Work Item: **WP1-7A: Removing the ICANN Board of Directors**
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	Name of Mechanism	**Removing the ICANN Board of Directors**
Description	Description	This would be a new power for the community **to bring about the removal of the ICANN Board of Directors** ("the Board"). All directors would be removed and processes would be commenced to replace appointment directors.
	Category (check & balance, review, redress)	**Check and balance**: it increases the focus of the Board on meeting the community's needs, as in the ultimate case it would know it could be removed from office if it failed to do so. **Redress:** the community could ultimately redress a grievance about ICANN's behaviour by causing the election/appointment of a new Board of Directors.
	Is the mechanism triggered or non triggered ?	**Triggered.** In the normal course of events Board members serve the term they are appointed for. The community would need significant reason to remove the Board.
	Possible outcomes (approval, re-do, amendment of decision, etc.)	Process to remove the Board succeeds or fails. • If <u>succeeds</u>, new election/appointment of the Board begins. • If <u>fails</u>, nothing happens.
Standing	Conditions of standing (ie « last resort », type of decision being challenged, …)	The <<Community Council>> would have the power to trigger this mechanism – it would be the sole body able to implement it.
	Who has standing (directly or indirectly affected party, thresholds…)	Triggering this mechanism would require a petition to the <<Community Council>> from any of the following: • Two SOs • Two ACs • One SO and one AC The petitioning SOs/ACs would have to demonstrate that they had followed their usual internal processes to arrive at the decision to formally trigger this mechanism.

Standard of review	Which standards is the decision examined against (process, principles, other standards…)	It is proposed that there is a subjective standard to be assessed and demonstrated for this mechanism to be available to the <<Community Council>>: *The actions of ICANN, through action or inaction by the Board, were inconsistent with the obligations set out in the Community Compact.* Aside from this, the standard is the community's opinion. There cannot be an objective test for this mechanism.
	Which purpose(s) of accountability does the mechanism contribute to ?	It contributes to all four purposes of accountability as defined by the CCWG: Ensuring that ICANN will – • Comply with its own rules and processes ("due process") • Comply with applicable legislation, in jurisdictions where it operates • Achieve certain levels of performance as well as security • Ensure decisions are for benefit of the public, not just for a particular set of stakeholders) It contributes to these purposes by giving the Board knowledge that if they do not collectively live up to the community's expectations in respect of being accountable, they can be removed.
Composition	Required skillset	The <<Community Council>> will be a standing body in ICANN, established under the Articles / Bylaws with the general purpose of being the way the Community exercises its reserve powers over ICANN. One of these reserve powers is "Removing the ICANN Board of Directors" as specified in this Template. Appointees to the <<Community Council>> should be members of the ICANN Community in good standing and able to make decisions that relate to the various powers granted to the <<Community Council>>. In particular for this power, they will need: • advanced knowledge of ICANN's Compact; • understanding of expectations of the ICANN community; and • understanding of ICANN's environment and context

	Diversity requirements (geography, stakeholder interests, gender, other…)	**Option 1** The <<Community Council>> will achieve diversity of stakeholder and gender representation, due to the requirements set out in the next box. **Option 2** The <<Community Council>> will achieve diversity of stakeholder, gender and regional representation, due to the requirements set out in the next box.
	Number of persons (approximate or interval)	**Option 1:** The <<Community Council>> will consist of **twelve** members, comprised as follows: - Two representatives of each of the following community bodies: - ccNSO - GNSO - ASO - ALAC - GAC - One representative of each of the following bodies: - SSAC - RSSAC In selecting their representatives, the community bodies electing two representatives must elect two people of different genders. **Option 2:** The <<Community Council>> will consist of **twenty nine members**, comprised as follows: - Five representatives of each of the following community bodies: - ccNSO - GNSO - ASO - ALAC - GAC - Two representatives of each of the following bodies: - SSAC - RSSAC In selecting their representatives, the community bodies electing five representatives must: - ensure equitable representation across the five ICANN regions; and - elect at least two men and at least two women. The community bodies electing two representatives must: - elect two people from different ICANN regions; and - elect two people of different genders.

	Independence requirements	Members of the <<Community Council>> may not be from any of the following categories of people: • ICANN Directors or Board Liaisons • ICANN Staff • ICANN's Nominating Committee • Members of any Review or Redress institutions • Current office-holder (Chair or Vice Chair) in an SO or AC • Staff of entities that are commercially dependent on ICANN No more than **two** members of the Community Council may be from any single company or group of related companies, or from one national government or other governmental organisation.
	Election / appointment by whom ?	Members of the <<Community Council>> are appointed by their SOs and ACs according to their usual documented processes. Members are appointed for a term of one year, commencing on 1 January. If the appointing body has not appointed member/s in time for 1 January, the current member/s continue/s in office until the new one/s is/are appointed (and the term limit does not apply). Members are eligible for re-election for a maximum of three consecutive terms, and for five terms in total. The <<Community Council>> will elect its own Chair from among its members, who will have a deliberative but not a casting vote. *(note: this ensures that the Council cannot be sabotaged by appointing bodies failing to appoint members.)*

	Recall or other accountability mechanism	The appointing bodies can hold their members to account as per the following rules, which will be set out in the section/s of the Articles / Bylaws constituting this <<Community Council>>: • Where an appointing body has concerns about the actions of a member they have appointed, they may by whatever process they choose issue the member with a Formal Warning. • Not sooner than thirty days after the issue of a Formal Warning, if the appointing body's concerns have not been resolved, they may appoint a new member to replace the specified member (using the same process they used to appoint that member in the first place). The new member takes over seamlessly from the old member. *(note: this ensures that the Council cannot be sabotaged by appointing bodies removing their members and failing to appoint new ones.)*

Decision making	Is the decision mandated or based on personal assessment	**Option A:** Members of the <<Community Council>> make decisions on personal assessment, but for the use of this power must attend and participate in a meeting of their appointing body's peak body which is solely convened to discuss the use of this mechanism no more than fourteen days and no fewer than seven days before the decision is to be made by the Council. *(note: this option is my proposed compromise position between mandated and individual – individual (because how can SOs or ACs make split decisions?) but requiring attendance at and participation in a discussion.)* **Option B:** Members of the <<Community Council>> make decisions on a mandated basis for the exercise of this power. Appointing bodies may direct their members in any way they see fit that meets the following criteria: • The decision must be made by the peak body of that SO/AC, at a meeting convened for the purpose and not more than 14 and not fewer than 7 days before the date of the Council meeting that will trigger this mechanism; • The meeting of that SO/AC's body should follow its usual processes particularly in respect of the degree of openness it allows to its part of the ICANN community; • The decision must be to direct the votes of all of the SO/AC's members of the Council; • The decision must be agreed supermajority of at least 2/3 of the voting members of the peak body; • The decision must be communicated to the members of the Council representing that SO/AC in writing – and such communication may be public or private. Members of the Council have no discretion but must cast their votes according to the directions they have received.
	Decision made by consensus or vote ?	Decision is by vote of the <<Community Council>> members.
	Majority threshold (if applicable)	**Where membership is Option 1:** Ten members (83.3%) of the <<Community Council>> must vote in favour of the resolution to dismiss the Board. **Where membership is Option 2:** Twenty four members (82.8%) of the <<Community Council>> must vote in favour of the resolution to dismiss the Board. *(note: this is designed to ensure that one single SO or AC cannot block the removal of the Board.)*

Accessibility	Cost requirements	There are costs involved, as follows: • The general costs of the <<Community Council>>'s existence and operation, including whatever staffing or contracted secretariat support it requires. • The costs of a meeting that implements this particular mechanism to remove the Board. • The costs across the ICANN community of conducting the election/appointment process for a fresh Board.
	Timeframe requirements	To be implemented before IANA stewardship transition (i.e. WS1). In terms of implementing this power, I envision that: • Within two working days of the Council receiving an appropriate petition as set out in this template, it must convene a meeting scheduled between fourteen and twenty one days into the future. • SOs and ACs must convene meetings as noted above. • If the Board is removed, various election and appointment processes must be able to appoint a new Board as soon as practicable. Timeframe currently unknown.
	Language requirements	As general in ICANN – translated into the usual language.
Implementation	Potential means to implement	Amendments to Articles and/or Bylaws that create the <<Community Council>> and its powers, including this power. These amendments would need to be created in a way which left them unable to be changed except by community consent (perhaps by approval of the <<Community Council>> itself – to be determined).

Other considerations if this mechanism was implemented:

- The President and CEO is a member of the Board. The CEO's employment arrangements must provide for them continuing in the role of CEO notwithstanding their removal from the Board.
- The issue of "who governs ICANN after the Board is dismissed" should be handled like this:
  - A "Caretaker Mode" convention is developed limiting the authority of the Board and the Chief Executive Officer to only continuing the organisation's existence and making routine low-level decisions.
  - The removed Board formally remains in office but in this "Caretaker Mode" for a defined period of time. At that time all of the previous Directors are deemed to have resigned, and new or reappointed Board members – however many or few are in place – form the Board. This is designed to ensure that no part of the appointment process can be used to hold the organisation hostage.
- Should an SO/AC that is happy to retain its elected Directors be able to trigger a quick reappointment process? Or should full re-elections be required in every instance?