

CCWG-Accountability WS2 Plenary Meeting #7



25 October 2016

1300 UTC

Agenda

1. Introductions and Updates to Statements of Interest
2. ICANN Standards of Behavior for Meetings
3. Review of Action Items.
4. Update from the IRP group.
5. Reports from Subgroups as to the progress of the work, issues that need to be noted and outreach/liaison requests.
6. Review of agenda and plan for Hyderabad (including questions to be raised with ICANN CEO)
7. Introduction of proposed CCWG-Acct Dashboard
8. AOB

ICANN Expected Standards of Behavior

Those who take part in ICANN's multistakeholder process, including Board, staff and all those involved in SO and AC councils, undertake to:



Act in accordance with ICANN's Bylaws. In particular, participants undertake to act within the mission of ICANN and in the spirit of the values contained in the Bylaws.



Adhere to ICANN's conflict of interest policies.



Treat all members of the ICANN community equally, irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation; members of the ICANN community should treat each other with civility both face-to-face and online.



Respect all members of the ICANN community equally and behave according to professional standards and demonstrate appropriate behavior. ICANN strives to create and maintain an environment in which people of many different backgrounds and cultures are treated with dignity, decency and respect. Specifically, participants in the ICANN process must not engage in any type of harassment. Generally, harassment is considered unwelcome hostile or intimidating behavior – in particular, speech or behavior that is sexually aggressive or intimidates based on attributes such as race, gender, ethnicity, religion, age, color, national origin, ancestry, disability or medical condition, sexual orientation or gender identity.



Protect the organization's assets and ensure their efficient and effective use.



Act fairly and in good faith with other participants in the ICANN process.



Conduct themselves in accordance with ICANN policies.



Support the maintenance of robust mechanisms for public input, accountability, and transparency so as to ensure that policy development and decision-making processes will reflect the public interest and be accountable to all stakeholders.



Listen to the views of all stakeholders when considering policy issues. ICANN is a unique multistakeholder environment. Those who take part in the ICANN process must acknowledge the importance of all stakeholders and seek to understand their points of view.



Work to build consensus with other stakeholders in order to find solutions to the issues that fall within the areas of ICANN's responsibility. The ICANN model is based on a bottom-up, consensus-driven approach to policy development. Those who take part in the ICANN process must take responsibility for ensuring the success of the model by trying to build consensus with other participants.



Promote ethical and responsible behavior. Ethics and integrity are essential, and ICANN expects all stakeholders to behave in a responsible and principled way.



Facilitate transparency and openness when participating in policy development and decision-making processes.



Act in a reasonable, objective and informed manner when participating in policy development and decision-making processes. This includes regularly attending all scheduled meetings and exercising independent judgment based solely on what is in the overall best interest of Internet users and the stability and security of the Internet's system of unique identifiers, irrespective of personal interests and the interests of the entity to which individuals might owe their appointment.

Review of Action Items.

1. Sub-Group rapporteurs should have a status and issues update for their sub-group distributed to the CCWG by EOB Friday 21 October. These will be the basis for the work in Hyderabad.
2. The Ombudsman sub-group is awaiting confirmation from staff regarding funding for the evaluation of the office of the Ombudsman from funds outside of WS2.
3. The CCWG-Accountability continues to await a response from the Board on its request wrt ATRT3

Update from the IRP group

IRP IOT

Background, Status and Open Issues
for the CCWG-Accountability meeting
of 25 October 2016

IRP IOT

Members

- Becky Burr (CPH/RV & ccNSO, US)
- Chris Disspain (Board, AU)
- David McAuley (CPH/RV, US)
- David Post (US)
- Greg Shatan (NCPH/IPC, US)
- Malcolm Hutty (NCPH/ISP, UK)
- Robin Gross (NCPH/NCSG, US)
- Samantha Eisner, ICANN Staff Liaison
- Elizabeth Le, (ICANN Staff Liaison)
- Tijani Ben Jemaa (ALAC, TN)
- Arun Sukumar (IN)
- Marianne Georgelin (ccNSO, FR)
- Avri Doria (GNSO/NCSG, US)
- Olga Cavalli (GAC, AR)
- Kavouss Arasteh (GAC, IR)
- Konstantinos Komaitis (ISOC)

CCWG Chairs and Legal Counsel

- CCWG Accountability Co-Chairs: Thomas Rickert, Mathieu Weill, Leon Sanchez
- Sidley Austin: Holly Gregory, Ed McNicholas
- Jones Day: Jeff LeVee, Kate Wallace, Kevin Espinola

- **Current Rules:** IRPs commenced prior to the adoption of these Updated Supplementary Procedures shall be governed by the Supplementary Procedures in effect at the time such IRPs were commenced.
- **Relevant reference from Annex 7:** None.
- **Concerns:** Some IRP-IOT participants are concerned that the implementation of major changes to the rules, such as those proposed by the IRP-IOT, could have a significant impact on the outcome of an ongoing IRP case and argue that in such circumstances not allowing the parties access to the new rules would be unfair. Other participants argue that all parties in an IRP case should have an understanding and a certitude of the rules under which the case will proceed at the outset.

Deadline to File

- **Current Rules:** A CLAIMANT shall file a written statement of a DISPUTE with the ICDR no more than 45 days after a CLAIMANT becomes aware or reasonably should have been aware of the action or inaction giving rise to the DISPUTE.
- **Relevant reference from Annex 7:** (Standing) They must do so (*file a complaint*) within a certain number of days (to be determined by the IRP Subgroup) after becoming aware of the alleged violation **and how it allegedly affects them.**
- **Alternative 1:** ...becomes aware, or reasonably should have been aware of the material affect of the action or inaction giving rise to the Dispute.
- **Alternative 2:** ...becomes aware ~~or reasonably should have been aware of the material affect~~ of the action or inaction giving rise to the Dispute; **provided, however, that a statement of a Dispute may not be filed more than twenty-four months from the date of such action or inaction.**

Cross Examination of Witnesses at Hearings

- **Current Rules:** All hearings shall be limited to argument only.
- **Relevant reference from Annex 7:** None.
- **Concerns:** A number of IRP-IOT participants believe that if there are witnesses then cross examinations should be allowed as this is a tenet of common law systems. Other IRP-IOT participants are concerned about the added complexity, time and costs of allowing witnesses and cross examinations. Note: the IRP-IOT has agreed that witnesses can be requested as per the rules presented in Alternative 1 below.

Cross Examination of Witnesses at Hearings

- **Alternative 1:** All hearings shall be limited to argument only unless the IRP Panel determines that a the party seeking cross examination of [a] witness[es] has demonstrated that such cross examination is: (1) necessary for a fair resolution of the claim; (2) necessary to further the PURPOSES OF THE IRP; and (3) considerations of fairness and furtherance of the PURPOSES OF THE IRP outweigh the time and financial expense of witness cross examination.
- **Alternative 2:** All hearings shall be limited to argument only. The IRP Panel shall determine, in its discretion, whether or not to permit cross examination of witnesses at any hearing.
- **Alternative 3:** All hearings shall be limited to argument only. The IRP Panel shall determine, in its discretion, whether or not to permit cross examination of witnesses at in-person hearings. All other types of hearings (telephonic/video hearings), should use another standard TBD.

Reports from Subgroups - Diversity

Reports from Subgroups - Guidelines for standards of conduct.....

Reports from Subgroups - Human Rights

Reports from Subgroups - Jurisdiction

Reports from Subgroups - Ombudsman

Reports from Subgroups - SO/AC Accountability

Reports from Subgroups - Staff Accountability

Reports from Subgroups - Transparency

Review of agenda and plan for Hyderabad

9.00 – Session 1

- Introduction and General Administration (10')
- CCWG-Acct. reporting Dashboard – finalization for publication (15')
- PCST report – 5'
- WS1 Implementation - IRP supplementary rules – 2nd reading (45')
- WS1 Implementation – IRP panelist expression of interest – 2nd reading (30')

10.45 Coffee break

11.00 - Session 2

- SO/AC Accountability : draft questions to SOs and ACs - 2nd reading – 45'
- Guidelines for Good faith– discussion – 45'

12.30 Lunch

Review of agenda and plan for Hyderabad

13:30 Session 3

- Exchange with ICANN CEO re: new complaints office and interaction with WS2, especially staff acct and Ombudsman – 30'
- Transparency subgroup proposals – 2nd reading – 45'
- Open slot – 45'

15:30 Coffee break

15:45 Session 4

- Update on the progress of the Jurisdiction subgroup – 30'
- ATRT2 Update – 15'
- Requests for external support / advice : Ombudsman (External review), Human right, Legal Committee (45')

17:15 AOB (15')

17:30 Conclusion and key messages for co-chairs' publication (30')

18.00 End of meeting

Review of agenda and plan for Hyderabad - getting to the conference centre (HICC)

- Please note that ICANN Shuttles will be operating on a reduced schedule for the Face to Face meeting on November 2nd in Hyderabad. On 2 November, shuttles will depart from all hotels for the HICC at 07:45 Hyderabad, shuttles will return from the HICC to all hotels at 18:30 Hyderabad. Details on the shuttle services can be found at:
- https://meetings.icann.org/sites/default/files/icann57_hotel_shuttles_06_webversion.pdf
- Coffee and breakfast breads will be served prior to the meeting starting.
- To be respectful of those participating remotely we will be following our schedule very closely. As such the first session will begin at 0900 Hyderabad.



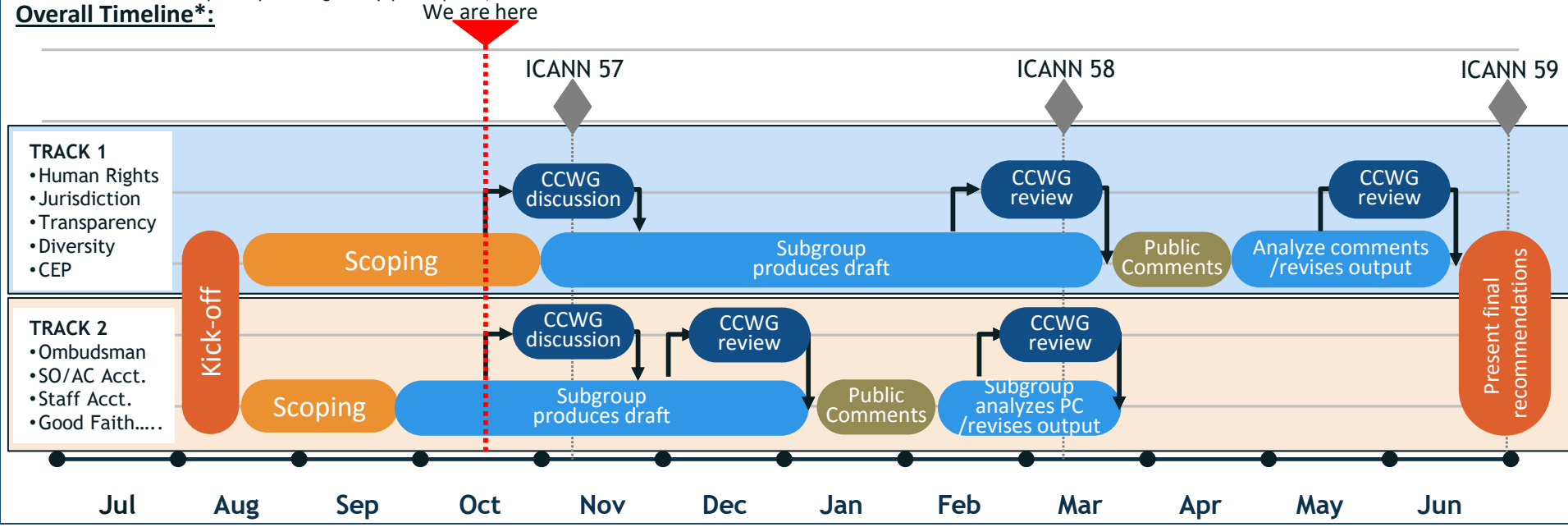
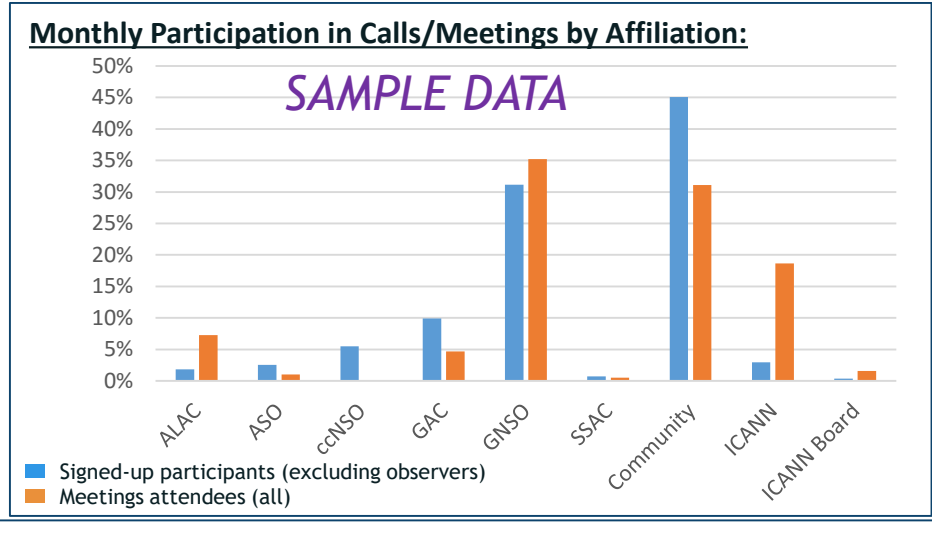
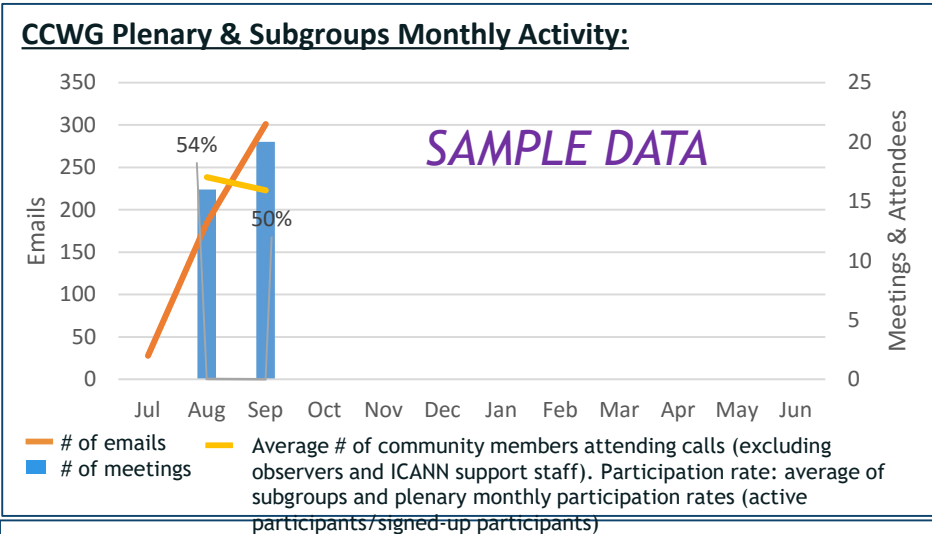
CCWG - Accountability

Workstream 2 Activity Dashboard

Introduction

WS2 Monthly Activity Update

Reporting Period:
SEPTEMBER 16



Subgroups Progress Update

Reporting Period:
SEPTEMBER 16

Topic	# of Meetings held this month	Progress	Status	Updates	Focus / Concerns / Risks
Diversity	0	15% (+ - %)			
Human Rights	4	15% (+ - %)			
Jurisdiction	4	15% (+ - %)			
SO/AC Accountability	3	15% (+ - %)			
Staff Accountability	1	15% (+ - %)			
Transparency	2	15% (+ - %)			
Ombudsman	4	15% (+ - %)			
Review of the CEP	0	0% (+ - %)			
Good Faith Conduct	2	15% (+ - %)			



WS2 Budget Update

Reporting Period:
SEPTEMBER 16

Amounts in USD Thousands (000s)	ACTUAL						Committed Expense	Total Budget	2017 Remaining Budget
	Staff	Travel & Meetings	Telecom & Language Support	Legal Services	US Gov't Affairs (Lobbying)	Other Professional Services			
Cross Community Working Group Support IRP Phase 2 Accountability WS2									
Total Costs - Cross Community Working Group Support									
Total IANA Transition Project IRP Phase 2 Accountability WS2 Transition Implementation General Project Activities									
Total Costs - IANA Transition Project									

Requests for funds:

Request	Assigned to *	Status **	Notes

(*) Assigned to: Icann Legal / External Lawyer

(**) Status: pending validation, refused, approved, awaiting delivery, delivered.

F2F Meetings:

of travel slots funded by
Chartering Org:
of participants on-site:
of remote participants:

Notes:

<insert notes and comments here>

Description / Scope:

<describe the scope of work, the problem you are trying to solve>

Develop a framework of interpretation for human rights (“FOI-HR”), in support of the new bylaw on Human Rights adopted in Work Stream 1. (Section 1.2(b)(viii))

Rapporteurs: Niels ten Oever, Nigel Roberts

of signed-up Active Participants: 66

of signed-up Observers: 55

Useful links:

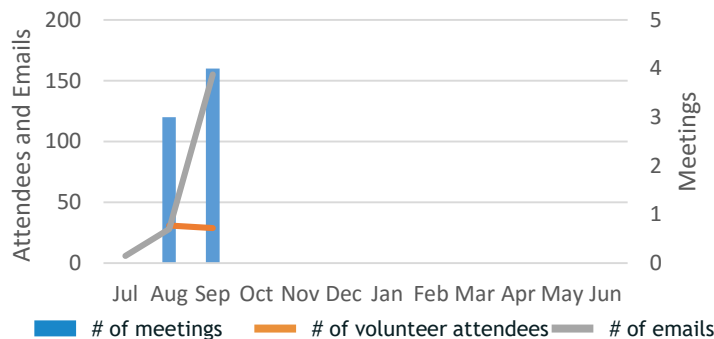
Wiki: <https://community.icann.org/display/WEIA/Human+Rights>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-hr>

Meetings schedule: [WS2-Master Call Schedule](#)

Activity:

Total # of meetings:	7
Total # of emails:	189
Average participation rate:	47%



Work Plan:

Start work	Aug	✓
Document questions to answer	Sep	✓
Document work to do	Oct	
Produce draft for subgroup	Nov-Jan	
Produce draft for CCWG	Feb	
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

Updates:

- <subgroup status update, major achievements>

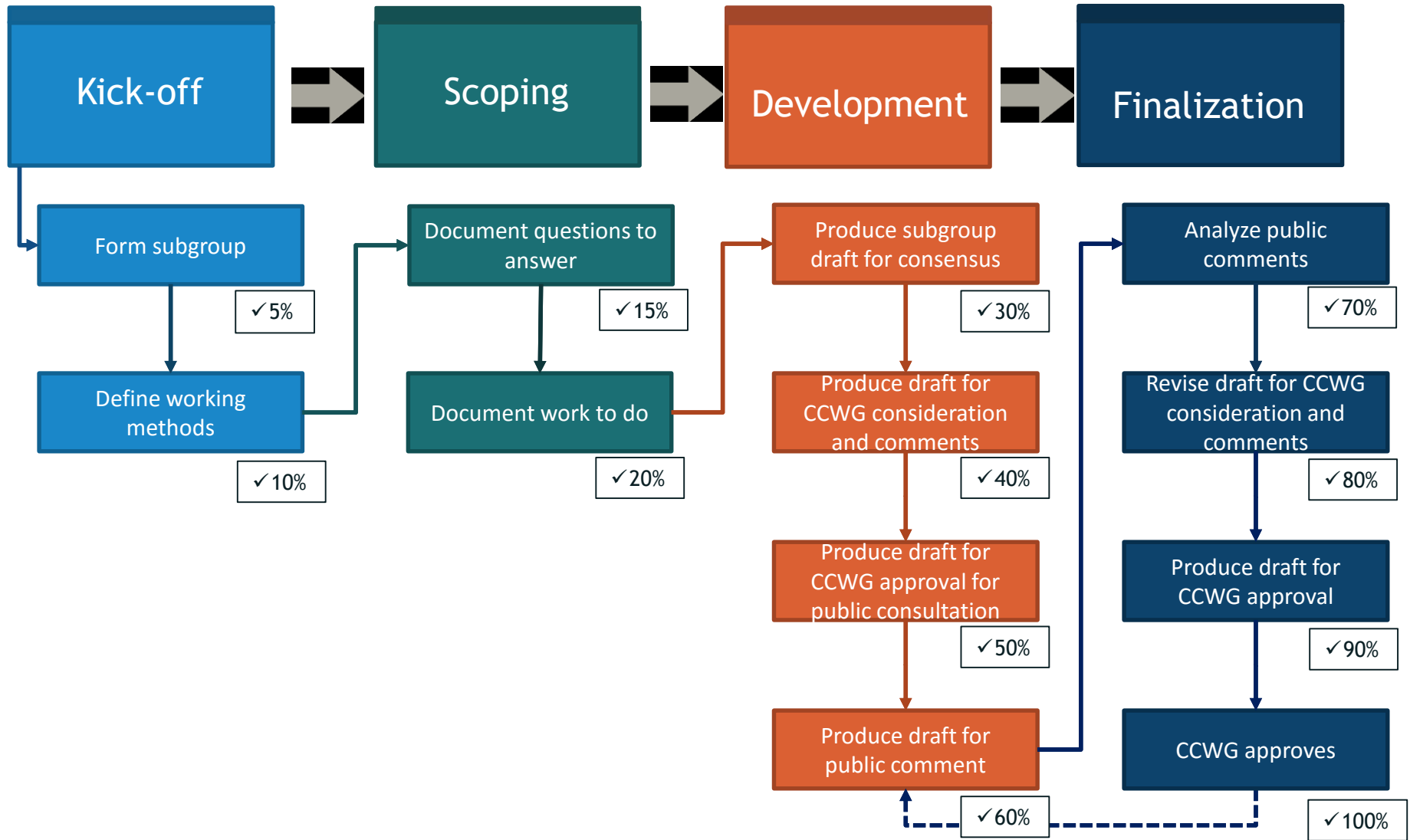
Upcoming Activities:

- <next steps>

Open Items:

- <Questions, area of focus, concerns, risks>

Measurement of Progress



Reporting Schedule

- Dashboard will be updated monthly.
- 25th of the month (M): subgroups rapporteurs provide their monthly update.
- 25th + 5 business days: PCST provide draft financial statement of activity to CCWG co-chairs for previous period (M-1).
- End of month: staff updates report with all statistical data of the month (M)
- 25th + 10 business days: dashboard including activity of month (M), and financial information of month (M-1) is published at the beginning of the next month (M+1).

