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Policy Development Process Work Team

Updated Final Report & Recommendations

STATUS OF THIS DOCUMENT

This document is the Updated Final Report of the Policy Development Process Work Team concerning the development of, and transition to, a new GNSO policy development process. This Updated Final Report has been prepared following review of public comment on the Initial, the Proposed Final Report and the Final Report and has been submitted to the GNSO Council for its review and approval on [DATE].

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45 1 Executive Summary

- 46 ▪ The Policy Development Process Work Team (PDP-WT) was tasked by the Policy Process
47 Steering Committee (PPSC) to be 'responsible for developing a new policy development
48 process that incorporates a working group approach and makes it more effective and
49 responsive to ICANN's policy development needs'. The primary tasks of the PDP-WT were to
50 develop:
- 51 1 Appropriate operating principles, rules and procedures applicable to a new policy
52 development process; and
 - 53 2 An implementation/transition plan.
- 54
- 55 ▪ This Updated Final Report presents the PDP-WT's views and recommendations in relation to
56 tasks 1 and 2. The proposed recommendations seek to:
- 57 ○ Codify existing practices and procedures already utilized by the GNSO community in
58 policy development processes (PDPs);
 - 59 ○ Clarify existing rules, methods and procedures set forth in the ICANN Bylaws and GNSO
60 Council's Operating Procedures
 - 61 ○ Suggest new approaches, methods and procedures to be used in the new policy
62 development process.
- 63
- 64 ▪ To this end, the PDP-WT has developed dozens of recommendations to improve the existing
65 PDP process. Some of the key recommendations of the new PDP include:
- 66 ○ Recommending the use of a standardized "Request for an Issue Report Template"
67 (recommendation 4)
 - 68 ○ The introduction of a "Preliminary Issues Report" which shall be published for public
69 comment prior to the creation of a Final Issues Report to be acted upon by the GNSO
70 Council (recommendations 10 & 11).
 - 71 ○ A Requirement that each PDP Working Group operate under a Charter
72 (recommendation 18)

- 73 ○ Dialogue between the GNSO Council and an Advisory Committee in the event that an
74 the GNSO Council decides not to initiate a PDP following an Issues Report requested by
75 such Advisory Committee (recommendation 17)
- 76 ○ Changing the existing Bylaws requiring a mandatory public comment period upon
77 initiation of a PDP to optional at the discretion of the PDP Working Group
78 (recommendation 21)
- 79 ○ Clarification of ‘in scope of ICANN policy process or the GNSO’ (recommendation 22)
- 80 ○ Changing the timeframes of public comment periods including (i) a required public
81 comment period of no less than 30 days on a PDP Working Group’s Initial Report and (ii)
82 a minimum of 21 days for any non-required public comment periods the PDP WG might
83 choose to initiate at its discretion (recommendation 27)
- 84 ○ Maintaining the existing requirement of PDP Working Groups producing both an Initial
85 Report and Final Report, but giving PDP Working Groups the discretion to produce
86 additional outputs (recommendation 33)
- 87 ○ A recommendation allowing for the termination of a PDP prior to delivery of the Final
88 Report (recommendation 36)
- 89 ○ Guidance to the GNSO Council on the treatment of PDP WG recommendations
90 (recommendation 38)
- 91 ○ New procedures on the delivery of recommendations to the Board including a
92 requirement that all reports presented to the Board are reviewed by either the PDP
93 Working Group or the GNSO Council and made publicly available (recommendation 39)
- 94 ○ The use of Implementation Review Teams (recommendation 42)
- 95 ○ A redefinition of ‘GNSO Supermajority vote’ to include the original meaning of GNSO
96 Supermajority i.e. 2/3 of Council members of each house so a GNSO Supermajority vote
97 would be 3/4 of one House and a majority of the other house or 2/3 of Council members
98 of each house (recommendation 47)

99 For a complete overview of all the recommendations, please see Section 2.

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102 ▪ For purposes of its discussions, the PDP-WT divided the policy development process into the
103 separate distinct stages and initially considered each of these stages consecutively. The
104 details of the discussion on each of these stages can be found in the Initial Report (see
105 <http://gns0.icann.org/issues/pdp-initial-report-31may10-en.pdf>).

106 ▾ In addition, a number of overarching issues that are present in multiple stages of the policy
107 development process, including timing, translation, development of definitions, voting
108 thresholds and decision-making methodology, were also discussed following the review of
109 the five different stages (see section 3).

110

111 ▪ The WT, supported by ICANN staff, has developed a first outline of the new Annex A (see
112 section 4) as well as a supporting document that is envisioned to be included in the GNSO
113 [Operating Procedures as the PDP Manual](#) (see section 5).

114

115 ▪ In section 2, you will find an overview of the recommendations of the PDP-WT. For further
116 background information on how these recommendations were developed, you are strongly
117 encouraged to review the [Initial Report](#), the [proposed Final Report](#), the [Final Report](#), the
118 WT's review of the public comments (see Annex A) and the WT's [deliberations on the](#)
119 [outstanding issues](#), to appreciate the deliberations of the PDP-WT that form the basis for
120 these recommendations.

121

122 ▪ To facilitate visualization of the new PDP, the WT has also developed a flow chart that
123 includes that provides a high-level overview of the main elements of the new PDP that can
124 be found hereunder¹.

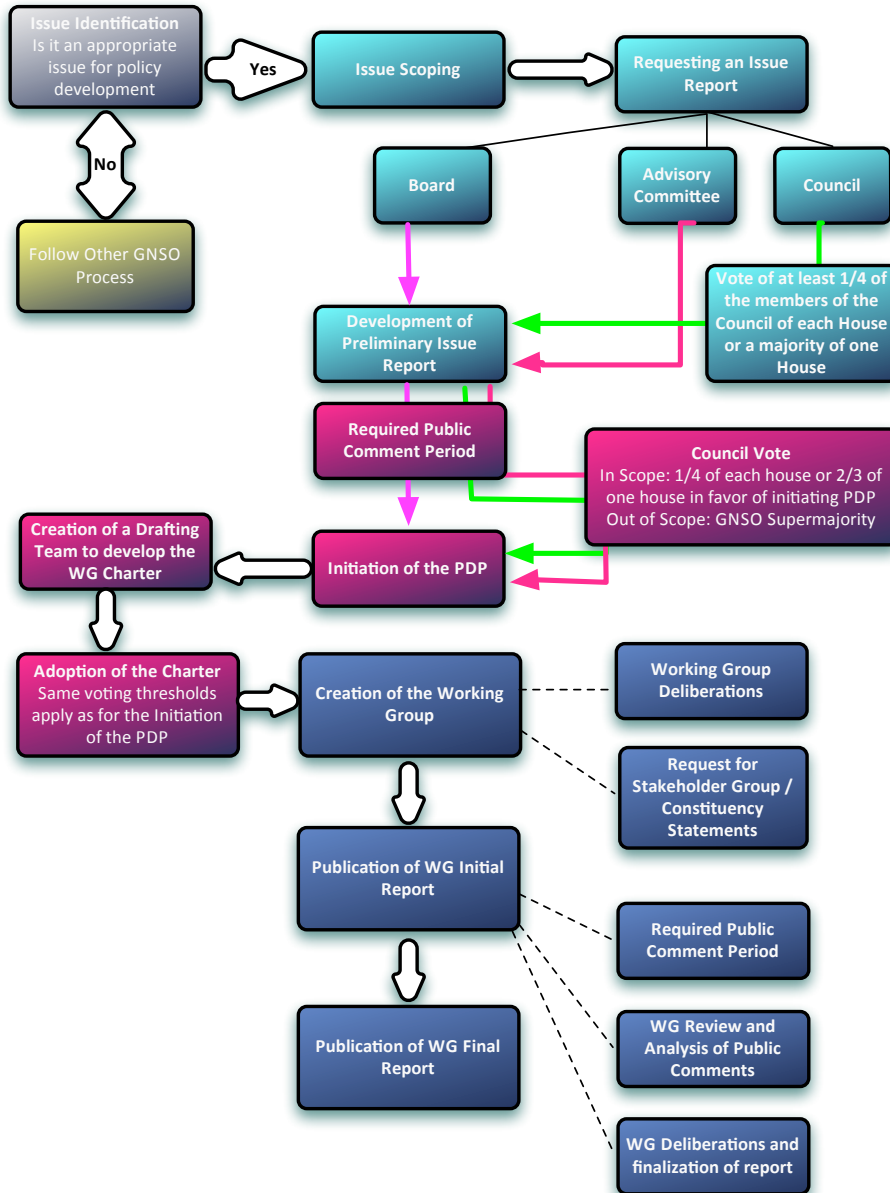
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126 ▪ This report has unanimous consensus support of the PDP-WT.

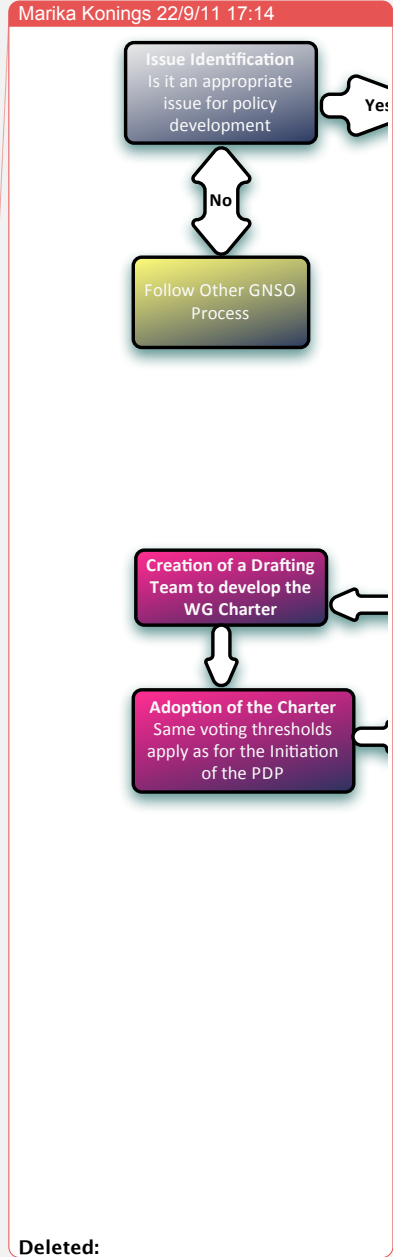
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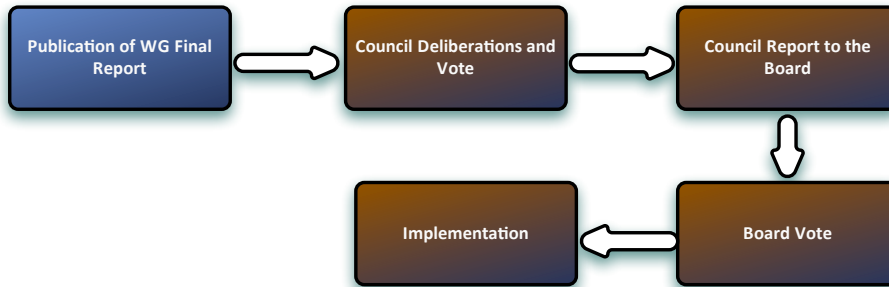
¹ [It is the expectation that once the new PDP has been adopted, ICANN Staff will develop graphics, which are intended to be descriptive of the approved process and serve to facilitate understanding of the approved process.](#)



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137 2 Approach taken & Proposed Recommendations

138

139 Following the publication of the [Initial Report](#) and a subsequent public comment period, the WT
140 reviewed and addressed the comments received (see [public comment review tool as well as](#)
141 [Annex A](#)). In addition, the WT discussed the outstanding issues it had not been able to cover in
142 time for the Initial Report and updated the recommendations accordingly. In order for the
143 ICANN Community to review these updated recommendations, especially those not included in
144 the Initial Report, the WT published a [Proposed Final Report](#) for public comment. Following
145 review of the public comments received (see [public comment review tool as well as Annex B](#)),
146 the WT updated the report where deemed appropriate and finalized the report for submission
147 to the GNSO Council. [The GNSO Council decided to conduct a public comment period on the](#)
148 [Final Report before considering the report and its recommendations. Following the closing of](#)
149 [the public comment period, the GNSO Council decided to request the PDP-WT to review the](#)
150 [comments received and determine whether changes would need to be made to the report](#)
151 [based on the comments submitted. The PDP WT reviewed the comments received \(see **public**](#)
152 [comment review tool as well as Annex C\) and has updated its report as deemed appropriate.](#)
153 [This Updated Final Report is now submitted to the GNSO Council for its consideration.](#) Upon
154 approval by the GNSO Council, the recommendations would be forwarded to the ICANN Board
155 for its review and approval as appropriate.

156

157 The PDP WT agreed to divide the policy development process into the following separate stages
158 and consider each of these stages consecutively:

159

- 160 • Stage 1 – Planning and Request for an Issues Report
- 161 • Stage 2 – GNSO Council Review of the Issues Report and Initiation of the Policy
162 Development Process
- 163 • Stage 3 – Working Group
- 164 • Stage 4 – Voting and Implementation

165 • Stage 5 – Policy Effectiveness and Compliance

166 Each of these stages were then broken down into related issues areas that were discussed by
167 the PDP-WT. The following sections provide an overview of these deliberations, including
168 proposed recommendations to address issues identified. To encourage input from the members
169 of the WT, a number of surveys were conducted to solicit feedback. For further details on the
170 surveys and interim notes, please visit the PDP-WT Workspace:

171 <https://community.icann.org/display/gnsoppsc/PDP-WT+Home>.

172

173 For each of these stages a number of recommendations were developed (see hereunder) that
174 form the basis of the proposed new GNSO Policy Development Process. These
175 recommendations are provided below. Please note that in order to make this section of the
176 document concise, most of the context for the recommendations have been removed and the
177 PDP-WT urges the community to read the [Initial Report](#) for further context on the
178 recommendations. It has been indicated for each of the recommendations whether these have
179 been incorporated into the proposed new Annex A of the ICANN Bylaws (“B”) and/or the PDP
180 Manual (“M”).

181

182 **Stage 1 – Planning and Request for an Issues Report**

183

184 Recommendation 1. **Who can request an Issue Report (B)**

- 185 ▪ Although a request for a GNSO Issues Report has never been issued directly by the ICANN
186 Board, or any Advisory Committee (other than the At-Large Advisory Committee), the PDP-
187 WT recommends that the current three mechanisms for initiating a request for an Issue
188 Report (Board request, Advisory Committee Request or GNSO Council Member Request)
189 should be maintained.

190

191 Recommendation 2. **Definition of ‘Raising an Issue’ and ‘Initiating a PDP’ (B)**

- 192 ▪ The current language in Annex A of the Bylaws contains several references to the term
193 “PDP” which over the years have been the source of confusion. The phrase “initiating a PDP”

194 is currently used to refer to initiating an issue report, for example, and is also used to refer
195 to the process of formally establishing Task Forces or working groups. Therefore, the PDP-
196 WT has distinguished the two concepts into (1) Raising an Issue and (2) Initiating a PDP. The
197 PDP-WT has recommended clarification of this language in the Bylaws and whenever such
198 terms are used by the community.

199

200 **Recommendation 3. Development of a Policy Development Manual (M)**

- 201 ▪ The PDP-WT recommends the development of a Policy Development Process Manual, which
202 will constitute an integral part of the GNSO Operating Rules, intended to provide guidance
203 and suggestions to the GNSO and ICANN communities on the overall PDP process, including
204 those steps that could assist the community, working group members, and Councillors in
205 gathering evidence and obtaining sufficient information to facilitate an effective and
206 informed policy development process.

207

208 **Recommendation 4. Request for an Issue Report Template (M)**

- 209 ▪ The PDP-WT recommends that a 'request for an Issue Report' template should be developed
210 including items such as: definition of issue; identification and quantification of problems, to
211 the extent feasible; supporting evidence; economic impact(s); effect(s) on competition and
212 consumer trust and privacy and other rights, and; rationale for policy development. Any
213 request for an Issue Report, either by completing the template included in the PDP Manual
214 or in another form, must include at a minimum: the name of the requestor and the
215 definition of the issue. The submission of any additional information, such as the
216 identification and quantification of problems, and other as outlined for example in the
217 template, is strongly encouraged, but not required.

218

219 **Recommendation 5. Issue Scoping (M)**

- 220 ▪ The PDP-WT recommends adopting the proposed Policy Development Process Manual, to
221 provide guidance and suggestions to those parties raising an issue on which steps could be

223 considered helpful in gathering evidence and obtaining sufficient information to facilitate an
224 effective and informed policy development process.

225

226 Recommendation 6. **Creation of an Issue Report (B/M)**

227 ■ The PDP-WT recommends that the currently required elements of an Issue Report² continue
228 to be required for all future PDPs. However the PDP-WT recommends that only certain of
229 the elements be identified in Annex A of the Bylaws and others in the PDP Manual. More
230 specifically, the Bylaws should continue to require elements a (the proposed issue raised for
231 consideration), b (the identity of the party submitting the issue) and c (how that party is
232 affected by the issue), while elements d (support for the issue to initiate the PDP) and e
233 (recommendation from the Staff Manager) should be added to the PDP Manual. In addition,
234 the PDP-WT notes that element e (recommendation from the Staff Manager) should be split
235 in two parts; the first part dealing with the question of whether a PDP is considered “in
236 scope” (see recommendation 22 for the definition of “in scope”) and the second part
237 addressing whether the PDP should be initiated. Although currently included as one element
238 in the ICANN Bylaws, the reality is that these two elements should be treated separately.

239 The WT also notes that it would be appropriate to change ‘Staff Manager’ to ‘ICANN Staff’ in
240 this context. Furthermore, the PDP-WT recommends including in the PDP Manual a
241 recommendation for the entity requesting an Issue Report to indicate whether there are any
242 additional items it would like to have addressed in the Issue Report. This in turn which could
243 then be taken into consideration by the Staff Manager and/or Council when reviewing the
244 request for an Issue Report. In addition, the PDP Manual should allow for ICANN Staff or the
245 Council to request additional research, discussion, or outreach to be conducted as part of
246 the development of the Issue Report.

247

248 Recommendation 7. **Outcomes of a PDP (M)**

² See provision 2 of Annex A of the ICANN Bylaws

250 ▪ The PDP-WT recommends better information and communication with Working Group
251 members on the potential outcomes of a policy development process. There are more
252 potential outcomes of the PDP process than just the formation of “consensus policies” as
253 defined under the applicable gTLD Registry and Registrar agreements. Acceptable outcomes
254 also include the development of best practices, recommendations to other supporting
255 organizations, recommendations that no changes are necessary, recommendations for
256 future policy development, recommendations for additional research or study, etc. If known
257 in advance, this information could be included in the Charter of a Working Group or in the
258 Council’s instructions to a WG. The PDP Manual should clearly advise the Council and
259 Working Group members of these other potential outcomes.

260

261 **Recommendation 8. Scope – General Counsel’s opinion (B/M)**

262 ▪ The PDP-WT recommends retaining the requirement for obtaining the opinion of the ICANN
263 General Counsel’s office in the Issues Report as to whether a proposed PDP is within the
264 scope of the GNSO. Further details regarding the opinion of counsel are expected to be
265 included in the PDP Manual as opposed to the Bylaws. For more clarification of the meaning
266 of “in scope” please see Recommendation 22 below.

267

268 **Recommendation 9. Role of ICANN Staff (M)**

269 ▪ The PDP-WT recommends that additional guidance on the different roles ICANN staff can
270 perform, as outlined in the GNSO Working Group Guidelines, is to be included in the PDP
271 Manual.

272

273 **Recommendation 10. Timeframe for delivery of Preliminary Issue Report (B)**

274 ▪ The PDP-WT recommends the modification of timeframes included in clause 1 – Creation of
275 an Issue Report in Annex A in relation to the development and delivery of an issues report as
276 follows:

277 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board;
278 (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory

279 Committee, the Staff Manager will create a report (a “Preliminary Issue Report”). In the
280 event the Staff Manager determines that more time is necessary to create the Preliminary
281 Issue Report, the Staff Manager may request an extension of time for completion of the
282 Preliminary Issue Report, which request should be discussed with the Requestor.
283

284 Recommendation 11. **Mandatory Public comment period on Preliminary Issue Report (B)**

- 285 ▪ The PDP-WT recommends that that there is a mandatory public comment period that
286 follows the publication of a Preliminary Issue Report and before the GNSO Council is asked
287 to consider the initiation of a PDP. Such a Public Comment period would, among other
288 things, allow for additional information that may be missing from the Preliminary Issue
289 Report, or the correction or updating of any information in the Preliminary Issue Report. In
290 addition, this would allow for members of the ICANN Community to express their views to
291 the Council on whether or not to initiate a PDP. Depending on the comments received,
292 ICANN staff would include public inputs and any necessary corrections to the Preliminary
293 Issue Report turning it into the Final Issue Report and/or summarize the comments received
294 for Council consideration. If no comments are received on the Preliminary Issue Report, the
295 content of the Final Issue Report should be substantially similar to the Preliminary Issue
296 Report.

297

298 **Recommendation 12. Role of workshops prior to initiating a PDP (M)**

299 ■ The PDP-WT recognizes the value of workshops on substantive issues prior to the initiation
300 of a PDP. It is therefore recommending that information on the potential role of workshops
301 and information gathering events be provided in the PDP Manual. In addition, the PDP-WT
302 recommends that the GNSO Council should consider requiring such a workshop, on-line or
303 face-to-face, on a specific issue during the planning and initiation phase for a specific issue,
304 when deemed appropriate. The PDP-WT does not recommend mandating the use of
305 workshops prior to initiating a PDP. Furthermore, the PDP-WT recommends that, if a
306 workshop is held, invitations and/or announcements for workshops are communicated as
307 broadly as possible.

308

309 **Recommendation 13. Consideration of Resources (M)**

310 ■ The PDP-WT believes that the GNSO Council should take into full account the resources
311 available, both volunteers from the community as well as ICANN staff, when making its
312 decision on whether or not to initiate a PDP.

313

314 **Recommendation 14. No fast-track procedure (B/M)**

315 ■ The PDP-WT discussed the notion of a fast-track procedure extensively but did not come to
316 agreement on whether such a process is truly needed, and if so, what such a fast-track
317 procedure might look like. The PDP-WT recommends that the GNSO re-evaluates the need
318 for a fast-track procedure in due time as part of the review of the new PDP, as it is of the
319 view that the new PDP will offer additional flexibility and would allow for 'faster' PDPs
320 provided that the necessary resources are available without the need for a formal 'fast
321 track' process.

322

323 **Stage 2 - GNSO Council Review of the Issues Report and Initiation of the Policy Development**

324 **Process**

325

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327 Recommendation 15. **Timeframes for Initiation of a PDP (M)**

- 328 ▪ The PDP-WT recommends modifying the timeframes currently included in clause 3 of Annex
329 A – “Initiation of a PDP” to reflect current practice and experience. In addition, it proposed
330 to add language to codify the current practice that any Council member may request the
331 deferral of the consideration of an initiation of a PDP for one Council meeting.

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333 Recommendation 16. **Flexibility (M)**

- 334 ▪ The PDP-WT recommends that further guidance be included in the PDP Manual on how to
335 deal with situations where further flexibility is required e.g. additional research, ensuring
336 that the Council provides clear indications on expected timing of next steps.

337
338 Recommendation 17. **Appeals mechanism for Advisory Committees (M)**

- 339 ▪ The PDP-WT recommends that if the GNSO Council votes to not initiate a PDP following an
340 Issue Report requested by an Advisory Committee (AC), the AC or its representatives should
341 have the opportunity to meet with representatives of the GNSO to discuss the rationale for
342 the rejection and why the AC feels that reconsideration is appropriate⁴. Following this
343 meeting, the AC may submit a statement to the GNSO Council requesting a re-vote on the
344 initiation of a PDP and giving its rationale for such a request. This process may be followed
345 just once for any given Issue Report.

346
347 Recommendation 18. **Chartering of a Working Group (M)**

- 348 ▪ The PDP-WT recommends updating clause 7 of Annex A of the ICANN Bylaws to reflect that
349 a charter is required for all Working Groups, and to specify the voting threshold that should
350 apply to the adoption of the working group charter which is identical to the one that applies
351 to the initiation of the PDP. Any modifications to a Working Group Charter made after
352 adoption by the GNSO Council of such Charter, however, may be adopted by a majority vote

⁴ In particular those meeting with the AC should include members of the GNSO Council that voted against the initiation of the PDP.

355 of the GNSO Council (as such term is currently defined in article X, section 3 of the ICANN
356 Bylaws).

357

358 Recommendation 19. **Link to new PDP in GNSO Working Group Guidelines (M)**

- 359 ▪ The PDP-WT recommends that a link to the new Annex A and the PDP Manual, once
360 finalized and approved, are included in the GNSO Working Group Guidelines, as these two
361 documents provide an overview of the requirements for PDP WGs.

362

363 Recommendation 20. **Input from SOs and ACs (M)**

- 364 ▪ The PDP-WT recommends that further explanation on how to involve Advisory Committees
365 or Supporting Organisations in a PDP be included as part of the PDP Manual. Much of this
366 will involve the codification of existing practice. It is the belief of the PDP-WT that input
367 from other SOs and ACs must be sought and treated with the same due diligence as other
368 comments and input processes. In addition, comments from ACs and SOs should receive a
369 response from the WG. This may include, for example, direct reference in the applicable
370 Report or embedded in other responsive documentation or a direct response. The PDP WG
371 is expected to detail in its report how input was sought from ACs and SOs and how, if input
372 was received, such input has been considered.

373

374 Recommendation 21. **Optional public comment period after the Initiation of a PDP (M)**

- 375 ▪ Taking into account the required public comment period on the Preliminary Issue Report
376 (see recommendation 11), the PDP WT considers it no longer necessary to require a public
377 comment period on the initiation of a PDP. However, a WG may, at its discretion, decide to
378 conduct a public comment period at the start of their deliberations to obtain input on issues
379 raised in the Charter.

380

381 Recommendation 22. **Clarification of 'in scope' (B)**

- 382 ▪ The PDP-WT recommends modifying clause 3 – Initiation of a PDP to clarify that within
383 scope means 'within scope of ICANN's mission and more specifically the role of the GNSO' as

384 opposed to within scope of the contracted parties' definition of "consensus policies"⁵.
385 Furthermore, the PDP-WT recommends that issues raised should be mapable against
386 specific provisions in the ICANN Bylaws, the Affirmation of Commitments and/or ICANN's
387 Articles of Incorporation. This information should be included in the request for an Issue
388 Report⁶ and should be added as a category in the Issue Report request template.

389 **Stage 3 – Working Group**

390 Recommendation 23. **Mode of operation for a PDP (M)**

- 391
- 392
- 393 ■ The PDP-WT recommends that even though a Working Group currently forms the basic
394 mode of operation for a PDP, there should be flexibility to accommodate different working
395 methods if deemed appropriate by the GNSO Council, in accordance with the GNSO
396 Operating Rules. For example, in the past use has been made of "Task Forces" as well as a
397 "Committee of the Whole". Any new working methods or groups must contain each of the
398 mandatory elements set forth in the ICANN Bylaws and PDP Manual.
- 399

400 Recommendation 24. **Information for PDP Working Groups (M)**

- 401 ■ The PDP-WT recommends that each PDP WG will be strongly encouraged to review and
402 become familiar with the GNSO Working Group Guidelines and the PDP Manual (once
403 published), which includes further information and guidance on the functioning of GNSO
404 Working Groups.
- 405

⁵ See for example section 3.3.4 of the Registrar Accreditation Agreement (<http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm>) or section 3.1 b of the .com Registry agreement (see <http://www.icann.org/en/tlds/agreements/verisign/registry-agmt-com-22sep10.htm>).

⁶ The WT notes that the ICANN Office of the General Counsel opines formally on the scope as part of the Issue Report.

407 Recommendation 25. **Communication with different ICANN Departments (M)**

- 408 ▪ The PDP-WT recommends that further guidance should be included in the PDP Manual on
409 the mechanisms and protocols for Working Groups to communicate with different ICANN
410 departments. It may be necessary for PDP Working Groups to consult with the General
411 Counsel's office, Compliance, Operations, Finance, etc. The PDP-WT recommends that
412 ICANN policy staff serve as the official intermediaries between a Working Group and the
413 various ICANN departments, provided that a procedure is in place which allows for
414 escalation via the WG Chair if the WG is of the opinion that communication is hindered
415 through the involvement of ICANN policy staff.

416

417 Recommendation 26. **Alignment with ICANN's Strategic Plan (M)**

- 418 ▪ The PDP-WT recommends that the initiation of a PDP may include consideration of how
419 ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes,
420 and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

421

422 Recommendation 27. **Duration of Public Comment Periods (B/M)**

- 423 ▪ The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to change the
424 duration of the public comment period on the Initial Report from 20 days to a minimum of
425 thirty calendar days. This same minimum should also apply to the public comment period on
426 the Preliminary Issue Report, while other public comment periods that a WG / GNSO Council
427 opt to have as part of a PDP should have a minimum duration of 21 days. The minimum
428 durations for the Preliminary Issue Report and Initial Report should be included in the ICANN
429 Bylaws while the minimum requirement of 21 days for other public comment periods should
430 be included in the PDP Manual. Further guidance on the recommended duration, for
431 example taking into account overlap with ICANN meetings, should be included in the PDP
432 Manual.

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434 Recommendation 28. **Summary and Analysis of Public Comments (M)**

- 435
- 436 ▪ The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to reflect the
 - 437 current practice that a summary and analysis of the public comments received is to be
 - 438 provided by the staff manager to the Working Group. Such a summary and analysis of the
 - 439 public comments should be provided at the latest 30 days after the closing of the public
 - 440 comment period, absent exigent circumstances. The Working Group shall review and take
 - 441 into consideration the public comments received.

442 Recommendation 29. **Guidance on Public Comment Periods (M)**

- 443
- 444 ▪ The PDP-WT recommends providing further guidance in the PDP Manual on how to conduct
 - 445 public comment periods and review public comments received. Such guidance should
 - 446 include the expectation that public comments are carefully considered and analyzed by the
 - 447 WG; encouraging WGs to explain their rationale for agreeing or disagreeing with the
 - 448 comments received and, if appropriate, how these will be addressed in the report of the
 - 449 WG, and; other means to solicit input than the traditional public comment forums such as
 - 450 surveys.

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451 Recommendation 30. **Implementation, Impact and Feasibility (M)**

- 452
- 453 ▪ The PDP-WT recommends that PDP WGs be required to provide input on issues related to
 - 454 implementation on all policy recommendations. This input could include a discussion of the
 - 455 impacts of the policy, both positive and negative, including but not limited to economic,
 - 456 competition, operations, privacy and other rights, scalability and feasibility. When
 - 457 appropriate the following should be considered:
 - 458
 - 459 ○ Recommend the inclusion of implementation guidelines as part of the Final
 - 460 Report;
 - 461 ○ Consultation with the WG / Council on the draft implementation plan;
 - 462 ○ The creation of an implementation team that consists of representatives of the
 - WG, amongst others, which would be tasked to review / provide input during
 - the implementation phase

464 All reports should include a statement on the WG discussion concerning impact of the
465 proposed recommendations, which could consider areas as noted above. Further guidance
466 on this issue is to be included in the PDP Manual.

467

468 Recommendation 31. **ICANN Staff Resources (M)**

- 469 ▪ The PDP-WT recommends that staff resources needed or expected in order to implement
470 the policy recommendations should be evaluated as part of the WG recommendations, and
471 as part of the Council's review of those recommendations. This could be included as part of
472 the feasibility analysis and/or impact statement (see also recommendation 30).

473

474 Recommendation 32. **Stakeholder Group and Constituency Statements (M)**

- 475 ▪ The PDP-WT recommends amending clause 7 of Annex A of the ICANN Bylaws to reflect the
476 practice that Stakeholder Group / Constituency statements are requested by the Working
477 Group and the timeline for submission should start from that point instead of the initiation
478 of the PDP. It should be noted in the PDP Manual that a WG can request Stakeholder Group
479 / Constituency statements more than once if so desired.

480

481 Recommendation 33. **Mandatory Working Group Output (B)**

- 482 ▪ The PDP-WT recommends that PDP Working Groups continue to be required to produce at
483 least an Initial Report and a Final Report, noting that additional outputs can be produced if
484 desirable.

485

486 Recommendation 34. **Initial Report vs. Final Report (B)**

- 487 ▪ The PDP-WT does note that the description of the difference between an Initial Report and a
488 Final Report as currently described in the Bylaws is not in line with actual practice, and
489 recommends that this language is updated to reflect that an Initial Report may reflect the
490 initial ideas of a WG which are then finalized, in combination with review and analysis of the
491 public comment period in the second phase leading to the Final Report.

492

493 Recommendation 35. **Mandatory Public Comment Period on Initial Report (B)**

- 494 ▪ The PDP-WT recommends that a public comment period on the Initial Report remains
495 mandatory. Additional guidance on further optional public comment periods, e.g. when
496 there are substantial differences between the Initial Report and Final Report are to be
497 included as part of the PDP Manual.

498

499 Recommendation 36. **Termination of a PDP prior to publication of a Final Report (M)**

- 500 ▪ The PDP recommends that a provision be added to the PDP Manual to allow for the
501 termination of a PDP prior to the publication of a Final Report if the GNSO Council finds
502 significant cause and passes a motion with a Supermajority vote, as defined in the ICANN
503 Bylaws, in favour of termination.

504

505 **Stage 4 – Voting and Implementation**

506

507 Recommendation 37. **Timing of consideration of Final Report (M)**

- 508 ▪ The PDP-WT recommends modifying clause 10 – “Council Deliberations of Annex A” of the
509 ICANN Bylaws to reflect current practice and requirements in the rules of procedure to
510 consider a report if it is received at least eight (8) days in advance of a Council meeting,
511 otherwise the report shall be considered at the next Council meeting. In addition, the PDP-
512 WT recommends adding language to codify the current practice that any Council member
513 can request the deferral of the consideration of a final report for one Council meeting.

514

515 Recommendation 38. **Consideration of Working Group Recommendations (M)**

- 516 ▪ The PDP-WT recommends providing additional guidance to GNSO Council in the PDP Manual
517 on how to treat Working Group recommendations, especially those that have not received
518 full consensus and the expected / desired approach to adoption of some, but not all, or
519 rejection of recommendations. PDP WGs should be encouraged to indicate which, if any,
520 recommendations are interdependent so the GNSO Council can take this into account as
521 part of their deliberations. The Council should be cautious and is strongly discouraged from

523 separating recommendations that the PDP WT has identified as interdependent. The PDP-
524 WT would like to express its concern about the GNSO Council 'picking and choosing' or
525 modifying recommendations, but recognizes that this is the Council's prerogative. The PDP-
526 WT would like to encourage the GNSO Council that where it does have concerns or would
527 propose changes to recommendations, it passes these concerns and/or recommendations
528 for changes back to the respective PDP Working Group for their input.

529

530 Recommendation 39. **GNSO Council Report to the Board (B/M)**

531 ■ The PDP-WT recommends that all reports to the ICANN Board concerning a PDP should be
532 publicly disclosed. In addition, it notes that the GNSO Council is responsible for the Board
533 Report either as author of the report or by approving the report before it is sent to the
534 Board. Board Reports on PDPs should be delivered from the GNSO Council directly to the
535 Board and if any summaries or addenda are needed by request of the Board, those should
536 be the assembled by the GNSO council (upon consultation of the Working Group if
537 necessary). If feasible, the Board Report should be delivered to the Board within 21 days
538 following the adoption of the Final Report. The PDP-WT discussed at length the current
539 practice of ICANN Policy Staff submitting a separate report to the Board, which is not
540 disclosed to the community and is drafted without the aid of the Council or applicable PDP
541 Working Group. The PDP-WT unanimously believes that these reports should not be kept
542 confidential. If ICANN Policy Staff would like to submit a separate report related to a PDP to
543 the Board or is requested to do so, it should be done in an open and transparent matter and
544 disclosed to the community at the same time it is delivered to the Board. The PDP-WT notes
545 that there might be cases where certain confidential information cannot be publicly
546 disclosed due to its privileged nature. Nevertheless, even in those circumstances, as much
547 information as possible, without disclosing business confidential information, must be
548 provided. This may include a description by ICANN Staff of the general nature of such
549 information and the rationale for its non-disclosure.

550

551 Recommendation 40. **Voting Thresholds (B/M)**

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552 ▪ The PDP-WT discussed whether the voting thresholds currently in place might need to be
553 reviewed (see also overarching issues) but agrees that this issue should be addressed by the
554 GNSO when deemed appropriate and/or necessary. The WT does note that it has proposed
555 two new voting thresholds in relation to the adoption of the WG Charter (see
556 recommendation 18), as well as a new voting threshold for the termination of a PDP (see
557 recommendation 36), and the definition of “Supermajority Vote” (see recommendation 47) .

559 Recommendation 41. **Board Vote (B)**

560 ▪ The PDP-WT recommends that the provisions in relation to the Board Vote in the ICANN
561 Bylaws remain essentially unchanged, but recognizes that the current provision 13f⁷ is not
562 clear especially in relation to what ‘act’ means. Following further review and clarification by
563 ICANN Staff (see <http://forum.icann.org/lists/gnso-ppsc-pdp/docUUZkcHBh3A.doc>), the WT
564 recognizes that provision 13f relates to when the Board can reject (‘act’) a GNSO
565 recommendation, if the GNSO recommendation was not adopted by a GNSO Supermajority.
566 The WT notes that the current placing of provision 13f is confusing and therefore
567 recommends to clarify this section by linking provision 13f to 13b, and make it clear that in
568 both instances the desired next steps would be further discussion with the GNSO Council as
569 outlined in provisions 13 c, d and e. In addition, an explanation needs to be added in the
570 PDP Manual to clarify that all recommendations, including those not recommending new or
571 changes to Consensus Policies, should be communicated to the Board.

573 Recommendation 42. **Implementation Review Team (M)**

574 ▪ The PDP-WT recommends the use of WG Implementation Review Teams, when deemed
575 appropriate, which would be responsible in dealing with implementation issues. A PDP WG
576 should provide recommendations for whether a WG Implementation Review Team should
577 be established and any other recommendations deemed appropriate in relation to such a

⁷ From the ICANN Bylaws – 13 Board Vote f. In any case in which the Council is not able to reach GNSO Supermajority vote, a majority vote of the Board will be sufficient to act.

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580 Review Team (e.g. composition) as part of its Final Report. ICANN Staff should inform the
581 GNSO of its proposed implementation of a new GNSO recommended policy. If the proposed
582 implementation is considered inconsistent with the GNSO Council's recommendations, the
583 GNSO Council may notify the Board and request that the Board review the proposed
584 implementation. (see also recommendation 31)

586 **Stage 5 – Policy Effectiveness and Compliance**

588 Recommendation 43. **Periodic Assessment of PDP Recommendations / Policy (M)**

- 589 ▪ The PDP-WT notes that a periodic assessment of PDP recommendations and/or policy is
590 important. WGs should be encouraged to include proposed timing, assessment tools and
591 metrics for review as part of their Final Report.

593 Recommendation 44. **GNSO Council Review of the PDP Working Group (M)**

- 594 ▪ The PDP Work Team notes that several documents, including the PPSC-WG WT and the WG
595 Guidelines, reference a "Working Group Self-Assessment," which all WGs are encouraged to
596 conduct. The Work Team believes that this could be a valuable exercise, and encourages
597 PDP WGs to complete a candid and objective self-assessment at the conclusion of their
598 work. However, the Work Team also notes that there are no ICANN guidelines and
599 recommends that the GNSO develops such guidelines after some experience is gained in WG
600 self-assessments.

602 Recommendation 45. **Periodic Assessment of the overall PDP Process (M)**

- 603 ▪ The PDP-WT notes that the periodic assessment of the overall PDP process is important,
604 noting that a certain threshold of completed PDPs should be met before an overall review is
605 carried out. The WT does not have a specific view on whether the PPSC or a new Standing
606 Committee should be responsible for such a periodic assessment.

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610 Recommendation 46. **Review of the Working Group Model (M)**

- 611 ▪ The PDP-WT recommends that such an overall review also includes the review of the
612 Working Group Model in the context of the PDP, which should assess whether there are
613 stages in the PDP that are more suitable for Working Groups and those that might be more
614 suitable for formal advice from Stakeholder Groups and Constituencies.

615
616 **Other**

617 Recommendation 47. **Definition of GNSO Supermajority (B)**

- 618 ▪ The WT recommends that the definition of a 'GNSO Supermajority vote' be redefined in the
619 ICANN Bylaws as 2/3 of the Council members of each house or 3/4 of one House and a
620 majority of the other house.

621 Specifically, Section 3.9(c) of Article X, should be modified from:

622 "c. Initiate a PDP Not Within Scope: requires an affirmative vote of more than 3/4 of one
623 House and a majority of the other House ("GNSO Supermajority");

624 to:

625 "c. Initiate a PDP Not Within Scope: requires an affirmative vote of a GNSO Supermajority."

626 And a new stand-alone definition of GNSO Supermajority should be included at the end of
627 Section 3.9 as follows:

628 "3.9 g. A "GNSO Supermajority" shall mean: (a) two-thirds (2/3) of the Council members of
629 each House, or (b) three-fourths (3/4) of one House and a majority of the other House."

630 In addition, the WT recommends the consistent use of either percentage or fraction when
631 referring to voting thresholds, and has opted for using fraction in the context of the PDP
632 voting thresholds.

633
634 Recommendation 48. **Simplify Section 3.9 of Article X (B)**

- 635 ▪ In the last sentence of section 3.9 Article X of the ICANN Bylaws, it should be sufficient to
636 say 'the GNSO Supermajority vote threshold will have to be met or exceeded' as the clause
637 'with respect to any contracting party affected by such contract provision' is irrelevant. As a
638 result, the WT recommends that this provision is updated accordingly.

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646 In addition, a number of overarching issues were identified which were deemed to have an
647 impact on the overall policy development process or related to various stages of the new PDP
648 and therefore needed to be considered once an initial outline of the new PDP would have been
649 completed. These overarching issues consist of:

650

- 651 • Timing
- 652 • Translation
- 653 • Development of definitions
- 654 • Voting thresholds
- 655 • Decision-making methodology
- 656 • Transition / Implementation of the new PDP

657

658 Based on the discussions and deliberations to date, a flow chart which outlines the main
659 elements of the proposed GNSO Policy Development Process can be found in the executive
660 summary.

661

662 The WT, supported by ICANN staff, has also developed a first outline of the new Annex A (see
663 section 4) as well as a supporting document that is envisioned to be included in the GNSO
664 Operating Procedures as the PDP Manual (see section 5).

665

666 Based on the input received on the Initial Report, Final Report and subsequent discussions, the
667 PDP-WT has finalized its report for submission to the GNSO Council.

668

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672 3 Overarching Issues

673

674 In addition to the five stages discussed in the previous sections of this report, the PDP-WT also
675 identified a number of 'overarching issues' which were deemed to have an impact on the overall
676 policy development process or related to various stages of the new PDP and therefore needed
677 to be considered once an initial outline of the new PDP would have been completed. These
678 overarching issues consist of:

679

- 680 ○ Timing
- 681 ○ Translation
- 682 ○ Development of definitions
- 683 ○ Voting thresholds
- 684 ○ Decision-making methodology
- 685 ○ Transition / Implementation of the new PDP

686

687 It should be noted that this section contains the deliberations of the WT on these issues, which
688 did not all result into recommendations for the new Annex A or PDP Manual (it has been
689 indicated in the text where the deliberations specifically relate to one of the recommendations
690 in section 2).

691

692 The initial deliberations on a number of these issues can be found in the Initial Report (see
693 <http://gnso.icann.org/issues/pdp-initial-report-31may10-en.pdf>). On the basis of these initial
694 deliberations, the review of the public comments received on the Initial Report as well as the
695 proposed Final Report and further discussions, the PDP-WT has reached the following
696 conclusions.

697

698 1. Timing (B/M)

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700 Based on the different recommendations that have timing included, the following timeline
 701 would be applicable to every PDP, noting the flexibility in a number of the different stages.

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Task	Duration
Development of Preliminary Issue Report	Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory Committee. (See Recommendation 10)
Public Comment Period on Preliminary Issue Report	Minimum of 30 Days (See Recommendation 27)
Submission of Final Issue Report, including summary of comments received	Within 30 days of the closing of the public comment forum, though the Staff Manager may request an extension of that 30-day time for delivery based upon the considerations set forth in the PDP Manual. (Recommendation 11)
Consideration of Final Issue Report by GNSO Council	<u>At the request of any Council member, for any reason, consideration of the Issue Report may be postponed by not more than one (1) meeting, provided that that the Council member details the rationale for such a postponement. Consideration of the Issue Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement.</u> (See Recommendation 15)
Development of WG Charter	Council may set timeline for delivery of WG

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	<p>Charter at its discretion considering existing resources (both Volunteer and ICANN staff). Such a timeframe should be realistic, but at the same time ensure that this task is completed as soon as possible and does not unnecessarily delay the formation of a Working Group</p>
Approval of WG Charter	<p>The Council shall consider whether to approve the proposed Working Group Charter at the Council meeting following the Chair's receipt of the proposed Working Group Charter; provided that the proposed Working Group Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the proposed Working Group Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council shall consider the proposed Working Group Charter at the meeting after the next GNSO Council meeting.</p>
Formation of WG	<p>To determined by the GNSO Council at its discretion considering existing resources (both Volunteer and ICANN staff).</p>
Working Group	<p>Milestones / timetable may be included in Charter if deemed appropriate by the GNSO Council.</p>
Request for Constituency / Stakeholder Group Statements on issues presented in the Charter.	<p>35 days (See Recommendation 32)</p>

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Public Comment Period on the Initial Report	Minimum of 30 days (See Recommendation 27)
Consideration of Final Report by GNSO Council	<p>The GNSO Council is strongly encouraged to consider the recommendations within the Final Report at the next meeting after the Final Report is forwarded to the Council Chair, provided that the Final Report is forwarded to the Council Chair at least eight (8) calendar days prior to the GNSO Council meeting. If the Final Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should consider the Final Report at the meeting after the next GNSO Council meeting. At the request of any Council member, for any reason, consideration of the Final Report may be postponed for no more than one (1) meeting, provided that that such Council member details the rationale for such a postponement. Consideration of the Final Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement. (See Recommendation 37)</p>
Approval of Council Recommendations Report to the Board	If feasible, at the next GNSO Council meeting following adoption of the Final Report (See Recommendation 39)
Consideration by the ICANN Board	The Board will meet to discuss the GNSO Council recommendation as soon as feasible,

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Comment [1]: Alan to circulate proposed language to the mailing list. Will also need to be updated in the PDP Manual, if proposed language is accepted.

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	<u>but preferably not later than the second meeting after receipt of the Board Report from the Staff Manager.</u>
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749

750 Given the greater flexibility introduced in to the process, and the variable time periods in which
751 a Working Group has to complete its work, it might be worth pointing out that based on review
752 of recent PDPs the average length varies between 350 – 550 days.

753

754 **2. Translation (M)**

755

756 The PDP-WT considered a number of issues related to translations, including: (i) what
757 translations should be provided at each stage of the policy development process, (ii) how will
758 translations impact timing / delay e.g. in relation to a public comment period, and (iii) how to
759 assess the success and/or additional needs for translation?

760

761 The following are ICANN's current translation principles:

762

763 *ICANN will provide timely and accurate translations, and move from an organisation that*
764 *provides translation of texts to one that is capable of communicating comfortably with a*
765 *range of different languages. The translation framework comprises a four-layer system:*

- 766 - *The bottom layer contains those specific documents and publications that*
767 *address the organisation's overall strategic thinking. They will be translated*
768 *into an agreed block of languages.*
- 769 - *The next layer contains a class of documents that ICANN undertakes to provide*
770 *in different languages to allow interaction within ICANN processes by non-*
771 *English speakers.*
- 772 - *The third layer comprises documents suggested by ICANN staff as being helpful*
773 *or necessary in ongoing processes; and documents requested by the Internet*
774 *community for the same reasons. These documents will be run through a*

780 *translation approval system.*
781 - *The top layer is where the community is encouraged to use online collaborative*
782 *tools to provide understandable versions of ICANN materials as well as material*
783 *dynamically generated by the community itself. ICANN will provide the*
784 *technology for community editing and rating, and a clear and predictable*
785 *online location for this interaction to occur. It will also seek input from the*
786 *community to review the tools.*

787

788 *English will remain the operating language of ICANN for business consultation and legal*
789 *purposes.*

790

791 *Every effort will be made to ensure equity between comments made in languages other*
792 *than English and those made in English. If it is not possible to arrange the release of*
793 *particular documents in the agreed languages at the same time, then each language will be*
794 *provided with the same time period in which to make comments.*

795

796 *ICANN will adopt the International Organisation for Standardisation's 639-2 naming system*
797 *for identifying and labelling particular languages⁸.*

798

799 **PDP-WT Conclusion:**

- The WT recognizes the importance of translation to facilitate participation of non-English speakers in the GNSO Policy Development Process. At the same time, the WT acknowledges the costs and timing implications that might result from enhanced translation of documents. Furthermore, the WT wants to emphasize the importance of a coherent and consistent approach across ICANN as an organization when it comes to translation. Awaiting and encouraging an overall ICANN policy on

⁸ See <http://www.icann.org/en/transparency/acct-trans-frameworks-principles-23jun07.htm#trans>

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translation, the WT recommends the following in relation to the GNSO Policy Development Process:

1. At a minimum the following PDP outputs should be translated in the 5 UN languages:
 - Working Group Charter (including any amendments)
 - Executive Summary of Initial, Final or any other report that is put out for public comment, including recommendations (if not included in the Executive Summary)
2. Public comments should be received in other languages, where feasible and when that occurs, these comments should also be translated into English.
3. ICANN is encouraged to consider whether the use of volunteers to assist with translation is appropriate and practical as a cost-cutting measure while it is considering the enhancements of the translation strategy, which is part of the overall strategic plan.

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801 | **3. Development of Definitions (B)**

802

803 **PDP-WT Conclusion:** the WT recommends that, where appropriate, definitions are added to the
804 new Annex A and PDP Manual based on the PDP-WT discussions and recommendations. These
805 would include definitions related to “PDP”, “in scope”, “Consensus Policies”, “Working Groups”,
806 etc.

807

808 | **4. Voting thresholds (B)**

809

810 | The WT discussed whether the voting thresholds as adopted as part of the new GNSO bi-
811 cameral structure in 2009 are still appropriate and effective. Overall, the PDP-WT decided to
812 substantially keep the existing thresholds intact and added a couple of others. Below are listed
813 | the thresholds recommended by the PDP-WT followed by some notes by the PDP-WT.

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1. Raising an Issue: Council initiation: one-fourth (1/4) of the members of the Council of each house or a majority of one house.
2. Initiating PDP:
 - a. More than one-third (1/3) of the Council members of each House; or More than two-thirds (2/3) vote of one House if within scope
 - b. GNSO Supermajority Vote required if not in scope (two-thirds (2/3) of the Council Members of each House or three-fourths (3/4) of one House and a majority of the other house)
3. Vote on Approving the Charter (as recommended by the WT – see recommendation 19)
 - a. More than one-third (1/3) of the Council members of each house; or More than two-thirds (2/3) of one House if within Scope
 - b. GNSO Supermajority vote required if not in scope
4. Vote to terminate a PDP (as recommended by the WT – see recommendation 37)
5. Vote of Council (From Article 10, Section 3, #9)
 - a. Approve a PDP Recommendation without a GNSO Supermajority – requires an affirmative vote of majority of each House and further requires that one GNSO Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation
 - b. Approve a PDP Recommendation with a GNSO Supermajority – requires an affirmative vote of a GNSO Supermajority; and
 - c. Approve a PDP Recommendation Imposing New obligations on certain Contracting Parties: where an ICANN contract provision specifies that “a two-thirds vote of the council” demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded with respect to any contracting party affected by such contract provision.
6. Board Vote

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- 849 a. The Board will meet to discuss the GNSO Council recommendation as
850 soon as feasible after receipt of the Board Report from the Staff
851 Manager.
- 852 b. In the event that the Council reached a GNSO Supermajority Vote, the
853 Board shall adopt the policy according to the GNSO Supermajority Vote
854 recommendation unless by a vote of more than two-thirds (2/3) of the
855 Board determines that such policy is not in the best interests of the
856 ICANN community or ICANN.
- 857 c. In the event that the Board determines not to act in accordance with
858 the GNSO Supermajority Vote recommendation, the Board shall (i)
859 articulate the reasons for its determination in a report to the Council
860 (the "Board Statement"); and (ii) submit the Board Statement to the
861 Council.
- 862 d. The Council shall review the Board Statement for discussion with the
863 Board within twenty (20) calendar days after the Council's receipt of the
864 Board Statement. The Board shall determine the method (e.g., by
865 teleconference, e-mail, or otherwise) by which the Council and Board
866 will discuss the Board Statement.
- 867 e. At the conclusion of the Council and Board discussions, the Council shall
868 meet to affirm or modify its recommendation, and communicate that
869 conclusion (the "Supplemental Recommendation") to the Board,
870 including an explanation for its current recommendation. In the event
871 that the Council is able to reach a GNSO Supermajority Vote on the
872 Supplemental Recommendation, the Board shall adopt the
873 recommendation unless more than two-thirds (2/3) of the Board
874 determines that such policy is not in the interests of the ICANN
875 community or ICANN.
- 876 f. In any case in which the Council is not able to reach GNSO
877 Supermajority vote, a majority vote of the Board will be sufficient to act.

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880 g. When a final decision on a GNSO Council Recommendation or
881 Supplemental Recommendation is timely, the Board shall take a
882 preliminary vote and, where practicable, will publish a tentative
883 decision that allows for a ten (10) day period of public comment prior to
884 a final decision by the Board
885

886 **PDP-WT Conclusion:**

- 887 a) The PDP-WT agreed that the existing voting threshold 1 for 'Raising an Issue' is
888 appropriate, as the initial gauge should continue to be low.
- 889 b) The PDP-WT discussed voting threshold 2 'Initiating a PDP' and discussed whether a
890 higher voting threshold should apply if staff recommended against the initiation of a
891 PDP (as opposed to the ICANN General Counsel opining that the PDP is not "in scope" as
892 set out in recommendation 23). Most agreed that no higher voting threshold should be
893 required, as it would otherwise give staff indirectly a vote in the process. PDP-WT
894 members discussed the issue of prioritization and the role the current threshold, which
895 is considered low by some, plays in creating work the community and staff has difficulty
896 keeping up with. Some were of the opinion that keeping the threshold as it currently is
897 would be appropriate. Others considered there to be a strong relationship between this
898 threshold and the prioritization effort the GNSO is currently undertaking and were of
899 the opinion that if there is no effective prioritization this threshold may need to be
900 raised in order to avoid GNSO community and staff overload. No consensus was reached
901 on how best to address this issue and therefore no recommendation is presented.
- 902 c) The WT recommends that the definition of a 'GNSO Supermajority vote' is redefined as
903 two-thirds (2/3) of the Council members of each house or three-fourths (3/4) of one
904 House and a majority of the other house. (see recommendation 47)
- 905 d) In line with recommendation 19, the WT recommends the proposed voting threshold for
906 the adoption of a WG charter (voting threshold number 3 above), noting that this would
907 require every WG to have a charter. In cases where two or more competing charters
908 would be proposed, the GNSO Council Chair should facilitate a meeting between the

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- 911 proponents of the different charter to determine whether a compromise charter can be
912 developed ahead of the GNSO Council vote. If no compromise is found, the two or more
913 competing charters are put forward for GNSO Council consideration whereby the
914 charter with the most votes is adopted. Any modifications to a Working Group Charter
915 may be adopted by a simple majority vote of the GNSO Council.
- 916 e) In relation to voting threshold 4 – Vote of the Council, the WT confirms its earlier
917 conclusion that the Council should be strongly discouraged from separating
918 recommendations that a PDP Working Group has identified as interdependent. (see
919 recommendation 38)
- 920 f) In relation to 4c, it was noted that only registrars have a clause in their agreement that
921 specifies that “a two-thirds vote of the council” demonstrates the presence of a
922 consensus. Registries have a general definition of consensus in their agreements. A staff
923 memorandum circulated to the group (see [http://forum.icann.org/lists/gnso-ppsc-](http://forum.icann.org/lists/gnso-ppsc-pdp/msg00359.html)
924 [pdp/msg00359.html](http://forum.icann.org/lists/gnso-ppsc-pdp/msg00359.html)) recommends the standardization of ‘all of the voting requirements
925 for all registries and all registrars in order to adopt Consensus Policies that would be
926 enforceable against them.’ In addition, ICANN Staff proposed that the PDP-WT
927 recommend that the GNSO Supermajority Vote apply in all instances where the GNSO
928 Council intends to adopt Consensus Policies to be enforceable against all registrars and
929 registries’. Some argued that the current wording could also imply the lower threshold
930 vote and this clarification would ensure that the higher threshold would apply, while
931 others argued this might be a lower standard than currently applicable as ‘consensus’ in
932 the registry agreement does not only relate to the vote of the GNSO Council. No
933 consensus was reached within the PDP-WT to adopt the ICANN Staff recommendation.
- 934 g) In relation to 6a, the WT discussed whether it would be possible to word this provision
935 in a positive way (instead of noting how many are needed to reject, note how many are
936 needed to approve).
- 937 h) In relation to 6b, the WT highlighted the importance of the board statement with info
938 on why something was rejected. The WT discussed whether a timeframe should be
939 included as to when the board is required to submit its statement to the GNSO Council

940 and it was suggested that a certain timeframe should be included (e.g. Board shall
941 within x days submit the board statement to the GNSO Council with guidance on how to
942 cure the identified deficiencies). However, in the end, the WT did not consider it within
943 its remit to dictate timeframes that apply to Board and opted not to include a proposed
944 timeframe in the new Annex A.

945 i) In relation to 6c, the WT agreed to consider including a similar timeframe as for earlier
946 discussed items (i.e. consider at next meeting if received 8 days ahead of the meeting,
947 or at the following meeting if not received 8 days ahead of the meeting).

948 j) The WT also discussed whether the board should be able to pick and choose
949 recommendations or whether they should be adopted or rejected 'en block' as has been
950 current practice. Most agreed that the board should only be able to adopt or reject the
951 GNSO Council recommendations as a whole as policy development is supposed to be
952 done at the SO level, not by the board.

953 a) The WT discussed 6f and noted that there were different interpretations of what 'will be
954 sufficient to act' means. Some members of the contracted parties interpret this as
955 meaning that without supermajority vote of the Council, the Board can act and adopt
956 the recommendations with a majority vote, but these would not be binding on the
957 contracted parties. Other members of the non-contracted parties were of the opinion
958 that it meant that the board could act and adopt policy recommendations that would be
959 enforceable on contracted parties even without a supermajority vote of the GNSO
960 Council. Following further review and clarification by ICANN Staff (see
961 <http://forum.icann.org/lists/gnso-ppsc-pdp/docUUZkcHBh3A.doc>), the WT recognizes
962 that provision 13f relates to when the Board can reject ('act') a GNSO recommendation,
963 if the GNSO recommendation was not adopted by a GNSO Supermajority. The WT notes
964 that the current placing of provision 13f is confusing and therefore recommends to
965 clarify this section by linking provision 13f to 13b, and make it clear that in both
966 instances the desired next steps would be further discussion with the GNSO Council as
967 outlined in provisions 13 c, d and e. (see recommendation 41).

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- 968 b) The WT discussed 6g and the meaning of ‘timely’. Some suggested this could mean
969 time-sensitive, critical or urgent. The question was raised who makes the assessment on
970 whether something is timely? Most agreed that it would be the role of the ICANN Board
971 to make this assessment, although the GNSO Council could make a recommendation to
972 this end. It should be noted that this specific provision is not included as part of the
973 proposed new Annex A.
974 c) The WT agreed to add a new voting threshold for the termination of a PDP (see
975 recommendation 36).
976 d) Overall, the WT agreed that the existing voting thresholds should be addressed by the
977 GNSO when deemed appropriate and/or necessary.
978

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979 5. Decision-making methodology (M)

980

981 The PDP-WT recommends that PDP Working Groups are required to use the decision-making
982 methodology that is outlined in the [GNSO Working Group Guidelines](#), which were adopted by
983 the GNSO Council, at least for a certain period of time, following which its effectiveness and
984 usability could be reviewed and assessed as part of the overall review of the new PDP.

985

986 6. Transition (B)

987 The WT agreed that following the adoption and implementation, the new PDP should apply to
988 all issued raised and PDPs initiated after the date of adoption. In addition, the WT recommends
989 that, upon review by the GNSO Council, existing PDP Working Groups may be transitioned to the
990 new policy development process.

991

997 **4 New GNSO PDP – Basis for new Annex A**

998 Based on the PDP-WT recommendations and deliberations, the PDP-WT, with the support of
999 ICANN Staff, has developed the outline below of a new Annex A which is intended to replace the
1000 current Annex A contained in the ICANN Bylaws.

1001

1002 **Annex A – GNSO Policy Development**

1003

1004 The following process shall govern the GNSO policy development process (“PDP”) until such
1005 time as modifications are recommended to and approved by the ICANN Board of Directors
1006 (“Board”). The role of the GNSO is outlined in Article X of these Bylaws. If the GNSO is
1007 conducting activities that are not intended to result in a Consensus Policy, the Council may act
1008 through other processes.

1009

1010 **Section 1. Required Elements of a Policy Development Process**

1011

1012 The following elements are required at a minimum to form Consensus Policies as defined within
1013 ICANN contracts, and any other policies for which the GNSO Council requests application of this
1014 Annex A:

1015

- 1016 a. Final Issue Report requested by the Board, the GNSO Council (“Council”) or Advisory
1017 Committee, which should include at a minimum a) the proposed issue raised for
1018 consideration, b) the identity of the party submitting the issue, and c) how that party is
1019 affected by the issue;
- 1020 b. Formal initiation of the Policy Development Process by the Council;
- 1021 c. Formation of a Working Group or other designated work method;
- 1022 d. Initial Report produced by a Working Group or other designated work method;
- 1023 e. Final Report produced by a Working Group, or other designated work method, and
1024 forwarded to the Council for deliberation;

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- 1025 f. Council approval of PDP Recommendations contained in the Final Report, by the
- 1026 required thresholds;
- 1027 g. PDP Recommendations and Final Report shall be forwarded to the Board through a
- 1028 Recommendations Report approved by the Council]; and
- 1029 h. Board approval of PDP Recommendations.

1030

1031 Section 2. Policy Development Process Manual

1032

1033 The GNSO shall maintain a Policy Development Process Manual (PDP Manual) within the
1034 operating procedures of the GNSO maintained by the GNSO Council. The PDP Manual shall
1035 contain specific additional guidance on completion of all elements of a PDP, including those
1036 elements that are not otherwise defined in these Bylaws. The PDP Manual and any amendments
1037 thereto are subject to a twenty-one (21) day public comment period, as well as Board oversight
1038 and review, as specified at Article X, Section 3.6.

1039

1040 Section 3. Requesting an Issue Report

1041

1042 *Board Request.* The Board may request an Issue Report by instructing the GNSO Council
1043 (“Council”) to begin the process outlined the PDP Manual. In the event the Board makes a
1044 request for an Issue Report, the Board should provide a mechanism by which the GNSO Council
1045 can consult with the Board to provide information on the scope, timing, and priority of the
1046 request for an Issue Report.

1047

1048 *Council Request.* The GNSO Council may request an Issue Report by a vote of at least one-fourth
1049 (1/4) of the members of the Council of each House or a majority of one House.

1050

1051 *Advisory Committee Request.* An Advisory Committee may raise an issue for policy development
1052 by action of such committee to request an Issue Report, and transmission of that request to the
1053 Staff Manager and GNSO Council.

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1055

1056 Section 3: **Creation of an Issue Report**

1057

1058 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a
1059 properly supported motion from the GNSO Council; or (iii) a properly supported motion from an
1060 Advisory Committee, the Staff Manager will create a report (a “Preliminary Issue Report”). In the
1061 event the Staff Manager determines that more time is necessary to create the Preliminary Issue
1062 Report, the Staff Manager may request an extension of time for completion of the Preliminary
1063 Issue Report.

1064

1065 The following elements should be considered in the Issue Report:

- 1066 a) The proposed issue raised for consideration;
- 1067 b) The identity of the party submitting the request for the Issue Report;
- 1068 c) How that party is affected by the issue, if known;
- 1069 d) Support for the issue to initiate the PDP, if known;
- 1070 e) The opinion of the ICANN General Counsel regarding whether the issue proposed for
1071 consideration within the Policy Development Process is properly within the scope of
1072 the ICANN’s mission, policy process and more specifically the role of the GNSO as
1073 set forth in the [Bylaws](#).
- 1074 f) The opinion of [ICANN Staff](#) as to whether the Council should initiate the PDP on the
1075 issue

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1076 Upon completion of the preliminary Issue Report, the Preliminary Issue Report shall be posted
1077 on the ICANN website for a public comment period of no less than 30 days

1078

1079 The Staff Manager is responsible for drafting a summary and analysis of the public comments
1080 received on the Preliminary Issue Report and producing a final Issue Report based upon the
1081 comments received. The Staff Manager should forward the Final Issue Report, along with any
1082 summary and analysis of the public comments received, to the Chair of the GNSO Council for
1083 consideration for initiation of a PDP.

1086

1087 Section 4: **Initiation of the PDP**

1088

1089 The Council may initiate the PDP as follows:

1090

1091 Board Request: If the Board requested an Issue Report, the Council, within the timeframe set
1092 forth in the PDP Manual, shall initiate a PDP. No vote is required for such action.

1093

1094 GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote
1095 of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph](#)
1096 [9\(b\) and \(c\)](#) in favor of initiating the PDP.

1097

1098 Section 5: **Reports**

1099

1100 An Initial Report should be delivered to the GNSO Council and posted for a public comment
1101 period of not less than 30 days, which time may be extended in accordance with the PDP
1102 Manual. Following the review of the comments received and, if required, additional
1103 deliberations, a Final Report shall be produced for transmission to the Council.

1104

1105 Section 6. **Council Deliberation**

1106 Upon receipt of a Final Report, whether as the result of a working group or otherwise, the
1107 Council chair will (i) distribute the Final Report to all Council members; and (ii) call for Council
1108 deliberation on the matter in accordance with the PDP Manual .

1109

1110 The Council approval process is set forth in [Article X, Section 3, paragraph 9\(d\) through \(g\), as](#)
1111 [supplemented by the PDP Manual](#).

1112

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1113 Section 7: **Preparation of the Board Report**

1114

1115 If the PDP recommendations contained in the Final Report are approved by the GNSO Council, a

1116 Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN

1117 Board,▼

1118

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1119 Section 8. **Board Approval Processes**

1120 The Board will meet to discuss the GNSO Council recommendation as soon as feasible, but

1121 preferably not later than the second meeting after receipt of the Board Report from the Staff

1122 Manager. Board deliberation on the PDP Recommendations contained within the

1123 Recommendations Report shall proceed as follows:

1124 a. Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted

1125 by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board

1126 determines that such policy is not in the best interests of the ICANN community or

1127 ICANN. If the GNSO Council recommendation was approved by less than a GNSO

1128 Supermajority Vote, a majority vote of the Board will be sufficient to determine that

1129 such policy is not in the best interests of the ICANN community or ICANN.

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1130 b. In the event that the Board determines, in accordance with paragraph a above, that the

1131 policy recommended by a GNSO Supermajority Vote or less than a GNSO Supermajority

1132 vote is not in the best interests of the ICANN community or ICANN (the Corporation),

1133 the Board shall (i) articulate the reasons for its determination in a report to the Council

1134 (the "Board Statement"); and (ii) submit the Board Statement to the Council.

1135 c. The Council shall review the Board Statement for discussion with the Board as soon as

1136 feasible after the Council's receipt of the Board Statement. The Board shall determine

1137 the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and

1138 Board will discuss the Board Statement.

1139 d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm

1140 or modify its recommendation, and communicate that conclusion (the "Supplemental

1141 Recommendation") to the Board, including an explanation for the then-current

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1144 recommendation. In the event that the Council is able to reach a GNSO Supermajority
1145 Vote on the Supplemental Recommendation, the Board shall adopt the
1146 recommendation unless more than two-thirds (2/3) of the Board determines that such
1147 policy is not in the interests of the ICANN community or ICANN. For any Supplemental
1148 Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of
1149 the Board shall be sufficient to determine that the policy in the Supplemental
1150 Recommendation is not in the best interest of the ICANN community or ICANN.

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1152 **Section 9. Implementation of Approved Policies**

1153
1154 Upon a final decision of the Board adopting the policy, the Board shall, as appropriate, give
1155 authorization or direction to ICANN staff to work with the GNSO Council to create an
1156 implementation plan based upon the implementation recommendations identified in the Final
1157 Report, and to implement the policy. The GNSO Council may, but is not required to, direct the
1158 creation of an implementation review team to assist in implementation of the policy.

1160 **Section 10. Maintenance of Records**

1161
1162 Throughout the PDP, from policy suggestion to a final decision by the Board, ICANN will
1163 maintain on the Website, a status web page detailing the progress of each PDP issue. Such
1164 status page will outline the completed and upcoming steps in the PDP process, and contain links
1165 to key resources (e.g. Reports, Comments Fora, WG Discussions, etc.).

1167 **Section 11: Additional Definitions**

1168 [TO BE DETERMINED]

1170 **Section 12: Applicability**

1171 The procedures of this Annex A shall be applicable to all requests for Issue Reports and PDPs
1172 initiated after [insert date of adoption]. For all ongoing PDPs initiated prior to [insert date], the

1174 Council shall determine the feasibility of transitioning to the procedures set forth in this Annex A
1175 for all remaining steps within the PDP. If the Council determines that any ongoing PDP cannot be
1176 feasibly transitioned to these updated procedures, the PDP shall be concluded according to the
1177 procedures set forth in Annex A in force on [insert date prior to adoption].
1178
1179

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1180 5 Policy Development Process Manual

1181

1182 As outlined before, in order to enhance flexibility of the Policy Development Process, the PDP-
1183 WT proposes to incorporate the details as well as further guidance on how to manage a PDP in a
1184 Policy Development Process Manual that would become an integral part of the GNSO Operating
1185 Procedures. Below is the WT proposed form of a PDP Manual that contains the main elements
1186 based on the recommendations outlined in the previous chapters.

1187

1188 5.1 PDP Manual - Introduction

1189

1190 These guidelines and processes supplement the requirements for PDPs described in Annex A of
1191 the ICANN Bylaws [insert link].

1192

1193 5.2 Requesting an Issue Report

1194 As outlined in Annex A of the ICANN Bylaws, a request for an Issue Report may be initiated upon
1195 Board, Council or Advisory Committee request.

1196

1197 Requests for an Issue Report by the Board or by an Advisory Committee do not require any
1198 GNSO Council action, but are to be reviewed by Staff and prepared in accordance with Section
1199 5.4 below.

1200

1201 5.3 Planning for Initiation of a PDP

1202

1203 Consistent with ICANN's commitment to fact-based policy development, the GNSO and Staff are
1204 encouraged to provide advice in advance of a vote on the request for an Issue Report specifying
1205 any additional research, discussion, or outreach that should be conducted as part of the
1206 development of the Issue Report, in order to ensure a balanced and informed Issue Report.

1207

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1210 | The GNSO is encouraged to consider scheduling workshops on substantive issues prior to the
1211 | initiation of a PDP. Such workshops could, amongst others; facilitate community understanding
1212 | of the issue; assist in scoping and defining the issue; gather support for the request of an Issue
1213 | Report, and/or; serve as a means to gather additional data and/or information before a request
1214 | is submitted. Where appropriate, the GNSO Council should consider requiring such a workshop
1215 | during the planning and initiation phase for a specific issue. To the extent such workshops are
1216 | utilized by the GNSO, the invitations and/or announcements for workshops should be
1217 | communicated as broadly as possible.

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1218 |
1219 | The GNSO Council should take into full account the resources available, both volunteers and
1220 | staff, when making its decision on whether or not to initiate a PDP.

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1221 |
1222 | **5.4 Recommended Format of Issue Report Requests**

1223 |
1224 | The recommended format of requests for Issue Reports under paragraphs (b) and (c) of Section
1225 | 2 is described below:

Request for Issue Report	
Name of Requestor:	
Name of Stakeholder Group/Constituency/Advisory Committee (if applicable) in support of request:	
Please provide rationale for policy development:	
Brief explanation of how issue affects your SG / Constituency / Advisory Committee:	
Suggestions on specific items to be addressed in the Issue Report (if any):	
Please provide a concise definition of the issue presented and the problems raised by the issue, including quantification to the extent feasible:	

What is the economic impact or effect on competition, consumer trust, privacy and other rights:	
Please provide supporting evidence (if any):	
How does this issue relate to the provisions of the ICANN Bylaws, the Affirmation of Commitments and/or ICANN's Articles of Incorporation:	
Date Submitted:	
Expected Completion Date:	

1229

1230 Any request for an Issue Report, either by completing the template or in another form, must
1231 include at a minimum: the name of the requestor and the definition of the issue. The submission
1232 of any additional information, such as the identification and quantification of problems, and
1233 other as outlined for example in the template, is strongly encouraged.

1234

1235 **5.5 Creation of the Preliminary Issue Report**

1236

1237 Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a
1238 properly supported motion from the GNSO Council; or (iii) a properly supported motion from an
1239 Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the
1240 event the Staff Manager determines that more time is necessary to create the Preliminary Issue
1241 Report, the Staff Manager may request an extension of time for completion of the Preliminary
1242 Issue Report, which request should be discussed with the Requestor.

1243

1244 In the event that the Issue Report was initially requested by the Board or an Advisory
1245 Committee, the requestor shall be informed of any extension of time for completion of the Issue
1246 Report. Any request for extension of time should include consideration of the complexity of the
1247 issue, the extent of research and outreach recommended, and the ICANN Staff workload.

1248

1249 The following elements should be considered in the Issue Report:

- 1250 a) The proposed issue raised for consideration;
- 1251 b) The identity of the party submitting the request for the Issue Report;
- 1252 c) How that party is affected by the issue, if known;
- 1253 d) Support for the issue to initiate the PDP, if known;
- 1254 e) The opinion of the ICANN General Counsel regarding whether the issue proposed for
- 1255 consideration within the Policy Development Process is properly within the scope of
- 1256 the ICANN's mission, policy process and more specifically the role of the GNSO. In
- 1257 determining whether the issue is properly within the scope of the ICANN policy
- 1258 process, General Counsel's opinion should examine whether the issue:
- 1259 a. is within the scope of ICANN's mission statement, and more specifically the
- 1260 role of the GNSO;
- 1261 b. is broadly applicable;
- 1262 c. is likely to have lasting value or applicability, albeit with the need for
- 1263 occasional updates;
- 1264 d. is likely to enable ICANN to carry out its commitments under the Affirmation
- 1265 of Commitments;
- 1266 e. will establish a guide or framework for future decision-making;
- 1267 f. will implicate or affect an existing ICANN policy.
- 1268 f) The opinion of [ICANN Staff](#) as to whether the Council should initiate the PDP on the
- 1269 issue

1270

1271 5.6 Public Comment on the Preliminary Issue Report

1272

1273 Upon completion of the preliminary Issue Report, the preliminary Issue Report shall be posted

1274 on the ICANN website for a public comment period of no less than 30 days. When posted for

1275 Public Comment, Staff is encouraged to translate the executive summary of Preliminary Issue

1276 Reports into the six UN languages to the extent permissible under the ICANN translation policy

1278 and the ICANN budget, though the posting of any version in English shall not be delayed while
1279 translations are being completed.

1280

1281 The Staff Manager is responsible for drafting a summary and analysis of the public comments
1282 received on the Issue Report and producing a Final Issue Report based upon the comments
1283 received. The Staff Manager should forward the Final Issue Report, along with any summary and
1284 analysis of the public comments received, to the Chair of the GNSO Council for consideration for
1285 initiation of a PDP.

1286

1287 The summary and analysis and the Final Issue Report are expected to be delivered to the Chair
1288 of the GNSO Council within 30 days of the closing of the public comment forum, though the Staff
1289 Manager may request an extension of that 30-day time for delivery.

1290

1291 **5.7 Initiation of the PDP**

1292

1293 The Council may initiate the PDP as follows:

1294

1295 Board Request: If the Board requested an Issue Report, the Council, within the timeframe set
1296 forth in the paragraph below, shall note for the record the confirmation of receipt of the Issue
1297 Report and the formal initiation of the PDP. No vote is required for such action.

1298

1299 GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote
1300 of the Council. Initiation of a PDP requires a vote as set forth in [Article X, Section 3, paragraph](#)
1301 [9\(b\) and \(c\)](#) in favor of initiating the PDP.

1302

1303 Timing of vote on Initiation of the PDP. The Council should endeavour to vote on whether to
1304 initiate the policy development process at the next scheduled Council meeting following the
1305 receipt of a Final Issue Report; provided that the Issue Report is received at least eight (8)
1306 calendar days prior to the GNSO Council meeting. If the Issue Report is forwarded to the GNSO

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1307 Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council
1308 meeting, the Council should endeavour to vote on the initiation of the PDP at the subsequent
1309 GNSO Council meeting. At the request of any Council member, for any reason, consideration of
1310 the Issue Report may be postponed by not more than one (1) meeting, provided that that the
1311 Council member details the rationale for such a postponement. Consideration of the Issue
1312 Report may only be postponed for a total of one (1) meeting, even if multiple Council members
1313 request postponement.

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1314
1315 Upon consideration of the Issue Report the GNSO Council may, when necessary, vote to suspend
1316 further consideration of the Issue Report. Any motion to suspend further consideration of the
1317 Issue Report shall fail if the votes in favor of continuing consideration of the Issue Report is
1318 sufficient to initiate a PDP under Article X Section 9.b or 9.c of the Bylaws, as appropriate. The
1319 basis for suspension could include prioritization reasons such as insufficient Staff or community
1320 support available due to other ongoing PDP work, requests for additional data and requests for
1321 additional discussion. The GNSO Council is expected to use this procedure sparingly, and should
1322 generally endeavour to vote on the initiation of a PDP within 90 calendar days of the receipt of
1323 the Final Issue Report. Any decision to suspend consideration of the Final Issue Report is to be
1324 accompanied by a proposed timeline for further consideration, including a timeline for a vote on
1325 the initiation of the PDP.

1326
1327 In the event that the GNSO Council does not approve the initiation of the PDP, not including the
1328 possible suspension of further consideration of the Issue Report as described above, any
1329 Councillor may appeal the denial, and request that the GNSO Council hold a renewed vote on
1330 the initiation of the PDP at the next subsequent GNSO Council meeting.

1331
1332 In the event that the GNSO Council does not approve the initiation of the PDP following an Issue
1333 Report requested by an Advisory Committee (AC), the AC or its representatives should have the
1334 opportunity to meet with representatives of the GNSO, and in particular, those voting against
1335 the initiation of the PDP, to discuss the rationale for the rejection and why the AC feels that

1339 reconsideration is appropriate. Following this meeting, the AC may submit a statement to the
1340 GNSO Council requesting a re-vote and giving its rationale for such a re-vote. This process may
1341 be followed just once for any given Issue Report.

1342

1343 As part of its decision on the initiation of the PDP, the GNSO Council may include consideration
1344 of how ICANN's budget and planning can best accommodate the PDP and/or its possible
1345 outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

1346

1347 **5.8 Development and Approval of the Charter for the PDP**

1348

1349 Upon initiation of the PDP, a group formed at the direction of Council should be convened to
1350 draft the charter for the PDP Team. The Council should indicate the timeframe within which a
1351 draft PDP Charter is expected to be presented to the Chair of the GNSO Council. Such a
1352 timeframe should be realistic, but at the same time ensure that this task is completed as soon as
1353 possible and does not unnecessarily delay the formation of a Working Group. The elements of
1354 the Charter should include, at a minimum, the following elements as specified in the GNSO
1355 Working Group Guidelines: Working Group Identification; Mission, Purpose and Deliverables;
1356 Formation, Staffing and Organization, and; Rules of Engagement.

1357

1358 The Council should consider whether to approve the proposed PDP Charter at the Council
1359 meeting following the Chair's receipt of the proposed PDP Charter; provided that the proposed
1360 PDP Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the
1361 proposed PDP Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days
1362 immediately preceding the next GNSO Council meeting, the Council should endeavour to
1363 consider the proposed PDP Charter at the meeting after the next GNSO Council meeting.

1364

1365 The same voting thresholds that apply to the initiation of the PDP also apply to the approval of
1366 the proposed PDP Charter. Specifically, the proposed PDP Charter is to be approved with an
1367 affirmative vote of vote of more than one-third (1/3) of the Council members of each House or

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1369 | more than two-thirds (2/3) vote of one House in favour of approval of a Charter for a PDP within
1370 | scope; unless the Staff Recommendation stated that the issue is not properly within the scope of
1371 | the ICANN policy process or the GNSO, in which case a GNSO Supermajority Vote as set forth in
1372 | [Article X, Section 3, paragraph 9\(c\)](#) in favour of approving the PDP Team Charter is specified to
1373 | approve the PDP Charter.

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1374 |
1375 | Once approved, modification of any PDP Charter is discouraged, absent special circumstances.
1376 | Approved charters may be modified or amended by a simple majority vote of each House.

1377 |
1378 | In exigent circumstances, upon approval of the initiation of the PDP, the GNSO Council may
1379 | direct certain work to be performed prior to the approval of the PDP Charter.

1380 |

1381 | **5.9 PDP Outcomes and Processes**

1382 |

1383 | Upon approval of the PDP Charter, the GNSO Council may form a working group, task force,
1384 | committee of the whole or drafting team (the “PDP Team”), to perform the PDP activities. The
1385 | preferred model for the PDP Team is the Working Group model due to the availability of specific
1386 | Working Group rules and procedures that are included in the GNSO Operating Rules and
1387 | Procedures. The GNSO Council should not select another model for conducting PDPs unless the
1388 | GNSO Council first identifies the specific rules and procedures to guide the PDP Team’s
1389 | deliberations which should at a minimum include those set forth in the ICANN Bylaws and PDP
1390 | Manual. The PDP Team is required to review and become familiar with the GNSO Working
1391 | Group Guidelines, which also apply to PDP Working Groups (see
1392 | <http://gnso.icann.org/council/annex-1-gnso-wg-guidelines-07apr11-en.pdf>), which includes
1393 | further information and guidance on the functioning of GNSO Working Groups.

1394 |

1395 | Once formed, the PDP Team is responsible for engaging in the collection of information. If
1396 | deemed appropriate or helpful by the PDP Team, the PDP Team may solicit the opinions of
1397 | outside advisors, experts, or other members of the public. The PDP Team should carefully

1399 consider the budgetary impacts, implementability, and/or feasibility of its proposed information
1400 requests and/or subsequent recommendations.

1401

1402 The PDP Team should formally solicit statements from each Stakeholder Group and
1403 Constituency in the early stages of the PDP. Stakeholder Groups and Constituencies should at a
1404 minimum have 35 days to complete such a statement from the moment that the statement is
1405 formally requested by the PDP Team. If appropriate, such statements may be solicited more
1406 than once by the PDP Team throughout the PDP process. The PDP Team is also encouraged to
1407 formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as
1408 appropriate that may have expertise, experience, or an interest in the PDP issue. Solicitation of
1409 opinions should be done during the early stages of the PDP.

1410

1411 In addition, the PDP Team should seek input from other SOs and ACs. Such input should be
1412 treated with the same due diligence as other comments and input processes. In addition,
1413 comments from ACs and SOs should receive a response from the PDP Team. This may include,
1414 for example, direct reference in the applicable Report or embedded in other responsive
1415 documentation or a direct response. The PDP Team is expected to detail in its report how input
1416 was sought from other SOs and ACs.

1417

1418 The PDP Team is encouraged to establish communication in the early stages of the PDP with
1419 other departments, outside the policy department, within ICANN that may have an interest,
1420 expertise, or information regarding the implementability of the issue. The Staff Manager is
1421 responsible for serving as the intermediary between the PDP Team and the various ICANN
1422 departments (finance, legal, compliance, etc.). The PDP Team Chair may escalate to the Vice
1423 President of Policy if the PDP Team is of the opinion that such communications have been
1424 hindered through the involvement of ICANN policy Staff. ICANN Staff may perform additional
1425 distinct roles for a PDP Team as requested and appropriate (see [GNSO Working Group](#)
1426 [Guidelines](#) for further details).

1427

1428 This Section illustrates the types of outcomes that are permissible from a PDP. PDP Teams may
1429 make recommendations to the GNSO Council regarding:

1430

- 1431 i. Consensus policies
- 1432 ii. Other policies
- 1433 iii. Best Practices
- 1434 iv. Implementation Guidelines
- 1435 v. Agreement terms and conditions
- 1436 vi. Technical Specifications
- 1437 vii. Research or Surveys to be Conducted
- 1438 viii. Advice to ICANN or to the Board
- 1439 ix. Advice to other Supporting Organizations or Advisory
1440 Committee
- 1441 x. Budget issues
- 1442 xi. Requests for Proposals
- 1443 xii. Recommendations on future policy development activities

1444

1445 At the same time, a PDP Team may also conclude that no recommendation is necessary.

1446

1447 The Staff Manager is responsible for coordinating with the Chair(s) of the PDP Team to supervise
1448 and to carry out the PDP activities as necessary or appropriate, including, without limitation,
1449 making available the standard technical resources for the PDP Team, scheduling and attending
1450 PDP Team meetings, drafting and publishing PDP reports for public comment, and providing
1451 expertise where needed.

1452

1453 **5.10 Publication of the Initial Report**

1454

1455 After collection and review of information, the PDP Team and Staff are responsible for
1456 producing an Initial Report. The Initial Report should include the following elements:

- 1457 • Compilation of Stakeholder Group and Constituency Statements
- 1458 • Compilation of any statements received from any ICANN Supporting Organization or
- 1459 Advisory Committee
- 1460 • Recommendations for policies, guidelines, best practices or other proposals to
- 1461 address the issue
- 1462 • Statement of level of consensus for the recommendations presented in the Initial
- 1463 Report
- 1464 • Information regarding the members of the PDP Team, such as the attendance
- 1465 records, Statements of Interest, etc.
- 1466 • A statement on the WG discussion concerning impact of the proposed
- 1467 recommendations, which could consider areas such as economic, competition,
- 1468 operations, privacy and other rights, scalability and feasibility.

1469

1470 These elements may be included as content within the Initial Report or by reference to
1471 information posted on an ICANN website (such as through a hyperlink).

1472

1473 The Initial Report should be delivered to the GNSO Council and posted for a public comment
1474 period of not less than 30 days. If such a public comment period would coincide with an ICANN
1475 Public Meeting, the PDP Team is strongly encouraged to extend the public comment period a
1476 minimum of seven (7) days. Any public comment period on items other than the Issue Report
1477 and Initial Report shall be for a minimum of 21 days. The PDP Team is encouraged to explore
1478 other means to solicit input than the traditional public comment forum such as, for example, the
1479 use of a survey which might allow for asking more targeted questions.

1480

1481 **5.11 Preparation of the Final Report**

1482

1483 At the end of the public comment period, the Staff Manager will prepare a summary and
1484 analysis of the public comments received for the Working Group. Such a summary and analysis
1485 of the public comments should be provided at the latest 30 days after the closing of the public

1486 comment period, absent exigent circumstances. The Working Group shall review and take into
1487 consideration the public comments received. Following this review, the Staff Manager, in close
1488 coordination with the PDP Team, shall add those comments deemed appropriate for inclusion to
1489 the Initial Report. In addition, the Staff Manager and the PDP Team may update the Initial
1490 Report if there are any recommendations within the Initial Report that require modification to
1491 address comments received through public comment. Such a revised Report shall be put
1492 forward for consideration by the PDP Team. The Staff Manager and the PDP Team are not
1493 obligated to include all comments made during the comment period, including each comment
1494 made by any one individual or organization.

1495
1496 The PDP Team is expected to deliberate as appropriate to properly evaluate and address
1497 comments raised during the public comment period. This should include the careful
1498 consideration and analysis of the public comments; explaining the rationale for agreeing and
1499 disagreeing with the different comments received, and, if appropriate, how these will be
1500 addressed in the report of the PDP Team. Following the review of the comments received and, if
1501 required, additional deliberations, the PDP Team is expected to produce a Final Report for
1502 transmission to the Council. The analysis of the comments by the PDP Team is expected to be
1503 included or referenced as part of the Final Report.

1504
1505 While the Final Report is not required to be posted for public comment, in preparing the Final
1506 Report, the PDP Team should consider whether the Final Report should be posted for public
1507 comment as a [Draft] Final Report, with the goal of maximizing accountability and transparency
1508 with regards the PDP, especially when substantial changes have been made compared to the
1509 contents of the Initial Report. When posted for Public Comment, Staff should consider
1510 translating the executive summaries of the Initial Reports and Draft Final Reports into the six UN
1511 languages, to the extent permissible under the ICANN translation policy and the ICANN budget,
1512 though the posting of any version in English is not to be delayed while translations are being
1513 completed. Upon completion of the Public Comment period, if any, and incorporation of any
1514 additional comments identified therein, or if no further comment period is necessary, the Final

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1515 Report is to be forwarded to the GNSO Council Chair to begin the GNSO Council deliberation
1516 process.

1517
1518 In addition to any required public comment periods, the PDP Team may seek public comment on
1519 any item that the PDP Team notes it will benefit from further public input. The PDP Team does
1520 not have to seek approval from the GNSO Council to seek public comment on interim items. The
1521 minimum duration of a public comment period that does not concern the Initial Report is twenty
1522 (21) days.

1523
1524 Each recommendation in the Final Report should be accompanied by the appropriate consensus
1525 level designation (see section 3.6 – Standard Methodology for Making Decisions in the [GNSO](#)
1526 [Working Group Guidelines](#)).

1527
1528 **5.12 Council Deliberation**
1529

1530 The GNSO Council is strongly encouraged to consider the recommendations within the Final
1531 Report at the next meeting after the Final Report is forwarded to the Council Chair, provided
1532 that the Final Report is forwarded to the Council Chair at least eight (8) calendar days prior to
1533 the GNSO Council meeting. If the Final Report is forwarded to the GNSO Council Chair within the
1534 eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council
1535 should consider the Final Report at the meeting after the next GNSO Council meeting. At the
1536 request of any Council member, for any reason, consideration of the Final Report may be
1537 postponed for no more than one (1) meeting, provided that that such Council member details
1538 the rationale for such a postponement. Consideration of the Final Report may only be
1539 postponed for a total of one (1) meeting, even if multiple Council members request
1540 postponement. The GNSO Council may, if deemed appropriate, schedule a separate session with
1541 the PDP Team to discuss the Final Report and ask any clarifying questions that might arise.

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1546 The GNSO Council is expected to vote on the recommendations contained in the Final Report.
1547 Approval of the PDP recommendations contained in the Final Report requires an affirmative
1548 vote meeting the thresholds set forth at Article X, Section 3(9) d – f.

1549
1550 In the event that the Final Report includes recommendations that did not achieve the consensus
1551 within the PDP Team, the GNSO Council should deliberate on whether to adopt them or remand
1552 the recommendations for further analysis and work. Although the GNSO Council may adopt all
1553 or any portion of the recommendations contained in the Final Report, it is recommended that
1554 the GNSO Council take into account whether the PDP Team has indicated that any
1555 recommendations contained in the Final Report are interdependent. The GNSO Council is
1556 strongly discouraged from itemizing recommendations that the PDP Team has identified
1557 interdependent or modifying recommendations wherever possible. In the event the GNSO
1558 Council expresses concerns or proposes changes to the PDP recommendations, it may be more
1559 appropriate to pass these concerns or recommendations for changes back to the respective PDP
1560 Team for input and follow-up.

1561

1562 **5.13 Preparation of the Board Report**

1563

1564 If the PDP Recommendations contained in the Final Report are approved by the GNSO Council,
1565 the GNSO Council may designate a person or group responsible for drafting a Recommendations
1566 Report to the Board. If feasible, the Recommendations Report to the Board should be submitted
1567 to the Board in time for consideration at the next GNSO Council meeting following adoption of
1568 the Final Report. Staff should inform the GNSO Council from time to time of the format
1569 requested by the Board. These GNSO Council Reports supplement any Staff Reports that may
1570 highlight any legal, implementability, financial, and other operational concerns related to the
1571 PDP recommendations contained in the Final Report. In order to enhance ICANN's accountability
1572 and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions
1573 wherever possible, without jeopardizing information that may be protected under
1574 attorney/client or other legal privileges.

1575

1576 **5.14 GNSO Council Role in Implementation**

1577

1578 Upon a final decision of the Board adopting the GNSO PDP policy, the Board may, as
1579 appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to
1580 create an implementation plan based upon the implementation recommendations identified in
1581 the Final Report, and to implement the policy in as timely a fashion as possible. The GNSO
1582 Council may, but is not required to, direct the creation of an Implementation Review Team to
1583 assist Staff in developing the implementation details for the policy. In its Final Report, the PDP
1584 Team should provide recommendations to the GNSO Council on whether an Implementation
1585 Review Team should be established and any other recommendations deemed appropriate in
1586 relation to such an Implementation Review Team (e.g. composition).

1587

1588 ICANN Staff should inform the GNSO of its proposed implementation of a new GNSO
1589 recommended policy. If the proposed implementation is considered inconsistent with the GNSO
1590 Council's recommendations, the GNSO Council may notify the Board and request that the Board
1591 review the proposed implementation. Until the Board has considered the GNSO Council request,
1592 ICANN Staff should refrain from implementing the policy, although it may continue developing
1593 the details of the proposed implementation while the Board considers the GNSO Council
1594 request.

1595

1596 **5.15 Termination of PDP prior to Final Report**

1597 The GNSO Council, may terminate a PDP prior to the publication of a Final Report only for
1598 significant cause, upon a motion that passes with a Supermajority Vote in favour of termination.
1599 The following are illustrative examples of possible reasons for a premature termination of a PDP:

1600

- 1601 **1. Deadlock.** The PDP Team is hopelessly deadlocked and unable to identify
1602 recommendations or statements that have either the strong support or a consensus
1603 of its members despite significant time and resources being dedicated to the PDP;

- 1605 2. **Changing Circumstances.** Events have occurred since the initiation of the PDP that
1606 have rendered the PDP moot or no longer necessary; or
1607 3. **Lack of Community Volunteers.** Despite several calls for participation, the work of
1608 the PDP Team is significantly impaired and unable to effectively conclude its
1609 deliberations due to lack of volunteer participation.

1610

1611 If there is no recommendation from the PDP Team for its termination, the Council is required to
1612 conduct a public comment forum first prior to conducting a vote on the termination of the PDP
1613 (as described above).

1614

1615 **5.16 Amendments or Modifications of Approved Policies**

1616

1617 Approved GNSO Council policies may be modified or amended by the GNSO Council at any time
1618 prior to the final approval by the ICANN Board as follows:

1619

- 1620 1. The PDP Team is reconvened or, if disbanded, reformed, and should be consulted with
1621 regards to the proposed amendments or modifications;
1622 2. The proposed amendments or modifications are posted for public comment for not less
1623 than thirty (30) days;
1624 3. The GNSO Council approves of such amendments or modifications with a SuperMajority
1625 Vote of both Houses in favour.

1626

1627 Approved GNSO Council policies that have been adopted by the ICANN Board and have been
1628 implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue.

1629

1630 **5.17 Periodic Assessments of Approved Policies**

1631

1632 Periodic assessment of PDP recommendations and policies is an important tool to guard against
1633 unexpected results or inefficient processes arising from GNSO policies. PDP Teams are

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1634 encouraged to include proposed timing, assessment tools, and metrics for review as part of their
1635 Final Report. In addition, the GNSO Council may at any time initiate reviews of past policy
1636 recommendations.

1637

1638 **5.18 Miscellaneous**

1639

1640 This Manual may be updated by the GNSO Council from time to time following the same
1641 procedures as applicable to amendments to the GNSO Operating Rules and Procedures.

1642

1643 In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the
1644 ICANN Bylaws shall supersede.

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Annex A - Public Comment Forum on the Initial Report

A public comment forum was held on the Initial Report, which ran from 31 May to 30 September (see <http://www.icann.org/en/announcements/announcement-2-31may10-en.htm>). A summary of the comments received can be found [here](#). In addition, the WT developed a public comment review tool to facilitate review and discussion of the comments received as well as providing an overview of how the different comments have been addressed in this report. You can review the public comment review tool hereunder.

PDP WT – Public Comments Review Tool - Updated 11 November 2010

	Comment (Summary)	Who	WG Response	Recommended Action/Change
General Issues				
Working Group Model	Prior to formally institutionalizing the WG model, the PDP WT should undertake or commission a review of whether the WG model is in fact optimal for addressing PDP issues	ALAC	There are some concerns from the ALAC if the PDP would mandate the WG model as there are known weaknesses, e.g. uneven representation. It was suggested that the PDP-WT could call for the evaluation of the WG model which should assess whether there are stages in the PDP that are more suitable for WGs and those that might be more suitable for formal advice from SGs / Constituencies. It was also noted that new models might emerge, therefore, the PDP should not be restricted to only	<ul style="list-style-type: none">▪ Recommend review of WG model for PDP▪ Ensure a structure that is flexible enough to accommodate different working methods, possibly requiring some core principles

			WGs but leave flexibility for future adoption of alternative mechanisms. The WT debated whether there should be overall principles that any method should contain such e.g. representativeness.	
Evidence / data	PDPs should be based on responsibly document evidence of an issue to be addressed. A reasonable data-driven threshold for introduction of a PDP is a necessary step.	RrSG	The basis of the comment is that anecdotal evidence is not sufficient, there should be a push to provide as much information as possible. The question was raised whether there are certain areas where there should be some flexibility. It was suggested that in those cases additional efforts should be made to gather information, but if there is community agreement, this might be circumvented. Some noted that the GNSO is the manager of the process and should have the discretion to make these kinds of decisions, a black/white rule would not make sense here.	None
Stage 3 – 3a	ICANN was established with parameters for good reasons – to keep the organization from overreaching and causing disruption, to clearly define its role, etc. If the GNSO is willing to continue accepting every issue that’s raised, whether in scope or not, ICANN will continue to	RrSG	Some noted that not every issue that is raised at the GNSO Council level is a gTLD policy issue, e.g. Internet Governance, DNS Cert. Not every issue that is raised will meet the GNSO scope test.	

	experience the difficulties it does now. Setting reasonable boundaries about scope should not be difficult.			
Stage 3 – 3b	No potential outcomes should be dictated as part of the PDP, though the SG agrees a requestor should identify potential outcomes if possible, without bias.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
Stage 3 – 3c	The proposed suggestion (if there is not sufficient information available, an issue does not pass to the next stage) is a reasonable one. Proceeding blindly on policy development without sufficient information is irresponsible.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
Stage 3 – 3d	The RrSG agrees that a variety of alternatives should be employed to address issues of concern to the community. A PDP may or may not be the appropriate method.	RrSG	As the comment is in line with the views expressed in the report, no further discussion needed.	None
PDP and other activities	It is important to distinguish between what constitutes a PDP and ‘other’ GNSO Council activities that might also result in creation of WGs or development of charters but for which no formal process has been defined at this point in time.	BXL meeting	The WT discussed that although it might be helpful to provide further details on the significance of a PDP and when a PDP is supposed to be utilized to distinguish it from ‘other’ GNSO activities.	<ul style="list-style-type: none"> ▪ Develop introductory paragraph on what constitutes a PDP to be added to the report.

GNSO Council / GNSO	Need to distinguish between GNSO Council and GNSO as these are not synonyms	BXL meeting	The WT agreed with this comment and will update the report accordingly.	<ul style="list-style-type: none"> Review report and verify that the terms GNSO Council and GNSO are used correctly
By-laws	By-laws should provide high-level overview of PDP process, with further details going into rules of procedure.	BXL meeting	The WT agreed that the by-laws should provide a high-level overview of the PDP process by outlining the main principles and constraints in the by-laws, while other elements would be incorporated in the rules of procedure.	<ul style="list-style-type: none"> Ensure that any draft by-law language follows this principle
PDP Flow Chart	<p>The RySG notes that the PDP Flowchart shows the 'Initiation of a PDP' prior to the 'Creation if a Drafting Team to develop the WG Charter'. In recent GNSO PDPs, it has appeared to be helpful to have a draft charter prepared before initiating the PDP; that then makes it easier to decide whether a PDP should be initiated because the desired objectives and deliverables are defined.</p> <p>For 'Adoption of the Charter', the "Same voting thresholds apply as for the Initiation of the PDP". The voting thresholds for initiating a</p>	RySG	<p>The WT noted that the flowchart did not allow for the flexibility that might be needed in this case and it expressed its support for the flexibility of having a draft of the charter prepared before or after initiation of the PDP. Further guidance on such flexibility should be provided in the rules of procedure.</p> <p>The WT pointed out that by applying the default threshold, the vote to adopt a charter would be higher than the actual initiation of a PDP which could result in possible gaming (i.e. those opposed to initiating the PDP could block the adoption of the charter). The WT did agree that modifications to the charter should be adopted by a simple majority</p>	<ul style="list-style-type: none"> Update recommendation 19 by adding that modifications to a WG charter may be adopted by a simple majority vote of the GNSO Council

	PDP are as follows: To initiate a PDP within scope requires an affirmative vote of more than 33% of each House or more than 66% of one House. To initiate a PDP not within scope requires an affirmative vote of more than 75% of one House and a majority of the other House (“GNSO Supermajority”). It might be simpler to apply the default threshold, a simple majority of each house.		vote of the GNSO Council.	
Relating to Recommendation #⁹				
1 (Who -Request for Issues Report)	The PDP ought to address the manner in which unaffiliated groups and individuals can properly raise issues they would like to be considered. For instance, a funneling mechanism through which issues are vetted and/or passed to the GNSO or AC or relevant constituencies likely to have similar concerns, may be considered.	INTA	The WT did discuss this question as part of its deliberations. In its view, if the issue would be considered important enough, it would be picked up by one of the constituencies or stakeholder groups. In addition, if there is no interest from constituencies or stakeholder groups to take up the issue, the unaffiliated group or individual can reach out to the Board or one of the Advisory Committees to get the issue raised.	
1 (Who -Request	It is appropriate that the current	Mary	Noted and agreed. The WT agrees with	

⁹ Please note that the numbering refers to the numbering of the recommendations as marked in the Initial Report

for Issues Report)	mechanisms for initiating a request for an Issues Report be maintained and not expanded. The language of the current Recommendation may itself create further confusion. For example, is it the WT's intention to equate the necessary action as between the GNSO Council and an AC? If so, that would have been clearer had the recommended language for (b) (where the Council raises an issue) read "raise an issue for policy development" (as it currently reads in relation to ACs) rather than simply "raise an issue". Another option might simply be to re-title Section 1 of Annex A of the latest ICANN Bylaws, to read "Raising an Issue for Consideration Before Initiation of a PDP" (instead of just "Raising An Issue", which is the current wording.) A separate section dealing with Board initiation of a PDP (bypassing an Issues Report and Council vote) should then be added. In similar vein, the words "Issue Raised by the Board" in Section 3(a) of Annex A should be amended to read "Initiation of PDP by the Board".	Wong	the clarification and will take the recommendation into account when reviewing the proposed new Annex A.	
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<p>2 (Language – Request for Issues Report)</p>	<p>Although this was presumably not part of the WT’s charge, striking the “members present” language should be reviewed against other parts of the Bylaws (and any other applicable rules to ICANN constituent bodies, offices, committees, teams and groups, as the case may be) to see if similar problems present themselves in those situations and respects. A template for requesting an Issues Report would be useful, but ought not to be mandatory.</p>	<p>Mary Wong</p>	<p>The WT notes that this will be addressed in the new Annex A. The WT agrees that the use of a template is to be recommended but not mandatory.</p>	
<p>3 (How – Request for Issues Report)</p>	<p>Support for recommendation 3 and suggests that said Manual will also be open for public comment as it is developed.</p>	<p>INTA</p>	<p>Noted. The WT confirmed that it does have the intention to put out the manual or rules of procedure (which might be a more appropriate term) for public comment in due time.</p>	
<p>3 (How – Request for Issues Report)</p>	<p>How are the contents of the PDP Manual/Guidebook going to be developed? Note also that Recommendation 5 appears to duplicate Recommendation 3.</p>	<p>RySG</p>	<p>The WT discussed that the rules of procedure would together with the by-laws form one whole, with the by-laws outlining the basic (mandatory) principles and the rules of procedures providing the details including examples and optional steps. Normally the WT report should provide the ingredients for the rules of procedure which might be further worked out by the WT with the support</p>	

			of ICANN staff.	
4 (How – Request for Issues Report)	Some basic template detail should probably be mandatory, including for instance a statement as to why the issue is important to the relevant constituency.	INTA	The WT did discuss as part of its deliberations whether a template or certain elements of the template should be mandatory, but the WT is of the opinion that its use should be strongly recommended, but not mandatory. The WT also noted that in combination with some of the other recommendations, such as additional research and discussion in advance of making a request would contribute to making additional information available in support of a request for an issues report.	
4 (How – Request for Issues Report)	Issues for consideration should be raised through an electronic/online process that is linked to relevant sections of the PDP Manual.	INTA	The WT agreed that it might be worth exploring in due time, but as a ‘nice to have’, not a mandatory function.	
4 (How – Request for Issues Report)	The RrSG believes this is a responsible step toward making future policies based on evidence and facts. A template that includes a clearly defined problem, well-documented supporting evidence, and a rationale for the use of increasingly very limited resources for development of policy, would be a useful tool.	RrSG	The WT agreed noting that there the limited resources apply both to staff as well as community volunteers.	
4 (How – Request	Any manual or guidebook should	RrSG	The WT noted that limited resources	

for Issues Report)	encourage that ICANN participants are mindful and respectful of ICANN's limited resources.		apply both to staff as well as community volunteers.	
4 (How – Request for Issues Report)	The RrSG looks forward to a continued discussion of what would constitute a reasonable threshold for initiating a PDP.	RrSG	Noted, and this will be covered in further detail in the discussion on 'overarching issues' that addresses voting thresholds.	
3, 4 & 5 (How – Request for Issues Report & Issue Scoping)	A manual and/or guidelines would be helpful. It is not clear at this point how, and by whom, these manuals and guidelines will be developed. They ought to be a community process. Similarly, suggestions for identifying potential outcomes and ways to define the issue should be accomplished with community input. Recommendation #5 seems repetitive in light of previous recommendations. Are there specific issues or concerns that were not addressed by, say, Recommendation #3, that the WT intended be addressed here?	Mary Wong	Noted and agreed. The content of the manual will be open for community input as the basic outline for such a manual is expected to be part of the draft Final Report. Agreed, but recommendation #5 is the result of a different discussion and therefore does serve a specific purpose.	
6 (Creation of Issues Report)	Should there be certain requirements for which elements an Initial Report should contain, e.g. draft recommendations /	BXL Meeting	The WT is of the opinion that certain elements should be encouraged, but not necessarily mandated.	

	conclusions?			
6 (Creation of Issues Report)	In some cases it might be useful to do additional research, hold discussions or conduct outreach before an Issues Report is requested, so it might be useful to include this possibility in the manual/guidebook.	RySG	Noted	
6 (Creation of Issues Report)	The Bylaws should not be complicated with too much detail, particularly (in this regard) the precise contents of an Issues Report. The WT recommendation that this be taken up as part of the preparation of the manual and guidelines is a good way of ensuring that sufficient guidance is given such that an Issues Report will serve as both a precise and informative document upon which to base a vote to initiate a PDP (or not.)	Mary Wong	Noted and agreed.	
7 (End result of PDP)	The RrSG welcomes this recommendation. Issues should be met with the solution that most appropriately resolves them.	RrSG	Noted	
7 (End result of PDP)	Although other outcomes are possible, the focus of a PDP should be foremost on the development of	BXL meeting	The WT noted that although nothing prevents issues that are not focused on developing consensus policies going	

	consensus policies relating to issues that are within the 'picket fence'.		through a PDP, other GNSO processes that might be applicable (as indicated with 'follow other GNSO process' in the diagram) should be encouraged. Some noted that the reason for using a PDP could be that its outcome cannot easily be dismissed by the Board.	
7 (End result of PDP)	The fact that potential outcomes of a PDP can be other than the development of consensus policies ought to be further highlighted to the ICANN community, in line with the WT's recommendation.	Mary Wong	Noted and agreed.	
8 & 9 (Role of ICANN staff)	The General Counsel's role in opining whether a proposed PDP is "within scope" is both useful and necessary, thus the WT's recommendation in this respect should be followed. It would, additionally, be helpful if ICANN staff's function with respect to a particular Issues Report (e.g. whether technical expertise was provided or sought) could be included, where possible. The proposed manual/guidelines could further explore this question.	Mary Wong	Noted. The WT agrees with the suggestion and proposes to include a description of the role of ICANN Staff in the Manual.	Include description of the role of ICANN staff in the PDP Procedure Manual.
10 (Timeline Issues Report)	Maximum time frames in the current PDP in the Bylaws have for	RySG	Agreed	

	the most part have had to be ignored because they were unrealistic for many issues. Timeframes are better put into the manual/guidebook instead of any Bylaws. The practice of asking Staff to provide estimates of time needed has worked fairly well in GNSO history and better accommodates the variability of issue complexity.			
10 (Timeline Issues Report)	It may be possible to combine options (c) and (d); for example, prescribing the time frame (minimum to maximum) in the Bylaws, with the added provision that if ICANN staff requests a modification of the time frame, then the estimate requirements in (d) be provided as soon as possible upon the request for an Issues Report.	Mary Wong	Noted. This seems in line with the WT's current thinking and will be taken into account when finalizing the recommendation.	
11 (Community Input)	INTA agrees with this position as it would allow relevant stakeholders and community members to have input on new issues that may not be reflected in the Issues Report.	INTA	Noted	
11 (Community Input)	Considering the nature of ICANN as a multi-stakeholder, consensus-	Mary Wong	Noted	

	building organization, the recommendation for a mandatory public comment period, after the preparation of an Issues Report and prior to the Council vote in favor (or not) of a PDP, should be implemented.			
12 (Role of workshops)	What is meant by a workshop? Workshops traditionally have been held at ICANN international meetings but those are held only three times a year. Note that drafting teams have been used successfully in the GNSO in recent years for several purposes including drafting charters, developing recommendations for consideration before initiating a PDP, etc. Does the WT see a place for DTs in the PDP process and, if so, what would that be?	RySG	The workshop / DTs mentioned in the report were optional not mandatory. Workshops would be intended to introduce an issue to the community and see if there is community interest, while a DT seems more appropriate if there is a certain product that is expected / needed. The WT is open to considering other mechanisms such as briefings or webinars that might be used in between ICANN meetings. Workshops do not need to be organized by ICANN; an interested party could also undertake such an effort to socialize an issue.	<ul style="list-style-type: none"> ▪ Recommend that invitations / announcements for workshops or other events are communicated as broadly as possible.
12 (Role of workshops) & 13 (Impact Analysis)	This should be discussed, and possible processes recommended, by those tasked with preparing the relevant manual/guidelines.	Mary Wong	Noted	
13 (Impact Analysis)	INTA generally agrees with this recommendation with the caveat that more detailed guidance should be in the Manual on what	INTA	These comments (also other ones made in relation to this issue) are in line with the comments expressed by the WT in its report.	

	constitutes 'appropriate or necessary' and how the GNSO Council should consider and use such analyses. The design of such studies so early in the process might be flawed or could bias the outcome or decision on whether to proceed with a PDP. Public comment period could provide adequate bases for parties to argue or support undue fiscal hardship economic impact.		An Issues Report might include recommendations for further study or impact analysis which is then subsequently considered by the Council. Although the Council could also request a study or impact analysis as a separate step from the PDP. Some suggested that an impact analysis as part of a PDP should be preceded by an Issues Report.	
13 (Impact Analysis)	The RrSG agrees with this recommendation and believes it would be a prudent step in a PDP. It recommends that the PDP-WT add to this recommendation that impact analyses include, to the extend possible, an assessment of the impact to: the operations of registries, registrars and service providers; ICANN as an entity (including ICANN's revenue); end-users and customers of the DNS.	RrSG	See above	
13 (Impact Analysis)	Further consideration should be given on how the request for an impact analysis could be abused to delay a decision on the initiation of a PDP and how this can be avoided	BXL meeting	Some disagreed with this comment, noting that it is important that the potential impact an issue might have before starting a PDP. If there is a concern to start a PDP, it might be even	

			<p>more reason to conduct an impact analysis. Some noted that there is a potential under the guise of studies or impact analysis to delay moving forward with a PDP.</p> <p>The WT noted that this kind of issue should be handled by the Council as part of its role as manager of the process, also noting that launching an impact analysis would require resources and co-ordination from policy staff.</p>	
13 (Impact Analysis)	The RySG believes that this is a very constructive recommendation.	RySG	Noted	
14 (Prioritization)	The RrSG supports this recommendation and looks forward to a continued discussion of prioritization methods.	RrSG	<p>The WT noted that it is not clear yet what will come out of Council's prioritization effort. It was pointed out that is not only the number of PDPs that are running simultaneously, but also all the other initiatives, Working Groups, Work Teams and Drafting Teams that are going on, especially those with tight deadlines. It was suggested that one of the solutions is to get more people involved to share the workload.</p> <p>The WT noted that the Council hasn't considered yet how to deal with future issue and has focused for now on the ongoing projects. It might therefore be appropriate for the WT to give more</p>	<ul style="list-style-type: none"> ▪ Reword in the report that it is not only PDPs, but also other initiatives that need to be taken into account when prioritizing ▪ Change some of the terminology (managing workload)

			consideration to this. Another issue that was identified is that as WGs progress, the interest in the issue seems to disappear resulting in fewer volunteers trying to finish the task. This becomes especially apparent when a new 'hot' topic is launched which attracts many new volunteers at the expense of other efforts.	
14 (Prioritization) & 15 (Fast Track Process)	Given the possibility of unexpected or urgent issues that can arise from time to time, it will be difficult for the GNSO Council to accomplish a truly meaningful prioritization of the various tasks (including a PDP.) It would be unfortunate if a particularly important issue (e.g. as demonstrated by strong support for a PDP amongst numerous constituencies or committees) could not be pursued due to a lack of resources. Specific indicators (e.g. level of support; existence of third party economic impact studies) could be identified as aids to the GNSO Council when determining prioritization or initiation of PDPs. A "fast track" procedure would be a useful option. However, as	Mary Wong	The WT would favor some kind of prioritization even if it would be a simple method like 'first in, first out'. The WT suggests exploring how other organizations prioritize as this might serve as an example. It was pointed out that it is not only PDPs that create workload, but especially other initiatives and working groups. The WT is of the opinion that activities should be limited to what the volunteer community and staff resources can sustain. The WT debated three different options to manage workload: <ul style="list-style-type: none"> - Put PDPs on temporary hold - Develop elaborate calendar with timeframes and set milestones for WGs. If any milestones are missed, the Council should review why milestones are missed and address issue. 	

	identified by the WT, due consideration needs to be given to questions relating to gaming and ensuring broad (and diverse) participation.		- Acknowledge at the start of a PDP what resources are available and which other initiatives contend for the same resources. The WT agrees that a fast track procedure would be a useful option.	
15 (Fast Track Process)	For issues that need urgent attention, the ALAC supports the development of a streamlined process which will require less volunteer and staff time, and less elapsed time.	ALAC	To be discussed in further detail at one of the upcoming meetings. (see separate note)	
15 (Fast Track Process)	INTA agrees that, under certain circumstances, emergency procedures (requiring by-law amendment) may be necessary. INTA concurs with a sunset period that requires a subsequent (full) PDP procedure to confirm or adapt any temporary policy.	INTA		
15 (Fast Track Process)	Recent experiences in the GNSO have demonstrated the need for such a procedure so the RySG supports this recommendation. But it should be recognized that some issues will be too complex to adequately cover in a fast-track process so it would be helpful if there were some guidelines that	RySG		

	could be used to decide when to consider a fast track procedure.			
16 (Flexibility)	INTA agrees with the proposed modified language set out in the report, but suggests that the clarifying language ' calendar ' days be inserted in sub-clause 'b'.	INTA	Agreed and should be updated	▪ Update in report
16 & 17 (Flexibility)	Where a PDP is initiated by Board action, it is not clear what (if any) role public comment (which, as recommended, should be provided after the issuance of an Issues Report) would play in this regard. As such, the 8 calendar days proposed by the WT may be either unnecessary (if the Council has no choice but to act on the Board's instruction) or insufficient (if public comment is to be considered.) The recommendation that a Stakeholder Group or constituency may defer a vote on a PDP for no more than one meeting, and needs to detail its reasons for such a request, is necessary to ensure timely action on issues of importance, and minimize gaming or other similarly strategic actions.	Mary Wong	A PDP requested by the Board will also start with the development of an Issue Report, followed by a comment period.	
18 (Appeals)	For the reasons stated by the WT in	Mary	Noted	

mechanism)	its report, requiring the Council to state its reasons in the absence of a formal appeal mechanism would help ensure transparency and accountability.	Wong		
19 & 20 (Chartering)	The WT's rationale and recommendations regarding, in particular, the nomenclature for, participation in, and chartering processes for, a Working Group (as opposed to a "task force") are timely and should be adopted.	Mary Wong	Noted	
21 (AC/SO input)	It is encouraging that AC/SO cooperation is being contemplated on a more formal basis and will be institutionalized.	ALAC	Noted, the recent CWG Rec6 might serve as a model. Further examples to promote AC/SO cooperation were also included in the notes relating to this issue.	
21 (AC/SO input)	The WT's recommendation that further consideration be given as to how to further involve other SOs and ACs in the PDP process are welcome and should be adopted.	Mary Wong	Noted	
22 (timeframe for taking a decision)	This recommendation presumably applies to situations where the Council (as opposed to Councilors representing particular Stakeholder Groups or constituencies) believe a vote should be deferred, e.g. in order to obtain expert advice. To ensure timely action (one way or	Mary Wong	Agreed and the WT will incorporate this in the recommendation. As a general rule, a vote can be deferred to the next Council meeting but for a maximum of three meetings.	Incorporate suggestion in the recommendation.

	<p>the other), however, it does not seem advisable to leave the question of how long such a deferral can last unanswered. Similarly, the question of whether a certain threshold of Council members is required before a deferral is confirmed is also important. To leave these questions to guidelines may not be the optimal solution, although it is certainly better than the current lack of guidelines and clarity. The WT may wish to explore the possibility of at least requiring that a deferral be made for no longer than the next Council meeting (unless the reason for the deferral reveals the need for a longer deferral period, in which case there should be a maximum time limit set, to be amended only upon further vote of the Council.)</p>			
<p>23 (Public Comment Period after Initiation)</p>	<p>INTA believes that the public comment period must be mandatory, noting that the public comment period is ample and the scope of comments is not restricted to the WG’s initial questions.</p>	<p>INTA</p>	<p>Some suggested it should be recommended, but not mandatory. Some suggested that this should be considered in combination with the public comment period on Issues Report. Should one of the two or both be mandatory? If there is a public comment period, the WG should</p>	<ul style="list-style-type: none"> ▪ Clarify section in the report as outlined in the notes.

			<p>have the opportunity to ask specific questions, but should also solicit input on the issues within the scope of that WG. Most agreed that there shouldn't be an obligation for a WG to respond to comments that are outside of scope of the WG. The WT supported that a public comment period on the issues report should take place. The second public comment period after the initiation of the PDP would then be optional, unless no public comment period had taken place on the Issues Report in which case it would become 'highly recommendable'.</p> <p>It was pointed out that the Council and/or WG both have the flexibility to run additional public comment periods as deemed appropriate.</p> <p>The WT discussed how comments on the Issues Report would need to be dealt with and noted that this would depend on the nature of the comments received: some might require updating of the Issues Report, some might be passed on the Council for further consideration and some might be passed on to the WG for consideration.</p>	
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<p>23 (Public Comment Period after Initiation)</p>	<p>The function – and nature – of public comments in relation to a Working Group (WG) request after its initiation can be different from public comments solicited and received in response to an Issues Report. As such, a public comment period should be mandatory, unless the WG specifically deems it – and documents its reasons – unnecessary. Even so, this should not preclude the WG from initiating a public comment period at some later point in its processes.</p>	<p>Mary Wong</p>		
<p>24 (Clarify ‘in scope’)</p>	<p>INTA agrees with the proposed language</p>	<p>INTA</p>	<p>Noted</p>	
<p>24 (Clarify ‘in scope’)</p>	<p>The RrSG found this language to be confusing and would appreciate clarification from the WT. With regard to the general issue, it believes that ICANN’s role should be limited to that of a technical coordination body and avoid mission creep. Furthermore, the GNSO should not confuse policy development with policy implementation.</p>	<p>RrSG</p>	<p>It was noted that ‘in scope’ is frequently used, but also frequently misunderstood. It was suggested that there is a general feeling amongst registrars that if something bad is happening on the Internet that ICANN is supposed to be doing something about it. ICANN has a role to play, but it is not the ‘end all – be all’ target for complaints about the Internet. Further clarification of ‘scope’ might therefore be helpful. The WT agreed that issues should be readily able to be mapped to ICANN’s mission or AoC</p>	<ul style="list-style-type: none"> ▪ Update report to include that issues identified should be mapable to provisions in the by-laws, incl. annexes or AoC

			at the outset of a PDP, and if it is not clear where an issue falls, then it is a problem that needs to be further considered. It was suggested that the (
24 (Clarify 'in scope')	Further review of 'in scope' definition by ICANN legal Counsel, including consideration of how 'scope' is defined elsewhere in the by-laws (such as Article 10, section 1) which might form the reference point. At the same time, further details / examples on what 'in scope' in practice means might be included in the rules of procedure or PDP handbook.	BXL meeting	The WT noted that it might be difficult to come up with examples.	
24 (Clarify 'in scope')	The WT's recommendation to clarify the "in scope" question, to distinguish this issue from that of "consensus policy", is necessary and should be adopted.	Mary Wong		
25 (Maximize effectiveness of WGs)	INTA agrees with the proposed recommendation	INTA	Noted	
25 (Maximize effectiveness of WGs)	Development of a "cheat sheet" for WGs could facilitate implementation of this recommendation	RySG	It was pointed out that the WG Guidelines do include a chairs check sheet for first meeting. The WT expressed support for providing training on the WG Guidelines to new Working Groups, incl. PDP WGs. It was also	

			pointed out that there is a placeholder in the GNSO WG Guidelines to include specific details concerning PDP WGs, which could also be translated in a presentation or cheat sheet in due time. Some expressed concern about cheat sheets as certain details and/or links with other provisions might be left out. Some suggested that an annotated index might be more appropriate (e.g. if you want to know about issue x, look at section y). The WT did agree that further information on WG basic should be provided to make it easier for newcomers, while at the same time encouraging review of the complete WG Guidelines.	
26 (Communication with ICANN departments)	INTA agrees that such inquiry is worthy and that mechanisms for communication with ICANN departments should be clearly established.	INTA	Noted. WT agreed to change language in report to make it a firm recommendation instead of a suggested approach.	<ul style="list-style-type: none"> ▪ Update language to reflect recommendation instead of suggested approach.
26 (Communication with ICANN departments)	Clarification over appropriate and available means and channels of communication with various ICANN departments, will be necessary and should be developed.	Mary Wong		
27 (Link with strategic plan &	The initiation of a PDP might include consideration of how	INTA	Noted and agreement with comment.	<ul style="list-style-type: none"> ▪ Reflect comment in report.

budget)	ICANN's budget and planning can best embrace the PDP and/or its possible outcomes, the priority must be on ensuring that GNSO policy development can address the public's needs, and ICANN should adequately budget and plan to meet those requirements.			
27 (Link with strategic plan & budget)	The fact that policy issues do not arise in organized fashion according to a calendar (budgetary or otherwise) renders it practically impossible to implement a single process to determine how best to link a PDP with an overall strategic plan or central budget (e.g. the fact that emergency and fast track processes are being considered demonstrates this.) It is important, however, that financial constraints not be the major factor curtailing the initiation, timing or workings of a PDP. Much responsibility therefore devolves by default to the GNSO Council in its current role as manager of overall GNSO processes and work. It would be helpful, however, if through the Issues Report and constituency/stakeholder group	Mary Wong		

	input as well as SO and AC feedback prior to and during a PDP, as much detailed information (such as costs, timing and the need for further expert analysis) can be provided to the Council, to assist its deliberations as to whether to initiate a PDP, and (if applicable) to the WG once a PDP is initiated and a charter approved. Suggestions as to what and how such information could consist of and be compiled could be made part of the manual/guidelines under consideration.			
28 / 29 (Public comment)	INTA agrees with the extension of timing for public comments, but believes the minimum should be 45 days to ensure that all members of the public have adequate time to comment. In addition, there may be circumstances under which more than 45 days is necessary, either because of the likely interest in the issue, or the calendaring of the request, and that provision should be made for extending the period for public comment under certain defined circumstances.	INTA	See below	

<p>28 (Public comment)</p>	<p>Timeframes are better placed in the manual / guidebook than in the Bylaws because the former are much easier to change as needed. GNSO experience to date has shown that flexibility is often needed; in that regard, it might be better to suggest comments periods of 20 to 30 days, the latter being preferred if possible.</p>	<p>RySG</p>	<p>The WT agreed that there needs to be flexibility and suggested that the absolute minimum should be noted in the by-laws (21 days), while the guidebook should indicate reasonable parameters, for example taking into account when a public comment period coincides with a public comment period. The guidebook could also indicate what the recommended length is for a 'typical' public comment period (30 days), noting that there is flexibility to extend but also taking into account the overall milestones and target dates of the WG as outlined in its Charter.</p>	<ul style="list-style-type: none"> ▪ Reflect WT position in the report and update recommendation accordingly.
<p>28, 29 & 30 (Public Comment)</p>	<p>Given ICANN's reliance on volunteer input and the importance of public comments, the proposed extension of a public comment period to 30 days is welcome and should be adopted. Although it might not be feasible to expect a WG to review and acknowledge all public comments received, nor would it be fair to add unnecessarily to ICANN staff workload, it is still important that the WG have easy access to all public comments submitted. The recommended language should</p>	<p>Mary Wong</p>		

	therefore be amended such that, at a minimum, the ICANN staff manager must provide, a full list of all public comments received and an indication of which comments were deemed appropriate to be included in the summary and analysis provided to the WG, and which not.			
31 (Implementation / impact)	The first option seems like it could have value but it is not clear that it would be practical in some PDPs. It may depend on what is meant by implementation guidelines, so that may need some clarification. For example, the New gTLD PDP contained implementation guidelines but they were at a fairly high level; if the final report had to contain more detail, the PDP would have taken considerably longer than the 1.5 years it lasted. And we have seen that the implementation process has taken even longer than the PDP took. To the extent possible, it would be helpful to consult with WGs during the implementation process, but for PDPs that last a long time, WG membership tends to change a lot	RySG	Taking into account the comments made in relation to recommendation 31 and 42, the WT noted that there seems to be general support for the concept of an implementation team, noting the need for flexibility on when and how such a team should be used.	

	<p>so that reality needs to be considered. Also, it is important to do that in a way that does not too easily provide an avenue for redoing recommendations in cases where some parties may not have been totally satisfied with the results unless there is strong justification for doing so. Consultation with the GNSO should definitely happen during the implementation plan development. The GNSO Council should mainly be a channel through which that happens. In cases where an implementation team is formed, it would be useful to include members of the WG as possible.</p>			
<p>31 (Implementation / impact)</p>	<p>To the extent that a WG can provide recommendations as to implementation, they would doubtless be useful. A WG ought in all cases to consider including these as part of its report, and should also consider whether to recommend the formation of an implementation team, which should consist of a broad base of participants and preferably include</p>	<p>Mary Wong</p>		

	at least a few WG members. Recognizing the periodic difficulty of distinguishing between “policy” and “implementation”, it would be helpful (particularly in soliciting public comment) also if a WG could indicate which issues discussed or raised crossed the line, in its view, from one to the other.			
32 (Staff resources)	The RrSG concurs with this recommendation and encourages adoption of this provision as part of the PDP reform.	RrSG	Noted	<ul style="list-style-type: none"> Update recommendation to include language that encourages staff to provide that information.
32 (Staff resources)	The RySG strongly supports this recommendation.	RySG	Noted	
33 (Constituency Statements)	The RySG thinks this is a good change. It might also be a good idea to note that in some cases constituency statements may be requested more than once.	RySG	Noted, this flexibility is also acknowledged in the report.	
33 (Constituency Statements)	The WT’s note that the lack of a statement from a constituency or Stakeholder Group may reflect that group’s belief as to the relative importance of that issue to it, or simply the group’s current	Mary Wong		

	workload, is important as it recognizes that there are numerous stakeholders in the ICANN community with varying interests in different issues. The reliance on volunteer participation and the recent increase in overall GNSO workload has also taken its toll on volunteer time and resources. Regardless of the amendment to Clause 7, therefore, the WT's suggestion of additional follow-up with constituencies and Stakeholder Groups should be incorporated into the proposed manual and/or guidelines, and perhaps included as part of the charter for all WGs tasked with a PDP, where possible.			
34, 35, 36 (WG Output) & 37 (WG Recommendations)	The WT's recommendations in these respects make sense and should be adopted.	Mary Wong		
36 (Public Comment period Initial Report)	INTA agrees that such a public comment period should be mandatory. Optional additional comment periods may be useful in certain circumstances, such as when a final report differs substantially from the Initial	INTA	Noted and in line with the recommendations.	

	Report.			
38 (WG Recommendations)	The RrSG has no currently formed position on this issue, but agrees it is an issue that deserves attention and looks forward to contributing to further discussion.	RrSG	The WT noted that the different comments in relation to this recommendation express different points of view. In its discussion, some suggested that recommendation that have full consensus of the WG, cannot be altered or picked / chosen by the WG. Some suggested that the WG should have the obligation to indicate if there are interdependencies between recommendations to the Council. Most agreed that it should not be the Council's job to change recommendations, especially those that have consensus. Some suggested that the Council does make the final call and weigh the different recommendations and pick which ones they send to the Board. Some expressed concern about recommendations that would come out of a WG that is unbalanced, but it was noted that the issue of balance should be addressed at the WG level before recommendations are even developed.	
38 (WG Recommendations)	It is important to note that WGs do not necessarily have balanced representation. In contrast, the Council structure is designed to facilitate balanced representation of the stakeholder groups. Assuming that Councilors are consulting with their SGs and constituencies, Council decisions should reflect the consensus or lack thereof of the broader GNSO community and hopefully the broader ICANN Community as applicable.	RySG		
38 (WG Recommendations)	No, the GNSO Council should not have the flexibility to 'pick and choose' recommendations. It is very important for PDP Final Reports to give an objective description of the level of each consensus for each opinion / recommendation.	Naomasa Maruyama		

<p>38 (WG Recommendations)</p>	<p>The Council should not be able to “pick and choose” recommendations, where these have not received full consensus within a WG, without at least fully documenting its reasons for doing so. In such a case, Council members should also indicate for the record whether it consulted with his/her constituency and Stakeholder Group as well as the outcome of such consultations. Where WG recommendations have not received full consensus, the WG report should indicate the actual level of support each recommendation received and (subject to a WG participant’s consent) a list of WG members in support of, or against, particular recommendations.</p>	<p>Mary Wong</p>		
<p>39 (Board Report)</p>	<p>ALAC strongly supports this recommendation.</p>	<p>ALAC</p>	<p>Noted</p>	
<p>39 (Board Report)</p>	<p>INTA’s view is that Staff should be allowed to provide its opinion to the Board, in an open, and non-confidential manner. Staff may be in a better position than most to decipher positive and negative</p>	<p>INTA</p>	<p>It was noted that there should be flexibility for issues for which confidential information has been provided by staff to the board, noting that this should not become an excuse to not make information public.</p>	<ul style="list-style-type: none"> ▪ Reword the recommendation to clarify that staff can have its say but in an open and transparent manner

	suggestions and recommendations and should be heard in this capacity.			<ul style="list-style-type: none"> Reflect in recommendation that in cases where privileged/ confidential information is concerned, ICANN staff should indicate that privileged advice was given and as much information as possible should be provided without breaking attorney-client privilege.
39 (Board Report)	The RySG suggests rewording this sentence along the lines of the following: "Reports on PDPs should be delivered from the GNSO Council to the Board and any summaries needed should be approved by the Council after consultation with the Working Group (if necessary)". This would more clearly allow the Council to enlist GNSO policy staff support in preparing and delivering summaries and reports while still leaving approval of such to the Council in its representative	RySG		<ul style="list-style-type: none"> Update recommendation to reflect suggestion made by RySG

	<p>capacity of GNSO Community members.</p> <p>In relation to the last sentence, as this initial report illustrates, reports need to be much more concise. Detailed background and supporting information can be referenced as appendices or attachments.</p>			
39 (Board Report)	<p>All reports to the Board should be public. ICANN staff may be requested by the GNSO Council to assist in providing summary and analysis to the Board, but (as recommended by the WT) ultimate responsibility for the content of such summary and analysis should lie with the Council, who should work with the relevant WG to determine the need for and extent of ICANN staff assistance.</p>	Mary Wong	Noted and agreed (see also previous comment)	
40 (Agreement of the Council)	<p>Although not presumably within the scope of this WT, it should be noted that the actual procedures regarding absentee voting in the GNSO Council Operating Rules are currently being clarified. The WT should take note of the official interpretation (if any) of the</p>	Mary Wong	WT to review new procedures in further detail in future meeting (see http://gnso.icann.org/council/docs.html).	

	pertinent part of the Rules, and review whether or not to revisit this issue in light of it.			
41 (Board Vote)	Should there be a Board vote for recommendations that are not changes to existing or recommendations for new consensus policies, recognizing that a PDP might have different outcomes?	Brussels meeting	The WT agreed that any recommendations adopted as the result of a PDP should be communicated to the Board, noting that some recommendations might have cost implications or an impact on staff resources. The same process should apply as for the adoption of consensus policies.	<ul style="list-style-type: none"> Update report to reflect that all recommendations adopted as a result of a PDP should be communicated to the Board.
42 (Implementation)	INTA agrees with the recommendation to create an implementation review team as it will ensure that policy is implemented as agreed to in other stages of the process.	INTA	Noted. The WT supports that a PDP WG should provide guidance if needed and appropriate on how an implementation DT might be composed, but this should not be binding or obligatory.	<ul style="list-style-type: none"> Update recommendation to reflect that WG may provide guidance on the composition of an implementation DT.
42 (Implementation)	The RrSG has no objection to this recommendation, but it should be considered in the context of the RrSG's other comments about an overtaxed staff and volunteer community.	RrSG		
42 (Implementation)	Should there be a provision for when a sub-element is determined not to be final -- or not to be finished in terms of its policy implementation and that sub-	BXL meeting		

	<p>element needs to be returned to the Council for further work. At the same time, if there is a certain oversight by the Council / WG on implementation, how can you avoid stakeholders trying to influence the implementation process? Appropriate safeguards would need to be in place to avoid gaming. Potential concerns with WG transforming into Implementation Review Team (anti-trust); staff should be responsible for implementation.</p>			
<p>42 (Implementation)</p>	<p>The RySG supports the idea contained in the first sentence of the recommendation and suggests that the recommended composition of such review team be made in the WG final report. The review team then could serve as an ongoing resource for the GNSO Council and ICANN implementation staff.</p>	<p>RySG</p>		
<p>42 (Implementation)</p>	<p>A WG Implementation Review Team would likely facilitate implementation efforts, and could act as the main conduit between the GNSO Council and ICANN staff</p>	<p>Mary Wong</p>		

	<p>charged with actual implementation of adopted policy recommendations. If a WG has included implementation recommendations as part of its report, the Implementation Review Team should ensure that these recommendations are either followed or amendments/departures from them justified. In addition, ICANN staff should consult regularly with the Team and update it frequently on the status of implementation efforts, as well as refer questions that might raise policy issues to it promptly, for review as to whether these should be referred to the Council.</p>			
<p>43 / 44 (Review of policy and WG)</p>	<p>Providing a policy now on these issues might create an avenue to appeal policy decisions rather than provide meaningful insights. Other aspects of the report already address avenues for measuring whether specific policy implementations are successful. Review can be positive and beneficial, but the multiple layers of review and assessment</p>	<p>INTA</p>	<p>The WT noted that for an individual PDP the WG may/should provide recommendations on which steps should be taken to review and measure the outcome.</p>	

	proposed may be overly extensive and might hinder the PDP process.			
45 (Review of PDP process)	A periodic review of the effectiveness of the PDP Process would probably be beneficial. It may be that this review should be undertaken after a threshold number of PDPs have been completed.		The WT agreed that a periodic review of the overall PDP process would be appropriate, as also acknowledged in the Affirmation of Commitments, noting that a certain thresholds of completed PDPs should be met before an overall review is carried out. There was support for a Standing Committee being responsible for such a review, but there was no strong view whether the PPSC should be this Standing Committee or whether a new body should be created.	
Overarching Issues				
	Without firm recommendations or, in some cases, any roadmap suggesting the direction of the WT's discussions to date on a particular overarching issue, it is difficult for the public to comment. INTA hopes that the public will have another opportunity to comment upon any recommendations relating to the overarching issues before the Council considers them.	INTA	Noted, another public comment forum is foreseen on the draft Final Report.	
Timing	INTA agrees that an overall assessment of timing needs to be	INTA	Noted, the draft Final Report will include an overview of the overall timing, noting	<ul style="list-style-type: none"> ▪ Include overview of overall timing of new

	conducted. It hopes that the public will have a further opportunity to comment on any overarching timing recommendations that may be propounded following this public comment period.		that it will be difficult to give a precise number of days due to the flexibility built in the different stages. As noted above, another public comment forum is foreseen on the draft Final Report.	PDP in draft Final Report
Translation	INTA believes that provisions in the new PDP relating to translations should, where possible, be consistent with the translation policy being developed by ICANN.	INTA	WT agrees, but notes that there currently is no ICANN translation policy.	
Translation	INTA does not support the idea of utilizing volunteers to translate key documents or public comments, however, it may support the role of a volunteer editorial group that would review professionally prepared translations to ensure that the translations use technically terms correctly. The qualifications for volunteers seeking to participate on a translation editorial review group should be outlined and how and by whom those individuals would be selected.	INTA	Noted	
Translation	Further consideration should be given to how the proposed translation of key documents and	INTA	The WT agrees that when public comment periods are run in other languages, the same amount of time to	<ul style="list-style-type: none"> ▪ Update Report to reflect support for this concept.

	public comments will impact the new timelines proposed for public comment periods. Fairness and inclusion dictate that non-English speakers should have the same length of time to comment on initial reports. Providing translations of public comments may improve inclusiveness, but may have a negative effect on the efficiency of the PDP.		submit comments should be allocated to the other languages.	
Definitions	INTA hopes that the public will have a further opportunity to comment on any proposed definitional changes once the PDP-WT has an opportunity to complete its work on this overarching issue.	INTA	Noted, another public comment forum is foreseen for the draft Final Report.	
Voting Thresholds	INTA agrees that a higher voting threshold should not apply if ICANN staff recommends against initiating a PDP.	INTA	Noted	
Voting Thresholds	The PDP-WT should make recommendations about how to handle competing WG charters and supports the proposal that in the case of competing charters, the Council should select the charter by majority vote.	INTA	The WT agrees and discussed the following approach: In cases where two or more competing charters would be proposed, the GNSO Council Chair should facilitate a meeting between the proponents of the different charters to determine whether a compromise charter can be developed ahead of the	<ul style="list-style-type: none"> ▪ Update report accordingly

			GNSO Council vote. If no compromise is found, the two or more competing charters are put forward for GNSO Council consideration whereby the charter with the most votes is adopted.	
Voting Thresholds	INTA supports the recommendation that a majority of both houses should be required to change administrative elements of an approved charter, but that a supermajority should be required to modify the charter questions themselves.	INTA	Noted, but after further discussion, the WT is of the view that any modifications to the charter should be adopted by a simple majority vote of the GNSO Council.	
Transition	INTA hopes that the public will have a further opportunity to comment on any proposed recommendations relating the transition to the new PDP. Of particular note will be the recommendations relating to (1) the timeline for the adoption of the new PDP, and (2) the effect of that adoption on working groups already convened under the 'old' PDP.	INTA	Noted	

Annex B – Public Comment Forum on the Proposed Final Report

A public comment forum was held on the proposed Final Report, which ran from 21 February to 1 April (see <http://www.icann.org/en/announcements/announcement-3-21feb11-en.htm>). A summary of the comments received can be found [here](#). In addition, the WT developed a public comment review tool to facilitate review and discussion of the comments received as well as providing an overview of how the different comments have been addressed in this report. You can review the public comment review tool hereunder.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
General Comments relating to				
Bylaws vs. Manual	It would be helpful from an implementation point of view if it would be made clear in the report whether the recommendation relates to the Bylaws (Annex A), GNSO Operating Procedures or the PDP Manual.	RySG, INTA, SFO Meeting	Noted and agreed.	Update Report to reflect whether each recommendation relates to Bylaws or PDP Manual.
Streamlining of the Process	ALAC supports the appropriate operating principles, rules and procedures applicable to the new PDP and notes that the different enhancements proposed by the WT should result in thoroughly-researched, well scoped objectives, and are run in a predictable manner that will yield results that can be implemented effectively.	ALAC	Noted.	

	Comment (Summary)	Who	WG Response	Recommended Action / Change
Titles for recommendations	Short titles for each recommendation would be helpful to readers to navigate the Final Report (suggestions provided in the submission).	INTA	Noted and agreed.	Update/add short titles for each recommendation.
Transparency and Accountability	Transparency and accountability are the keys to an effective and fair policy development process. The PDP review and the resulting recommendations are important first steps towards the achievement of this goal.	CADNA	Noted.	
PDP Summary Guide	The report is not yet a guide for prospective participants in a PDP. The manual is helpful, but too long. A short practical manual on the PDP without references to the WT or recommendation # should be developed.	BC	Noted and agreed. However, the WT proposes that such a summary is developed once the report has been finalized and approved by the GNSO Council.	Develop summary / guide to new PDP following approval of new PDP by GNSO Council.
PDP Flow Chart	The PDP Flow Chart is useful but overly complex. A simplified one for Council initiated work only is needed. Showing timelines would also be useful.	BC	Noted and agreed. The WT notes that different versions of the flow chart may be developed which would show different levels of	Update / modify PDP Flow Chart for Final Report

	Comment (Summary)	Who	WG Response	Recommended Action / Change
PDP Flow Chart	The PDP Flow Chart should also be included as part of the PDP Manual. The following information should be added though: (1) the required ICANN General Counsel opinion on the 'in scope' nature of the Issue Report as well as (2) the existence of an optional 'Impact Analysis' showing the stage at which this optional Impact Analysis enters the revised process of initiating a PDP.	INTA	detail for each of the steps in the process. The WT recommends, however, that this is done at the end of the process, following adoption by the Board, so that a final and professionally developed graphics can be included in the PDP Manual	
PDP Flow Chart	The Council vote box should say "In scope: 33% of each house or 66% of one house".	RySG		
Comment relating to Recommendation # (see http://gnso.icann.org/issues/pdp-wt-proposed-final-report-21feb11-en.pdf)				
1 (Who -Request for Issues Report)	What is the rationale for leaving in place the possibility for an Advisory Committee or the Board to request an Issue Report? How does the WT see the GNSO Council cope with such 'outside influences'?	SVG	The WT did discuss whether the existing practice should be changed, but agreed not to do so. Even though to date this possibility to request an Issue Report has only been used by the ALAC, the WT wants to keep this option open for other Advisory Committees to make use of if deemed appropriate.	No change
1 (Who -Request for Issues Report)	The ALAC supports maintaining the three methods for requesting an Issue Report as recommended by the WT.	ALAC	Noted.	No change

	Comment (Summary)	Who	WG Response	Recommended Action / Change
3 (Development of PDP Manual)	The development of the manual should not hold up policy development efforts. An interim working arrangement must be achieved pending adoption of a final Policy Development Process Manual.	INTA	Noted, but the WT notes that it is unlikely that the manual will hold up the process as it is being developed in parallel to the recommendations and proposed Bylaw changes. Furthermore, the manual will not require board approval (only board oversight) while the new Annex A will need to be approved by the ICANN Board.	No change
4 (Template – Request for Issues Report)	What use does the WT see for the proposed template if it is not compulsory? Not making it compulsory might result in people taking “short cuts” and not filling in the template.	SVG	The WT takes note of the comments received and suggests that certain elements of the template should be made mandatory while at the same time leaving sufficient flexibility to address different situations. Following additional deliberations, the WT agreed to make the ‘name of the requestor’ and the ‘definition of the issue’ required elements of any request for an Issue Report. Submission of additional information is strongly encouraged, but not required.	Update recommendation accordingly.
4 (Template – Request for Issues Report)	CADNA recommends that the use of the template is made mandatory to ensure that requests for an Issue Report are complete, each indicating “definition of issue, identification of problems, supporting evidence, economic impact(s), effect(s) on competition and consumer trust, and rationale for policy development”.	CADNA		
4 (Template – Request for Issues Report)	A template can be designed in a flexible manner in order to allow for varying situations and so that use of the template can be required.	RySG		

	Comment (Summary)	Who	WG Response	Recommended Action / Change
4 (Template – Request for Issues Report)	The template should be limited to defining the issue, identifying problems and providing the rationale for investigating whether policy development is needed. If other elements, such as supporting evidence and economic impact are desirable, these should be explored through an impact analysis.	INTA		
5 (Guidance on Issue Scoping)	Policy Development efforts should not be delayed while a PDP Manual is being finalized and adopted.	INTA	Noted, see also response above (#3).	No change
6 (Creation of Issues Report)	It would be helpful to better define what ‘in scope means’. It is noted that some of these distinctions are made in other recommendations (#7, #8 and #23), but they should also be made in this recommendation as well.	RySG	Noted and agreed.	Update recommendation to reflect comment.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
6 (Creation of Issues Report)	INTA is concerned that the request for the ICANN Staff Manager to express an opinion as to whether the PDP should be initiated may result in delays. Also, this appears to be beyond the responsibilities of ICANN Staff.	INTA	The WT does not understand why the request for the ICANN Staff Manager to express an opinion would cause delay as it reflects current practice. Also, the WT considers it appropriate for ICANN Staff to express its opinion, especially at this early stage, on whether or not to initiate a PDP. The WT would like to point out that this staff opinion is in no way binding and can be disregarded by the GNSO Council if it would choose to do so (and has done so in the past).	No change
10 (Timeline Issues Report)	INTA agrees that in most cases the maximum timeframe for the creation of the Preliminary Issue Report should be 45 calendar days. Extensions should generally be limited to an additional 30 calendar days to ensure that requests for Issue Report are addressed in timely manner.	INTA	The WT notes that there seems to be a misconception with regard to the Preliminary Issue Report. The WT would like to clarify that the Preliminary Issue Report is the final report, if no comments are received (it is not an outline,	Clarify what the Preliminary Issue Report is and isn't in the Final Report.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
10 (Timeline Issues Report) & 11 (Comment Period Preliminary Issue Report)	The BC is concerned that the Preliminary Issue Report is being over engineered. It is intended to be short and factual, not solving the issue or adding opinion on its merit. An additional public comment period at this stage is therefore both redundant and a waste of time.	BC	or initial draft). The comment period is intended to address any issues or information that has been overlooked or is incorrect in the Preliminary Issue Report, and provide input to the GNSO Council for its consideration of the Issue Report and decision on whether or not to initiate a PDP. It is not intended to discuss approaches or solutions to the issue.	
11 (Comment Period Preliminary Issue Report)	INTA agrees that the Preliminary Issue Report should be posted for public comment. INTA would recommend a relatively short commenting window, for example no more than 30 days, to ensure that the initiation of the PDP is not subject to a lengthy delay.	INTA		
11 (Comment Period Preliminary Issue Report)	CADNA strongly supports this recommendation as it will incorporate and allow for critical public input much sooner in the PDP and will ensure that no necessary information is missing from the Preliminary Issue Report.	CADNA		
12 (Role of workshops)	How can be determined which issues require a workshop and which don't?	SVG	WT agrees that a workshop is not required, but might be advisable in certain cases. In any event, it would be up to the GNSO Council to determine whether a workshop is needed / helpful	Clarify that workshop is not required, but might be advisable in certain cases.
12 (Role of workshops)	The WT should clarify that the GNSO Council may consider workshops, but that it is not required to hold workshops prior to voting on the initiation of a PDP.	INTA		

	Comment (Summary)	Who	WG Response	Recommended Action / Change
12 (Role of workshops)	Organizing a workshop should not be a mandatory step of the PDP.	BC	prior to the initiation of a PDP.	
13 (Impact Analysis)	The terms 'public interest' and 'consumer trust' should be defined. Any analysis of competition should be performed by qualified competition authorities. Analysis of human rights should be based on international principles of law because of the wide variations of local law in this regard.	RySG	The WT notes the concerns and issues identified with the current wording of the recommendation. Following further discussion, the WT noted that 'impact analysis' might not be the appropriate terminology as it concerns here an assessment prior to the initiation of a PDP, not the assessment of the impact of potential new policies or recommendations for which the term 'impact assessment' would be appropriate. The WT therefore suggests changing the recommendation to reflect that it concerns a scope assessment or 'scope sanity check' to determine whether the issue is in scope for ICANN / GNSO to address by assessing it against existing mechanisms such as the AoC and ICANN Bylaw. The WT also notes	Update recommendation to reflect comments and WT's subsequent discussion.
13 (Impact Analysis)	The WT should clarify that the GNSO Council may consider an Impact Analysis, but that it is not required to do so prior to voting on the initiation of a PDP. INTA requests, therefore, the deletion of 'or necessary'. With respect to the elements of the Impact Analysis, INTA is of the opinion that 'human rights' is included in the category of 'the public interest'.	INTA		
13 (Impact Analysis)	A possible impact analysis before a vote to start a PDP is an option that will be gamed by parties wishing to delay a new PDP.	BC		
13 (Impact Analysis)	Who would undertake the impact assessment? Are human rights part of ICANN's mission?	SFO Meeting		

	Comment (Summary)	Who	WG Response	Recommended Action / Change
13 (Impact Analysis)	Support for dropping the "impact on Human Rights" from the list of issues in Recommendation #13, as it is adequately covered in other areas.	RrSG	that such a 'scope assessment' would not be mandatory and at the request of the Council if deemed appropriate.	
14 (Resources & Prioritization)	How should resources be measured and how can the availability be determined, noting that there is currently no mechanism in place for the GNSO Council to do so.	SVG	The WT notes that in its view it is not the role of WTs or WGs to set the community priorities, but that it is the responsibility of the GNSO Council to do so. The WT also notes that there are currently only a limited number of PDPs going on, non-PDP related issues take up the majority of resources.	No change
14 (Resource & Prioritization)	If the WT has specific guidelines for the GNSO Council to refer to in connection with the process of 'prioritization' then it would be helpful to state those guidelines specifically in the Final Report.	INTA		

	Comment (Summary)	Who	WG Response	Recommended Action / Change
15 (Fast Track Process)	The WT should clarify what recommendations will enable the PDP to move more quickly. Several mechanisms proposed in the report seem more likely to slow down the PDP instead of making it faster.	INTA	The WT is of the view that a better informed, well-scoped PDP in combination with substantial work and data gathering at the pre-PDP stages will allow for more effective and hopefully quicker PDPs. If the GNSO Council does see the need for the development of a fast track mechanism, it could take action to develop such a mechanism for example by tasking the recently created Standing Committee to look into this issue.	No change
16 (Flexibility) & 38 (deferral of consideration of Final Report)	There is no practice to allow a Councilor to defer a PDP for one meeting, although there is an informal practice of allowing a GNSO SG or Constituency to request through one of its Council representatives that a vote on a motion is deferred for one meeting. Is this what is referred to here?	SVG	The WT notes that it is indeed this informal practice that is referred to.	No change
16 (Flexibility)	General agreement with the modification of timeframes as proposed, but INTA suggests that a request for deferral would need to be seconded to avoid additional delays.	INTA	The WT agrees that this should not be a cumulative practice, there should only be one deferral. WT disagrees that this should be	No change.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
16 (Flexibility)	Codifying a practice to delay seems a dangerous precedent. However, if the WT does propose codifying this practice it should make clear that this is not a cumulative right.	BC	clarified in the PDP rules. It would be up to the GNSO Council to determine its operational rules in relation to deferral of votes, but in relation to consideration of the Issue Report the WT is of the opinion that it should not be deferred for more than one meeting.	
18 (Appeals mechanism)	ALAC supports the proposed appeal process, as it is important that all decisions in an organization such as ICANN have due process in place to address such possibilities.	ALAC	Noted.	No change
19 (Chartering)	Recommendation to change 'Bylaws' at the end of the recommendation to GNSO Bylaws' to make it clear that this is not the same document as is being referenced earlier in the paragraph.	SVG	The WT notes that there are no GNSO Bylaws, but suspects that the commenter is referring to the section on the GNSO in the ICANN Bylaws instead of Annex A.	Review recommendation and clarify language if needed.
19 (Chartering)	Recommendation to explicitly state what a 'majority' vote means according to the GNSO Operating Procedures: 'Any modifications to a Working Group Charter made after adoption by the GNSO Council of such Charter, however may be adopted by a majority vote of each house of the GNSO Council.	RySG	Noted and agreed.	No change

	Comment (Summary)	Who	WG Response	Recommended Action / Change
19 (Chartering)	INTA agrees that a WG Charter should be required. INTA would suggest setting a reasonable timeframe for the development and approval of the Charter to ensure that this task is completed as soon as possible and does not delay the formation of a WG.	INTA	The WT notes that there might be difficulties with setting a fixed timeframe, as the time to develop will depend on the availability of volunteers as well as the complexity of the issue. The WT would support inserting language such as 'as soon as possible' but wants to ensure sufficient flexibility to allow for different circumstances. The WT would like to point out that the GNSO Council can always set a timeline for a drafting team to develop a Charter if it would like to do so.	Review recommendation and update accordingly.
19 (Chartering)	CADNA supports this recommendation and notes that it is important to ensure that the charter establishes a clear set of goals to work towards in order to be able to properly measure the WGs progress.	CADNA	Noted. In addition, the WT would like to point out that further guidance on what should be in the Charter is included in the GNSO Working Group Guidelines.	No change

	Comment (Summary)	Who	WG Response	Recommended Action / Change
21 (AC/SO input)	The WT should consider more detailed procedures for communication and responses to the GAC in an effort try to improve the involvement of the GAC and/or GAC members earlier in policy development and implementation efforts. The RySG also suggests that interim procedures be included regarding the involvement of community working groups in a GNSO policy development process until such time that community working group procedures are developed and implemented.	RySG	The WT notes that it has not considered CWG in the context of PDPs. The WT does agree that more detailed procedures for communication and responses to the GAC might be helpful, but is the view that it is not within the remit of this WT to develop, but should be for the GNSO Council and GAC to develop jointly on a more general level.	No change
21 (AC/SO input)	Additional explanation is needed regarding how to best involve the ACs and SOs in a PDP. A clarification regarding how such input 'must be sought' would be useful, as well as the manner and timeframe in which the WG should respond to AC and SO comments.	INTA	Taking note of this comment, the WT agreed to update the recommendation to reflect that PDP WGs should detail in their report how input was sought from others and how this input has been considered.	Review recommendation and update accordingly.
22 (Public comment after Initiation of PDP)	Complete agreement with this recommendation	SVG	Noted	No change

	Comment (Summary)	Who	WG Response	Recommended Action / Change
23 (Clarify 'in scope')	The RySG agrees that the definition provided by the WT is one definition of 'in scope' and that this definition is important. The RySG suggests that the definition of 'in scope' with regard to possible consensus policies be included here for clarity.	RySG	Noted and agreed. Some suggested that a clear distinction between the two types of 'in scope' might be helpful, such as for example, GNSO scope and consensus policy scope.	Review recommendation and update accordingly by adding a footnote to relevant sections in registry / registrar agreements that define consensus policy.
23 (Clarify 'in scope')	CADNA fully supports this recommendation and notes that with regard to the initiation of a PDP it is import to define how the proposed issue fits within the scope of ICANN's mission and how it addresses the provisions laid out in the Affirmation of Commitments.	CADNA	Noted	No change
24 (Working Methods)	It would be helpful if some examples of possible different working methods are provided.	RySG	The WT noted that it would not be in the remit of the WT to develop new working methods, but that this would be the responsibility of the GNSO Council as outlined in the PDP Manual. The WT agrees that examples from previous experiences can be added for illustrative purposes (Task Force, Committee of the Whole).	Review recommendation and update accordingly.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
24 (Working Methods)	The ALAC is pleased to see that the WT has supported the flexibility suggested by the ALAC as part of its comments on the Initial Report with regard to working methods for policy development.	ALAC	Noted.	No change
24 (Working methods)	INTA is supportive of the flexibility proposed in the recommendation but it should clarify who may, or who is responsible for, suggesting and developing such alternate processes, as well as the approvals required to implement such processes instead of a Working Group.	INTA	The WT notes that the PDP Manual outlines that the GNSO Council may select a different working method if it 'first identifies the specific rules and procedures to guide the PDP Team's deliberations which should at a minimum include those set forth in the ICANN Bylaws and PDP Manual'.	No change
28 (Public comment)	CADNA supports the proposed extension of the public comment period on the Preliminary Issue Report and the Initial Report to a minimum of 30 days.	CADNA	Noted.	No change
29 (Public Comments)	INTA agrees with this recommendation but further recommends setting a reasonable timeframe, for example 30 days after the closing of the public comment forum, to ensure that comments can be relayed to the WG promptly.	INTA	Noted and agreed, absent exigent circumstances.	Review recommendation and update accordingly.
29 (Public Comments)	The WG 'shall' review (delete 'responsible for reviewing')	SFO Meeting	Noted and agreed.	Review recommendation and update accordingly.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
31 (Implementation / impact)	The RySG suggests that the WT make clear the role of the GNSO with regard to implementation of approved policies by addressing questions such as 1) should the GNSO have approval rights for implementation plans, 2) what should the GNSO do if implementation plans are not consistent with approved policy?	RySG	Noted and agreed.	Staff should inform the GNSO Council of its proposed implementation of a new GNSO recommended policy. If the proposed implementation is inconsistent with the GNSO Council's recommendations, the Council may notify the Board and request that the Board review the proposed implementation. Until the Board has considered the GNSO request, Staff should refrain from actually implementing the policy, although it may continue developing the details of the proposed implementation while the Board considers the GNSO Council request.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
34 (Working Group Output)	What would be the recommendation of the WT on the timing of the Initial Report? Expectations for the publication of the Initial Report should be clarified and detailed.	SVG	Noted. The WT believes it is better to be less specific in this regard. The Charter for the WG typically specifies the initial timing of the initial report. It is incumbent upon the WG chair and the Council liaison to update the Council and communicate any changes in the proposed timeline for the Initial Report.	No change.
37 (Termination of a PDP)	Recommendation to reword as follows: ‘... and passes a motion with <u>at least 75% of one house and a simple majority of the other house</u> ’. Noting that if recommendation #48 is approved, ‘or with at least 2/3 of each house’ should also be added.	RySG	Following additional discussion, the WT supported leaving the recommendation as is, but agreed to add the words ‘as defined in the ICANN Bylaws’ following the word ‘supermajority’ to ensure that it is clear what is meant and to avoid having multiple, possibly different, definitions of supermajority.	Change as suggested.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
38 (Deferral of consideration of Final Report)	Clarification should be added that states that only one delay may be requested regardless of what SG requests the delay.	RySG	Noted. WT disagrees that this should be clarified in the new PDP rules. It would be up to the GNSO Council to determine its operational rules in relation to deferral of votes, but in relation to consideration of the Issue Report the WT is of the opinion that it should not be deferred for more than one meeting.	No change.
38 (Deferral of consideration of Final Report)	INTA supports this recommendation and is of the view that the deferral per the request of one Council member apply only to the consideration of the final report, and that, as indicated in its comments on Recommendation 16, any deferral relating to the initiation of a PDP should need to be seconded.	INTA	Noted. The WT disagrees that the deferral needs to be seconded because this would dilute the ability of a Stakeholder Group to duly consider a proposed PDP recommendation. It is preferable to leave this issue to the Council to determine as appropriate under its operating rules and procedures.	No Change.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
39 (WG Recommendations)	Why is the WT concerned with the GNSO Council accepting some but not other recommendations? Isn't that what is expected from the GNSO Council? Suggested correction to last sentence of the recommendation: remove 'there'.	SVG	Noted. This issue was extensively considered by the WT prior to the publication of the Draft Final Report. Since the Council's role is to manage the process, and not to make policy, the GNSO Council should not be changing recommendations designated as "interdependent" by the WG without referring the issue back to the WG to consider.	No Change, except to remove "there" in the last sentence of the recommendation.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
39 (WG Recommendations)	INTA supports recommendation 39, but only if it is clarified that unanimity is not the ICANN policy standard, but rather consensus, even if it is only 'rough consensus' at times. Additionally, the recommendation should make clear that the GNSO Council can consult with the WG for their input whenever concerns or changes occur, but that the WGs input does not automatically govern. The GNSO Council should be able to consider the composition of WGs, including the level of representation in WGs and whether they may be either underrepresented or overrepresented, and any related lack of participation.	INTA	As outlined in the report, the GNSO Working Group Guidelines outline the standard methodology for decision-making, including designation of level of consensus. These guidelines also outline the procedures for addressing under- or overrepresentation. The WG does recommend that the decision-making methodology as prescribed by the GNSO Working Group Guidelines is used for a certain period of time 'following which its effectiveness and usability could be reviewed and assessed as part of the overall review of the new PDP'.	No change
39 (WG Recommendations)	CADNA supports this recommendation.	CADNA	Noted.	No Change.
40 (Board Report)	INTA supports this recommendation.	INTA	Noted.	No Change.
40 (Board Report)	CADNA agrees that all reports to the ICANN Board concerning a PDP should be publicly disclosed.		Noted.	No Change.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
41 (Voting Thresholds)	Whether or not the voting thresholds should be revised should not wait for the next GNSO review, the GNSO Council should remand this topic for further consideration by the WT with a short timeframe for a recommendation.	INTA	Noted and agreed. However, there has not been sufficient experience with the current voting thresholds to determine whether a change is warranted. The Council should revisit this in the future when it deems appropriate, perhaps during the next GNSO review cycle.	No change.
42 (Board Vote)	Preference for option 1, the 'narrow sense' interpretation: the Board cannot choose to ignore a GNSO Council vote as it sees fit.	SVG	Following further review and explanation of the staff memo on this issue (see	Modify provision 13 to make clear that this section and especially provision 13f relates to the rejection of GNSO recommendations and clarify that discussion between the Board and GNSO Council is desirable both when the Board rejects a GNSO
42 (Board Vote)	The RySG supports the 'narrow' interpretation of what 'act' means (the Board cannot declare a recommendation as a Consensus Policy under the applicable ICANN Contracts if that recommendation was not approved by the required GNSO voting threshold) and suggests that the Bylaws be modified to make it clear.	RySG	http://forum.icann.org/lists/gnso-ppsc-pdp/msg00628.html), the WT agreed that the current provision 13f should be seen in the context of when the Board is able to reject a GNSO recommendation (either as explained in 13b if the GNSO	

	Comment (Summary)	Who	WG Response	Recommended Action / Change
42 (Board Vote)	Provision 13f should be amended to make clear that, absent the appropriate voting threshold by the GNSO Council, the Board cannot act on its own to initiate policy, and that the matter should be remanded to the GNSO Council for further consideration or termination of the PDP if the Council so decides.	INTA	recommendation is adopted by a GNSO Supermajority or as explained in 13f if the GNSO recommendation was not adopted by a GNSO Supermajority). The WT noted that this provision does not provide the option for the board to adopt a recommendation that was not adequately supported by the GNSO as this whole section only relates to rejection of the Board of GNSO recommendations. The WT noted that the current placing of provision 13f is confusing and that it would make more sense to link it closer to provision 13 b, as in both instances the desired next steps would be further discussion with the GNSO as outlined in provisions 13 c, d and e.	supermajority recommendation or a GNSO recommendation that was not adopted by supermajority.

	Comment (Summary)	Who	WG Response	Recommended Action / Change
45 (Review of WG)	Guidelines for WG self-assessment should be developed and these should be included in the final PDP Manual.	INTA	Noted. The issue of group assessments are relevant to all GNSO Council chartered committees, working groups and drafting teams, and is not unique to those involved in PDPs. This issue should be referred to the new GNSO Council Standing Committee on Improvements Implementation after there is more experience with the new PDP process. The WT suggests that an assessment mechanism might explore whether the WG accomplished what it set out to do in the charter.	No change.
48 (Definition of Supermajority)	Proposal for rewording as current proposal is considered confusing: 'The WT recommends that the definition of a 'GNSO Supermajority vote' is redefined as 2/3 of the Council members of each house or 75% of one house and a majority of the other house'.	RySG	Noted. The WT agrees with the clarification so long as it does not change the substance of the threshold.	Change as suggested.
Overarching Issues				

	Comment (Summary)	Who	WG Response	Recommended Action / Change
Translation	The ALAC is satisfied that the WT has recognized the importance of translation to facilitate the participation of non-English speakers and supports the WT recommendations in this regard.	ALAC	Noted.	No Change.
Voting Thresholds	The WT should recommend something in relation to the voting thresholds, especially in relation to the 'low' voting threshold to request an Issue Report, and not put this back to the GNSO Council to deal with as part of its prioritization efforts.	SVG	The current voting thresholds to initiate a PDP were developed as part of a carefully crafted compromise that led to the recent GNSO restructuring. There is insufficient support within the WT to recommend a change and there is not enough data connected to this issue to justify a change at this time.	No Change.
Voting Thresholds	Further changes to the voting thresholds should simplify not add complexity to an already overly complex structure.	BC	Noted.	No Change.
PDP Manual				

	Comment (Summary)	Who	WG Response	Recommended Action / Change
5.9 PDP Outcomes and Processes	CADNA strongly recommends that the PDP Team be required to engage in the collection of information from outside advisors and experts but would like to see the addition of a provision that would ensure that those selected are of a neutral position.	CADNA	Noted. The WT notes that there are budgetary constraints involved with requiring the collection of information from experts. In addition, the WT does not agree that outside advisors should be neutral. A PDP WG may welcome the input of an expert even if it not neutral so long as the PDP WG is aware of the expert's viewpoint on the issue.	No Change.
5.11 Preparation of Final Report	CANA would like further information about how the comments will be evaluated and what would be required to deem them appropriate for inclusion. An additional report on how comments were considered should be required as well. CANDA also proposes that the Final Report be required to be posted for public comment as a [Draft] Final Report.	CADNA	The PDP WG is responsible for properly viewing and analyzing the public comments.	PDP WG should be required to use a public comment tool that notes the WG response to comments and recommended changes as a result.

Annex C – Public Comment Forum on the Final Report

A public comment forum was held on the Final Report, which ran from 9 June to 9 July 2011 (see <http://www.icann.org/en/public-comment/pdp-final-report-09jun11-en.htm>). A summary of the comments received can be found [here](#). In addition, the WT developed a public comment review tool to facilitate review and discussion of the comments received as well as providing an overview of how the different comments have been addressed in this report. You can review the public comment review tool [hereunder](#).

[To be inserted following completion of public comment review tool]

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Annex D - Background

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On 26 June 2008 the ICANN Board [approved a set of recommendations](#) designed to improve the effectiveness of the GNSO, including its policy activities, structure, operations, and communications. The [GNSO Improvements Report](#), approved by the Board, identified the following key objectives:

- Maximize the ability for all interested stakeholders to participate in the GNSO’s policy development processes;
- Ensure that recommendations can be developed on gTLD “consensus policies” for Board review and that the subject matter of “consensus policies” is clearly defined;
- Ensure that policy development processes are based on thoroughly-researched, well-scoped objectives, and are run in a predictable manner that yields results that can be implemented effectively;
- Align policy development more tightly with ICANN’s strategic and operations plans; and
- Improve communications and administrative support for GNSO objectives.

The Board emphasized the need to improve inclusiveness and representativeness in the GNSO’s work while increasing its effectiveness and efficiency. The following pertains to the PDP-WT’s mission:

Revising the PDP: The Policy Development Process (PDP) needs to be revised to make it more effective and responsive to ICANN’s needs. It should be brought in-line with the time and effort actually required to develop policy and made consistent with ICANN’s existing contracts (including, but not limited to, clarifying the appropriate scope of GNSO “consensus policy” development). While the procedure for developing “consensus policies” will need to continue to be established by the Bylaws as long as

required by ICANN’s contracts, the GNSO Council and Staff should propose new PDP rules for the Board’s consideration and approval that contain more flexibility. The new rules should emphasize the importance of the preparation that must be done before launch of a working group or other activity, such as public discussion, fact-finding, and expert research in order to properly define the scope, objective, and schedule for a specific policy development goal and the development of metrics for measuring success.

The charter of the PDP-WT is to develop and document a revised GNSO Policy Development Process that achieves the goals established by the ICANN Board. The PDP-WT, with staff assistance, will need to determine what changes to the bylaws will be required. New processes will need to be documented properly to ensure that the bylaws (and any related operational rules or procedures) are updated accurately. The revised PDP, after review and approval by the PPSC, GNSO Council, and ICANN Board, would replace the current PDP defined in Annex A of the ICANN bylaws.

This mandate arises not from a change in the mission or role of the GNSO, but from the accumulation of experience with the current PDP and the decisions that have been made by the ICANN Board concerning an organizational restructuring of the GNSO.

The PDP-WT’s mission is closely related to that of the parallel Working Group Work Team (WG-WT) also chartered by the PPSC. The charter of the WG-WT is to “[d]evelop a new GNSO Working Group Model that improves inclusiveness, improves effectiveness, and improves efficiency”. The two PPSC Work Teams are expected to work independently, but in consultation with each other.

For further details please visit [the GNSO Improvements Home Page](#).

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ANNEX E - Working Group Charter¹⁰

I. TEAM CHARTER/GOALS:

The GNSO Council's responsibility in recommending substantive policies relating to generic top-level domains is a critical part of ICANN's function. The mechanism by which the GNSO makes such recommendations to the ICANN Board of Directors is through the GNSO Policy Development Process (PDP) set forth in the ICANN Bylaws. The PDP Work Team is responsible for developing a new policy development process that incorporates a working group approach and makes it more effective and responsive to ICANN's policy development needs. The primary tasks are to develop:

1. Appropriate operating principles, rules and procedures applicable to a new policy development process; and
2. An implementation/transition plan.

Specifically, the GNSO Improvements Report approved by the ICANN Board recommended that a new PDP:

1. Be better aligned with the contractual requirements of ICANN's consensus policies as that term is used in its contracts with registries and registrars and clearly distinguishes the development of "consensus policies" from general policy advice the GNSO Council may wish to provide to the Board. In addition, the Bylaws should clarify that only a GNSO recommendation on a consensus policy can, depending on the breadth of support, be considered binding on the Board, unless it is rejected by a supermajority vote.

¹⁰ Updated following the adoption of resolution 20010428-2

2. Emphasize the importance of the work that must be done before launching a working group or other policy development activity, such as public discussion, fact-finding and expert research in order to define properly the scope, objective and schedule for a specific policy development goal.
3. Be more flexible than the current model, containing timelines that are consistent with the task.
4. Provide for periodic assessment to determine the effectiveness of revised rules, processes, and procedures on policy development work including self-reporting by each working group of any lessons learned, as well as input on metrics that could help measure the success of the policy recommendation. In addition the GNSO Council Chair should present an annual report to the ICANN community on the effectiveness of new GNSO policies using the metrics developed at the end of each PDP. The report should also contain a synthesis of lessons learned from policy development during the year with a view to establishing best practices. The report should be presented annually at an ICANN public meeting each year, and the material should be incorporated into the ICANN Annual Report prepared by Staff.
5. Better align the PDP process with ICANN's strategic plan and operations plan. The Council, constituencies and staff should publish an annual "policy development plan" for current and upcoming work, to better align resources with strategic objectives, and to create a stronger nexus between the work plan of the GNSO Council and the ICANN planning process. The plan should be linked to ICANN's overall strategic plan, but be sufficiently flexible to accommodate changes in priority determined by rapid evolution in the DNS marketplace and unexpected initiatives.
6. Contain rules, processes and procedures that are more effective and efficient and that meet consensus policy requirements as detailed further in the Report, to include specifying certain policy activities that should be done, including: research, consultation with constituencies, periods for public comment, timelines consistent with the complexity of the task, regular reporting to the Council as established in the scoping phase, and a final report and public comment period as in the current PDP.

The PDP Team shall work independently from, but in close consultation with, the Working Group Team of the Policy Process Steering Committee (PPSC). The Policy Development Process Team shall be responsible for making recommendations concerning the development of and transition to a new PDP for the GNSO Council's review.

ANNEX F - The Working Group

- Following the adoption of the charter by the GNSO Council, a call for volunteers was launched. The following individuals are part of the PDP-WT. Statements of Interests can be found [here](#).

NAME	AFFILIATION	Meetings Attended (Total # of meetings: 67)
Jeff Neuman (Chair)	RyC	62
James Bladel	Registrar	61
Paul Diaz	Registrar	56
Alan Greenberg	ALAC	53
Tatyana Khramtsova	Registrar	45
Wolf-Ulrich Knoblen	ISP	43
David Maher	RyC	42
Avri Doria	NCA/NCSG ¹¹	37
Alex Gakuru	NCUC	34
Marilyn Cade	Individual	17
Gabriel Pineiro	NCUC	9
Brian Winterfeldt	IPC	9
Mike Rodenbaugh	CBUC	8
Sophia Bekele	Individual	6
Bertrand de la Chapelle	Individual	4
Robin Gross ¹²	NCUC	3
John Berard ¹³	CBUC	3
Jean-Christophe Vignes	Registrar	3
Liz Williams ¹⁴	CBUC	2
Tony Harris	ISP	1
Cheryl Langdon-Orr	ALAC (Alternate)	1

¹¹ NCA until 26 Oct 09, NCSG after

¹² Joined WT in September 2010

¹³ Joined WT in January 2011

¹⁴ Resigned from WT in January 2011

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Zbynek Loebel	IPC	1
Kristina Rosette	IPC	1
Jaime Wagner ¹⁵	ISP	1
J. Scott Evans (Observer)	IPC	0
Antonio Tavares	ISP	0

To view the attendance sheet, please click [here](#).

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¹⁵ Resigned from WT June 2009

Annex G – The Recommendations

Stage 1 – Planning and Request for an Issues Report

Recommendation 1. Who can request an Issue Report (B)

- Although a request for a GNSO Issues Report has never been issued directly by the ICANN Board, or any Advisory Committee (other than the At-Large Advisory Committee), the PDP-WT recommends that the current three mechanisms for initiating a request for an Issue Report (Board request, Advisory Committee Request or GNSO Council Member Request) should be maintained.

Recommendation 2. Definition of ‘Raising an Issue’ and ‘Initiating a PDP’ (B)

- The current language in Annex A of the Bylaws contains several references to the term “PDP” which over the years have been the source of confusion. The phrase “initiating a PDP” is currently used to refer to initiating an issue report, for example, and is also used to refer to the process of formally establishing Task Forces or working groups. Therefore, the PDP-WT has distinguished the two concepts into (1) Raising an Issue and (2) Initiating a PDP. The PDP-WT has recommended clarification of this language in the Bylaws and whenever such terms are used by the community.

Recommendation 3. Development of a Policy Development Manual (M)

- The PDP-WT recommends the development of a Policy Development Process Manual, which will constitute an integral part of the GNSO Operating Rules, intended to provide guidance and suggestions to the GNSO and ICANN communities on the overall PDP process, including those steps that could assist the community, working group members, and Councillors in gathering evidence and obtaining sufficient information to facilitate an effective and informed policy development process.

Recommendation 4. **Request for an Issue Report Template (M)**

- The PDP-WT recommends that a 'request for an Issue Report' template should be developed including items such as: definition of issue; identification and quantification of problems, to the extent feasible; supporting evidence; economic impact(s); effect(s) on competition and consumer trust and privacy and other rights, and; rationale for policy development. Any request for an Issue Report, either by completing the template included in the PDP Manual or in another form, must include at a minimum: the name of the requestor and the definition of the issue. The submission of any additional information, such as the identification and quantification of problems, and other as outlined for example in the template, is strongly encouraged, but not required.

Recommendation 5. **Issue Scoping (M)**

- The PDP-WT recommends adopting the proposed Policy Development Process Manual, to provide guidance and suggestions to those parties raising an issue on which steps could be considered helpful in gathering evidence and obtaining sufficient information to facilitate an effective and informed policy development process.

Recommendation 6. **Creation of an Issue Report (B/M)**

- The PDP-WT recommends that the currently required elements of an Issue Report¹⁶ continue to be required for all future PDPs. However the PDP-WT recommends that only certain of the elements be identified in Annex A of the Bylaws and others in the PDP Manual. More specifically, the Bylaws should continue to require elements a (the proposed issue raised for consideration), b (the identity of the party submitting the issue) and c (how that party is affected by the issue), while elements d (support for the issue to initiate the PDP) and e (recommendation from the Staff Manager) should be added to the PDP Manual. In addition, the PDP-WT notes that element e (recommendation from the Staff Manager)

¹⁶ See provision 2 of Annex A of the ICANN Bylaws

should be split in two parts; the first part dealing with the question of whether a PDP is considered “in scope” (see recommendation 22 for the definition of “in scope”) and the second part addressing whether the PDP should be initiated. Although currently included as one element in the ICANN Bylaws, the reality is that these two elements should be treated separately. The WT also notes that it would be appropriate to change ‘Staff Manager’ to ‘ICANN Staff’ in this context. Furthermore, the PDP-WT recommends including in the PDP Manual a recommendation for the entity requesting an Issue Report to indicate whether there are any additional items it would like to have addressed in the Issue Report. This in turn which could then be taken into consideration by the Staff Manager and/or Council when reviewing the request for an Issue Report. In addition, the PDP Manual should allow for ICANN Staff or the Council to request additional research, discussion, or outreach to be conducted as part of the development of the Issue Report.

Recommendation 7. **Outcomes of a PDP (M)**

- The PDP-WT recommends better information and communication with Working Group members on the potential outcomes of a policy development process. There are more potential outcomes of the PDP process than just the formation of “consensus policies” as defined under the applicable gTLD Registry and Registrar agreements. Acceptable outcomes also include the development of best practices, recommendations to other supporting organizations, recommendations that no changes are necessary, recommendations for future policy development, recommendations for additional research or study, etc. If known in advance, this information could be included in the Charter of a Working Group or in the Council’s instructions to a WG. The PDP Manual should clearly advise the Council and Working Group members of these other potential outcomes.

Recommendation 8. **Scope – General Counsel’s opinion (B/M)**

- The PDP-WT recommends retaining the requirement for obtaining the opinion of the ICANN General Counsel’s office in the Issues Report as to whether a proposed PDP is within the scope of the GNSO. Further details regarding the opinion of counsel are expected to be

included in the PDP Manual as opposed to the Bylaws. For more clarification of the meaning of “in scope” please see Recommendation 22 below.

Recommendation 9. Role of ICANN Staff (M)

- The PDP-WT recommends that additional guidance on the different roles ICANN staff can perform, as outlined in the GNSO Working Group Guidelines, is to be included in the PDP Manual.

Recommendation 10. Timeframe for delivery of Preliminary Issue Report (B)

- The PDP-WT recommends the modification of timeframes included in clause 1 – Creation of an Issue Report in Annex A in relation to the development and delivery of an issues report as follows:
Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a resolution from the GNSO Council; or (iii) a duly supported request from an Advisory Committee, the Staff Manager will create a report (a “Preliminary Issue Report”). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report, which request should be discussed with the Requestor.

Recommendation 11. Mandatory Public comment period on Preliminary Issue Report (B)

- The PDP-WT recommends that that there is a mandatory public comment period that follows the publication of a Preliminary Issue Report and before the GNSO Council is asked to consider the initiation of a PDP. Such a Public Comment period would, among other things, allow for additional information that may be missing from the Preliminary Issue Report, or the correction or updating of any information in the Preliminary Issue Report. In addition, this would allow for members of the ICANN Community to express their views to the Council on whether or not to initiate a PDP. Depending on the comments received, ICANN staff would include public inputs and any necessary corrections to the Preliminary Issue Report turning it into the Final Issue Report and/or summarize the comments received

for Council consideration. If no comments are received on the Preliminary Issue Report, the content of the Final Issue Report should be substantially similar to the Preliminary Issue Report.

Recommendation 12. Role of workshops prior to initiating a PDP (M)

- The PDP-WT recognizes the value of workshops on substantive issues prior to the initiation of a PDP. It is therefore recommending that information on the potential role of workshops and information gathering events be provided in the PDP Manual. In addition, the PDP-WT recommends that the GNSO Council should consider requiring such a workshop, on-line or face-to-face, on a specific issue during the planning and initiation phase for a specific issue, when deemed appropriate. The PDP-WT does not recommend mandating the use of workshops prior to initiating a PDP. Furthermore, the PDP-WT recommends that, if a workshop is held, invitations and/or announcements for workshops are communicated as broadly as possible.

Recommendation 13. Consideration of Resources (M)

- The PDP-WT believes that the GNSO Council should take into full account the resources available, both volunteers from the community as well as ICANN staff, when making its decision on whether or not to initiate a PDP.

Recommendation 14. No fast-track procedure (B/M)

- The PDP-WT discussed the notion of a fast-track procedure extensively but did not come to agreement on whether such a process is truly needed, and if so, what such a fast-track procedure might look like. The PDP-WT recommends that the GNSO re-evaluates the need for a fast-track procedure in due time as part of the review of the new PDP, as it is of the view that the new PDP will offer additional flexibility and would allow for 'faster' PDPs provided that the necessary resources are available without the need for a formal 'fast track' process.

Stage 2 - GNSO Council Review of the Issues Report and Initiation of the Policy Development Process

Recommendation 15. Timeframes for Initiation of a PDP (M)

- The PDP-WT recommends modifying the timeframes currently included in clause 3 of Annex A – “Initiation of a PDP” to reflect current practice and experience. In addition, it proposed to add language to codify the current practice that any Council members may request the deferral of the consideration of an initiation of a PDP for one Council meeting.

Recommendation 16. Flexibility (M)

- The PDP-WT recommends that further guidance be included in the PDP Manual on how to deal with situations where further flexibility is required e.g. additional research, ensuring that the Council provides clear indications on expected timing of next steps.

Recommendation 17. Appeals mechanism for Advisory Committees (M)

- The PDP-WT recommends that if the GNSO Council votes to not initiate a PDP following an Issue Report requested by an Advisory Committee (AC), the AC or its representatives should have the opportunity to meet with representatives of the GNSO to discuss the rationale for the rejection and why the AC feels that reconsideration is appropriate¹⁷. Following this meeting, the AC may submit a statement to the GNSO Council requesting a re-vote on the initiation of a PDP and giving its rationale for such a request. This process may be followed just once for any given Issue Report.

Recommendation 18. Chartering of a Working Group (M)

- The PDP-WT recommends updating clause 7 of Annex A of the ICANN Bylaws to reflect that a charter is required for all Working Groups, and to specify the voting threshold that should

¹⁷ In particular those meeting with the AC should include members of the GNSO Council that voted against the initiation of the PDP.

apply to the adoption of the working group charter which is identical to the one that applies to the initiation of the PDP. Any modifications to a Working Group Charter made after adoption by the GNSO Council of such Charter, however, may be adopted by a majority vote of the GNSO Council (as such term is currently defined in article X, section 3 of the ICANN Bylaws).

Recommendation 19. Link to new PDP in GNSO Working Group Guidelines (M)

- The PDP-WT recommends that a link to the new Annex A and the PDP Manual, once finalized and approved, are included in the GNSO Working Group Guidelines, as these two documents provide an overview of the requirements for PDP WGs.

Recommendation 20. Input from SOs and ACs (M)

- The PDP-WT recommends that further explanation on how to involve Advisory Committees or Supporting Organisations in a PDP be included as part of the PDP Manual. Much of this will involve the codification of existing practice. It is the belief of the PDP-WT that input from other SOs and ACs must be sought and treated with the same due diligence as other comments and input processes. In addition, comments from ACs and SOs should receive a response from the WG. This may include, for example, direct reference in the applicable Report or embedded in other responsive documentation or a direct response. The PDP WG is expected to detail in its report how input was sought from ACs and SOs and how, if input was received, such input has been considered.

Recommendation 21. Optional public comment period after the initiation of a PDP (M)

- Taking into account the required public comment period on the Preliminary Issue Report (see recommendation 11), the PDP WT considers it no longer necessary to require a public comment period on the initiation of a PDP. However, a WG may, at its discretion, decide to conduct a public comment period at the start of their deliberations to obtain input on issues raised in the Charter.

Recommendation 22. **Clarification of 'in scope' (B)**

- The PDP-WT recommends modifying clause 3 – Initiation of a PDP to clarify that within scope means 'within scope of ICANN's mission and more specifically the role of the GNSO' as opposed to within scope of the contracted parties' definition of "consensus policies"¹⁸. Furthermore, the PDP-WT recommends that issues raised should be mapable against specific provisions in the ICANN Bylaws, the Affirmation of Commitments and/or ICANN's Articles of Incorporation. This information should be included in the request for an Issue Report¹⁹ and should be added as a category in the Issue Report request template.

Stage 3 – Working Group

Recommendation 23. **Mode of operation for a PDP (M)**

- The PDP-WT recommends that even though a Working Group currently forms the basic mode of operation for a PDP, there should be flexibility to accommodate different working methods if deemed appropriate by the GNSO Council, in accordance with the GNSO Operating Rules. For example, in the past use has been made of "Task Forces" as well as a "Committee of the Whole". Any new working methods or groups must contain each of the mandatory elements set forth in the ICANN Bylaws and PDP Manual.

Recommendation 24. **Information for PDP Working Groups (M)**

- The PDP-WT recommends that each PDP WG will be strongly encouraged to review and become familiar with the GNSO Working Group Guidelines and the PDP Manual (once

¹⁸ See for example section 3.3.4 of the Registrar Accreditation Agreement (<http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm>) or section 3.1 b of the .com Registry agreement (see <http://www.icann.org/en/tlds/agreements/verisign/registry-agmt-com-22sep10.htm>).

¹⁹ The WT notes that the ICANN Office of the General Counsel opines formally on the scope as part of the Issue Report.

published), which includes further information and guidance on the functioning of GNSO Working Groups.

Recommendation 25. Communication with different ICANN Departments (M)

- The PDP-WT recommends that further guidance should be included in the PDP Manual on the mechanisms and protocols for Working Groups to communicate with different ICANN departments. It may be necessary for PDP Working Groups to consult with the General Counsel's office, Compliance, Operations, Finance, etc. The PDP-WT recommends that ICANN policy staff serve as the official intermediaries between a Working Group and the various ICANN departments, provided that a procedure is in place which allows for escalation via the WG Chair if the WG is of the opinion that communication is hindered through the involvement of ICANN policy staff.

Recommendation 26. Alignment with ICANN's Strategic Plan (M)

- The PDP-WT recommends that the initiation of a PDP may include consideration of how ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

Recommendation 27. Duration of Public Comment Periods (B/M)

- The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to change the duration of the public comment period on the Initial Report from 20 days to a minimum of thirty calendar days. This same minimum should also apply to the public comment period on the Preliminary Issue Report, while other public comment periods that a WG / GNSO Council opt to have as part of a PDP should have a minimum duration of 21 days. The minimum durations for the Preliminary Issue Report and Initial Report should be included in the ICANN Bylaws while the minimum requirement of 21 days for other public comment periods should be included in the PDP Manual. Further guidance on the recommended duration, for example taking into account overlap with ICANN meetings, should be included in the PDP Manual.

Recommendation 28. Summary and Analysis of Public Comments (M)

- The PDP-WT recommends modifying clause 9 of Annex A of the ICANN Bylaws to reflect the current practice that a summary and analysis of the public comments received is to be provided by the staff manager to the Working Group. Such a summary and analysis of the public comments should be provided at the latest 30 days after the closing of the public comment period, absent exigent circumstances. The Working Group shall review and take into consideration the public comments received.

Recommendation 29. Guidance on Public Comment Periods (M)

- The PDP-WT recommends providing further guidance in the PDP Manual on how to conduct public comment periods and review public comments received. Such guidance should include the expectation that public comments are carefully considered and analyzed by the WG; encouraging WGs to explain their rationale for agreeing or disagreeing with the comments received and, if appropriate, how these will be addressed in the report of the WG, and; other means to solicit input than the traditional public comment forums such as surveys.

Recommendation 30. Implementation, Impact and Feasibility (M)

- The PDP-WT recommends that PDP WGs be required to provide input on issues related to implementation on all policy recommendations. This input could include a discussion of the impacts of the policy, both positive and negative, including but not limited to economic, competition, operations, privacy and other rights, scalability and feasibility. When appropriate the following should be considered:
 - Recommend the inclusion of implementation guidelines as part of the Final Report;
 - Consultation with the WG / Council on the draft implementation plan;

- The creation of an implementation team that consists of representatives of the WG, amongst others, which would be tasked to review / provide input during the implementation phase

All reports should include a statement on the WG discussion concerning impact of the proposed recommendations, which could consider areas as noted above. Further guidance on this issue is to be included in the PDP Manual.

Recommendation 31. ICANN Staff Resources (M)

- The PDP-WT recommends that staff resources needed or expected in order to implement the policy recommendations should be evaluated as part of the WG recommendations, and as part of the Council's review of those recommendations. This could be included as part of the feasibility analysis and/or impact statement (see also recommendation 30).

Recommendation 32. Stakeholder Group and Constituency Statements (M)

- The PDP-WT recommends amending clause 7 of Annex A of the ICANN Bylaws to reflect the practice that Stakeholder Group / Constituency statements are requested by the Working Group and the timeline for submission should start from that point instead of the initiation of the PDP. It should be noted in the PDP Manual that a WG can request Stakeholder Group / Constituency statements more than once if so desired.

Recommendation 33. Mandatory Working Group Output (B)

- The PDP-WT recommends that PDP Working Groups continue to be required to produce at least an Initial Report and a Final Report, noting that additional outputs can be produced if desirable.

Recommendation 34. Initial Report vs. Final Report (B)

- The PDP-WT does note that the description of the difference between an Initial Report and a Final Report as currently described in the Bylaws is not in line with actual practice, and recommends that this language is updated to reflect that an Initial Report may reflect the

initial ideas of a WG which are then finalized, in combination with review and analysis of the public comment period in the second phase leading to the Final Report.

Recommendation 35. Mandatory Public Comment Period on Initial Report (B)

- The PDP-WT recommends that a public comment period on the Initial Report remains mandatory. Additional guidance on further optional public comment periods, e.g. when there are substantial differences between the Initial Report and Final Report are to be included as part of the PDP Manual.

Recommendation 36. Termination of a PDP prior to publication of a Final Report (M)

- The PDP recommends that a provision be added to the PDP Manual to allow for the termination of a PDP prior to the publication of a Final Report if the GNSO Council finds significant cause and passes a motion with a Supermajority vote, as defined in the ICANN Bylaws, in favour of termination.

Stage 4 – Voting and Implementation

Recommendation 37. Timing of consideration of Final Report (M)

- The PDP-WT recommends modifying clause 10 – “Council Deliberations of Annex A” of the ICANN Bylaws to reflect current practice and requirements in the rules of procedure to consider a report if it is received at least eight (8) days in advance of a Council meeting, otherwise the report shall be considered at the next Council meeting. In addition, the PDP-WT recommends adding language to codify the current practice that any Council member can request the deferral of the consideration of a final report for one Council meeting.

Recommendation 38. Consideration of Working Group Recommendations (M)

- The PDP-WT recommends providing additional guidance to GNSO Council in the PDP Manual on how to treat Working Group recommendations, especially those that have not received full consensus and the expected / desired approach to adoption of some, but not all, or

rejection of recommendations. PDP WGs should be encouraged to indicate which, if any, recommendations are interdependent so the GNSO Council can take this into account as part of their deliberations. The Council should be cautious and is strongly discouraged from separating recommendations that the PDP WT has identified as interdependent. The PDP-WT would like to express its concern about the GNSO Council 'picking and choosing' or modifying recommendations, but recognizes that this is the Council's prerogative. The PDP-WT would like to encourage the GNSO Council that where it does have concerns or would propose changes to recommendations, it passes these concerns and/or recommendations for changes back to the respective PDP Working Group for their input.

Recommendation 39. GNSO Council Report to the Board (B/M)

- The PDP-WT recommends that all reports to the ICANN Board concerning a PDP should be publicly disclosed. In addition, it notes that the GNSO Council is responsible for the Board Report either as author of the report or by approving the report before it is sent to the Board. Board Reports on PDPs should be delivered from the GNSO Council directly to the Board and if any summaries or addenda are needed by request of the Board, those should be assembled by the GNSO council (upon consultation of the Working Group if necessary). If feasible, the Board Report should be delivered to the Board within 21 days following the adoption of the Final Report. The PDP-WT discussed at length the current practice of ICANN Policy Staff submitting a separate report to the Board, which is not disclosed to the community and is drafted without the aid of the Council or applicable PDP Working Group. The PDP-WT unanimously believes that these reports should not be kept confidential. If ICANN Policy Staff would like to submit a separate report related to a PDP to the Board or is requested to do so, it should be done in an open and transparent matter and disclosed to the community at the same time it is delivered to the Board. The PDP-WT notes that there might be cases where certain confidential information cannot be publicly disclosed due to its privileged nature. Nevertheless, even in those circumstances, as much information as possible, without disclosing business confidential information, must be

provided. This may include a description by ICANN Staff of the general nature of such information and the rationale for its non-disclosure.

Recommendation 40. Voting Thresholds (B/M)

- The PDP-WT discussed whether the voting thresholds currently in place might need to be reviewed (see also overarching issues) but agrees that this issue should be addressed by the GNSO when deemed appropriate and/or necessary. The WT does note that it has proposed two new voting thresholds in relation to the adoption of the WG Charter (see recommendation 18), as well as a new voting threshold for the termination of a PDP (see recommendation 36), and the definition of “Supermajority Vote” (see recommendation 47).

Recommendation 41. Board Vote (B)

- The PDP-WT recommends that the provisions in relation to the Board Vote in the ICANN Bylaws remain essentially unchanged, but recognizes that the current provision 13f²⁰ is not clear especially in relation to what ‘act’ means. Following further review and clarification by ICANN Staff (see <http://forum.icann.org/lists/gnso-ppsc-pdp/docUUZkcHBh3A.doc>), the WT recognizes that provision 13f relates to when the Board can reject (‘act’) a GNSO recommendation, if the GNSO recommendation was not adopted by a GNSO Supermajority. The WT notes that the current placing of provision 13f is confusing and therefore recommends to clarify this section by linking provision 13f to 13b, and make it clear that in both instances the desired next steps would be further discussion with the GNSO Council as outlined in provisions 13 c, d and e. In addition, an explanation needs to be added in the PDP Manual to clarify that all recommendations, including those not recommending new or changes to Consensus Policies, should be communicated to the Board.

Recommendation 42. Implementation Review Team (M)

²⁰ From the ICANN Bylaws – 13 Board Vote f. In any case in which the Council is not able to reach GNSO Supermajority vote, a majority vote of the Board will be sufficient to act.

- The PDP-WT recommends the use of WG Implementation Review Teams, when deemed appropriate, which would be responsible in dealing with implementation issues. A PDP WG should provide recommendations for whether a WG Implementation Review Team should be established and any other recommendations deemed appropriate in relation to such a Review Team (e.g. composition) as part of its Final Report. ICANN Staff should inform the GNSO of its proposed implementation of a new GNSO recommended policy. If the proposed implementation is considered inconsistent with the GNSO Council's recommendations, the GNSO Council may notify the Board and request that the Board review the proposed implementation. (see also recommendation 31)

Stage 5 – Policy Effectiveness and Compliance

Recommendation 43. Periodic Assessment of PDP Recommendations / Policy (M)

- The PDP-WT notes that a periodic assessment of PDP recommendations and/or policy is important. WGs should be encouraged to include proposed timing, assessment tools and metrics for review as part of their Final Report.

Recommendation 44. GNSO Council Review of the PDP Working Group (M)

- The PDP Work Team notes that several documents, including the PPSC-WG WT and the WG Guidelines, reference a "Working Group Self-Assessment," which all WGs are encouraged to conduct. The Work Team believes that this could be a valuable exercise, and encourages PDP WGs to complete a candid and objective self-assessment at the conclusion of their work. However, the Work Team also notes that there are no ICANN guidelines and recommends that the GNSO develops such guidelines after some experience is gained in WG self-assessments.

Recommendation 45. Periodic Assessment of the overall PDP Process (M)

- The PDP-WT notes that the periodic assessment of the overall PDP process is important, noting that a certain threshold of completed PDPs should be met before an overall review is

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carried out. The WT does not have a specific view on whether the PPSC or a new Standing Committee should be responsible for such a periodic assessment.

Recommendation 46. **Review of the Working Group Model (M)**

- The PDP-WT recommends that such an overall review also includes the review of the Working Group Model in the context of the PDP, which should assess whether there are stages in the PDP that are more suitable for Working Groups and those that might be more suitable for formal advice from Stakeholder Groups and Constituencies.

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Other

Recommendation 47. **Definition of GNSO Supermajority (B)**

- The WT recommends that the definition of a 'GNSO Supermajority vote' be redefined in the ICANN Bylaws as 2/3 of the Council members of each house or 3/4 of one House and a majority of the other house.

Specifically, Section 3.9(c) of Article X, should be modified from:

"c. Initiate a PDP Not Within Scope: requires an affirmative vote of more than 3/4 of one House and a majority of the other House ("GNSO Supermajority");

to:

"c. Initiate a PDP Not Within Scope: requires an affirmative vote of a GNSO Supermajority."

And a new stand-alone definition of GNSO Supermajority should be included at the end of Section 3.9 as follows:

"3.9 g. A "GNSO Supermajority" shall mean: (a) two-thirds (2/3) of the Council members of each House, or (b) three-fourths (3/4) of one House and a majority of the other House."

In addition, the WT recommends the consistent use of either percentage or fraction when referring to voting thresholds, and has opted for using fraction in the context of the PDP voting thresholds.

Recommendation 48. **Simplify Section 3.9 of Article X (B)**

- In the last sentence of section 3.9 Article X of the ICANN Bylaws, it should be sufficient to say 'the GNSO Supermajority vote threshold will have to be met or exceeded' as the clause 'with respect to any contracting party affected by such contract provision' is irrelevant. As a result, the WT recommends that this provision is updated accordingly.