WORK PARTY 2 (WP2) WORK ITEMS
3 MARCH 2015

Principles For Our Work (WP2)

Ensure that ICANN actions relate to issues that are within its stated mission and require ICANN to act consistent with clearly articulated principles:

- Ensure that the ICANN Board can be held to its Bylaws
- Ensure that ICANN carries out its mission consistent with a binding statement of values/principles
- Prevent scope/mission creep through bylaws changes, policy, policy implementation, contracts and/or other mechanisms

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Mechanism	Work Item	Volunteers
Compact with Community *Strawman*: ICANN will limits its scope of activity to issues that are within its Mission, and in carrying out its Mission ICANN will conduct itself in accordance its Community Compact. ***Mission Statement***: in accordance with Bylaws (and something else?), ICANN's mission is to coordinate the global Internet's systems of unique identifiers by: 1. Coordinating operation of the DNS root server system 2. [IP addresses and protocol port and parameter numbers] 3. Implementing Consensus Policies (as defined in Specification 1) that ensure the stable and secure operation of the Internet's unique names systems and that involve issues for which uniform or coordinated resolution is reasonably necessary to facilitate openness, interoperability, security and/or stability of the DNS. ***Commitments to the Community***: In carrying out its mission, ICANN must: 1. Limit activities to matters that are (a) within ICANN's mission and (b) require global coordination 2. Preserve operational stability, reliability, security, interoperability and openness of the Internet 3. Operate transparently, in the public interest, and in accordance with multi-stakeholder model 4. Not advance the interests of one or more interest groups at the expense of others (avoid regulatory capture) 5. Respect the roles of SOs, ACs, and external expert bodies 6. Support the bottom up, multistakeholder model of policy development consistent with this compact, reflecting the functional, geographic, and cultural diversity of the Internet 7. Rely on market mechanisms to promote and sustain a competitive environment 8. Apply documented policies consistently, objectively, neutrally and fairly 9. Remain accountable through mechanisms defined in Bylaws 10. Duly consider governmental public policy recommendations that are consistent with the Bylaws 11. Operate with excellence and in a fiscally responsible manner	**Work Item WP2-1** Task: To complete and refine the Mission Statement and Commitments/Community Compact NOTE: WP1 Work ItemWP1-5A (Clarify ICANN's limited technical mission) moved to WP2	Robin Gross Paul Rosenzweig David Post David Maher

Office of an Ombudsman (Bylaws Art. V) "To provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, Board or an ICANN constituent body has treated them unfairly." **Suggestions for Change/Enhancement:** 1. Reform Ombudsman function: • Strengthen powers of the Ombudsman by granting it powers to set Board's decisions or policies aside and have authority to investigate any accountability-related complaint brought by an employee (with confidentiality) • Strengthen the independence of the Ombuds function • More transparency on Board/staff/other response to Ombuds intervention • In Bylaws or Articles, give the Ombudsman the ability to refer a matter to an Independent Review Panel • In Bylaws or Articles, add new power for community representatives (Members, CCWG, etc.) to select the ICANN Ombudsman. By supermajority or simple majority vote? • In Bylaws or Articles, allow NomCom to select and retain the Ombudsman 2. Mechanism for review of Board or management action in conflict with ICANN Bylaws or Articles of Incorporation (Is this an appropriate Ombuds role?) 3. Mechanism to require community (members, AC/SOs, etc.) to require Board to act on, implement, amend, accelerate implementation of, a previously approved ATRT recommendation 4. Broadly expand grounds on which ICANN decisions and operations can be challenged; lower threshold to succeed in a challenge	**Work Item: WP2-2** Task: To review the current rules under which the ombuds function is carried out, and to propose appropriate changes to those rules to create adequate accountability. Proposal to address implementation and operational issues including: • Standing • Standard of review • Composition • Selection • Decision-making • Accessibility • Implementation NOTE: Highlighted items will be addressed by WP1	**Volunteers** Chris LaHatte Robin Gross Edward Morris

Request for Reconsideration Bylaws Art. IV, Sec. 2) Board reconsideration of: • One or more staff actions or inactions that contradict established ICANN policy(ies); or • One or more actions or inactions of the ICANN Board that have been taken or refused to be taken without consideration of material information, except where the party submitting the request could have submitted, but did not submit, the information for the Board's consideration at the time of action or refusal to act; or • One or more actions or inactions of the ICANN Board that are taken as a result of the Board's reliance on false or inaccurate material information. **Suggestions for Change/Enhancement** 1. Mechanism for review of Board or management action in conflict with ICANN Bylaws or Articles of Incorporation 2. Mechanism to require community (members, AC/SOs, etc.) to require Board to act on, implement, amend, accelerate implementation of, a previously approved ATRT recommendation 3. Change bylaws for Reconsideration Process: trigger when board acts arbitrarily or capriciously; decisions subject to Independent Review 4. Reconsideration of staff action/inaction 5. Broadly expand grounds on which ICANN decisions and operations can be challenged; lower threshold to succeed in a challenge	**Work Item: WP2-3** Task: To review the current rules under which reconsideration occurs, and to propose appropriate changes to those rules to create adequate accountability. Proposal to address implementation and operational issues including: • Standing • Standard of review • Composition • Selection • Decision-making • Accessibility • Implementation	**Volunteers** Chris LaHatte David McAuley Robin Gross Carlos Gutierrez

Independent Review	**Work Item: WP2-4**	**Volunteers**
(Bylaws Art. IV, Sec. 3) Process for independent third-party review of Board actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws. Prior to April 2013, the standard of review was: • Requests for such independent review shall be referred to an Independent Review Panel ("IRP"), which shall be charged with comparing contested actions of the Board to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws. Effective in April 2013, the Board limited IRP to the following questions: • Did the Board act without conflict of interest in taking its decision? • Did the Board exercise due diligence and care in having a reasonable amount of facts in front of them?; and • Did the Board members exercise independent judgment in taking the decision, believed to be in the best interests of the company? **Suggestions for Change/Enhancements:** 1. Amend Articles or Bylaws to create a permanent standing Independent Review Panel that could make binding decisions on any Board Decision (as per ATRT recommendations). 2. Enhance IRP, including the following suggestions: • Standing, independent panel • Expand scope of IRP review • Reduce IRP standard of review • Ensure IRP is accessible (cost) • Make IRP's decisions binding 3. Broadly expand grounds on which ICANN decisions and operations can be challenged; lower threshold to succeed in a challenge 4. Independent Appeals Panel for contested delegations, transfers, revocations, root zone changes & WHOIS. *(Note: directly affected parties, e.g., registries will develop their own processes. Independent review process could be, but is not necessarily, a tool for such review.)*	Task: To review the current rules under which the independent review process is carried out, and to propose appropriate changes to those rules to create adequate accountability. Proposal to address implementation and operational issues including: • Standing • Standard of review • Composition • Selection • Decision-making • Accessibility • Implementation	Paul Rosenzweig David McAuley Jonathan Zuck Robin Gross Chris LaHatte David Post Greg Shatan David Maher

New Mechanisms – All items moved to WP1 1. Changes to Bylaws and Articles of Incorporation: add powers for community representatives - MOVE TO WP1 2. Permanent cross-community working group, Members, or Delegates (ALAC, ccNSO, GAC, SSAC, NRO, RSSAC, IETF, ASO, and each Constituency) with authority to: • Review any board decision. Non-approval would send decision back to bottom-up policy development process. (Members could not revise bottom-up recommendations) • Refer any board decision to a [binding] independent review panel. • Approve changes to ICANN bylaws or Articles, with supermajority. (Members could not revise changes) • Recall one or all ICANN Board members [vote threshold?] 3. Recall mechanism for any board member (All, those selected by an AC/SO and NomCom? By supermajority or simple majority? Expected standard of behavior? 4. Community Veto. Amend the existing corporate bylaws (and /or articles of incorporation) to create a new mechanism that empowers the Community to overturn board decisions on a limited number of specific, enumerated issues and also to recall nonperforming board members. (For any reason or no Reason?) This community veto process would be fashioned such that a decision to over-rule the board is determined via aggregation of decisions of the existing ICANN community structures. Each individual component of the relevant Community (for example, GAC, GNSO, At-Large, CCNSO, etc.) would have a proportional share in the over-all Decision of the Community (to veto or not to veto the board). Each of these individual structures already has internal mechanisms to make decisions through which the larger Decision of the Community could ultimately be determined. We must scope what specific enumerated decisions can trigger such a community veto process (ex: the list developed in Frankfurt) and also a specific mechanism for triggering the veto process (ex: complaint supported by relevant 2 community components).		