

4 - Working Group

Title: EPDP: Specific Curative Rights Protections for Intergovernmental Organizations (EPDP_SCRP_IGO)

Description & Scope:

The GNSO Council initiated this work to consider “whether an appropriate policy solution can be developed that is generally consistent with the first four recommendations from the GNSO’s IGO-INGO Access to Curative Rights PDP and:

1. accounts for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances;
2. does not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction;
3. preserves registrants' rights to judicial review of an initial [Uniform Domain Name Dispute Resolution Policy or Uniform Rapid Suspension decision; and
4. recognizes that the existence and scope of IGO jurisdictional immunity in any particular situation is a legal issue to be determined by a court of competent jurisdiction.”



The GNSO Council originally created a Work Track within the RPMs PDP WG, based on the Council referral of recommendation 5 from the IGO-INGO Curative Rights Protection Mechanisms PDP WG Final Report. The Addendum to the RPMs PDP Charter was adopted by the GNSO Council in January of 2020. On 19 August 2021, the GNSO Council initiated the Expedited Policy Development Process (EPDP) on Specific Curative Rights Protections for IGOs to enable the policy development of the IGO Work Track to continue without delay, considering the step to be an entirely procedural action and having no impact on the scope of work.







Composition:




Chair(s):	Chris Dispain
Council Liaison:	John McElwaine
Staff:	M. Wong, S. Chan, B. Cobb
# Participants:	19 Participants (link)
# Observers:	5
Tools:	Mailing List / Meeting Schedule / Wiki
Charter:	Charter

Project Management:








Token Holder	Planned Start Date	Actual Start Date	# of Days	Planned End Date	Actual End Date
WG	31 Oct 2019	17 Dec 2020	693	14 Feb 2022	TBD

Program	Progress	Status	Health
IGO	83%	 1	

STATUS:  Planned  On-schedule  Revised schedule  Behind schedule  Target will be missed  On-hold

HEALTH:  On-Target  At-Risk  In-Trouble

Milestones/Work plan ([link](#)):

Milestone/Task	Date	
Work Track Charter Addendum Adopted	Jan-20	✓
EPDP Charter Adopted	Aug-21	✓
Project Start	Dec-20	✓
1st Meeting	Feb-21	✓
Project Plan and Work plan	Apr-21	✓
Issue Deliberations	Dec-21	
Assemble initial conclusions	Jul-21	✓
Consolidate interim recommendations and findings	Jul-21	✓
Build Draft Report for public comment	Aug-21	✓
Issue report for public comment	Sep-21	✓
Review public comment input	Nov-21	
Determine consensus levels on recommendations	Dec-21	
Finalize Report	Dec-21	
Adopt final recommendations and report	Dec-21	
Send final report to GNSO Council	Dec-21	
GNSO Council adoption of consensus recs.	Feb-21	
Issue public comment for Board consideration	Mar-22	
ICANN Board adoption of consensus recs.	Jun-22	
Prior period % Complete	78%	

Status/Health Rationale:

- This project maintains a Status of “Behind-Schedule” and Health of “On-Target”.

Current Activities:

- Review of [public comment](#) responses to Initial Report.
- Revise [recommendations](#) as appropriate to prepare the Final Report.
- PCR to Council requesting additional time as noted in the Risks section below.

Planned Activities:

-
- Determine levels of consensus on recommendations.

Open Issues, Risks & Mitigation Plan:

- Public Comments and further discussions between EPDP leadership and the GNSO Council may indicate a need to determine whether the EPDP charter is too restrictive to develop a solution that is mutually agreeable to all affected parties. The EPDP team largely considers its current preliminary recommendations the as “generally consistent” with recommendations #1-4 from the original curative rights PDP.
- The EPDP team has yet to comprehensively review potential arbitral frameworks from leading providers, though Public Comments may show this is not necessary at the policy development phase. Such a review may require additional legal advice about the feasibility and implications of including a specific arbitration option, which will necessitate a request to the Council.
- The Initial Report was published for public comment later than committed which may challenge delivery of the Final Report in December. The EPDP team may need to consider accelerating the pace and cadence of its upcoming meetings to absorb the delay.

Completed in prior period(s):

- Public comment closed 24 Oct 2021 with 14 Individual, 13 Organization, and 6 Community groups submitting comments.
- Confirmed delisting of Recommendation #2.
- Confirmed revised Recommendation #6.
- Confirmed revised Recommendation #1.

Project Tracking & Rollup DASHBOARD

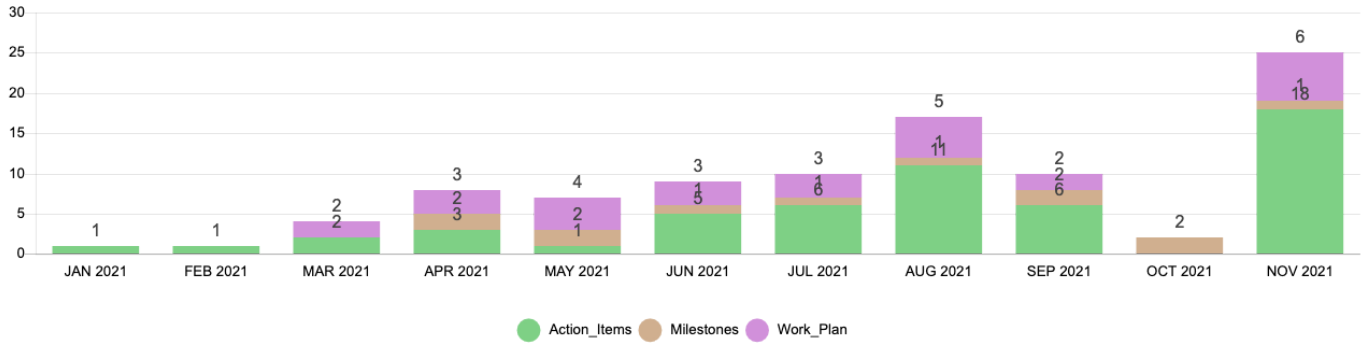


Project Roster

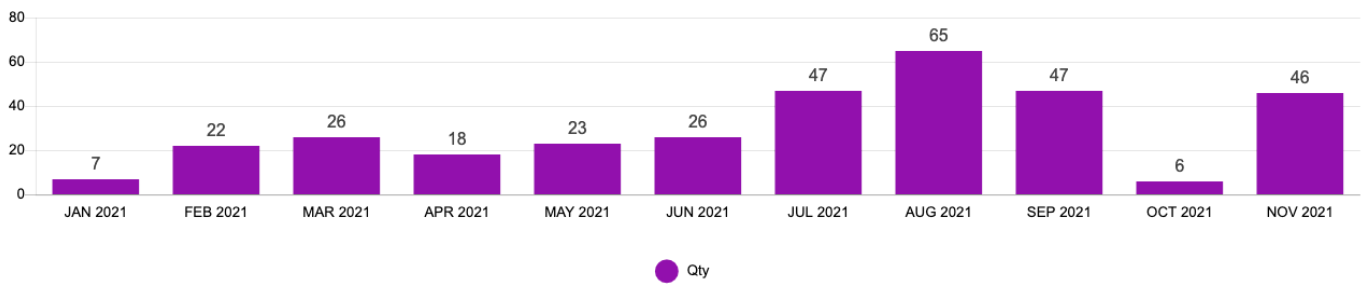
Participant	Participant Type	Role	Participation Start Date	Participation End Date	Legacy SOI Link
Group Selected / Nominated By: Group Name At-Large Advisory Committee (ALAC)					
Yrjö Lämsipuro	Member		12/17/20		https://community.icann.org
Justine Chew	Member		12/17/20		https://community.icann.org
Carlos Raúl Gutiérrez	Alternate		12/17/20		https://community.icann.org
Vanda Scartezini	Alternate		12/17/20	11/08/21	https://community.icann.org
Vanda Scartezini	Alternate		11/24/21		https://community.icann.org
Group Selected / Nominated By: Group Name Commercial Business Users Constituency (BC)					
Jay Chapman	Member		12/17/20		https://community.icann.org
Group Selected / Nominated By: Group Name GNSO Council					
Chris Disspain	Member	Chair	12/17/20		https://community.icann.org
Jeffrey Neuman	Member	Liaison	01/08/21		https://community.icann.org
John McElwaine	Member	Liaison	01/08/21		https://community.icann.org
Group Selected / Nominated By: Group Name Governmental Advisory Committee (GAC)					
Susan Anthony	Member		12/17/20		https://community.icann.org
Kavouss Arasteh	Member		12/17/20		https://community.icann.org
Alexandra Excoffier	Member		12/17/20		https://community.icann.org
Brian Beckham	Member		12/17/20		https://community.icann.org
Jorge Cancio	Alternate		12/17/20		https://community.icann.org
David Satola	Alternate		12/17/20		https://community.icann.org
Matthew Coleman	Alternate		12/17/20		https://community.icann.org
Group Selected / Nominated By: Group Name Intellectual Property Constituency (IPC)					
Paul McGrady	Member		01/11/21		https://community.icann.org
Group Selected / Nominated By: Group Name Internet Corporation for Assigned Names & Numbers (ICANN)					
Mary Wong	Staff - Assigned		12/17/20		
Steve Chan	Staff - Assigned		12/17/20		
Julie Bisland	Staff - Assigned		12/17/20		
Terri Agnew	Staff - Assigned		12/17/20		
Berry Cobb	Staff - Assigned		12/17/20		
Devan Reed	Staff - Assigned		11/15/21		
Group Selected / Nominated By: Group Name Internet Service Providers and Connectivity Providers Constituency (ISPCP)					
Oswaldo Novoa	Member		12/17/20		https://community.icann.org
Group Selected / Nominated By: Group Name Non-Commercial Stakeholder Group (NCSG)					
Juan Manuel Rojas	Member		12/17/20		https://community.icann.org
Krishna Seeburn	Member		12/17/20	03/03/21	https://community.icann.org
Ioana Florina Stupariu	Member		12/17/20		https://community.icann.org

Project Tracking & Rollup DASHBOARD

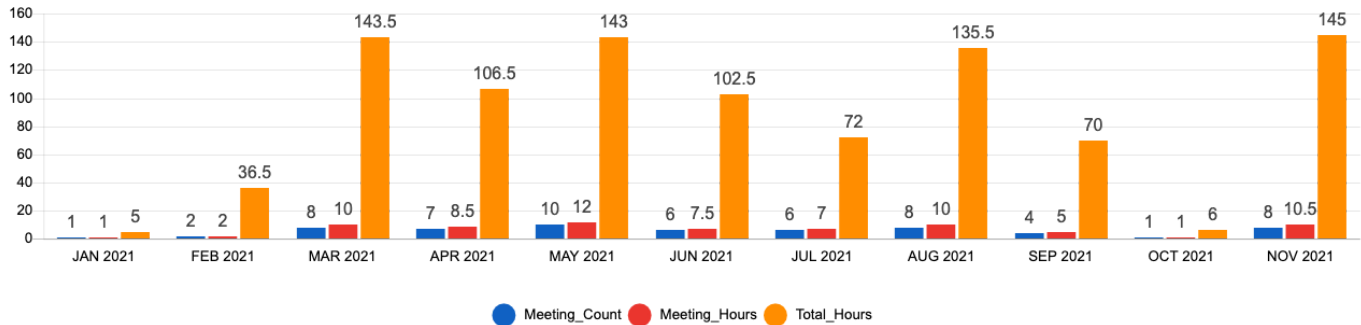
Work-Plan Activity Metrics



Mailman Activity



Meeting Activity



Plenary Attendance

Group Represented	Invited Qty	Attended Qty	Attendance
Total	Sum 474	Sum 398	Avg 84.0%
Primary At-Large Advisory Committee (ALAC)	Sum 91	Sum 64	Avg 70.3%
Attendee Name Carlos Raúl Gutiérrez	Sum 27	Sum 5	Avg 18.5%
Attendee Name Justine Chew	Sum 24	Sum 22	Avg 91.7%
Attendee Name Vanda Scartezini	Sum 12	Sum 11	Avg 91.7%
Attendee Name Yrjö Länsipuro	Sum 28	Sum 26	Avg 92.9%
Primary Commercial Business Users Constituency (BC)	Sum 28	Sum 28	Avg 100.0%
Attendee Name Jay Chapman	Sum 28	Sum 28	Avg 100.0%
Primary GNSO Council	Sum 84	Sum 80	Avg 95.2%
Attendee Name Chris Disspain	Sum 28	Sum 28	Avg 100.0%

Attendee Name Jeffrey Neuman	Sum 28	Sum 26	Avg 92.9%
Attendee Name John McElwaine	Sum 28	Sum 26	Avg 92.9%
Primary Governmental Advisory Committee (GAC)	Sum 157	Sum 138	Avg 87.9%
Attendee Name Alexandra Excoffier	Sum 28	Sum 25	Avg 89.3%
Attendee Name Brian Beckham	Sum 28	Sum 26	Avg 92.9%
Attendee Name David Satola	Sum 22	Sum 22	Avg 100.0%
Attendee Name Kavouss Arasteh	Sum 28	Sum 14	Avg 50.0%
Attendee Name Matthew Coleman	Sum 23	Sum 23	Avg 100.0%
Attendee Name Susan Anthony	Sum 28	Sum 28	Avg 100.0%
Primary Intellectual Property Constituency (IPC)	Sum 28	Sum 26	Avg 92.9%
Attendee Name Paul McGrady	Sum 28	Sum 26	Avg 92.9%
Primary Internet Service Providers and Connectivity Providers Constituency (ISPCP)	Sum 28	Sum 21	Avg 75.0%
Attendee Name Oswaldo Novoa	Sum 28	Sum 21	Avg 75.0%
Primary Non-Commercial Stakeholder Group (NCSG)	Sum 58	Sum 41	Avg 70.7%
Attendee Name Ioana Florina Stupariu	Sum 28	Sum 22	Avg 78.6%
Attendee Name Juan Manuel Rojas	Sum 28	Sum 17	Avg 60.7%
Attendee Name Krishna Seeburn	Sum 2	Sum 2	Avg 100.0%

[Open source report to view more](#)

Health	Category	Action Item	Priority	Assigned To	Baseline Finish	Current Finish	Status	Notes
	AI	EPDP to review public comments in prep for first meeting	—	EPDP Team	11/02/21	11/02/21	Complete	
	WP	Meeting #27 - Review of Public Comments	↓	EPDP Team	11/02/21	11/02/21	Complete	
	MS	Deliver Project Package to Council	↓	Berry Cobb	11/05/21	11/05/21	Complete	
	AI	Staff to update Rec#1 PCRT	—	Policy Support Staff	11/05/21	11/05/21	Complete	
	AI	Staff to create Rec#1 extract for new ideas	—	Policy Support Staff	11/05/21	11/05/21	Complete	
	AI	EPDP to review PCRT Rec#1 updates	—	EPDP Team	11/08/21	11/08/21	Complete	
	AI	EPDP to review PCRT Rec#2, 6, 3	—	EPDP Team	11/08/21	11/08/21	Complete	
	WP	Meeting #28 - Review of Public Comments	↓	IGO-WT Team	11/08/21	11/08/21	Complete	
	AI	Staff to setup doodle poll for Rec#1 small team	—	Policy Support Staff	11/08/21	11/08/21	Complete	
	AI	Staff to update PCRT Recs #2, #6	—	Policy Support Staff	11/11/21	11/10/21	Complete	
	AI	Rec #1 small team to meet and update proposed text	—	Brian Beckham Paul McGrady Policy Support Staff Susan Anthony	11/18/21	11/18/21	Complete	
	AI	EPDP to review PCRT Rec#2, 6, 3	—	EPDP Team	11/15/21	11/15/21	Complete	
	WP	Meeting #29 - Review of Public Comments	↓	IGO-WT Team	11/15/21	11/15/21	Complete	
	AI	Staff to send out updated Recommendation #2 text	—	Policy Support Staff	11/16/21	11/16/21	Complete	
	AI	EPDP to review updated Recommendation #2 text	—	EPDP Team	11/19/21	11/19/21	Complete	
	AI	Staff to send out updated Recommendation #6 text	—	Policy Support Staff	11/16/21	11/16/21	Complete	
	AI	EPDP to review updated Recommendation #6 text	—	EPDP Team	11/19/21	11/19/21	Complete	
	AI	Staff to send out extract on "Notice of Objection"	—	Policy Support Staff	11/16/21	11/16/21	Complete	
	AI	EPDP to review "Notice of Objection" extract and come prepared to discuss at Meeting #30 and respond on list	—	EPDP Team	11/19/21	11/19/21	Complete	
	WP	Meeting #30 - Review of Recs #2 & #6; Review of Rec #3, Notice of Objection	↓	IGO-WT Team	11/22/21	11/22/21	Complete	
	AI	Staff to send out updated Recommendation #6 text	—	Policy Support Staff	11/22/21	11/22/21	Complete	
	AI	EPDP to review Recommendation #6 text	—	EPDP Team	11/29/21	11/29/21	Complete	
●	AI	Jeff and Jay to extract components of "Notice of Objection" that may be useful to the EPDP's deliberations and potentially form an updated proposal	—	Jay Chapman Jeffrey Neuman	11/29/21		In Progress	
	WP	Meeting #31 - Update on Rec #1, Confirm Rec #2, Continue on PCRT Rec #3	↓	EPDP Team	11/29/21	11/29/21	Complete	
	AI	Jay/Paul to confirm the intent of the BC/IPC comment: Accordingly, one potential compromise alternative to exempting an IGO from the mandatory submission to a "Mutual Jurisdiction", would be amending UDRP Rules Section 3(b)(xi) with an explicit caveat as follows: "State that Complainant, without prejudice to an IGO Complainant's privileges and sovereign immunity, will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the jurisdiction of the courts in at least one specified Mutual Jurisdiction."	—	Jay Chapman Paul McGrady	12/10/21		In Progress	
	AI	IGOs (Brian) to respond on-list to ICA response quoting from Prof Swaine: "As a purely legal matter, it seems unlikely that the Mutual Jurisdiction provision, as it may be accepted by an IGO, establishes or occasions a violation of IGO immunity... [and] it may seem more appropriate to require an IGO to abide by a judicial process, given that it has elected to initiate UDRP proceedings, than it would be require a domain-name registrant to accept the IGO's preferred alternative"	—	Alexandra Excoffier Brian Beckham David Satola	12/10/21		In Progress	
	AI	Brian to provide update to Rec #1 small team he received from UN colleagues regarding the use of "Permanent Observer Status" in context of Rec #1 intent.	—	Brian Beckham	12/10/21		In Progress	
	AI	Staff to update Rec #3 PCRT	—	Policy Support Staff	11/29/21	11/29/21	Complete	
	MS	Deliver Project Package to Council	↓	Berry Cobb	12/03/21		In Progress	
	WP	Meeting #32 - Cancelled	↓	EPDP Team	12/06/21	11/29/21	Complete	
	MS	Deliver Project Change Request to Council	↓	EPDP Leadership	12/06/21		In Progress	
	WP	Meeting #33 - Conclude on Rec #1, Conclude on Rec #3 PCRT, begin Rec #4 PCRT	↓	EPDP Team	12/13/21		In Progress	
	WP	Meeting #34 - Conclude on Rec #4 PCRT	↓	EPDP Team	12/20/21		Not Started	
	MS	Deliver Final Report to the GNSO Council	!	EPDP Team			Not Started	