# Annex 13 – CWG-Stewardship Requirements of the CCWG-Accountability

## 1. Summary and References to the CCWG-Accountability Proposal

- The ability for the community to approve or veto the ICANN or IANA budget after it has been approved by the ICANN Board but before it comes into effect – See Recommendation #4: Ensuring community involvement in ICANN decision-making: Seven new Community Powers.
- The ability to appoint and remove members of the ICANN Board and to recall the entire ICANN Board – See Recommendation #4: Ensuring community involvement in ICANN decision-making: Seven new Community Powers.
- The ability to review and approve ICANN Board decisions with respect to recommendations resulting from an IANA Function Review or Special IANA Function Review – See Recommendation #4: Ensuring community involvement in ICANN decision-making: Seven new Community Powers.
- The ability to approve amendments to ICANN's "Fundamental Bylaws" – Recommendation #4.
- The creation of an IANA Function Review that is empowered to conduct periodic and special reviews of the IANA function. IANA Function Reviews and Special IANA Function Reviews will be incorporated into the Affirmation of Commitments mandated reviews set forth in the ICANN Bylaws.
- Customer Standing Committee – The creation of a Customer Standing Committee that is empowered to monitor the performance of the IANA functions and escalate non-remediated issues to the Country Code Names Supporting Organization and Generic Names Supporting Organization. The Country Code Names Supporting Organization and Generic Names Supporting Organization should be empowered to address matters escalated by the Customer Standing Committee.
- Separation Process – The empowerment of the Special IANA Function Review to determine that a separation process is necessary and, if so, to recommend that a Separation Cross-Community Working Group be established to review the identified issues and make recommendations.
- Appeal mechanism – An appeal mechanism, for example in the form of an Independent Review Panel, for issues relating to the IANA functions. – See Recommendation #7: Strengthening ICANN's Independent Review Process.
- Fundamental Bylaws – All of the foregoing mechanisms are to be provided for in the ICANN bylaws as "Fundamental Bylaws." – See Recommendation #3: Redefining ICANN's Bylaws

as ‘Standard Bylaws’ and ‘Fundamental Bylaws.’

## 2. CCWG-Accountability Recommendations

1 Modify the Fundamental Bylaws to implement the following modifications to the Independent Review Process:

- Including a standing judicial/arbitral panel
- Putting together a Panel composed of experts in various fields
- Tying PTI actions or inactions to the standard of review
- Making the Independent Review Panel more accessible
- Making the Independent Review Panel more affordable
- Ensuring that the process Results in a binding decision
- Ensuring that the process does not circumvent the bottom-up, multistakeholder-driven nature of ICANN’s processes

2 Note: These enhancements are outlined in detail in section 3 below.

## 3. Recommendations from the CWG-Stewardship Final Report

3 The CWG-Stewardship Final Proposal can be found at: https://community.icann.org/x/aJ00Aw

4 (section III.A.i. Proposed Post-Transition Structure)

5 The CWG-Stewardship proposal is significantly dependent and expressly conditioned on the implementation of ICANN-level accountability mechanisms by the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) as described below. The co-chairs of the CWG-Stewardship and the CCWG-Accountability have coordinated their efforts and the CWG-Stewardship is confident that the CCWG-Accountability recommendations, if implemented as envisaged, will meet the requirements that the CWG-Stewardship has previously communicated to the CCWG. If any element of these ICANN level accountability mechanisms is not implemented as contemplated by the CWG-Stewardship proposal, this CWG-Stewardship proposal will require revision. Specifically, the proposed legal structure and overall CWG-Stewardship proposal requires ICANN accountability in the following respects:

1. **ICANN Budget and IANA Budget.** The ability for the community to approve or veto the ICANN budget after it has been approved by the ICANN Board but before it comes into effect. The community may reject the ICANN Budget based on perceived inconsistency with the purpose, mission and role set forth in ICANN’s Articles and Bylaws, the global public interest, the needs of ICANN stakeholders, financial stability or other matters of concern to the community. The CWG-Stewardship recommends that the IFO’s comprehensive costs

should be transparent and ICANN's operating plans and budget should include itemization of all IANA operations costs to the project level and below as needed. An itemization of IANA costs would include "Direct Costs for the IANA department", "Direct Costs for Shared resources" and "Support functions allocation". Furthermore, these costs should be itemized into more specific costs related to each specific function to the project level and below as needed. PTI should also have a yearly budget that is reviewed and approved by the ICANN community on an annual basis. PTI should submit a budget to ICANN at least nine months in advance of the fiscal year to ensure the stability of the IANA services. It is the view of the CWG-Stewardship that the IANA budget should be approved by the ICANN Board in a much earlier timeframe than the overall ICANN budget. The CWG (or a successor implementation group) will need to develop a proposed process for the IANA-specific budget review, which may become a component of the overall budget review.

2. **Community Empowerment Mechanisms.** The empowerment of the multistakeholder community to have the following rights with respect to the ICANN Board, the exercise of which should be ensured by the related creation of a stakeholder community / member group:
    a. The ability to appoint and remove members of the ICANN Board and to recall the entire ICANN Board;
    b. The ability to exercise oversight with respect to key ICANN Board decisions (including with respect to the ICANN Board's oversight of the IANA functions) by reviewing and approving (i) ICANN Board decisions with respect to recommendations resulting from an IANA Function Review or Special IANA Function Review and (ii) the ICANN budget; and
    c. The ability to approve amendments to ICANN's "Fundamental Bylaws," as described below.

3. **IANA Function Review.** The creation of an IANA Function Review that is empowered to conduct periodic and special reviews of the IANA functions. IANA Function Reviews and Special IANA Function Reviews will be incorporated into the Affirmation of Commitments mandated reviews set forth in the ICANN Bylaws.

4. **Customer Standing Committee.** The creation of a Customer Standing Committee that is empowered to monitor the performance of the IANA functions and escalate non-remediated issues to the Country Code Names Supporting Organization and Generic Names Supporting Organization. The Country Code Names Supporting Organization and Generic Names Supporting Organization should be empowered to address matters escalated by the Customer Standing Committee.

5. **Separation Process.** The empowerment of the Special IANA Function Review to determine that a separation process is necessary and, if so, to recommend that a Separation Cross-Community Working Group be established to review the identified issues and make recommendations.

6. **Appeals mechanism.** An appeal mechanism, for example in the form of an Independent Review Panel, for issues relating to the IANA functions. For example, direct customers with non-remediated issues or matters referred by Country Code Names Supporting Organization

or Generic Names Supporting Organization after escalation by the Customer Standing Committee will have access to an Independent Review Panel. The appeal mechanism will not cover issues relating to country code top-level domains delegation and re-delegation, which mechanism is to be developed by the country code top-level domains community post-transition.

7. **Fundamental Bylaws.** All of the foregoing mechanisms are to be provided for in the ICANN bylaws as “Fundamental Bylaws.” A “Fundamental Bylaw” may only be amended with the prior approval of the community and may require a higher approval threshold than typical bylaw amendments (for example, a supermajority vote).