Policy Status Report on the Policy & Implementation Recommendations

Status of This Document

This Policy Status Report has been drafted by the Global Domains and Strategy (GDS) and Generic Names Supporting Organization (GNSO) Policy Staff and published for Public Comment. Staff will review all comments and, based on the input received, make any necessary updates in order to forward the Final Policy Status Report to the GNSO Council for its consideration.

Preamble

A Policy Status Report (PSR) is intended to provide the GNSO Council with sufficient data and metrics to assess the impact of previously adopted and implemented recommendations. The PSR may serve as the basis for further review and/or revisions to the policy recommendations if deemed appropriate.
# Table of Contents

1 Executive Summary ........................................ 3
2 Background of the Policy & Implementation Recommendations .......... 4
3 Expedited Policy Development Process (EPDP) .......................... 6
4 The GNSO Guidance Process (GGP) .................................. 11
5 The GNSO Input Process (GIP) ........................................ 15
6 The Implementation Review Team (IRT) Principles & Guidelines .......... 17
7 The Consensus Policy Implementation Framework (CPIF) .................. 20
8 Next Steps .......................................................... 24
1 Executive Summary

This Policy Status Report (PSR) provides an overview of the Policy and Implementation Working Group Final Report (Final Report) to support the GNSO Council in its assessment of the effectiveness of its recommendations in achieving their intention of supporting and improving the effectiveness of GNSO Policy Development and Implementation processes. The PSR includes background on the Policy and Implementation Recommendations and their intended purpose, readily available data, staff observations and analysis, and performance against the stated objectives by the GNSO Council and the ICANN community. The PSR is intended to serve as input to the GNSO Council review of policy and implementation related efforts, notably in the assessment of the following GNSO processes introduced in light of the recommendations of the Final Report:

- The GNSO Expedited Policy Development Process (EPDP)
- The GNSO Guidance Process (GGP)
- The GNSO Input Process (GIP)
- The Implementation Review Team (IRT) Principles & Guidelines, as well as the requirement to form an IRT following the adoption by the ICANN Board of GNSO Policy recommendations
- The Consensus Policy Implementation Framework (CPIF)

The PSR finds that these processes have proved effective in supporting and enhancing GNSO Policy and Implementation efforts, but also identifies a number of caveats and possible improvements. The EPDP process is noted as an area for improvement with potential remedies, including improved community messaging. Similar improvements were suggested to the GGP process, such as revised timelines. Additionally, questions were raised about the value of the GIP, especially given its lack of use to date and the existence of alternative mechanisms. It is suggested that further research be conducted to explore data-driven opportunities to enhance the efficiency of the implementation process, while instances of overlap and duplication between the IRT Principles & Guidelines and CPIF are indicated. Finally, a regularly updated CPIF is recommended to allow incorporation of future GNSO-approved improvements, alongside an ICANN-org led study to provide data analysis on potential improvements to current structure and effectiveness of the CPIF.

This report will be published for Public Comment to allow for community input on additional information, or the correction or updating of any information provided so far. Following review of the public comments, the input received will be integrated into this report in order to provide additional insight for the GNSO for its consideration and potential action.
2 Background of the Policy & Implementation Recommendations

2.1 Background

As a result of discussions arising from implementation-related issues of the New Generic Top Level Domain (gTLD) program from 2008-2011, there was an increased focus within the ICANN community on defining topics which call for action on policy issues. This encompasses those which require policy implementation work, including which processes should be used, when they should be used, and how issues subject to 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 ICANN46 meeting in Beijing in April 2013, the 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 related to policy and implementation in a GNSO context.

After reviewing several policy and implementation topics that were addressed using ad-hoc processes, the WG concluded that defining these issues as either “policy” or “implementation” was not as important as developing standardized mechanisms for addressing such cases smoothly and efficiently regardless of characterization, especially in time-sensitive situations. The WG proposed three new standardized processes for GNSO deliberations on such issues, alongside a set of implementation related recommendations and principles, building on the Consensus Policy Implementation Framework developed by the ICANN Global Domains Division (GDD) team, now Global Domains and Strategy (GDS).

In June 2015, the GNSO Council adopted the Policy and Implementation Working Group Final Report (Final Report), followed by Board approval of the parts pertaining to the ICANN Bylaws in September 2015. The recommendations of the Policy & Implementation WG resulted in the introduction of a number of additional GNSO processes:

- The GNSO Expedited Policy Development Process (EPDP)
- The GNSO Guidance Process (GGP)
- The GNSO Input Process (GIP)
The [Implementation Review Team (IRT) Principles & Guidelines](https://gnso.icann.org/sites/default/files/file/field-file-attach/gnso-liaison-wg-28sep21-en.pdf), as well as the requirement to form an IRT following the adoption by the ICANN Board of GNSO Policy recommendations;


In addition to these new processes, the GNSO Council adopted a number of “policy and implementation principles/requirements” proposed by the WG. These were a set of overarching statements intended to reinforce GNSO policy and implementation related discussions, affirming that “Policy development processes must function in a bottom-up manner” and “adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability and due process consistent with ICANN’s core values”. The WG also sought to prescribe limits to the implementation process, suggesting the establishment of mechanisms to flag “unanticipated outcomes” with the potential to impact the community, as well as potential deviations between the implementation of policy and its original intent. This underlined an acknowledgement that “Policy and Implementation are not two separate phases entirely, but require continuous dialogue and communication between those that developed the policy… and those that are charged with operationalizing/implementing it.” As these principles and requirements were intended to codify the expected standards and behaviors to be followed throughout the Policy and Implementation lifecycle, and not intended to fulfill a distinct function to the new GNSO processes noted above, they have not been assessed separately in this report.

As part of the GNSO Council resolution, it was recommended that “a review of these recommendations is carried out at the latest five years following their implementation to assess whether the recommendations have achieved what they set out to do and/or whether any further enhancements or changes are needed”. This PSR is a first step in that review. Based on the information contained in this report, which will be updated taking into account public comments received, the Council will decide how to proceed.

The following sections provide an overview of each of the recommendations of the Policy & Implementation WG, their original objective/intent and use to date, as well as observations on their effectiveness and further issues identified by the staff support team as warranting further consideration. Through the public comment forum, commenters are encouraged to identify whether there are additional issues that require further consideration, as well as suggestions for how these issues could be addressed.

---

1 Linked to this is role of the GNSO Council liaison to the IRT (see [https://gnso.icann.org/sites/default/files/file/field-file-attach/gnso-liaison-wg-28sep21-en.pdf](https://gnso.icann.org/sites/default/files/file/field-file-attach/gnso-liaison-wg-28sep21-en.pdf)) that was developed at a later stage and flagged for further review as part of PDP 3.0. The liaison has been a valuable addition in helping to coordinate with the GNSO Council and for making determinations on escalation where necessary.
3 Expedited Policy Development Process (EPDP)

3.1 Objective / intent

The details of the Expedited Policy Development Process (EPDP) can be found in Annex F (Proposed Expedited Policy Development Process Manual) and Annex G (Proposed Expedited Policy Development Process Bylaw Provision) of the Final Report. The main difference between a PDP and an EPDP is that the initial phases of a PDP (request for an Issue Report, publication of preliminary Issue Report for public comment and submission of Final Issue Report) are not included in an EPDP. In addition, there are different voting thresholds associated with some of the steps in an EPDP compared to that of a PDP, for example, the initiation of an EPDP and adoption of a charter for an EPDP Team require a GNSO Supermajority.

As outlined in the Final Report of the Policy & Implementation WG, an EPDP is:

“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” 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 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 EPDP should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group did not like the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available”.

A primary reason for exploring the concept of an expedited EPDP was a desire to determine if and how the overall time frame for policy development could be reduced, while ensuring that the existing checks and balances would remain in place. The WG concluded that apart from mechanisms such as scoping, a focused charter and face to face time, there were no specific steps in the WG element of the PDP that could be removed or reduced if due diligence, transparency, and accountability were to be maintained. The only area in which the WG identified an opportunity to expedite the

---

2 For further information about ‘consensus policies’, please see http://gnso.icann.org/en/basics/consensus-policy/about.
process concerned those cases where an Issue Report did not seem necessary because the issue had already been sufficiently explored through other efforts or initiatives. This resulted in the recommendations for an Expedited Policy Development Process for which Annex I of the Final Report (Estimated Timelines For New Processes (In Days), estimated that by removing the initial phases of a PDP (Request for an Issue Report, Preliminary Issue Report and Submission of a Final Issue Report), the overall timeline to deliver a Final Report to the GNSO Council could be halved.

3.2 Use to Date

The EPDP was implemented by means of Annex A-1 of the ICANN Bylaws and Annex 2 of the GNSO Operating Procedures. To date, a majority of the EPDPs carried out have, in the case of the EPDPs on the Temporary Specification for gTLD Registration Data and Internationalized Domain Names, involved multiple phases and tended to be large in scope.

3.2.1 EPDP on the Temporary Specification for gTLD Registration Data – Phase 1, Phase 2 and Phase 2a

The EPDP was used for the first time following the adoption by the ICANN Board of the Temporary Specification for gTLD Registration Data in May 2018. The adoption of a Temporary Specification triggered a one-year period to confirm or modify the Temporary Specification into a Consensus Policy.

The EPDP Charter was developed by a drafting team with the initiation request adopted by the GNSO Council on 18 July 2018. Section “d” of the initiation request outlines how the criteria for an EPDP had been met. Noting the short timeframe under which the EPDP was expected to act, a number of additional enhancements specific to this project were introduced. These include a representative membership model, more frequent and longer calls, legal advice, external facilitation support, face-to-face meetings, and a Statement of Participation. The EPDP team delivered its Final Report on 20 February 2019, 217 days after its initiation.

The EPDP charter anticipated that work on a System for Accredited Access to Non-Public Registration Data would take place after the EPDP Team’s recommendations on issues relating to the Temporary Specification for gTLD Registration Data. This resulted in Phase 2 of the EPDP Team’s work. The Phase 2 deliberations commenced on 2 May 2019, with the Final Report being delivered on 31 July 2020, 456 days after it started.

The EPDP Team was subsequently reconvened by the GNSO Council to continue to work on a number of remaining items that were not covered as part of the earlier phases in the form of Phase 2a. The EPDP team delivered its Final Report in 327 days.
3.2.2 EPDP for Specific Curative Rights Protections for IGOs

On 19 August 2021, the GNSO Council resolved to initiate the EPDP for Specific Curative Rights Protections for IGOs and adopted its charter. The GNSO Council initiated this work to consider "whether an appropriate policy solution can be developed that is generally consistent with the first four recommendations from the GNSO's IGO-INGO Access to Curative Rights PDP and:

1. Accounts for the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances;
2. Does not affect the right and ability of registrants to file judicial proceedings in a court of competent jurisdiction;
3. Preserves registrants' rights to judicial review of an initial [Uniform Domain Name Dispute Resolution Policy or Uniform Rapid Suspension decision;]
4. Recognizes that the existence and scope of IGO jurisdictional immunity in any particular situation is a legal issue to be determined by a court of competent jurisdiction."

The EPDP WG published its Initial Report on 14 September 2021. Following a period of public comment the WG submitted its Final Report to the GNSO Council on 4 April 2022. The Final Report, which made several recommendations to improve an IGO's ability to protect its name and related trademark, was adopted by the GNSO Council on 21 July 2022.

3.2.3 Internationalized Domain Names EPDP

On 20 May 2021, the GNSO Council passed a resolution to initiate the EPDP on Internationalized Domain Names (IDNs) and adopted its charter. The EPDP Team was tasked with providing the GNSO Council with policy recommendations on: 1) the definition of gTLDs and the management of variant labels; and 2) how the IDN Implementation Guidelines, which ICANN contracted parties are required to comply with, should be updated in the future. As explained in section D of the Initiation Request, the EPDP would be building on “the existing body of policy work, research, and analysis on the IDN subject”, meaning the Issue Report phase was deemed not necessary. A drafting team was responsible for developing the charter that was subsequently adopted by the GNSO Council.

The IDN EPDP published its Phase 1 Initial Report on 24 April 2023 and delivered its Phase 1 Final Report to the Council on 8 November 2023. In parallel, the team initiated deliberations on its Phase 2 Charter questions, completing preliminary deliberations during the EPDP team’s face-to-face working session in December 2023.
3.3 Observations on Effectiveness

The average number of days to deliver an Initial/Final Report for the PDPs in the table below was 1124 and 1829 days respectively, compared to an average of 284 and 438 days in the EPDPs undertaken to date. There are numerous factors that can impact on the overall duration of a policy development process, such as scoping, membership structure and face-to-face meetings. However, even after taking these variables into account, omitting the Issue Report phase, and in the case of the EPDP on Temporary Specification for gTLD Registration Data Phases 1-2a, adopting additional working practices outside standard EPDP working practices, does seem to have contributed to a shorter overall timeframe for the delivery of an Initial/Final Report to the GNSO Council.

<table>
<thead>
<tr>
<th>PDP/EPDP</th>
<th>Delivery of Initial Report (after initiation for EPDP / request for Issue Report for PDP) - days</th>
<th>Delivery of Final Report - days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Curative Rights PDP</td>
<td>1175</td>
<td>1710</td>
</tr>
<tr>
<td>SubPro PDP</td>
<td>1105</td>
<td>2035</td>
</tr>
<tr>
<td>Transfers PDP</td>
<td>727</td>
<td>N/A</td>
</tr>
<tr>
<td>RPM Phase 1 PDP</td>
<td>1490</td>
<td>1741</td>
</tr>
<tr>
<td>EPDP Phase 1</td>
<td>125</td>
<td>216</td>
</tr>
<tr>
<td>EPDP Phase 2</td>
<td>340</td>
<td>515</td>
</tr>
<tr>
<td>EPDP Phase 2a</td>
<td>225</td>
<td>327</td>
</tr>
<tr>
<td>IDN EPDP Phase 1</td>
<td>704</td>
<td>902</td>
</tr>
<tr>
<td>Curative Rights IGO EPDP</td>
<td>26</td>
<td>228</td>
</tr>
</tbody>
</table>

3.4 Potential Issues for Further Consideration

- A misconception has been reported within the community, in which the reference to “expedited” in the EPDP has been misunderstood to mean that the overall policy development process is expedited, with shorter or skipped steps throughout. In reality it is only the Issue Report phase that is eliminated from the process. This misunderstanding may have been perpetuated by variances in how EPDPs have been conducted. For instance, as noted in 3.2.1, the EPDP on the Temporary Specification for gTLD Registration Data adopted working practices and enhancements outside of the typical EPDP structure to further shorten the timeline. Future misconceptions could be remedied by promoting greater community awareness of the EPDP process and managing expectations around timescales.

- Further opportunities to streamline and/or expedite the process could be identified:
One such example might be the elimination of the early input requirement. Both the PDP and EPDP expect the EPDP team to solicit early input statements from stakeholder groups and constituencies, as well as other ICANN Advisory Committees and Supporting Organizations, during the early stages of an EPDP. This is not a requirement per the EPDP Manual, but it is a step present in most EPDPs. However, in those cases where a representative team model is used, the GNSO Council could consider explicitly instructing the EPDP team to forgo the early input requirement, given that representatives of the different groups are already expected to provide the views of their respective groups during the course of deliberations. The GNSO Council could make this clear in the charter and/or instructions provided to the team.

Another method to accelerate the EPDP process could be to incorporate certain expedited working actions and enhancements adopted by the EPDP Temporary Specification for gTLD Registration Data team. Examples include the representative membership model, more frequent face-to-face meetings, and a standardized set of working practices that could be deployed flexibly within an EPDP project.
4 The GNSO Guidance Process (GGP)

4.1 Objective / Intent

The GNSO Guidance Process follows all of the required steps for an EPDP. The primary difference is that GGP recommendations do not result in a new consensus policy and contractual obligations for contracted parties.

As outlined in the Final Report of the Policy & Implementation WG, the GNSO Guidance Process is:

“to be used in those instances for which the GNSO Council intends to provide guidance that is required to be considered by the ICANN Board, but which is not expected to result in new contractual obligations for contracted parties. Guidance developed through a GGP 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”.

The intent of the GGP was to affirm that should the GNSO develop guidance through a process which followed all the steps taken to develop policy recommendations, it would be expected that the ICANN Board follows this guidance. The only exception would be if, as in an EPDP, the ICANN Board determined that the guidance was not in the best interest of the ICANN community or ICANN.

4.2 Use to Date

4.2.1 Applicant Support GGP

The GGP was implemented by means of Annex A-2 of the ICANN Bylaws and Annex 5 of the GNSO Operating Procedures. The GNSO Council initiated the first GGP in August 2022, a process which has been part of the GNSO’s policy processes since September 2015. The GGP for Applicant Support started its deliberations in November 2022. According to the GGP Initiation Request (approved by the GNSO Council on 25 August 2022), the GGP for ASP was tasked with the following:
- Task 1: Review the 2011 Final Report of the Joint Applicant Support WG and the 2012 implementation of the Applicant Support program in detail, to serve as resources for other Applicant Support related questions/tasks.
- Task 2: Working with ICANN org staff as appropriate, identify experts with expertise to aid in tasks 3, 4, and 5.
- Task 3: Analyze the set of suggested metrics in Implementation Guidance 17.9 and propose which ones should be prioritized. The set of prioritized metrics is not limited to what is identified in 17.9.
- Task 4: Identify any other appropriate metrics and measures of success to help in identifying the necessary program elements and measuring program success after the fact. In identifying the suggested set of metrics, propose how data can be collected, how metrics can be measured, who can collect the data, as well as what represents success.
- Task 5: Consider, and to the extent feasible, suggest how the “outreach, education, business case development, and application evaluation” elements of the Applicant Support Program may be impacted by the identified metrics and measures of success. For example, based on the success metrics for Awareness and Education, this may impact the approach for performing outreach and education. To the extent feasible, suggest an approach to outreach, education, business case development, and application evaluation assistance.
- Task 6: Recommend a methodology for allocating financial support where there is inadequate funding for all qualified applicants.

The GGP for ASP tasks touched directly on SubPro Final Report Recommendation 17.3, and Implementation Guidelines 17.5, 17.8, 17.9, 17.10.

The GGP for ASP published its Initial Report on 25 July 2023. After the Public Comment Proceeding on the initial report (31 July - 11 September 2023), the Public Comment Summary Report was published on 24 September 2023. Following public comment review by the GGP for ASP working group, the Final Report was published on 8 December 2023. All of the GGP’s recommendations were adopted by the GNSO Council at its session on 21 December 2023. The GNSO Council Recommendations Report to the ICANN Board (on the adoption of the final Guidance Recommendations from the GGP Report) was approved to be sent to the Board by the GNSO Council on 18 January 2024.

4.3 Observations on Effectiveness

As outlined in 4.1, the primary aim of a GGP is to provide guidance that is required to be considered by the ICANN Board, but which is not expected to result in new contractual obligations for contracted parties. This would typically involve clarification or advice on existing gTLD policy recommendations. At this high level, the GGP has effectively provided clarification and advice on existing policy gTLD recommendations (in this case of SubPro Final Report Policy Recommendations), approved by the GNSO Council, and sent to the ICANN Board.
From a GDS perspective, the GGP has proved effective in meeting established requirements. The GGP for ASP WG completed its work within the timeline it set out during one of its first meetings on **19 December 2022**, where it defined December 2023 as the target date to deliver the final report to the GNSO Council. This community work is now pending Board review and adoption based on [Bylaws Annex A-2](#).

In Task 4, which included “[defining] what represents success [for the ASP]” (see p. 4 of the [GGP Initiation Request](#)), the GGP recommendations clearly defined a target number of supported applications (0.5% of all successfully delegated next round New gTLDs to be supported applications), and to this extent the objective and intent of the GGP could be seen to have been met. However, the WG added: “This should be considered a floor, not a ceiling, and ICANN should strive to exceed this minimum.” Setting a target number would have aided ICANN org to further define goals and metrics in the ASP.

Furthermore, in Task 6, “Recommend a methodology for allocating financial support where there is inadequate funding for all qualified applicants,” the GGP for ASP classified some issues as being out-of-scope. For example, the WG shied away from setting any figures on the minimum or maximum level of financial assistance to be provided, leaving this to be decided by ICANN org as part of its implementation activities. It should also be noted that this was the first GGP to occur, and it may have been a challenge for the WG to decide what level of guidance would be most effective. The WG was required to strike a balance between offering descriptive advice which would offer clarity of direction, enabling flexibility during implementation, and advising at a level that would not add to the SubPro Final Report outputs. Feedback from GGP for ASP WG members might be valuable in helping to evolve this process in the future.

### 4.4 Potential Issues for Further Consideration

- GDS considers the timeline for the GGP for ASP (one year, not including the time between the GGP for ASP initiation request in August 2022 and the start of the GGP for ASP in November 2022) to be longer than expected, as the intent was to provide implementation guidance in a short time. Had the GGP for ASP been able to complete its work more quickly (e.g., nine months or less) it would have been possible for ICANN to deliver a key dependency earlier in the implementation process. Specifically, Annex I of the GNSO Policy & Implementation Working Group Final Recommendations Report estimates 245 days between the Initiation of a GGP and the Council Vote on a given GGP’s Final Report. However, the GGP for ASP took 483 days between the Initiation Request being submitted to and approved by the GNSO Council (25 August 2022), to the Council’s vote on the GGP’s Final Report (21 December 2023).
Some issues were considered out-of-scope for the GGP (see 4.3 above). It could be beneficial to ask the Council to outline issues that should be regarded as in-scope for a GGP. In some instances, more detailed guidance (e.g., as described in relation to Task 6 above) would have been beneficial. In addition, an improved method of defining the scope of the tasks of a future GGP could be useful. For example, the GGP initiation request could be changed to require the requestor to provide supplementary information beneath each of its tasks, or include a pre-set form with precise instructions in order to ensure such detail is captured at the beginning of the process.
5 The GNSO Input Process (GIP)

5.1 Objective / Intent

The GNSO Input Process was intended to be the mechanism through which the GNSO would provide input on matters that may not involve gTLD policy. It is detailed in Annex C (Proposed GNSO Input Process Manual) of the Policy & Implementation Final Report and has been implemented in the form of Annex 3 of the GNSO Operating Procedures. As outlined in the Final Report of the Policy & Implementation WG, the GNSO Input Process is:

“to be used for those instances for which the GNSO Council 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”.

5.2 Use to Date

The GIP has not been formally used to date. However, that does not mean that the Council has not provided non-binding advice during this time. This has typically been done in the form of letters that are either drafted by Council leadership or small groups of volunteers. More recently, the Council has started making use of “small teams”, typically consisting of Council members with a limited, focused assignment that is prepared for Council consideration. This assignment is spelled out in an assignment form (e.g., https://community.icann.org/x/nQP5DQ or https://community.icann.org/x/PAoiCw). The Council has also established guidance that sets the scope, as well as limitations, for small teams (see https://docs.google.com/document/d/1DqlivLabWSnYnoP76UnS-BXF_7wYYvoGUhc7FNODsP8/edit).

5.3 Observations on Effectiveness

An assessment of the effectiveness of the GIP is complicated because it has not yet been used as outlined in the GIP Manual. Nevertheless, if one were to replace reference to “GIP team” with “small team” and review how small teams have operated to date, the results might be similar to what was anticipated by the WG.
5.4 Potential Issues for Further Consideration

- Given that a GIP has yet to be initiated, and the Council has put into practice other mechanisms that seem to fulfill the same objective, is the GIP still relevant?

- Should the GIP Manual be replaced by the guidance that has been developed for small teams, or is there no need to formalize the process that is used for the Council to provide non-binding advice?
6 The Implementation Review Team (IRT) Principles & Guidelines

6.1 Objective / Intent

The Policy and Implementation WG noted that for Implementation Review Teams (IRTs):

“flexibility is critical as an IRT is very different from a PDP WG, and each IRT is different depending on the issues addressed. As such, the WG agreed that specific rules might not be desirable, but a set of general principles might assist in setting expectations and help guide IRTs”.

Based on its review of previous IRTs, as well as its deliberations on charter questions, a set of principles and guidelines was developed by the WG. These are included as Annex L to the Policy & Implementation Working Group Final Report. Together, with the Consensus Policy Implementation Framework (CPIF) that was developed to support predictability, accountability, transparency, and efficiency in the implementation process, these materials set out how implementation is expected to be handled. In addition, both the CPIF and the IRT Principles and Guidelines include the objective of confirming and clarifying various ICANN org roles and responsibilities, as well as those of the community during the implementation phase.

6.2 Use to Date

Since the adoption and the implementation of the Policy & Implementation Recommendations, resulting in the publication of the IRT Principles and Guidelines in August 2016 as a standalone document, IRTs that have been formed and operated under those principles and guidelines. These include:

- Registration Data Policy for All gTLDs (EPDP Phase 1 Implementation; ongoing)
- Rights Protection Mechanisms Phase 1 Implementation (ongoing)
- Subsequent Procedures Implementation (ongoing)
- Protection of IGO and INGO Identifiers in all gTLDs (on hold)
- Translation and Transliteration of Contact Information (on hold)
- Privacy and Proxy Services Accreditation (on hold)
- Thick Whois (completed)
- Inter-Registrar Transfer Policy Part D (completed)

The CPIF, a document by ICANN org, provides guidance on how the IRT should assist ICANN org in implementing the GNSO policy requirements. However, this set of guidelines overlaps with the GNSO’s IRT Principles & Guidelines, which may lead to
confusion regarding the convening of the IRT and its responsibilities. This scenario is described further in section 6.4.

6.3 Observations on Effectiveness

In combination with the CPIF, the IRT Principles & Guidelines have created the necessary clarity in relation to the different roles & responsibilities in the implementation phase. IRTs have been demonstrated to be an essential part of the implementation process to ensure that policy recommendations are implemented in line with the original intent. It is worth noting that with every implementation process having its own specificities and challenges, there have been instances where those roles and responsibilities may have been challenged or not clearly understood (see also the next section).

From a GDS perspective, it is also worth noting that the support and cooperation from the IRT during implementation has assisted increased stakeholder involvement and visibility on the policy recommendations. The inclusion of the IRT also provides valuable input and perspectives to the implementation efforts. GDS believes it would be beneficial to gather data on IRT time utilization during the implementation process, to determine how the IRT model may have contributed to extended community efforts and implementation timelines. This could help pinpoint some root causes of extended timelines, including issues with re-litigation, policy language clarification, or technical detail identification. Additionally, this study could reveal potential opportunities for streamlining the policy implementation process and increasing its overall efficiency.

6.4 Potential Issues for Further Consideration

- Although the IRT guidelines describe how potential cases of disagreement should be handled, it is a very high-level process that, in practice, does not seem to provide enough guidance for either ICANN org or the GNSO Council liaison for how to handle actual situations. It could be worth considering if further granularity to address specific circumstances could be included, in combination with possible examples. Providing further detail on the roles and responsibilities among ICANN org, the IRT and the GNSO Council in reaching solutions to implementation issues may also be beneficial. Clarity on these roles is especially relevant when disagreements take place.

- The IRT guidelines do anticipate that IRTs “may not necessarily be representative of the ICANN community, as actual participation may depend on interest and relevance of the topic under discussion”, but in practice this has tended to mean that an IRT has a high concentration of participation from some stakeholder groups, while others are missing or less represented (e.g., contracted party representatives attending and contributing regularly, while participation from other ICANN community groups is much less consistent). In addition, an IRT participant may not
be supported by or be chartered to represent their stakeholder group, resulting in surprises, when the proposed implementation published for public comment was found not to align with the expectation of the relevant stakeholder group.

- In the case of the New gTLD Subsequent Procedures recommendations, the implementation team is piloting an “open and representative model” for the IRT. This model allows interested participants to take part, while also including representatives from the GNSO SG/C and SO/ACs. These representatives are expected to represent and speak on behalf of their respective organizations. Once the IRT is completed, it will be interesting to observe how this model compares to the current trends around community participation.
7 The Consensus Policy Implementation Framework (CPIF)

7.1 Objective / Intent

The Consensus Policy Implementation Framework (CPIF) is designed to support predictability, accountability, transparency, and efficiency in the policy implementation process. First published in 2015, the CPIF was developed through a collaboration between ICANN org’s Global Domains Division (GDD) - now Global Domains & Strategy (GDS) - and the GNSO Policy and Implementation WG (non-PDP).

The CPIF establishes a standard and predictable “roadmap” for the ICANN community to follow as GDS implements GNSO-approved consensus policy recommendations. It also functions as a checklist for GDS staff to ensure all necessary steps are followed during each implementation phase. The CPIF is a five-phase process based on a number of underlying principles, including amongst others that implementation “should be transparent throughout the project lifecycle” and that staff must always “strive to follow the letter and the intent of GNSO Consensus Policy recommendations when implementing Consensus Policy recommendations”. It also delineates the specific roles and responsibilities of all parties involved in the implementation process.

7.2 Use to Date

The CPIF was approved by the ICANN Board as part of the Policy & Implementation Recommendations Review in 2015. In collaboration with the GNSO Council, a first round of amendments to the CPIF was carried out in 2018, adding detail on the role and responsibilities of ICANN’s implementation efforts and interaction with the IRT. A second round of amendments, which included proposals to establish a standardized process for post-implementation consensus policy reviews and a methodology for amending the CPIF document on an ongoing basis, was proposed to the GNSO Council in 2019 but has yet to be incorporated into the framework.

GDS shared a discussion paper with the GNSO Council in 2021 on Evolving Consensus Policies, which was developed to identify potential gaps in the existing procedures, including the CPIF, and highlight how those might be addressed. In addition, GDS developed and published the Guidelines for GDS Liaisons to the Policy Development Process in September 2023.

The CPIF has been used both as a blueprint and metric for GDS policy implementation activity since its introduction, with status updates on ongoing implementation projects based on the CPIF template published monthly on the Implementing Policy at ICANN homepage. GDS staff has also amassed extensive experience in the organization and
conduct of IRTs, which, as noted in section 6, have become an integral part of consensus policy implementation. The Implementation Policy Status Review Report, incorporated in the CPIF as part of the 2018 amendments, has been employed frequently by ICANN org and the GNSO to evaluate the effectiveness of Consensus Policies. Specifically, a PSR was undertaken in March 2019 to review the Revised Inter-Registrar Transfer Policy (IRTP); while a further PSR, on the Uniform Domain Name Dispute Resolution Policy (UDRP), was prepared by ICANN org in 2022, to assist the GNSO in its planned policy work around the UDRP.

7.3 Observations on Effectiveness

The CPIF has become an important and effective tool in generic top-level domain (gTLD) policy implementation, clearly defining the expected roles and responsibilities of the parties involved in supporting the policy and implementation lifecycle. By concentrating on distinct implementation phases, the CPIF also allows a readily comprehensible evaluation of the status and progress of an implementation project against defined timescales and goals. However, as the CPIF functions as a phasic framework composed of multiple individual elements and actions, a detailed study of the conduct of several implementation projects would be required to assess adherence to the CPIF during each individual step of implementation, beyond reported progress in completing the five implementation phases.

As the CPIF was intended to function as a high level, linear implementation roadmap and checklist, it can tend to be prescriptive rather than instructive, lacking detail on the required steps and responsibilities involved in resolving difficulties in the implementation process. For example, in cases of irresolvable disagreement within an IRT necessitating outside intervention, although the CPIF outlines an escalation process to the GNSO Council in cases where an impasse is motivated by concerns over whether implementation is consistent with policy, it offers no guidance on how to proceed in cases where the disagreement concerns other implementation details. An example of this is when there are perceived inconsistencies between recommendations or the application of implementation guidance. In this case, the CPIF does not propose a timeframe for raising the issue with the Council or clarity on which party is ultimately responsible for resolving the impasse.

The CPIF offers a holistic framework of an implementation process involving several distinct parties. However, its GDS-specific focus means that it exists alongside, and in some cases, duplicates alternative implementation guidance produced by the GNSO, notably the IRT Principles and Guidelines.
7.4 Potential Issues for Further Consideration

The issues shared below were provided by seeking cross-functional input from ICANN org staff whose work touches on the Consensus Policy Implementation Framework and related processes. The proposed process to update the CPIF will be informed by the content of this section and include additional research and data analysis.

- The CPIF was last updated in 2018, with a set of ICANN org proposals shared with the GNSO Council in 2019, which are yet to be approved and incorporated. The CPIF currently lacks a defined and agreed upon amendment process, further detail on the post-implementation Consensus Policy Review Process, and the roles of specific parties, amongst other suggested additions. Adopting these proposals would remedy these omissions. The current CPIF also lacks reference related to the additional implementation steps that have been developed since its last update in 2018, notably the Operational Design Phase (pending a community consultation on this topic). Regular updates and iteration of the CPIF would ensure that it remains both relevant and effective.

- As noted in 7.3, while the CPIF is useful as a reporting tool on the overall progress of implementation projects, little in-depth research has been undertaken into adherence to the CPIF during the various individual steps of implementation. This effort might be undertaken as part of a GDS review of the current structure and effectiveness of the CPIF. This could include reconsidering the typical length of time required for implementation currently published on the ICANN website, which presently estimates the length of time required for implementation to be between 2 to just over 4 years.

- As identified in the 2021 Modifying gTLD Consensus Policies Discussion Paper, gaps have been identified in the CPIF with regards to aspects of the implementation process, including, amongst others:
  - The absence of a process to modify an existing policy that may be impacted by the implementation of a new policy. While the CPIF acknowledges the possibility that existing policies may be modified during implementation, it does not clarify the roles of each party or what steps should be taken if implementing a new Consensus Policy directly or indirectly impacts one or more existing policies.

This issue has been raised previously with the GNSO Council. It resulted in an action to update the CPIF to clarify that ICANN org and the IRT will routinely review potential updates to existing policies as part of future implementation plans, and its inclusion as an objective in the 2022 GNSO PDP Improvements Tracking and Coordination paper.
○ The absence of alternative mechanisms for resolving policy or implementation issues which are not raised by the IRT members or GNSO Council Liaison (e.g., should ICANN org staff have a concern which is not shared by IRT members).
○ The lack of an agreed procedure on how to retire obsolete or redundant policies.
○ The absence of a policy amendment process to follow in cases where the Board wishes to reconsider approval for implementation of policies which may no longer be fit for purpose. Examples include receipt of new information, technological changes in the legal, regulatory or technological landscape, or following consideration of how such a decision might impact ongoing, related implementation activity.
○ The absence of a procedure for addressing circumstances in which approved consensus policy recommendations are not enforceable by ICANN org, or when the recommendations do not allow the Compliance team to ensure that the policy is implemented in a manner that creates clear and enforceable obligations on contracted parties. For example, policy recommendations that apply a "reasonableness" standard or similar subjective criteria impact the ability of the Compliance to effectively enforce the intended requirement. Another example is the use of the term “business days” in recommendations, the definition of which may vary according to country or region.

● As the CPIF originated as a joint GNSO-GDS product, there is an inherent risk that aspects of the CPIF might overlap, be repetitive of or conflict with alternative implementation guidance issued by the GNSO, most notably in regards to those guidelines relating to the IRT. The IRT is a dedicated implementation body. Given that the existing IRT guidelines largely duplicate the information contained in the CPIF, it seems a logical step to incorporate the IRT guidelines into the CPIF. This would also help avoid any potential confusion as to which body or set of guidelines the IRT is responsible for and should follow.
8 Next Steps

This PSR will be published for public comment to allow for community input, specifically to ensure that all relevant information has been included in this report and it provides a complete list of issues for further consideration. Following review of the public comments received, this report will be updated accordingly and submitted to the GNSO Council to consider potential next steps to address the issues identified for further consideration. Further work may consist of GDS undertaking a study to investigate and provide data analysis on potential improvements to the CPIF, and performing further research on IRTs to explore opportunities to streamline and increase the efficiency of the implementation process. ICANN org is expected to include potential options for how the Council might consider addressing these issues together with the delivery of the Final PSR.