**The mandate for SO/AC Accountability in Work Stream 2 (WS2)**

This WS2 projects obtains its mandate and scope from ICANN bylaws and the CCWG Final report. First, ICANN's new bylaws reflect the CCWG Supplemental Final Proposal[1] on Work Stream 2 (WS2):

> Section 27.1. WORK STREAM 2, (b) The CCWG-Accountability recommended in its Supplemental Final Proposal on Work Stream 1 Recommendations to the Board, dated 23 February 2016 ("CCWG-Accountability Final Report") that the below matters be reviewed and developed following the adoption date of these Bylaws ("Work Stream 2 Matters"), in each case, to the extent set forth in the CCWG-Accountability Final Report:

>> (iii) Supporting Organization and Advisory Committee accountability, including but not limited to improved processes for accountability, transparency, and participation that are helpful to prevent capture;[2]

This Bylaws mandate for this project specifically mentions capture, a concern raised by NTIA in Stress Tests 32-34, regarding internal capture by a subset of AC/SO members, and concern that incumbent members might exclude new entrants to an AC/SO.

This WS2 project was described in greater detail in the CCWG Final Proposal, Recommendation 12[3]:

> Supporting Organizations and Advisory Committee accountability, as part of WS2.

> • Include the subject of SO and AC accountability as part of the work on the Accountability and Transparency Review process.

> • Evaluate the proposed "Mutual Accountability Roundtable" to assess viability.

> • Propose a detailed working plan on enhancing SO and AC accountability as part of WS2.

> • Assess whether the IRP would also be applicable to SO and AC activities.

Regarding the first bullet above, Recommendation 9 of the CCWG Final Proposal noted that SO/AC accountability could be improved by the accountability review process (ATRT), which includes:

> d) assessing the extent to which ICANN's decisions are embraced, supported, and accepted by the public and the Internet community[4]

In addition, Recommendation 10 of the CCWG Final Proposal noted that further enhancements to SO/AC accountability should be accommodated through the accountability review process.[5]

> The CCWG-Accountability recommends addressing the accountability of Supporting Organizations (SOs) and Advisory Committees (ACs) in a two-stage approach:

> • In Work Stream 1: Include the review of SO and AC accountability mechanisms in the independent structural reviews performed on a regular basis.

> • In Work Stream 2: Include the subject of SO and AC accountability as part of the work on the Accountability and Transparency Review process

---

[1] CCWG Final Proposal, 23-Feb-2016, at https://community.icann.org/pages/viewpage.action?pageId=58723827
[2] ICANN Bylaws, 27-May-2016, p. 135, https://www.icann.org/en/system/files/files/adopted-bylaws-27may16-en.pdf
[3] Annex 12 of CCWG Final Report, 23-Feb-2016, pp. 5-6, at
https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726378/Annex%2012%20-%20FINAL-Revised.pdf
[4] Annex 9 of CCW Final Report, 23-Feb-2016, p. 11, at
https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726375/Annex%2009%20-%20FINAL-Revised.pdf
[5] Annex 10 of CCW Final Report, 23-Feb-2016, pp. 1-4, at
https://community.icann.org/pages/viewpage.action?pageId=58723827&preview=/58723827/58726376/Annex%2010%20-%20FINAL-Revised.pdf

**Work Stream 2:**

- Include SO and AC accountability as part of the Accountability and Transparency Review process.

- Evaluate the proposed "Mutual Accountability Roundtable" to assess its viability and, if viable, undertake the necessary actions to implement it.

- Develop a detailed working plan on enhancing SO and AC accountability taking into consideration comments made during the public comment period on the Third Draft Proposal.

- Assess whether the Independent Review Process (IRP) would be applicable to SO & AC activities.

Per the Bylaws and CCWG mandates, the SOAC Accountability project team embarked on 3 tracks:

1. Review and develop recommendations to improve SO and AC processes for accountability, transparency, and participation that are helpful to prevent capture.

2. Evaluate the proposed "Mutual Accountability Roundtable" to assess its viability and, if viable, undertake the necessary actions to implement it.

3. Assess whether the Independent Review Process (IRP) should be applied to SO & AC activities.

The recommendations for each track are described next.

**Track 1. Review and develop recommendations to improve SO and AC processes for accountability, transparency, and participation that are helpful to prevent capture.**

First, we recommend that "accountability" of each SO and AC is to the designated community for each AC/SO, as defined in ICANN bylaws:

- ALAC is "the primary organizational home within ICANN for individual internet users"

- ASO is "the entity established by the Memorandum of Understanding [2004] between ICANN and the Number Resource Organization ("NRO"), an organization of the existing RIRs"

- ccNSO is "ccTLD managers that have agreed to be members of ccNSO"

- GAC is "open to all national governments (and Distinct Economies upon invitation)"

- GNSO is "Open to registries, registrars, commercial stakeholders (BC, IPC, ISPCP), and non-commercial stakeholders"

- RSSAC "members shall be appointed by the Board" to "advise the ICANN community and Board on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System"

- SSAC members are "appointed by ICANN board" to "advise the ICANN community and Board on matters relating to the security and integrity of the Internet's naming and address allocation systems."

This does not imply that each SO and AC make its decisions without regard to the broader Internet community outside of its designated community.  Rather, the global public interest is a fundamental consideration of the ICANN board in approving and implementing advice and policy recommendations from ACs and SOs.

Second, the project team solicited documentation from each SO and AC (and from subgroup constituencies and stakeholders groups) in order to review and assess existing accountability mechanisms.  We sought response to the following questions and topics:

> What is your interpretation of the designated community defined in the Bylaws. For example, do you view your designated community more broadly or narrowly than the Bylaws definition?

> What are the published policies and procedures by which your AC/SO is accountable to the designated community that you serve?

> - Your policies and efforts in outreach to individuals and organizations in your designated community who do not yet participate in your AC/SO.

> - Your policies and procedures to determine whether individuals or organizations are eligible to participate in your meetings, discussions, working groups, elections, and approval of policies and positions.

> - Transparency mechanisms for your AC/SO deliberations, decisions and elections

> - Were these policies and procedures updated over the past decade? If so, could you clarify if they were updated to respond to specific community requests/concerns?

> - Do your AC/SO have mechanisms by which your members can challenge or appeal decisions and elections? Please include link where they can be consulted.

> - Do your AC/SO maintain unwritten policies that are relevant to this exercise? If so, please describe as specifically as you are able.

[awaiting replies to these questions]

**Track 2.  Evaluate the proposed "Mutual Accountability Roundtable" to assess its viability and, if viable, undertake the necessary actions to implement it.**

The "Mutual Accountability Roundtable" noted in the CCWG Final Proposal originated from advisor Willie Currie in 2015:

> *a roundtable of the Board, CEO and all supporting AC/SO chairs. Pick a key issue to examine. Each describes how their constituency addressed the issue, indicating what worked and didn't work. Then a discussion to create a space for mutual accountability and a learning space for improvement.*

Willie Currie's May-2015 email:

> The idea of mutual accountability is that multiple actors are accountable to each other[6]. How might this work in ICANN? It would be necessary to carve out a space within the various forms of accountability undertaken within ICANN that are of the principal-agent variety. So where the new community powers and possibly a Public Accountability Forum construct the community as a principal who calls the Board as agent to account, a line of mutual accountability would enable all ICANN structures to call one another to account.

> So one could imagine a Mutual Accountability Roundtable that meets once a year at the ICANN meeting that constitutes the annual general meeting. The form would be a roundtable of the Board, CEO and all supporting organisations and advisory committees, represented by their chairpersons. The roundtable would designate a chairperson for the roundtable from year to year at the end of each AGM who would be responsible for the next Mutual Accountability Roundtable. There could be a round of each structure giving an account of what worked and didn't work in the year under review, following by a discussion on how to improve matters of performance. The purpose would be to create a space for mutual accountability as well as a learning space for improvement.

> It could be argued that this form of mutual accountability would contradict and undermine the `linear chain of accountability' established in the new community powers and cause confusion. The answer to this is that ICANN needs a combination of accountabilities to manage its complexity as an organisation. In the IANA transition, it is critically important for ICANN to have a strong principal-agent relationship at the centre of its accountability system to replace that of the NTIA. However, that system is vulnerable to charges that the community assuming the role of accountability holder or forum is itself not representatively accountable to the global public of Internet users.  To address this requires a way of introducing a system of mutual accountability as well as a recognition that ICANN is accountable as a whole ecosystem to a set of democratic standards and values captured in its Bylaws.

> Willie Currie, Advisor to the CCWG-Accountability

[preliminary conclusion:]

We conclude that the Mutual Accountability Roundtable as originally described is more of a transparency exercise where best practices may be shared.  While this exercise is viable, we do not recommend it for formal implementation.

SO/AC chairs convene regularly for calls and meetings with the ICANN CEO, which creates an appropriate and adequate forum for sharing of experiences and best practices on accountability to their respective stakeholders.

---

[6] L. David Brown: `Multiparty social action and mutual accountability' in *Global Accountabilities: Participation, Pluralism and Public Ethics* Cambridge University Press, 2007.

**Track 3. Assess whether the Independent Review Process (IRP) should be applied to SO & AC activities.**

[awaiting discussion with IRP implementation oversight team]