

Satisfaction of ATRT Recommendation No. 6

ATRT Recommendation No. 6. The Board should clarify, as soon as possible but no later than June 2011 the distinction between issues that are properly subject to ICANN's policy development processes and those matters that are properly within the executive functions performed by the ICANN staff and Board and, as soon as practicable, develop complementary mechanisms for consultation in appropriate circumstances with the relevant SOs and ACs on administrative and executive issues that will be addressed at Board level.

Executive Summary

Within ICANN there are three functions for which we can clearly identify when community consultation is or is not required, as well as the process for that consultation (usually a public comment forum) in the event it is required. Those are:

1. The defined policy development processes within ICANN's Supporting Organizations (the GNSO, ccNSO and ASO);
2. ICANN's Organizational Administrative Function¹ decisions requiring public comment; and
3. ICANN's Organizational Administrative Function decisions that do not require public comment.

Below is a short description, with sample diagrams and examples of each function.

To better provide the clarity sought in Rec. 6, the Board Governance Committee (BGC) should post the attached diagrams and should recommend Board affirmation that ICANN begin including within the Board rationale statements an indication of the functional area the issue arises out of or is directed towards. This will clarify for the community what process will be used to progress each matter, as well as when and whether public comment will be sought.

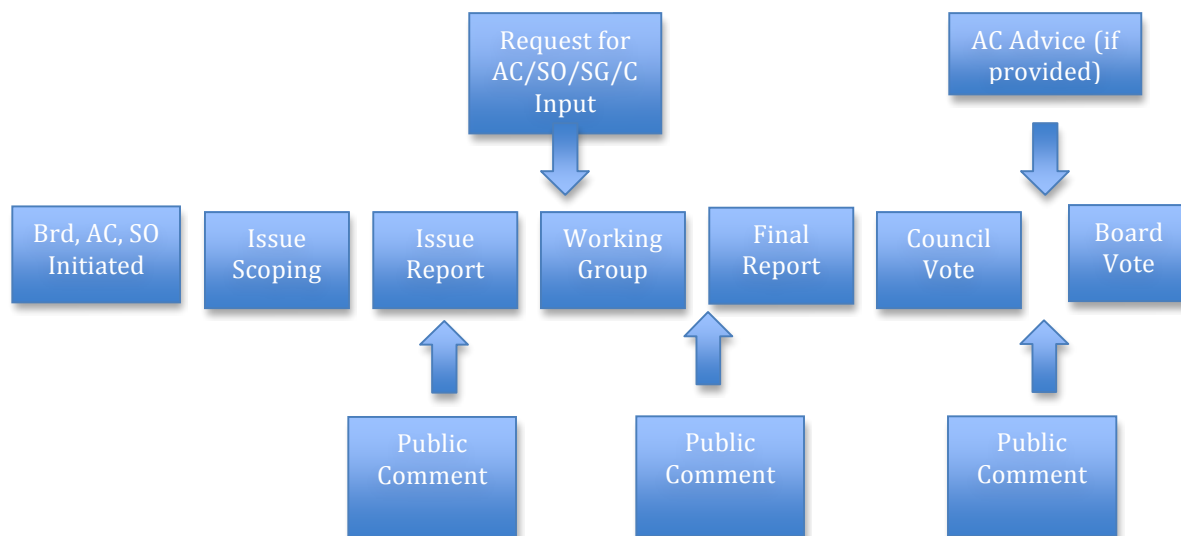
Through the completion of this work, the BGC identified an area where process improvement will benefit the ICANN community, namely, how the Board seeks community input and advice outside of the defined processes set out in this paper. A brief discussion of some of the hallmarks of this "Community Input & Advice Process" is described in a separate paper. As seen in the rise of cross-community working groups on issues such applicant support in the New gTLD Program, or the Implementation Recommendations Team providing expert guidance on trademark protections, having well-defined mechanisms to provide input and guidance to the Board is necessary. In Toronto, the plan is to conduct a working session to begin discussions on whether such a mechanism should be formalized to allow for clear

¹ The ATRT used the term "Executive Function," but as that does not capture the complete nature of function, we use "Organizational Administrative Function."

understanding of the consultation mechanisms and the issues for which it is helpful to be invoked.

Formal Policy Development Processes

Below is a diagram of the basic steps of a formal policy development process² (PDP), identifying the minimum requirements for public consultation on the issue under discussion prior to a Board vote on the matter. The PDPs within ICANN are subject to pre-defined processes, often found in the ICANN Bylaws.



Used For:

- gTLDs – Through the GNSO
 - Development of binding GNSO “Consensus Policies” on contracted parties, following the GNSO PDP requirements specified in Annex A of the Bylaws.
 - Circumstances where it is not clear what the desired outcome is, but a binding Consensus Policy is possible
 - Circumstances where the GNSO seeks to require the Board to adopt recommendations of the GNSO
- ccTLDs – Through the ccNSO
 - Development of global policies relating to country-code top-level-domains, following the ccNSO PDP requirements specified in Annex B of the Bylaws, and within the scope for a ccPDP as defined in Annex C of the Bylaws.
- Internet Addresses – Through the ASO

² This diagram reflects the GNSO’s PDP in simplified form as an example; the ccNSO and ASO each have their own, specified policy development process, all requiring opportunities for public comment.

- Development of policies relating to operation, assignment, and management of Internet addresses, following the Global Policy process defined through the ICANN/ASO Memorandum of Understanding

Examples:

- The policies identified as “[Consensus Policies](#)” were subject to the GNSO PDP Process
- The GNSO developed policy recommendations on the introduction of new gTLDs, which served as the basis of the New gTLD Program
- The GNSO is undertaking a series of PDPs on facets of the Inter-Registrar Transfer Policy, most recently recommending approval of the IRTP-B recommendations
- The ccNSO is currently working on a PDP on the selection internationalized domain names country code top-level-domains.
- The ASO’s [Global Policies](#) that have been approved by the Board include topics such as the allocation of remaining IPv4 space, as well as criteria for establishment of new Regional Internet Registries

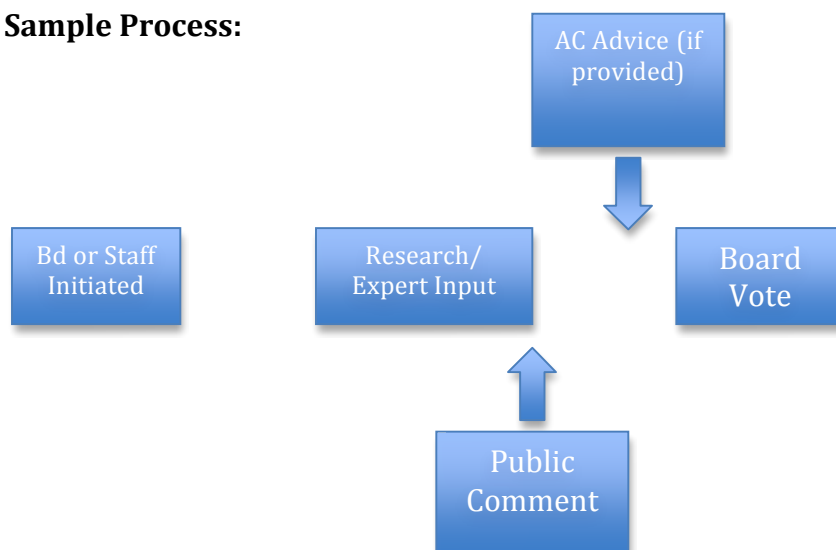
ICANN's Board Level Organizational Administrative Function

In order to facilitate the work of ICANN, there are many more general topics that typically (although not always) are addressed by the ICANN Board.³ These Organizational Administrative Functions can be as varied as development and approval of the Strategic Plan, to the selection of Board leadership roles. Many of these Organizational Administrative Functions require or are benefitted from public consultation⁴; for example, ICANN adopted a methodology for its Organizational Review process (the reviews of Supporting Organizations and Advisory Committees) that requires that certain reports be posted for comment. Others, such as election of ICANN's officers, are not topics for public consultation. Below are some example diagrams for how these issues are considered within ICANN.

It is important to note that these issue lists may require updating from time-to-time as required to reflect the current state of ICANN work and processes.

Public Comment Sought

Sample Process:



Used for items such as:

- ICANN Bylaws revisions

³ There are, of course, items that ICANN staff routinely handles for day-to-day operations that do not involve the Board or require public consultation. Staff adheres to all applicable rules and policies when performing its day-to-day work.

⁴ In addition to public comment, public consultation at face to face meetings is often utilized. Sometimes multiple periods of comment may be required.

- Policies on how ICANN performs its work, including policies relating to ICANN's accountability or transparency, such as the Board Conflicts of Interest Policy, ICANN Translation Principles, and the Documentary Information and Disclosure Policy (DIDP)
- ICANN's strategic planning process and budget process
- Recommendations from Affirmation of Commitment Review Teams

No Public Comment Sought

Sample Process:



Used for items such as:

- Human Resource matters including items such as Ombudsman selection and Officer appointment and compensation strategy
- Required actions to adhere to best practices or rules/laws, such as the ICANN Investment Policy or issues relating to the annual external audit of ICANN's financial records
- Meeting site selections
- Committee and Board leadership appointments, and formation of working groups
- Board appointments to NomCom and SSAC
- Unless recommended as part of consideration process for any specific issue, consideration of Reconsideration Requests, Independent Review Panel Declarations, and Ombudsman File Recommendations
- ccTLD Delegation/Redelegations
- Board meeting minutes
- Board expense approvals