Section I: General Overview and Next Steps

This public comment period was opened in accordance with transparency requirements under the ICANN Bylaws, which mandates the provision of a reasonable opportunity for the public to comment on proposed policies being considered by the ICANN Board that substantially affect the operation of the Internet or third parties.

The four recommendations approved by the GNSO Council include the following points: no substantive changes to existing rights protection mechanisms are needed for International Non-Governmental Organizations (INGOs); no specific new dispute resolution procedures should be created for International Governmental Organizations (IGOs); and clarifying policy guidance is to be developed as to the filing of complaints by IGOs under the existing procedures.

The fifth and final Policy Development Process (PDP) recommendation was not approved by the GNSO Council and as such did not form part of this public comment proceeding.

Section II: Contributors

At the time this report was prepared, a total of twenty-nine (29) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor’s initials.

Organizations and Groups:

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<thead>
<tr>
<th>Name</th>
<th>Submitted by</th>
<th>Initials</th>
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<tbody>
<tr>
<td>Organisation for Economic Co-operation and Development</td>
<td>Jonathan Passaro</td>
<td>OECD</td>
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<tr>
<td>European Patent Office</td>
<td>Heike Wieland</td>
<td>EPO</td>
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<td>Nordic Investment Bank</td>
<td>Heikki Cantell</td>
<td>NIB</td>
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<td>WIPO Arbitration and Mediation Center</td>
<td>Brian Beckham</td>
<td>WIPO</td>
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<td>International Civil Aviation Organization</td>
<td>Arie Jakob</td>
<td>ICAO</td>
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<td>International Bank for Reconstruction and Development</td>
<td>Sandie Okoro</td>
<td>IBRD</td>
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<tr>
<td>European Molecular Biology Laboratory</td>
<td>Philippe VORREUX</td>
<td>EMBL</td>
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Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

Support for the adoption of recommendations 1-4. (ICA, BC, DM, AL, RL, GK)

Opposition to the adoption of recommendations 1-4. (OECD, EPO, NIB, WIPO, ICAO, IBRD, EMBL, ITU, WHO, MIGA, UNIDO, EBRD, CERN, UPU, UN, INTA, SG, GAC, IBD, IFC)

Mixture of support and opposition to recommendations 1-4 (INTA, IPC)

While not in scope for the ICANN Board’s consideration, support for the referral of recommendation 5 to the GNSO All Rights Protection Mechanisms in All gTLDs PDP WG (RPMs WG). (ICA, BC, DM, AL, BC, INTA, GAC, IPC)

Section IV: Analysis of Comments
**General Disclaimer:** This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.

**Comments in Support of Recommendations 1-4**

Some respondents reiterated deliberations and rationale for conclusions reached by the Working Group (WG) on recommendations 1.4. They noted that input received, notably from the IGOs, was duly considered. However, they believe that existing measures, with some areas of clarification (e.g., particularly on standing to file under the UDRP and/or URS), adequately serve the access needs of IGOs. *(ICA, BC, DM, AL, RL)*; One respondent provided a response largely in line with the preceding elements, but provided a substantial amount of detail and analysis to support his position, believing that important elements were excluded from the Final Report. This respondent noted his personal opposition to recommendation 4, but acceptance of all recommendations overall. *(GK)*

One respondent noted its support and opposition to recommendations 1-4; support was provided for recommendations 1a and 1b, 2, and non-objective to 3b and 4. Opposition was provided against recommendation 3a. *(IPC)*

**Comments in Opposition to Recommendations 1-4**

Some respondents reiterated points made previously about the findings of the WG regarding IGO’s claims of unique legal status, which they believe affords privileges and immunities under international law. They indicated their continued opposition to the recommendations formulated by the WG and stated the preference for an IGO-specific dispute resolution mechanism. They noted that recommendations 1-4 fail to provide adequate protections and further, appear to make things worse for IGOs. In addition, it was noted that recommendations 1-4 are in conflict with existing Governmental Advisory Committee (GAC) Advice. *(OECD, EPO, NIB, WIPO, ICAO, IBRD, EMBL, ITU, WHO, MIGA, UNIDO, EBRD, CERN, UPU, UN, SG, GAC, IBD, IFC)*

One respondent expressed their concern over the process and overall representativeness of the WG, mostly in regards to recommendation 5, but also applicable to recommendations 1-4. Because of these concerns, the respondent supports the rejection of the Final Report and its recommendations. However, in the event the ICANN Board does consider a resolution on these recommendations, the respondent did provide analysis on each of the recommendations, which included support, partial support, and opposition. *(INTA)*

One respondent, “advises the ICANN Board to abstain from taking a decision on these Recommendations inter alia to allow the parties sufficient time to explore possible ways forward.” This respondent expects that future work on recommendation 5 may overtake recommendations 1-4. *(GAC)*

**Other comments, beyond the scope of recommendations 1-4**

While not in scope for the ICANN Board’s consideration, some respondents provided their rationale for recommendation 5, while also supporting the decision to refer to the issue to the RPMs WG. These respondents noted the importance of IGOs participating in the subsequent policy development process. *(ICA, BC, DM, AL)*

One respondent reasserted its preference for its minority position on recommendation 5 (i.e., “in those rare instances in which a losing registrant seeks judicial appeal and the IGO subsequently successfully asserts its immunity to the court’s jurisdiction...the decision rendered against the registrant in the predecessor UDRP or URS may be brought before a to-be-determined arbitration forum for de novo review and determination”). *(BC)*
One respondent supported the GNSO Council’s treatment of recommendation 5 and asserted its preference for option 3 for recommendation 5, that the PDP WG originally considered. *(INTA)*

One respondent reaffirmed its willingness to participate in a future policy development effort on recommendation 5. *(GAC)*

One respondent believes that recommendation 5 should have been included for approval and also provided extensive detail about the discussions conducted by the WG about all of the recommendations. The respondent also wrote about procedural concerns, especially as it relates to a section 3.7 appeal process initiated by the respondent, and concerns as it relates to the role staff played in the PDP WG. The respondent also wrote regarding a number of other areas, several of which go beyond the scope of the ICANN Board’s consideration of recommendations 1-4. Following, you can find the table of contents from the comment, which provides an overview of the scope of the comment:

1. ICANN PUBLIC COMMENT PERIODS ARE A SHAM. ALL PUBLIC COMMENT PERIODS SHOULD BE SUSPENDED UNTIL A FULL INVESTIGATION HAS OCCURRED (page 3);
2. THE ICANN BOARD SHOULD ACCEPT ALL 5 RECOMMENDATIONS OF THE WORKING GROUP REPORT, NOT JUST THE FIRST 4 RECOMMENDATIONS (page 4);
3. IGOs HAVE WASTED THE RESOURCES OF THE COMMUNITY FOR MORE THAN 15 YEARS ON DEMANDS THAT ARE UNREALISTIC (page 10);
4. DESPITE PERSONALLY OPPOSING RECOMMENDATION #4, I ACCEPT THE FINAL REPORT’S RECOMMENDATIONS AS A WHOLE (page 11);
5. FINAL REPORT WAS RUSHED TO COMPLETION, IN ORDER TO UNDERMINE THE REASONING BEHIND ALL RECOMMENDATIONS (page 12);
6. IMPORTANT ANALYSIS AND EVIDENCE EXCLUDED FROM FINAL REPORT DUE TO ICANN STAFF SABOTAGE (page 14);
7. IMMUNITY IS A DEFENSE TO A DISPUTE, AND NOT AN ISSUE WHEN IGOs INITIATE A DISPUTE (page 17);
8. FUNDAMENTAL BUT SUBTLE DESIGN FLAW IN THE UDRP CAUSES ROLE REVERSAL BETWEEN PLAINTIFFS AND DEFENDANTS WHEN TAKING MATTERS TO COURT (page 18);
9. HISTORICAL GRAND BARGAIN WHICH REQUIRES ACCESS TO THE COURTS FOR A DECISION ON THE MERITS WAS THE FOUNDATION OF THE UDRP, WHICH SOME WANT TO UNDERMINE (page 20);
10. IT IS POSSIBLE TO REDESIGN THE UDRP/URS WITHOUT THE ROLE REVERSAL FLAW (page 24);
11. IGOs ROUTINELY MAKE FALSE AND MISLEADING STATEMENTS TO SUPPORT THEIR FAULTY POSITIONS (page 27);
12. CONCLUSIONS (page 32) *(GK)*

One respondent believes that recommendation 5 should be considered separately and under Phase 2 of the RPMs WG, on a fast track basis. *(IPC)*

One respondent expressed concerns about the amount of public community feedback, especially from GAC members *(SIHS)*