

At-Large GNSO Policy & Implementation Initial Recommendations Report Workspace

Comment Close Date	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
17.03.2015	GNSO Policy & Implementation Initial Recommendations Report	ADOPTED 13Y, 0N, 0A	Holly Raiche	03.03.2015	10.03.2015 23:59 UTC	14.03.2015 14:00 UTC	17.03.2015 20:00 UTC	17.03.2015	Marika Konings policy-staff@icann.org	AL-ALAC-ST-0315-03-00-EN

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Brief Overview

Mainly as a result of discussions stemming from implementation related issues of the new generic Top-Level Domain (gTLD) program, there has been an increased focus on which topics call for policy and which call for implementation work, including which processes should be used, at what time and how issues which are the subject of diverging opinions during the implementation process should be acted upon. Following several discussions, including the publication of a staff discussion paper and a community session during the ICANN meeting in Beijing in April 2013, the Generic Names Supporting Organization (GNSO) Council decided in July 2013 to form a Working Group (WG) which was tasked to provide the GNSO Council with a set of recommendations on a number of questions that specifically relate to policy and implementation in a GNSO context.

Comment Period: 19 Jan 2015 23:59 UTC - 3 Mar 2015 23:59 UTC

Section I: Description, Explanation, and Purpose

As can be deduced from the materials presented in the Initial Recommendations Report, the mailing list archives, numerous conferences calls and extensive deliberations, the WG has made best efforts to consider all relevant materials and viewpoints while reviewing the charter questions. As such, the WG is of the view that the materials contained in the report as well as its recommendations will enhance, clarify, standardise and increase the transparency of all GNSOpolicy as well as implementation related processes and activities. Nevertheless, the WG is conscious that it may have overlooked certain aspects or may need to give further consideration to certain aspects of its recommendations. As such, the WG welcomes input on any of the aspects of this report, which may be submitted to the public comment forum by using the following template (<http://gnso.icann.org/en/issues/policy-implementation/pi-wg-initial-recommendations-input-tool-19jan15-en.doc> [DOC, 64 KB]) or in response to the survey (<https://www.surveymonkey.com/s/PI-InitialReport>) that the WG has developed to facilitate community input.

In short, the WG is putting forward the following preliminary recommendations for community consideration:

- In response to charter question 1 (recommendations concerning a set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures), the WG recommends adhering to the principles outlined in section 4 of the Initial Recommendations Report when policy or implementation related issues arise in the implementation phase (**Preliminary Recommendation #1**).
- The WG proposes three new standardized processes for GNSO deliberations (**Preliminary Recommendation #2**) regarding such issues as also outlined in the high level overview in Annex B (Recommendation #2), namely:
 - **GNSO Input Process (GIP)** – to be used for those instances for which the GNSOCouncil intends to provide non-binding advice, which is expected to typically concern topics that are not gTLD specific and for which no policy recommendations have been developed to date. "Non-binding advice" means advice that has no binding force on the party it is provided to. For example, this process could be used to provide input on the ICANN Strategic Plan or recommendations from an Accountability and Transparency Review Team. It is the expectation that such input would be treated in a similar manner as public comments are currently considered by the entity (e.g. Board, NPOC, or WG) to which the input is provided.
 - **GNSO Guidance Process (GGP)** – to be used in those instances for which the GNSO Council intends to provide binding guidance to the ICANN Board, but which is not expected to result in new contractual obligations for contracted parties. "Binding guidance" means advice that has a binding force on the ICANN Board to consider the guidance and it can only be rejected by a vote of more than two-thirds (2/3) of the Board, if the Board determines that such guidance is not in the best interests of the ICANN community or ICANN. It is expected that this would typically involve clarification of, or advice on existing gTLD policy recommendations. This could be in response to a specific request from the ICANN Board but could also be at the initiative of the GNSO Council to an issue that has been identified. For example, such a process could have been used in relation to the request from the ICANN Board to provide input on the .brand registry agreement, specification 13.
 - **GNSO Expedited Policy Development Process** – to be used in those instances in which the GNSO Council intends to develop recommendations that would result in new contractual obligations for contracted parties that meet the criteria for "consensus policies"¹ as well as the qualifying criteria to initiate an expedited PDP. Those qualifying criteria are (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible Policy Development Process (PDP) that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP.

The details of each of these processes can be found in Annex C (GNSO Input Process), Annex D (GNSO Guidance Process) and Annex E (GNSO Expedited Policy Development Process) of the Initial Recommendations Report. The WG recognizes that there may be certain elements that may need further consideration and as such requests input on a number of specific questions as outlined in section 5.

- In its deliberations on three implementation related charter questions, the WG reviewed the Consensus Policy Implementation Framework (CPIF) that has been developed by the ICANN Global Domains Division (GDD) to support predictability, accountability, transparency, and efficiency in the Consensus Policy implementation process (see Annex F of the Initial Recommendations Report) and identified a number of questions for further deliberation (see section 6). As a result of this, the WG recommends that the Policy Development Process Manual be modified to require the creation of an Implementation Review Team following the adoption of PDP recommendations by the ICANN Board, but allow the GNSO Council the flexibility to not create an IRT in exceptional circumstances (e.g. if another IRT is already in place that could deal with the PDP recommendations). (Preliminary Recommendation #3) and the adoption of the implementation review team principles as outlined in Annex H are followed as part of the creation as well as operation of IRTs (Preliminary Recommendation #4).

Following its review of the public input received, the WG intends to finalize its report for submission to the GNSO Council for its consideration.

¹ For further information about 'consensus policies', please see <http://gnso.icann.org/en/basics/consensus-policy/about>.

Section II: Background

Mainly as a result of discussions stemming from implementation related issues of the new gTLD program, there has been increased focus on which topics call for policy and which call for implementation work, including which processes should be used, at what time and how diverging opinions should be acted upon. Following several discussions by the GNSO on this topic, the GNSO Council formed a Working Group which has been tasked to provide concrete recommendations on how to address some of these issues from a GNSO perspective.

The WG started its deliberations in August 2013 and has been tasked to provide the GNSO Council with recommendations on:

1. A set of principles that would underpin any GNSO policy and implementation related discussions, taking into account existing GNSO Operating Procedures.
2. A process for developing gTLD policy, perhaps in the form of "Policy Guidance", including criteria for when it would be appropriate to use such a process (for developing policy other than "Consensus Policy") instead of a GNSO Policy Development Process;
3. A framework for implementation related discussions associated with GNSO Policy Recommendations;
4. Criteria to be used to determine when an action should be addressed by a policy process and when it should be considered implementation, and;
5. Further guidance on how GNSO Implementation Review Teams, as defined in the PDP Manual, are expected to function and operate.

The WG has now published its Initial Recommendations Report for public comment.

Section III: Relevant Resources

- [Policy & Implementation Initial Recommendations Report](#) [PDF, 1.46 MB]
- Policy & Implementation Initial Recommendations Report Survey – <https://www.surveymonkey.com/s/PI-InitialReport>
- [Policy & Implementation Initial Recommendations Report Public Comment Response Template](#) [DOC, 64 KB]
- Working Group workspace – <https://community.icann.org/x/y1V-Ag>

Section IV: Additional Information

N/A

Section V: Reports

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FINAL VERSION TO BE SUBMITTED IF RATIFIED

Please click [here](#) to download a copy of the pdf document below.

FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

REVISED - 14 March 2015, 19:20 UTC

The ALAC generally supports the proposed principles, particularly that it must be based on the ICANN Multistakeholder Model and that the policy development processes must function in a bottom up manner. We particularly support the recognition that implementation is an integral and continuing part of the policy process that should allow for ongoing dialogue and collaboration with all stakeholders particularly including users.

Our one concern is with the principles that apply to Policy and Implementation, specifically when new or additional policy issues are introduced in the implementation process. Those issues should rightly be referred back to the Chartering Organisation. But because those new issues may well include policy issues that involve public interest issues, resolution of the new issues must involve all impacted stakeholders, including those who can represent public interest aspects of the issue. [However, the ALAC does have concerns about the ability of the GNSO to effectively address such issues where the desired outcomes of contracted parties are in direct conflict with those that support the public interest and Internet users.](#)

For Proposed new additional GNSO processes - The ALAC generally supports the introduction of new processes that may be able to deal with some matters in a more appropriate way. However, in more complex implementation processes, reference of issues back to the GNSO may have the overall effect of creating a very long implementation period. We suggest, therefore, [stress](#) testing to better understand the effect of the changes, and that the changes should be reviewed within a reasonably short space of time to ensure they have achieved their goal of better, and potentially speedier, responses to issues.

FIRST DRAFT SUBMITTED

Background (NOT part of the Statement)

First please note, For this non-PDP process, there are two choices in how to respond. the first is by filling in a survey (a bit about who the responder is and whether they are responding on behalf of a group/organisation) and then a questionnaire with space provided for specific questions being asked. Specifically, they invite comments for working definitions, comments related to policy and implementation principles, comments relating to proposed additional new GNSO processes and then general comments. Alternatively, we can respond in the more traditional way through one statement. Alan has suggested the former process.

Their suggested principles include support for the multi-stakeholder model, for accountability, transparency etc - which we support. Principle 3 is new and important - quoting the reports;

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

The other important principle is that if new policies are introduced during the implementation process, the issues should be communicated to the relevant chartering organisation.

ALAC Statement on the GNSO Policy & Implementation Initial Recommendations Report

For definitions: no comment

For policy and implementation: The ALAC generally supports the proposed principles, and particularly the recognition that implementation is an integral and continuing part of the process that allows for ongoing dialogue and collaboration with all stakeholders particularly including users. However, if new or additional policy issues arise during implementation, it is not sufficient that the matter be referred back to the chartering organisation, the GNSO Council. The ALAC has very strong concerns with bringing new or additional issues, particularly those with potential impacts on public interest, back to the GNSO Council rather than the Board. It is not clear whether the GNSO can truly address issues where the public interest is a direct odds with contracts parties' interests. This would be particularly true if both contracted party SGs are opposed to an issue. At Board level, input from all SOs and ACs can be fully considered.

For Proposed new additional GNSO processes - The ALAC generally supports the introduction of new processes that may be able to deal with some matters in a more appropriate way. However, before the new processes are introduced the WG should stress test the various processes to ensure that, when implemented, the policy process does not become unworkable to deal with substantive policy issues in deciding which of the processes to use. Further, if the new processes are introduced, they should be reviewed within a reasonably short space of time to ensure they have achieved their goal of better, and potentially speedier, responses to issues.