ICANN | GNSO
Generic Names Supporting Organization

GNSO COUNCIL SMALL TEAM – SubPro Pending Recommendations

Subject	**Pending SubPro Recommendations**
Background	On 12 September 2021, the ICANN Board directed ICANN org to perform an Operational Design Phase (ODP) on the New gTLD Subsequent Procedures PDP. ICANN org initiated the ODP in early January 2022 and delivered the Operational Design Assessment (ODA), the main output from ODPs, on 12 December 2022.
	The Board has taken into account the ODA and in a summary document, has indicated that it would approve the majority of the SubPro recommendations at ICANN76. However, because of a variety of concerns, the Board did not plan to consider 38 recommendations at ICANN76 and would instead place them in a pending state. The Board met with the Council to make it clear that dialogue and engagement is the Board's preferred method to address their concerns versus sending letters back and forth.
	Now that the small team has completed its original assignment of triaging the pending recommendations, and a first set of pending recommendations has, apart from the PICs/RVCs related recommendations, been addressed through the adoption of a Clarifying Statement by the GNSO Council, the focus will need to shift to reviewing the remaining recommendations. For these remaining recommendations, other than the PICs/RVCs related recommendations[1], the small team will propose substantive changes, if any, that could be considered by the GNSO Council to address the Board's concerns.
	The Council has determined that a small team of Councilors in combination with subject matter experts is the right mechanism to carefully analyze the remaining pending recommendations, consider Board concerns, and, where deemed appropriate, recommend proposed modifications to the pending recommendations for Council's consideration.
Assignment	**Task:** Assuming Board non-adoption of the remaining pending recommendations for which it has signaled non-adoption, the small team is expected to address the following assignments:
	1) Take into account the analysis already undertaken of these recommendations in the context of the triage effort;
	2) Consider, ahead of any Board non-adoption, whether instead of a Supplemental Recommendation, it would be appropriate to use a section 16 process to develop the proposed modifications for any of the pending recommendations, and advise the Council accordingly, including its rationale;
	3) Consider the Board Statement that is to be provided to the GNSO Council following non-adoption;

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[1] Now that input has been received from the ICANN Board, the small team will review this input and revert back to the GNSO Council with a possible revised Clarifying Statement to address the PICs/RVCs related recommendations (9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13, 30.7, 31.16, 31.17).

4) Advise the Council on any specific questions or issues to raise during its meeting with the ICANN Board to discuss the Board Statement;
5) Re-consider whether instead of a Supplemental Recommendation, it would be more appropriate to use a section 16 process to develop the proposed modifications for one or more of the pending recommendations, and advise the Council accordingly, including its rationale;
6) Check in with Council on the outcome of assignment #5; and,
7) Develop proposed Supplemental Recommendations or develop proposed modifications through section 16 process, per the check-in with Council and as deemed appropriate*, for Council consideration.

* The small team can also recommend that the GNSO Council accepts the Board's non-adoption of a specific recommendation in which case no Supplemental Recommendation needs to be developed.

Following completion of assignments #1-#6, the small team is expected to develop a work plan that sets out its proposed approach and expected timing for the development of the Supplemental Recommendations or section 16 process, where applicable. This work plan is also expected to address whether further community consultations are advisable as part of the development of the revised recommendations, such as webinars or public comment opportunities.

Liaisons from the Board and Org are strongly encouraged. The small team may also elect to review the final output with the co-chairs of the Board's SubPro caucus prior to sharing with the full Council.

In the Board's summary document, the Board noted that it was open to sharing amendment proposals to address concerns, if that was desired by the Council. The small team could consider requesting further information to better support its work if there are still questions following its review of the Board Statement.

Timing	The small team shall commence its work on these assignments as soon as feasible after the Board's non-adoption (expected to happen during the September 2023 Board workshop). If non-adoption is delayed for some reason, the small team can engage in pre-work on potential Supplemental Recommendations or commence section 16 processes, as appropriate. Note, Board non-adoption is not a prerequisite to commence section 16 processes. Neither does it preclude use of section 16 processes.
Members	Membership: The small team shall be open to any interested and committed Councilor, with knowledge of the SubPro Final Report preferred. In addition, each GNSO Stakeholder Group and Constituency may put forward one subject matter expert (SME) plus alternate to help inform assignment #7. It is understood that depending on the subject matter under discussion, the SME may change. The same arrangement will apply for Advisory Committees that have expressed an interest to participate in the deliberations in relation to assignment #6 (e.g. GAC topic leads). As such, the small team is expected to plan with sufficient advance notice when certain subjects are expected to be addressed so that the GNSO Secretariat can be informed accordingly should there be changes to the SME. At a minimum, SMEs are expected to be familiar, or

familiarize themselves, with the SubPro Initial Report and Final Report sections on these specific topics as well as small team deliberations to date.

Leadership: The current lead of the small team, Paul McGrady, will continue serving as the Lead of the small team. His role is to help in leading meetings and providing updates to the full Council. If and when the Lead is to discuss the topic outside of the Council context, the Council shall agree on talking points.

ICANN org liaison(s): ICANN org's GDS function is invited and encouraged to assign at least one liaison to support the small team.

ICANN Board liaison(s): The ICANN Board is invited and encouraged to assign at least one liaison to support the small team.

In relation to assignment #7, the objective is to present the Council with recommendations that enjoy the full consensus of the small team. Should this not be possible, the Lead is expected to assess the level of consensus achieved (as per the GNSO Working Group Guidelines) and communicate this to the GNSO Council together with the different views expressed.

Documents	- SubPro Initial Report: https://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-initial-overarching-issues-work-tracks-1-4-03jul18-en.pdf - SubPro Draft Final Report: https://gnso.icann.org/sites/default/files/file/field-file-attach/draft-final-report-new-gtld-subsequent-21sep20-en.pdf - SubPro Final Report: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf - SubPro Operational Design Phase: https://www.icann.org/en/system/files/files/subpro-oda-12dec22-en.pdf - Anticipated Board Action in Cancun and Dependencies: https://gnso.icann.org/sites/default/files/policy/2023/presentation/subpro-outputs-conerns-and-dependencies-28feb23-en.pdf - Outputs that the Board marks as "pending": https://gnso.icann.org/sites/default/files/policy/2023/presentation/outputs-that-the-board-marks-as-pending-28feb23-en.pdf - For additional context, the ICANN Board input to the Draft Final Report (see line 54) may be useful: https://docs.google.com/spreadsheets/d/1VOCuHrCIWc3D9aJV2-woOob8atmg6o20AzE7NMse5CE/edit#gid=472588409 - ICANN77 Deliverable Workplan & Timeline SubPro Related Activities: https://gnso.icann.org/sites/default/files/policy/2023/correspondence/ducos-to-sinha-25jul23-en.pdf - First Council Clarifying Statement: https://gnso.icann.org/sites/default/files/policy/2023/draft/draft-subpro-pending-recommendations-clean-23aug23-en.pdf - Small team analysis of pending recommendations marked for non-adoption: https://docs.google.com/document/d/1IvsygINTSX7mkTEbjnvWMIjOhuVBWfIx/edit?pli=1

Documentation of the Work	- A wiki page will be created to capture at a minimum, membership, background document and new documents generated by the small team, and meeting recordings. - Unless a specific meeting might benefit from an unrecorded dialogue, all meetings will be recorded. - A mailing list will be created for this small team and will be publicly archived on the Wiki. Observers may request to be added to the mailing list on a read-only basis.
Next Steps	1. Council to consider updated assignment form; 2. Following Council approval / non-objection, small team to commence work on assignments #1 - #5 (note, assignments #3 & #4 are dependent on the Board's non-adoption); 3. Small team to reach out to GNSO SG/Cs and interested ACs to request identification of SMEs to assist small team in assignment #7; 4. Small team to develop high level timeline for next steps to allow advance scheduling of check-in with GNSO Council per assignment #6.