

GNSO Policy & Implementation Initial Report

Mainly as a result of discussions stemming from implementation related issues of the new generic Top-Level Domain (gTLD) program, there has been an increased focus on which topics call for policy and which call for implementation work, including which processes should be used, at what time and how issues which are the subject of diverging opinions during the implementation process should be acted upon. Following several discussions, including the publication of a staff discussion paper and a community session during the ICANN meeting in Beijing in April 2013, the Generic Names Supporting Organization (GNSO) Council decided in July 2013 to form a Working Group (WG) which was tasked to provide the GNSO Council with a set of recommendations on a number of questions that specifically relate to policy and implementation in a GNSO context. The WG has now published its Initial Recommendations Report for community input. To facilitate public comments, the WG has developed this survey to facilitate input and feedback on the Initial Recommendations Report and its recommendations. Please review the Initial Recommendations Report before completing the survey below (see <http://gns0.icann.org/en/issues/policy-implementation/pi-wg-initial-recommendations-19jan15-en.pdf>).

Note that each survey item contains a box for written comments. Also note that public comments may be submitted in a more traditional manner using a template that is linked on the public comment page. The WG requests that commenters complete the survey first, entering in the survey as applicable. If additional comments are desired, please use the template to submit those.

***1. What is your name?** Paul Diaz

***2. What is your affiliation (e.g. name of ICANN Supporting Organization, Advisory Committee, Stakeholder Group, Constituency, individual)** GNSO Registries Stakeholder Group (RySG)

Affiliation

Please select from the drop-down menu

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Other (please specify)

3. Are you completing this survey on behalf of your group? If yes, please specify which group if different from your listed affiliation.

Yes

No

If yes, please specify which group if different from your listed affiliation.

Working Definitions & Principles

4. The Working Group developed a number of working definitions (see section 3 of the Initial Report). Please rate whether you consider these definitions useful in the context of this report.

- Not helpful
- Somewhat helpful
- Helpful**
- Very helpful
- No opinion

If you have responded not helpful or somewhat helpful, please provide any suggestions you have to improve these definitions here.

5. The Working Group has developed a set of proposed Policy & Implementation Principles (see section 4 of the Initial Report) that it recommends are adopted by the GNSO Council and ICANN Board to guide any future policy and implementation related work. Do you support the adoption of these proposed principles by the GNSO Council and the ICANN Board?

Yes

Yes, but taking into account the comments/proposed edits outlined in the comment box.

No

No opinion

Please provide your comments / proposed edits.

For the principles copied below, the RySG provides some comments and in a few cases proposed edits that are highlighted.

Principle B.3: “Implementation should be regarded as an integral and continuing part of the process rather than an administrative follow-on, and should be seen as a process that allows for dialogue and collaboration among those implementing the policy (e.g. Board, staff, and IRT) and those that developed it and/or are affected by the implementation (e.g. GNSO or any SO or AC).”

- This is worded to encourage staff engagement of the affected parties but fails to note what should be done about those perceived not to be affected by implementation.

Principle B.4: “Whilst implementation processes as such need not always function in a purely bottom-up manner, in all cases the relevant policy development body (e.g., the chartering organization) must have the opportunity to be involved during implementation, to provide guidance on the implementation of the policies as recommended by the GNSO.”

- This could be worded slightly differently to take into account the fact that we can’t assume that we know who is impacted—and to emphasize that this can be addressed by communication.

Principle B.6: “Policy and Implementation are not two separate phases entirely, but require continuous dialogue and communication between those that developed the policy (e.g., GNSO) and those that are charged with operationalizing/implementing it (e.g., **contracted parties**, staff).”

Principle C.2.b): “The GNSO, with the assistance of Policy Staff, must provide timely notification to the rest of the community about policy development efforts and/or implementation processes in which it is engaged. It is the responsibility of the other SOs and ACs and stakeholders in general to determine whether or not they are impacted by that activity, and to provide their input in a timely manner. The GNSO is responsible for reviewing and considering all such input. Final documents should include references to the input received and its disposition in the final outcome.”

- The RySG recommends changing the second sentence (above) to “It is the responsibility of the other SOs and ACs and stakeholders in general to determine whether or not they are impacted by that activity, to allocate sufficient resource with an appropriate level of expertise, and to provide their input in a timely manner.

Principle C.2.c): “Each of the principles in this document must be considered in terms of the degree to which they adhere to and further the principles defined in ICANN's Core Values as documented in article 2 of the ICANN by-laws (<http://www.icann.org/en/about/governance/bylaws#I>). Particular note should be made to core value 4: “Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making”

- The RySG agrees with C.2.(c), especially the emphasis on Core Value 4, but notes that ‘informed participation’ cannot occur without adequate communication.

Principle D.1.b): “Changes to GNSO implementation guidance need to be examined by the GNSO Council or another appropriate entity as designated by the GNSO Council on where they fall in the spectrum of policy and implementation. In all cases, the communityGNSO maintains the right to challenge whether such updates need further review for policy implications.”

Principle D.1.c): “ICANN staff tasked by the Board with the implementation of the approved GNSO Policy recommendations should be able to make ~~transparent~~ changes to the proposed implementation of the policy recommendations into an implementation plan as long as these do not affect the intent of the policy recommendations **and as long as they are fully transparent**. Examples of such changes include administrative updates, error corrections and process details. In all cases, any such changes should be communicated to the GNSO Council or appropriate entity as designated by the GNSO Council, which should, based on the Working Principles enumerated above, have standardized and efficient mechanisms for challenging whether such changes would affect the intent of the policy recommendations.”

Proposed Additional New GNSO Processes

6. As outlined in section 5 of the Initial Report, the WG recommends the creation of three new GNSO processes, namely a GNSO Input Process, a GNSO Guidance Process and a GNSO Expedited Policy Development Process. Please rate each of these processes.

	Do not support adoption (please outline reasons below)	Would support adoption if changes as outlined below are made	Support adoption	No opinion
GNSO Input Process	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
GNSO Guidance Process	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
GNSO Expedited Policy Development Process	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please provide further details if you have responded 'do not support adoption' or 'would support adoption if changes are made'

Comments for box above:

- The RySG is comfortable with the timeframes proposed in the WG report for the new processes, but we wonder if they are consistent with the latest ICANN Policy staff's current standards regarding comment periods. If not, why not and should they be changed so that they are consistent.
- Regarding a GGP and an EPDP, please see the comments for survey items 7, 8, & 9.

In relation to these three proposed processes (GNSO Input Process - GIP, GNSO Guidance Process - GGP, GNSO Expedited Policy Development Process - EPDP), the WG identified a number of specific questions which it would like to obtain input on.

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7. In the Initial Report the WG recommends that Advisory Committees and the Board could request a GGP but only the GNSO Council would have the authority to actually initiate a GGP. Should an Advisory Committee or the Board have the ability to initiate a GGP (similar to their ability to do so for a policy development process - i.e. the GNSO Council would be required to commence a GGP)?

Yes

Yes, but only if the conditions listed below are met

No

No opinion

Please provide further details on the conditions that should be met

Comments for box above:

- Advisory Committees (ALAC, GAC, SSAC or RSSAC) could recommend a GNSO Guidance Process (GGP), but the authority to formally initiate these processes must remain with the full GNSO Council.
- An ICANN Board recommendation to conduct a GGP should proceed unless a super-majority of the GNSO Council votes against it. It is assumed that a vote against would include an explanatory note, i.e., current workloads preclude policy work at this time. Board and Staff should endeavour to provide adequate resource assistance.
- The voting thresholds for a GGP should remain consistent with a traditional PDP. This will maintain the deliberative nature of the policy development process and guard against “gaming” by community special interests. The RySG does not support lowering the support *threshold for a GGP*.

8. For an EPDP, it is currently proposed that only the GNSO Council can initiate this process, although an AC/Board could request the GNSO Council to consider doing so. Do you agree?

Yes

Yes, but only if the conditions below are met.

No

No opinion

Please provide further details on the conditions to be met

Comments for box above:

- Advisory Committees (ALAC, GAC, SSAC or RSSAC) could recommend an Expedited Policy Development Process (EPDP), but the authority to formally initiate these processes must remain with the full GNSO Council.
- An ICANN Board recommendation to conduct an EPDP should proceed unless a super-majority of the GNSO Council votes against it. It is assumed that a vote against would include an explanatory note, i.e., current workloads preclude policy work at this time.
- The voting thresholds for any an EPDP should remain consistent with a traditional PDP. This will maintain the deliberative nature of the policy development process, and guard against “gaming” by community special interests. The RySG does not support lowering the support threshold for an EPDP.
- The Policy & Implementation WG should make it very clear that EPDPs are not a means of getting around the bottom-up multistakeholder process just because there may be a desire or even a need for quick resolution and that they are only for cases where the policy questions are already defined and those questions have a very narrow scope.

9. The proposed voting threshold for initiating a GGP is the same as for initiating a PDP (an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House). Do you agree?

Yes

Yes if the conditions outlined below are met

No

No opinion

Please provide further details on the conditions to be met

Comments for box above:

- The GGP process itself should not impose any requirements on contracted parties that are not already included in their contracts with ICANN.
- The description of the GGP processes must make it clear that a GGP cannot be used to impose new implementation processes on contracted parties.

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10. The proposed voting threshold for approving a GGP is a supermajority vote of the GNSO Council. Do you agree?

Yes

Yes if the conditions outlined below are met

No

No opinion

Please provide further details on the conditions to be met

Comments for box above:

- What happens if other processes are circumvented? For example, consider the January 15, 2015 letter from the GAC re the release of 2-letter TLDs: if such a letter initiated a GGP and then was challenged, what happens re policy work?

11. For a PDP vote, if these are not adopted by the GNSO Council by a supermajority vote as defined for the GNSO Council, there is a lower threshold for the Board to overturn these – should the same apply for the GGP or if there is no supermajority support, the GGP Final Report fails?

Yes, the same should apply

Yes if the conditions outlined below are met

No, if there is no supermajority support, the GGP Final Report fails

No opinion

Please provide further details on the conditions to be met

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12. Termination of a GGP – it is proposed that a simple majority Council vote as defined in GNSO procedures is sufficient to terminate a GGP prior to delivery of the Final Report (compared to a supermajority vote that applies in the case of the PDP). Do you agree?

Yes

Yes if the conditions outlined below are met

No

No opinion

Please provide further details on the conditions to be met

Implementation Related Recommendations

13. The Working Group recommends that the PDP Manual be modified to require the creation of an Implementation Review Team following the adoption of PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. if another IRT is already in place that could deal with the PDP recommendations). Do you agree?

Yes

Yes, if the conditions outlined below are met.

No

No opinion

Please provide further details on the conditions to be met

14. The WG recommends that the principles as outlined in Annex H of the Initial Report are followed as part of the creation as well as operation of IRTs. Do you support the adoption of these proposed principles?

Yes

Yes, but taking into account the comments / proposed edits outlined in the comment box.

No

No opinion

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Other Comments

15.If you have any other comments, proposed edits or questions you would like to put forward to the WG in relation to the Initial Report, please use this comment box to provide that information.

