

2012-12-20 - Accountability Structures Expert Panel Recommendations

- **Category:** Administration and Budget
- **Topic:** Accountability Structures Expert Panel Recommendations
- **Board meeting date:** 20 December 2012
- **Resolution number:** 2012.12.20.17 – 2012.12.20.19
- **URL for Board minutes/resolution:** <http://www.icann.org/en/groups/board/documents/resolutions-20dec12-en.htm#2.c>
- **Status:** Completed

Summary

Accountability Structures Expert Panel Recommendations

Text

Whereas, the Accountability and Transparency Review Team's Recommendations 23 and 25 recommended that ICANN retain independent experts to review ICANN's accountability structures and the historical work performed on those structures.

Whereas, under the guidance of the Board Governance Committee (BGC), ICANN convened the Accountability Structures Expert Panel (ASEP), comprised of three international experts on issues of corporate governance, accountability and international dispute resolution.

Whereas, after research and review of ICANN's Reconsideration and Independent Review processes, as well as multiple opportunities for public input, the ASEP produced a report in October 2012.

Whereas, the report was posted for public comment, along with proposed Bylaws revisions to address the recommendations within the report.

Whereas, after review and consideration of the public comment received, including consideration by the ASEP, the Board has determined that it is appropriate to proceed to implementation of the ASEP's recommendations.

Whereas, additional implementation work is required prior to launching ICANN's revised Independent Review and Reconsideration processes as recommended by the ASEP.

Resolved (2012.12.20.17) the Board accepts the report by Accountability Structures Expert Panel issued in October 2012 in fulfillment of Recommendations 23 and 25 of the Accountability and Transparency Review Team.

Resolved (2012.12.20.18), the Board approves the Bylaws amendments to Article IV, Section 2 (Reconsideration) and Article IV, Section 3 (Independent Review) as posted for public comment, with an effective date to be determined by the Board after receiving a report from the President and CEO on the status of implementation.

Resolved (2012.12.20.19), the Board directs the President and CEO to develop and execute implementation plans necessary to implement the ASEP recommendations and report to the Board in Beijing on the status of the implementation work, including a recommended effective date for the Bylaws. In the event that, during implementation, the President and CEO determine that issues raised during the public comment regarding the creation of a standing panel for the IRP require modification to the Bylaws, those limited modifications are to be provided to the Board for adoption prior to the recommended effective date for the Bylaws revisions.

Implementation Actions

- Develop and implement plans to implement the Accountability Structures Expert Panel recommendations
 - Responsible entity: President and CEO
 - Due date: None provided
 - Completion date: 11 April 2013
- Report to the Board in Beijing on the status of the implementation
 - Responsible entity: President and CEO
 - Due date: 11 April 2013
 - Completion date: 11 April 2013

Rationale

The Board's action in accepting the report of the Accountability Structures Expert Panel (ASEP) and approving the attendant Bylaws revisions is in furtherance of the Board's commitment to act on the recommendations of the Accountability and Transparency Review Team (ATRT). The ASEP's work was called for in ATRT Recommendations 23 and 25, and the work performed, including a review of the recommendations arising out of the President's Strategy Committee's work on Improving Institutional Confidence, is directly aligned with the review requested by the ATRT.

The adoption of the ASEP's work represents a great stride in ICANN's commitment to accountability to its community. The revised mechanisms adopted today will bring easier access to the Reconsideration and Independent Review Processes through the implementation of forms, the institution of defined terms to eliminate vagueness, and the ability to bring collective requests. A new ground for Reconsideration is being added, which will enhance the ability for the community to seek to hold the Board accountable for its decisions. The revisions are geared towards instituting more predictability into the processes, and certainty in ICANN's decision making, while at the same time making it clearer when a decision is capable of being reviewed.

The Board is adopting the Bylaws revisions today to allow for certainty as the President and CEO moves forward with implementation work to effectuate the ASEP's recommendations. Because additional documentation and processes must be developed and finalized, the Bylaws revisions to Article VI, Sections 2 and 3 will not go into effect until the implementation work has proceeded sufficiently. The President and CEO is therefore tasked with a report to the Board on the status of implementation, and a date for the Bylaws to go into effect, by the ICANN meeting in Beijing, China in April 2013. The Board expects that the President and CEO will consider the issues raised in public comment to determine if they need to be or can be addressed in implementation. In the event limited revisions of the Bylaws are necessary to address public comment addressing the creation of a standing panel for the IRP, the Board expects those revisions to be provided to the Board for approval in advance of the identified effective date. The potential for limited modification of the Bylaws prior to the effective date is appropriate in this instance because of the concerns raised in public comment as well as the past challenges faced when trying to create a standing panel for independent reviews.

The adoption of these recommendations will have a fiscal impact on ICANN, in that additional work is required for implementation, including the development of new documentation and the identification of a standing panel to hear requests for independent review. The outcomes of this work are expected to have positive impacts on ICANN and the community in enhanced availability of accountability mechanisms. This decision is not expected to have any impact on the security, stability or resiliency of the DNS.

This is an Organizational Administrative Function for which the Board received public comment at <http://www.icann.org/en/news/public-comment/asep-recommendations-26oct12-en.htm>.

Other Related Resolutions

- Resolution 2013.04.11.06, determining the Bylaws effective date for the posted revisions, at <http://www.icann.org/en/groups/board/documents/resolutions-11apr13-en.htm#1.d>
- Other resolutions TBD

Additional Information

- Additional information about the Accountability Structures Expert Panel is available at: <http://www.icann.org/en/news/in-focus/accountability/asep>
- Public comment regarding the Accountability Structures Expert Panel Recommendations is available at: <http://www.icann.org/en/news/public-comment/asep-recommendations-26oct12-en.htm>
- The Accountability Structures Expert Panel Report is available at: <http://www.icann.org/en/news/in-focus/accountability/asep/report-26oct12-en.pdf>
- Information on the updates to the Reconsideration Process is available at <http://www.icann.org/en/groups/board/governance/reconsideration>
- The resolution does not address funding for the items identified therein.

Explanatory text does not modify or override Resolutions. See [Board Resolutions Page](#) for more information.

Note: The "Add Comment" box below is for sharing information about implementation of this resolution. Off-topic comments will be removed.