G1 Charter Question:

What should be the proper vehicle to update the IDN Implementation Guidelines?[1]

G1 EPDP Team Response:

The EPDP Team agreed to the following:

- The existing working group mechanism, with collaboration between community experts and ICANN org staff under the governance of ICANN Board IDN-UA Working Group (or its relevant successor working group in the future), for developing and updating the IDN Implementation Guidelines must be maintained.
- The working group mechanism must be formalized and documented to enhance the transparency, rigor, efficiency, and effectiveness of the IDN Implementation Guidelines update process. The key enhancement is to establish a formal charter that includes, but is not limited to, purpose and scope, membership, and working methods.
- Given the IDN Implementation Guidelines have been requirements for contracted parties, there was some concern about whether the word "Guidelines" is the most appropriate term.

G1 Preliminary Recommendations:

Preliminary Recommendation 14: The existing working group mechanism for developing and updating the IDN Implementation Guidelines must be formalized and documented to enhance the transparency, rigor, efficiency, and effectiveness of the process. Specific enhancements include, but are not limited to the following:

14.1 The process for establishing a working group to develop IDN Implementation Guidelines and other directly related outputs must be formally documented and approved by the GNSO Council, the ccNSO Council, and the ICANN Board;

14.2 The working group must establish a formal charter that includes, but is not limited to the following:

- 14.2.1 Purpose and scope;
- 14.2.2 Membership that includes structure and roles, required expertise, selection process, and lengths of membership term;
- 14.2.3 Working methods that include the circumstance(s) that would lead to the convening of the working group, the type of outputs the working group is expected to produce, and checkpoints for awareness building and input gathering from affected parties;

14.3 The ICANN Board IDN-UA Working Group or its relevant successor working group will

[1] ccPDP4 refers to the Country Code Names Supporting Organization's Policy Development Process on the Selection and Deselection of IDN ccTLD Strings. The process to update the RDAP Profiles is being developed by the Contracted Parties and ICANN org as part of their ongoing contractual negotiations. A DT member suggested that once that is finalized, the EPDP Working Group may want to consider that as a model for updating the IDN Guidelines.

be responsible for developing the charter, as set out in 14.2, in consultation with the ICANN community;
14.4 The charter, as set out in 14.2, must be approved by the GNSO Council, the ccNSO Council, and the ICANN Board; and
14.5 The ICANN Board IDN-UA Working Group or its relevant successor working group will continue having the oversight responsibility of this working group and its activities.

G1 Rationale for Preliminary Recommendations:

Rationale for Preliminary Recommendation 14: The EPDP Team conducted a thorough background review of the IDN Implementation Guidelines (hereinafter referred to as "Guidelines").[2] The EPDP Team understood that the Guidelines serve as a mix of policy and technical standards for registries and registrars that deploy IDN registration policies. The Guidelines aim to minimize the risk of cybersquatting and consumer confusion while respecting the interests of communities using local languages and scripts. From a security and stability standpoint, it contains a strong technical component that reflects protocol updates and technical requirements from the Internet Engineering Task Force (IETF). It also contains policy elements intended to provide a coordinated approach to registration practices and the usages of IDNs at the second level under both gTLDs and ccTLDs. The EPDP Team agreed that the Guidelines serve an important purpose and are a crucial vehicle for consistent IDN deployment.

Since its inception, the IDN Implementation Guidelines has been a compulsory document for the ICANN contracted parties (gTLD registries and registrars offering IDN registrations) to adhere to.[3] The contractual obligations were formalized as part of the 2012 New gTLD Program and memorialized in the 2013 version of the Registry Agreement and its subsequent versions, as well as the 2013 Registrar Accreditation Agreement.[4] However, for ccTLD managers that deploy IDN registration policies, they are expected but not required to be guided by the IDN Implementation Guidelines.[5] The EPDP Team noted that calling the document "Guidelines"

[2] For more details, see the recording and notes captured for the EPDP-IDNs F2F Workshop Day 2 AM and PM sessions here: https://community.icann.org/x/o4AJEQ
[3] When the IDN Implementation Guidelines v1.0 was published, there was a series of letters issued by ICANN org to registry operators, requiring their commitment to adhere to the guidelines. Example here: https://www.icann.org/resources/pages/twomey-to-karp-2004-01-20-en
[4] **Registry Agreement, Specification 6, Section 1.4:** "IDN. If the Registry Operator offers Internationalized Domain Names ("IDNs"), it shall comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registry operator shall comply with the ICANN IDN Guidelines at <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>, as they may be amended, modified, or superseded from time to time. Registry operator shall publish and keep updated its IDN Tables and IDN Registration Rules in the IANA Repository of IDN Practices as specified in the ICANN IDN Guidelines." **Registrar Accreditation Agreement, Additional Registrar Operation Specification, Clause 3**: "If the Registrar offers Internationalized Domain Name ("IDN") registrations, all new registrations must comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registrar shall also comply with the IDN Guidelines at http://www.icann.org/en/topics/idn/implementation-guidelines.htm which may be amended, modified, or superseded from time to time. Registrar must use the IDN Tables published by the relevant registry."
[5] **IDN ccTLD Fast Track Process: "**...Commitments of [IDN ccTLD SO]. [IDN ccTLD SO] shall use its best endeavors to: c. Adherence to relevant IDN standards and guidelines: register IDN domain names in accordance with its publicly available registration policy which shall comply on an ongoing basis…with the IDN guidelines as updated and published from time to time on the ICANN website, all subject to and within the limits of relevant applicable national law and public policy. This includes, but is not limited to, adherence to RFCs 3490, 3491 3492, 3454 and their successors."

when it represents contractual obligations may be inappropriate, but recognized that renaming the document may not be simple.

The EPDP Team reviewed all seven versions (versions 1.0, 2.0, 2.1, 2.2, 3.0, 4.0, and 4.1) of the IDN Implementation Guidelines published between 2003 and 2022 and gained an understanding of the catalysts for updates and the working group mechanisms being used. The EPDP Team understood that a subset of the ICANN Board, formerly its Variant Working Group and currently the IDN-UA Working Group, provided governance and oversight in the development of the IDN Implementation Guidelines. The Board engaged with the community and identified when updates were necessary. Some of the past triggers were related to changes to relevant technical protocols from the IETF as well as experience gained as IDN deployment proceeded.

For developing each version, the Board directed ICANN org to form a working group consisting of community experts. From versions 1.0 to 3.0, the community contributors were limited to a small number of gTLD and ccTLD registries with IDN experience, which was reflective of the DNS industry and IDN deployment landscape at the time. For developing version 4.0, the membership extended to the ALAC and SSAC in order to include additional expertise. A call for volunteers was issued, detailing member allocation from each group as well as required expertise.[6] At the request from the GNSO Council, the final number of participants from the GNSO increased from three (3) to six (6).

While the ICANN Board, in consultation with ICANN org, initially identified areas of focus for each version update, the working group did not have a strict charter. The onus was on the working group members to conduct the scoping effort and establish a set of issues as a first step. The subsequent milestones in the process included the Public Comment proceeding on the draft version, and the Board consideration and adoption of the final version. Following the Board adoption, implementation of the latest version would fall on ICANN org. Typically, ICANN org would issue an implementation notice and identify an effective date with gTLD contracted parties, and coordinate with them through the implementation process.

The EPDP Team understood that this process encountered challenges particularly in version 4, which in fact served as the context of charter question G1. This version update was triggered by the significant experience accumulated on IDN implementation following the 2012 New gTLD Program, as well as new IETF technical requirements, development of the RZ-LGR and Reference LGR, and the publication of SAC60 focusing on variants. After three years of effort, the final proposed draft version 4.0 was published for Board consideration in May 2018. However, this version encountered pushback from the GNSO community, particularly the Registries Stakeholder Group (RySG). The GNSO Council requested the Board to defer consideration of version 4.0, on the basis that some of the guidelines were policy requirements with significant contractual implications, and a PDP should have been the appropriate vehicle to

[6] See call for volunteers here: https://www.icann.org/en/announcements/details/call-for-community-experts-to-review-the-idn-implementation-guidelines-20-7-2015-en

develop these requirements. In May 2021, the GNSO Council chartered the EPDP-IDNs, which covers topics that overlap with the Guidelines version 4.0. After a series correspondence between the GNSO Council and the ICANN Board, in September 2022, the ICANN Board approved the deferral of GNSO Council identified guidelines 6a, 11, 12, 13, and 18 in version 4.0 until the completion of EPDP-IDNs, and adopted the remaining guidelines for implementation as version 4.1.[7]

In reviewing the challenges surrounding version 4.0, the EPDP Team discussed whether the existing working group mechanism for updating IDN Implementation Guidelines should be replaced by something else, such as a GNSO PDP, a Cross Community Working Group (CCWG), an Expert Working Group (EWG), or direct contractual negotiation. The EPDP Team observed that the other options have serious drawbacks. While the GNSO PDP is a well established mechanism for policy development and can be open and inclusive, its main purpose is to develop consensus policy recommendations for gTLD contracted parties and is under the management of GNSO Council. Considering that ccTLD registries are the other significant stakeholder impacted by the Guidelines, it would be inappropriate to have future versions developed solely through a GNSO PDP. With respect to CCWGs, they are not mandated to develop policy requirements and have no operating principles or procedures documented in the ICANN Bylaws. An EWG seems to be an ad hoc setup with top-down direction, and the EPDP Team members recalled that the concept was not well received by the community. Finally, contractual negotiations are effective for amending contractual requirements between gTLD contracted parties and ICANN org, but the need to also involve ccTLD registries would make this mechanism limiting.

Toward the end of this discussion, the EPDP Team agreed that the existing working group mechanism, with collaboration between community experts and ICANN org staff under the governance of ICANN Board IDN-UA Working Group (or its relevant successor working group, should the Board IDN-UA Working Group ceases to exist in the future), for developing and updating the IDN Implementation Guidelines should be maintained. This established mechanism has worked for over two decades, and the EPDP Team did not believe there was a better alternative available. Nevertheless, the Team agreed that this mechanism must be formalized and documented to enhance the transparency, rigor, efficiency, and effectiveness of the process. Therefore, the EPDP Team recommends that the process for establishing the working group to develop IDN Implementation Guidelines and other directly related outputs must be formally documented and approved by the GNSO Council, ccNSO Council, and the ICANN Board.

With respect to specific enhancements, the EPDP Team observed that in the instance of version 4.0, the lack of rigorous scoping effort and charter development may have caused the group to extend beyond its remit and end up developing guidelines that should have been PDP recommendations. In addition, the fact that the back-and-forth between the GNSO Council and

[7] See details here: https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-22-09-2022-en#2.d

ICANN Board only came after the final proposed draft version 4.0 was ready for Board consideration seems to indicate the lack of adequate checkpoints with impacted parties to identify issues early on. As a result, the adoption of the non-deferred guidelines in version 4.0 was delayed for more than four years.

After referencing some of the best practices and lessons learned from GNSO PDPs, the EPDP Team agreed the key enhancement is to establish a strict, formal charter that helps the working group focus on its remit and tackle the set of issues identified through issue scoping.[8] The charter must include, but not limited to the following elements:

1. **Purpose and scope**: This section in the charter will help working group understand, in an early stage of the process, which elements may be within scope for guidelines development (e.g., obligations tied to strict compliance to Internet Standards, such as those from the IETF), and which elements may be appropriate for policy development or contractual negotiation. An idea for clarifying the purpose and scope in the charter may be that ICANN org develops an 'issue report', akin to a GNSO PDP Issue Report, to help narrow the scope for future version update, and publishes it for Public Comment to solicit community feedback.
2. **Membership:** This section in the charter will clarify, among other elements, the membership structure and roles, required expertise for members, how members are selected, as well as their terms of service. The EPDP Team had additional discussion regarding the points below:
    a. With respect to the membership structure, the EPDP Team observed that the GAC, RSSAC, and some other community groups have not participated in the past version development. Given the highly technical nature of the guidelines, the membership structure may be widened to include relevant technical expertise from other community groups to support the work.
    b. Regarding the selection process, the call for volunteers should be tailored to clearly identify the required knowledge and expertise.[9] The EPDP Team also agreed that maintaining adequate representation from gTLD contracted parties and ccTLD registries is important, as they are the main impacted parties of the IDN Implementation Guidelines.
    c. In terms of roles, the EPDP Team suggested liaison roles from the ICANN Board, GNSO Council, and ccNSO. Establishing liaisons has recently been a common practice among PDP working groups in both GNSO and ccNSO. Liaisons act as a conduit between their appointing organizations and the working group. They can provide input, raise issues, and contribute subject matter expertise via ongoing engagement. Given that this working group is under the governance of the ICANN Board IDN-UA Working Group (or its relevant successor working group in the future) and requires key participation from the GNSO and ccNSO, assigning liaisons from these groups seems beneficial.

[8] The GNSO PDP charter template may serve as a reference: https://gnso.icann.org/sites/default/files/file/field-file-attach/pdp-3-revised-wg-charter-template-10feb20-en.pdf
[9] GNSO PDP 3.0 Improvement #3 Working Group Member Skill Guide may be a helpful reference: https://gnso.icann.org/sites/default/files/file/field-file-attach/pdp-3-3-wg-member-skills-guide-10feb20-en.pdf

3. **Working Method:** This section in the charter will specify, among other elements, the circumstance(s) that would lead to the convening of the working group, the type of outputs the working group is expected to produce, as well as the checkpoints for awareness building and input gathering for affected parties. The EPDP Team had additional discussion regarding the checkpoints:
    a. Throughout the development process of the IDN Implementation Guidelines, the members and liaisons should have opportunities to check with their appointing organizations regarding the draft language of guidelines, raising issues proactively. This would be similar to the practice in many GNSO PDP working groups where members solicit input and feedback from their respective groups for draft policy recommendations before their inclusion in Initial Report and Final Report. Waiting until the Public Comment proceeding to gather input may be too late. The working group should consider establishing early and frequent checkpoints to address issues to the extent possible, and avoid surprises when the proposed final draft version is ready for Board consideration.

The EPDP Team further agreed that the ICANN Board IDN-UA Working Group, or its relevant successor working group, as the governing body that continues having the oversight responsibility, will be charged with developing the working group charter in consultation with the ICANN community. Furthermore, the charter must be approved by the GNSO Council, the ccNSO Council, and the ICANN Board.

The EPDP Team believes these incremental enhancements will help improve the future update process of IDN Implementation Guidelines, helping preserve a stable and predictable contractual and procedural environment for impacted parties. Additional enhancements may also be considered during implementation of this recommendation.