DRAFT – v01 - 17 August 2015

# ALAC Comment on CCWG-Accountability 2nd Draft Proposal on Work Stream 1 Recommendations

## Introduction

[Introduction saying that we appreciate the work that has gone into the creation of this 2nd Proposal.]

The ALAC is generally very supportive of the overall proposal. Although the ALAC preference was to have less "enforceability" that some other groups in ICANN, we believe that the overall direction now being taken is acceptable.

The ALAC nonetheless has a number of concerns, both at a philosophical and at a detailed level, and we will also take this opportunity to comment on a number of options provided by the minority views within the document.

In many cases, the ALAC is of a single mind on issues. In other cases, the group is divided, and this statement will clearly identify those.

## Section 3. Principles

**Paragraph 154, Bullet 2:** The ALAC strongly supports the minority position that end-users should be explicitly referenced. Although many user organizations can be classed as civil society, that is not true in the general case. [Need additional rationale demonstrating cases where the two are different].

## Section 5. Appeals Mechanism

[The original comment was a concern that over the binding nature of the IRP. This needs review. The IRP is only empowered to decide if ICANN violated its Bylaws and to overturn any decision where that is judged to be the case. Is there still a problem?]

## Section 6. Community Mechanism as Sole Member Model

**Paragraph 319-334:** The ALAC can support the (5x5)+(2x2) model, with the understanding that should the ICNN Bylaws be altered to no longer have the SSAC members and Chair appointed by the ICANN Board, that the SSAC would be granted a weight of 5, commensurate with the importance of security and stability in ICANN's mission.

The ALAC will also support the (7x5) model. Under no conditions would the ALAC support the (3x4)+(4x2) where the ALAC and the GAC are given less weight than the SOs.

## Section 7. Community Powers

**Section 7.1 Reconsider/Reject Budget:** The ALAC has concerns about the ability of the community to reject budget items related to a single SO or AC. Given the apparent view of some community members that particular groups should have lesser status than others, it could follow that these groups should be denied financial support. The Board is given the responsibility of balancing the various needs and priorities of the constituent and should be given the discretion to do so.

**Section 7.3 Removal of and Individual Director:** There must be an explicit statement (and perhaps waiver from each director) that there is no right to appeal, no right to claim unfairness to the Ombudsman, and no legal right related to libel, slander or defamation.

**Paragraph 407 and 409:** The process should be adjusted to allow for parallel removal of multiple directors without having to convene the ICANN Community Forum multiple times.

[Further discussion needed on Sebastien's comments on 7.4]

**Paragraph 429-430 Removal of the Board by a single SO:** The ALAC categorically rejects the recommendation that a single SO be allowed to remove the entire Board.

## Section 8. Accountability Requirements

**Section 8.1 Diversity:** [Need to review Paragraph 467 Recommendations

> *1. Include diversity as an important element for the creation of any new structure, such as the IRP (see Section 5.1 for diversity requirements for the panel) and the ICANN Community Forum (see Section 6.3 for diversity requirements for the Forum)*
>
> *AG: Should be "consider including…"*
>
> *2. Evaluate a proposed evolution of the ATRT into Accountability, Transparency and Diversity Reviews and of the Structural Reviews into Structural Accountability, Transparency and Diversity Reviews of SOs and ACs as part of Work Stream 2.*
>
> > *AG: Too prescriptive. Say we need a diversity review on a regular basis and if desired, include ATRT as an option.*
>
> *3. Perform, as part of Work Stream 2, a more detailed review to establish a full inventory of the existing mechanisms related to diversity for each and every ICANN group (including Stakeholder Groups, Constituencies, Regional At-Large Organizations, the Fellowship program and other ICANN outreach programs), as after an initial review of the current documents, it is clear that they do not address the full concerns raised by the larger community on the diversity issue.*
>
> > *AG: Last phrase not needed – it is a rational, not a recommendation.*

*4. Identify the possible structures that could follow, promote and support the strengthening of diversity within ICANN.*

*AG: Should be part of 2.*

*5. Carry out a detailed working plan on enhancing ICANN diversity as part of Work Stream 2.*

*6. Strengthen commitments to outreach and engagement in order to create a more diverse pool of ICANN participants, so that diversity is better reflected in the overall community and thus more naturally reflected in ICANN structures and leadership positions.*]

## Section 9 Incorporation of the Affirmation of Commitments

**Paragraphs 580-587:** The ALAC strongly believes that this section must be adjusted to allow the "WHOIS" RT to address the appropriate issues for the then current Directory Services and should not be limited to the wording written into the 2009 AoC. Moreover, if the terms of reference of this review need to be further adjusted in the future, it makes no sense to assign this task to the AoC RT, which will have little expertise in this area. It should be assigned to the Whois RT.

**Paragraph 549:** As recommended for the Whois Review, all AoC Review Teams should be responsible for recommending revision to their respective Bylaws. The responsibility should rest with those who best understand the specific issues. The ATRT could have overriding rights to do so as well, but should not be solely an ATRT responsibility.

**Minority Statement from Eberhard Lisse:** The ALAC does not support this statement.

**Minority Statement by Sebastien Bacholet:** [Requires further discussion. AG:I support some of the comments, specifically those related to budget veto and the extraction of non-mission-critical AC/SO Bylaws into what is referred to as an "Operational Document".]

**Minority Statement by Edward Morris:** The ALAC rejects most of what is being proposed. The only part that may have merit is ensuring that individuals or organizations do not exercise voting rights in multiple AC/SOs or subdivisions thereof. However, this would need to be carefully examined to ensure that such restriction foxes an accountability problem and does not merely restrict individual rights.