

Public Comment Issue Tracking Checklist

Forum: Process for Recognition of New GNSO Constituencies

[Opened: 2 February 2011; Closed: 3 April 2011]

1) Conflict of Interest		
Issue/Suggestion/Recommendation	Status	Comments/Disposition
<p>1.1 SGs should have input to the Board regarding Constituency applications, but not approval authority due to conflict of interest.</p> <p>1.2 SGs would have little incentive for new entrants because of the dilution of power.</p>	Resolved	Each SG decision regarding a new Constituency application is subject to ratification by the Board. Recognizing that there can be differences of opinion as to the merits of any application, the process codifies specific criteria in an effort to minimize subjective influences, potential conflicts, or other perceived disincentives. In order for a SG to recommend not approving an application, it must identify to the Board the specific criteria that it believes have not been met. If the Board disagrees with a SG's decision, the process provides for reconsideration with the Board ultimately having final disposition authority.
2) Process Complexity and Timeliness		
Issue/Suggestion/Recommendation	Status	Comments/Disposition
<p>2.1 Concern about potential elongated timeframe due to "regularly-scheduled" Board meetings.</p> <p>2.2 Board should not have open-ended decision cycle and should be required to render decision within 2 successive meetings.</p>	Resolved	The process has been amended to state that, if an SG submits a decision to the Board at least 45 days in advance of the next scheduled Board meeting, such a request will be reviewed at that meeting; otherwise, the decision will be reviewed at the next consecutively scheduled Board meeting. The process further provides that, if the Board is unable to act after considering the matter for two meetings, it shall form a special committee to "report on the circumstances...and its best estimate of the time required to reach an action" (see also 4.1 below).
<p>2.3 Too many complex and unnecessary process/review steps.</p>	Resolved	The process and review steps were designed to ensure due diligence and transparency in the decision-making process. It should be noted that, if a SG accepts an application (or candidate) and the Board agrees, the review process terminates. The additional steps required when there is disagreement between the SG and the Board are designed to ensure a thorough examination in fairness to the applicant.
<p>2.4 Meetings between SG & Board/Council create procedural complexities and potentially elongate the time horizon.</p>	Resolved	All of the "consultations" mentioned in the procedures are optional and, if exercised, must be carried out within the prescribed timeframes allotted; therefore, by design, they cannot elongate the process. The reference to the "GNSO Council" (Step 2-E) was inadvertently missed in an earlier editing phase and has been removed in the final version.
3) Evaluation Criteria		
Issue/Suggestion/Recommendation	Status	Comments/Disposition

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<p>3.1 Eliminate 'Large' and 'Small' organization categories: arbitrary; lacks policy rationale; could disadvantage otherwise legitimate groups.</p>	<p>Resolved</p>	<p>Based upon the community feedback, the "Large" and "Small" categories have been eliminated in the final process version. The requirement (see Appendix 1 and 2) has been revised to specify a total minimum number of support letters without regard to the size of the submitting organizations.</p>
<p>3.2 Eliminate distinction between Constituencies (i.e., organizations vs. individuals).</p>	<p>Resolved</p>	<p>Distinguishing the amount of demonstrated support on the basis of entity classification is appropriate given the possibility that a Constituency could be organized primarily of individuals (e.g., registrants). Such a Constituency should be expected to demonstrate quantitatively higher levels of individual support from around the world than would be true of organizational structures which may represent hundreds, if not thousands of members on a regional or global basis.</p>
<p>3.3 Eliminate external industry classification systems: too technical; no logical or policy basis; potential barrier to entry.</p>	<p>Resolved</p>	<p>The purpose of this criterion is to eliminate any potential barriers to entry. One of the requirements of a prospective new Constituency is to show that it is non-duplicative of existing structures. It is possible that the defined scope of an existing SG's Constituencies already encompasses the entire breadth of its industry segmentation (e.g., non-commercial). In such a case, a new Constituency could never "fit" without some redefinition of boundaries. The process document identifies several well-respected industry classification systems as <u>potential</u> models and also permits "...an alternate construct proposed by the Applicant" (see Appendix 1-3b).</p>
<p>3.4 External industry classification systems: define terms and provide reference links.</p>	<p>Resolved</p>	<p>In the final version, the acronyms have been extrapolated with hyperlinks retained.</p>
<p>3.5 Authorized letters of support requirement is unreasonable; too high a barrier; should be amended (no recommendation provided).</p>	<p>Resolved</p>	<p>Producing letters of support is a reasonable method for demonstrating broad community support for the Constituency. While the Board acknowledges that any initial set of numbers may appear arbitrary, in the absence of some minimum quantity, the process could be gamed and would not provide the SG with any objective metric that could be used to assess the support and representativeness of the prospective Constituency. One important goal of the new recognition process is to remove subjectivity as much as possible and rely upon quantifiable data – even at the risk of starting with a threshold that may be unreasonably high or low. If the Board determines that the minimum quantities are not achieving the goals of the process, they can be raised or lowered according to documented experience.</p>

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<p>3.6 New Constituencies may not be able to “break into” established WGs; either require WGs to accept them or make exception in criteria.</p>	<p>Resolved</p>	<p>While it is recognized that accommodating new participants within an established Working Group can be challenging, this requirement (see Appendix 2-2) only pertains to the Candidate phase of the process. The prospective Constituency has in excess of nine months from the start of the Applicant phase in which to identify and participate in only two Working Groups and the requirement includes committees, work teams, drafting teams, or other Council-approved structures. This criterion is reasonable as a starting point; however, it can be raised, lowered, or otherwise altered based upon community experience.</p>
<p>3.7 Some SGs do not have many ‘committees’ which may make the requirement impossible to achieve.</p>	<p>Resolved</p>	<p>Based upon this feedback, in the final version, the process now qualifies this criterion (see Appendix 2-4) to note, “if appropriate and applicable.”</p>
<p>4) Procedural Recommendations</p>		
<p>Issue/Suggestion/Recommendation</p>	<p>Status</p>	<p>Comments/Disposition</p>
<p>4.1 Board should be required to address new Constituency requests at its next meeting.</p>	<p>Resolved</p>	<p>Please see responses to 2.1 and 2.2 above.</p>
<p>4.2 Board should be required to make decision on Applicant or Candidate petitions within 2 successive meetings.</p>	<p>Resolved</p>	<p>In the final version, the scope has been narrowed to Non-Contracted Parties SGs (see also 3.7).</p>
<p>4.3 Process should clearly delineate that it is applicable ONLY to Non-Contracted Parties SGs.</p>	<p>Resolved</p>	<p>Based upon this feedback, the final version of the process incorporates new text to encourage prior discussion between the Applicant and the SG before finalizing the application.</p>
<p>4.4 Constituencies proposing to restructure a SG should be encouraged to discuss such alternatives with SG before submitting application.</p>	<p>Resolved</p>	<p>In response to this advice, all occurrences of “SGEx” have been replaced by “SG” and; furthermore, it has been noted that SG decisions should follow internal governance provisions. Within the SG process steps, all references to a specific type of vote (e.g., majority, 2/3) have been removed deferring, instead, to each SG’s particular decision-making procedures.</p>
<p>4.5 The procedures place responsibility for decision-making on “SGEx;” however, not all SGs permit an Executive Committee to act on behalf of entire membership.</p>	<p>Resolved</p>	<p>The intent of this idea is appreciated; however, in the defined process, the Board has been accorded this due diligence role in its review and consideration of any SG rejection. In addition, there is a separate and formal reconsideration process that applies to Board decisions; therefore, another appeal or rebut process does not appear to be necessary within the scope of this process.</p>
<p>4.6 Constituencies should have a definitive appeal or rebut process in the event that an application or candidacy is disapproved by SG or Board.</p>	<p>Resolved</p>	<p>All Board decisions are required to be transparent including the new practice of including rationale statements. There is nothing in this new Constituency recognition procedure that alters the above requirement of the Board to make its decisions public.</p>
<p>4.7 All Board decisions should be made public.</p>	<p>Resolved</p>	<p>All Board decisions are required to be transparent including the new practice of including rationale statements. There is nothing in this new Constituency recognition procedure that alters the above requirement of the Board to make its decisions public.</p>

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<p>4.8 To address conflict of interest concern, new Constituency recognition should be handled by a special committee comprising SG and Board members. Consideration should also be given to adding members from the other House SG.</p>	<p>Resolved</p>	<p>The alternative of creating a special committee to perform this function is thoughtful and creative; however, the Board is not eager to create any more committees than it has at present. In addition, the Board believes that, for matters as important as approving new Constituency applications, the perspectives of all Board members should be heard and considered. A third concern is that delegating such action to a multi-organizational committee may conflict with the Bylaws (Article X, Section 5.4). See also item 1.1 and 1.2 above in which the subject of potential conflicts of interest is addressed.</p>
<p>5) Questions for Clarification</p>		
<p>Issue/Suggestion/Recommendation</p>	<p>Status</p>	<p>Comments/Disposition</p>
<p>5.1 Appendix 1 (#4 & #5): clarify 'primarily' organizations vs. 'primarily' individuals.</p>	<p>Resolved</p>	<p>Based upon this feedback, the final language has been clarified from 'primarily' to "whose membership is more than 50% comprised" of organizations or individuals.</p>
<p>5.2 Appendix 1 (#4): How is it possible to have "four individuals from all five Geographic Regions"?</p>	<p>Resolved</p>	<p>The final language now reads "in each of five Geographic Regions."</p>
<p>5.3 Appendix 2 (#5-b): same concern with language as 5.2.</p>	<p>Resolved</p>	<p>The final language now reads "in each of five Geographic Regions."</p>
<p>5.4 Appendix 2 (#5): criteria disallows a Constituency if it does not have members in 4 out of 5 geographic regions; discriminates against Registries and, potentially, a prospective Constituency of Latin-American businesses (illustrative example).</p>	<p>Resolved</p>	<p>As documented in 4.3 above, the scope of the new Constituency recognition process has been constrained to Non-Contracted Parties; therefore, Registries and Registrars are not affected. Additionally, it is a fundamental requirement of all GNSO structures that they be representative on a global basis. In the illustrative example cited, while such a group of Latin-American businesses would be welcome to join the Business Constituency, it would not qualify to be a standalone GNSO Constituency due to its narrow geographic representation. The Board believes that this particular criterion represents a reasonable starting point and can be amended in the future if experience suggests that it is unfair to certain applicants.</p>
<p>6) Additional Proposal</p>		
<p>Issue/Suggestion/Recommendation</p>	<p>Status</p>	<p>Comments/Disposition</p>
<p>6.1 Allow unaffiliated membership in the GNSO creating a "General Assembly" from which future constituencies may be created by Board action; establish Presidential Committee to investigate this option.</p>	<p>N/A</p>	<p>This recommendation is appreciated; however, it is not specifically related to the new Constituency recognition process. The commenter is invited to submit the idea to the GNSO Council for consideration.</p>