

# ICANN | GNSO

Generic Names Supporting Organization

## Initial Report on the new gTLD Subsequent Procedures Policy Development Process (Overarching Issues & Work Tracks 1-4)

### Status of This Document

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This is the Initial Report of the GNSO New gTLD Subsequent Procedures (SubPro) Working Group covering Overarching Issues and the output of Work Tracks 1 through 4 that has been posted for public comment.

### Preamble

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The objective of this first Initial Report is to document the Working Group's deliberations on certain charter issues and preliminary recommendations, potential options for recommendations, as well as specific questions for which the Working Group is seeking input. With over 250 members and observers in the SubPro Working Group, and dozens of issues to address regarding the 2012 New gTLD Program, the SubPro Co-Chairs divided up the work into a set of "Overarching Issues" and five Work Tracks. Each of the five work tracks covered a number of related issues with the help of one or more Co-Leaders. This first Initial Report contains the output of the Working Group on the Overarching Issues as well as preliminary recommendations and questions for community feedback from Work Tracks 1-4.

This Final Report may be translated into different languages; please note that only the English version is authoritative.

The second Initial Report addressing Geographic Names at the top level will be published separately at a later date by the Working Group. Therefore, this report will not cover any of the materials being discussed by that Work Track. Given that Work Track 5 is still in the midst of their discussions, it is possible that some of the preliminary recommendations contained herein may need to be modified once Work Track 5 has completed its report.

This Initial Report is structured a little differently than other Initial Reports in the Past. Given the plethora of issues, and the thousands of hours spent on addressing the 2012 New gTLD Program and improvements that can be made to the program moving forward, unlike other Initial Reports, this one does not contain a “Statement of level of consensus for the recommendations presented in the Initial Report.” The Co-Chairs not only believed that it was pre-mature to measure the level of consensus of the Working Group members of dozens of recommendations contained herein, but that doing so could have the unintended consequence of locking Working Group members into positions of support or opposition prior to soliciting public comment from the community on those recommendations. To form such definitive positions at this early of a stage could have the adverse effect of being less open to modifications to those positions as a result of community input.

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In addition, although many of the preliminary recommendations were approved by members that participated in the different Work Tracks, they may or may not be supported by members of the overall Working Group. In fact, the Overall Working Group has not had enough time or discussions on all of the materials in the report to form definitive positions on each of this issues. Therefore, any language in this report that suggests that the Working Group or any of its Work Tracks is making a recommendation should be read as merely a rough assessment by the Working Group co-chairs or Work Track leads.

After a comprehensive review of public comments received on this report, the Working Group will deliberate further on the preliminary

recommendations contained herein. It is possible that as a result of the deliberations, there may be supplemental reports released by the Working Group seeking additional public comments. Once all of that is completed, the Co-Chairs will conduct a formal consensus call, at the plenary level, on all recommendations before the Working Group issues its Final Report.

Therefore, comments on any preliminary recommendations, options and/or questions presented are welcomed and encouraged. When responding to a question contained in the Initial Report, please make sure to include an explanation along with any supporting documentation in your response. Although answering a question with a “yes” or a “no” does indicate your support or opposition to a particular concept, it will be most helpful to us to see the reasoning behind your response.

In addition, in some cases the Working Group was unable to reach preliminary recommendations. The community, therefore, should not limit itself to commenting on only the preliminary recommendations, options, and questions specifically identified in the Initial Report, but on any other items that may not have been adequately addressed. For example, if there is an option you believe the Working Group should consider, but that option is not presented or even discussed in the Initial Report, please let us know that new option in detail, along with any background, context and supporting documents. Finally, we do not want you to feel compelled to respond to every single recommendation, question or subject in the Initial Report, although you are more than welcome to do so.

The Co-Chairs offer our express sincere gratitude to the Work Track Leaders, all of the Working Group Participants and ICANN Policy Staff for their countless hours of conference calls at all hours of the day, hard work and dedication to putting this Initial Report together.

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## 1 Executive Summary

### 1.1 Introduction

On 17 December 2015, the GNSO Council initiated a Policy Development Process and chartered the New gTLD Subsequent Procedures Working Group. The Working Group (WG) was tasked with calling upon the community's collective experiences from the 2012 New gTLD Program round to determine what, if any changes may need to be made to the existing Introduction of New Generic Top-Level Domains policy recommendations from 8 August 2007.

As the original policy recommendations adopted by the GNSO Council and ICANN Board have "been designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains", those policy recommendations remain in place for subsequent rounds of the New gTLD Program unless the GNSO Council decides to modify those policy recommendations via a policy development process. The Working Group is chartered to develop new policy principles, recommendations, and implementation guidance or to clarify, amend, or replace existing such elements.

A Call for Volunteers to the Working Group ("WG") was issued on 27 January 2016. The WG held its first meeting on 22 February 2016 and has met regularly since that time. With over 250 members and observers in the SubPro Working Group, and dozens of issues to address regarding the 2012 New gTLD Program, the SubPro Co-Chairs divided up the work into a set of "Overarching Issues" and five Work Tracks. Each of the five work tracks covered a number of related issues with the help of one or more Co-Leaders. This first Initial Report contains the output of the Working Group on the Overarching Issues as well as preliminary recommendations and questions for community feedback from Work Tracks 1-4.

### 1.2 Preliminary Recommendations

As noted in the Preamble, this Initial Report does not contain a "Statement of level of consensus for the recommendations presented in the Initial Report. In addition, in some circumstances, the WG and/or Work Tracks did not reach agreement on preliminary recommendations and instead, have provided options for consideration and/or questions to seek input for further deliberations. Given the broad scope of this WG and the extensive list of topics contained in its charter, the set of preliminary recommendations, options, and questions are also substantial. As a result, the WG will copy all of the preliminary recommendations, options, and questions in a table and make them available in Annex [??]. The purpose of doing so is twofold: 1) the WG wanted to avoid this Executive Summary from becoming too long and repetitive and 2)

the WG wanted to consolidate the areas where it is seeking input to facilitate community input.

Please see Annex [??] for the consolidated table of preliminary recommendations, options, and questions.

### 1.3 Deliberations and Community Input

The WG reached out to all ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) as well as GNSO Stakeholder Groups (SGs) and Constituencies (Cs) with a request for input at the start of its deliberations, which included a specific request for historical statements or Advice relating to new gTLDs<sup>1</sup>. All responses received were reviewed by the WG and incorporated into deliberations for each of its Charter questions. The WG also sought to identify other community efforts that either might serve as a dependency to its work or simply an input to be considered. These efforts included the Competition, Consumer Trust & Consumer Choice (CCT) Review Team and the PDP on the Review of All Rights Protection Mechanisms in All gTLDs, among others.

Initially, the WG as a whole considered a set of six (6) overarching issues that have an impact on many of the topics contained in the WG's charter. Specific to these overarching issues, the WG prepared a set of questions and sought input from all SOs, ACs, SGs, and Cs. This outreach, called Community Comment 1 (CC1)<sup>2</sup>, and the resulting responses were taken into account in the WG's deliberations.

The WG determined that the best way to address the approximately 35 remaining topics was to divide the work into four (4) Work Tracks (WTs). Each of these WTs had two co-leads to guide the deliberations. The WTs prepared a second set of questions, called Community Comment 2 (CC2)<sup>3</sup>, on the subjects within their respective remit. CC2 was issued directly to all SO/AC/SG/Cs, but also published for public comment. The resulting responses were taken into account in the WG's deliberations.

At ICANN meetings, the WG engaged in direct outreach with the Governmental Advisory Committee (GAC) and the At-Large Advisory Committee (ALAC) with a focus on topics known to be of particular interest to these groups (e.g., community-based applications, Applicant Support, etc.). These outreach efforts aided the WTs' deliberations,

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<sup>1</sup> See outreach and inputs received on the Wiki here: <https://community.icann.org/x/2R6OAw>

<sup>2</sup> See Community Comment 1 outreach and inputs received, on the Wiki here: <https://community.icann.org/x/3B6OAw>

<sup>3</sup> See Community Comment 2 outreach and inputs received, on the Wiki here: <https://community.icann.org/x/Gq7DAw>

particularly by helping to ensure that viewpoints from community members outside of the WG are also considered.

As noted in the Preamble, In early 2018, the WG established a Work Track 5 (WT5), dedicated to the singular topic of geographic names at the top-level. WT5 will develop and publish its own Initial Report, wholly separate from this one. As such, there will be little to no discussion on geographic names at the top-level within this Initial Report. Rather, a second Initial Report addressing Geographic Names at the top level will be published separately at a later date by the Working Group. Given that Work Track 5 is still in the midst of their discussions, it is possible that some of the preliminary recommendations contained herein may need to be modified once Work Track 5 has completed its report.

#### 1.4 Conclusions and Next Steps

This Initial Report will be posted for public comment for approximately 60 Days. After the WG reviews public comments received on this report, it will complete this section documenting any conclusions based on the overall findings of the report.

## 2 Deliberations of the Working Group

Insert sections from the excerpts reviewed by Working Group...



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## 3 Conclusions and Next Steps

### 3.1 Preliminary Conclusions

As noted in the Preamble, the WG did not seek to take formal consensus calls on any preliminary recommendations contained in this report.

### 3.2 Next Steps

After a comprehensive review of public comments received on this report, the Working Group will deliberate further on the preliminary recommendations contained herein. It is possible that as a result of the deliberations, there may be supplemental reports released by the Working Group seeking additional public comments. Once all of that is completed, the Co-Chairs will conduct a formal consensus call, at the plenary level, on all recommendations before the Working Group issues its Final Report.

## 4 Background

### 4.1 Process Background

On 25 June 2014, the GNSO Council created the New gTLD Subsequent Procedures Discussion Group. On 1 June 2015, the Discussion Group delivered its final deliverables with the GNSO Council.

- In response to the deliverables of the Discussion Group, on 24 June 2015, the GNSO Council resolved to request an Issue Report. In the Final Issue Report, ICANN staff recommended that the GNSO Council commence a PDP on New gTLD Subsequent Procedures.
- On 4 December 2015, ICANN staff published a Final Issue Report for the GNSO Council to consider the commencement of a Working Group.
- On 17 December 2015, the GNSO Council initiated a Policy Development Process and chartered the New gTLD Subsequent Procedures Working Group.
- On 21 January 2016, the GNSO Council resolved to adopt the charter of the Working Group.
- On 27 January 2016, a Call for Volunteers was issued for the Working Group and the WG held its first meeting on 22 February 2016.

### 4.2 Issue Background

The New gTLD Subsequent Procedures PDP Working Group was tasked with determining what, if any changes may be needed in regards to the existing GNSO's *Final Report on Introduction of New Generic Top-Level Domains*<sup>4</sup>. As the original policy recommendations as adopted by the GNSO Council and the ICANN Board have "been designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains," those policy recommendations remain in place for subsequent rounds of the New gTLD Program unless the GNSO Council would decide to modify those policy recommendations via a policy development process. The work of the PDP follows the efforts of the New gTLD Subsequent Procedures Discussion Group (DG),

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<sup>4</sup> See the Final Report – Introduction of New Generic Top-Level Domains here: <https://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

which identified a set of subjects for this PDP to consider in their deliberations. The DG anticipated that the WG might complete its work by:

- Clarifying, amending or overriding existing policy principles, recommendations, and implementation guidelines;
- Developing new policy principles, recommendations, and implementation guidelines

The subjects as identified by the DG were organized into five (5) groups, listed below:

1. Overall Process / Support / Outreach Issues
2. Legal / Regulatory Issues
3. String Contention / Objections & Disputes
4. Internationalized Domain Names
5. Technical and Operations

The topics contained in each grouping formed the basis of the WG's Work Tracks, though groups 4 and 5 were combined into a single Work Track 4. In early 2018, given the significant interest in the topic of geographic names at the top level, that subject was removed from Work Track 2 (where it originally was) and was placed into a new Work Track 5, created for the sole purpose of discussing that singular topic.

#### 4.2.1 Related Work by the GNSO and the Community

Several efforts within the community have connections to the work of this WG, which include but are not limited to:

- Competition, Consumer Trust & Consumer Choice Review Team (CCT-RT)
- The Security and Stability Advisory Committee (SSAC) reviews of previous guidance provided regarding the New gTLD Program and their determination if new advice may be needed.
- The Governmental Advisory Committee (GAC) has several working groups, focusing on community applications, underserved regions, and geographic names.
- The Cross Community Working Group on the Use of Country and Territory Names (which concluded its work)
- PDP on the Review of All Rights Protection Mechanisms in All gTLDs
- PDP on Protections of IGO and INGO Identifiers in All gTLDs



## 5 Approach Taken by the Working Group

### 5.1 Working Methodology

The New gTLD Subsequent Procedures PDP WG began its deliberations on 22 February 2016. It conducted its work primarily through weekly conference calls, in addition to email exchanges on its mailing list, with further discussions taking place during scheduled sessions at ICANN Public Meetings. All the WG's meetings are documented on its Wiki (<https://community.icann.org/x/RgV1Aw>). The Wiki also includes mailing list archives (<http://mm.icann.org/pipermail/gnso-newgtld-wg/>), draft documents, background materials and input received from ICANN's SO/ACs and the GNSO's Stakeholder Groups and Constituencies. The WG established sections in the Wiki for its Overarching Issues and each of its Work Tracks:

- Overarching Issues (Wiki - <https://community.icann.org/x/VQsBaw>, no separate mailing list)
- Work Track 1 (Wiki - <https://community.icann.org/x/7AOBaw> and mailing list - <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt1>)
- Work Track 2 (Wiki - <https://community.icann.org/x/FwSbAw> and mailing list - <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt2>)
- Work Track 3 (Wiki - <https://community.icann.org/x/GwSbAw> and mailing list - <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt3>)
- Work Track 4 (Wiki - <https://community.icann.org/x/HQsBaw> and mailing list - <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt4>)
- Work Track 5 (Wiki - <https://community.icann.org/x/YASbAw> and mailing list - <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt5/>)

The WG also prepared a Work Plan (<https://community.icann.org/x/NAp1Aw>), which was reviewed on a regular basis. In accordance with the GNSO's PDP Manual, the WG solicited early input from ICANN's SO/ACs and the GNSO's SG/Cs, and considered all input received in response to this request. The WG scheduled and held working sessions at ICANN meetings. At these sessions, the WG collaborated with the community during deliberations and presented its preliminary findings and/or conclusions to the broader ICANN community for discussion and feedback. The WG met with other community organizations, especially the GAC and the ALAC, to discuss topics of particular interest to those groups (e.g., community applications, Applicant Support).

### 5.1.1 WG Membership

The members of the New gTLD Subsequent Procedures full WG are below. Note, membership was also tracked for all of the Work Tracks as well, which can be found on the WG's Wiki<sup>5</sup>:

Commented [A1]: To be completed prior to publication

Group / Name	Affiliation
Name 1	NCUC / NPOC
Name 2	NCUC / NPOC
Name 3	NCUC / NPOC
Name 1	CBUC / IPC / ISPCP
Name 2	CBUC / IPC / ISPCP
Name 3	CBUC / IPC / ISPCP
Name 1	Registrar Co. Name
Name 2	Registrar Co. Name
Name 3	Registrar Co. Name
Name 1	Registry Co. Name
Name 2	Registry Co. Name
Name 3	Registry Co. Name
Name 1	ALAC
Name 2	RALO
Name 3	RALO
<b>GAC:</b>	
Name 1	Country
Name 2	Country
Name 3	Country

<sup>5</sup> For Work Track membership see (WT1: <https://community.icann.org/x/tw2bAw>; WT2: <https://community.icann.org/x/uw2bAw>; WT3: <https://community.icann.org/x/vw2bAw>; and WT4: <https://community.icann.org/x/ww2bAw>)

Group / Name	Affiliation
Name 1	Individual/Company?
Name 2	Individual/Company?
Name 3	Individual/Company?

The Statements of Interest of the WG members can be found at <https://community.icann.org/x/c4Lg>.

The attendance records can be found at <https://community.icann.org/x/9heAAw>. The email archives can be found at <http://mm.icann.org/pipermail/gnso-newgtld-wg/>.

In addition, there were over 80 observers to the full Working Group. Observers were allowed to receive messages from the Working Group, but were not able to post to the mailing list nor attend the Working Group meetings. As Observers, they were not required to submit Statements of Interest. A list of the Observers can be found at: <https://community.icann.org/x/UplEB>

\* The following are the ICANN SO/ACs and GNSO Stakeholder Groups and Constituencies for which WG members provided affiliations:

- RrSG – Registrar Stakeholder Group
- RySG – Registries Stakeholder Group
- CBUC – Commercial and Business Users Constituency
- NCUC – Non Commercial Users Constituency
- IPC – Intellectual Property Constituency
- ISPCP – Internet Service Providers and Connectivity Providers Constituency
- NPOC – Not-for-Profit Organizations Constituency
- ALAC – At-Large Advisory Community
- ccNSO – Country Code Names Supporting Organization
- GAC – Governmental Advisory Committee

**Commented [A2]:** Ensure this is complete relative to participants

\*\* This list was accurate as of the publication of this report. Note that some members joined the WG only after it began meeting, and WG members that have since left are indicated with ++ against their names.



## 6 Community Input

### 6.1 Request for Input

According to the GNSO's PDP Manual, a PDP WG should formally solicit statements from each GNSO Stakeholder Group and Constituency at an early stage of its deliberations. A PDP WG is also encouraged to seek the opinion of other ICANN Supporting Organizations and Advisory Committees who may have expertise, experience or an interest in the issue. As a result, the WG reached out to all ICANN Supporting Organizations and Advisory Committees as well as GNSO Stakeholder Groups and Constituencies with requests for input, on multiple occasions.

Firstly, the WG sought to establish a historical catalog of Advice or Statements to support the WG's deliberations. In addition, the WG sought input on its overarching issues via Community Comment 1 (CC1) and then input on its remaining charter topics via Community Comment 2 (CC2). In response to these various outreach efforts, statements were received from:

- The GNSO Business Constituency (BC)
  - The GNSO Intellectual Property Constituency (IPC)
  - The GNSO Internet Service Provider & Connectivity Provider Constituency (ISPCP)
  - The GNSO Non-Commercial Users Constituency (NCUC)
  - The Registries Stakeholder Group (RySG)
  - The Registrars Stakeholder Group (RrSG)
  - The At-Large Advisory Committee (ALAC)
  - The Country Code Names Supporting Organization (ccNSO)
  - The Governmental Advisory Committee (GAC)
  - The Root Server System Advisory Committee (RSSAC)
  - The Security and Stability Advisory Committee (SSAC)
1. The full records of outreach and response to the historical record of Statements and Advice can be found here: <https://community.icann.org/x/2R6OAw>.
  2. The full records of outreach and response to CC1 can be found here: <https://community.icann.org/x/3B6OAw>.
  3. The full records of outreach and response to CC2 can be found here: <https://community.icann.org/x/Gq7DAw>.

While not an exhaustive list of outreach activities conducted by the WG, these three items represent the major activities.

## 6.2 Review of Input Received

All of the statements received were reviewed by the WG as part of its deliberations on relevant topics.

## 7 Annex A - Charter

[PASTE WG Charter HERE]

## 8 Annex B – Request for SG / C Statements & Input from SO/ACs

### Stakeholder Group / Constituency / Input Template

[INSERT WG Name PDP] Working Group

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[INSERT Request Template for SG/Cs]

#### 8.1 [Heading Title – Delete if not required]

[INSERT Text – delete if not required].

## 9 Annex C – Table of Recommendations, Options and Questions

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