Yes, if the Council so requests.

10. What are the time periods in which the GNSO Council needs to complete its work?

#	Response
1	Should be consistent with timeframe for deciding whether or not to initiate a PDP
2	varies on the work. you cannot reach consensus, or even rough consensus on a schedule.
3	That's dependent on the prioritization to be done annually.
4	30 days depending on the time of year.
5	the same timeframe should be adopted as proposed for the decision on whether or not to initiate a PDP
6	What work? Council needs to prioritize all of its work, each WG will find its place within that broader prioritization.
7	Varies for each situation. Council is currently working too fast however - so it should be slower than current.
8	These should depend on the task, for example, the scope and the steps needed in order for the assignment to be completed most fully and providing sufficient consultations time. I feel that an upper limit of 2 months should suffice.
9	Completed PDP WG reports should be considered by the Council within at least 2 scheduled meetings. This should allow for sufficient review, without unnecessary delays on council action.
10	The GNSO should immediately acknowledge receipt of a report and should begin its processes at the meeting following receipt (provided it has been received at least 7 days prior to the next meeting).

Public Comments

11.



Should there be a round of public comments on the final report prior to GNSO Council consideration of the report?	
Yes	4 (36 %)
No	1 (9 %)
No strong view either way	2 (18 %)
Other, please specify	4 (36 %)

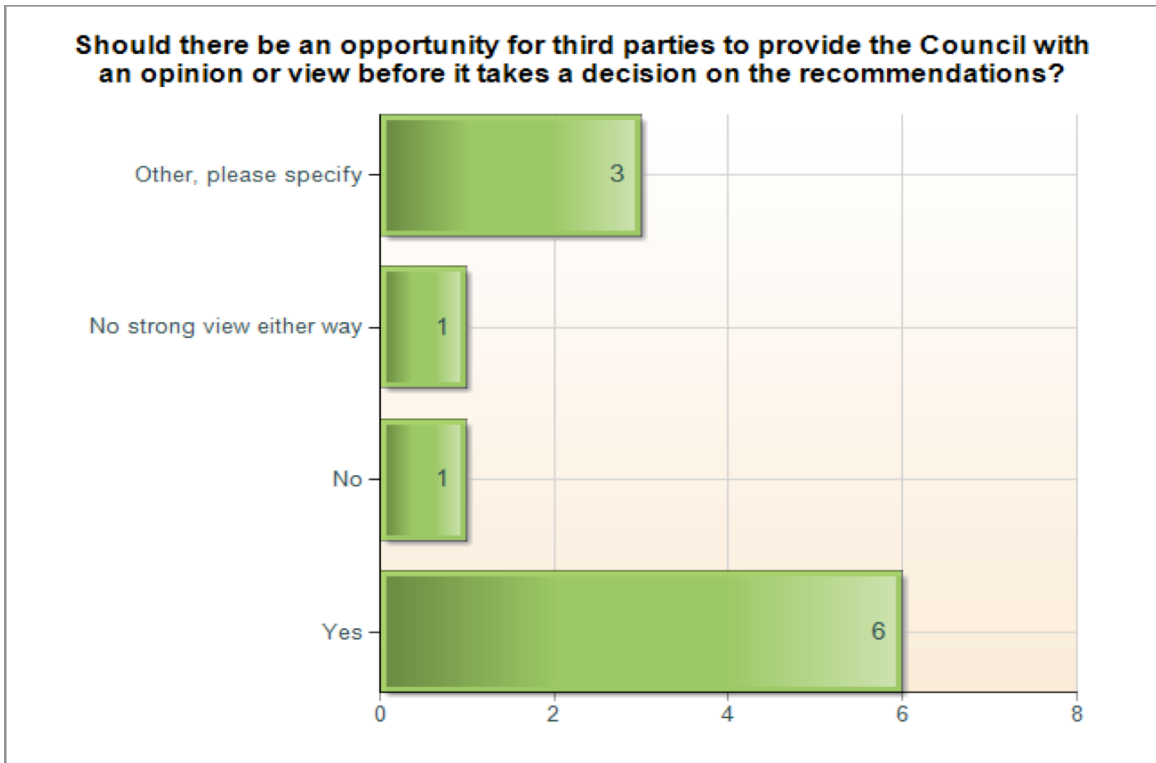
11. Other, please specify

#	Response
1	there should be a final round of comment before the final report is completed.
2	No, but it should happen immediately after the council consideration
3	Yes, if the Final Report is substantially different than the Initial Report that had public comment. Otherwise no.
4	Depends on the level of public comment prior to submission to the Council, but if there has been no public comment period on the final report, then yes there should be one.

12. If you responded 'yes' to the previous question, how should these comments be incorporated or presented?

#	Response
1	in a transparent way
2	all comments must be dealt with. either explain how the issue was dealt with in the current work and how it was considered and resolved. or if the comment offers new content, deal with it.
3	Staff could provide a summary and analysis of the public comments to the Council for its consideration in combination with the Final Report.
4	Just as Staff and WG's have been doing so as of late.
5	sent to the board to aid in its decision-making.
6	They should be annexed to their WG recommendations of the final report. This would be useful guidance in instances where the recommendations may have to be sent back to the WG as would justify reasons for it.(see Q7)
7	ICANN staff should attach the comments to the final report and submit them to the Board. If the Council believes the comments need to be addressed (and they have not previously been addressed by the W), the Council should send back to the WG prior to its consideration.

13.



Should there be an opportunity for third parties to provide the Council with an opinion or view before it takes a decision on the recommendations?	
Yes	6 (55 %)
No	1 (9 %)
No strong view either way	1 (9 %)
Other, please specify	3 (27 %)

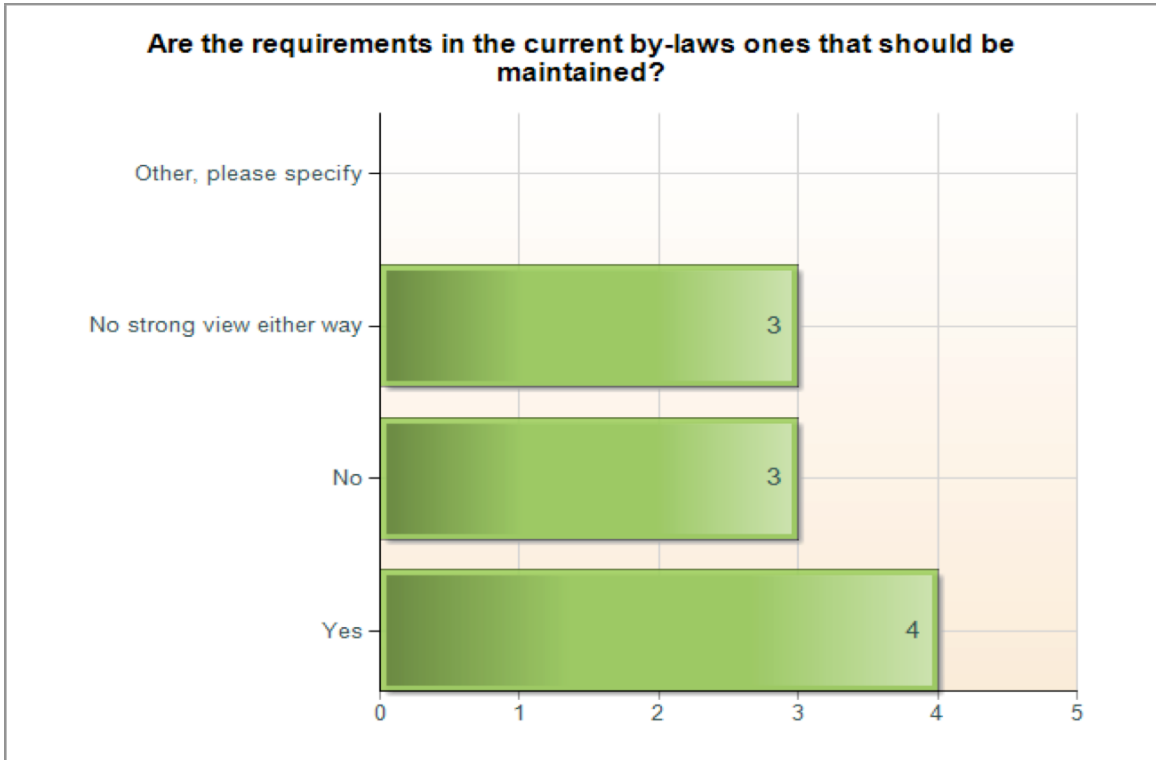
13. Other, please specify

#	Response
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1	Yes if the council wishes so.
2	Yes, if the Council so requests.
3	Why had they not been consulted during the PDP, or joined the WG? At some point, our desire to be open & inclusive can be seen as disrespectful to the work & achievement of participants.

Delivery of Recommendations to the Board

14.

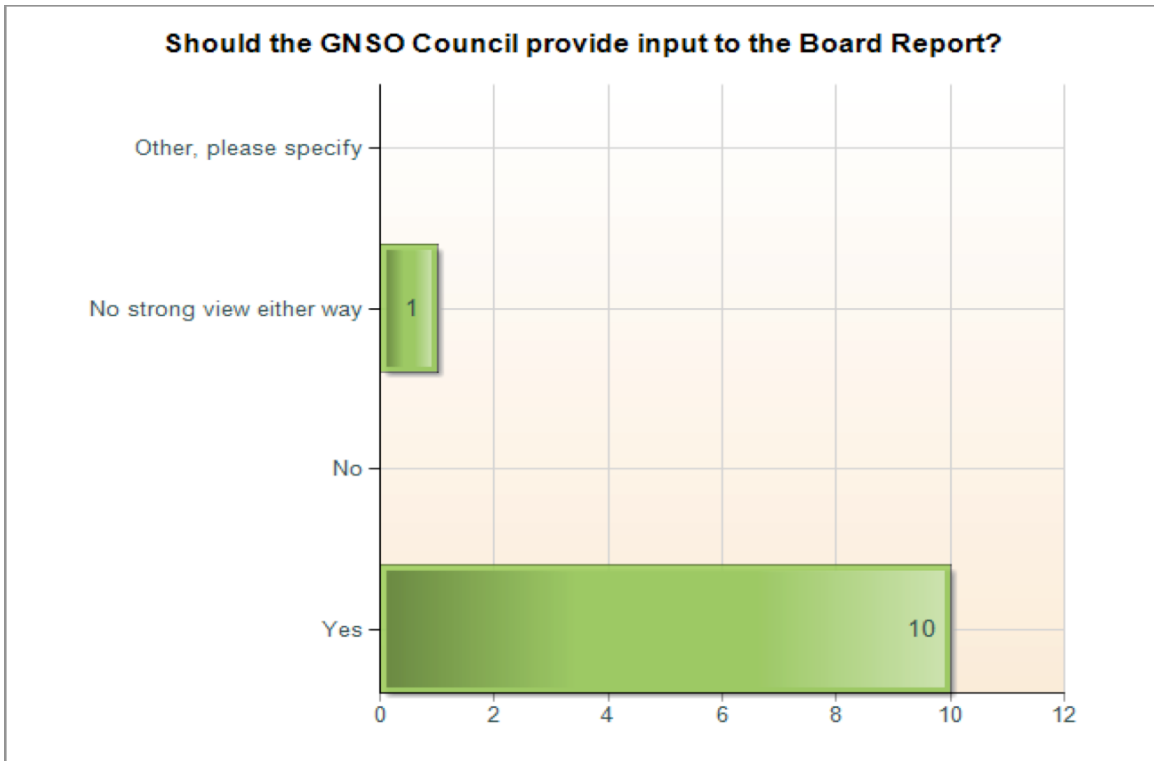


Are the requirements in the current by-laws ones that should be maintained?	
Yes	4 (40 %)
No	3 (30 %)
No strong view either way	3 (30 %)
Other, please specify	0 (0 %)

15. If you answered 'no' to the previous question, what changes should be made?

#	Response
1	WG should help draft summary of findings to the Board (not just Staff).
2	No specific changes, but if any of the current by-laws come out contrary to the consensus of this process, they should be changed.
3	Need to add that a copy of the report submitted to the Board be given to the concerned PDP WG and GNSO Council.

16.



Should the GNSO Council provide input to the Board Report?	
Yes	10 (91 %)
No	0 (0 %)
No strong view either way	1 (9 %)
Other, please specify	0 (0 %)

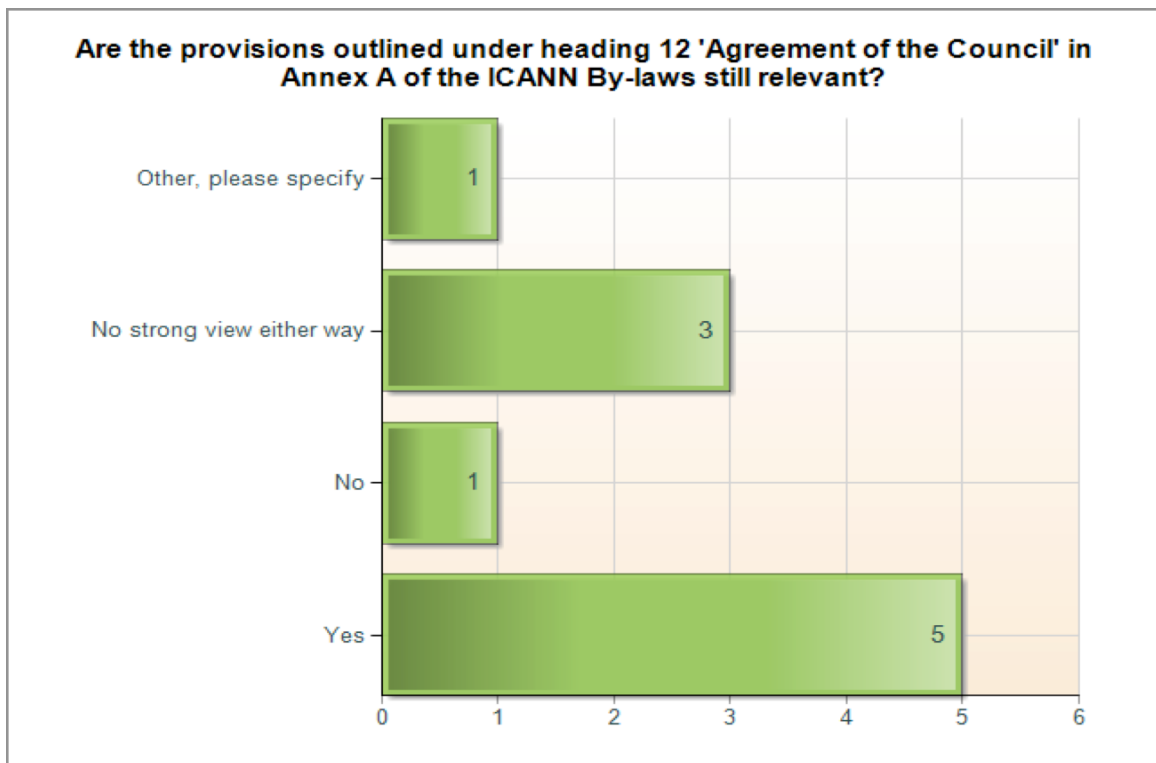
17. If you answered 'yes' to the previous question, how and what kind of input should the GNSO Council provide?

#	Response
1	Council should work with WG on input to the Board
2	whatever it think the Board need to hear.
3	In case the councils view deviates from that of the WG it should clearly be indicated as to what extent it deviates.
4	Commentary that the process was followed, an analysis of the outcome, a recommendation for process improvements.
5	Concil report
6	it should have an oppotunity to review the report and make comments as a Council, and/or individually, so the Board is fully apprised of the Council's view (and not the

	Staff's view of what the Council's view is).
7	How? An annex to the WG report What? indicate their reasons justifying the additional input and their sources of information relied upon.
8	Possibly providing additional background or context on the PDP, and any implementation guidance.
9	The Council and/or the WG should be preparing the bulk of the report to the Board. There should be no confidential report that goes to the Board by the staff unless there are privileged or other legal issues that are not appropriate for public dissemination. Absent that demonstrated need for confidentiality (which should be subject to review), all reports to the Board on a PDP should be public.

Agreement of the Council

18.



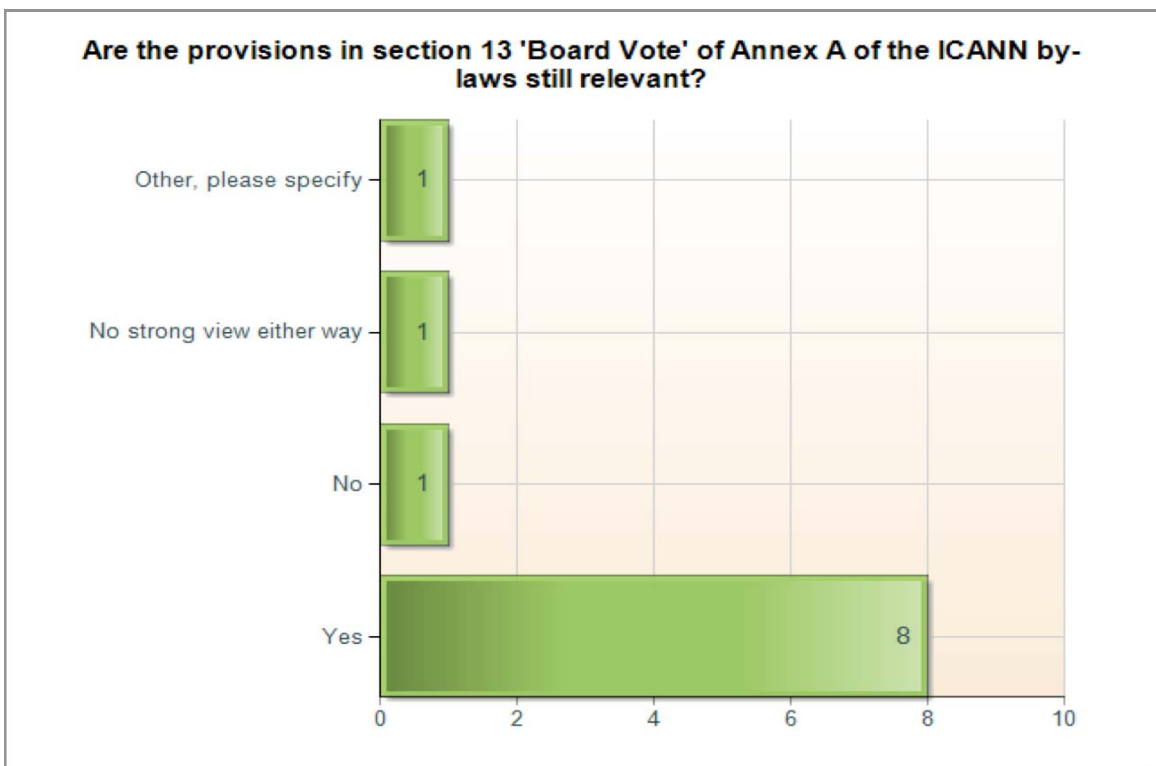
Are the provisions outlined under heading 12 'Agreement of the Council' in Annex A of the ICANN By-laws still relevant?	
Yes	5 (50 %)
No	1 (10 %)
No strong view either way	3 (30 %)
Other, please specify	1 (10 %)

19. If you answered 'no' to the previous question, please indicate what changes should be made.

#	Response
1	Should have higher threshold than just a majority of both houses
2	They should not require a majority in each house.

Board Vote

20.



Are the provisions in section 13 'Board Vote' of Annex A of the ICANN by-laws still relevant?	
Yes	8 (73 %)
No	1 (9 %)
No strong view either way	1 (9 %)
Other, please specify	1 (9 %)

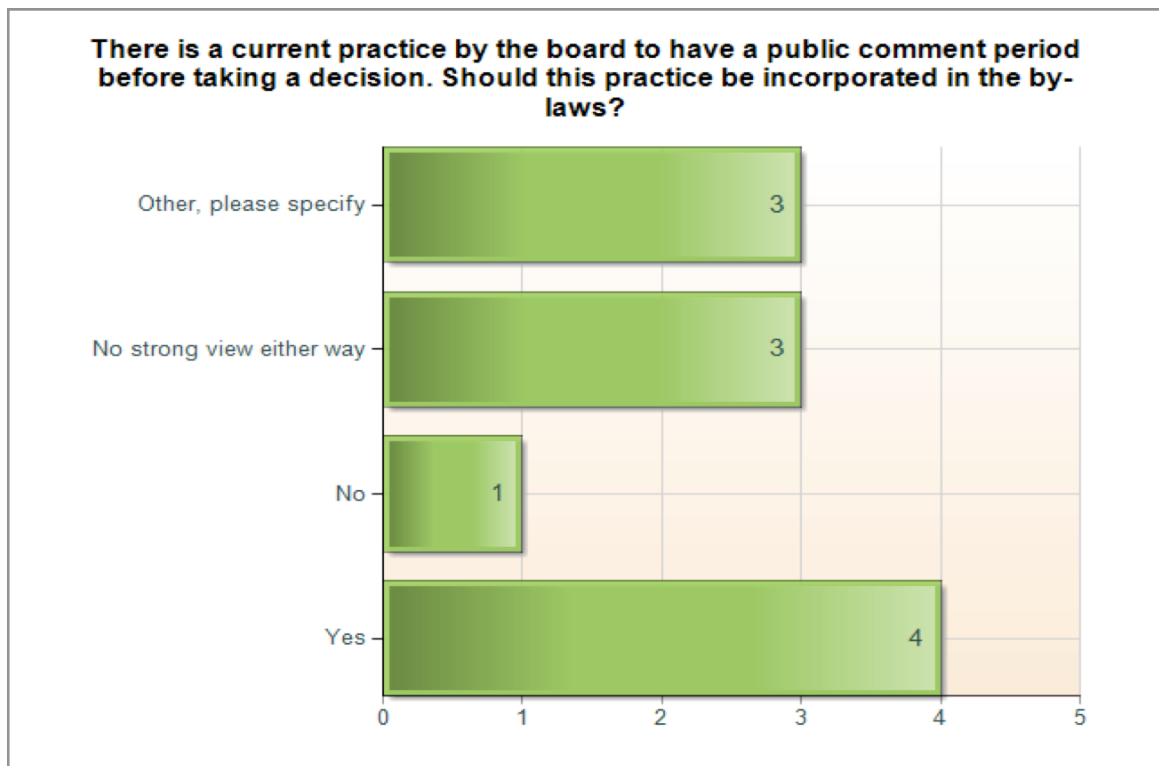
20. Other, please specify

#	Response
1	For the most part

21. If you answered 'no' to the previous question, please provide details as to what should be changed.

#	Response
1	Article (f) should be not allow a simple majority of the Board to brush aside two failed attempts for the Council (and the WG) to reach consensus
2	Section 13 f needs to be clarified. What does it mean by "a majority of the Board will be sufficient to act." I do not believe that a majority of the Board should override the lack of supermajority in the Council especially for "Consensus Policies" as defined in the Agreements.

22.



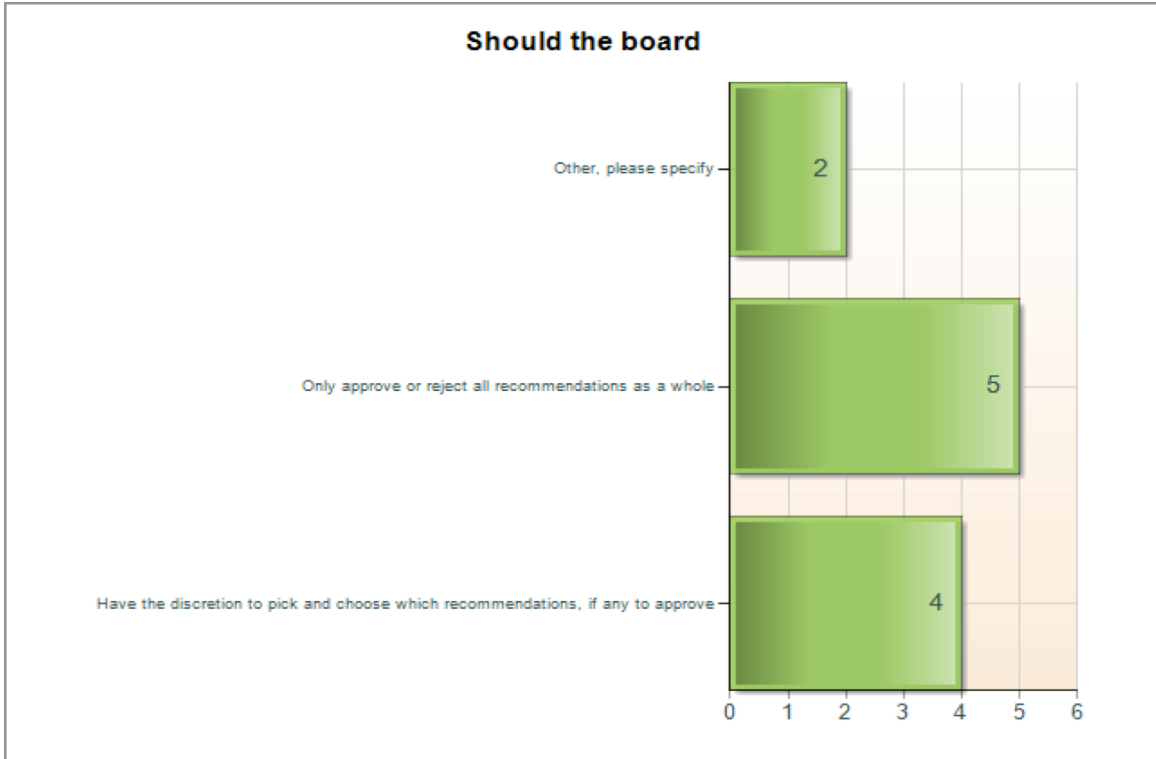
There is a current practice by the board to have a public comment period before taking a decision. Should this practice be incorporated in the by-laws?	
Yes	4 (36 %)
No	1 (9 %)
No strong view either way	3 (27 %)
Other, please specify	3 (27 %)

22. Other, please specify

#	Response
1	not obligatory

2 Perhaps as a general rule, but one the Board can dispense with on a case by case basis.
 3 If there are any changes by the Council or if not, if there has not been a public comments previously on the final report.

23.



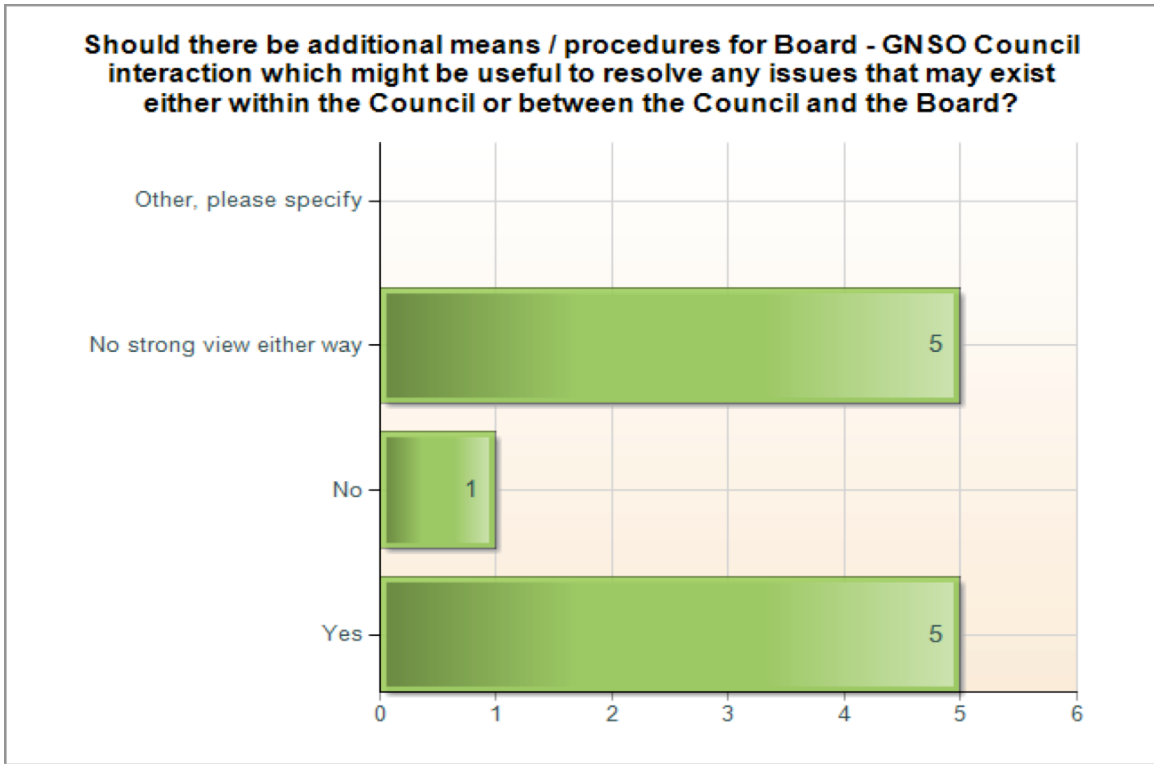
Should the board	
Have the discretion to pick and choose which recommendations, if any to approve	4 (36 %)
Only approve or reject all recommendations as a whole	5 (45 %)
Other, please specify	2 (18 %)

23. Should the board

#	Response
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1	Only to approve the entire recommend - nn line item veto, but have the ability to send issue back to the GNSO for further consideration either before or after having their vote.
2	this depends on whether the WG and/or Council indicated that not adopting them as a whole would affect the whole picture. Not adopting one recommendation may weaken the other recommendations as an example.

24.



Should there be additional means / procedures for Board - GNSO Council interaction which might be useful to resolve any issues that may exist either within the Council or between the Council and the Board?	
Yes	5 (45 %)
No	1 (9 %)
No strong view either way	5 (45 %)
Other, please specify	0 (0 %)

25. If you answered 'yes' to the previous question, please provide further details as to what these means or procedures should be.

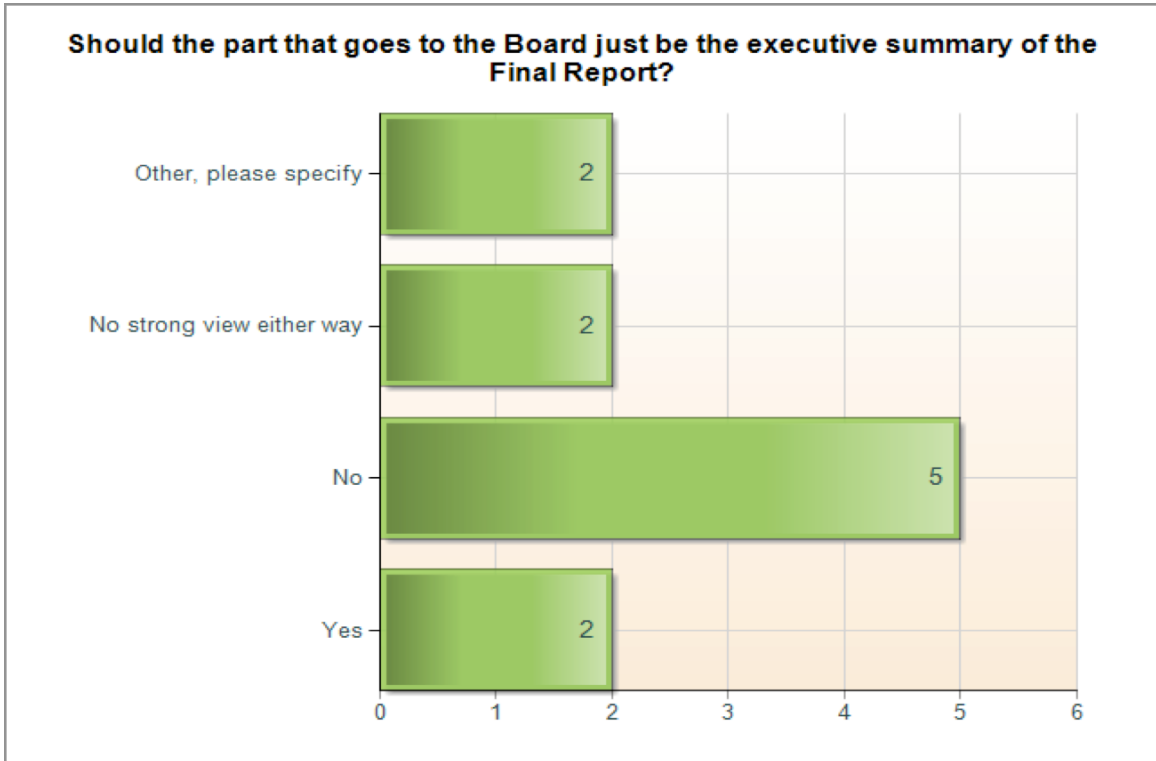
#	Response
1	Akin to a US Congress "conference committee," each party would appoint reps to work out a consensus position; if still deadlocked, the policy issue should be dropped
2	Sit and talk? Remove Policy Staff intermediaries who can only make the process more confusing.
3	Ongoing meeting and interaction -- the GNSO Council is a filter for the Board to do its work supported by expert advisors.
4	Council and Board should have an avenue for direct communication to resolve outstanding issues(e.g. conference calls)

5 The Board should interact with the Council and/or WG. Reliance on Policy staff
 5 completely has been demonstrated to be inefficient and ineffective on some
 occasions.

26. Currently, there is a 'staff report' that is sent to the Board on each issue to outline the substance and process. Should this practice continue or should the WG or the Council have the right to draft / review the report sent to the Board?

#	Response
1	This practice should continue, ICANN staff is very professional
2	WG/Council should help draft the report, and at a minimum review the draft and have opportunity to notes objections to Staff's characterization of the issues
3	The MUST have the ability to review _everything_ the Staff sends to the Board related to any GNSO recommendation or PDP.
4	I understand the Bylaws, Annex A, Para. 11 in this way that there should be a "Board Report" which the Staff Manager prepares on behalf of the Council meaning the Council has accepted the report for board delivery. So if I'm not wrong this right already exists for the council.
5	No. Council should review any staff report to stop the staff being able to overturn consensus recommendations.
6	this practice should continue
7	Council at least must have right to review and edit the report, and can decide whether its WG ought to do that first.
8	The practice of a confidential staff report to the board that accompanies the GNSO's public report should end. ICANN is required to be transparent and accountable to the community, and confidential staff reports on matters of public policy and public deliberation are inexcusable and point to ICANN's failure to be a legitimate governance organization.
9	These are three questions. 1) Should the practice continue? 2) Who should write it? 3)should the WG or the Council have the right to review the report sent to the Board? Answers: 1) Whereas this practice is not on the bylaws, the Board may have the authority to request different reports from staff, 2)Both staff and WG or the Council should be allowed to write their own different reports as this accords the Board more points of view 3) Since staff base their report on WG or the Council work, then WG or the Council should have a chance to review what staff have also written about them. 3)
10	Staff reports should continue, but only information that requires confidentiality should receive it.
11	The Council/WG should have input into the Board report and none of it should be confidential (except for privileged items).

27.



Should the part that goes to the Board just be the executive summary of the Final Report?	
Yes	2 (18 %)
No	5 (45 %)
No strong view either way	2 (18 %)
Other, please specify	2 (18 %)

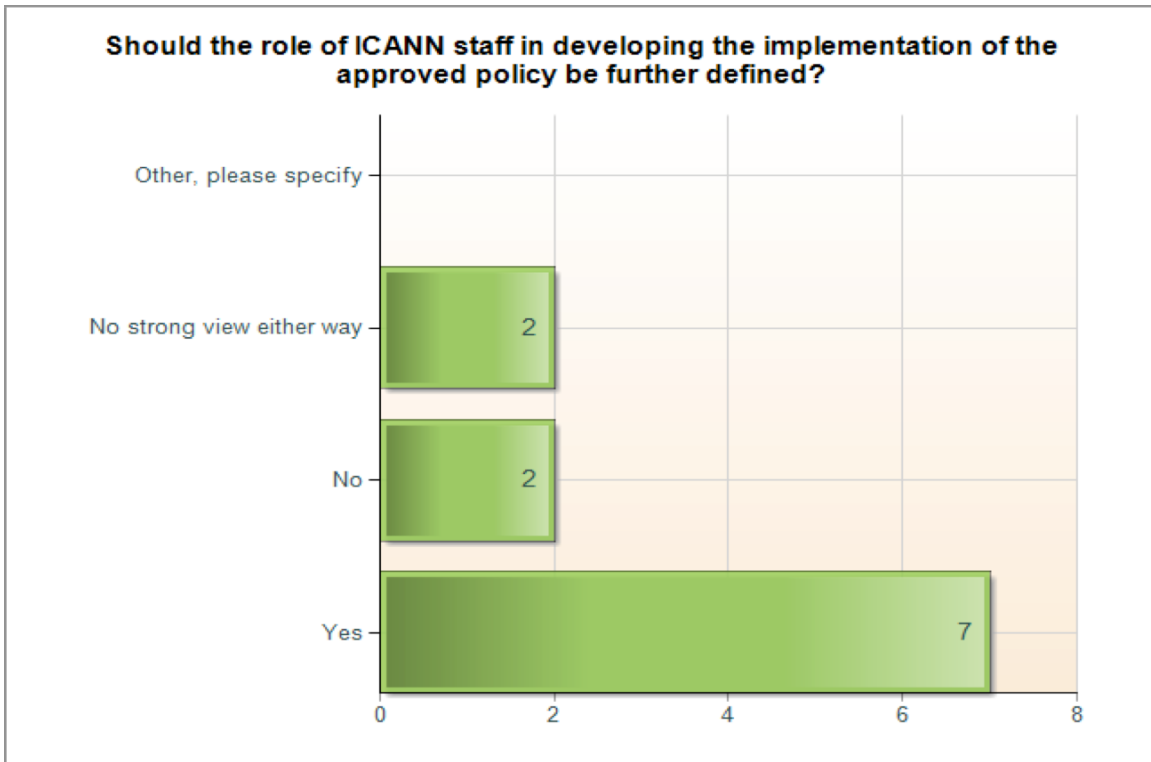
27. Other, please specify

#	Response
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1	Board members should at least have the opportunity, if not obligation, to read the entire work.
2	Depends on what the WG/Council believes is important for the Board to see, but in many cases, yes.

Implementation

28.



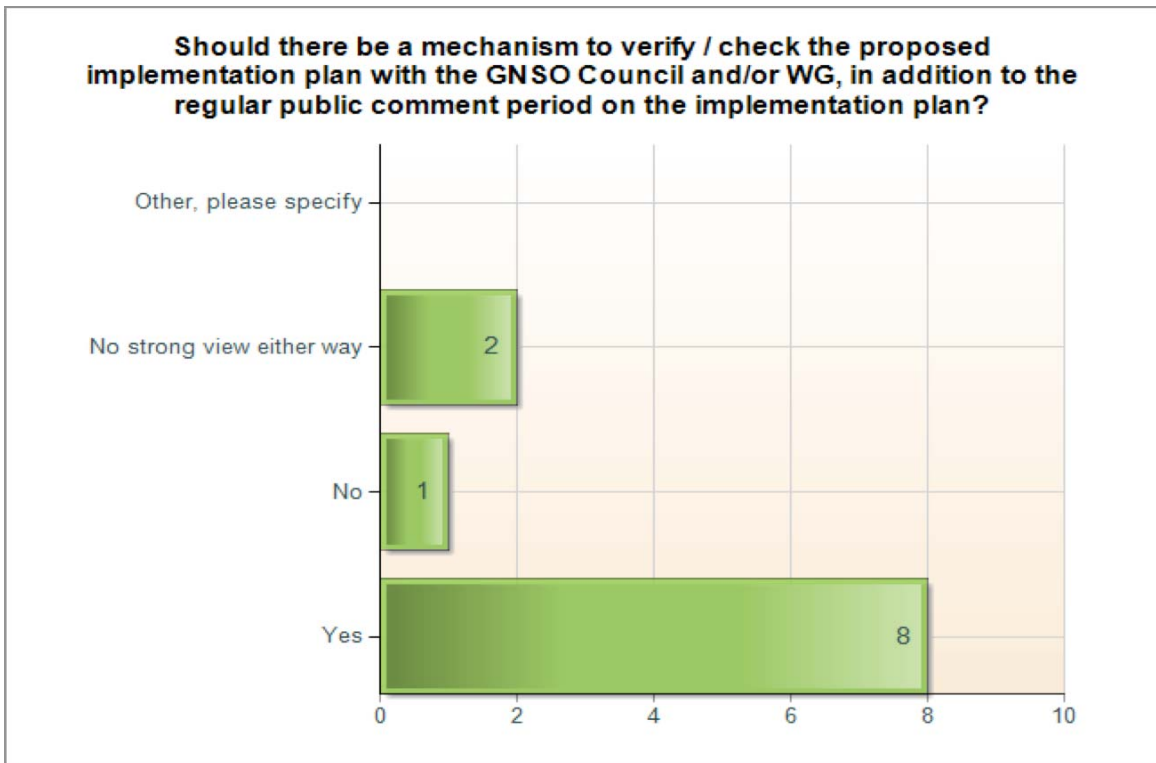
Should the role of ICANN staff in developing the implementation of the approved policy be further defined?	
Yes	7 (64 %)
No	2 (18 %)
No strong view either way	2 (18 %)
Other, please specify	0 (0 %)

29. If you answered 'yes' to the previous question, please provide further details on how the role of staff should be further defined.

#	Response
1	It should be subject to periodic review. GNSO council should have the ability to indicate that they are not following the recommendations. Staff should report on status without having to be begged.
2	No point doing a PDP if the policy is not implemented.
3	Not sure, but this language is meaningless so must be clarified.
4	It is important the GNSO manage public policy - not ICANN staff. So staff should take direction from the GNSO - not try to restrict and "manage" the GNSO. This is a major problem at ICANN that needs to be addressed by this group.

5	The Board should clearly state its mandate to staff to avoid plausible misinterpretations of the Board's desired outcomes when assigning staff responsibilities/tasks.
6	Some restrictions or limitations on how implementation does not materially impact the policy recommendations.
7	Many items of implementation in the past has crossed the line into "policy". There should be a review team of the WG and/or Council to verify that implementation is in line with the recommendations.

30.

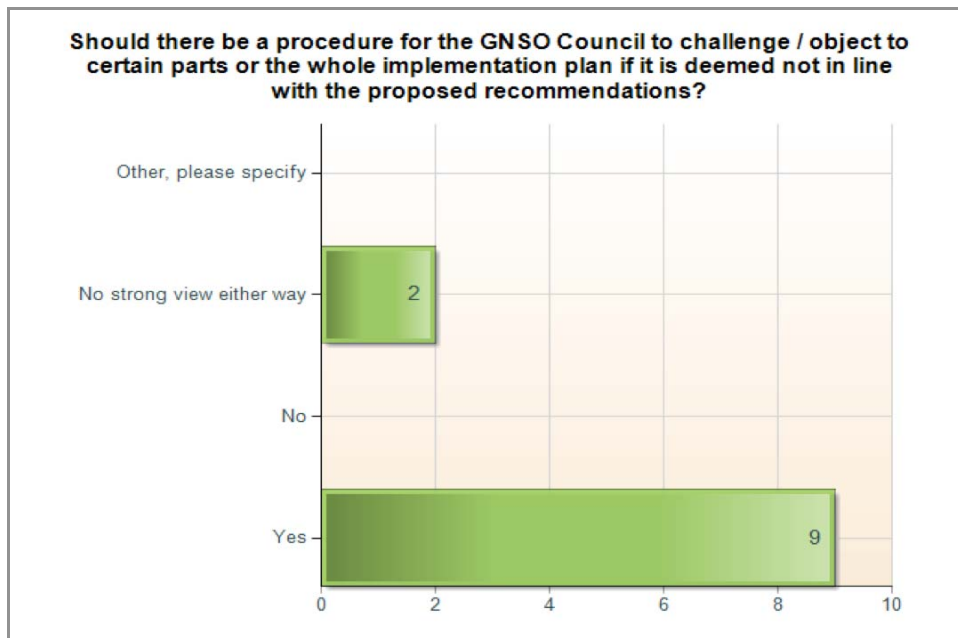


Should there be a mechanism to verify / check the proposed implementation plan with the GNSO Council and/or WG, in addition to the regular public comment period on the implementation plan?	
Yes	8 (73 %)
No	1 (9 %)
No strong view either way	2 (18 %)
Other, please specify	0 (0 %)

31. If you answered 'yes' to the previous question, please provide further details on how such a procedure should look.

#	Response
1	The GNSO should get regular detailed reports and have the opportunity to make binding comment. The WG should not be kept running.
2	According to Art. X,1 of the bylaws the GNSO "...shall be responsible for developing and recommending to the ICANN Board substantive policies...". Although the GNSO doesn't have any responsibility for the implementation there's at least a responsibility to check whether the implementation follows the council's recommendations. This check should be incorporated after the implementation plan is available.
3	Any plan must come back through Council so that the workers can see how their work is implemented.
4	before public comments, the Council and WG should have a chance to give input into the report that will be submitted for public comment, to ensure it reflects the intent of the Council
5	The GNSO will approve or not what staff recommends as an implementation plan. No more "tail wagging the dog" at ICANN.
6	The staff intended implementation plan could, for example, be sent to the originating WG or Council for comment.
7	Council must approve the implementation plan. Any changes to the plan during implementation should seek council approval. It is our concern that recent implementation plans (esp. New gTLDs) have expanded beyond administrative details, and should go back to council to confirm they are aligned with the original intentions of the policy.

32.

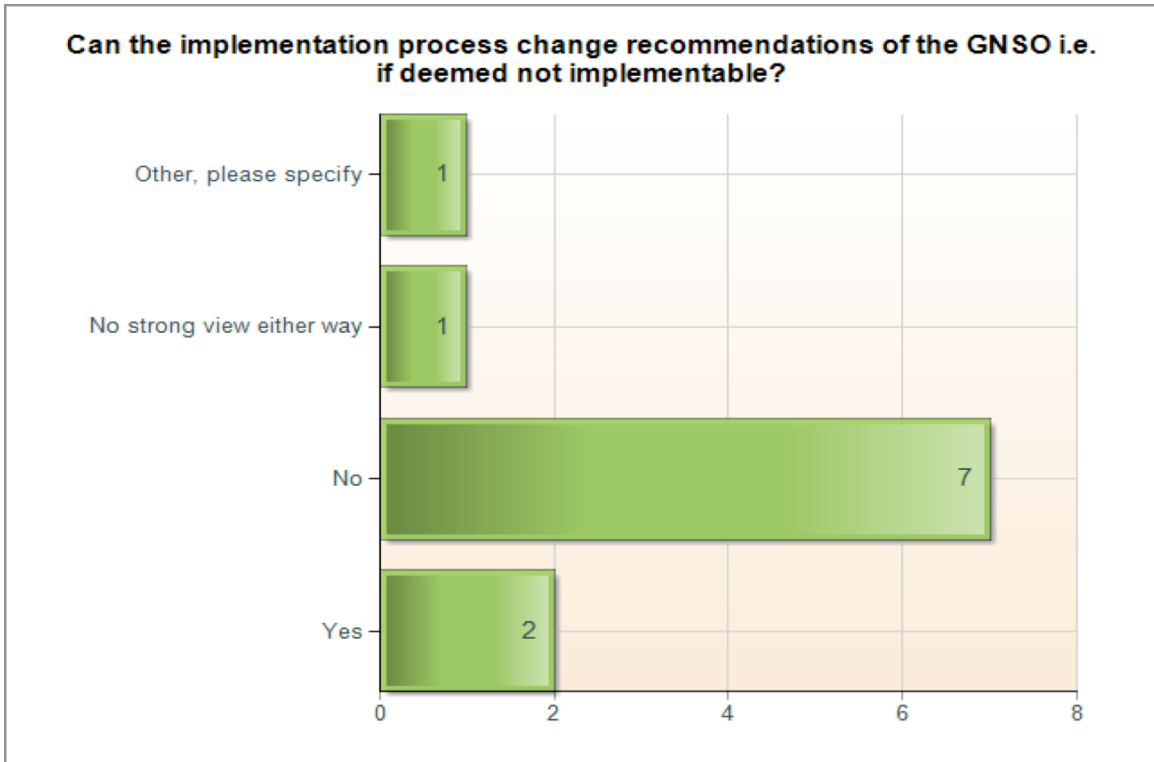


Should there be a procedure for the GNSO Council to challenge / object to certain parts or the whole implementation plan if it is deemed not in line with the proposed recommendations?	
Yes	9 (82 %)
No	0 (0 %)
No strong view either way	2 (18 %)
Other, please specify	0 (0 %)

33. If you answered 'yes' to the previous question, how should such a procedure look?

#	Response
1	It may be a general right of the GNSO Council to file objections which Board has to discuss
2	Implementation plan must receive approval by majority of both houses. Remand unacceptable plans back to Staff for revision. Include guidance to Staff on what would be acceptable.
3	The GNSO reaches some supermajority threshold on a motion that the implementation is not meeting the recommendation. Reasons for this conclusion should be explicit and implementation guideline should be included for fixing the implementation.
4	The council's check under 31 should lead to recommendations to the board. The board should then decide taking into consideration these recs as well as the public comments.
5	Upon Council review, the Council could vote that the implementation plan does not meet with Council satisfaction, and require Staff to edit the report until Council is comfortable it is ready for public comment.
6	GNSO will approve or not what the staff recommends for implementation. Staff will take direction from GNSO on all critical aspects of implementation of GNSO policy.
7	GSNO Council could refer the plan to WG and use WG objections as a basis. I would also extend challenge/object to include WG themselves. This broader inclusiveness would result in more universally acceptable plans.

34.



Can the implementation process change recommendations of the GNSO i.e. if deemed not implementable?	
Yes	2 (18 %)
No	7 (64 %)
No strong view either way	1 (9 %)
Other, please specify	1 (9 %)

34. Can the implementation process change recommendations of the GNSO i.e. if deemed not implementable?	
#	Response
1	see 35

35. If you answered 'yes' to the previous question, what kind of procedure, if any, should accompany such changes?	
#	Response
1	This is a discussion process. It may happen. In this case staff should inform the council about the potential inconsistencies and the changes needed.
2	If any implementation is not applicable it should be reviewed by WG
3	Publish the variation and seen "No-Objection" from GNSO and WG

4 Staff should bring these concerns to Council, along with an explanation / justification of their requested change.

Timing

36. What are more realistic timelines in relation to the voting and implementation provisions in Annex A of the ICANN by-laws?		
#	Response	
1.	times must be relative to the difficulty of the problem. the GNSO Council as manager should define a schedule based on its experience of how long something should take. changes to date must be explicit and voted on.	
3	don't know yet. Subject for further discussion	
4	No idea -- whatever they are they must be practical.	
5	about 60 days	
6	double them.	
7	we need much more time to respond. especially given language barriers, time is crucial to get translations and other materials properly circulated.	
8	About 60 days	