

ICG Guidelines for Decision Making

17 September 2014

1. Purpose

The objective of this document is to assist the ICG (IANA Stewardship Transition Coordination Group) to optimize productivity and effectiveness in the process of making decisions.

Participation in the decision making process is reserved to the full members of the ICG and hence does not include ICANN Board Liaison, ICANN Staff Liason Expert, or Secretariat.

2. Individual/Group Behavior and Norms

The ICG should operate under the principles of transparency and openness, which means, *inter alia*, that mailing lists are publicly archived, meetings are normally recorded and/or transcribed, and Statements of Interest (SOIs), to include any conflicts of interest (COI), are required from ICG members and shall be publicly available.

ICG members should make every effort to respect the principles outlined in the ICANN Accountability and Transparency Framework, see <http://www.icann.org/transparency/acct-trans-frameworks-principles-10jan08.pdf> for further details¹, taking into account that this accountability is under full review by ICANN within the global multistakeholder community.

If an ICG member feels that these standards are being abused, she/he should appeal to the chair or one of the vice-chairs. It is important to emphasize that expressed disagreement is not, by itself, indicative of abusive behavior. At all times, ICG members should expect and hold themselves to respectful articulation of any points of disagreement. If abuse is demonstrated, the chair of the ICG in full consultation and collaboration with the two vice chairs needs to consider the matter and take necessary action, as appropriate to properly handle the case.

ICG members should participate faithfully in the ICG's process (e.g., attending meetings, providing timely input, monitoring discussions and fully collaborating with each other to achieve the established objectives).

The ICG will make all reasonable efforts to enable stakeholder communities to have appropriate time to consult on issues on which the ICG will make substantive decisions, including through public comment periods, where practicable and appropriate. Public comments received as a result of a public consultation held in relation to the activities of the ICG should be duly considered and carefully analyzed. In addition, the ICG should provide its

¹ Other best practices that can be considered include the 'Statement on Respectful Online Communication', see <https://www.icann.org/en/system/files/files/respectful-communication.pdf>.

rationale for including or not the different comments received and, if appropriate, how these will be addressed in the report of the ICG.

3. Making, Revisiting and Reconsidering ICG Decisions

The ICG may make decisions on its public mailing list or during meetings. Meetings are to be conducted face-to-face or through conference calls.

Unless it is specified before a meeting that the ICG is intending to finalize a decision during the meeting, the decisions taken at a meeting in which one or more members are absent should provide 7 calendar days for those absentee members to review the decision and provide any input related to it; such input would be considered at the subsequent meeting (physical, by correspondence, or by conference call) and taken into account, if so agreed.

For cases where it has been previously agreed that a decision is to be made at a given meeting and one or more members are not present at that meeting, these members may provide their views to the ICG in advance in order for those views to be considered at the scheduled meeting. Should the decision made not be consistent with the views of those absent, there should be another attempt to find a suitable compromise. Absent members should be invited to provide the ICG with a written statement of their concerns for inclusion in the report/conclusions of the ICG.

For cases where ICG proposes to finalize a decision in a scheduled meeting and some members are opposed to the decision reached at such meeting, there should be another attempt(s) to find a suitable compromise. Where that fails, member(s) who oppose should be invited to provide the ICG with a written statement of their concerns for inclusion in the report/conclusions of the ICG.

4. Methodology for Making Decisions

a. Administrative Decisions

The ICG may encounter instances where it needs to select person(s)/officer(s) as applicable for particular tasks. For example, the ICG may need to select secretarial support, speakers for particular events, liaisons to particular groups or the media, or chairs or vice chairs. In some cases, it may become obvious through discussion that all interested ICG members (those who have expressed an opinion) agree on a particular selection. In those cases, a chair, vice chair, or designee may approve a particular selection on the basis of the obvious agreement of all of those who expressed an opinion.

In other cases where multiple different opinions have been expressed, a chair, vice chair, or designee may choose to run a vote to make the selection. The selection should be done by a majority vote.

b. All Other Decisions

This section pertains to cases when the ICG encounters instances in which it needs to make decisions unrelated to administrative decisions described in Section 4(a) above; obvious examples are the decision to send the final transition proposal to NTIA as well as other intermediate decisions.

The mechanism that allows the ICG to come to a final decision regarding a certain topic is based on the following principles:

- The decisions addressed in this section relate to the handling and assembling of submitted proposal(s) and not decisions related to approval/rejection of the content of the proposals. The ICG is meant to assemble proposals from the various communities. If there is an issue with the subject matter of the proposals, it is not the role of the ICG to redraft them, but rather to return them to the originating community for further work with guidance as to what issues need to be addressed.
- The aim of the discussion should be to reach a conclusion that no ICG member opposes.
- Reasons for opposition should be clearly stated, along with specific alternative language which would overcome the opposition, allowing the communities and the ICG, wherever possible, to understand concerns and identify compromise solutions.
- The chair will provide a time frame (to be fixed according to the prevailing circumstances) for a given case under consideration, for discussion and consultation needed to address the specific issue.
- When such time, or extension of such time, for the ICG to consider and attempt to accommodate objections has expired, the chair and vice chairs, in consultation with the members, should identify common ground relevant and appropriate to the issue under discussion and do their utmost to propose possible ways forward.
- It is obvious that no single member or a small minority should be allowed to block the decision making process. In other words a situation where a minority would feel it needed to block consensus should be avoided. Counter voices need to be listened to very carefully and a serious attempt must be made to take all concerns into account. If a full agreement is not possible, those still in opposition should be invited to prepare a written explanation of their position that should be published with the decision. See relevant paragraphs below.
- Determinations of consensus do not fit into a formula and the concept of what is a small minority will need to be determined on a case-by-case basis. Factors of determination may include the nature and seriousness of the objection, the scope of support for the objection (whole stakeholder community(ies) or a subset of one or more communities) and the attempts that have been made to resolve those objections. While consensus of all stakeholder communities is the objective, it seems clear from the NTIA requirements that the objection of a majority of an operational community would preclude the ability of the ICG to submit an

acceptable consensus proposal. In other words, all stakeholder communities have a role in the development of the broad consensus called for; the nature, scope and breadth of support of concerns/objections within and across stakeholder communities will impact the ability of the ICG to submit a proposal that meets the requirements of the NTIA process. Concerns of an operational nature from one or more operational community would also significantly limit the ability of ICG to submit a proposal that meets the terms of the NTIA requirements.

c. Designation of recommendation

Following these basic principles, the chair will be responsible for designating each ICG position as having one of the following designations:

- **Recommendation by consensus** - when no one in the group speaks against the recommendation in its last readings.
- **Recommendation** - a position where consensus could not be reached after the matter is sufficiently debated and after the chair and two vice chairs together with interested parties have made their utmost efforts to find a satisfactory solution for the matter in order to achieve consensus. Those who still object to the recommendation should be invited to document their objections for the final report.

One possible example in the “Recommendation” category, *inter alia*, could be that a Recommendation could be considered as adopted if at most a small minority disagree by documenting their objection(s), the representatives of an operational community significantly and directly affected by the conclusion have not been overruled, and the consensus sought was inclusive of all ICG communities. The ICG should bear in mind that the consensus that we are seeking must be inclusive of all stakeholder groups: the final proposal needs to reflect that there is broad support for the approach from across the communities, if it is to be an acceptable way forward.

Minority views opposing the recommendation should be documented and attributed in the report.

The agreed and fundamental objective of the ICG is to reach at least the Recommendation designation in favor of forwarding the Proposal for the IANA Stewardship Transition to the NTIA.

In order to examine and evaluate the degree of acceptability of a Recommendation the following method is proposed for consideration, where necessary:

- i. The chair and/or vice chairs should establish a time frame for discussion about a particular issue. If that time frame expires and new issues are still being raised, the chair and/or vice chairs may extend the time frame for discussion, as the case may be. The above-mentioned time frame(s) should be clearly included in the summary of the discussions.
- ii. After the group has discussed an issue exhaustively for all issues to have been raised, understood and discussed, the chair and/or vice chairs make an evaluation of the

designation and publish it for the group with a clear timescale to review. In establishing timescale, account should be taken of the related community discussion needed.

- iii. If any justified objection is raised concerning the designation, the chair and/or vice-chairs should reevaluate and possibly publish an updated evaluation.

Recommendation calls should always be available to the entire ICG and, for this reason, should be published on the designated mailing list to ensure that all ICG members have the opportunity to fully participate in the process. It is the role of the chair, in full consultation and collaboration with vice chairs, to designate that a recommendation has been achieved and to announce this designation to the ICG. Members of the ICG should be given the opportunity to raise objections to the designation done by the chair as part of the discussion, per the methodology outlined above.

Any ICG member who believes that his/her contributions are being systematically ignored or discounted should discuss the circumstances with the ICG chair/vice chairs. The chair, in full consultation with vice chairs, needs to carefully examine the case with the view to find a satisfactory solution for the matter through all appropriate means. The conclusions of this discussion should be documented.

Regarding approval of draft documents, a document is considered as a stable draft for approval, provided that the draft is available at least 7 calendar days before the date on which the approval process is scheduled.