

INTRODUCTION

Following the discussion at the GNSO Council meeting on 12 May on the draft revised ICANN Bylaws and the IANA Transition, staff conducted a detailed review and analysis of the final revised ICANN Bylaws with respect to GNSO obligations. This analysis in the table below could provide guidance on the obligations as they relate to the new community, and particular GNSO, powers as provided for in the revised Bylaws. Please note, however, that the table is subject to further updates pending final checks against the Bylaws.

As noted in the analysis below the revised ICANN Bylaws contain a number of new provisions that may require the GNSO Council and community to develop additional mechanisms to address certain new obligations and allow for the GNSO's effective participation in the Empowered Community that is to be created as a result of the IANA stewardship transition, as well as to ensure continuity of GNSO processes in other matters. In the table the staff analysis grouped the obligations as follows:

1. Obligations of the GNSO as a Decisional Participant of the Empowered Community;
2. Engagement in the new Customer Standing Committee; and
3. Processes relating to voting thresholds.

The details concerning how the Empowered Community exercises its powers in all the areas where these powers apply are contained in Annex D Empowered Community Mechanisms of the revised Bylaws. This Annex provides step-by-step descriptions of these mechanisms. Because of the complexity of Annex D, staff is conducting a separate analysis of the Annex in order to determine whether possible new GNSO procedures may apply and whether they can be grouped according to type of obligation or procedure.

The following is a brief description of the types of obligations and actions in the three areas. Staff also has prepared a table with analysis detailing the respective sections in the revised new ICANN Bylaws where these changes are located, identifying possible new or existing procedures that can apply, and noting comments for the Council's consideration.

1. Obligations of the GNSO as a Decisional Participant of the Empowered Community

As stated in Section 1.1(a) of Article 6 Empowered Community, concerning the composition and organization of the Empowered Community (EC), "The Empowered Community ("EC") shall be a nonprofit association formed under the laws of the State of California consisting of the ASO, the ccNSO, the GNSO, the ALAC and the GAC (each a "Decisional Participant" or "associate," and collectively, the "Decisional Participants")." As a Decisional Participant, the GNSO has obligations that are set forth in the Draft New ICANN Bylaws, both in Article 6 and elsewhere. Examples include:

- 1) Actions relating to the Post-Transition IANA Entity (PTI);
- 2) Engaging in consultations;
- 3) Providing comments in public forums;
- 4) Requesting mediation processes;
- 5) Deciding how to address a petition from an individual to a Decisional Participant (in this case the GNSO);
- 6) Engaging in processes for removing Directors and recall of the ICANN Board;
- 7) Engaging in Independent Review Processes (IRP);
- 8) Initiating reconsideration requests; and
- 9) Voting (see below).

As noted above, the details concerning how the Empowered Community exercises its powers in all the areas where these powers apply are contained in Annex D Empowered Community Mechanisms of the revised Bylaws. This Annex provides step-by-step descriptions of these mechanisms in the following articles and sections:

Article 1 Procedure for Exercise of EC’S Rights to Approve Approval Actions

Section 1.2 Approval Process

Section 1.3 Approval Action Community Forum

Section 1.4 Decision Whether to Approve an Approval Action

Article 2 Procedure for Exercise of EC’s Rights to Reject Specified Actions

Section 2.2 Petition Process for Specified Actions

Section 2.3 Rejection Action Community Forum

Section 2.4 Decision Whether to Reject a Rejection Action

Article 3 Procedure for Exercise of EC’s Rights to Remove Directors and Recall the Board

Section 3.1 Nominating Committee Director Removal Process

Section 3.2 SO/AC Director Removal Process

Section 3.3 Board Recall Process

Article 4 Procedure for Exercise of EC’s Rights to Initiate Mediation, a Community IRP or Reconsideration Request

Section 4.1 Mediation Initiation

Section 4.2 Community IRP

Section 4.3 Community Reconsideration Request

2. Engagement in the new Customer Standing Committee

The GNSO will have certain obligations stemming from its engagement in the post-transition Customer Standing Committee (CSC). Section 17.1 of the ICANN Bylaws (on Customer Standing Committee) states,

“ICANN shall establish a Customer Standing Committee (“**CSC**”) to monitor PTI’s performance under the IANA Naming Function Contract and IANA Naming Function SOW. The mission of the CSC is to ensure continued satisfactory performance of the IANA naming function for the direct

customers of the naming services. The direct customers of the naming services are top-level domain registry operators as well as root server operators and other non-root zone functions.”

They further state, “The ccNSO and GNSO may address matters escalated by the CSC, pursuant to their operating rules and procedures.” The GNSO’s obligations relating to the CSC include:

- 1) Appointment of an individual representing top-level domain registry operators (a position separate from appointments to be made by ccTLD registry operators and the gTLD Registries Stakeholder Group);
- 2) Appointment of a liaison to the CSC;
- 3) Approval of initial proposed members and liaisons of the CSC and the annual slate of members and liaisons;
- 4) Periodic review of the CSC charter; and
- 5) Approval of amendments to the CSC charter.

3. New procedures or existing procedures concerning voting thresholds

The Draft New ICANN Bylaws also contain provisions that may entail possible new GNSO Operating Procedures, or changes to existing procedures, involving voting by the GNSO Council. Examples include new Supermajority votes, which should be added to and referenced in the GNSO Operating Procedures in the voting thresholds table. Examples of new GNSO obligations involving voting include:

- **Section 17.3:** Amendments to CSC Charter – ratified by a vote of the simple majority of the GNSO Council;
- **Section 18.3:** Frequency of Periodic IFRS: Approval of a delay by Supermajority;
- **Section 18.6:** IFR Recommendations approved by Supermajority;
- **Section 18.12:** Special IFR approved by supermajority and Special IFR Recommendations approved by Supermajority; and
- **Section 19.1:** Establish SCWG – SCWG creation recommendation approved by supermajority and SCWG recommendation approved by Supermajority.

A NOTE ON ASSUMPTIONS AND THE SCOPE OF THIS DOCUMENT

- 1) The table lists only new or additional rights and obligations for the GNSO Council and community effected as a result of the latest revisions to the ICANN Bylaws. It does not address existing rights and obligations, even where language or other changes may have been made as part of the current revision process (e.g. any entity materially affected by an action of the ICANN Board and staff could – and still can – file a Reconsideration Request, so language changes to that part of the Bylaws are not included in the table).
- 2) The revised Bylaws include references to voting. The current GNSO structure, as described in the ICANN Bylaws, foresees that any voting is conducted via the GNSO Council (outside the specific remits of a GNSO Stakeholder Group and Constituency). As

such, the table was developed based on the assumption that, in the absence of a new mechanism, it is the GNSO Council who will be voting on behalf of the GNSO with respect to those new or additional rights and obligations noted under the revised Bylaws.

- 3) The table lists only new, modified or additional procedures that may be needed solely to enable the GNSO to fulfil its new obligations, including as a Decisional Participant in the Empowered Community. It does not go further to address any procedures that may need to be developed for the Empowered Community as a whole to exercise its rights, powers, responsibilities and obligations as it is the assumption that these will need to be developed through cross-community collaboration.
- 4) In the absence of new procedures or agreement on which procedures to be used, the default threshold to pass a GNSO default threshold to pass an action will apply (a simple majority vote of each House) to any decisions that are not defined otherwise.

ORGANIZATION OF THIS DOCUMENT

This document is organized into the following sections:

- 1) Obligations of the GNSO as a Decisional Participant of the Empowered Community;
- 2) Engagement in the new Customer Standing Committee; and
- 3) Processes relating to voting thresholds.

In addition, the following color coding is applied to show where likely action is needed or not:

Green: Administrative changes likely;

Yellow: Action may be necessary, but requires discussion; and

Orange: Action likely.

OBLIGATIONS RELATING TO THE GNSO AS A DECISIONAL PARTICIPANT IN THE EMPOWERED COMMUNITY

ARTICLE 4 ACCOUNTABILITY AND REVIEW

4.6 SPECIFIC REVIEWS

<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(a) Review teams will be established for each applicable review, which will include both a limited number of members and an open number of observers. The chairs of the Supporting Organizations and Advisory Committees participating in the applicable review shall select a group of up to 21 review team members from among the prospective members nominated by the Supporting Organizations and Advisory Committees, balanced for diversity and skill:</p> <p>(A) Each Supporting Organization and Advisory Committee participating in the applicable review may nominate up to seven prospective members for the review team; (B) Any Supporting Organization or Advisory Committee nominating at least one, two or three prospective review team members shall be entitled to have those one, two or three nominees selected as members to the review team, so long as the nominees meet any applicable criteria for service on the team; and (C) If any Supporting Organization or Advisory Committee has not nominated at least three prospective review team members, the Chairs of the Supporting Organizations and Advisory Committees shall be responsible for the determination of whether all 21 SO/AC member seats shall be filled and, if so, how the seats</p>	<p>NEW: Specific provision for appointment of review team members (these would be for the reviews mandated by the current AoC, which are being enshrined in the new Bylaws)</p> <p>Note that for the RDS review, ICANN must specifically work with SOACs to “explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.”</p>	<p>The GNSO will need to agree on a process for nominating and selecting these review team members.</p> <p>Issues the GNSO may wish to discuss include:</p> <p>(1) how will the GNSO (or its subparts) identify the up-to-seven nominees for any of the review teams; and (2) how should the GNSO Chair participate in the selection of the review team?</p>	<p>The current practice (e.g. as was used for ATRT and CCT) could be used and/or modified to serve as a general procedure for nominating and selecting review team members. See the ATRT 2 at https://www.icann.org/resources/reviews/aoc/atrt and the CCT Review Team at https://community.icann.org/x/C4RIAw.</p> <p>Further guidance for the GNSO Chair may need to be developed based on the new procedure.</p>

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should be allocated from among those nominated.			
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4.7 COMMUNITY MEDIATION			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(a) If the Board refuses or fails to comply with a duly authorized and valid EC Decision (as defined in <u>Section 4.1(a)</u> of Annex D) under these Bylaws, the EC Administration representative of any Decisional Participant who supported the exercise by the EC of its rights in the applicable EC Decision during the applicable decision period may request that the EC initiate a mediation process pursuant to this <u>Section 4.7</u>. The Board shall be deemed to have refused or failed to comply with a duly authorized and valid EC Decision if the Board has not complied with the EC Decision within 30 days of being notified of the relevant EC Decision.</p>	<p>NEW: Procedure to request that the EC initiate a mediation process; ability to recommend individuals to represent the EC in the Mediation Administration.</p>	<p>The GNSO Council will request that the EC initiate Mediation, and recommend EC representatives for the Mediation Administration. Note, however, that how this procedure is defined may need to be done in consultation with the other Decisional Participants. The GNSO Council may also need to decide on the voting threshold depending on a weighting of the decisions.</p> <p>More broadly, this type of process/decision can be related directly to how the GNSO will define its participation in the EC. For example, how will the GNSO make a decision that it should request the initiation if there is not a straightforward allegation of a violation?</p>	<p>No current process specifically addresses this. However, it is envisioned that the GNSO Council will make the request on behalf of the GNSO, with Councilors consulting with their respective SGs/Cs according to current practice.</p>

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<p>(b) If the EC Administration delivers a Mediation Initiation Notice (as defined in Section 4.1(a) of Annex D) to the Secretary pursuant to and in compliance with Section 4.1(a) of Annex D, as soon as reasonably practicable thereafter, the EC Administration shall designate individuals to represent the EC in the mediation (“Mediation Administration”) and the Board shall designate representatives for the mediation (“Board Mediation Representatives”). Members of the EC Administration and the Board can designate themselves as representatives.</p>		<p>The GNSO Council will request that the EC initiate Mediation, and recommend EC representatives for the Mediation Administration. Note, however, that it may be that the how this procedure is defined may need to be done in consultation with the other Decisional Participants. The GNSO Council may also need to decide on the voting threshold depending on a weighting of the decisions.</p> <p>One topic for consideration is what principles the GNSO will use to guide how it identifies its representatives to the Mediation Administration.</p>	
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ARTICLE 6 EMPOWERED COMMUNITY

SECTION 6.1 COMPOSITION AND ORGANIZATION OF THE EMPOWERED COMMUNITY			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(a) The Empowered Community (“EC”) shall be a nonprofit association formed under the laws of the State of California consisting of the ASO, the ccNSO, the GNSO, the ALAC and the GAC (each a “Decisional Participant” or “associate,” and collectively, the “Decisional Participants”).</p>	<p>NEW: Procedures relating to Decisional Participants and decision making</p>	<p>One point of discussion could be whether the GNSO would act through the GNSO Council if no other mechanism was determined or desired. Also, see comment above with respect to consultation with other Decisional Participants and the weighting of decision to determine thresholds.</p>	<p>No current process specifically addresses this. However, it is envisioned that the GNSO Council will be the decision-making body for the GNSO as a Decisional Participant, with Councilors consulting with their respective SGs/Cs according to current practice. The GNSO Council Chair, or designee, would then be the GNSO representative in the EC</p>

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			<p>Administration. The GNSO may wish to consider what principles it would want to have in place to guide a designation.</p> <p>More generally, for a number of these new provisions relating to GNSO Decisional Participation, the GNSO might wish to consider whether different processes /voting weightages/principles are needed for different types (e.g. in impact or complexity).</p>
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<p>(g) Each Decisional Participant shall, except as otherwise provided in Annex D, adopt procedures for exercising the rights of such Decisional Participant pursuant to the procedures set forth in Annex D, including (i) who can submit a petition to such Decisional Participant, (ii) the process for an individual to submit a petition to such Decisional Participant, including whether a petition must be accompanied by a rationale, (iii) how the Decisional Participant determines whether to accept or reject a petition, (iv) how the Decisional Participant determines whether an issue subject to a petition has been resolved, (v) how the Decisional Participant determines whether to support or object to actions supported by another Decisional Participant, and (vi) the process for the Decisional Participant to notify its constituents of relevant matters.</p>	<p>NEW: Procedures for exercising the rights of a Decisional Participant as described in (i)-(vi)</p>	<p>Clarity may be needed as to whether the GNSO acts through the GNSO Council if no other mechanism is deemed to be needed.</p> <p>Also, see comment above with respect to consultation with other Decisional Participants and the weighting of decision to determine thresholds.</p>	<p>See additional notes on Annex D (forthcoming).</p>
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SECTION 6.3 EC ADMINISTRATION			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(a) The Decisional Participants shall act through their respective chairs or such other persons as may be designated by the Decisional Participants (collectively, such persons are the “EC Administration”). Each Decisional Participant shall deliver annually a written certification from its chair or co-chairs to the Secretary designating the individual who shall represent the Decisional Participant on the EC Administration.</p> <p>(b) In representing a Decisional Participant on the EC Administration, the representative individual shall act solely as directed by the represented Decisional Participant and in accordance with processes developed by such Decisional Participant in accordance with <u>Section 6.1(g)</u>.</p> <p>(c) In representing the EC Administration, the individuals serving thereon shall act as required for the EC to follow the applicable procedures in Annex D, and to implement EC decisions made in accordance with such procedures.</p> <p>(d) All communications and notices required or permitted to be given under these Bylaws by a Decisional Participant shall be provided by the Decisional Participant’s representative on the EC Administration. All communications and notices required or permitted to be given under these Bylaws by the EC shall be provided by any member of the EC Administration. Where a particular Bylaws notice provision does not require notice to the Secretary, the EC and the Decisional Participants shall provide a copy of the notice to the Secretary in accordance with</p>	<p>NEW: Procedures for Decisional Participants as described in (a)-(d)</p>	<p>The GNSO needs to agree on how such “other persons” would/could be designated and by whom.</p>	<p>Discuss advisability of designating GNSO Chair as EC representative, possibly with option to appoint a temporary alternate (see above).</p>

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Section 21.5, and ICANN shall post it on the Website.			
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ARTICLE 11 GENERIC NAMES SUPPORTING ORGANIZATION

SECTION 11.3 GNSO COUNCIL			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(f) Notification of the Board seat nominations shall be given by the GNSO Chair in writing to the EC Administration, with a copy to the Secretary, and the EC shall promptly act on it as provided in <u>Section 7.25</u> .	CHANGE: 2.4.2 Timing – Change in Bylaws reference	No change in GNSO procedures needed as there is no reference to the Bylaws text.	

ARTICLE 16 POST TRANSITION IANA ENTITY

ARTICLE 16.3 IANA NAMING FUNCTIONS CONTRACT			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
On or prior to 1 October 2016, ICANN shall enter into a contract with PTI for the performance of the IANA naming function (as it may be amended or modified, the “ IANA Naming Function Contract ”) and a related statement of work (the “ IANA Naming Function SOW ”). Except as to implement any modification, waiver or amendment to the IANA Naming Function Contract or IANA Naming Function SOW related to an IFR Recommendation or Special IFR Recommendation approved pursuant to <u>Section 18.6</u> or an SCWG Recommendation approved pursuant to <u>Section 19.4</u> (which, for the avoidance of doubt, shall not be subject to this <u>Section 16.3(a)</u>), ICANN shall not agree to modify, amend or waive any Material Terms (as defined below) of the IANA Naming Function Contract or the IANA Naming Function SOW if a	NEW: Majority of GNSO Council rejects the proposed modification, amendment, or waiver.	Clarity may be needed as to whether the GNSO acts through the GNSO Council if no other mechanism is deemed to be needed. Need to clarify whether majority means simple majority of each house.	

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majority of each of the ccNSO and GNSO Councils reject the proposed modification, amendment or waiver.			
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ARTICLE 18 IANA NAMING FUNCTION REVIEWS

SECTION 18.7 COMPOSITION OF IFR REVIEW TEAMS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
Each GNSO SG can appoint one member (except that the RySG may appoint two). One of the two IFRT co-chairs is to be appointed “by the GNSO” from among the members appointed by the different stakeholder groups or constituencies in the GNSO. There is also the possibility of “other participants” that cannot vote.	NEW: IFRTs and their appointments	The GNSO SGs will collectively need to agree on a uniform process for the nomination and appointment process of a IFRT co-chair.	Each listed constituency or stakeholder group of the GNSO will also have to identify the process through which it will make its appointment.

SECTION 18.12 SPECIAL IFRS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(a) (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures; (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures;	NEW: (a) (i) Review of the outcome of the Remedial Action Procedures of the CSC. (ii) Review of the IANA Problem Resolution Process. (iii) Consultation with other SOs and ACs. (iv) Comment period requested by GNSO and Special IFR approval by GNSO Supermajority.	Possible new procedure, although it may be that existing procedures and/or the GIP could be applied. This will require discussion.	The GNSO should discuss whether this is within the current remit and procedures of the Council. The new GIP could potentially be extended/amended to apply to certain aspects of this process, e.g. responding to another SO/AC request to initiate a Special IFR.

<p>(iii) The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations and Advisory Committees with respect to the PTI Performance Issue and whether or not to initiate a Special IFR; and</p> <p>(iv) After a public comment period that complies with the designated practice for public comment periods within ICANN, if a public comment period is requested by the ccNSO and the GNSO, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3) of the Council members) and (B) a GNSO Supermajority.</p>			
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ARTICLE 19 IANA NAMING FUNCTION SEPARATION PROCESS

SECTION 19.3 COMMUNITY REVIEWS AND REPORTS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>The SCWG shall seek community input through one or more public comment periods (such public comment period shall comply with the designated practice for public comment periods within ICANN) and may recommend discussions during ICANN's public meetings in developing and finalizing its recommendations and any report.</p>		<p>No - the SCWG is anticipated to follow the soon-to-be finalized Uniform Framework of Cross-Community Working Group Principles.</p>	

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SECTION 19.6 ELECTION OF CO-CHAIRS AND LIAISONS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(a) The SCWG shall be led by two co-chairs: one appointed by the GNSO from one of the members appointed pursuant to clauses (iii)-(vi) of <u>Section 19.5(a)</u> and one appointed by the ccNSO from one of the members appointed pursuant to clauses (i)-(ii) of <u>Section 19.5(a)</u> .	NEW: Appointment of Co-Chair of the SCWG from the GNSO.	The GNSO will need to agree on the identification of a co-chair from among the appointees selected from across the GNSO community. Each listed constituency or stakeholder group of the GNSO will also have to identify the process through which it will make its appointment. The collective of those Cs/SGs need to identify how they will agree upon one of those appointees as the recommended co-chair.	See comments under IFRT (above).

ARTICLE 22 FISCAL AND STRATEGIC MATTERS, INSPECTION, AND INDEPENDENT INVESTIGATION

SECTION 22.7 INSPECTION			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(a) A Decisional Participant (the “ Inspecting Decisional Participant ”) may request to inspect the accounting books and records of ICANN, as interpreted pursuant to the provisions of Section 6333 of the CCC, and the minutes of the Board or any Board Committee for a purpose reasonably related to such Inspecting Decisional Participant’s interest as a Decisional Participant in the EC. The Inspecting Decisional Participant shall make such a request by providing written notice from the chair of the Inspecting Decisional Participant to the Secretary stating the nature of the documents the Inspecting Decisional	NEW: GNSO (as decisional participant) requesting an inspection.	There is nothing to prevent the GNSO Council from initiating, or a SG/C to request that the Council initiate, an inspection request. However, given the significance of this new ability, it may be preferable to develop and document specific mechanisms and/or agree on the voting threshold that would apply to requesting an inspection should it be different from a simple majority vote of the Council.	The GNSO should discuss whether a new process should be developed to address this point.

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Participant seeks to inspect (“ Inspection Request ”)...[excerpt]			
(e) If the Inspecting Decisional Participant believes that ICANN has violated the provisions of this <u>Section 22.7</u> , the Inspecting Decisional Participant may seek one or more of the following remedies: (i) appeal such matter to the Ombudsman and/or the Board for a ruling on the matter, (ii) initiate the Reconsideration Request process in accordance with <u>Section 4.2</u> , (iii) initiate the Independent Review Process in accordance with <u>Section 4.3</u> , or (iv) petition the EC to initiate (A) a Community Independent Review Process pursuant to <u>Section 4.3</u> of Annex D or (B) a Board Recall Process pursuant to <u>Section 3.3</u> of Annex D. Any determination by the Ombudsman is not binding on ICANN staff, but may be submitted by the Inspecting Decisional Participant when appealing to the Board for a determination, if necessary.	NEW: Ability to seek appeals and initiate a Reconsideration Request.	The GNSO Council should discuss whether new procedures are necessary to decide whether to seek an appeal or initiate a Reconsideration request, or whether current procedures (such as approval via a motion) may apply.	If a process is developed and documented, this should be incorporated into the GNSO Operating Procedures.

SECTION 22.8 INDEPENDENT INVESTIGATION			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
If three or more Decisional Participants deliver to the Secretary a joint written certification from the respective chairs of each such Decisional Participant that the constituents of such Decisional Participants have, pursuant to the internal procedures of such Decisional Participants, determined that there is a credible allegation that ICANN has committed fraud or that there has been a gross mismanagement of ICANN’s resources,... [excerpt]	NEW: Joint written certification by 3 or more Decisional Participants.	Similar observation to the general right of inspection – the GNSO may wish to discuss the need to create and document a new process for either (1) the GNSO to initiate or join a certification of a determination of allegation of fraud or gross mismanagement.	Consider incorporating this into any new process to be documented for investigations.

GNSO OBLIGATIONS RELATING TO THE CUSTOMER STANDING COMMITTEE

ARTICLE 17 CUSTOMER STANDING COMMITTEE

SECTION 17.1 DESCRIPTION

<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
The CSC is not authorized to initiate a change in PTI through a Special IFR (as defined in Section 18.1), but may escalate a failure to correct an identified deficiency to the ccNSO and GNSO, which might then decide to take further action using consultation and escalation processes, which may include a Special IFR. The ccNSO and GNSO may address matters escalated by the CSC, pursuant to their operating rules and procedures.	NEW: Consultation and escalation processes and Special IFR	The GNSO should discuss whether or not its current procedures are adequate to cover this situation.	

SECTION 17.2 COMPOSITION, APPOINTMENT, TERM AND REMOVAL

<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(b) If so determined by the ccNSO and GNSO, the CSC may, but is not required to, include one additional member: an individual representing top-level domain registry operators that are not considered a ccTLD or gTLD, who shall be appointed by the ccNSO and the GNSO. Such representative shall be required to submit a letter of support from the registry operator it represents. (c) Each of the following organizations may also appoint one liaison to the CSC in accordance with the rules and procedures of the appointing organization: (i) GNSO (from the Registrars Stakeholder Group or the Non-Contracted Parties House), (ii) ALAC, (iii) either the NRO or ASO (as determined by the ASO), (iv) GAC, (v) RSSAC, (vi) SSAC and (vii) any	NEW: (b) Appointment of individual representing top-level domain registry operator not ccTLD or gTLD. (c) Appointment of liaison to the CSC. (d) Approval of initial proposed members and liaisons of the CSC and annual slate of members and liaisons.	Yes, this will require procedures for appointing a member by the Registry Stakeholder Group and a liaison by the GNSO. If one or more letters of support are provided for a non ccTLD or gTLD representative to join as a member, a procedure will need to be developed to identify how the GNSO will (i) internally and (ii) externally [with the ccNSO] determine the additional member.	This is currently covered by provisional procedures developed to address the GNSO’s obligations relating to the CSC. These procedures will need to be formally approved as part of the GNSO Operating Procedures. GENERAL NOTE: Individual SGs and Cs should also review their internal procedures to ensure that they are able to make all the necessary appointments enabled by the revised Bylaws.

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<p>other Supporting Organization or Advisory Committee established under these Bylaws. (d) The GNSO and ccNSO shall approve the initial proposed members and liaisons of the CSC, and thereafter, the ccNSO and GNSO shall approve each annual slate of members and liaisons being recommended for a new term.</p>		<p>In addition, the GNSO and ccNSO must jointly approve the full membership of the CSC.</p>	
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SECTION 17.3 CSC CHARTER; PERIODIC REVIEW			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(b) The effectiveness of the CSC shall be reviewed two years after the first meeting of the CSC; and then every three years thereafter. The method of review will be determined by the ccNSO and GNSO and the findings of the review will be published on the Website.</p>	<p>NEW: GNSO and ccNSO define method of review of the CSC charter.</p>	<p>Possible new procedures, although current procedures for GNSO Council approval via a vote on a motion may apply.</p>	<p>Discuss if current procedures for GNSO Council approval may apply.</p>
<p>(d) Amendments to the CSC Charter shall not be effective unless ratified by the vote of a simple majority of each of the ccNSO and GNSO Councils pursuant to each such organizations’ procedures. Prior to any action by the ccNSO and GNSO, any recommended changes to the CSC Charter shall be subject to a public comment period that complies with the designated practice for public comment periods within ICANN. Notwithstanding the foregoing, to the extent any provision of an amendment to the CSC Charter conflicts with the terms of the Bylaws, the terms of the Bylaws shall control.</p>	<p>NEW: Amendments to the CSC Charter by a vote of simple majority of the GNSO Council.</p>	<p>Possible new procedures, although current procedures for GNSO Council approval via a vote on a motion may apply.</p>	<p>Discuss if current procedures for GNSO Council approval may apply.</p>

VOTING THRESHOLDS

ARTICLE 4 ACCOUNTABILITY AND REVIEW

4.3 INDEPENDENT REVIEW PROCESS (IRP) FOR COVERED ICANN ACTIONS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(b) A “Claimant” is any legal or natural person, group, or entity including, but not limited to the EC, a Supporting Organization, or an Advisory Committee that has been materially affected by a Dispute. To be materially affected by a Dispute, the Claimant must suffer an injury or harm that is directly and causally connected to the alleged violation.</p> <p>(j) ICANN shall, in consultation with the Supporting Organizations and Advisory Committees, initiate a four-step process to establish the [IRP] Standing Panel ... [SO/ACs] shall nominate a slate of proposed panel members from the well-qualified candidates identified per the process set forth in Section 4.3(j)(ii)(B).</p> <p>(n) An IRP Implementation Oversight Team shall be established in consultation with the Supporting Organizations and Advisory Committees and comprised of members of the global Internet community [to] develop clear, published rules for the IRP that conform with international arbitration norms and are streamlined, easy to understand and apply fairly to all parties.</p>	<p>NEW: SO/ACs expressly acknowledged as a possible Claimant for IRP (which may now be filed to cover enforcement of IANA contract and PTI service complaints); SO/ACs to be consulted as part of process for establishing Standing Panel (in coordination with the IRP Implementation Oversight Team); SO/ACs can nominate Standing Panel members from the list of qualified candidates.</p>	<p>The GNSO would need to agree on the voting threshold that would apply for each of the steps/items involved in an IRP if this is to be different from a simple majority vote. If agreement is that the threshold will be a simple majority vote then existing processes could apply.</p> <p>The GNSO will also have to identify the process through which it will decide whether to be a Claimant for an IRP. Some of the questions could include, but are not limited to:</p> <ul style="list-style-type: none"> --How a decision to initiate an IRP is reached - not just the threshold, but what it covers --Who would represent them? --Who would pay for representation? -- How would a claim that is supported by the GNSO be put forward? <p>For the standing panel, the questions are likely to be</p>	<p>The process regarding nominations for Standing Panel members may be within the current remit of the GNSO Council, with Councilors consulting with their respective SGs/Cs on the matter. Note that Standing Panel members are appointed for 5-year terms.</p> <p>As the Implementation Oversight Team (IOT) seems to be a one-time appointment, a new process will likely not be needed. It is noted that the IOT is already formed and working.</p>

		more related to the following: --What are the thresholds to agree? --Would it make sense to rely more on the SGs/Cs? -- How does their voice fit in?	
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ARTICLE 11 GENERIC NAMES SUPPORTING ORGANIZATION

SECTION 11.3 GNSO COUNCIL			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(i) Except as otherwise specified in these Bylaws, <u>Annex A</u> hereto, or the GNSO Operating Procedures, the default threshold to pass a GNSO Council motion or other voting action requires a simple majority vote of each House. The voting thresholds described below shall apply to the following GNSO actions:	NEW: Supermajority votes per GNSO role as Decisional Participant for these actions: Section 17.3: Amendments to CSC Charter – ratified by a vote of the simple majority of the GNSO Council Section 18.3: Frequency of Periodic IFRS: Approval of a delay by supermajority Section 18.6: IFR Recommendations approved by supermajority Section 18.12: Special IFR approved by supermajority AND Special IFR Recommendations approved by supermajority Section 19.1: Establish SCWG – SCWG creation recommendation approved by supermajority AND SCWG recommendation approved by supermajority	These will need to be fully documented in and where necessary revised or added to the GNSO Operating Procedures.	This can be done by amending the voting thresholds table currently in the GNSO Operating Procedures. NOTE: Where GNSO Supermajority is used, it is specifically intended to refer to the defined use of a supermajority threshold for the GNSO Council.

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ARTICLE 18 IANA NAMING FUNCTION REVIEWS			
SECTION 18.2 FREQUENCY OF PERIODIC IFRS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(c) In the event a Special IFR is ongoing at the time a Periodic IFR is required to be convened under this <u>Section 18.2</u> , the Board shall cause the convening of the Periodic IFR to be delayed if such delay is approved by the vote of (i) a supermajority of the ccNSO Council (pursuant to the ccNSO’s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO Council’s members) and (ii) a GNSO Supermajority. Any decision by the ccNSO and GNSO to delay a Periodic IFR must identify the period of delay, which should generally not exceed 12 months after the completion of the Special IFR.	NEW: Delay of convening IFR subject to GNSO Supermajority vote.	Only the administrative change required to update the voting thresholds in the GNSO Operating Procedures.	Update GNSO Council voting thresholds table in the GNSO Operating Procedures.
SECTION 18.6 RECOMMENDATION TO AMEND THE IANA NAMING FUNCTION CONTRACT, IANA NAMING FUNCTION SOW OR CSC CHARTER			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(b) (i) The IFR Recommendation has been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO’s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO Council’s members) and (B) a GNSO Supermajority;	NEW: Approve IFR Recommendation by a GNSO Supermajority	Only the administrative change required to update the voting threshold in the GNSO Operating Procedures.	Update GNSO Council voting thresholds table in the GNSO Operating Procedures.
SECTION 18.12 SPECIAL IFRS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
(c) A recommendation of an IFRT for a Special IFR shall only become effective if, with respect to each such recommendation (each,	NEW: Approval of Special IFR Recommendation by GNSO Supermajority.	Only the administrative change required to update the voting thresholds in the GNSO	GNSO Council voting thresholds table in the GNSO Operating Procedures.

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<p>a “Special IFR Recommendation”), each of the following occurs: (i) The Special IFR Recommendation has been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO’s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO Council’s members) and (B) a GNSO Supermajority;</p>		<p>Operating Procedures.</p>	
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ARTICLE 19 IANA NAMING FUNCTION SEPARATION PROCESS

SECTION 19.1 ESTABLISHING AN SCWG			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(b) The Board shall establish an SCWG if each of the following occurs: (ii) The SCWG Creation Recommendation has been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO’s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO Council’s members) and (B) a GNSO Supermajority;</p>	<p>NEW: Approval of SCWG by a GNSO Supermajority.</p>	<p>Only the administrative change required to update the voting thresholds in the GNSO Operating Procedures.</p>	<p>GNSO Council voting thresholds table in the GNSO Operating Procedures.</p>

SECTION 19.4 SCWG RECOMMENDATIONS			
<i>New Bylaw Section</i>	<i>New Obligation/Right for the GNSO</i>	<i>Any New Procedure Required?</i>	<i>Additional Comments</i>
<p>(b) ICANN shall not implement an SCWG recommendation (including an SCWG recommendation to issue an IANA Naming Function RFP) unless, with respect to each such recommendation (each, an “SCWG Recommendation”), each of the following occurs: (i) The SCWG Recommendation has been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the</p>	<p>NEW: Approval of SCWG recommendation by GNSO Supermajority.</p> <p>Note: the recommendation to create a SCWG is anticipated to come out of a Special or Periodic IFR (see above).</p>	<p>Only the administrative change required to update the voting thresholds in the GNSO Operating Procedures.</p>	<p>GNSO Council voting thresholds table in the GNSO Operating Procedures.</p>

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ccNSO's procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO Council's members) and (B) a GNSO Supermajority;			
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