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Comment:

ALAC "4. The ALAC recommends that as we gain experience with these new procedures, there is ongoing monitoring to ensure continued improvement. "

Response

*(i) An IRP Implementation Oversight Team shall be established in consultation with the Supporting Organizations and Advisory Committees and comprised of members of the global Internet community. The IRP Implementation Oversight Team, and once the Standing Panel is established the IRP Implementation Oversight Team in consultation with the Standing Panel, shall develop clear published rules for the IRP ("**Rules of Procedure**") that conform with international arbitration norms and are streamlined, easy to understand and apply fairly to all parties. Upon request, the IRP Implementation Oversight Team shall have assistance of counsel and other appropriate experts.*

While it is possible on a first reading to assume that the IOT continue beyond the creation of the RoP, (i) combined with (ii) indicates that this is not the intention of the bylaws. Not only does (iii) proceed on the presumption that there is not IOT, the lack of any renewal instructions for a sustainable IOT is another clue. Any solution must presume that there is no IOT to do the work unless we recommend that there be one.

(iii) The Standing Panel may recommend amendments to such Rules of Procedure as it deems appropriate to fulfill the Purposes of the IRP, however no such amendment shall be effective without approval by the Board after publication and a period of public comment that complies with the designated practice for public comment periods within ICANN.

Question the extent to which this can be done by the Panel itself without community oversight.

The essential problem is that the Panel on its own should not be responsible for altering its own procedures, though it should be part of any change process.

Several possible solution paths were discussed:

1. ATRT handles it

Comment [1]: While I agree with this, there are other sections that mention IOT - e.g. 4.3(q) and 4.3(j) and those elements of work may last until after the rules are done. I agree that we should seek clarification here.

17 August, 2017

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ATRTR already has the option to review the the ATRTR if it so decides. But it might not so decide.

2. IOT continues to function

There seems to be agreement that creating a committee that has no ongoing function just begs problems given that a committee with nothing to do will eventually find something to do: committees abhor a vacuum.

3. Add the capability of forming an IOT to the EC for periodic review of the IRP and ROP

Currently the EC does not have the creation of an IOT in its defined powers. Is such a power consistent with its nature?

4. SOAC periodically, on {Panel, EC, Board : pick one or more} demand or on a periodic schedule, recreates the IOT for the purpose of reviewing and updating the RoP in cooperation with the Panel with community review and board approval.

Probably the most complex, labor intensive and unlikely solution. Yet possibly the most practical as it does not create a problem entity and does not add powers. It may involve creating some careful Bylaws language..

Draft Recommendation:

- After the IOT finishes its current work items it terminates as implied in current section 4.3
- Section 4.3 (n) needs to be amended once the ROP is approved to remove section i.
- Add to Section 4.4 on reviews:

c) In cooperation with a review team chosen by the Supporting Organizations and Advisory Committees and comprised of members of the global Internet community, the IRP shall periodically review its ROP.

These periodic reviews shall be conducted no less frequently than every five years, based on feasibility as determined by the Board. Each five-year cycle will be computed from the moment of the reception by the Board of the final report of the relevant review Working Group.

Comment [2]: Thank you Avri,

With respect to ALAC request for ongoing monitoring, does anyone think the ATRTR review under Bylaw 4.6(b)(ii) should be "shall assess" rather than "may assess", at least with respect to IRP?

Also, Avri, with respect to IOT team, I think option 4 would be best – I actually think the bylaws could now be read to allow IOT to continue indefinitely but we should seek to get clarity here.

I don't think it would need to be on anyone's call – I think SOs and ACs could develop a methodology for calling for interim IOTs on their own motion. Curious what others think.