

**INTERCONNECT
COMMUNICATIONS**



ATRT2 GNSO PDP Evaluation Study

Final Report

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1 Executive Summary

This document is an attempt to assist ICANN's Accountability and Transparency Review Team 2 (ATRT2) in its assessment of the Generic Names Supporting Organization (GNSO) Policy Development Process (PDP). ATRT2 was convened, in part, to review the GNSO PDP with a view toward identifying its strengths and weaknesses, differences between defined process and actual practice, and the extent to which it incorporates the views, advice and needs of all stakeholders, both those active in ICANN and those not typically present for ICANN deliberations. In addition, the ATRT2 will examine the participation of the GAC in the PDP, how the ICANN PDP compares with similar multi-stakeholder processes, and the extent to which the PDP fulfills the mission of ICANN in developing sound policies in the public interest while at the same time meeting the needs of all stakeholders. The ATRT2 will also identify those areas where the PDP does not help fulfill ICANN's mission and need further investigation and change. This document is the product of interview work and other research conducted in August and September 2013.

An early version of this report was shared with the ATRT2 as part of the effort to assist the ATRT2 in the early drafting of their findings and recommendations.

1.1 Findings Presented to ATRT2

1.1.1 Strengths of the Current PDP

The GNSO PDP is a remarkably flexible process with the ability to adapt to a wide variety of topics and requirements. The transparency and completeness of the historical record is a hallmark of the PDP, making it possible to discover mountains of detail about processes that occurred years earlier. Our interviews with participants and stakeholders uncovered an enormous amount of goodwill toward appreciation for policy staff. Compared with other multi-stakeholder, bottom-up policy processes, the GNSO manages to cope with a greater diversity of stakeholder types, and more varied levels of subject matter expertise. It is also open to any participant who wants to take part, and interviewees in our study indicated that all stakeholders' input was welcomed and valued. There is great deal to be proud of, not least the work of a dedicated number of volunteers over multi-year cycles who form the backbone of ICANN's multi-stakeholder, bottom-up policy development.

Necessarily, given the requirements of the ATRT2's scope of work, this report focuses on a number of areas for improvement, but that should not mask the real achievements of the PDP.

1.1.2 Demands on Regular Participation are Too High

Working Groups

The research conducted for this report shows that fully engaged participation in PDPs requires an extraordinary set of demands on participants. In the last five years:

- The vast majority of people who participate in Working Groups participate only once.
- A small number of participants who have economic and other support for their ongoing engagement have dominated Working Group attendance records.

Having such a small pool poses accountability, credibility, and resource risks for the policy development process. It also results in very few participants who have the experience to lead, moderate and bring to completion the difficult work of guiding participants and policy through the PDP.

The comment period

The comment process, although a less active and more episodic form of participation, is seen as problematic, with a large majority of stakeholders with connections to businesses, constituencies or stakeholder groups reporting that it was very difficult to craft, discuss, and get agreement and approval for submission of comments within the timeframes provided by the PDP.

Ways forward

1. The ICANN community needs to examine the potential for alternative participation models in the PDP.
2. The current PDP also needs to be examined to find ways to break up the enormous commitment associated with Working Groups into component parts.

1.1.3 Unbalanced Global Participation Trends Risk Legitimacy

There is clear statistical evidence that three of ICANN’s regions play no meaningful part in the PDP. The research conducted for this report identified two key factors in producing this geographic imbalance:

- Language is a genuine barrier to participation in PDPs.
- The collaboration and discourse model built into the current PDP has a distinctly Western approach and does not take into account other cultural approaches to developing and building consensus policies.

The GNSO risks global legitimacy—a core value of the policy that comes out of the PDPs—when it does not include viewpoints from Africa, Asia/Pacific and the Latin American/Caribbean/South American regions.

Ways forward

1. ICANN should consider reforming its outreach activities to nurture and support Working Group participants from Africa, Asia/Pacific and the Latin American/Caribbean/South American regions. Several interviewees mentioned that it would be helpful if outreach efforts tied more closely into recruitment for Working Groups or made use of community leaders in the regions.
2. Greater use could also be made of ICANN’s contacts and partnerships with organizations in Africa, Asia/Pacific and the Latin American/Caribbean/South American regions to help address language barriers.
3. The ICANN community should reconsider the underlying collaboration and discourse model of the PDP and identify adjustments that could support participants who are not used to working collaboratively under the current model.

1.1.4 Commitment to the Process is Essential

In isolation, the PDP is a multi-stakeholder, consensus-driven, public policy development process. However, the PDP in the GNSO does not work in isolation from other parts of ICANN. The interviews conducted for this report show many people are concerned about the interactions between the work products of the PDP and other parts of the organization. Specifically, there have been a significant number of responses that expose concern about policy built through long collaboration and negotiation being changed or challenged by other parts of ICANN “after the fact”. In particular, concern was raised that the ICANN Board could—and has—changed proposed policy or accepted alternative implementation of policy, with the effect of overruling the work of the PDP. Others were concerned that some members of the community are lobbying the GAC, GNSO Council, or ICANN

Board for changes in substance or implementation after a Working Group’s Final Report has been completed. Outside of the essential fairness issues that are evident in these concerns, there are more important transparency issues at stake. Any change made by the Board to a consensus-driven policy created by committed, often volunteer, participants in a bottom-up stakeholder engagement process will always be open to questions about why and how those changes were made. This has become such a prevalent concern that, in one very recent Working Group, participants challenged others in the Working Group on the issue of whether they were truly committed to the process or if they simply intended to wait the process out then “lobby” for the results they wanted in other parts of the organization. Some of the people interviewed for this report indicated that cynicism about other participants’ commitment to the PDP was a barrier to their own participation.

Ways forward

It is important to stress that the issue identified in this section is not the result of a structural problem with the GNSO PDP. Instead, the issue is the result of slight differences between different parts of the ICANN structure. This report suggests that there needs to be process and procedure applied to ensure that other parts of the organization do not inadvertently subvert the accountability and transparency of the PDP.

1.1.5 The Role of the GAC in the PDP Needs Reconsideration

The GAC represents an important set of stakeholders in any policy development process related to domain names. However, for reasons documented later in the report, the GAC rarely participates in any PDP. The consequence of the GAC not participating in GNSO PDPs is that the GAC may only raise concerns after lengthy processes have been completed, and negotiations and agreements reached. This report also shows that while there are several windows of opportunity for GAC to provide advice during PDPs, those opportunities are not taken.

The research conducted for this report has found that there appear to be no structural barriers that prevent the GAC’s participation in the PDP (for instance, we believe that no changes to the Bylaws are required). Instead, a more well-defined and structured relationship between Working Groups and the GAC would help the GAC identify which issues are meaningful to governments and help Working Groups identify topics where they must give early notification to the GAC. Interaction between the GAC and the Working Groups and the GAC must move from “opportunities” to being a structured part of the process. The GAC has a history of successful collaboration in other areas of ICANN, for example, in Country Code Names Supporting Organization (ccNSO) Working Groups and participation in Affirmation of Commitments (AOC) reviews. Therefore, the GAC has a set of existing good practices that can be built upon within the specific context of the GNSO PDP.

1.2 Suggested Improvements from Interviewees

Interviewees offered suggestions for overcoming some of the issues they identified. A wide range of improvements was suggested. The list below highlights the most popular suggestions made during conversations with stakeholders of the PDP:

Suggested improvement	How to achieve
Management of the process	Training, facilitation, management training for WG chairs, a more structured approach from the outset with timeframes and deliverables. Don’t take too long.
Facilitate engagement by those without English as a first language	Publish consultation documents in other languages.
Break PDPs down into manageable chunks	Example of IRTP was given as a successful model.
More face to face meetings	Especially when issues get log-jammed.

Better communications, summaries	“Uber technical language” alienates people. “It’s very transparent, open, but the question is, how many people actually do understand?” One interviewee suggested an “informal blog” to update people on the progress of PDPs.
Restructure the constituencies	Constituencies, as currently structured, are very developed-country orientated. Interviewees pointed out that there are experts in developing countries, but no ready match with GNSO constituencies in which they can participate.
Devise PDP charters more inclusively to balance stakeholder interests	Involve more stakeholders in drafting PDP charters.
Classify issues more effectively in the Issue Report	For example, “merits a PDP” and “faster track, simpler issue – no PDP required”.
Change the outreach strategy, to make use of community leaders in the regions	Open PDPs to more stakeholder groups / mandate participation from stakeholder groups

Other suggestions made include:

- Introduce outside intervention to break logjams
- Have more flexible timelines
- ICANN should fund participants from developing countries
- Create an independent GNSO secretariat
- Reduce time commitment for participants
- Create a specific place in ICANN meetings to encourage public comments on PDPs
- Assign experts to PDPs to answer questions and do research (with all expert advice and reports published)
- Use better/longer comment processes
- Provide capacity building for new participants
- Ensure comments are reflected in the output of the PDP
- Fact-based white papers
- All policy should pass a public interest test (similar to RFC 1591)
- Be AGILE. Aim for the simplest, working solution

1.3 Looking Ahead

The landscape of the GNSO and other ICANN constituencies will change with new gTLDs. The distinctions will become blurred between the stakeholder groups: a single registry could simultaneously exist as a registrar, Intellectual Property Constituency or Business Constituency member, and perhaps also a ccNSO member.

Some interviewees viewed the current, open, system as vulnerable to capture as new players move into the space. These new entrants may want the GNSO and its component parts to behave in the same way as other organizations with which they are familiar. Interviewees predict that new players will be impatient with the lack of speed and the unique ways of doing things, and could easily "take over" the GNSO Council in a short period by placing hard working, competent people across the various GNSO constituencies. If this were to happen, it has the potential to affect GNSO PDPs.

2 Purpose and Overview of Methodology

2.1 Purpose of Study

In September 2009, ICANN and the United States Department of Commerce (DOC), in recognition of the conclusion of the Joint Project Agreement, and to institutionalize ICANN's technical coordination of the Internet's domain name and addressing system, signed an Affirmation of Commitments (AOC).¹ Under the auspices of the AOC, ICANN commits to ensuring that its decision-making reflects the public interest and is accountable to all stakeholders. Toward this end, the AOC calls for ICANN to periodically review progress toward its four key organizational objectives, namely:

1. Ensuring accountability, transparency and the interests of global Internet users
2. Preserving security, stability and resiliency of the DNS
3. Promoting competition, consumer trust and consumer choice
4. WHOIS policy

These periodic reviews of ICANN's execution of its core tasks are conducted by review teams, including the Accountability and Transparency Review Teams (ATRT), which are aimed at ensuring accountability, transparency and the interests of global Internet users.² The first ATRT (ATRT1) reviewed three key aspects of the AOC: the ICANN board of directors, the Government Advisory Council (GAC), and public input into the ICANN policy development process.

As per the AOC, a second ATRT (ATRT2) was constituted to conduct a follow-up review. Specifically, the ATRT2 is examining ICANN's activities to ensure they are accountable, transparent, and consistent with the public interest. The ATRT2's work is focused on paragraph 9.1 of the AOC, under which ICANN commits to maintaining and improving robust mechanisms for public input, accountability, and transparency to ensure that the outcomes of its decision-making reflect the public interest and is accountable to all stakeholders. Specifically, ICANN commits to assessing the policy development process to facilitate enhanced cross-community deliberations and effective, timely policy development.

ICANN Bylaws explicitly give GNSO responsibility for developing generic Top Level Domain (gTLD) policy recommendations. Toward this end, the GNSO Council oversees gTLD policy development by the GNSO and approves GNSO policy recommendations. Upon ratification by the ICANN Board of Directors, ICANN staff implements GNSO policy recommendations, often with support from the GNSO.

Although policy may be developed by the GNSO using a variety of mechanisms, the formal Policy Development Process (PDP) mandated by the ICANN Bylaws must be used for developing policy. Policy developed in this way is often referred to as "consensus policy" and, if ratified, is automatically incorporated by reference into the contracts of gTLD Registries (entities that operate gTLDs under contract with ICANN) and Registrars (entities accredited by ICANN to distribute domain name registrations within gTLDs). The PDP is also used in other cases when the rigor of its methodology is desired due to the complexity of the issue and/or there are strongly held and conflicting views held on the issue.

Against this background, the ATRT2 was convened to review the GNSO PDP with a view toward identifying its strengths and weaknesses, differences between defined process and actual practice, and the extent to which it incorporates the views, advice and needs of all stakeholders, both those

¹ <http://www.icann.org/en/about/agreements/aoc/affirmation-of-commitments-30sep09-en.htm>

² <http://www.icann.org/en/about/aoc-review/atrt>

active in ICANN and those not typically present for ICANN deliberations. In addition, the ATRT2 review will examine the participation of the GAC in the PDP, how the ICANN PDP compares with similar multi-stakeholder processes, and the extent to which the PDP fulfills the mission of ICANN in developing sound policies in the public interest while at the same time meeting the needs of all stakeholders. The ATRT2 will also identify those areas where the PDP does not help fulfill ICANN's mission and needs further investigation and change.

2.2 Overview of Methodology

To meet the requirements of the ATRT2 Team (as set out in its Request for Proposals³), the InterConnect Communications (ICC) Team has undertaken both a quantitative and qualitative approach. The quantitative study involved an analysis of the extensive, published written archive relating to the GNSO PDP, including the documented process (found in the ICANN Bylaws, GNSO PDP Manual and other public records described in Section 4), records of specific PDPs (see Section 5), information provided by ICANN staff, and other GNSO materials. A full description of the sources and metrics developed for evaluating the strengths and weaknesses of the process is documented in Annex A.

These sources were supplemented by qualitative data derived from interviews with participants in the PDP process and others in the ICANN community. A structured question set was developed, using the Likert scale to capture a range of opinions (rather than a binary yes/no), which took the interviewees through the stages of the PDP, and included particular areas of interest identified in the Request for Proposals. The interviews also captured demographic data (including geographic region, constituency, extent of participation in PDPs), and concluded with more open questions which aimed to identify major challenges and invited interviewees to suggest practical responses to those challenges.

In all, thirty interviews were undertaken. A more detailed description of the methodology is included in Annex A.

³ See <http://www.icann.org/en/news/announcements/announcement-2-02jul13-en.htm>

3 A Review of the Existing GNSO PDP

The current GNSO PDP became active on 8 December 2011. Given that the majority of PDPs analyzed in this report existed, at some stage of their process, prior to 8 December 2011, it is necessary to include a brief overview of the PDP that existed before that date as well as more comprehensive documentation on the current PDP.

3.1 Historical Background

The previous PDP was documented in detail in Annex A of the ICANN Bylaws. It consisted of the following elements:

1. Raising an Issue
2. Creation of the Issue Report
3. Initiation of PDP
4. Commencement of the PDP
5. Composition and Selection of Task Forces
6. Public Notification of Initiation of the PDP
7. Task Forces
8. Procedure if No Task Force is Formed
9. Public Comments to the Task Force Report or Initial Report
10. Council Deliberation
11. Council Report to the Board
12. Agreement of the Council
13. Board Vote
14. Implementation of the Policy
15. Maintenance of Records
16. Additional Definitions

Annex A of the Bylaws was the sole official documentation of the GNSO PDP, and therefore described each step in considerable detail. In addition to the official documentation of the PDP, the GNSO community had, over time, developed an informal set of practices and procedures associated with managing PDPs.⁴

On 26 June 2008, the ICANN Board approved a set of recommendations designed to improve the effectiveness of the GNSO, including its policy activities.⁵ The Board explained that the mandate to update the PDP “arises not from a change in the mission or role of the GNSO, but from the accumulation of experience with the current PDP and the decisions that have been made by the ICANN Board concerning an organizational restructuring of the GNSO”.⁶ The key objectives of the review were to:

- Maximize the ability for all interested stakeholders to participate in the GNSO’s policy development processes
- Ensure that recommendations can be developed on gTLD “consensus policies” for Board review and that the subject matter of “consensus policies” is clearly defined
- Ensure that policy development processes are based on thoroughly-researched, well-scoped objectives, and are run in a predictable manner that yields results that can be implemented effectively

⁴ See p. 3 of Policy Development Process Work Team Final Report & Recommendations, 2011, <http://gnso.icann.org/en/issues/pdp-wt-final-report-final-31may11-en.pdf>

⁵ Ibid, p. 131

⁶ Ibid, p. 132

- Align policy development more tightly with ICANN’s strategic and operations plans
- Improve communications and administrative support for GNSO objectives⁷

The PDP Work Team tasked with developing recommendations for a revised PDP approached its work by dividing the PDP into five phases:

- Stage 1 – Planning and Request for an Issues Report
- Stage 2 – GNSO Council Review of the Issues Report and Initiation of the Policy Development Process
- Stage 3 – Working Group
- Stage 4 – Voting and Implementation
- Stage 5 – Policy Effectiveness and Compliance⁸

Note that under this division, the PDP is considered to start with the planning for an Issues Report (Stage 1), but is “initiated” in Stage 2. Further, implementation (Stage 4) is not considered the final phase of the PDP. Rather, compliance (Stage 5) was considered part of the PDP.

Sections 3.2 and 3.3 below describe the formal documentation—ICANN Bylaws Annex A and GNSO PDP Manual—that resulted from the review of the PDP that was initiated in 2008.

3.2 PDP as Referenced in the ICANN Bylaws

This section describes the GNSO PDP that was approved by the ICANN Board in December 2011.

The GNSO PDP as defined in Section 1 of Annex A, GNSO Policy Development Process, of the ICANN Bylaws lists eight “essential elements” of the PDP. These are listed, paraphrased in active voice, below:

1. The ICANN Board, GNSO Council or Advisory Committee requests a Final Issue Report
2. The GNSO Council formally initiates the Policy Development Process
3. The GNSO Council forms a Working Group or designates another work method for managing the development of a report on the issue that is the subject of the PDP
4. The Working Group, or another work method, produces an Initial Report
5. The Working Group, or another work method, produces a Final Report, which is forwarded to the GNSO Council for deliberation
6. The GNSO Council, following the required thresholds, approves the PDP Recommendations contained in the Final Report
7. PDP Recommendations and Final Report shall be forwarded to the Board through a Recommendations Report approved by the Council
8. The ICANN Board approves the PDP Recommendations

Note that implementation is not included as one of the essential elements of the PDP. Implementation is, however, included as Section 10 of Annex A. The Bylaws, therefore, appear to suggest that implementation *can* be an element of a PDP, but that implementation is not essential to a PDP. Note, too, that compliance, which was included in Stage 5 of the PDP Work Team’s five-phase review of the PDP, is also not included as an essential element of the PDP.

Section 2 states that the GNSO is to maintain a PDP manual that contains “specific additional guidance on completion of all elements of a PDP, including those elements that are not otherwise

⁷ Ibid, p. 131

⁸ Ibid, p. 8

defined in these Bylaws”. The contents of the GNSO PDP Manual will be described in Section 3.3 of this report.

Sections 3 to 9 of Annex A loosely follow the sequential steps of the GNSO PDP and are a mix of descriptions of outcome-oriented steps (Sections 4 and 6) and process-oriented guidelines (Sections 3, 5, 7, 8 and 9):

- Section 3. Requesting an Issue Report
- Section 4. Creation of an Issue Report
- Section 5. Initiation of the PDP
- Section 6. Reports
- Section 7. Council Deliberation
- Section 8. Preparation of the Board Report
- Section 9. Board Approval Processes

Section 4, Creation of an Issue Report, describes the fulfillment of the first “essential element” of the PDP: the request for an Issue Report. Section 4 also describes the Issues Report phase as a multi-step process, summarized below, as a numbered list for clarity:

1. The Staff Manager creates a Preliminary Issue Report.
2. ICANN staff publish the Preliminary Issue Report on the ICANN website for public comment.
3. The Staff Manager summarizes and analyzes the public comments received, if any.
4. The Staff Manager creates a Final Issue Report that incorporates the feedback received during the public comment period.
5. The Staff Manager forwards the Final Issues Report, with a summary and analysis of public comments received, to the Chair of the GNSO Council.

Section 5 briefly describes the two ways the GNSO Council can initiate a PDP, following the receipt of the Final Issue Report: if the Board requests an Issues Report, no vote is needed; otherwise, a Council vote is required.

Notably, the third essential element of the PDP described in Section 1 of Annex A, the formation of a Working Group or alternative working method, is not given its own standalone section in Annex A of the Bylaws. Instead, that element is described in the GNSO PDP Manual (see Section 3.3 below).

Section 6 combines the fourth and fifth essential elements of the PDP: the creation of an Initial Report and a Final Report by the Working Group or by an alternative working method.

Section 7, Council Deliberation, differs slightly from the sixth essential element of the PDP, Council approval. It shifts the focus from the outcome (approval of the Final Report), to process (deliberation of the report).

Section 8, Preparation of the Board Report, differs from the activity described as the seventh essential element of the PDP, which focuses on the forwarding of the report, rather than the preparation of the report. Although the difference seems minor, the difference in focus has the potential to cause confusion for less-experienced participants in the GNSO PDP.

As with Sections 7 and 8, Section 9 changes the focus from outcome (Board approval in the eighth and final essential element of the PDP) to process (Board process for approval).

The final four sections of Annex A are:

- Section 10. Implementation of Approved Policies
- Section 11. Maintenance of Records

Section 12. Additional Definitions
Section 13. Applicability

As noted earlier, it is interesting to note that implementation is not considered one of the essential elements of the PDP, but is still documented as part of the overall PDP description. The inclusion of Section 11, Maintenance of records, is significant, as it places a requirement on ICANN staff to publicly document each step in a PDP, including upcoming steps. There is no reference to compliance as a stage of the PDP in the Bylaws.

3.3 PDP as Defined in the GNSO Operations Manual

This section discusses the PDP as defined in version 2.7 of the GNSO PDP Manual.⁹

The GNSO PDP Manual includes 18 sections to describe the PDP in more detail than in the ICANN Bylaws. Below is a list of those sections. The bold text marks the seven sections associated with the eight essential elements of the PDP listed in Section 1 of Annex A of the ICANN Bylaws:

1. PDP Manual - Introduction
2. **Requesting an Issue Report**
3. Planning for Initiation of a PDP
4. Recommended Format of Issue Report Requests
5. **Creation of the Preliminary Issue Report**
6. Public Comment on the Preliminary Issue Report
7. **Initiation of the PDP**
8. Development and Approval of the Charter for the PDP
9. PDP Outcomes and Processes
10. **Publication of the Initial Report**
11. **Preparation of the Final Report**
12. **Council Deliberation**
13. **Preparation of the Board Report**
14. GNSO Council Role in Implementation
15. Termination or Suspension of PDP Prior to Final Report
16. Amendments or Modifications of Approved Policies
17. Periodic Assessments of Approved Policies
18. Miscellaneous

The eighth essential element, ICANN Board approval, is not included in the GNSO PDP Manual as it would be outside the GNSO's scope to define the Board's approval process in its own documentation.

Section 3, Planning for Initiation of a PDP, introduces the idea of holding workshops before the "initiation of a PDP", in part to "gather support for the request of an Issue Report". The use of the term "initiation of a PDP" in this context is problematic, given the more official use of "initiation of a PDP" in the Section 1 of the ICANN Bylaws to describe the *formal* initiation of a PDP following the GNSO Council's consideration of an Issue report. The more informal use of the term here could be confusing to those not already well versed in the stages of a PDP.¹⁰ Although not explicitly stated, the idea of holding workshops seems to be limited to GNSO-initiated PDPs, as there appears to be no

⁹ <http://gns0.icann.org/council/annex-2-pdp-manual-13jun13-en.pdf>

¹⁰ The PDP Work Team established in 2008 to make recommendations on a revised PDP had highlighted the confusing use of the term "initiation of the PDP" in the 2008 version of the ICANN Bylaws and suggested that "initiation of the PDP" only refer to the formal initiation that follows the GNSO Council's deliberation on the Issue Report. The use of the term in Section 3 of the GNSO PDP Manual, in relation to holding workshops prior to a request for an Issue Report has been made, however, suggests that this confusion has not been entirely eliminated.

documented process for enabling other ACs or SOs to communicate with the GNSO prior to an AC or SO making a request for an Issue Report. In addition, it appears that potential workshops would need to be held as physical events as part of one of ICANN's three meetings per year.

Section 4, Recommended Format of Issue Report Requests, is a detailed description of the form to be used when carrying out the Request for an Issue Report documented in Section 2. It is not clear why this descriptive section has been separated from its parent process, Section 2, by the intervening Section 3, Planning for Initiation of a PDP.

Section 5, Creation of the Preliminary Issue Report, expands on the description of the activity of the same name described in Section 4 of Annex A of the ICANN Bylaws. In particular, it provides guidelines to help ICANN's General Counsel determine whether or not the issue described in the Issue Report is properly within the scope of ICANN's mission, policy process and, more specifically, the role of the GNSO.

Section 6, Public Comment on the Preliminary Issue Report, provides more detail on the Public Comment process. In Annex A of the Bylaws, the Public Comment process is included as the last two paragraphs of Section 4, Creation of the Preliminary Issue Report. The GNSO PDP Manual version of the Public Comment process encourages ICANN Staff to translate the Preliminary Issue Report so it is available in all six official United Nations (UN) languages,¹¹ but that completion of such translations are not to delay the posting of the original English version, and, by inference, the launch of the Public Comment period. There is no accompanying recommendation discussing how to handle the possibility that delayed publication of translated versions could negatively affect the ability of non-English speakers to digest the summary in their own language and then comment in time in English.¹²

Section 7, Initiation of the PDP, expands significantly on the brief description given in Section 5 of Annex A of the ICANN Bylaws. In particular, it details the timeframe the GNSO Council should use for voting on whether to initiate a PDP and under what circumstances a suspension of further consideration of the Final Issue Report can be permitted. Section 7 also describes how, if the GNSO Council decides not to initiate a PDP, any GNSO Councilor can appeal the decision or, if an AC requested the Issue Report, the AC can discuss the decision with the Council and request a re-vote.

Section 8, Development and Approval of the Charter for the PDP, contains procedural details not included at all in the Bylaws. The section describes how the GNSO Council is to convene a group to develop a draft Charter for the PDP Team, what elements must be included in the draft Charter, a timeframe within which the GNSO Council is expected to consider the proposed Charter and voting thresholds to approve the PDP Charter.

Similar to Section 8, Section 9, PDP Outcomes and Processes, contains details of process not included at all in the ICANN Bylaws: the working methods of the team responsible for developing the Final Report. Interestingly, although, in 2008, the ICANN Board requested that the PDP Work Team review the PDP with the aim of replacing the Task Force model of development with one of Working Groups, the GNSO PDP Manual, while strongly recommending the use of Working Groups, provides the GNSO Council with the option of using other designated working methods. The alternative methods mentioned in the section are: "task force, committee of the whole or drafting team". The Manual, however, does not include information on why the Council may choose to use a non-Working Group

¹¹ The six official languages of the UN are Arabic, Chinese, English, French, Russian and Spanish.

¹² It is interesting to note that the GNSO website includes in its left hand navigation menu a section containing links to translation services by both Bing and Google. Translate with Bing enables readers to translate HTML web pages on the GNSO website, while the GNSO urges readers to use Google Translate to translate GNSO documents in PDF, DOC and other formats. The official Public Comment pages on the ICANN website, however, contain no such links to online translation tools.

method, or under what conditions it may be appropriate. Because of the possibility that a Working Group may not be the chosen working method, the Manual uses the umbrella term, “PDP Team”, to describe the group formed to perform the PDP activities, regardless of its specific format.

Section 9 also describes some of the ways the PDP Team is to collect information that will inform the Final Report. In particular:

- The PDP Team may solicit the opinions of outside advisors, experts, or other members of the public
- The PDP Team should formally solicit statements from each GNSO Stakeholder Group and Constituency in the early stages of the PDP
- The PDP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as appropriate that may have expertise, experience, or an interest in the PDP issue

Section 9 describes how the PDP Team is to work with ICANN Staff on the PDP work, including escalation procedures. Section 9 also provides an illustrative list of the types of recommendations (if any at all) that a PDP Team may make in the Final Report:

- i. Consensus policies
- ii. Other policies
- iii. Best Practices
- iv. Implementation Guidelines
- v. Agreement terms and conditions
- vi. Technical Specifications
- vii. Research or Surveys to be conducted
- viii. Advice to ICANN or to the Board
- ix. Advice to other Supporting Organizations or Advisory Committee
- x. Budget issues
- xi. Requests for Proposals
- xii. Recommendations on future policy development activities

Section 10, Publication of the Initial Report, provides more detail on what content must be developed during the Report process described in Section 6 of Annex A of the ICANN Bylaws. The specified elements of an Initial Report:

- Compilation of GNSO Stakeholder Group and Constituency Statements
- Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee
- Recommendations for policies, guidelines, best practices or other proposals to address the issue
- Statement of level of consensus for the recommendations presented in the Initial Report
- Information regarding the members of the PDP Team, such as the attendance records, and Statements of Interest
- A statement on the PDP Team’s discussion concerning impact of the proposed recommendations. Such impacts include areas such as economic, competition, operations, privacy and other rights, scalability and feasibility

Section 11, Preparation of the Final Report, describes how the PDP Team and ICANN Staff manager are to prepare the Final Report following the close of the Public Comment period for the Preliminary Report. There is a brief mention of this activity in the second and final sentence of Section 6 of Annex A of the ICANN Bylaws. Section 11 notes that while there is no requirement to publish the Final Report for Public Comment, for the sake of maximizing accountability and transparency goals, the

PDP Team should consider publishing the Final Report, marked as draft, for Public Comment, with translation of the Executive Summary by ICANN staff if possible. Any comments received in this optional Draft Final Report process should be taken into account and integrated into the Final Report that is forwarded to the GNSO Council.

The second last paragraph of Section 11 includes a reference to an optional process that, timeline-wise, can occur any time between the start of the PDP Team's work (Section 9 of the PDP Manual) and the publication of the Final Report (Section 11). This optional process is the seeking of Public Comment on any item that the PDP Team believes could benefit from further public input. It is not clear why this optional process is included in this section, rather than in Section 9, with the other descriptions of possible processes that a PDP Team can use.

Section 12, Council Deliberation, expands on the brief description given in Section 7 of Annex A of the ICANN Bylaws, providing guidance on the timing of discussions and how the GNSO Council should deal with any PDP recommendations that did not reach consensus within the PDP Team. It is suggested that if the Council has concerns about any PDP recommendations, or wishes to propose changes, it may be more appropriate to pass such concerns or proposed changes back to the PDP Team for input and follow-up.

Section 13, Preparation of the Board Report, expands on the brief description given in Section 8 of Annex A of the ICANN Bylaws, explaining how the GNSO should choose a group or individual to draft a Recommendations Report to the Board that will supplement any Staff Report to the ICANN Board. The Staff Report highlights any legal, implementability, financial or other operational concerns related to the PDP recommendations contained in the Final Report.

Section 14, GNSO Council Role in Implementation, expands on Annex A of the ICANN Bylaws, Section 10, Implementation of Approved Policies. It describes how the GNSO Council, if ICANN Staff are authorized or directed by the ICANN Board during its deliberations on the PDP recommendations to work with the Council to develop an implementation plan, may choose to create an Implementation Review Team to assist ICANN Staff develop the implementation plan. Section 14 also describes how the GNSO Council should report concerns about elements of a planned PDP implementation to the ICANN Board, with ICANN Staff refraining from further implementation activities until the Board has considered the GNSO Council's concerns.

The final four sections in the GNSO PDP Manual, sections 15 to 18, are concerned with issues of procedure related to terminating or suspending PDPs and revisiting or revising approved policies. Of particular interest is Section 16, Amendments or Modifications of Approved Policies, which describes how the GNSO Council may amend approved PDP recommendations at any time before the ICANN Board votes on the recommendations by a process of reconvening the PDP Team, or consulting with the Team if already disbanded, on the issues, followed by a Public Comment period. Amendments that follow this process and receive a Supermajority vote by the GNSO Council can then be forwarded to the ICANN Board. If the ICANN Board has already adopted the originally proposed PDP recommendations, however, a new PDP must be initiated to consider the proposed modifications.

3.4 Supplementary Documentation of the PDP

In addition to the legal requirements specified in the ICANN Bylaws and the details elaborated in the GNSO Operations Manual, there are also visual flowcharts produced by ICANN Staff to provide an overview of the PDP.

The GNSO PDP webpage,¹³ last updated 20 August 2013, contains the following graphic at the top of the page:



Figure 1: PDP Flowchart Included the Top of the GNSO Webpage Describing the PDP¹⁴

Note the graphic’s filename has a date of 4 June 2013, but the graphic itself contains a reference to the PDP being revised (present tense) during 2010. The summarized process contained in the graphic contains a slightly different set of key steps in the PDP to those included as main section headings in Annex A of the ICANN Bylaws and the GNSO Operations Manual. For example, the “Request for Stakeholder Group/Constituency Statements” step in the graphic is taken from one part of the description of the PDP, Section 9, PDP Outcomes and Processes, in the GNSO PDP Manual.

A further series of flowcharts on the same webpage provides an overview of a different series of PDP steps. Below is the flowchart depicting the top-level series of steps. The full set of detailed flowcharts are included as Annex B.



Figure 2: The First in a Series of Eight Flowcharts Describing the PDP¹⁵

¹³ <http://gns0.icann.org/en/node/31379/>

¹⁴ <http://gns0.icann.org/files/gns0/images/pdp-1000x597-04jun13-en.png>

¹⁵ <http://gns0.icann.org/files/gns0/images/general-overview-650x139-14may12.jpg>

3.5 The Effect of Differing Descriptions of the PDP

Although the differences between and within the two formal descriptions of the PDP and the two main flowcharts may seem very minor, the variations of grouping of issues and different wording used to describe the main steps could have the following effects:

1. It could make the PDP seem more daunting than it is in practice.

As described above, while longtime PDP participants have a body of experience in which to supplement the officially documented PDP, newcomers rely on documentation to gain an understanding of how the PDP works. If that documentation contains variations, it may make the PDP appear more complicated than it is in reality, potentially discouraging newcomers from wanting to engage in the process.

2. It could enable minor differences to emerge in the PDP as practiced and not be noticed.

The PDP already contains a number of potential steps, depending on various decision points in the process. When these steps are not clearly and uniformly defined across different versions of the PDP documentation, or when the nature of optional, mandatory or alternative components of the process are not completely clear, it is possible that overworked participants who face time pressures and the challenges of widely varying views on subjects may, rather than try to detangle the variations of the PDP as documented, make assumptions about how the PDP should proceed at a certain point and inadvertently deviate from formally documented practice.

3. When embarking on processes to improve the PDP, it could obscure the clear picture of the overall PDP and make it difficult to identify precisely where the PDP could benefit from improvements

As noted in point 2 above, the PDP already contains a number of steps. It is possible that those who are tasked with making improvements to the formal PDP may, due to a lack of a single, clear and comprehensive view of the existing PDP, lack a complete toolset with which they can thoroughly assess where the PDP could best be improved. While experienced members of the GNSO may have an encyclopedic knowledge of the PDP, newer members, who could offer fresh perspective on ways to improve the PDP, would be vulnerable to such an effect.

3.6 The 42 Key Steps of the GNSO PDP

Given the variations of definitions and boundaries of the key phases of the GNSO PDP described in the sections above, to fully understand how the PDP works, it is important to provide a comprehensive list of all the steps of the PDP. This has been achieved by combining the information from both the ICANN Bylaws and GNSO PDP Manual. The list of the 42 individual steps, or actions, of the GNSO PDP, as documented, are listed below:

1. *(If Issue Report request is being considered by GNSO. Optional)* Hold workshop on issue
2. Request Issue Report
3. Create preliminary Issue Report
4. Call for public comments on preliminary Issue Report
5. Comment on preliminary Issue Report
6. Summarize and analyze public comments
7. *(If comments received require Issue Report adjustments)* Write second, Final, Issue Report
8. *(If Issue Report was requested by ICANN Board)* Decide to initiate a formal PDP

9. *(If Issue Report was requested by GNSO Council or AC)* Decide to initiate a formal PDP
10. Develop PDP Charter
11. Approve PDP Charter
12. Form Working Group (*preferred*) or other designated working method
13. Formally solicit statements from each Stakeholder Group and Constituency
14. Submit formal statements to PDP Team
15. Solicit input from other SOs and ACs
16. Submit input to PDP Team
17. Establishes contact with ICANN departments outside the policy department
18. *(Optional)* Call for public comments on other PDP related documents such as surveys (not Issue Report or Initial Report)
19. *(If call for public comments on other PDP related documents is made)* Comment on PDP related documents
20. Develop recommendations on the issue that is the subject the PDP
21. Create Initial Report
22. Call for public comments on Initial Report
23. Comment on Initial Report
24. Summarize & analyze public comments
25. Prepare Final Report
26. *(Optional but recommended)* Publish Draft version of Final Report for public comment
27. *(If Draft Final Report published for public comment)* Comment on Draft Final Report
28. *(If Draft Final Report published for public comment)* Summarize & analyze public comments
29. Forward Final Report to GNSO Council
30. *(Optional but strongly recommended)* Stakeholder Groups and Constituencies review Final Report
31. Deliberate and vote on Final Report recommendations
32. *(If recommendations in Final Report have been approved by GNSO Council)* Prepare Recommendations Report for the ICANN Board
33. *(Optional?)* Write Staff Report
34. Forwards Board Report to the ICANN Board
35. Approve PDP recommendations
36. *(If some recommendations not adopted)* Explain non-adopted recommendations to Council
37. *(If some recommendations not adopted)* Discuss Board Statement
38. *(If some recommendations not adopted)* Forward Supplemental Recommendation to Board
39. *(If some recommendations not adopted)* Approves PDP Supplemental Recommendation
40. *(Optional)* Staff authorized to work with GNSO Council to create implementation plan
41. *(Optional)* Establish Implementation Review Team
42. Implement PDP recommendations

Annex C, Detailed Description of the Who, What, How and When of GNSO PDP Steps, contains a detailed table of the above 42 steps.

4 Environmental Analysis

4.1 The Changing Environment of the Internet

During ICANN's lifetime, the number of Internet users has expanded from 360 million (in 2000) to 2.4 billion now.¹⁶ An early adopter of the Internet, North America had 30 percent of the world's Internet users in 2000, and the highest Internet penetration rate per capita (approximately 31 percent). By 2013, despite continuing to have the highest regional Internet penetration rate (78 percent), North America's share of global Internet users has reduced to 11.4 percent, compared with Asia (45 percent), Europe (22 percent) and Latin America (11 percent). Internet penetration rates remain comparatively low in Africa (16 percent), Asia (28 percent), Middle East (40 percent) and Latin America (43 percent), suggesting that these are the Internet growth markets for the coming decade. According to a 2012 Broadband Commission report, the number of Internet users accessing the web primarily in Chinese will overtake English-based Internet users by 2015.¹⁷

As the Internet has assumed greater importance as a driver of economic growth, and as more of our life is spent online, the public profile of Internet issues has increased. A decade ago, it was rare to see a mainstream news story about the Internet. In the past two years, however, there have been mass popular demonstrations against Internet-related legislative proposals such as the ACTA,¹⁸ SOPA and PIPA¹⁹ and widespread news coverage of allegations made by Edward Snowden about PRISM and related online surveillance programs.²⁰

A decade ago, Internet policy discussions were primarily focused on basic access and the costs of interconnection charges, particularly for those in developing countries. Today, issues of content dominate, including the balance between national security and individuals' privacy, and complex cross-border, cross-cultural issues of freedom of expression. These may seem a million miles away from ICANN and its technical function. However, the management of the world's Internet addressing system has always been a divisive issue, and some countries have consistently called for the greater internationalization of decisions relating to management of the Internet root.

ICANN was first established as a mechanism to transition management of the root zone from the US Government to the private sector.²¹ The centrality of the contracted parties (gTLD domain name registries and registrars) to the GNSO policy development process stems from that original goal.

4.2 Trends in Multi-stakeholder Models of Governance

The concept of multi-stakeholder governance is not unique to the Internet environment. For example, the 1992 Earth Summit in Rio prompted recognition of the need to involve multiple stakeholders if sustainable development goals were ever to be achieved. One of the outcomes of this recognition was the development of a project in 2000 and 2001, A Framework For Multi-stakeholder Processes, which developed "a common yet flexible framework for various types of multi-stakeholder

¹⁶ <http://www.internetworldstats.com/stats.htm>

¹⁷ Broadband Commission, 2012, *The State of Broadband 2012: Achieving Digital Inclusion for All*, <http://www.broadbandcommission.org/documents/bb-annualreport2012.pdf>

¹⁸ <http://www.ustr.gov/acta>

¹⁹ <http://www.govtrack.us/congress/bills/112/s968>

²⁰ <http://www.theguardian.com/world/prism>

²¹ 1998, *US Government White Paper: Management of Internet Names and Addresses*, <http://www.icann.org/en/about/agreements/white-paper>

processes”.²² The project outcomes were published as a book, and included the following early definition of what multi-stakeholder models should aim to be:

The term multi-stakeholder processes describes processes which aim to bring together all major stakeholders in a new form of communication, decision-finding (and possibly decision-making) on a particular issue. They are also based on recognition of the importance of achieving equity and accountability in communication between stakeholders, involving equitable representation of three or more stakeholder groups and their views. They are based on democratic principles of transparency and participation, and aim to develop partnerships and strengthened networks among stakeholders.²³

The concept the Internet community prefers to call “multi-stakeholder governance” also has a number of alternative names. In the sphere of political science, the terms “public policy networks”, “global public policy networks”, “global governance” and “governing without government” are some of the terms that have been used to describe similar multi-actor governance models. The family of multi-stakeholder governance terms has received a lot of attention since the beginning of the century, as political scientists, civil society activists and others began to be aware of a need to develop new ways to manage increasingly multi-dimensional issues in an increasingly global world.²⁴ The world of Internet governance has, however, tended to isolate itself from this wider discussion, having fixed its gaze on the precise term, “multi-stakeholder governance”. As a result, the Internet community has largely tended to overlook the developments and debates happening in the wider networked governance discussions and forge its own path towards developing effective governance mechanisms.

The use of the term “multi-stakeholder governance” in the Internet environment originated during the World Summit on the Information Society (WSIS), 2003-2005, and described the way that Internet organizations, such as the Internet Society, Internet Engineering Task Force²⁵ develop policy from the bottom up. It “just worked”—delivering “rough consensus and running code”.²⁶ In response to a push from some governments to pull management of the domain name system into an intergovernmental framework, multi-stakeholder governance was offered up as an attractive alternative—supported by the US and a number of EU member states—associated with delivering openness, innovation and growth.

From the World Summit on the Information Society (WSIS) process emerged the Internet Governance Forum (IGF): a non-decision making, non-policy making forum for dialogue. The IGF was to embody multi-stakeholder principles, with government, business and civil society participating in the discussions and program development (through the Multi-stakeholder Advisory Group) on an equal footing.

²² <http://www.earthsummit2002.org/msp/project.html>

²³ Chapter 1, p. 2, M Hemmati, 2002, *Multi-stakeholder Processes for Governance and Sustainability: Beyond Deadlock and Conflict*, <http://www.earthsummit2002.org/msp/book.html>

²⁴ For a representative selection of articles on networked governance discussions, see: J Roloff, 2008, “A life cycle model of multi-stakeholder networks”, *Business Ethics: A European Review*, 17(3): 311-325; D Stone, 2008, “Global Public Policy, Transnational Policy Communities, and Their Networks”, *The Policy Studies Journal*, 36(1): 19-38; P Dobner, 2009, “On the Constitutionality of Global Public Policy Networks”, *Indiana Journal of Global Legal Studies*, 16(2): 605-619

²⁵ For example, see LE Strickling, 2013, *Remarks by Assistant Secretary Strickling at 11th Transportation, Maritime Affairs and Communications Forum*, <http://www.ntia.doc.gov/speechtestimony/2013/remarks-assistant-secretary-strickling-11th-transportation-maritime-affairs-and>

²⁶ p. 19, D Clark, 1992, A cloudy crystal ball – visions of the future, http://groups.csail.mit.edu/ana/People/DDC/future_ietf_92.pdf

Soon, many Internet organizations, including ICANN, began to rebrand as multi-stakeholder. This term not only captured the fact that government, civil society and business all participated in the process, but also provided legitimacy for processes and organizations which had enormous effective power over Internet policy. Last year, even the International Telecommunication Union (ITU) claimed multi-stakeholder credentials.²⁷

ICANN and its processes have been influential over other processes. For example, its real-time transcriptions of meetings, audio and webcasting, and remote participation facilities have been adopted within the IGF, and other processes, such as the Commission for Science and Technology for Development's Working Group on Internet Governance, and the ITU's World Conference in International Regulations and World Telecommunication/ICT Policy Forum.

Central to ICANN's policy making are volunteers. A review of the current work schedule at ICANN, including PDPs, is a tribute to the thousands of hours donated by many volunteers over extended periods. Within ICANN, the GNSO's Policy Development Process is emblematic of the organization's bottom-up, multi-stakeholder credentials and its continuing legitimacy as the coordinator for global domain name policies. The model of multi-stakeholder governance, despite having many advocates, has proved to be controversial, even in the context of the non-decision making IGF. As a method for policy-making, multi-stakeholder governance still has a number of unanswered questions, in particular:

- What are the "respective roles"²⁸ of each stakeholder when it comes to making decisions?
- How, if at all, should a multi-stakeholder process differentiate between those with a representative capacity, such as governments, and other organizations or individuals who participate on their own behalf?

The PDP should involve all stakeholders, whether "on an equal footing" or "in their respective roles", if it is to have legitimacy and credibility as a bottom-up multi-stakeholder governance process.

4.3 Trends in Ever-expanding Internet Governance Calendars

During the 2011 ICANN meeting in Singapore, there was a discussion about "volunteer fatigue". It is not that the number of processes has increased; it is that the intensity has increased. In terms of meetings, the growth and vibrancy of national and regional IGF meetings is a notable development since 2007. While it is highly unlikely that one organization or individual would attend each and every regional or national IGF, because the IGF discussions have historically focused on the management of Critical Internet Resources (CIRs)—ICANN, TLD registries, RIRs—governments, business representatives (such as ICC BASIS and other representative bodies) and civil society have played an active role as organizers of local and regional IGFs. This has led to a substantial increase in the Internet governance workload for these actors – many also travel and contribute to panel sessions in other local and regional IGFs.

²⁷ "I was pleased because ITU – which it is my privilege to lead – can truly be said to have invented the concept of multi-stakeholderism." (H Toure, 26 September 2012, *Opening Remarks to IPI Policy Forum* <http://www.itu.int/en/osg/speeches/Pages/2012-09-26.aspx>)

²⁸ The Tunis Agenda uses "all stakeholders in their respective roles", which suggests that some stakeholders have different roles to others. (*Tunis Agenda for the Information Society*, 2006, <https://www.itu.int/wsis/docs2/tunis/off/6rev1.html>)

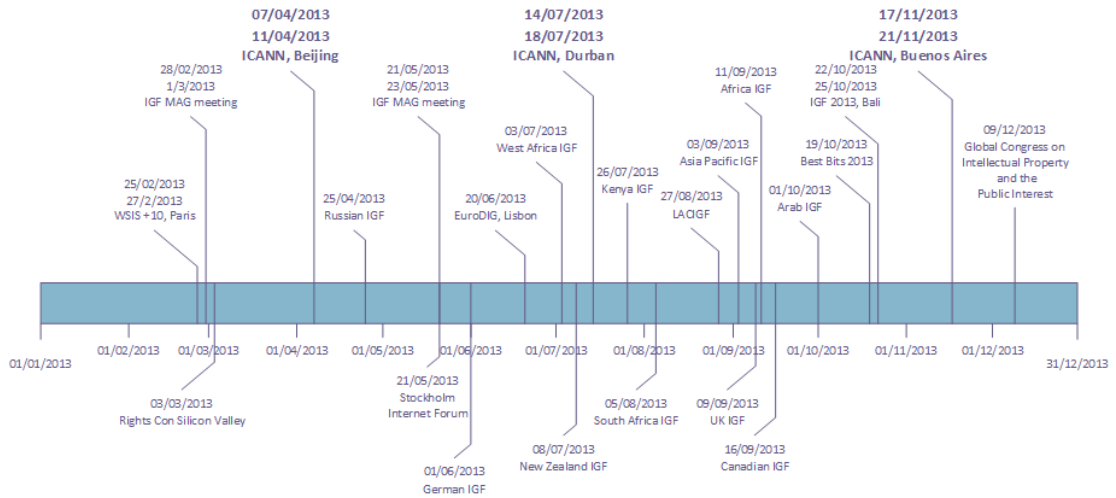


Figure 3: The 2013 Internet Governance Calendar

Since the first WSIS process in 2003, the number of external organizations which now have regular Internet Governance agendas has also increased. ITU Plenipotentiary, OECD Ministerial, WSIS + 10 all have substantial Internet governance agenda items. In many countries and organizations, the same people from government, civil society, the Internet technical community, academia and business are covering numerous processes, including ICANN.

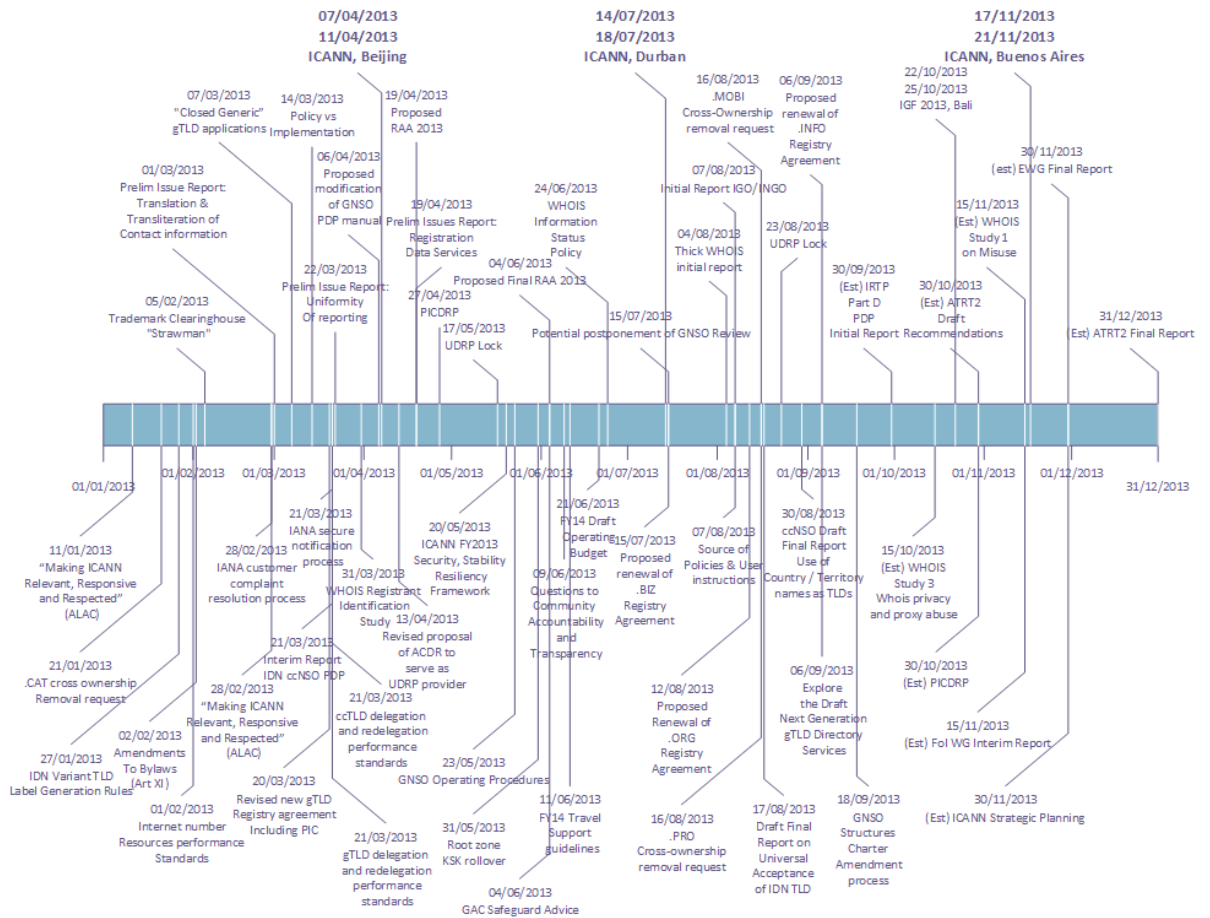


Figure 4: The 2013 ICANN Public Comment Schedule

Within ICANN itself, the level of activity is intense. For example, to September 2013, there have been 49 public comment periods, with a further 10 anticipated to be run before the end of the year. This rate of public comment periods seems fairly consistent since 2007, when ICANN’s archives begin. Not all of those public comments relate to GNSO processes, or even to policy. The ICANN public site does not clearly label PDP-related public comments, but a number of non-PDP-specific public comments relate to key policy issues (such as new gTLDs).

Despite the increased level of activity, the number attending ICANN meetings and those actively involved in the process has remained steady for the past five years. In many organizations and governments, the same person is responsible for coordinating responses to public comments, in addition to their other Internet governance duties.

The increasing Internet governance activity, combined with cutbacks as a result of the financial crises, reduce the time available for key stakeholders to participate in bottom-up processes such as the GNSO PDP.

4.4 Trends in Participation

This report documents gaps in participation in recent GNSO PDPs. However, it is important to contextualize these gaps by first exploring participation concepts and trends in the wider world.

The problem of engaging people in decision-making is not new. It dates back to ancient Athens, in fact, where there were three types of citizens: “the passive ones’ who did not go to the assembly; the ‘standing participants’ who went to the assembly but listened and voted; and ‘did not raise their voice in discussion’; and the ‘wholly active citizens’ (a ‘small group of initiative-takers, who spoke and proposed motions’)”.²⁹ The last two types are both participants, but at differing levels of participation. Indeed, participation can take many forms, and many attempts have been made to model the many forms participation can take. The figure below is a simple model that shows participation as a spectrum.

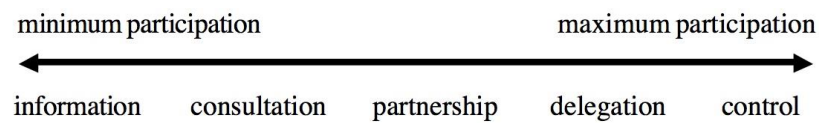


Figure 5: The Shand-Arnberg Participation Continuum³⁰

On this continuum, participation as “information” is about providing information in the form of news updates, email, etc., but without any mechanism for “participants” to respond to the information. In terms of the GNSO PDP, an example of this form of participation would be the publication of PDP Team teleconference transcripts. The publication of this material informs stakeholders of what is happening, but there is no mechanism for stakeholders to respond to that material.

“Consultation” is deemed to be a more active form of participation, but those conducting the consultation remain in control of the decision-making. In the GNSO PDP, this form of participation is present in the form of Public Comment periods and in the surveys and calls for statements from Stakeholder Groups, SOs and ACs made by the PDP Team to prepare for the Initial Report.

“Partnership” is a form of “joint decision-making”. Bishop Davis explain that partnership “is often achieved through advisory boards and representative committees designed to provide continuing expert and community input”.³¹ In the GNSO PDP, ongoing collaboration between the PDP Team and ACs such as RSSAC could be seen as an example of partnership. Note that control is still maintained by the operator of the PDP in “partnership”. In the case of the GNSO PDP, this is the PDP Team.

“Delegation” gives “control over developing policy options [...] to a board of community representatives, within a framework specified by [the parent body]”.³² In the case of the GNSO PDP, the PDP Team is an example of delegation: the GNSO Council develops a PDP Charter to which the Working Group responds.

“Control”, the maximum form of participation, occurs when stakeholders have a direct role in making the policy decision. There is no direct correlation in the GNSO PDP. A theoretical example would be if the GNSO PDP contained a referendum function through which all ICANN community members could vote on policy decisions.

Another more detailed view of the characteristics of participation is shown in Figure 6 below.

²⁹ p. 762, N Urbinati, 2000, “Representation as Advocacy: A Study of Democratic Deliberation”, *Political Theory*, 28(6): 758-786

³⁰ p. 20, P Bishop & G Davis, 2002, “Mapping Public Participation in Policy Choices”, *Australian Journal of Public Administration*, 61(1):14–29

³¹ *Ibid*, p. 20

³² *Ibid*, p. 20

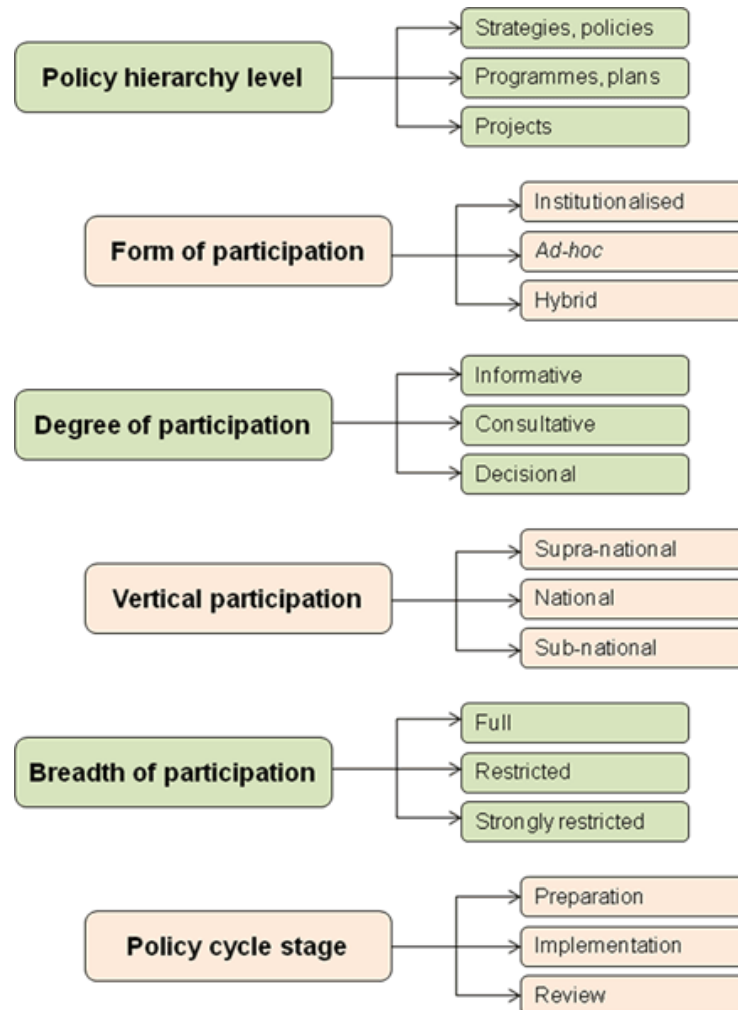


Figure 6: Characteristics and Application Practices of Participation in the Policy Process³³

Issues of participation appear at all levels of scale, from local community development projects to national elections. National elections require a very minimal level of participation only every few years, yet, in the UK and USA, the most recent elections attracted voter turnouts of 65.1%³⁴ and 57.5%³⁵ respectively. In Australia, where it is illegal not to vote in an election, the 2010 national election could only manage a 93% turnout.³⁶

There is a difference, however, between those who choose not to participate and those who would participate if they were encouraged and/or barriers to their participation were removed. As Iffe and Tesoriero have stated:

³³ W Zwirner, G Berger & M Sedlacko 2008, *Participatory Mechanisms in the Development, Implementation and Review of National Sustainable Development Strategies*, http://www.sd-network.eu/?k=quarterly%20reports&report_id=10

³⁴ <http://www.ukpolitical.info/Turnout45.htm>

³⁵ <http://bipartisanpolicy.org/library/report/2012-voter-turnout>

³⁶ <http://www.aec.gov.au/faqs/Elections.htm#turnout>

“A conscious decision not to participate is those people’s right. This is very different from non-participation that results from a lack of opportunity or support to participate, which is a failure on the part of a system to realize the right to participate”.³⁷

Ife and Tesoriero have identified the five conditions that can help remove barriers and encourage greater participation. These are listed below, along with some discussion about their applicability to participation in the GNSO PDP:

1. People will participate if they feel the issue or activity is important.

A number of the recent GNSO PDPs have been on issues that are very narrowly defined and technical in nature. For example, the division of ITRP policy issues into a number of smaller PDPs. While ITRP is an important issue, its niche topic may be responsible for its associated PDPs attracting relatively few participants. In contrast, an issue like the transliteration and translation of contact information may have a wider appeal to users of non-ASCII scripts.

2. People must feel their action will make a difference.

It may be the case that a newcomer to ICANN may choose not to participate in a Public Comment period for an Initial Report because they think that commenting at that late stage of the PDP is unlikely to have an impact on the final outcome.

3. Different forms of participation must be acknowledged and valued to enable people to contribute in ways that best suit their needs (for example, online participation for those who can’t travel).

ICANN routinely provides for remote participation via a variety of models. A tool as simple as electronic mail makes it possible to “time-shift” work and allow those with limited bandwidth to participate.

4. People must be enabled to participate and be supported in their participation (for example, timing of online meetings and financial assistance to offset costs of participation).

In terms of the GNSO PDP, scheduling varying times for teleconferences may enable those in diverse time zones to participate, where teleconferences scheduled at the same time of day may prevent some potential participants from being able to join because the teleconference is held at a time which is not convenient for people in their time zones.

5. Structures and processes must not be alienating (for example, real-time meetings favor those who think quickly and are native speakers of the language of the meeting).³⁸

The recommendation in the GNSO PDP Manual that ICANN translate the executive summaries of reports made available for Public Comment is a good example of a process aimed at reducing barriers of participation for non-English speakers.

Getting people “in the room” is not the only issue to consider regarding participation. In particular, different participants have different areas of expertise to contribute. Renn et al. have identified three different types of knowledge that participants can bring to a process:

³⁷ p. 156, J Ife & F Tesoriero, 2006, *Community Development: Community-based Alternatives in an Age of Globalisation*, 3rd edn, Pearson Education Australia, Frenchs Forest, NSW

³⁸ Ibid, pp. 157-158

1. Knowledge based on common sense and personal experience
2. Knowledge based on technical expertise
3. Knowledge derived from social interests and advocacy³⁹

Renn et al. suggest that the role participants play in a process needs to take account of what type of knowledge the participant brings to the issue and, based on that type of knowledge, participants should be channeled towards particular roles.

In the context of the GNSO PDP, as discussed later in Section 5.1.4.3 of this report, over recent years, the trend has been for individuals to participate less in PDPs while representatives of organizations, Supporting Organizations, Advisory Committees and other groups have increased and now form the majority of participants. As will be seen in Section 6.2.1, participants who act as representatives of organizations are finding it very difficult to craft, discuss and get agreement and approval for submission of comments within the timeframes provided by the PDP. Recognizing that different participants bring different types of knowledge to the process, and therefore face different constraints, may be useful when looking for ways to encourage wider participation from the community and way to integrate those different types of knowledge into the process.

Finally, Vallejo and Hauselmann have put together an interesting analysis of the relationship between participation and the legitimacy and speed of the process in an effort to find the “sweet spot” where the three elements combine to produce a process that is both efficient and effective.⁴⁰

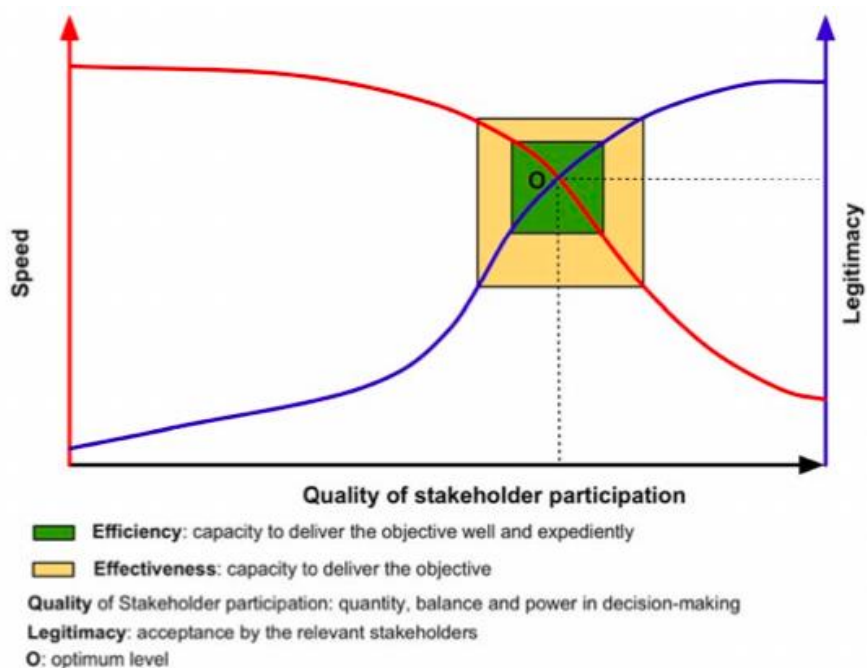


Figure 7: Relationship between Legitimacy and Efficiency⁴¹

In Figure 7 above, Vallejo and Hauselmann demonstrate a visual representation of their ideas. In summary, the figure is used to illustrate the following:

³⁹ p. 190, O Renn, T Webler, H Rakel, P Dienel & B Johnson, 1993, “Public participation in decision making: A three-step procedure”, *Policy Sciences*, 26: 189-214

⁴⁰ N Vallejo & P Hauselmann, 2004, *Governance and Multi-stakeholder Processes*, http://www.iisd.org/pdf/2004/sci_governance.pdf

⁴¹ Ibid, p. 6

- The fewer the number of participants, the less diversity of views there are, leading to a shorter timeframe for the process.

A short timeframe with fewer participants will reduce the costs incurred by the participants. However, the legitimacy of the process suffers due to the lack of stakeholder diversity, leading to outcomes that may meet the needs of the process's few participants, but overall, may be less effective in meeting the needs of the larger range of stakeholders not involved in the process.

- As more stakeholders enter the process, a greater diversity of views are possible, leading to a need for more time to enable all the stakeholders to contribute to the process, to negotiate and build consensus amongst themselves.

As the timeframe lengthens, the costs for participants will increase. However, the legitimacy of the process can be strengthened by the greater quality and breadth of participation and lead to process outcomes that are more effective for a larger range of stakeholders.

- Resource constraints (time and money) mean that while, ideally, a long process with as many participants as possible would create the most legitimate and effective outcomes for the widest range of stakeholders, there is a need to find a “sweet spot” after which point, adding more people and time to the process provides negligible additional benefits to the legitimacy and effectiveness of the process outcomes.

This tension between resource constraints on participants and need to produce effective and legitimate outcomes are visible in the examples of the GNSO PDP analyzed in this report.

4.5 Policy Development Models

As noted in Section 3, there are variations amongst both the two official documents that define the GNSO PDP—the ICANN Bylaws and the GNSO Policy Manual—and the two main flowcharts used to illustrate the main steps of the policy. This section presents some alternative ways others have used to model policy processes with the aim of assisting any future work to find a single common way to present the GNSO PDP.

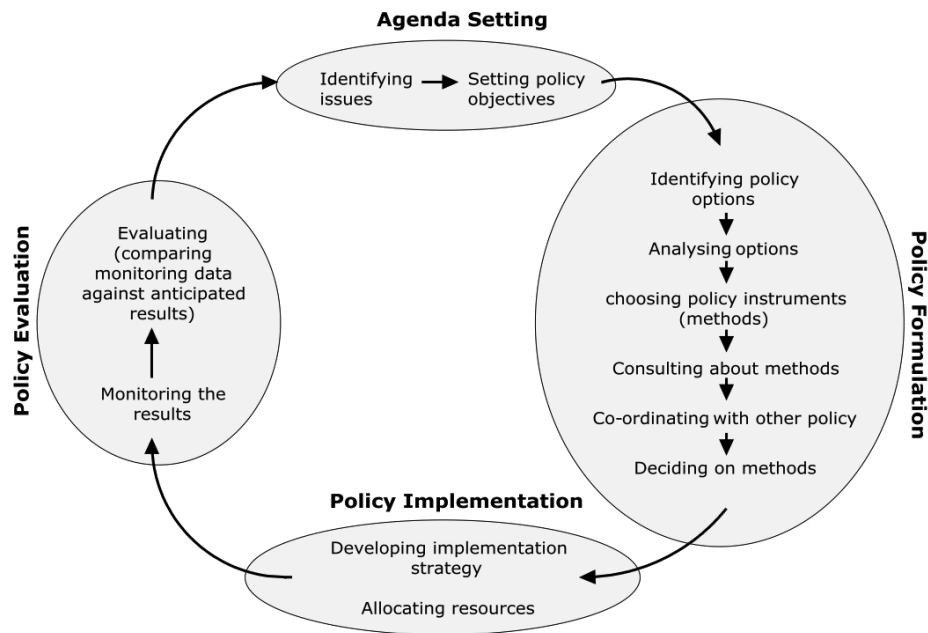


Figure 8: A Simple Four-Phase Cycle of Policy Development⁴²

In the Figure 8 above, note there is only one reference to participation—consulting—which occurs in the “Policy Formation” phase. The simple grouping of more detailed steps of the policy process into four steps makes it easy to understand the lifecycle of the process at a glance.

Comparing this to the GNSO PDP stages, where the GNSO Council and ICANN Board decisions are, depending on the document, listed as distinct elements in the PDP, we see that decision making in Figure 8 is grouped under “Policy Formulation”. For those less familiar with ICANN’s structure and processes, the diagram above, which prioritizes process clarity over organizational responsibility for particular elements, might be a more appropriate framework for understanding the PDP.

⁴² p. 13, A Fenton, 2010, *Creating Futures Regional Policy Development Processes – Opportunities for use of Creating Futures tools*, <http://www.creatingfutures.org.nz/assets/CF-Uploads/Publications/Creating-Futures/Regional-Policy-Development-Processes-Opportunities-for-use-of-Creating-Futures-tools.pdf>

Figure 9 below shows a conceptual model of policy development that places stakeholder participation in the center of the PDP lifecycle.

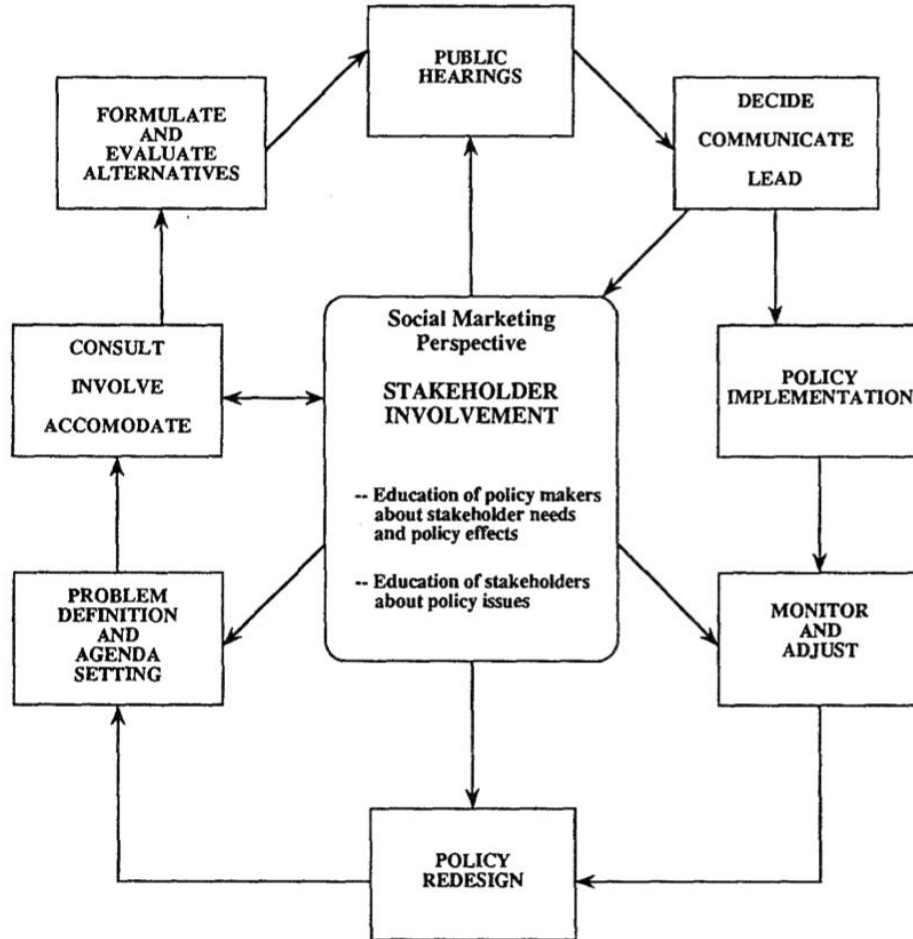


Figure 9: A Stakeholder-based Policy Process⁴³

While the text in the boxes around the edge is not a particularly clear way to describe the elements of a policy cycle, the placement of stakeholders in the center of the model helps to both reinforce the importance of stakeholder participation to those managing the PDP as well as convey to potential participants in the process that their input is central to the process.

In terms of the GNSO PDP, as indicated later in this report, there are concerns by some about the transparency implications of the role of the GNSO Council and ICANN Board in modifying PDP recommendations. Figure 8 above offers a potential way for the ICANN community to re-conceptualize this role as it offers an explicit link between the “Decide, Communicate, Lead” stage of the policy cycle and “Stakeholder Involvement”.

⁴³ p. 39, J A Altman, 1994, “Toward a stakeholder-based policy process: An application of the social marketing perspective to environmental policy development”, *Policy Sciences*, 27: 37-51

Another view of participation in the policy cycle is shown in Figure 10 below. Although it is clearly designed with government-based policy making in mind, the “engagement” methods grouped by policy phase show similarities with many of the participation methods that have been used in GNSO policy processes.

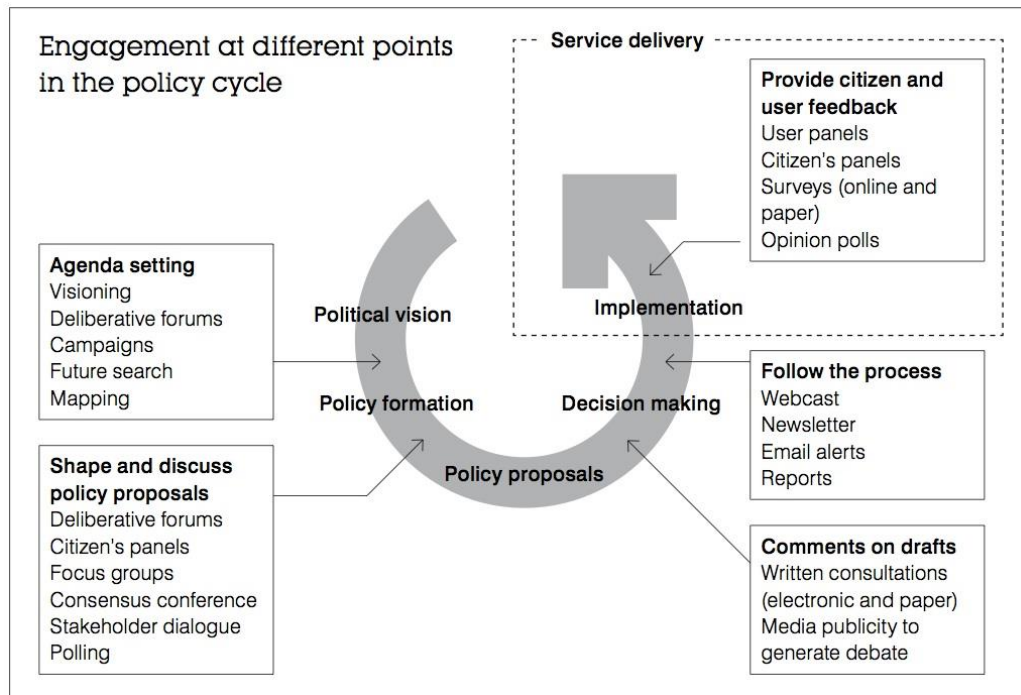


Figure 10: A UK Government Perspective on the Policy Cycle⁴⁴

Note that Figure 10 includes a number of engagement methods that would fit closer to the “minimum participation” end of the spectrum illustrated in Figure 5, the Shand-Arnberg Participation Continuum, such as online polls and surveys.

What is interesting about this particular model in the ICANN GNSO context is the way it includes, as part of the policy cycle itself, the provision of one-way documentation, under “Follow the process”, as a way to engage stakeholders.

In comparison, in Annex A of the ICANN Bylaws, the requirement to publish documents related to the GNSO PDP is described outside the sequential list of PDP steps. Instead, Section 11, Maintenance of Records, appears at the end of the Annex, after Implementation has been described (Section 10) and just before Additional Definitions (Section 12) and Applicability (Section 13) are documented, suggesting that public documentation of PDPs is considered to be more of an ICANN staff function than a component of participation in the PDP itself.

4.6 The ICANN PDP Compared to Other Relevant Multi-stakeholder Processes

Compared with other public policy processes, ICANN’s PDP is remarkably open and transparent. Any person can participate, without paying a joining fee. Considerable resources are devoted to enabling remote participation whether through teleconferences, virtual meeting rooms, audio and video web

⁴⁴ p. 4, D Warburton, n.d., *Making a Difference: A guide to evaluating public participation in central government*, <http://www.involve.org.uk/wp-content/uploads/2011/03/Making-a-Difference-.pdf>

casting, and transcriptions of all meetings. In addition, the historical record of the PDPs we studied for this report is remarkably complete.

We compared the ICANN PDP to policy development processes in Regional Internet Registries and the standardization and policy development processes in the IETF and ITU. In general, the GNSO PDP would rank very high in any table where transparency and open participation was measured.

	ICANN	RIR	IETF	ITU
Participation open to all (without membership fee)	✓	✗ (mtg fees)	✗ (mtg fees)	✗
Participation open to all countries or territories	✓	✗ (regional)	✓	✓
Participation open to any level of expertise (formally or informally)	✓	✗	✗	✗
Participation for remote participants	✓	✓	✓	✗
Issues can be suggested by anyone	✓	✓	✓	✗
Working groups – open membership	✓	✓	✓	✗
Consultation documents published	✓	✓	✓	✗
Public comment	✓	✓	✓	✗
Public comments published	✓	✓	✓	✗
Public meetings transcribed	✓	✗	✗	✗
All decision-making interactions recorded, transcribed	✓	✗	✗	✗

Table 1: Comparison of GNSO PDP with Other Multi-stakeholder Processes

5 Quantitative and Qualitative Analysis of GNSO PDPs

This section provides an analysis of recent GNSO PDPs. The ICC Team undertook two forms of analysis: quantitative (based on the historical record published by ICANN) and qualitative. The qualitative analysis consisted of a structured interview of 30 stakeholders with firsthand experience of the GNSO PDP. The methodology is explained in detail in Annex A of this report. The responses to the structured questions in the interview lend themselves to ready comparisons and are woven into the reporting of the quantitative analysis in Section 5.1. A full record of the output of the interviews is included as Appendix D. The qualitative interview also asked a number of open questions. These are reported separately in Section 5.2. As described in the methodology, the ATRT2 hosted an email discussion amongst current and former Working Group chairs, which was made available to the ICC Team. This is reported on in Section 5.3.

5.1 Quantitative Analysis

5.1.1 Source Material

The PDPs are well documented. We focused on relatively recent PDPs where the process used was similar and the opportunities for participation could be compared across PDPs. A quantitative analysis was conducted on the following nine PDPs:

1. Fast Flux
2. Inter-Registrar Transfer – Part A
3. Post Expiration Domain Name Recovery
4. Inter-Registrar Transfer – Part B
5. Locking of a Domain Name Subject to UDRP Proceedings
6. Inter-Registrar Transfer – Part C
7. 'Thick' Whois
8. Protection of IGO and INGO Identifiers in All gTLDs
9. Inter-Registrar Transfer – Part D

Older PDPs were considered, but the history of the PDP and its mechanisms is such that it is difficult to compare older processes with more recent PDPs. Besides, the documentation of the PDPs have evolved over the years, with more recent ones having much more thorough and accessible documentation. All the PDPs considered in this study have portal websites where mailing lists, attendance lists, wikis, comment archives and analysis, descriptive and explanatory information are provided. Table 2 provides some basic metadata about where much of the source material for the quantitative analysis was found.

PDP	ICANN Website	PDP Initiation Date
IGO-INGO	http://gns0.icann.org/en/group-activities/active/igo-ingo	2012-10-17
Thick WHOIS	http://gns0.icann.org/en/group-activities/active/thick-whois	2012-03-14
IRTP Part D	http://gns0.icann.org/en/group-activities/active/irtp-d	2012-01-17
UDRP Lock	http://gns0.icann.org/en/group-activities/active/locking-domain-name	2011-12-15
IRTP Part C	http://gns0.icann.org/en/group-activities/active/irtp-c	2011-09-22
IRTP Part B	http://gns0.icann.org/en/group-activities/active/irtp-b	2009-06-24
PEDNR	http://gns0.icann.org/en/group-activities/inactive/2013/pednr	2009-05-07
IRTP Part A	http://gns0.icann.org/en/group-activities/inactive/2009/irtp-a	2008-06-25
Fast Flux	https://community.icann.org/display/gns0fastfluxpdp/Fast+Flux+PDP+Working+Group	2008-05-08

Table 2: Basic data about sources of material for quantitative analysis of the PDPs

Some of the PDPs examined have not yet been completed. The status of each PDP at the time of the research for this report as shown in Table 3 below.

PDP	PDP Initiation Date	Completed?	Implemented?	Initial Report Date	ICANN Board Resolution Date	Total length of PDP
Fast Flux	2008-05-08	YES	N/A	2009-01-26	N/A	546
IRTP Part A	2008-06-25	YES	N/A	2009-01-08	N/A	343
PEDNR	2009-05-07	YES	YES	2010-05-31	2011-10-28	1745
IRTP Part B	2009-06-24	YES	YES	2010-05-29	2011-08-25	1142
UDRP Lock	2011-12-15	NO	NO	2013-03-15	N/A	N/A
IRTP Part C	2011-09-22	YES	NO	2012-06-01	2012-12-20	547
Thick WHOIS	2012-03-14	NO	NO	N/A	N/A	N/A
IGO-INGO	2012-10-17	NO	NO	2012-06-14	N/A	N/A
IRTP Part D	2012-01-17	NO	NO	N/A	N/A	N/A

Table 3: Status of the Nine PDPs Studied for This Report⁴⁵

Information about individuals was gathered from public websites, including the ICANN wiki, participant Statements of Interests, material submitted to ICANN from those individuals, and a variety of other public sources available via the Internet. Material prepared and submitted by individuals was considered to have primacy over source material discovered about individuals from secondary sources.

5.1.2 Issue Scoping

Section 3 of the GNSO PDP Manual encourages the GNSO Council to consider scheduling workshops on substantive issues prior to the initiation of a PDP.

A majority (79 percent) of those interviewed agreed scheduling workshops on substantive issues prior to the initiation of a PDP is a positive step in making PDPs more effective. However, a smaller number of interviewees (44 percent) agreed that the current practice of only requiring the name of the requestor and the definition of the issue in an Issues Report request is a positive step in making PDPs more effective. In contrast, 40 percent of respondents said they do not think such a requirement makes PDPs more effective.

5.1.3 Working Groups

Working Groups are a major driver for PDPs and their effectiveness is key to the success of PDPs. For this reason, the manner in which Working Groups are formed, and their membership composition are key issues in the evaluation of PDPs.

The study found that a large majority (79 percent) of interviewees agreed with the statement that the formation and make up of Working Groups is done fairly and transparently. This certainly will help increase the credibility of Working Groups, their work and findings.

⁴⁵ Status of PDPs data was current at 1 October 2013.

5.1.4 Participation

5.1.4.1 Who Participates in the Working Groups?

Individuals participate in Working Groups. Sometimes the individuals are representatives of larger communities of people with similar interests. These communities were often constituencies or stakeholder groups, and sometimes organizations outside of ICANN with an interest in the policy issue being considered in the PDP. Whatever the motivation or nature of Working Group participants, they have to be informed of PDPs, PDP phases, and opportunities to participate if they are to become involved. The questionnaire found that ICANN meetings and mailing lists were the most popular sources of information about PDPs (Figure 11), with 90 percent and 80 percent, respectively, of respondents saying they were their sources of information about PDPs. In contrast, other ICANN websites (for example, the GNSO, and other SO and AC websites) and external websites were the least popular sources of information about PDPs.

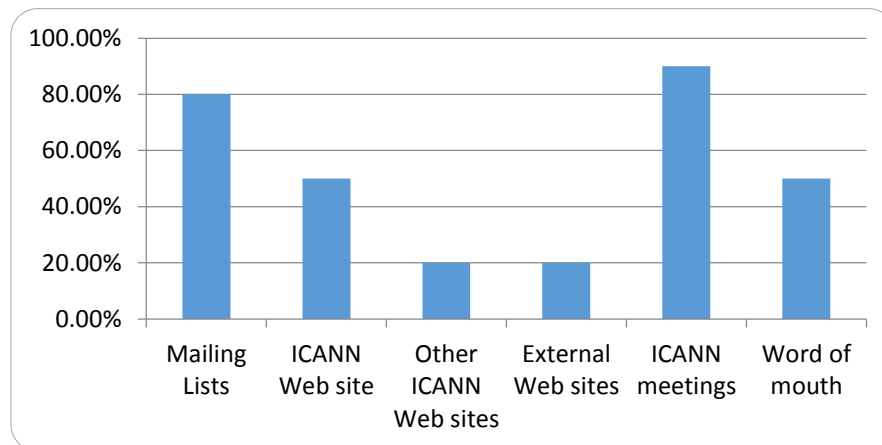


Figure 11: Sources of Information about PDPs

Looking at the variety of public policy issues under consideration, it would be natural to expect that there are widely varying patterns of participation.

Figure 12 below shows the variety in the sizes of the membership of the Working Groups studied in this report.⁴⁶ The PDPs are listed in rough chronological order of their work. The trend line would seem to indicate that the number of participants in Working Groups was growing slightly over time. However, this conclusion is skewed by the recent IGO-INGO Working Group. The IGO-INGO Working Group is by far the largest Working Group ever assembled under this version of the PDP and is quantitatively different than any Working Group before it.⁴⁷ In fact, if the IGO-INGO Working Group is removed from the trend analysis, the trend in Working Group size goes down slightly.

⁴⁶ Membership in a Working Group consists of being acknowledged in the final report *and* participation in at least one Working Group call or have one entry in the mail archive.

⁴⁷ The IGO-INGO Working Group is also quantitatively different from the ITRP Part D Working Group, which is the only Working Group to have been created since IGO-INGO.

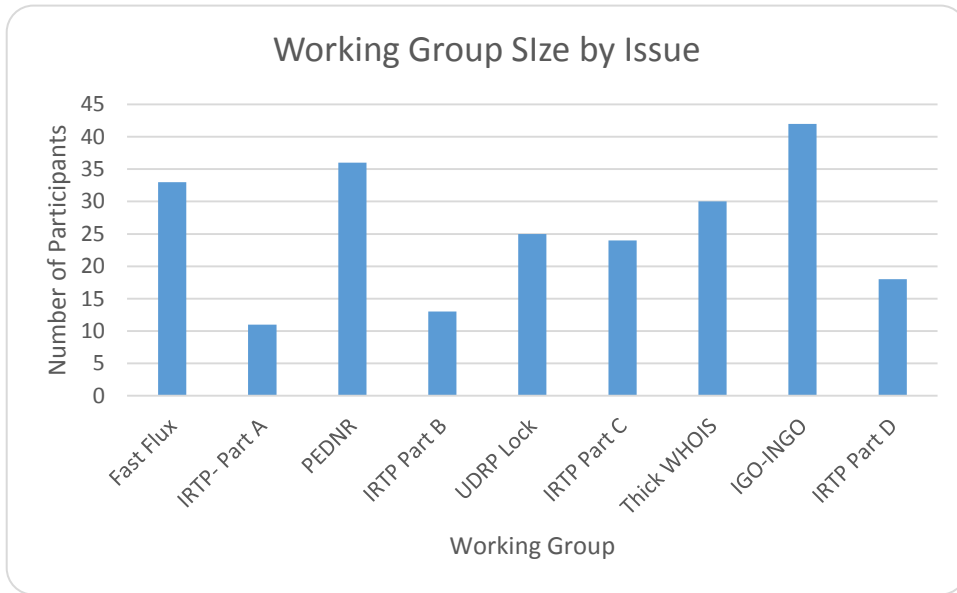


Figure 12: Working Group Size by Issue

When the Working Groups are examined for gender balance, two issues stand out immediately: first, participation in Working Groups is dominated by men; and second, participation by women is on the rise (Figure 13). The most recent Working Groups have a roughly 75/25 percent division of participation by men and women. However, in the last two years the number of women participating in Working Groups has grown and, even without the slightly exceptional case of the IGO-INGO Working Group, appears to be continuing to grow.

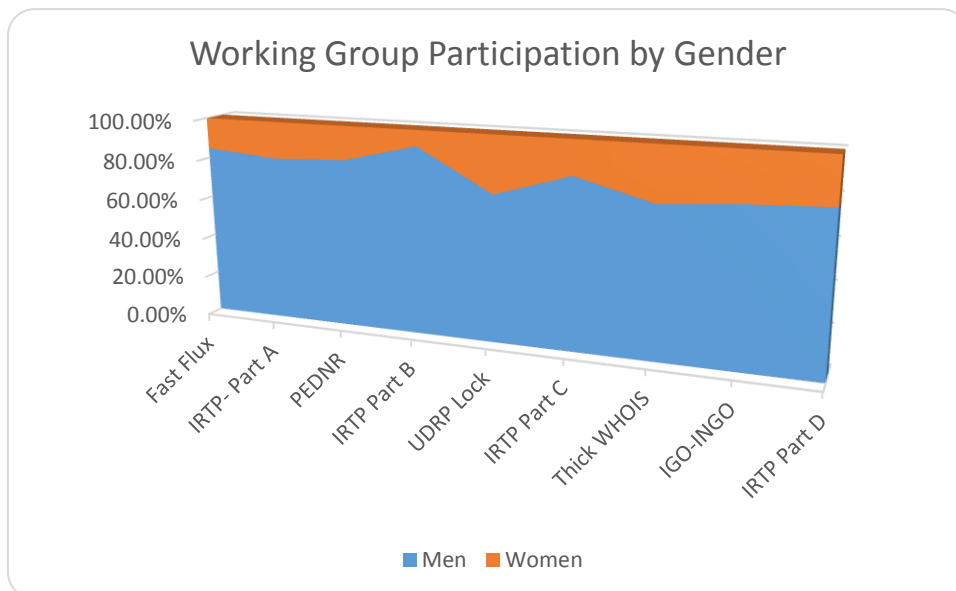


Figure 13: Working Group Participation by Gender

A quick analysis of recent PDPs shows that the dominant participation model is one where an interested individual becomes a member of a Working Group and then never joins another Working Group. There is evidence that some of this is based on people not wanting to participate in overlapping Working Groups, but the data is clear that the talent pool is reduced because individuals tend, in dramatic numbers, not to participate in their second Working Group. As shown in Figure 14, 100 Working Group participants have belonged to only one Working Group while less than 20 people have belonged to two Working Groups. Even fewer people belonged to three or more Working Groups.

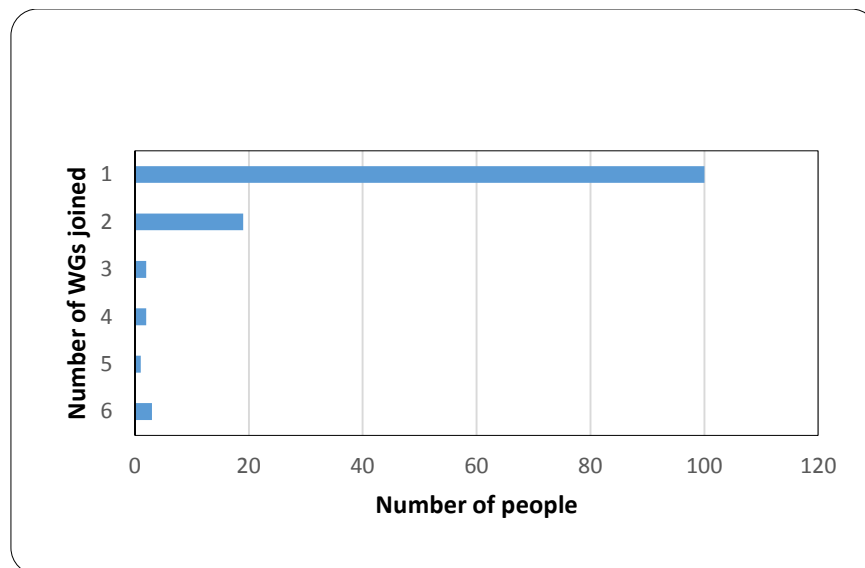


Figure 14: Number of Working Groups Joined by Participants

The results of the structured interviews show that the most common reason for not participating in Working Groups was:

- The interviewee is too busy (20 percent of responses)

It is also worth noting that some respondents said that the reason they did not participate in Working Groups was that they did not know enough about the issue. Others said they did not participate because someone they work with participated on their behalf. In all likelihood, educating and informing people about the issues before the PDP starts could increase the number of participants in Working Groups.

Although some people never participate in Working Groups, the interview results found that a significant majority (68 percent) of respondents said they closely monitored the work of Working Groups without being formal members of these groups. Interviewees said that they monitored the Working Groups in various ways, including:

- Reading transcripts of Working Group meetings
- Remote participation in Working Group meetings
- Commenting on draft reports
- Reading and commenting on documents published by Working Groups
- Talking to friends and colleagues about the Working Groups

The reasons given for monitoring Working Groups instead of participating directly included time constraints and lack of expertise.

5.1.4.2 Where are the Working Group Participants From?

ICANN is a global organization; therefore, it is important that it be able to draw from technical and policy experts from around the world. However, the membership of Working Groups—the foundation of the work in a PDP—is largely composed of representatives from only two of ICANN’s five

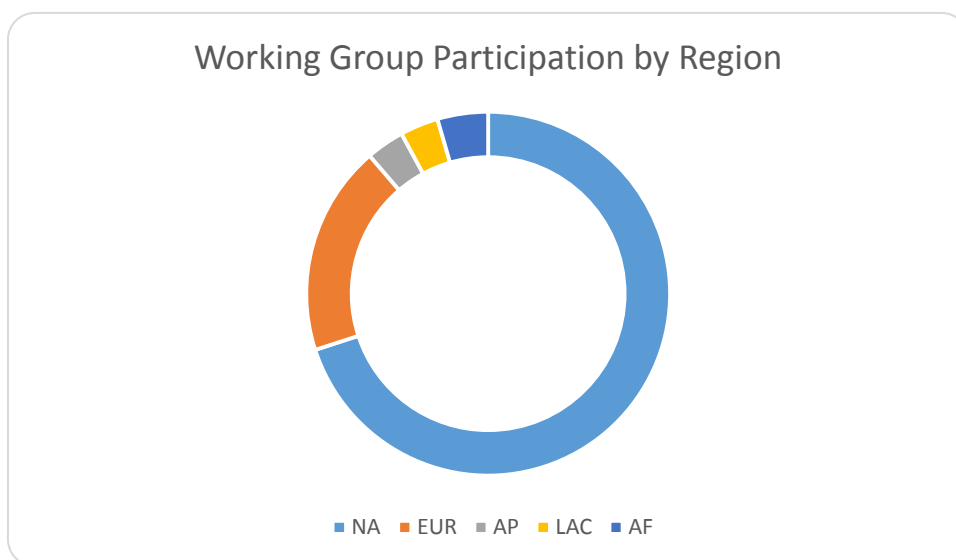


Figure 15: Working Group Participation by Region

geographic regions (Figure 15).⁴⁸

The data for Figure 15 was extracted from the geographic location specified by Working Group participants in their answers to the ICANN Statement of Interest. North America accounts for 70 percent of participation in Working Groups. Europe provides 18.7 percent of Working Group members in recent PDPs. Together, Africa, Asia/Australia/Pacific and Latin America/Caribbean account for 13.3 percent of Working Group members. Such low participation Working Group numbers from three of ICANN’s regions is a potential problem for global legitimacy.

Given the aggregate geographic imbalance, it was important to look at the data in more detail to examine if there is any trend that suggests an improvement in geographic diversity over time. The raw data appears to be promising; however, a closer examination shows that beside a real need for overall improvement in Working Group participation, the recent improvements might be the result of specific effects of certain topics in the PDPs (Figure 16). The recent IGO-INGO and Thick-WHOIS PDPs, in particular, show an unusual number of additional participants in the Working Groups. In the Thick-WHOIS Working Group, the additional participants were active and attended many teleconferences. This development was not repeated in the IGO-INGO Working Group.

⁴⁸ The five geographic regions recognized by ICANN are documented in Article IV, Section 5 ICANN Bylaws at <http://www.icann.org/en/about/governance/bylaws#VI-5>

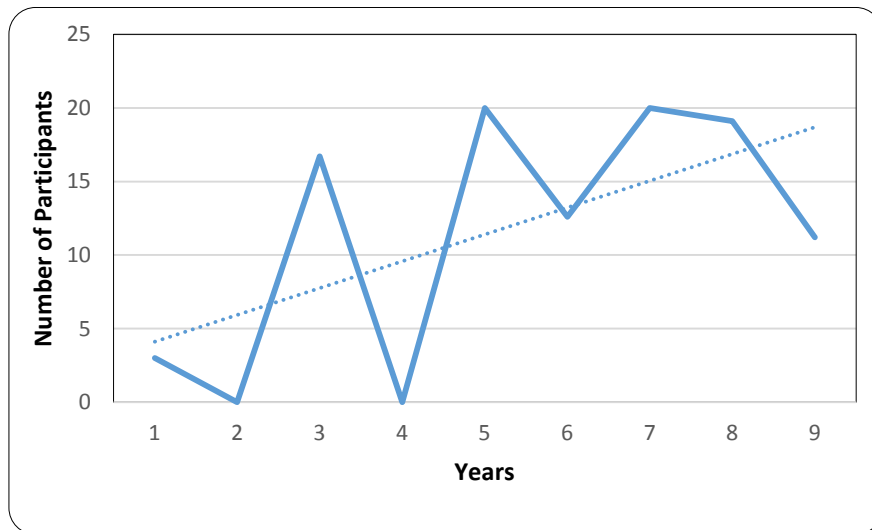


Figure 16: Number of Participants from AP/AF/LAC Regions in Working Groups over Time

While the signs are positive that Working Group participation is becoming more regionally diverse, the small number of new participants in two Working Groups has potentially painted a more optimistic projection of future regional diversity than may be the case in reality. Nevertheless, the current participation in the Africa, Asia/Australia/Pacific and Latin America/Caribbean regions is a potential problem for global legitimacy. As this report discusses below, this is not an issue isolated to the Working Groups.

5.1.4.3 Demographics of Working Group Comment and Participation

Direct participation in a Working Group is not the only means of participation. The PDP provides extensive opportunities for comment by people outside the Working Groups.⁴⁹ Initial and interim work products can be commented on by people or organizations outside the Working Group itself.

The comment process itself would seem to be a natural and easy way to seek input on the ongoing work of a Working Group. On the Shand-Arnberg Participation Continuum (see Figure 5 in Section 4.4), public comments would be a participation option that requires minimal effort by the participant. Nevertheless, public comment performs an essential function in reaffirming the legitimacy of the PDP and is one of the most challenging processes to get right.

The archives of comments on staff and Working Group products are open and available to all, enabling this study to examine in detail who is responding during PDP comment processes. Specifically, this report analyzed the data of two types comment periods that have been available throughout almost the entire recent history of PDPs:

1. Public comments on the Issue Report
2. Public comments on the Working Group’s Initial Report

The public comment period is just that: public. Any individual and any organization can comment on a work product from the PDP. Indeed, interview results show that the Public Comment Period is a popular window for people to participate in the PDPs. 72 percent of interviewees reported they have

⁴⁹ The PDP, as defined in the GNSO PDP Manual, also provides other opportunities to participate, such as formal statements by GNSO Stakeholder Groups and Constituencies, other input by ACs and SOs, and responses to other calls for input into processes such as online surveys or workshops. Due to time constraints, this report has limited itself to analyzing the formally defined public comment input method.

contributed comments on draft reports and other documents. In addition, many of those interviewed said they have commented on more than one PDP, either as individuals or on behalf of organizations or a constituency.

An important trend is visible when looking at who is participating in public comment periods. Five years ago, it was very common to have individuals comment on PDP products. Today, that is rare. Instead, groups and organizations dominate the public comment activity in the PDP. Groups, such as GNSO Constituencies, Stakeholder Groups and some Advisory Committees, provide regular and extensive commentary on the products of a PDP. In addition, affected stakeholders, constituencies, and businesses are much more likely to comment than they were five years ago.

Figure 17 below shows who is commenting on staff-generated Issue Reports in recent years. The PDPs where the Issue Report was issued under the previous GNSO PDP⁵⁰ or where an Issue Report was not provided have been omitted.

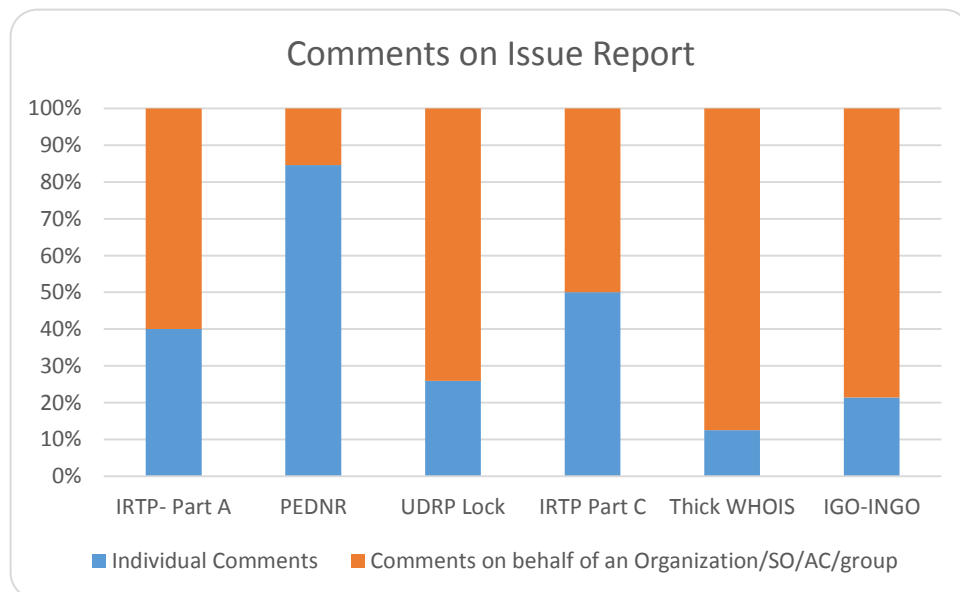


Figure 17: Comments on Issue Reports

⁵⁰ That is, before December 2011.

Notice that in the most recent public comment periods for Issue Reports, the number of individuals making comments on issue reports is dropping significantly, while the number of GNSO Constituencies, Stakeholder Groups, Advisory Committees and outside groups of interested stakeholders is growing quickly (Figure 18).

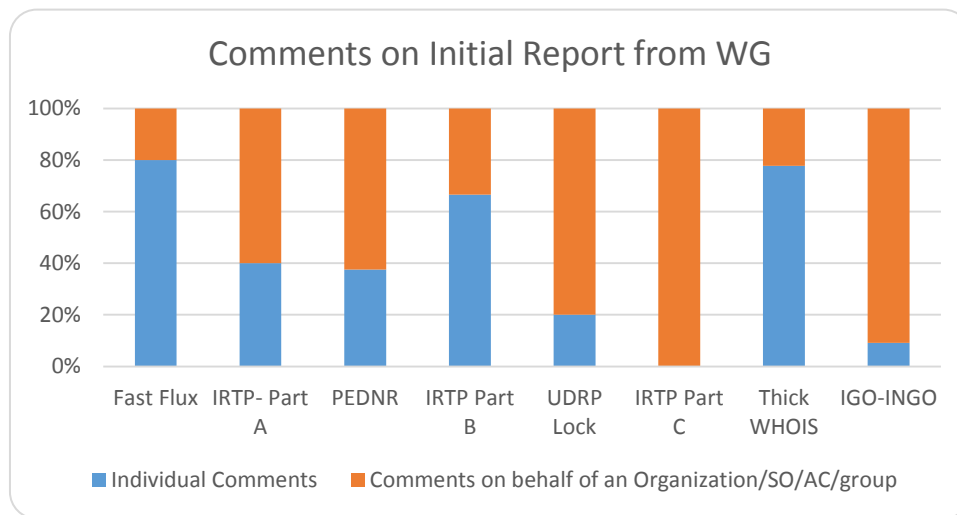


Figure 18: Comments on Initial Report from Working Group

It is important to evaluate whether this trend is the result of a small dataset and a few participants or an indication of a larger trend. Analysis of the public comment periods on Initial Reports by Working Groups indicates that precisely the same trend is taking place there as well. Further analysis shows that this is a trend affecting all public comment processes in the PDP. This may be because Constituencies and Stakeholder Groups are better organized to consider work products of the PDP and are better able to react to those work products in a group setting. There is also clear evidence that, for those Constituencies and Stakeholder Groups with direct interest in GNSO issues, the number of organizational units within the GNSO commenting on items in the PDP is also growing.

A less welcome finding is that, with the notable exception of the ALAC, there is almost no participation by Advisory Committees or other Supporting Organizations in the comment processes of the PDP.

As noted above in Section 5.1.4.2, there are trends toward regional imbalance in Working Group participation. These trends continue and, in fact, are amplified, in the comments processes. Starting with the comments on the Issue Report (Figure 19), it is possible to analyze where the comments are coming from geographically. The primary source of geographic location was the self-identified location provided by a person or an organization in their public comment. Web-based research provided a secondary source for identifying regional location. In the cases where primary and secondary sources were unable to uncover the regional location of a commenter, the comments made by those commenters were excluded from the analysis of regional statistics.

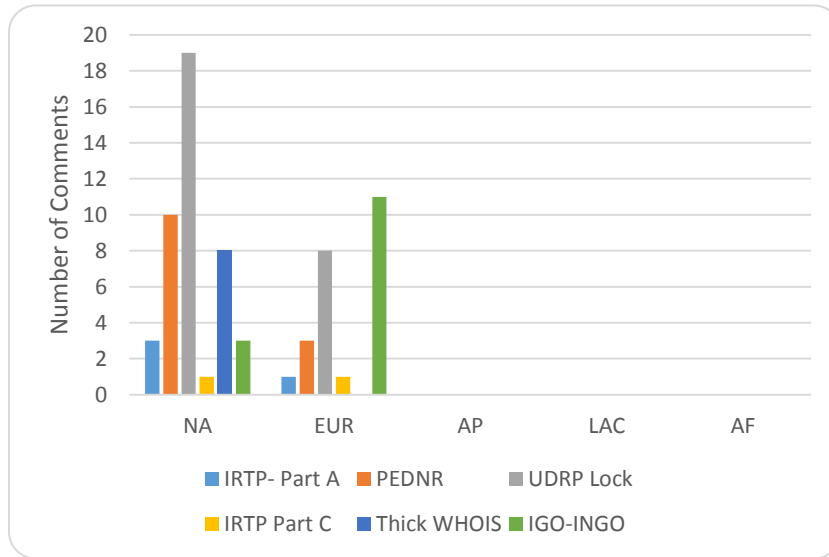


Figure 19: Regional distribution of PDP Issue Report Comments

The data shows that there are no individuals making public comments from the regions of Africa, Asia/Australia/Pacific and Latin America/Caribbean (Figure 20). In addition, stakeholder groups in those regions—such as trade associations, industry or advocacy groups, or regional interest groups—do not band together to make comments on Issue Reports. When people or organizations do show an interest in those regions, they do so through contributions to group comments submitted by other constituencies, stakeholder groups or external organizations (especially, for instance, the ALAC). An analysis of the public comments on the Initial Report shows a continuation of this same trend.

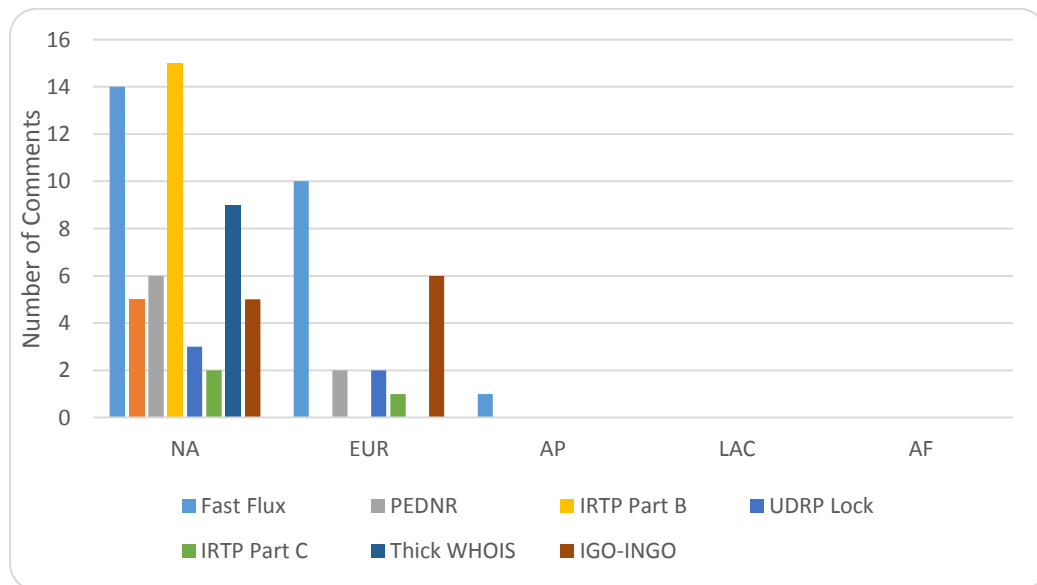


Figure 20: Regional Distribution of Public Comments on Initial Report

5.1.4.4 Accountability, Transparency and Effectiveness of Public Comments

The interview results show that the public comment process is seen as highly accountable and transparent. A large majority (60 percent) of those interviewed agreed with the statement that the public comments part of the PDP is accountable and transparent, compared to only 20 percent of respondents who disagreed with that statement (Figure 21). This appears to suggest a relatively high degree of trust in the comment process by the community.

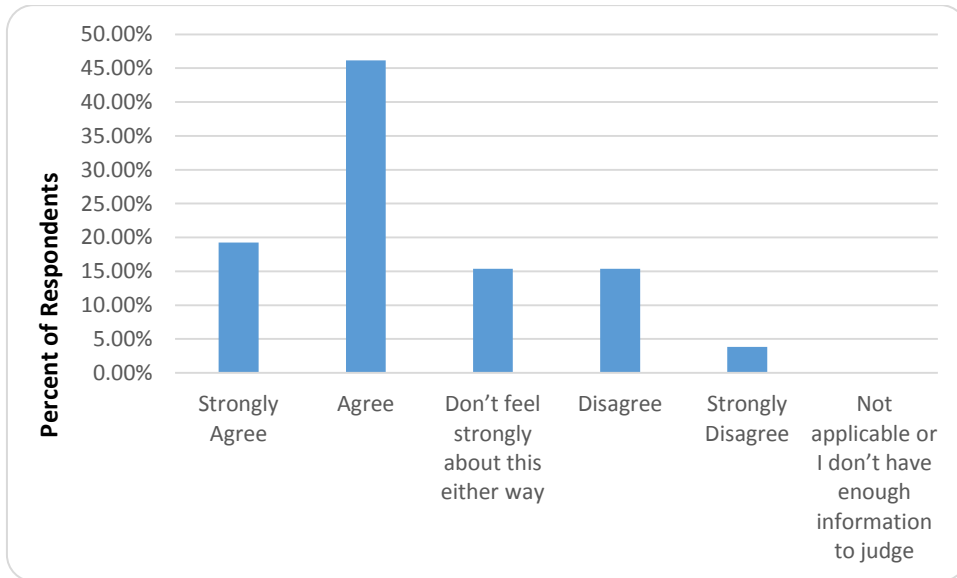


Figure 21: Accountability and Transparency of PDPs Public Comment Processes

It is worth noting that while many interviewees believed the public comment process is both transparent and accountability, they had a less positive assessment of the effectiveness of public comments process and its contribution of the final result of the PDP. Specifically, 47 percent of those interviewed disagreed or strongly disagreed with the statement that the public comment process was effective and meaningful to the final result of the PDP, while 33 percent agreed (Figure 22). While this may not indicate, in the short term, any significant threats to the motivation of volunteers to participate in PDPs, it could in the medium- to long-term contribute to volunteer fatigue, and, in turn, a degradation in the quality and speed of policy development.

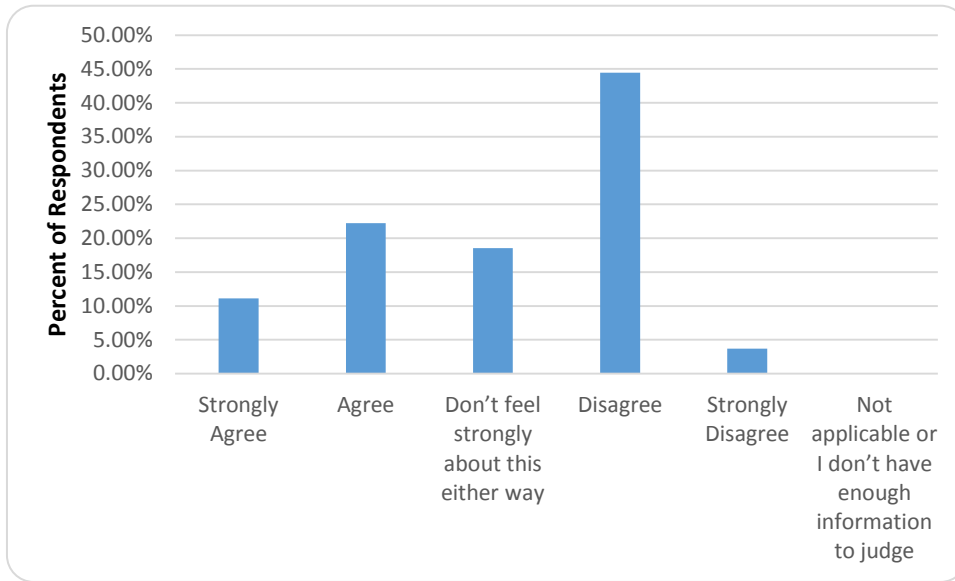


Figure 22: Effectiveness of the Public Comments Period and its Meaningfulness to the PDP Final Result

Interviewees were almost evenly divided on the question of whether the outcomes and decisions taken as a result of the PDPs reflect the public interest and ICANN’s accountability to all stakeholders. 47 percent of respondents agreed with the statement that PDP outcomes and decisions reflect the public interest and ICANN’s accountability while 46 percent disagreed (Figure 23). These numbers suggest that ICANN should redouble its efforts to ensure that the PDPs do and are seen to reflect the public interest, and enhance its accountability to all stakeholders.

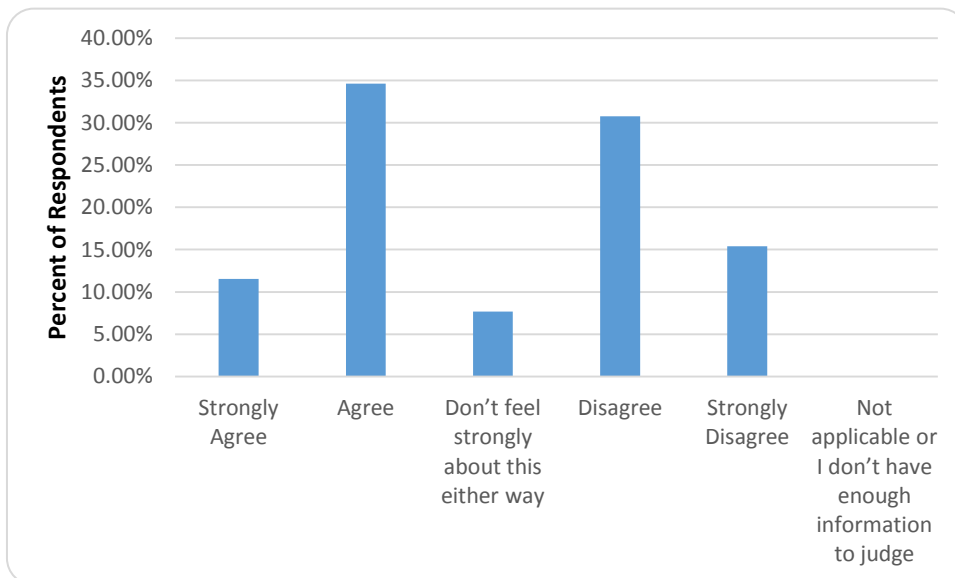


Figure 23: Reflection of the Public Interest and ICANN’s Accountability in PDPs

5.1.5 PDP Timelines

5.1.5.1 Status

A common anecdotal complaint about GNSO policy development is that “it takes too long.” From a purely quantitative view of the recent PDPs, it is very difficult to determine what the “right time” would be for any issue where a PDP successfully passes each stage of the PDP, through to implementation. It is possible, however, to examine the recent PDPs to see if they provide can provide insight into the perception that the PDPs take too long to complete.

One interesting metric is the amount of elapsed time between the approval of a Working Group charter and the delivery of the Initial Report of the Working Group. To measure this, the formal meeting minutes of the GNSO Council and the public record available for each of the PDPs were consulted (see Figure 24).

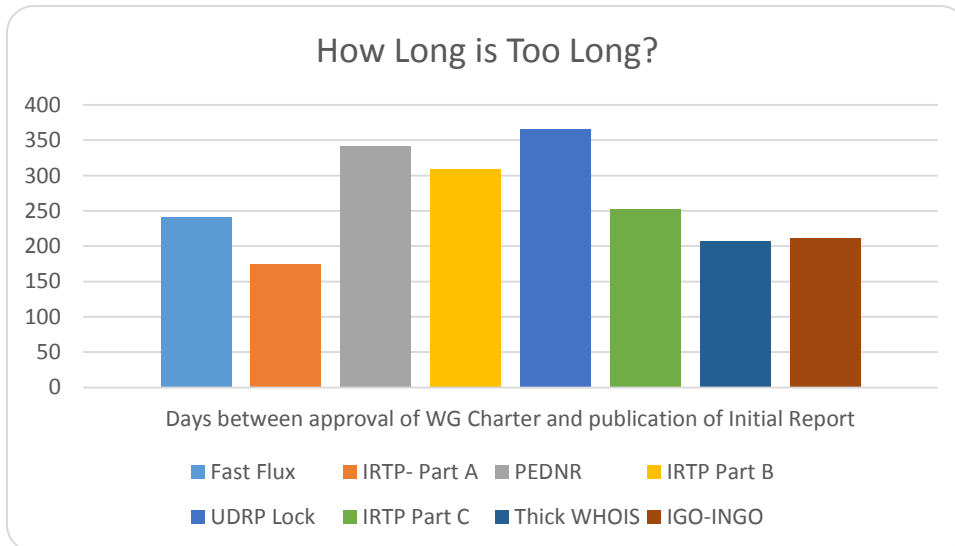


Figure 24: Length of PDP Timelines

The time that elapses between the publication of the Initial Report and the publication of a Final Report is another major contributor to the length of time it takes to complete a PDP (Figure 25).

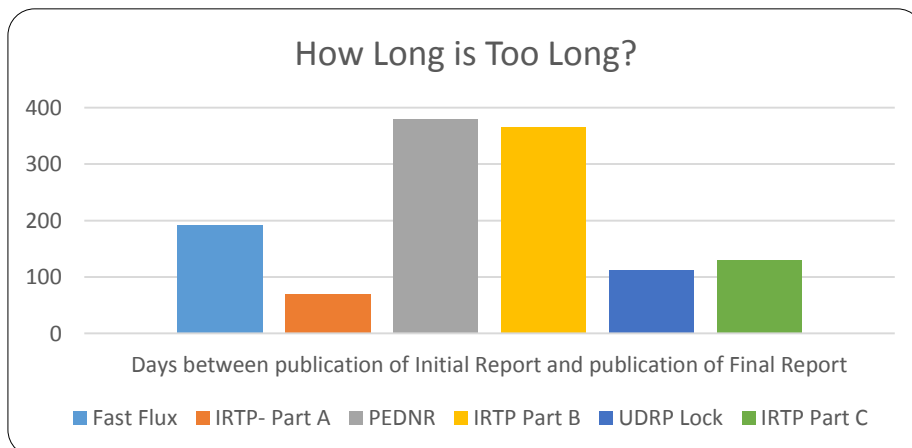


Figure 25: Number of Days between Publication of Initial and Final Reports

The data used to compile Figure 24 and Figure 25 can be combined to get a feel for the level of commitment—in time, focus and energy—that it takes to contribute extensively to the activities of a PDP Working Group (see Figure 26).

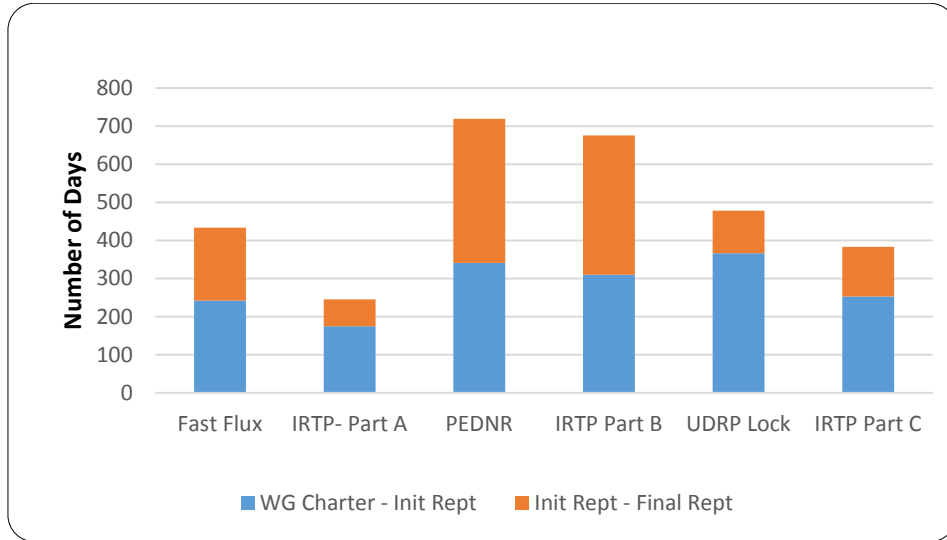


Figure 26: Total Number of Days between Major PDP Milestones

In PEDNR, for example, the elapsed time between the Working Group charter and the publication of the Working Group Final Report was 720 calendar days (ten days short of two years).

Interview results also show that Working Group participants have mixed opinions about the timelines of the PDPs. 40 percent agreed with the statement that the overall timescales for the PDP are sufficient and flexible enough to ensure effective public policy outcomes, while 36 percent disagreed.

5.1.5.2 PDP Timelines Challenges

The PDPs face important challenges in terms of the timelines, as indicated by those interviewed. Among the challenges identified are the need to balance thoroughness and speed, as well as ensuring the policies produced have buy-in from various stakeholders. Therefore, it was suggested that the PDPs should focus on breadth of engagement, even if this has the effect of reducing the rate at which PDPs are completed. Given the low level of participation of regions other than Europe and North America in the PDPs, it is important that the engagement be broadened if the policies produced have the buy-in to ensure their effective implementation.

The results of the interviews also suggested that the implications of policy recommendations should be thoroughly analyzed and that significant policy issues should be deliberated on over a number of years. This is particularly important, it was suggested during interviews, given many PDPs never meet a 12-month deadline for their completion. For this reason, it was suggested that policy development should be in phases and be conducted over periods of at least 15 to 18 months.

Another important challenge in the PDPs are workshops. Some interviewees said that although the workshops are useful, there are problems – in particular, the demands they impose on volunteer communities. In addition, there often are delays between the PDP and its implementation. For example, the PEDNR PDP ended two years ago, but its implementation only started in August 2012.

Other important challenges are the public comment process and the way the public comments are summarized. Some of the people interviewed mentioned that the public comment process leaves a lot to be desired. For example, while a 21-day comment period might be sufficient for individuals, it is

not sufficient for organizations. Some of the interviewees also said that summaries of comments are sometimes “misleading, or omit some inputs altogether”. It was pointed out that this creates the impression that ICANN does not want to receive the comments.

The people interviewed suggested various ways and means to overcome the challenges posed by the PDP timelines:

1. Fact-based white papers should be prepared to educate stakeholders and those engaged in the PDPs.
2. Reasonable and flexible time frames should be set. This is especially important given the multi-stakeholder model ICANN is based on.
3. ICANN should fund face-to-face meetings to facilitate the work of Working Groups.
4. Providing researchers
5. Provide staff as a secretariat to the PDP. It was pointed out, however, that this might be present its own set of challenges.

5.1.6 Other Statistical Data Related to PDPs

The people interviewed for this report use various mechanisms to participate in Working Groups and associated PDPs. Among these are teleconferences (TC), mailing lists (ML), face-to-face (F2F) meetings and remote participation (RP). Interview results show that teleconferences, mailing lists, and face-to-face meetings were reported to be the most useful means of participating in PDPs, with 60 percent of those interviewed saying they found them useful (Figure 27). Remote participation is by far the least popular, with only 24 percent saying they used them to participate in PDPs.

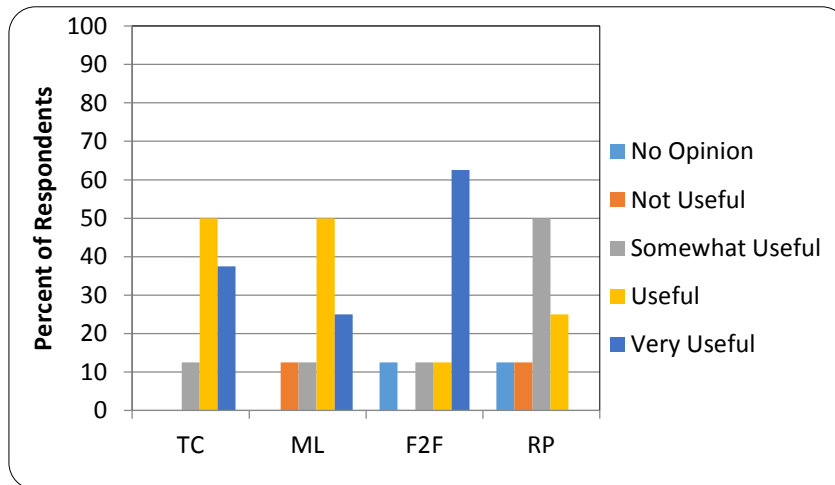


Figure 27: Use of Various Mechanisms to Participate in PDP Working Groups

5.2 Qualitative Research: Report of Open Comments Made by Participants

The qualitative research undertaken by ICC consisted of a series of open questions. Stakeholders were asked to identify the most important issues to address in terms of participation and process and to make practical suggestions for how those issues could be addressed. While the questions asked for responses in three separate categories (general, participation, process), the answers tended to blend these issues and similar issues were highlighted across these three categories.

Techniques used during group brainstorming were used to analyze these open comments. The participants' concerns were recorded as close to verbatim as possible. The content was then analyzed and clustered where appropriate. The numbers of comments in each cluster were then tallied.

The five most popular clusters are highlighted below, together with two quotes to give a flavor of the kind of comments made. The quotations are not comprehensive.

Cluster 1: Time commitment, bandwidth of participants, too great a workload for participants

- "The breadth and depth of the commitment creates volunteer fatigue"
- "Returns are extremely low and speculative, and the investment is huge, especially if you have a job"

Cluster 2: Lack of support by GAC/Staff (the policy process outside the policy process)

- "The GAC needs to participate. It's concerning that we have fought so hard for the multi-stakeholder model in WCIT. When it comes to participate in this model, governments are absent"
- "Now we have brilliant capture of the PDP process. IP issues are put forward as registrant/public interest. If not successful, they go to the GAC or staff. It perverts the PDP process, rendering it ineffective"

Cluster 3: Participation levels, need for early engagement, participation costs

- "If you look at PDPs conducted by ICANN, a very small number participate."
- "Participants on calls who are from developing countries have to deal with 3-5 drops in an hour long conference call"

Cluster 4: Length of duration of PDPs

- "If you want to have an impact on the PDP you have to do weekly calls for 6-12 months, most of which are useless / not effective. The whole thing is extremely off-putting"
- "There's no way I'd allow a member of my staff to participate – it would be 18 months"

Cluster 5: Implementation – lack of transparency, staff driven

- "Once it gets to implementation, then it goes cockeyed"
- "Everything after PDP is a question of implementation. Much too much staff driven, politicized"

Non-clustered: Other issues raised

- Complexity of the process
- System favors English language speakers
- Working groups are being loaded up with advocates (due to abolition of mandatory constituency participation)

- Structure of constituencies – does not reflect the arrangements in developing countries, is anachronistic
- Quality and timing of public comment
- Interaction with other constituencies
- Suggested Improvements from Interviewees

Interviewees offered suggestions for overcoming some of the issues they identified. A wide range of improvements was suggested. Table 4 below highlights the most popular suggestions made during interviews with stakeholders of the PDP:

Suggested improvement	How to achieve
Management of the process	Training, facilitation, management training for Working Group chairs, a more structured approach from the outset with timeframes and deliverables. Don't take too long.
Facilitate engagement by those without English as a first language	Publish consultation documents in other languages.
Break PDPs down into manageable chunks	Example of IRTP was given as a successful model.
More face to face meetings	Especially when issues get log-jammed.
Better communications, summaries	"Uber technical language" alienates people. "It's very transparent, open, but the question is, how many people actually do understand?" One interviewee suggested an "informal blog" to update people on the progress of PDPs.
Restructure the constituencies	Constituencies, as currently structured, are very developed-country orientated. Interviewees pointed out that there are experts in developing countries, but no ready match with GNSO constituencies in which they can participate.
Devise PDP charters more inclusively to balance stakeholder interests	Involve more stakeholders in drafting PDP charters.
Classify issues more effectively in the Issue Report	For example, "merits a PDP" and "faster track, simpler issue – no PDP required".
Change the outreach strategy, to make use of community leaders in the regions	Open PDPs to more stakeholder groups / mandate participation from stakeholder groups

Table 4: Most Popular Suggestions for Ways to Improve the PDP

In addition, other suggestions made included the following:

- Outside intervention to break logjams
- More flexible timelines
- ICANN should fund participants from developing countries
- Staff as independent secretariat
- Reduce time commitment for participants
- Specific place in ICANN meetings to get public comments on PDPs
- Assign experts to PDPs – to answer questions, do research (all published)
- Better/longer comment processes
- Capacity building for new participants
- Ensure comments are reflected in the output
- Fact-based white papers
- All policy should pass a public interest test, like RFC 1591
- Be AGILE – aim for the simplest, working solution

5.3 Analysis of Working Group Chairs' Email Thread

The ATRT2 invited current and former Working Group chairs to engage in a call in early August 2013. The ICC Team was given the opportunity to listen in on that call. In preparation for the call, an email discussion⁵¹ was held by seven current and former Working Group chairs, four of whom were from North America, and three from Europe. All the current and former chairs were male.

Five of the Working Group chairs gave comments in the email discussion. The length of intervention varied, and several covered multiple issues. The level of participation in the email discussion varied. One individual gave eight comments, and two on the list did not make any comment. The discussions were facilitated by a member of the ATRT2. On occasion, the ATRT2 Chair also made interventions.

In order of popularity, the following issues were raised in the Working Group Chair's email discussion:

1. Certain stakeholders have not been able to adequately participate / Orderly way to bring in new blood
 - People graduate up to constituency leadership, but there is no "on ramp for new participants" in Working Groups
 - Chairs asked for analysis of composition of Working Groups, to highlight whether certain stakeholder groups were under- or over- represented.
2. How to break deadlock
 - In complex Working Groups, resources are necessary. A face-to-face meeting can be very useful to break deadlock, giving opportunities to read body language, for quieter participants to gain confidence to speak up. "People tend to overreact a bit less than on email".
3. Board ultimatums are not the best way to motivate Working Groups
 - "Board intervened with a really short deadline on Vertical Integration, and then took the decision upon itself."
4. How far do other ICANN community members understand and appreciate Working Group process?
 - "Difficult to get a reasonable appreciation if you haven't participated in one".
 - Suggest all board members and executive staff should participate in at least one Working Group (list and 25% of meetings).
 - ...and GAC members

Other issues raised during the list, in no particular order, were:

- Share experiences among Working Group Chairs about "lessons learned" from each process
- Keep the layers clear – Role of Board, Council and GAC
- There's a culture problem – people don't understand the expected level of effort for PDPs
- Change behavior, not structure or process
- Outreach and policy efforts are not joined up – New people from outreach are not joining in policy
- The PDP process has improved and so have the outcomes
- What can we learn from failures "Complicated Working Groups"?

⁵¹ See <http://mm.icann.org/pipermail/atrt2/2013/000680.html> and subsequent messages on the thread "PDP – Discussion with ATRT2 01-29"

- A number of suggestions were made about how to learn from experience.
- What do you do when it's not possible to reach consensus?
- Need to improve cross-organizational communication/working in silos.
 - "We could have been more effective and probably saved time if we involved people from other silos sooner".
- Is it too easy to start a PDP?
 - Some felt that consensus was difficult to reach in cases where there was little cross community support for starting a PDP.
- Formal PDP is not the only way to develop policy in the GNSO

6 The Current State of the GNSO PDP

6.1 Strengths

6.1.1 Transparency

The GNSO PDP achieves world-class standards of transparency. Much of this is due to the provision of structured tools and processes by ICANN, including audio and video webcasting, transcripts, published email lists, publication of all public comments and virtual meeting rooms for remote working where silent observers are welcome. The full archive is published, even for PDPs that finished many years ago. In this way, an important historical record is being nurtured and maintained. The research for this report benefitted from the availability of a rich variety of primary source materials across different media, and made the analysis in this report—and that of future researchers—possible.

There is an inevitable conflict between transparency through publication of exhaustive records and clarity. It is certainly difficult to track down some materials, or to understand quite what is happening (for example, the conflicts between the different versions of the formal PDP documentation are discussed in Section 3). However, in the opinion of this report’s authors and that of interviewees, the transparency of the policy development process (up to the point where implementation begins) and the provision of resources by ICANN shone through very strongly. For example, interviewees who choose to monitor rather than participate directly in certain Working Groups cited a wide variety of tools (including transcripts, webcasts, email archives and public comments) that they use to keep up to date with developments.

6.1.2 Flexibility

The varying length of time taken to complete the PDPs included in this study is testament to the flexibility of the PDP. Feedback from Working Group chairs and others who have participated in the PDP indicates that proper consideration of the issues is a hallmark of a bottom-up policy process, and that a process taking a long time is not a sign of failure. Interviewees were all asked their opinions on the statement, “The overall timescales for the PDP are sufficient and flexible enough to ensure effective public policy outcomes”. While 24 percent disagreed, there was a general acceptance that flexibility is necessary in a rigorous policy development process.

6.1.3 Policy Staff Support

Interviewees went out of their way to say how impressed they were with the quality of ICANN’s policy staff.

The only consistent area for improvement cited was in the summarizing of public comments. Many interviewees noted that there had been steady improvement in recent years, but also cited individual examples where they felt that comments had not been fairly summarized, or had been omitted, and some speculated that such actions had been taken because the ICANN secretariat wanted a particular outcome. This highlights how easily trust can be lost, and how long the people retain vivid memories about things which may be no more than clerical errors or omissions, but which are of great importance to participants.

6.2 Weaknesses

6.2.1 Demands on Participants

Working groups

The research conducted for this report shows that fully engaged participation in PDP Working Groups requires an extraordinary set of demands on participants (individuals, organizations, businesses and governments). In the last five years:

- The vast majority of people who participate in Working Groups participate only once.
- A small number of participants who have economic and other support for their ongoing engagement have dominated Working Group attendance records.

This has a set of clear implications for policy development. Having such a small pool of regular participants poses accountability, credibility, and resource risks for the policy development process. At the same time, that small pool of regular participants are carrying the load of the PDPs. Of particular concern is the fact that there is a very small pool of potential participants who have the experience to lead, moderate and bring to completion the difficult work of guiding participants and policy through the PDP.

Comment periods

The comment process, while a less active and more episodic form of participation, is also seen as problematic. A large majority of stakeholders with connections to businesses, constituencies or stakeholder groups report that it is very difficult to craft, discuss, get agreement and approval for submission of comments within the timeframes provided by the PDP. Many expressed concerns about the transparency of the summary process (while noting improvements in recent years), expressing the view that their comments are not given sufficient weight or are omitted in summaries. While the results of the interviews show strong support for holding workshops on substantive issues prior to the initiation of a PDP, many interviewees commented that they were unaware of such workshops being held.

If stakeholders feel that they cannot commit to the demands of full Working Group participation, have difficulty responding to comment periods, and are unaware of other outreach efforts such as workshops, they are effectively alienated from the PDP itself.

Calls for expert advice, surveys and other methods used by Working Groups during preparation of the Preliminary Report

Systematic analysis of the working methods chosen by Working Groups was outside the scope of this report, but anecdotal evidence suggested that members of the ICANN community seem more willing to participate in PDPs through targeted one-off processes such as surveys. For example, the ITRP-C Working Group received 100 responses to a survey on ITRP-C Charter question B, time-limiting Forms Of Authorization (FOAs).⁵²

Ways forward

1. Outreach efforts need to be more closely tied with fostering involvement in PDPs, making use of PDP veterans to bring new people into the process.

⁵² p. 31, Final Report on the Inter-Registrar Transfer Policy - Part C Policy Development Process, <http://gns0.icann.org/en/issues/irtp-c-final-report-09oct12-en.pdf>

2. The ICANN community needs to examine the potential for alternative participation models in the PDP.
3. The current PDP also needs to be examined to find ways to break up the enormous commitment associated with Working Groups into component parts. For example, it may be possible to further modularize the PDP and make it possible for participation in ways other than full participation in a Working Group or discrete inputs during the public comment periods and Working Group calls for input.

6.2.2 Global Stakeholder Participation

There is clear statistical evidence that three of ICANN’s regions play no meaningful part in the PDP. The GNSO risks global legitimacy—a core value of the policy that comes out of the PDPs—when it does not include viewpoints from Africa, Asia/Pacific and the Latin American/Caribbean/South American regions.

Language issues

There is some statistical support for the view that language is a genuine barrier to participation in PDPs. For example, 97% of comments submitted in any PDP public comment period are in English. None of these comments are translated for the benefit of non-English speaking members of the ICANN community. One interviewee pointed out that it was impossible to gain widespread input from their region, as the documents were not translated in their language.⁵³

Cultural issues

There is qualitative evidence that, apart from matters of operational practice (time difference, resource availability, support for diverse languages, etc.), the collaboration and discourse model built into the current PDP has a distinctly Western approach and does not take into account other cultural approaches to developing and building consensus policies. Failure to recruit, involve and support more globally representative participants potentially risks the global legitimacy of the policies built using the PDP.

Ways forward

1. ICANN should consider reforming its outreach activities to nurture and support Working Group participants from Africa, Asia/Pacific and the Latin American/Caribbean/South American regions. Several interviewees mentioned that it would be helpful if outreach efforts tied more closely into recruitment for Working Groups or made use of community leaders in the regions.
2. Greater use could also be made of ICANN’s contacts and partnerships with organizations in Africa, Asia/Pacific and the Latin American/Caribbean/South American regions to help address language barriers.
3. The ICANN community should reconsider the underlying collaboration and discourse model of the PDP and identify adjustments that could support participants who are not used to working collaboratively under the current model.

Suggestions for future research

Those who responded to requests for an interview for this report spoke perfect English (even if it was not their mother tongue) and participate actively in the process. Further research is required into understanding the reasons why stakeholders from outside of North America and Europe do not participate.

⁵³ The language involved was one of the six official UN languages.

6.2.3 The PDP, Staff and the Board

The life of PDP recommendations after the Final Report

In isolation, the PDP is a multi-stakeholder, consensus-driven, public policy development process. However, the PDP in the GNSO does not work in isolation from other parts of ICANN. The interviews conducted for this report demonstrate that many people are concerned about the interactions between the work products of the PDP and other parts of the organization. Specifically, there have been a significant number of responses that expose concern about policy built through long collaboration and negotiation, being changed or challenged by other parts of ICANN “after the fact”. In particular, concern was raised that the Board could—and has—changed proposed policy, or accepted alternative implementation of policy, thus overruling the work of the PDP Working Group. Other interviewees have expressed concern that some members of the community lobby the GAC, GNSO Council, or ICANN Board for changes in substance or implementation after a Working Group’s Final Report has been completed.

Differing interpretations of how potential problems with PDP recommendations should be resolved

Although not clearly articulated by any of the interviewees, the general belief seems to be that if the GNSO Council or ICANN Board have concerns with the PDP recommendations, they should flow back down to the PDP chain to the Working Group to reconsider or, better still, there should not be any concerns left at the point of the GNSO Council or ICANN Board votes, since all issues should have been raised by stakeholders during the Working Group’s original processes. The GNSO Council and ICANN Board, however, appear to believe that they have a role to play in directly modifying policy recommendations to address concerns that they have, or that have been brought to their attention by others. This difference in views may come from differing interpretations of the GNSO PDP as defined in the ICANN Bylaws and GNSO PDP Manual. In the ICANN Bylaws, Section 9 of Annex A contains four sub-sections that define two scenarios:

1. The ICANN Board approves the PDP recommendations (described in Section 9 (a)).
2. The ICANN Board does not approve the PDP recommendations, that is it decides the policy is “not in the best interests of the ICANN community or ICANN” (described in Section 9 (b-(d))).

Those who believe the Board does not have the right to modify GNSO PDP recommendations appear to believe that this text in the Bylaws describes the complete set of actions that a Board may take. Those who believe the Board may make modifications to PDP recommendations, however, appear to interpret the text as describing two actions in a non-limited set of possible actions that legitimately includes modification.

Similarly, in regard to GNSO Council modification of PDP recommendations, those who believe that such modifications subvert the policy process, may be assuming that, in the spirit of bottom-up multi-stakeholder policy development, the Council will always believe that it is best to pass concerns or proposed changes to recommendations back to the Working Group for further work. However, the last sentence of Section 12 of the GNSO PDP Manual states:

“In the event the GNSO Council expresses concerns or proposes changes to the PDP recommendations, it *may* be more appropriate to pass these concerns or recommendations for changes back to the respective PDP Team for input and follow-up.” (Emphasis added)

An additional challenge is the fact that implementation is a formal part of the PDP, and as such, there may be implementation-related decisions made by the relevant GNSO Council implementation task force that are viewed as being top-down policy making decisions that can subvert the bottom-up,

multi-stakeholder process that preceded the implementation phase. This report was not tasked with reviewing the “policy versus implementation” debate, so this challenge is only mentioned in passing to give more context to the broader issue of addressing perceived needs to modify PDP recommendations in the final phases of the PDP.

How processes outside the GNSO affect GNSO PDP Working Group dynamics

There are also important transparency and trust issues at stake when the GAC or Board are seen to influence or change PDP recommendations that have achieved community consensus. A change made by the Board to a consensus-driven policy created by committed, often volunteer, participants in bottom-up stakeholder engagement process is always open to questions about why and how those changes were made. This has become such a prevalent concern that, in one very recent Working Group, participants challenged others in the Working Group on the issue of whether they were truly committed to the process – or, if they simply intended to wait the process out and then “lobby” for the results they wanted in other parts of the organization. Some of the interviewees indicated that cynicism about other participant’s commitment to the PDP was a barrier to their own participation.

Ways forward

It is important to stress that the issue identified in this section is not the result of a structural problem with the GNSO PDP. Instead, the issue is the result of slight differences between different parts of the ICANN structure and differing interpretations of the official PDP documentation.

1. This report suggests that there needs to be process and procedure applied to ensure that other parts of the organization do not inadvertently subvert the accountability and transparency of the PDP.
2. It would be useful to revisit the official documentation describing the decision-making processes of the GNSO Council and ICANN Board to clarify exactly how these bodies’ desire to modify PDP recommendations should be handled.
3. Given some PDP participants seem to be unhappy with the weight their contributions have received during Working Group processes, it may be worth examining how consensus is reached and whether the unhappiness of some participants could be reduced if there were better documentation of why specific contributions or ideas were not included as PDP recommendations.

6.3 The Role of the GAC in GNSO Policy Development

The GAC represents an important set of stakeholders—governments—in any policy development process related to domain names and has a history of successful collaboration in other areas of ICANN, for example, in ccNSO Working Groups and participation in AOC reviews. However, for reasons documented below, the GAC rarely participates in GNSO PDPs. First, it is important to give some context on the role of the GAC within ICANN.

6.3.1 The GAC and ICANN

The GAC has been part of ICANN’s system since the beginning. The first GAC communiqué, dated 2 March 1999, notes the attendance of 23 of its 25 members, which consisted of governments, multilateral governmental organizations and treaty organizations. The GAC committed itself to “implement efficient procedures in support of ICANN [...] by providing thorough and timely advice and

analysis on relevant matters of concern to governments”.⁵⁴ GAC membership and participation in meetings has steadily grown, to 44 members attending in 2004,⁵⁵ 58 members in 2009,⁵⁶ and now 61 members and 8 observers attending in 2013.⁵⁷ Over time, the GAC meetings become multi-day events that include scheduled interactions with other ICANN stakeholder groups. In recent years, the GAC has become more proactive in its policy advice.⁵⁸ Its inter-sessional meetings with the ICANN Board in 2011 resulted in the incorporation of governmental advice into the new gTLD process through Early Warnings, GAC advice, and amendments to the application form. The GAC remains active in ICANN policy making processes, with over 30 pieces of GAC advice being produced so far in 2013.

6.3.2 Powers given to the GAC by the ICANN Bylaws to participate in GNSO policy development

Article XI of the ICANN Bylaws are very specific regarding the foundation of the Governmental Advisory Committee. In regard to the GAC’s role in the GNSO PDP, the following four observations can be made:

1. The GAC a clear mandate to “consider and provide advice” in the development of policy within ICANN:

“The Governmental Advisory Committee should consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN’s policies and various laws and international agreements or where they may affect public policy issues.”⁵⁹

2. The GAC is empowered to provide advice to the Board on new or existing policies:

“i. The Governmental Advisory Committee may put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.”⁶⁰

3. The GAC has the option to place one representative of the GAC as a non-voting member on the GNSO Council:

⁵⁴ GAC 1 Meeting, Singapore, 2 March 1999, 28(6): 758-786.

https://gacweb.icann.org/download/attachments/27131924/GAC_01_Singapore_Communique.pdf?version=1&modificationDate=1312231461000&api=v2

⁵⁵ GAC 19 Meeting, Rome 29 February – 3 March 2004

https://gacweb.icann.org/download/attachments/27131950/GAC_19_Rome_Communique.pdf?version=1&modificationDate=1312229551000&api=v2

⁵⁶ GAC36 Meeting Seoul, South Korea, 25-30 October 2009

https://gacweb.icann.org/download/attachments/27131984/GAC_36_Seoul_Communique.pdf?version=1&modificationDate=1312227059000&api=v2

⁵⁷ GAC Communique, Beijing April 2013

https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2

⁵⁸ See GAC register of advice

https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2, and note the increase in GAC advice relating to gTLDs from 2010.

⁵⁹ Article XI, Section 2 Paragraph 1 of the ICANN Bylaws

⁶⁰ Article XI, Section 2, Paragraph 1.i of the ICANN Bylaws

“g. The Governmental Advisory Committee may designate a non-voting liaison to each of the Supporting Organization Councils and Advisory Committees, to the extent the Governmental Advisory Committee deems it appropriate and useful to do so.”⁶¹

4. The Bylaws make the Board of Directors responsible for notifying the GAC of any public comment periods on policy issues and must do so in a timely manner

“h. The Board shall notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues on which it or any of ICANN's supporting organizations or advisory committees seeks public comment, and shall take duly into account any timely response to that notification prior to taking action.”⁶²

6.3.3 Implications of GAC Advice to the Board on Policy Matters

In interviews conducted for this report, there was a wide range of views on whether the GAC's interventions in GNSO PDPs have been helpful, effective or even necessary to the policy process. However, as one of the stakeholder groups in the multi-stakeholder Internet governance ecosystem, governments, via the GAC, are an important group of participants in all policy discussions related to the DNS. Through the GAC, governments bring expertise and experience that is not available from elsewhere, particularly with regard to identifying issues of public policy and serving the public interest. Interviews conducted for this report have identified, however, concerns that the provision of GAC advice can provide a structural opportunity for the GAC to be used by other players in the community as an alternative vehicle for policy changes. Specifically, there is concern that when parties feel certain policy issues have not been advanced in their favor via the formal PDP mechanisms—public comments, Working Groups, etcetera—they attempt to work with the GAC to convince governments to intervene on their behalf on policy issues. If people use such an out-of-band mechanism, it has two consequences:

1. It subverts the legitimacy of the PDP.

The ICANN community has developed the formal GNSO PDP as a mutually agreed framework to enable many different stakeholders with different perspectives to work together over time to reach consensus via negotiation and compromise. If parties are unhappy with outcomes of this policy process and use other structural opportunities, such as advice from the GAC, to propose, create and revise that policy, the legitimacy of the PDP, and its outcomes, can be called into question.

2. It makes the Working Group process more difficult.

In some recent PDPs, Working Group members have called other volunteers' motives into question. Specifically, some members expressed doubt that others in the group sincerely supported the PDP and would be active and engaged participants in the PDP. Given there is already difficulty in recruiting Working Group members for the long and intense commitment of a PDP, the injection of suspicion between Working Group members not only affects the for those Working Groups to interact in an environment of mutual trust and respect, but it also has the effect of potentially limiting interest in participating in future Working Groups.

⁶¹ Article XI, Section 2, Paragraph 1.g. of the ICANN Bylaws

⁶² Article XI, Section 2, Paragraph 1.h of the ICANN Bylaws

6.3.4 Enabling Greater GAC Participation in the PDP: Solutions Proposed to Date

The timing of GAC advice to the ICANN Board on GNSO-related policy has an effect on GNSO PDP outcomes. In particular, there is no mechanism in the GNSO Operations Manual or ICANN Bylaws for re-opening the activities of the Working Group if the timing of the GAC advice comes after the GNSO Working Group has already drafted its final report and the public comment process is complete. There is evidence that when GAC advice is provided late in the policy development process, it becomes separated from the bottom-up, multi-stakeholder driven model that underpins the GNSO PDP. Instead, potentially improvised processes involving the GNSO Council, the GAC, the ICANN Board, ICANN staff and other interested parties attempt to find ways to integrate the GAC advice with the existing outputs of the bottom-up PDP.

Many stakeholders cannot understand why the GAC cannot—or chooses not to—participate earlier in the PDP given there are clear opportunities for the GAC to do so. Table 5 below, supplied by ICANN staff, on some possible points of GAC engagement with the PDP, including the drafting and comment processes and the Working Group model:

Phase of the PDP	Opportunity for input	Method for seeking input from GAC
Request for Issue Report	An Advisory Committee may raise an issue for policy development by action of such committee to request an Issue Report, and transmission of that request to the Staff Manager and GNSO Council	N/A
Preliminary Issue Report	Public comment period on Preliminary Issue Report to encourage additional data / information as well as views on whether PDP should be initiated	Announcement posted to ICANN & GNSO web-site and public comment forum opened Announcement sent to the GAC Secretariat for distribution
Rejection of PDP requested by Advisory Committee	If GNSO Council rejects initiation of a PDP requested by an AC, then option to meet with AC reps to discuss rationale followed by possible request for reconsideration	N/A
Developing charter for the PDP Working Group	Drafting team to develop charter for PDP WG open to anyone interested	Announcement posted to GNSO web-site Announcement sent to GAC Secretariat for distribution
Working Group	PDP Working Group is open to anyone interested to participate, either as an individual or as a representative of group / organization	Announcement posted to the GNSO web-site and, if timely, included in Monthly Policy Update Announcement sent to the GAC Secretariat for distribution
Working Group	PDP WG is required to reach out at an early stage to obtain input from other SO / AC	PDP WG will send email request for input to SO/AC Chair and secretariat Request will typically include questions / input that input is sought on as well as a deadline for input (noting that additional time may be requested if needed)
Working Group	Initial Report published for public comment	Announcement posted to ICANN & GNSO web-site and public comment forum opened Announcement sent to the GAC Secretariat for distribution
Council Deliberations	Council Recommendations Report to the Board which also includes an overview of consultations undertaken and input received	N/A
Board Vote	Public comment forum prior to Board consideration of recommendations	Announcement posted to ICANN & GNSO web-site and public comment forum opened

Phase of the PDP	Opportunity for input	Method for seeking input from GAC
		Announcement sent to the GAC Secretariat for distribution
Board Vote	Requirement for the ICANN Board to inform the GAC if policy recommendations affect public policy concerns	Board will notify GAC
Implementation	Council has the option to form Implementation Review Team to assist Staff in developing the implementation details (in principle open to all)	Call for volunteers will be circulated to PDP WG
Implementation	Implementation plans may be posted for public comment or additional consultations held depending on nature of policy recommendations	Announcement posted to ICANN & GNSO website and public comment forum opened Announcement sent to the GAC Secretariat for distribution

Table 5: ICANN Staff-developed Table of Possible Points of Engagement between GAC and GNSO PDP

However, the GAC faces a set of structural and operational problems if it were to attempt to engage in the PDP at earlier points in the process:

1. As a separate, logical entity inside of ICANN, the GAC usually attempts to communicate with other parts of ICANN with a single, unified voice.

Having a GAC representative participate in Working Groups could prove cumbersome for both the representative and the Working Group. This is due to the fact that the representative would find it difficult to speak on behalf of the GAC, or even on behalf of their own government, during real-time discussions and, instead, would need time to liaise with others to develop officially endorsed positions on issues under discussion.

2. The GAC would find it difficult to identify and nominate a person of the right skills and background for many of the policy discussions that take place in PDPs.

Given the highly specialized nature of the issues under discussion in recent GNSO PDPs, it is already a challenge to find suitably skilled people amongst the wider ICANN community willing to participate in PDPs. The GAC, with its limited number of members, most of whom are, by definition, policy rather than technical experts, faces even more of a challenge finding appropriately skilled representatives to participate in a GNSO PDP Working Group.

3. Members of the GAC face resource constraints

The people who represent their governments on the GAC would especially find it difficult to commit the time to a Working Group. As demonstrated in Section 4.3, there is a very busy Internet governance calendar: government representatives in particular have heavy time commitments to a number of Internet governance-related processes happening in the intergovernmental sphere that limits the time available to commit to ongoing Working Group activities.

An alternative to GAC participation in PDP Working Groups is GAC engagement in public comment periods. However, the GAC would find it very difficult, if not impossible, to work within the current timescales for public comment processes. Again, the combination of resource limitations and the ability to coordinate the GAC on short notice for public comment would make it very difficult for the GAC to be able to consult with their internal governments, coordinate and negotiate between governments, and then come to agreement on a mutual position.

In summary, then, the timescales associated with the GNSO PDP are simply not set with the operational abilities of the GAC in mind.

6.3.5 A Need for New Ways to View the GAC's interaction with the PDP

As described above, active participation by the GAC in PDP Working Groups is very unlikely and more limited participation during public comment periods are operationally unworkable. Outside these two mechanisms, the current PDP contains no formal alternative processes for the GAC to participate in GNSO PDPs. There is evidence, however, that the GNSO Council and the GAC are working on informal engagement mechanisms to enhance communications between these critical parts of ICANN.

It is worth recalling that some stakeholder groups now view the GAC as a backstop. As a way to prevent the implementation of flawed policy, the GAC is a very imprecise tool to make specific policy changes. However, several groups have recently used the GAC as an audience for expressing the view that policy developed elsewhere in the organization, has poor public policy features. In our interviews there were strong feelings that the GAC should not be involved in after-the-fact policy evaluation of work done in PDPs. However there was also a strong feeling that the GAC was a needed protection against the development and implementation of poor policy.

While we believe there are no structural issues in the Bylaws that prevent the GAC from interacting directly with the GNSO through the PDP, perhaps a better way to approach the GAC is through small requests for information and advice rather than full comments on Initial Reports or PDP Drafts.

This report suggests that the GNSO PDP will need adjustment if there cannot be successful engagement by the GAC until the PDP is completed. Two possible approaches might be to:

1. Adjust the mechanics of the PDP input process to be more flexible so it becomes easier for the GAC to respond.

This could be a joint GAC/GNSO initiative that had as its goal a redefinition of the modes of participation for the GAC in the context of the PDP.

2. Add to the PDP, perhaps at the Initial Report, a task that specifically requires input (or a statement that they are not going to give input) from the GAC.

Section 9 of the GNSO Manual currently states, "the PDP Team should seek input from other SOs and ACs"; however, it may be more effective if requests for input from the GAC, and possibly other SOs and ACs, is placed on the same level as requests for statements from GNSO Stakeholder Groups and Constituencies.⁶³

⁶³ Earlier in Section 9 of the GNSO PDP Manual, it states, "The PDP Team should *formally solicit statements* from each Stakeholder Group and Constituency in the early stages of the PDP". (Emphasis added.)

7 Does the GNSO PDP Satisfy the Mission of ICANN in Regard to Policy Development?

7.1 The mission of ICANN

The mission of ICANN is stated in Section 1 of Article 1 of the ICANN Bylaws. In particular:

The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems.

The role of policy development is, therefore, to create policies that enable ICANN to perform the function of global coordination of Internet's systems of unique identifiers, while ensuring the stable and secure operation of the Internet's unique identifier systems.

In the specific context of the GNSO PDP, its role in satisfying ICANN's mission is to ensure ICANN can coordinate the gTLD system, with particular attention paid to the stability and security of the gTLD system. Given the ICANN mission refers to the domain name system in general, it may also be appropriate to assume that gTLD policy development should also consider the wider stability and security of the entire domain name system.

Associated with ICANN's mission are a number of core values specified in Section 2 of Article 1 of the ICANN Bylaws. Of particular interest to this review of the GNSO PDP are the following core values:

4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

The GNSO PDP's ability to reflect these core values is discussed below.

7.1.1 Core Value 4

Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making

As documented in the ICANN Bylaws and the GNSO PDP Manual, the GNSO PDP provides multiple opportunities for affected stakeholders to document their needs and wants, and contribute their perspectives, to active PDPs. Stakeholders can participate as members of the Working Group or contribute during the public comment periods. Working groups are also required to seek input from each Stakeholder Group and Constituency and are strongly recommended to solicit input from other SOs and ACs. In addition, although not required by the Bylaws or the GNSO PDP Manual, Working Groups solicit input through other ways, such as online surveys. The variety of opportunities available to provide input should, in theory, enable instances of the GNSO PDP to amass a broad diversity of materials with which recommendations can be strongly founded.

Given the overwhelming majority of participants in GNSO PDPs are from North America and Europe (see Section 5), it is not completely clear that the GNSO PDP, *as practiced*, is sufficiently able to support diverse levels of geographic and linguistic participation. As stated in Section 5.4, balanced participation in terms of geography, stakeholder interest group and gender is difficult to achieve. The fact that the majority of GNSO Council members come from developed countries means that it can be easy for the Council to overlook imbalances in representation within individual PDPs. Imbalances in participation are also able to affect the decision-making processes of input received by Working Groups. For example, if only one short not-easy-to-understand public comment in English was received from a Somali (whose first language is not English and who struggled to express her thoughts in English), but 15 long and highly structured public comments were received from native English speakers from the USA, a Working Group that has a majority composition of US and European members may inadvertently give the Somali's comment less weight than the more detailed comments from the US.

7.1.2 Core Value 6

Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.

Given the dominance of North American and European participants in the GNSO PDPs examined, there is a significant risk that policy development favors the particular environment in which US and European businesses are operating, potentially to the detriment of those operating in less deregulated environments or in developing countries where the markets are not yet able to compete with US and European markets on an equal basis. Given domain name registrations are not bounded by national borders, the demonstrable lack of active participation from regions outside North America and Europe creates the risk that GNSO PDPs may produce recommendations that favor business environments in North America and Europe, instead of encouraging a level playing field for all potential participants in the domain name market.

7.1.3 Core Value 7

Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

The stages of the GNSO PDP are publicly available to all and contain multiple mechanisms that enable public input into the process by any person or entity wishing to participate. Publication of all material associated with each instance of the PDP, including Working Group deliberations—email archives, transcripts of meetings, etc.—add significant transparency to each PDP undertaken.

However, at a more abstract level, the slightly differing grouping of steps in the PDP documented in the ICANN Bylaws and the GNSO PDP Manual (See Section 3.3) does affect the transparency of the process. In fact, it might be more appropriate to describe the policy development mechanisms as “slightly foggy”. The fact that the GNSO Policy Development Process web page⁶⁴ contains nine flowcharts—eight of them form a series of stepped events in the PDP—to illustrate the process suggests that the GNSO Council and ICANN staff are aware of this lack of complete clarity. Given the complexity of the PDP, the slightly different grouping of PDP steps in the Bylaws, GNSO PDP Manual and flowcharts on the GNSO website, and general time constraints on all ICANN stakeholders, the GNSO PDP, as currently documented, could contribute to the lack of diversity in active participation

⁶⁴ <http://gns0.icann.org/en/node/31379/>

during PDPs. This is due to the risk that members of the community may not be aware how important particular phases of public input are to the development of recommendations by the Working Group. Instead, only those with an encyclopedic knowledge of the process fully understand when to devote their time to following or actively contributing to the PDP. Less well-informed stakeholders may feel out of their depth given the overall complexity of the process and, due to existing constraints on their time, choose not to spend the time engaging in PDPs.

The current GNSO PDP as practiced does not require, at either the Issues Report or Working Group stages, specific identification of entities that may be most affected by the PDP or experts that may assist the PDP. The Issue Report must describe the impact of the issue proposed for a PDP on the requesting party (Board, GNSO Council, or AC) but does not have to identify the impacts of the issue on other parties. Although it is clear that the Issue Report is meant to be limited in scope, clearly identifying affected parties—not just by constituency or AC, but as needed, perhaps on a more fine-grained basis—could help the GNSO Council, and later the Working Group, identify specific groups to actively encourage participation in the process.⁶⁵

7.1.4 Core Value 11

While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

Section 6.3 has demonstrated that there is a significant challenge to ICANN in this area. As documented previously in this report, the PDP has many opportunities for participation and government and public authorities' recommendations are welcome at all those opportunities. Specifically, when governments have significant self-interest in the result, public authorities are very willing to contribute extensively within the confines of the PDP. The recent PDP on IGO-INGO is a good example of that process working as it was designed.

Public policy requires specific knowledge and ICANN's best resource for public policy expertise is in the GAC. Section 6.3 documented the challenge of getting GAC advice early into the PDP. However, interviews with GAC members have showcased the fact that they are very sensitive to the intersection between DNS operational, market and infrastructure policy and public policy. It is at this intersection where the GAC has intervened and where the ICANN Board has carefully considered those interventions.

While this framework of GAC intervention does work, not all are happy with the impact it has on the stakeholder-driven PDP. The relationship between the timing of governments' and public authorities' recommendations and the ongoing work of policy development in the GNSO is one of the thorniest issues for the future of the PDP.

⁶⁵ For example, *Final Issue Report: Translation and Transliteration of Contact Information*, states that the issue "affects a high percentage of generic TLD (gTLD) registrants (individuals and organizations), registrars, and registries". However, it does not explicitly state that the issue is particularly relevant to stakeholders who use non-ASCII text – stakeholders very much associated with emerging Internet economies and whom, to date, have not been significant contributors to GNSO policy.

Annex A: Detailed Methodology

A.1 Approach and Data Sources

The RFP formulated by the ATRT2 sets out the scope of work for this study to achieve a critical analysis of the effectiveness of the GNSO Policy Development Process as an instrument of bottom-up, multi-stakeholder policy making.

Part of the required analysis of the PDP process is to identify differences between defined process and actual practice, and a range of participation-based metrics. The RFP foresees that part of the research will be focused on the published archive. A quantitative approach is appropriate to provide metrics on actual participation by region, stakeholder group including the GAC, and identify through examination of the evidence the extent to which all stakeholders participate in PDP.

The RFP also requires this study to identify strengths and weaknesses in the process, the extent to which the process incorporates the views advice and needs of all stakeholders, and evaluate the extent to which the PDP produces sound policy in support of the public interest. The ICC Team took the view that participants in the process would be an invaluable source of opinion and insight into the effectiveness of the PDP, as well as potential areas for improvement.

Therefore, our research had both quantitative and qualitative elements.

A.2 Written Documentation: A Quantitative Analysis

The ICC Team identified the following data sources:

- Published documents defining the PDP as a process, including the ICANN Bylaws, GNSO PDP Manual, GNSO PDP tutorial materials and public records of the discussion for potential changes to the PDP.
- Published records relating to specific PDPs. Such records include but are not limited to the PDPs portal web sites where mailing lists, attendance lists, wikis, comment archives and analysis, descriptive and explanatory information are provided. The table at Section 5 details the web pages where much of the source material for the quantitative analysis was found.
- ICANN staff were made available to the ICC Team, in order to provide clarification on publicly available materials and to help identify records of interest to the ICC Team.
- General GNSO materials including transcripts, MP3 recordings and the records of GNSO Council meetings were also consulted.

The available primary sources are extensive and comprehensive. To assist in a critical analysis of the process, the ICC Team developed objective and measurable criteria through which to evaluate the effectiveness of the PDP.

The PDP provides two key methods for participation: Working Groups and public comment. For the PDP to be capable of fulfilling the promise of bottom-up, multi-stakeholder policy making, and ICANN's public interest goals, the diversity of stakeholders (by type of stakeholder, geographic region) is relevant, as is gender balance, and any changes over time. To be effective in a fast-changing environment, the PDP should also balance timeliness with rigorous examination of the issues.

The metrics derived from the quantitative analysis include:

1. Working groups:
 - a. Working group size by issue

- b. Working group participation by gender
 - c. Number of many Working Groups participants join
 - d. Working group participation by geographic region, and any changes over time
2. Public comments:
 - a. Individual comments versus organization comments
 - i. On issues reports
 - ii. On initial reports
 - b. Regional distribution of comments
 - i. On issues reports
 - ii. On initial reports
 3. Elapsed time taken for PDPs
 - a. To initial report
 - b. To final report
 - c. Charter to final report

The data was collected through an analysis of mailing lists, the archives of public comments and through an analysis of the data against other sources of information (Statements of Interest, written comments or sources on external websites). Where possible, each public comment and the demographics of the Working Groups was categorized via information provided (directly or indirectly) by the participants themselves.

A.3 Opinions of Participants: A Qualitative Approach

There were two sources of opinion data:

1. A structured qualitative questionnaire undertaken by the ICC Team
2. An online email thread created for the ATRT2 project, and participated in by seven current and former Working Group chairs

A.3.1 Qualitative Questionnaire

To supplement the ICC Team's understanding, and as anticipated in the RFP, the ICC Team undertook a series of interviews with participants in PDPs.

The number of interviews undertaken was 30, or more than 28 percent of the total number of participants in PDPs. This is a statistically significant sample.

The interviewees were from a reasonably diverse geographical base.

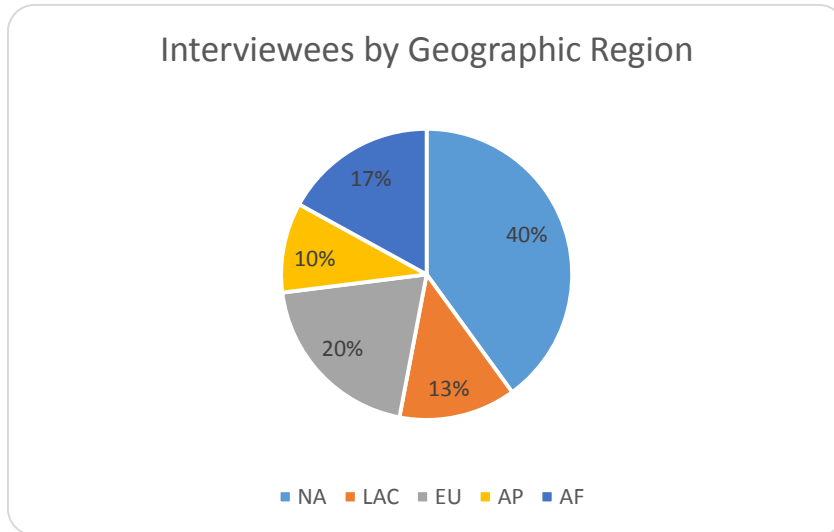


Figure 28: Interviewees by Geographic Region

The interviewees were from a diverse stakeholder background, including GNSO constituencies and others (for example, ALAC). GAC members did not participate in the qualitative questionnaire (see below).

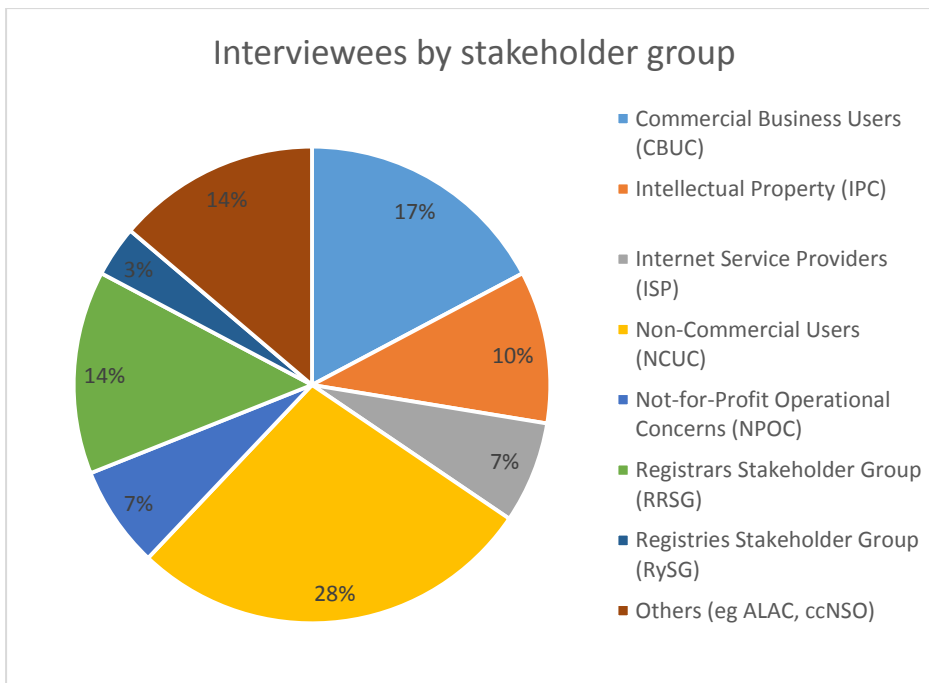


Figure 29: Interviewees by Stakeholder Group

A standardized question set

Although it was important to capture individuals' views, it was also necessary to make meaningful comparisons across the data sample. A standardized questionnaire was developed which asked for opinions on a range of issues highlighted in the RFP, aiming to capture views on the effectiveness of the PDP as a bottom-up multi-stakeholder instrument of policy making.

The ICC Team worked together to draft a question set, to ensure no single view prevailed in drafting the questions.

Rather than Yes/No answers to opinion questions, a respected methodology for qualitative, opinion-based surveys (the Likert Scale) was used. This offered interviewees a range of potential answers from Strongly agree, Agree, Don't feel strongly either way, Disagree, Strongly disagree, and Not applicable/I don't have enough information to judge.

To avoid potential bias in the data sample, the ICC Team compiled a list of potential interviewees ensuring geographic and stakeholder diversity, and gender balance.

Challenges and mitigations

There were a number of challenges in this project. First, the ICC Team was appointed during the holiday season in the Northern Hemisphere. Many of the potential interviewees were either on holiday or had just returned from holiday during that period. It was not until early September that interviews began. Despite several reminders, only 35 interviews were scheduled and 30 interviews took place. The strict deadline for production of the ATRT2 draft final report and the time needed for translation imposed a hard stop-date on data collection, analysis and reporting. This effectively reduced the active window to little over three weeks.

The ATRT2 requirements for an evidence-based approach to understanding the PDP's effectiveness in all its phases necessitated a long questionnaire. While the ICC Team worked to reduce the number of questions, the overall length of interviews (depending on length of responses) was between 30 to 100 minutes.

The length of the questionnaire and complexity of the subject matter gave rise to another potential challenge: for non-native English speakers, to conduct such a questionnaire by telephone, without sight of the questions, could present challenges in understanding the questions and formulating answers. To overcome this, the questionnaire used for the interviews was made available online and interviewees were invited to participate via the online form if it would be more convenient for them.

Another potential cause of low uptake may have been "volunteer fatigue" identified in other parts of the ICANN community, which can happen when a relatively small group of individuals is targeted for many interventions, including research interviews.

The questions

Time constraints meant that the question set for the questionnaire needed to be devised quickly and it was not possible to run extensive tests or consult with the ATRT2 team on the question set. However, despite the constraints, the majority of the questions appeared to work well in practice. A few were identified by participants or the ICC Team as potentially ambiguous, asking a single opinion on two or more factors, potentially leading the interviewee or otherwise problematic. These include questions 3.9, 3.11, and 3.24. To mitigate these issues, the answers to those questions are treated with caution, and not relied on in any of the key findings.

A.3.2 Working Group Chairs

This qualitative analysis consisted of a review of an email thread involving seven former and current Working Group chairs. The email thread was initiated by the ATRT2 and is published on the ATRT2 email archive⁶⁶.

The thread was analyzed for demographics and number of responses per participant. Issues highlighted were identified and clustered under broad headings.

This thread was also used as a way to identify issues of interest to participants who, by their chairing a Working Group, were especially knowledgeable and interested in the PDP.

A.3.3 Governmental Advisory Committee

The qualitative analysis was supplemented by interviews with four current GAC members, including the GAC Chair. Our guidance from the ATRT2 was not to ask the GAC to complete the questionnaire. Instead, we used an open ended set of questions to structure the interviews. These conversations consisted of four teleconferences conducted over a period of three days, and the results of those conversations have informed the findings in section 5 of the report.

A.4 Managing Conflicts of Interest

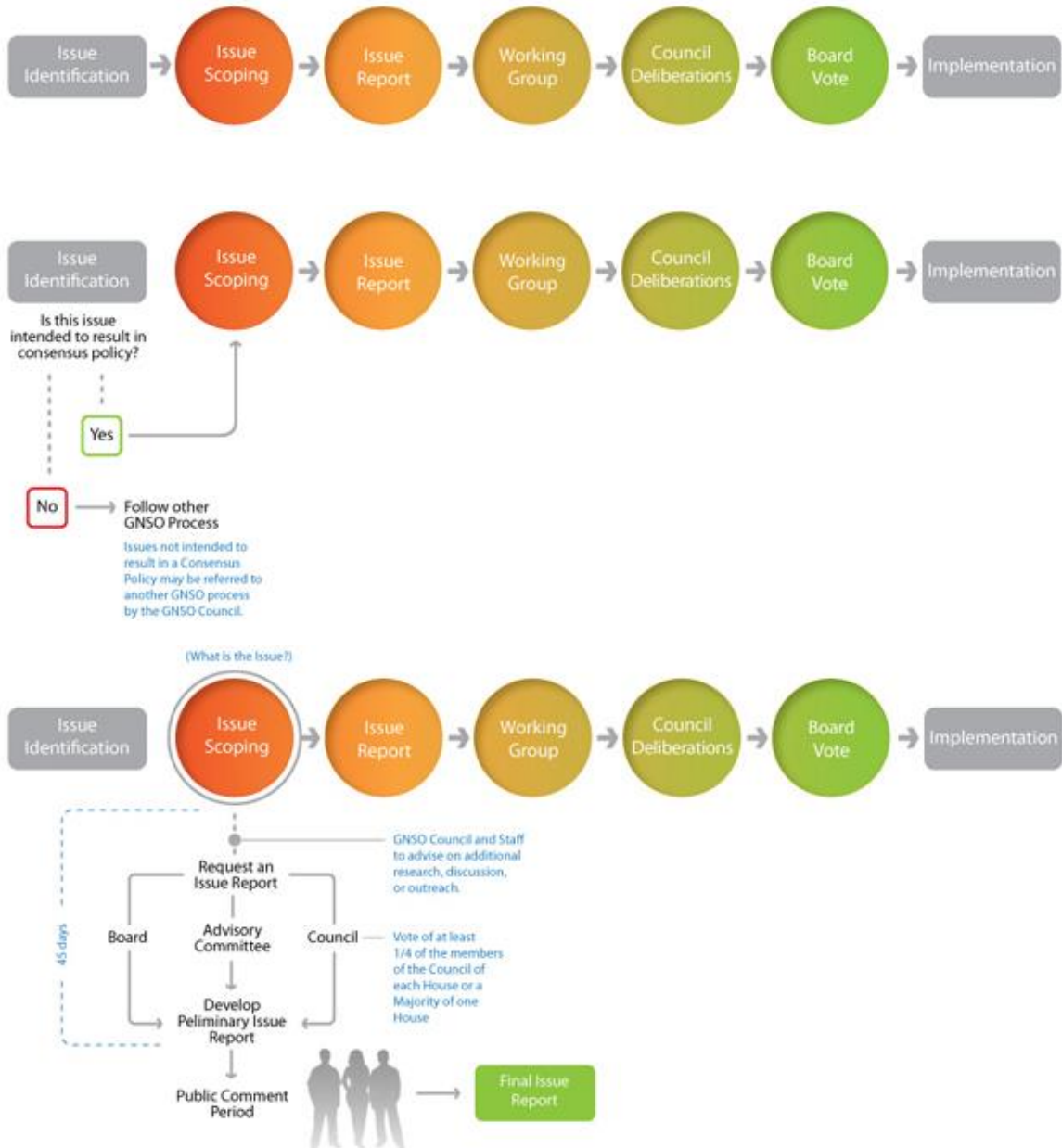
The ICC Team is comprised of “insiders” to the ICANN process. This brings numerous advantages particularly on a project with tight timeframes. The ICC Team put in place a robust system for the management of any conflicts of interest. Conflicts of interest were proactively declared by team members, and details were reported the Chair of the ATRT. Where conflicts were identified for a particular individual, that individual stepped out of the relevant work and passed it on to colleagues.

One of the ICC Team also serves as Chair of a GNSO Constituency. Having declared the interest, that individual took no part in the interview process on the qualitative side of the project.

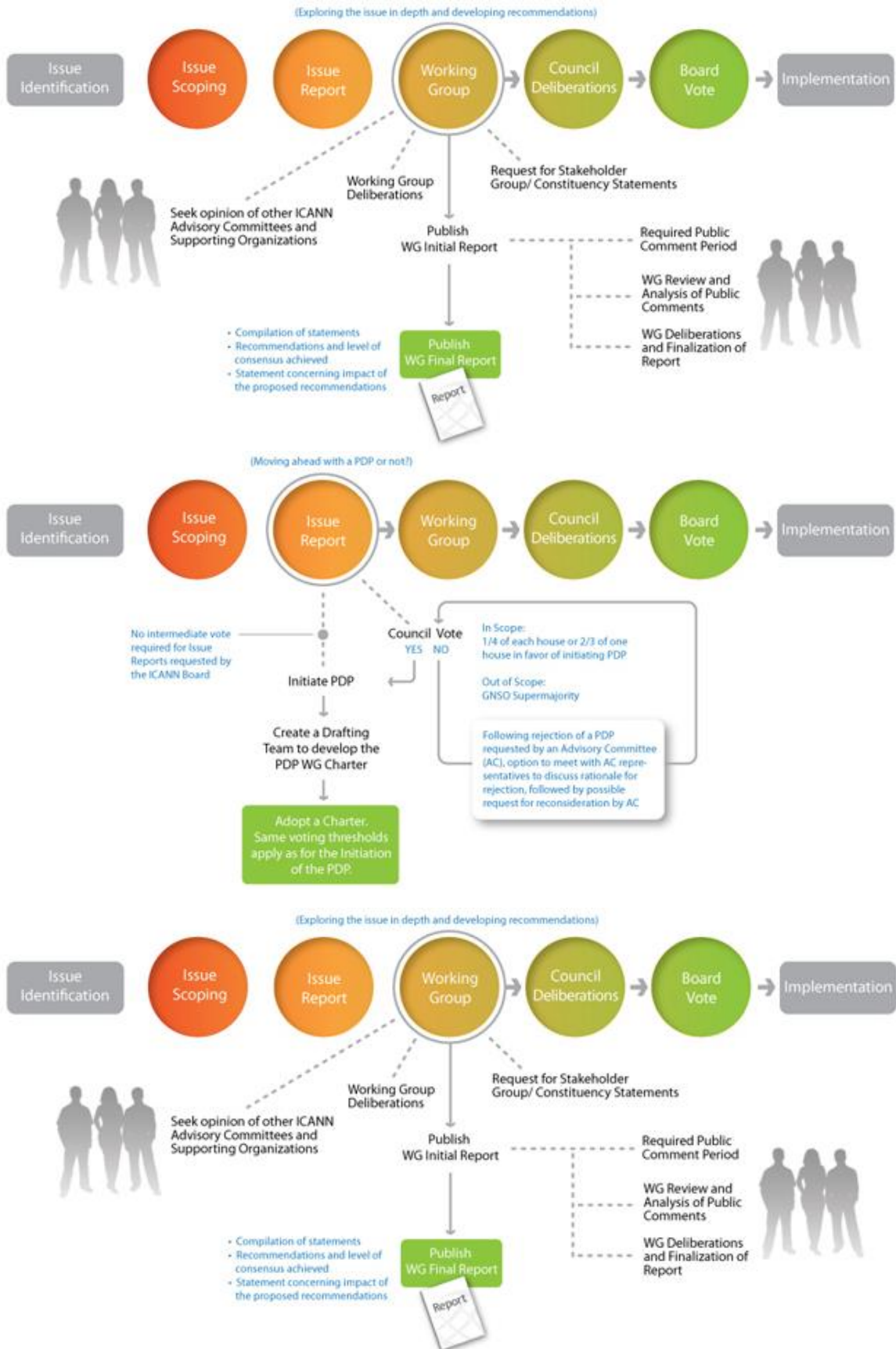
⁶⁶ See <http://mm.icann.org/pipermail/atrt2/2013/000680.html> and subsequent messages on the thread “PDP – Discussion with ATRT2 01-29”

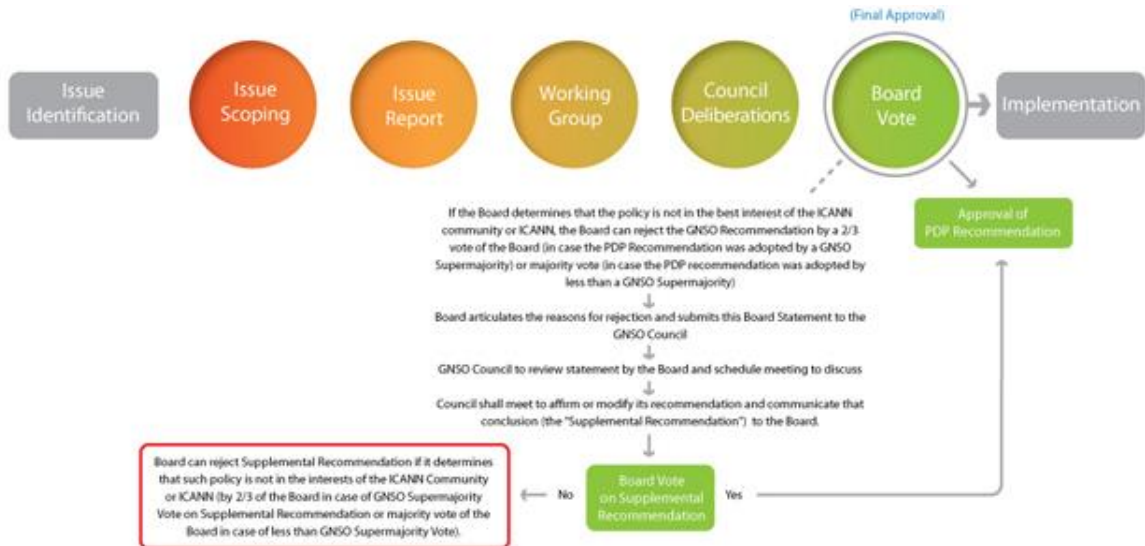
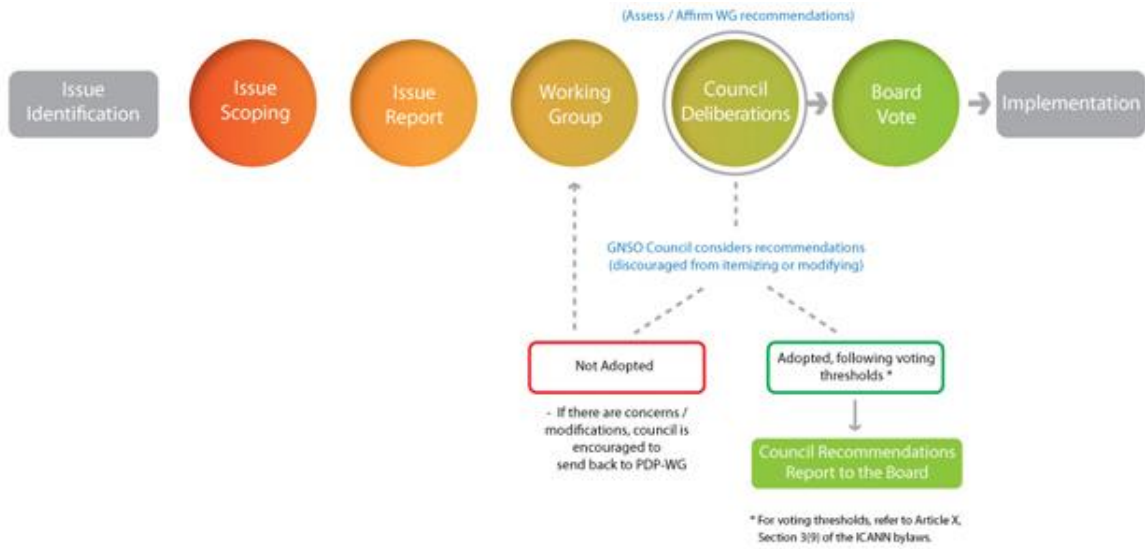
Annex B: Series of Eight Flowcharts Illustrating the Current GNSO PDP

Below are the eight flowcharts developed by ICANN staff and published on the GNSO web page, "GNSO Policy Development Process (PDP)".⁶⁷



⁶⁷ <http://gns0.icann.org/en/node/31379/>





Annex C: Detailed Description of the Who, What, How and When of GNSO PDP Steps

What	Who	How	When	Outcome
1. <i>(If Issue Report request is being considered by GNSO) Hold workshop on issue</i>	GNSO Council	Not specified	Before Issue Report request is submitted	<ul style="list-style-type: none"> ▪ Clearer understanding of the issue ▪ Wider support for requesting Issue Report
2. Request Issue Report	ICANN Board, GNSO Council or AC	Complete request template	As needed	Issue Report request sent to ICANN staff, & if request was issued by Board or an AC, also to GNSO Council
3. Create preliminary Issue Report	ICANN Staff Manager	Write report based on elements a)-f) listed in Section 4 of Bylaws Annex A	Publish within 45 days of receipt of Issue Report Request (<i>extension may be requested</i>)	Issue Report written
4. Call for public comments on preliminary Issue Report	ICANN Staff Manager	Publish report on ICANN website	Within 45 days of receipt of Issue Report Request (<i>extension may be requested</i>)	Report published. ⁶⁸ Call for public comments announced.
5. Comment on preliminary Issue Report	ICANN community	Post comments on ICANN public comment forum	Open for no less than 30 days after call for comments is posted	All public comments published on ICANN website
6. Summarize & analyze public comments	ICANN Staff manager	Write report. (<i>No officially specified format for report</i>)	Within 30 days of the closing of the public comment forum (<i>extension may be requested</i>)	Report of public comments forwarded to Chair of GNSO Council
7. <i>(If comments received require Issue Report adjustments) Write second, "Final" version of Issue Report</i>	ICANN Staff manager	Write report based on elements a)-f) listed in Section 4 of Bylaws Annex A & feedback received during public comment period	Within 30 days of the closing of the public comment forum (<i>extension may be requested</i>)	Final Issue Report forwarded to Chair of GNSO Council

⁶⁸ ICANN Staff are encouraged to translate Executive Summary of Preliminary Issue Report into all six UN languages, posting translated versions as they become available.

What	Who	How	When	Outcome
8. (If Issue Report was requested by ICANN Board) Decide to initiate a formal PDP	GNSO Council	Note receipt of Final Issue Report and formally initiate PDP	If Final Issue Report was received: <ul style="list-style-type: none"> At least 10 calendar days before upcoming GNSO Council meeting, discuss at that upcoming Council meeting after submission Less than 10 calendar days before upcoming GNSO Council meeting, discuss at Council meeting that follows the upcoming meeting <i>(Discussion may be postponed by no more than one Council meeting)</i> 	PDP is formally initiated
9. (If Issue Report was requested by GNSO Council or AC) Decide to initiate a formal PDP	GNSO Council	A vote of the GNSO Council based on the Council's consideration of the Final Issue Report <ul style="list-style-type: none"> To initiate a PDP within Scope requires an affirmative vote of: <ul style="list-style-type: none"> more than 1/3 of each House, OR more than 2/3 of one House To initiate a PDP Not Within Scope requires an affirmative vote of GNSO Supermajority. That is: <ul style="list-style-type: none"> 2/3 of the Council members of each House, OR 3/4 of one House and a majority of the other House 	If Final Issue Report was received: <ul style="list-style-type: none"> At least 10 calendar days before upcoming GNSO Council meeting, discuss at that upcoming Council meeting after submission Less than 10 calendar days before upcoming GNSO Council meeting, discuss at Council meeting that follows the upcoming meeting <i>(Discussion may be postponed by no more than one Council meeting)</i> 	PDP is formally initiated
10. Develop PDP Charter	A group formed at the direction of the GNSO Council	Write Charter based on elements specified in GNSO Working Group Guidelines: <ul style="list-style-type: none"> Working Group Identification Mission Purpose & Deliverables Formation Staffing & Organization Rules of Engagement 	GNSO Council to indicate expected timeframe.	Proposed Charter is presented to Chair of the GNSO Council

What	Who	How	When	Outcome
11. Approve PDP Charter	GNSO Council	<p>A vote of the GNSO Council based on the Council's consideration of the Final Issue Report</p> <ul style="list-style-type: none"> ▪ To initiate a PDP within Scope requires an affirmative vote of: <ul style="list-style-type: none"> ○ more than 1/3 of each House, OR ○ more than 2/3 of one House ▪ To initiate a PDP Not Within Scope requires an affirmative vote of GNSO Supermajority. That is: <ul style="list-style-type: none"> ○ 2/3 of the Council members of each House, OR ○ 3/4 of one House and a majority of the other House 	<p>If proposed Charter was received:</p> <ul style="list-style-type: none"> ▪ At least 10 calendar days before upcoming GNSO Council meeting, discuss at that upcoming Council meeting after submission ▪ Less than 10 calendar days before upcoming GNSO Council meeting, discuss at Council meeting that follows the upcoming meeting 	PDP Charter is approved
12. Form Working Group (<i>preferred</i>) or other designated working method	GNSO Council	<ul style="list-style-type: none"> ▪ Form Working Group using designated rules & procedures available in GNSO Operating Rules & Procedures OR ▪ Decide on other working method after first identifying specific rules & procedures in ICANN Bylaws or PDP Manual 	Not specified	A "PDP Team", consisting of either a Working Group or other working method, is created.
13. PDP Team formally solicits statements from each Stakeholder Group and Constituency	PDP Team	No specified method.	The formal solicitation should occur early in the PDP (<i>exact timeframe not specified</i>) ⁶⁹	Stakeholder Groups and Constituencies receive formal communication from PDP Team
14. Stakeholders submit formal statements to PDP Team	Stakeholder Groups and Constituencies	No specified methods	Window for submitting statements is at least 35 days from the moment the PDP Team sends the request	Copies of stakeholder statements sent to PDP Team

⁶⁹ The PDP Team can formally solicit statements from Stakeholder Groups and Constituencies more than once during the PDP.

What	Who	How	When	Outcome
15. PDP Team solicits input from other SOs & ACs	PDP Team	The PDP Team is to decide how best to contact other SOs and ACs to request their input.	Early in the PDP (<i>exact timeframe not specified</i>)	<p>The method chosen by the PDP Team for soliciting input from other ACs and SOs is included in the Team's Report.</p> <p>Any input sent by other SOs & ACs in response to this call receive a response from the PDP Team in the form of:</p> <ul style="list-style-type: none"> ▪ Direct reference in applicable report OR ▪ Embedded reference in other "responsive documentation" ▪ Direct response to SO or AC
16. SOs & ACs submit input to PDP Team	SOs & ACs	Depends on PDP Team's decision in previous step.	Not specified	PDP Team receives input from SOs & ACs, which is to be treated with same due diligence as other input & comment processes
17. PDP Team establishes contact with ICANN departments outside the policy department	PDP Team	Optional, but encouraged step. PDP Team contacts ICANN departments that may have an interest, expertise, or information regarding the implementability of the PDP issue.	Early in the PDP (<i>exact timeframe not specified</i>)	PDP Team establishes communication channels with ICANN departments
18. (<i>Optional</i>) Call for public comments on other PDP related documents such as surveys (not Issue Report or Initial Report)	PDP Team/ICANN Staff Manager	<ul style="list-style-type: none"> ▪ PDP Team to decide on items as they feel it necessary. ▪ No approval from the GNSO Council is needed to initiate such additional calls for public comment. 	At any time between the creation of the PDP Team and the publication of the Final Report	PDP-related document other than Initial or Final Report published. Call for public comments announced.
19. (<i>If call for public comments on other PDP related documents is made</i>) Comment on PDP related documents	ICANN community	Post comments on ICANN public comment forum	Open for no less than 21 days after call for comments is posted	All public comments published on ICANN website

What	Who	How	When	Outcome
20. PDP Team develops recommendations on the issue that is the subject the PDP	PDP Team	<ul style="list-style-type: none"> ▪ Dependent on PDP Charter and working method chosen for PDP Team (Working Group or other method). ▪ ICANN Staff Manager to coordinate with Chair(s) of PDP Team to enable the Team to carry out its work. 	Not specified	<p>The PDP Team can either:</p> <ul style="list-style-type: none"> ▪ Reach the conclusion that no recommendation is necessary, OR ▪ Make recommendations on one or more of the following: <ol style="list-style-type: none"> i. Consensus policies ii. Other policies iii. Best Practices iv. Implementation Guidelines v. Agreement terms and conditions vi. Technical Specifications vii. Research or Surveys to be Conducted viii. Advice to ICANN or to the Board ix. Advice to other SOs or ACs x. Budget issues xi. Requests for Proposals xii. Recommendations on future policy development activities

What	Who	How	When	Outcome
21. Create Initial Report	PDP Team & ICANN Staff	Write Initial Report that includes the following elements: <ul style="list-style-type: none"> ▪ Compilation of Stakeholder Group & Constituency Statements ▪ Compilation of SOs & ACs statements ▪ Recommendations on the issue that is the subject of the PDP ▪ Statement of level of consensus regarding the recommendations ▪ Information regarding members of PDP Team (attendance records, Statements of Interest, etc.) ▪ Statement on PDP Team’s discussion on impact of proposed recommendations (such as economic, competition, operations, privacy & other rights, scalability & feasibility) 	Not specified	Initial Report written
22. Call for public comments on Initial Report	ICANN Staff Manager	Publish report on ICANN website	Not specified	Report published. ⁷⁰ Call for public comments announced.
23. Comment on Initial Report	ICANN community	Post comments on ICANN public comment forum	<ul style="list-style-type: none"> ▪ Open for no less than 30 days after call for comments is posted ▪ If the public comment period coincides with an ICANN Public meeting, extend the period by 7 days to be a minimum of 37 days 	All public comments published on ICANN website
24. Summarize & analyze public comments	ICANN Staff manager	Write report (No officially specified format for report)	Within 30 days of the closing of the public comment forum (<i>extension may be requested</i>)	Report of public comments forwarded to PDP Team

⁷⁰ ICANN Staff are encouraged to translate Executive Summary of Initial Report into all six UN languages, posting translated versions as they become available.

What	Who	How	When	Outcome
25. Prepare Final Report	PDP Team & ICANN Staff Manager	<ul style="list-style-type: none"> ▪ Identify & add comments from the public comment period that are appropriate for inclusion in the updated Report ▪ Document how the PDP Team has evaluated & addressed the issues raised during public comment period ▪ If appropriate, update recommendations from Initial Report to respond to feedback received during public comment period 	Not specified	Final Report written
26. <i>(Optional but recommended)</i> Publish Draft version of Final Report for public comment	ICANN Staff Manager	Following PDP Team’s deliberation on whether publishing a draft Final Report can help maximize transparency & accountability, publish report on ICANN website	Not specified	Report published. ⁷¹ Call for public comments announced.
27. <i>(If Draft Final Report published for public comment)</i> Comment on Draft Final Report	ICANN community	Post comments on ICANN public comment forum	Not specified	All public comments published on ICANN website
28. <i>(If Draft Final Report published for public comment)</i> Summarize & analyze public comments	ICANN Staff manager	Write report <i>(No officially specified format for report)</i>	Not specified	Report of public comments forwarded to PDP Team
29. Forward Final Report to GNSO Council	Not specified	If a Draft Final Report has been published for public comment, ensure issues raised in comments that comment period are addressed in the Final Report.	Not specified	Final Issue Report forwarded to Chair of GNSO Council
30. <i>(Optional but strongly recommended)</i> Review Final Report	Stakeholder Groups, Constituencies & GNSO Councillors	Not specified	Allow “sufficient time” to review between publication of Final Report & GNSO Council meeting that will formally make a motion to adopt the Final Report	Transparency & accountability goals enhanced

⁷¹ ICANN Staff are encouraged to translate Executive Summary of Draft Final Report into all six UN languages, posting translated versions as they become available.

What	Who	How	When	Outcome
31. Deliberate & vote on Final Report recommendations	GNSO Council	<ul style="list-style-type: none"> ▪ Vote on recommendations in the Final Report ▪ Decide if recommendations that did not achieve consensus should be adopted or remanded for further analysis & work ▪ GNSO Council strongly recommended to consider interdependent recommendations as a block ▪ If GNSO Council considers making changes to Report recommendations, it may be more appropriate to return these issues to the PDP Team for further input & follow-up 	No later than the second GNSO Council meeting after the Final Report has been presented to the GNSO Council. <i>(Deliberation may be postponed for no more than 1 GNSO Council meeting)</i>	Final Report recommendations voted on
32. <i>(If recommendations in Final Report have been approved by GNSO Council) Prepare Recommendations Report for the ICANN Board</i>	An individual or group designated by GNSO Council	ICANN Staff to advise report writers of the format requested by the Board	If feasible, Recommendations Report to submitted to the Board before the GNSO Council meeting that follows the Council's adoption of the Final Report	Recommendations Report written
33. <i>(Optional?) Write Staff Report</i>	ICANN Staff	Write report on legal, implementability, financial or other operational concerns related to the PDP recommendations in the Final Report	Not specified	Staff Report written
34. Forward Board Report to the ICANN Board	ICANN Staff manager	The Board Report consists of the Recommendations Report and the Staff Report	Not specified	Board Report forwarded to ICANN Board
35. Approve PDP recommendations	ICANN Board	<ul style="list-style-type: none"> ▪ Board to adopt PDP recommendations approved by a GNSO Council supermajority, unless a 2/3 vote of Board determines that such policy is not in best interests of ICANN community or ICANN ▪ A majority vote of the Board is used to adopt PDP recommendations approved by less than GNSO Council supermajority 	Preferably not later than the second Board meeting after the Board receives the Board Report	PDP recommendations adopted

What	Who	How	When	Outcome
36. (If some recommendations not adopted) Explain non-adopted recommendations to GNSO Council	ICANN Board	If Board determines recommendation(s) are not in best interest of ICANN community or ICANN, Board must explain its reasons in report submitted to GNSO Council	Not specified	Board Statement forwarded to GNSO Council
37. (If some recommendations not adopted) Discuss Board Statement	ICANN Board & GNSO Council	<ul style="list-style-type: none"> ▪ Board to determine how the discussion will take place ▪ Council to review Board Statement as soon as feasible after its receipt 	Not specified	ICANN Board & GNSO Council meet to discuss reasons for non-adopted PDP recommendations
38. (If some recommendations not adopted) Forward Supplemental Recommendation to ICANN Board	GNSO Council	Supplemental Recommendation will report whether Council discussion on Board Statement has resulted in Council affirming or modifying its recommendation to the Board	Not specified	Supplemental Recommendations forwarded to ICANN Board (by ICANN Staff manager, presumably)
39. (If some recommendations not adopted) Approve PDP Supplemental Recommendation	ICANN Board	<ul style="list-style-type: none"> ▪ Board to adopt Supplemental Recommendation approved by a GNSO Council supermajority, unless a 2/3 vote of Board determines that such policy is not in best interests of ICANN community or ICANN ▪ A majority vote of the Board is used to adopt Supplemental Recommendation approved by less than GNSO Council supermajority 	Not specified	Supplemental Recommendations adopted
40. (Optional) Staff authorized to work with GNSO Council to create implementation plan	ICANN Board	Not specified	Upon the final decision of the Board adopting the PDP recommendations	GNSO Implementation Review Team established to assist with implementation
41. (Optional) Establish Implementation Review Team	GNSO Council	Implementation Review Team to be established according to recommendations included in Final Report	After ICANN Board has authorized/directed ICANN Staff to liaise with GNSO Council on implementation plan	Implementation Review Team established

What	Who	How	When	Outcome
42. Implement PDP recommendations	ICANN Staff	Work with GNSO Council to create an implementation plan based upon the implementation recommendations identified in Final Report	Not specified	PDP recommendations implemented

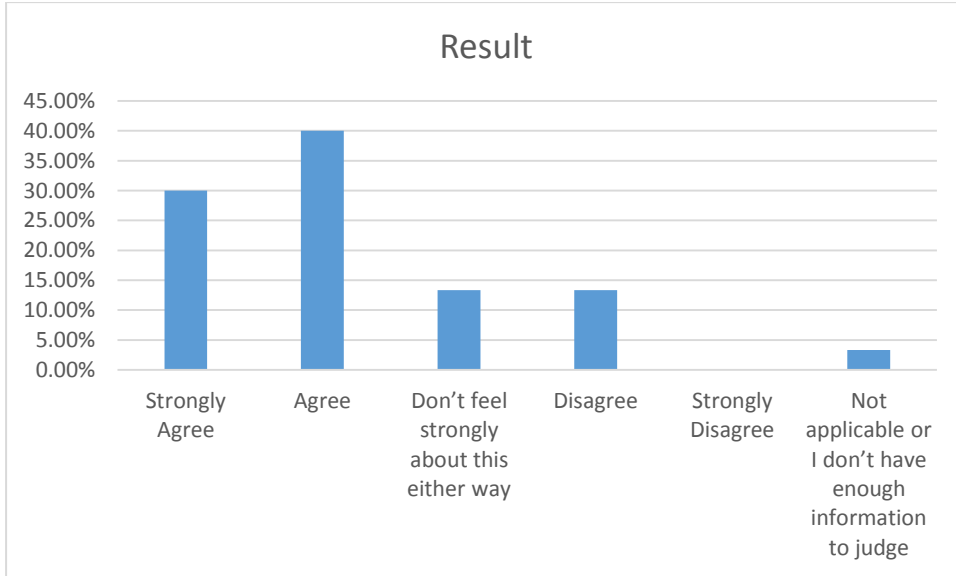
Annex D: Interview Results by Question

What follows is a complete presentation of the standardized data collected during the interviews conducted for the ATRT GNSO PDP research. The methodology for the survey is presented in Annex 4: Detailed Methodology. No correlations appear here, instead these are the raw tabulations for each of the standardized questions.

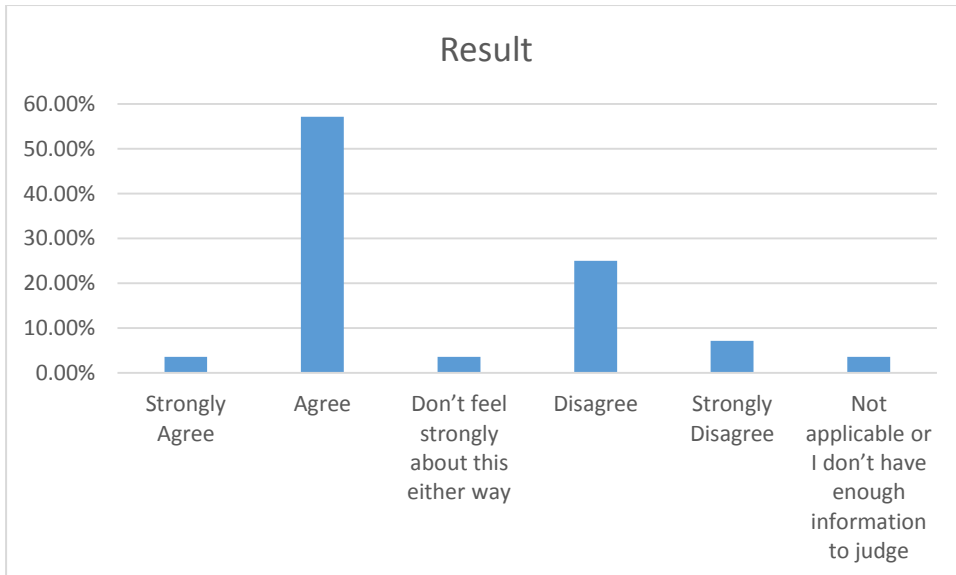
The interview results begin on the following page.



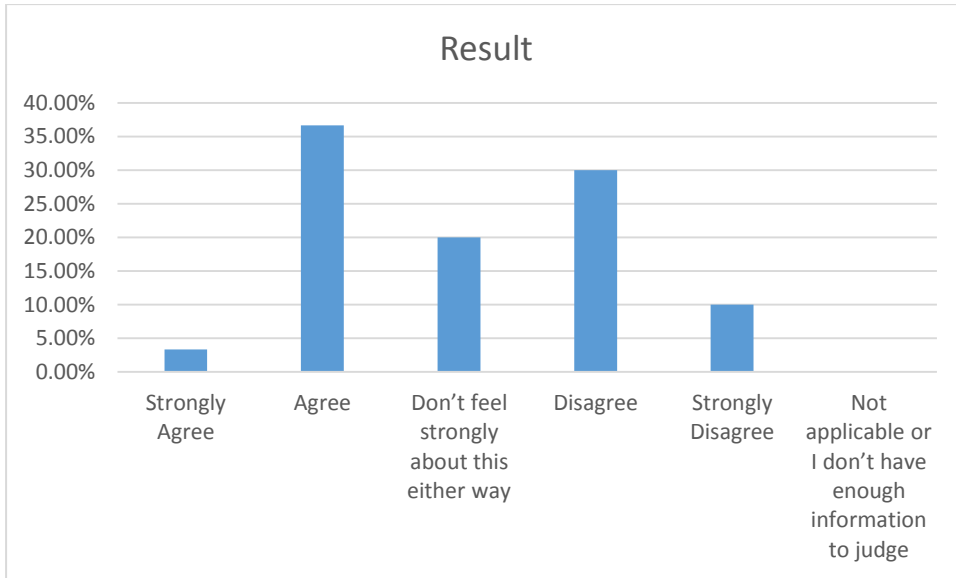
Question 1: The PDP, as currently defined, meets the transparency goals and requirements of ICANN processes.



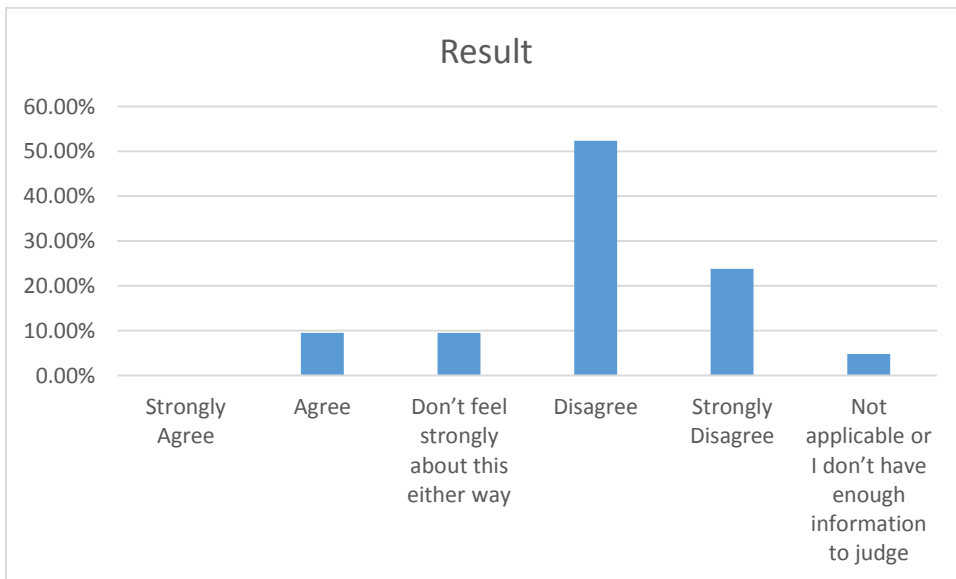
Question 2: The PDP, as currently defined, develops public policy that has legitimacy in the eyes of all stakeholders for that policy



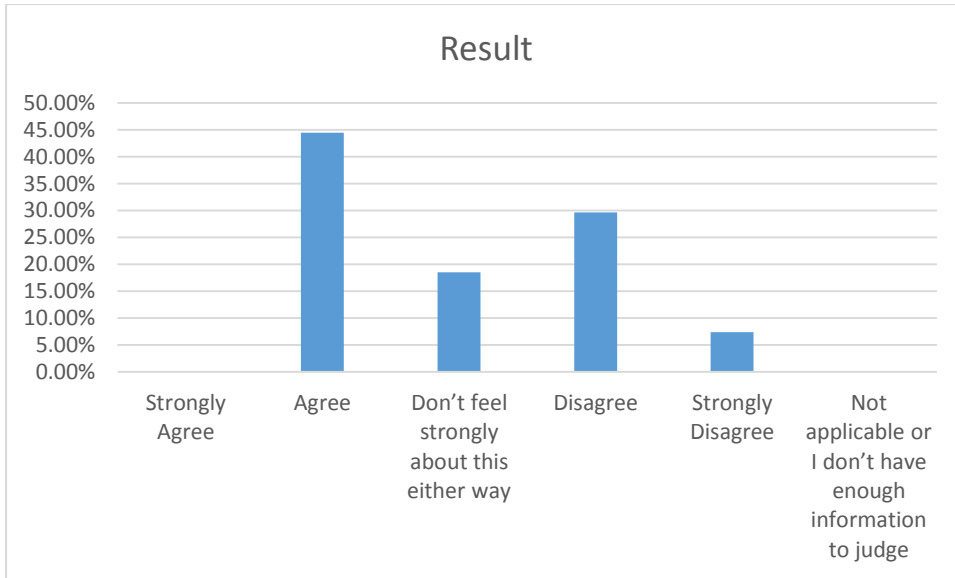
Question 3: In general, the current process ensures a balanced outcome that will take account of the interests and views of all applicable stakeholders including end users.



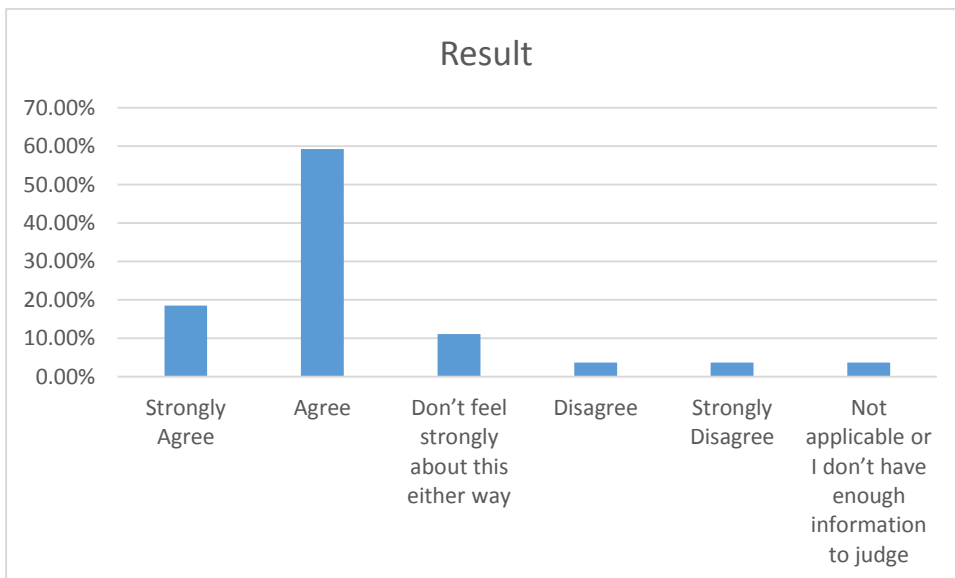
Question 4: The role and timing of GAC engagement in the PDP is adequate and effective.



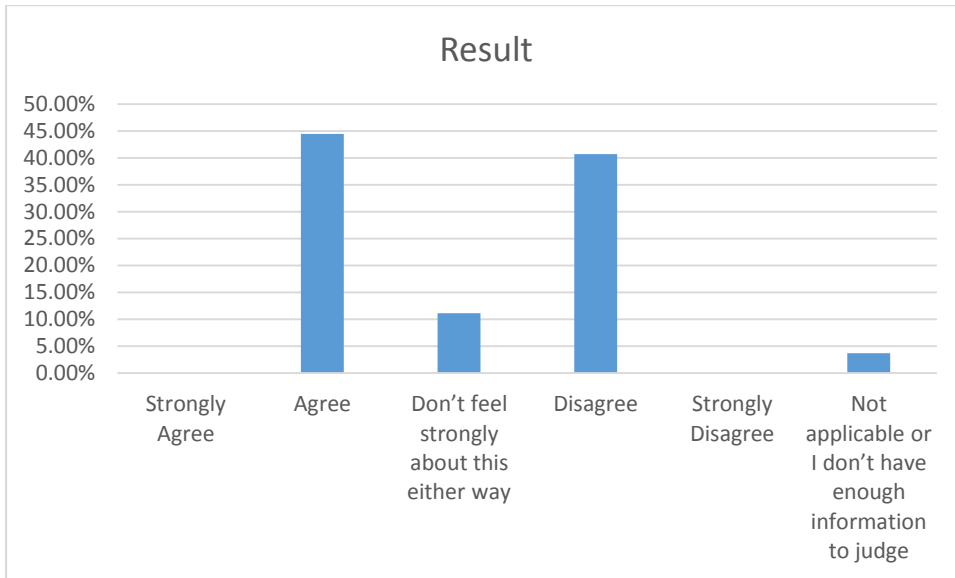
Question 5: The overall timescales for the PDP are sufficient and flexible enough to ensure effective public policy outcomes.



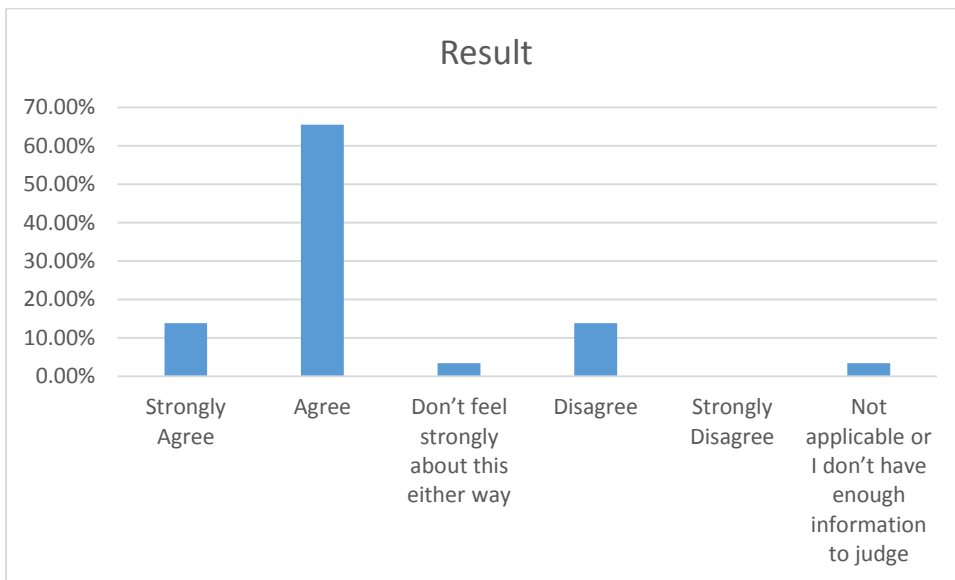
Question 6: The GNSO is encouraged to consider scheduling workshops on substantive issues prior to the initiation of a PDP. I believe this is a positive step in making PDPs more effective.



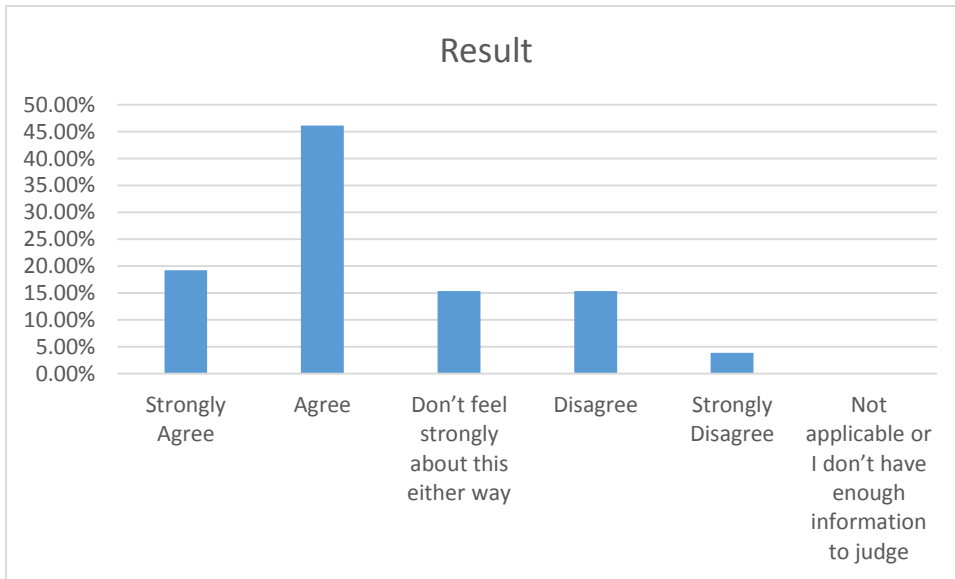
Question 7: Currently the request for an issues report prior to the initiation of a PDP only requires the name of the requestor and the definition of the issue. I believe this is enough for the initiation of an issues report.



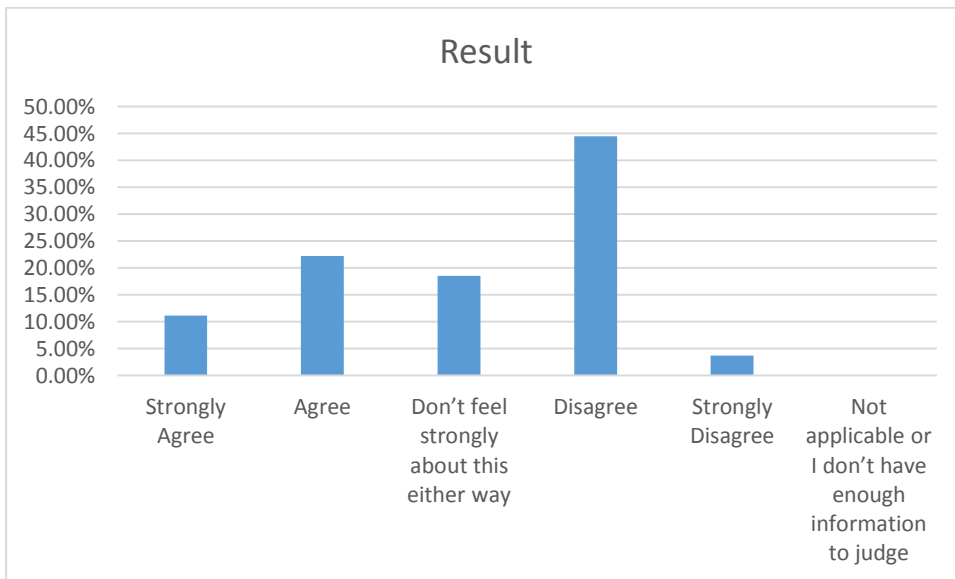
Question 8: The formation and make-up of Working Groups is done fairly and transparently.



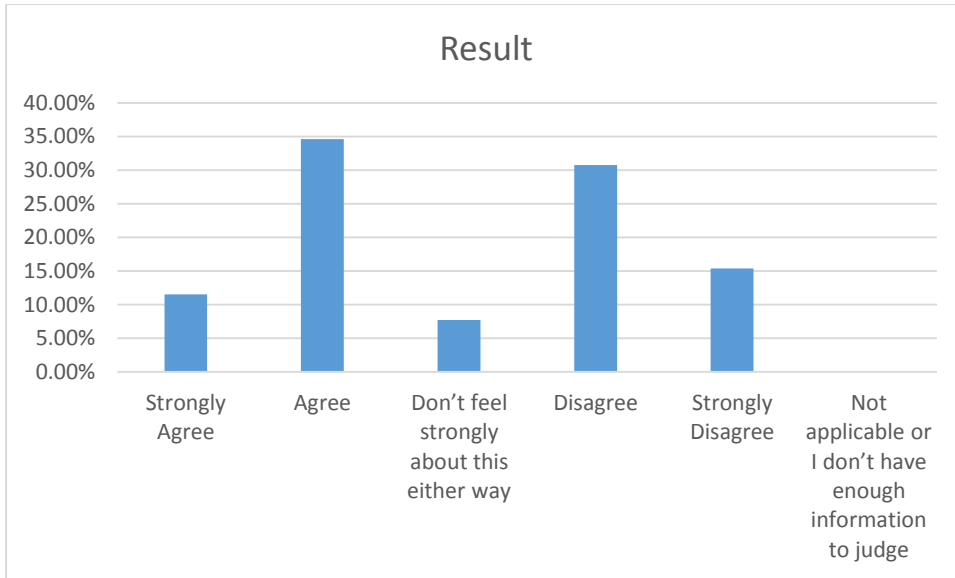
Question 9: The public comments part of the PDP is accountable and transparent.



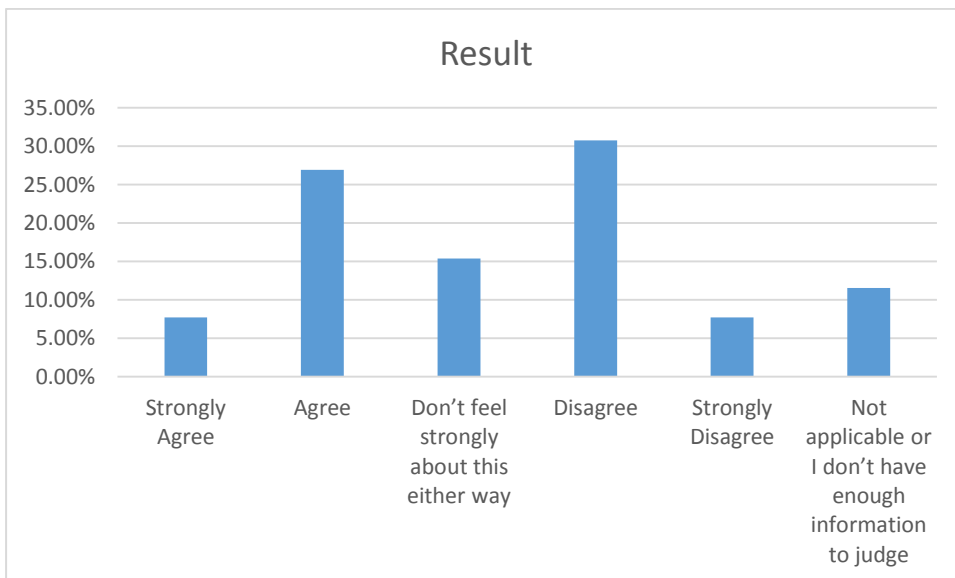
Question 10: In the PDPs I participated in, the public comment process was effective and meaningful to the final result.



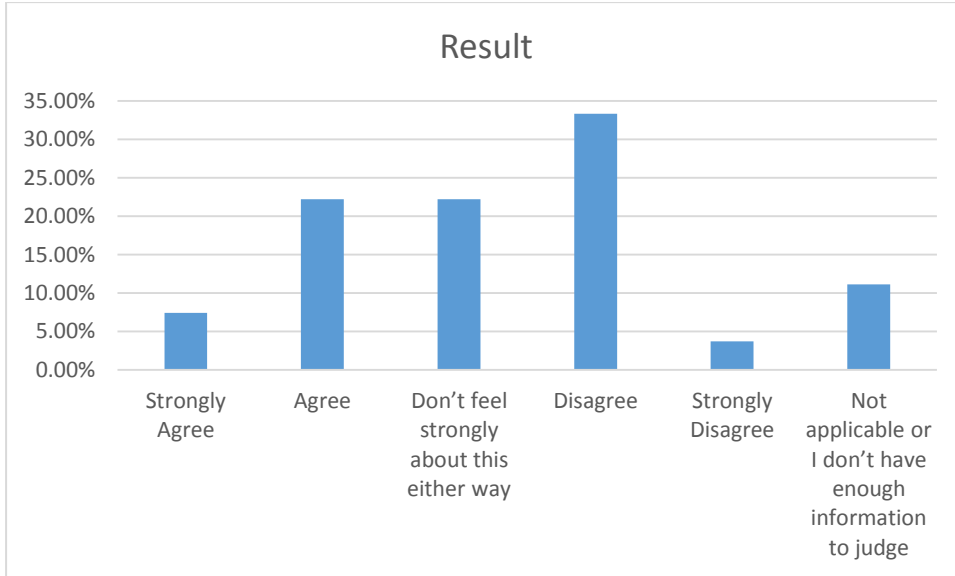
Question 11: In general, the outcomes and decisions taken as a result of the PDPs reflect the public interest and ICANN’s accountability to all stakeholders.



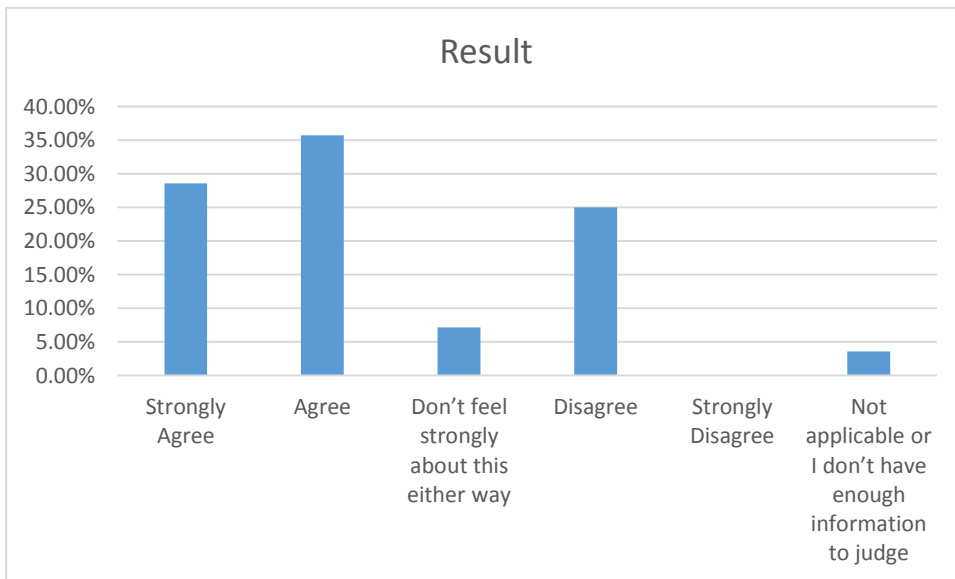
Question 12: The implementation phase of the PDP provides appropriate and effective opportunities for stakeholder comment and consultation.



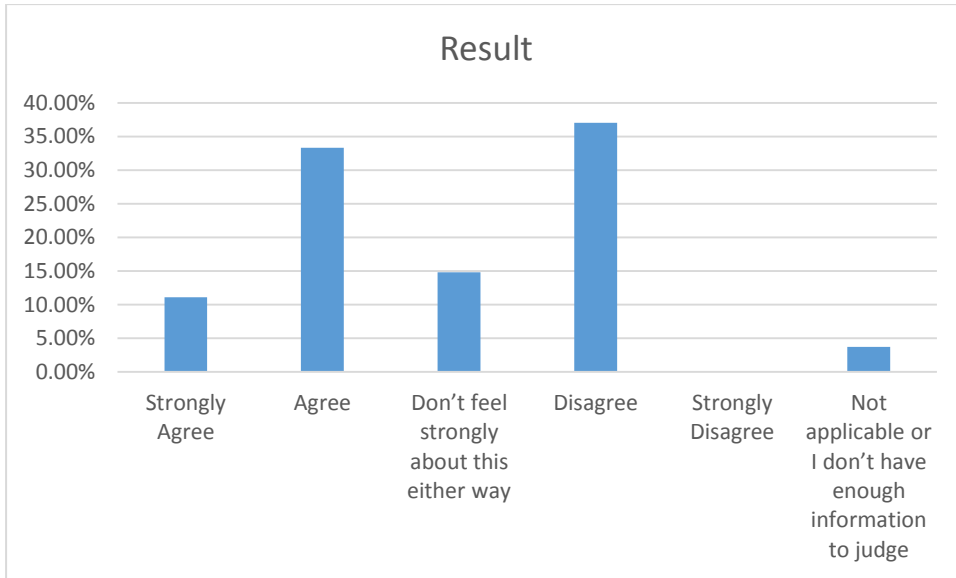
Question 13: Any differences between the PDP as it is defined and the PDP as executed in actual practice are necessary to ensure the public interest.



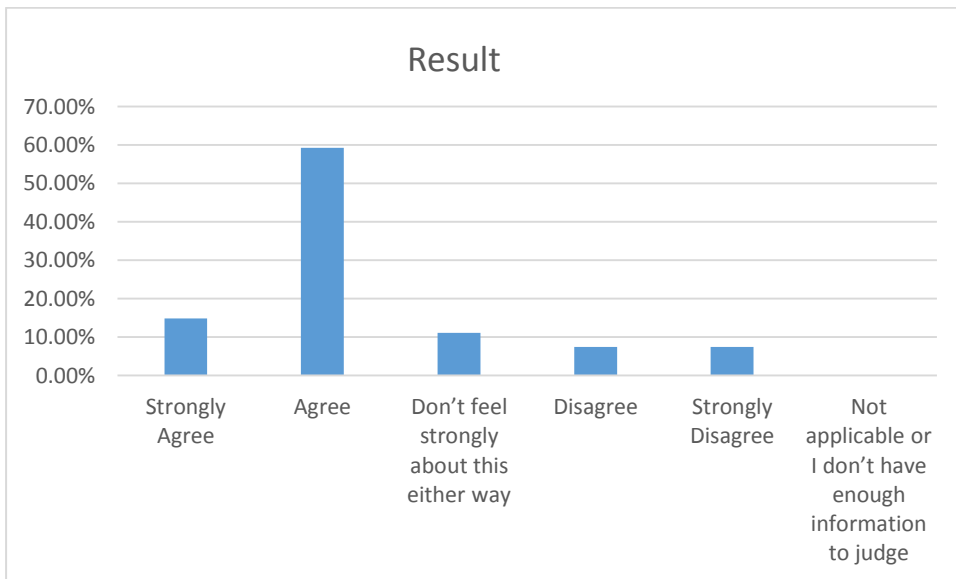
Question 14: The PDPs have been accessible to every stakeholder who wanted to participate.



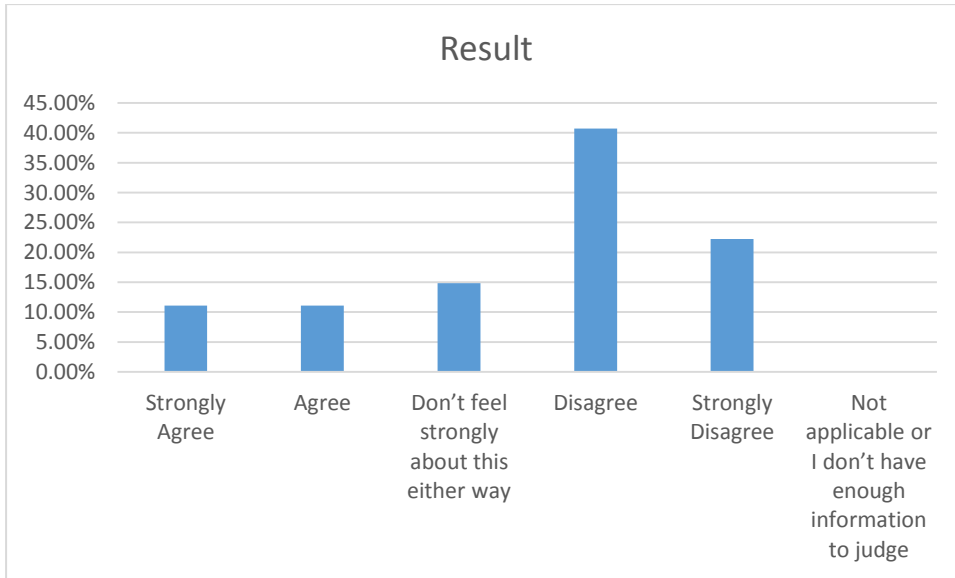
Question 15: The legitimate needs and interests of a diverse set of stakeholders have been reflected in the policy outcomes of the PDPs.



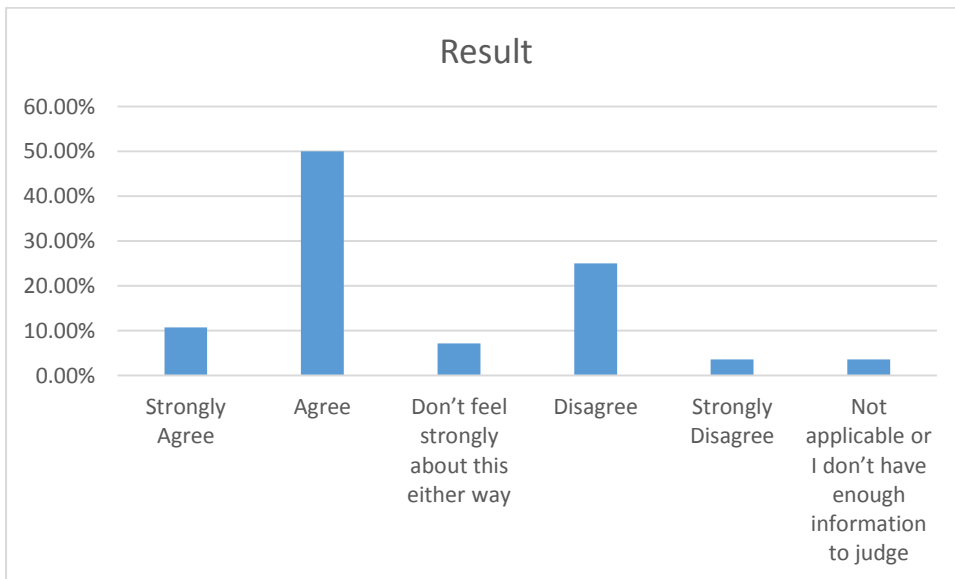
Question 16: I feel my input can influence the final outcome of the PDP.



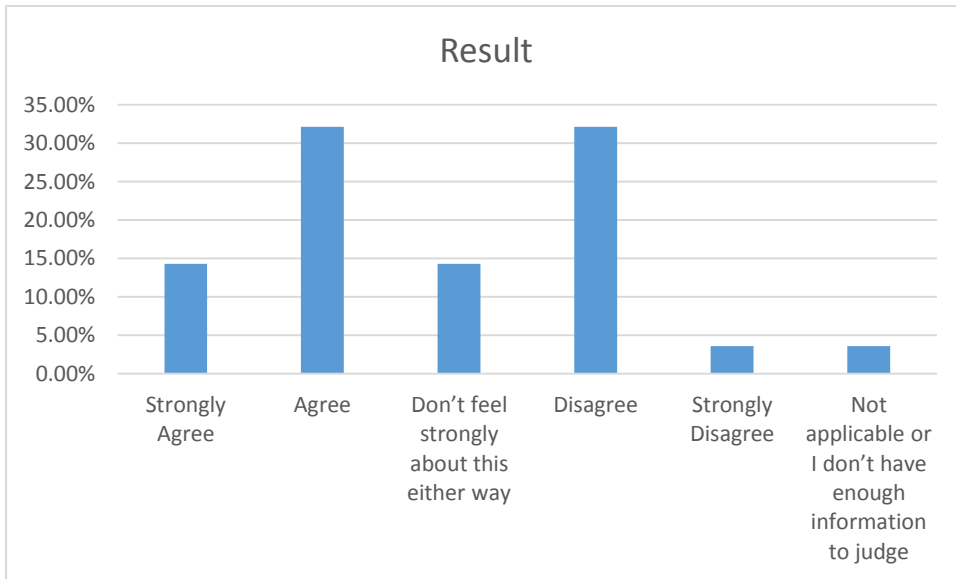
Question 17: There is effective interaction with other SO and ACs to ensure that effective policy outcomes from the PDP process.



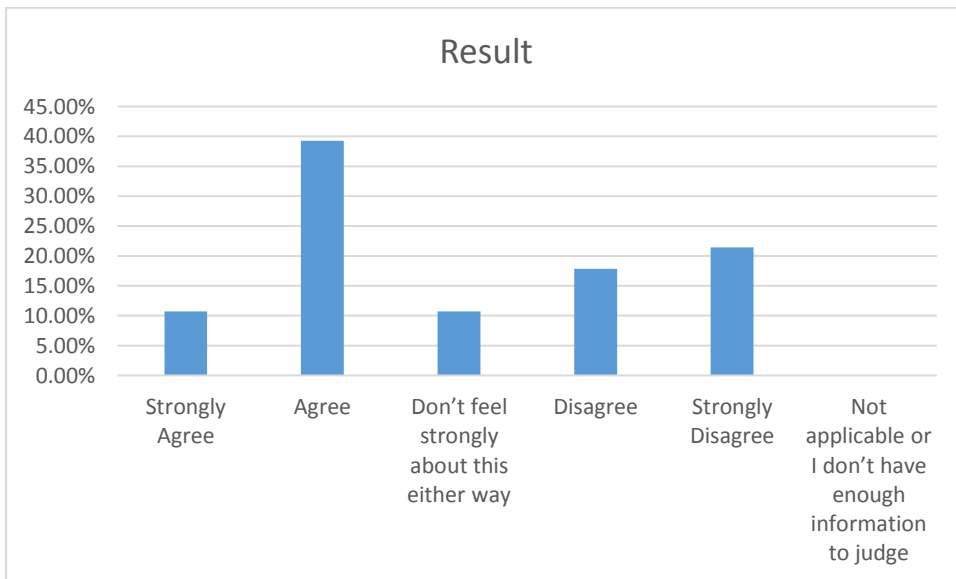
Question 18: The role of staff in the PDP was clear and transparent.



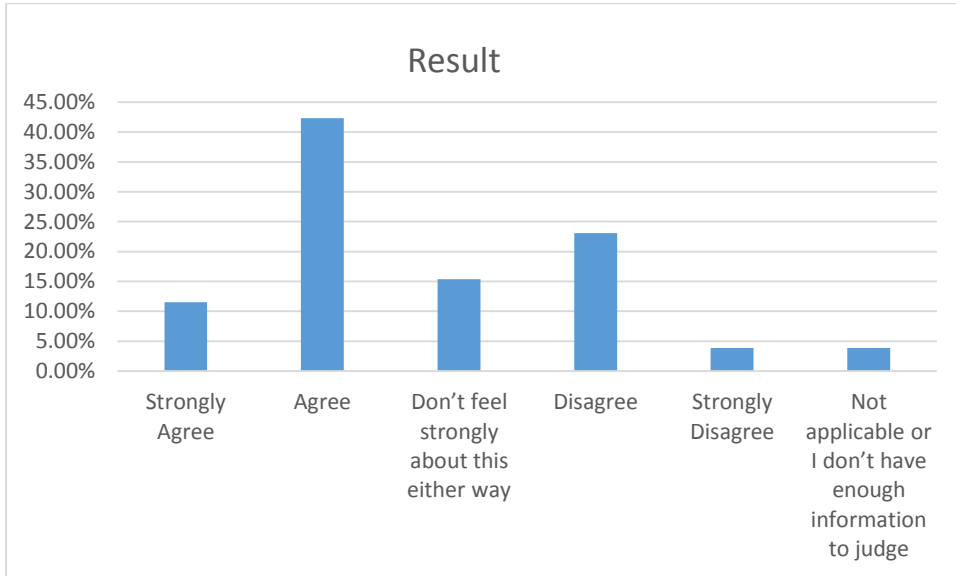
Question 19: The resources provided by ICANN to support the PDP were sufficient and timely.



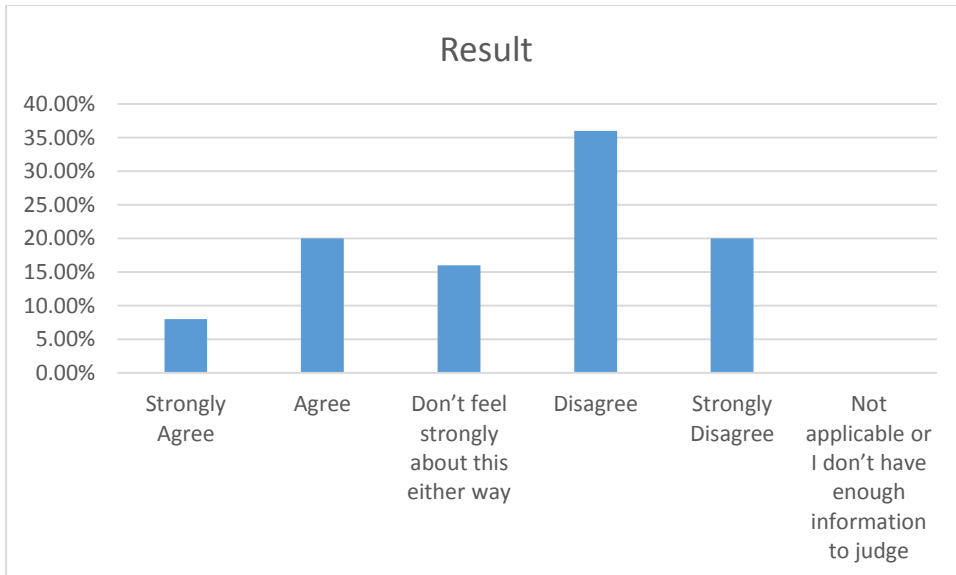
Question 20: Language barriers were not a problem in getting work done or in conducting the discussions.



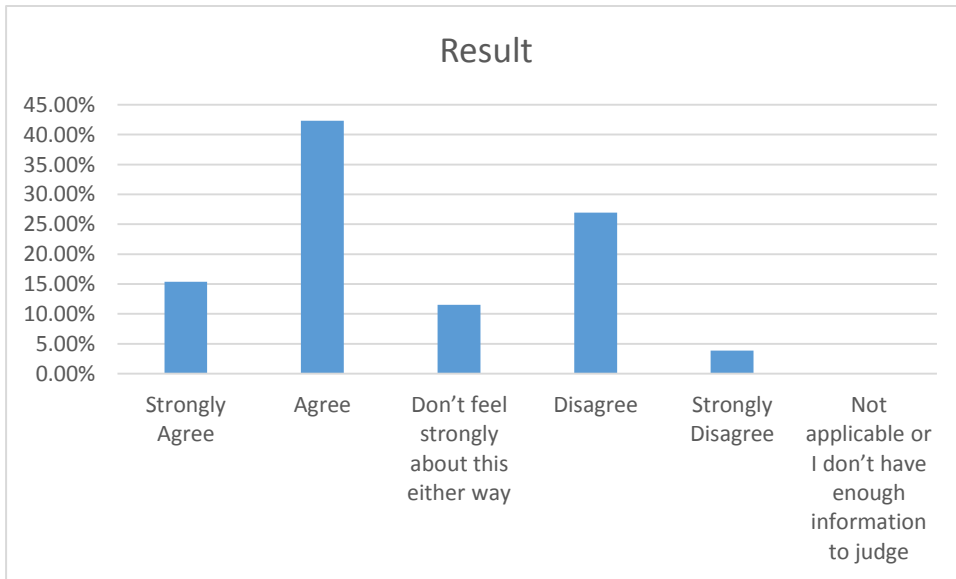
Question 21: The PDP Team is encouraged to establish communications, in the very early stages of a PDP, with people that may have an interest, expertise or helpful information. This worked effectively in the PDPs I participated in.



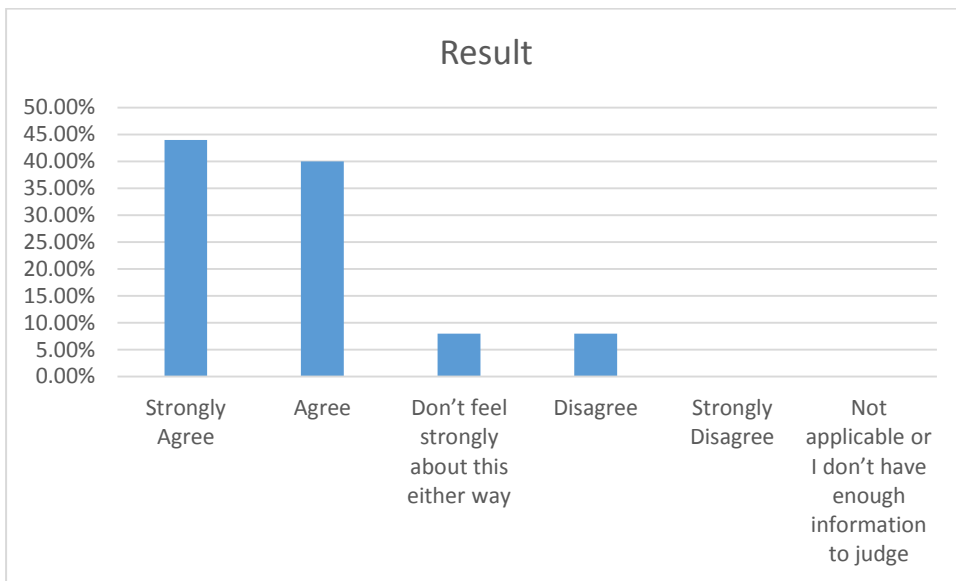
Question 22: There was effective participation from other Supporting Organizations or Advisory Councils.



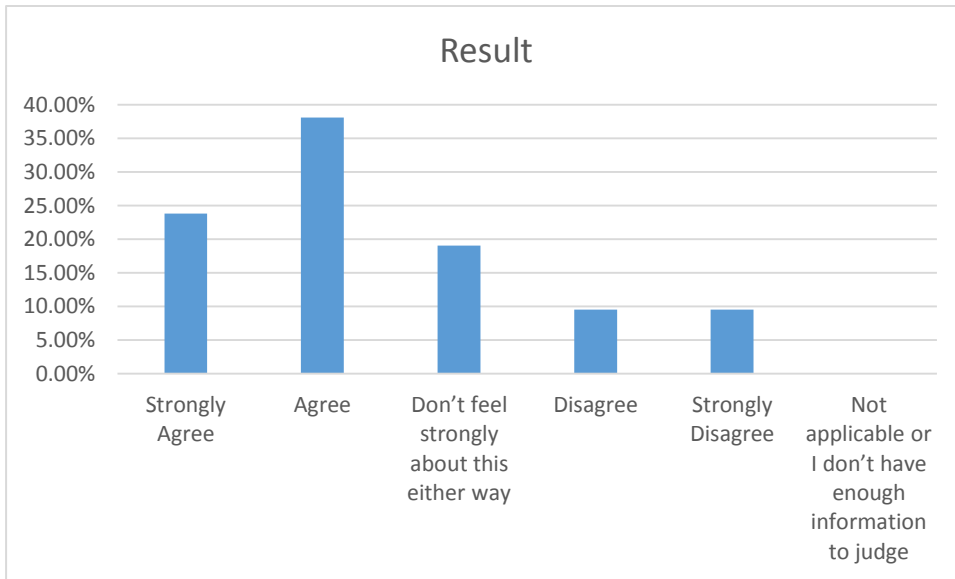
Question 23: Participation from all parties was valued and encouraged.



Question 24: "Insiders" have a particular advantage in the PDP.



Question 25: Working group dynamics helped us get good results in the PDP I participated in.



Question 26: We managed to build consensus even with diverse points of views and stakeholder needs in the PDPs I participated.

