Meeting #2 CWG-RFP3 (12 November 2014)

Attendees:

Sub-Group Members: Jaap Akkerhuis; Donna Austin; Wale Bakare; Graeme Bunton; Gary Campbell; Fatima Cambronero; Olivier Crepin-Leblond; Avri Doria; Eduardo Diaz; Stephanie Duchesneau; Amr Elsadr; Lars-Erik Forsberg; Alan Greenberg; Robert Guerra; Feng Guo; Manal Ismail; Staffan Jonson; Paul Kane; Yasuichi Kitamura; Brenden Kuerbis; Cheryl Langdon-Orr; Elise Lindeberg; Allan MacGillivray; Camino Manjon-Sierra; Vika Mpisane; Seun Ojedeji; Plamena Popova; Jonathan Robinson; Jorg Schweiger; Greg Shatan; Matthew Shears; Maarten Simon; Peter Van Roste; Jiankang Yao

Staff: Grace Abuhamad, Bart Boswinkel; Berry Cobb; Marika Konings; Bernard Turcotte

Apologies: Martin Boyle; Chuck Gomes; Tony Holmes; James Gannon; Kris Seeburn

Please let Grace know if your name has been left off the list (attendees or apologies).

Proposed Agenda:

1. Welcome and Roll Call

2. Review of Variables Document

3. Review of Framework Document

4. Live-Editing of Pros and Cons Document

5. Thoughts on this sub-group on how best to use time in Frankfurt

6. Assignments for fleshing out parts of Framework Document

7. AOB

Notes & Action Items:

- Strawman is first draft - not a final list of proposals but attempt to capture ideas and proposals circulated to the list so far. If there are any proposals and/or elements missing, these should be pointed out by the sub-group and can be updated as such.
- Need to review RFP2B document at some point to indicate how elements have been replaced as one of the requirements of the RFP.
- Content of matrix is identical to individual strawman proposals that were circulated (to facilitate comparison)

Strawman 1 Questions / Comments

- Although focus is on naming functions, should other clients from IANA also be considered when working out these proposals? - Each of the other two communities already have a review body, however, no external body to ICANN currently for naming community. Question is probably whether the oversight body is naming only or should/could also incorporate other communities.
- Security / stability aspects may need to be expanded - e.g. responding to incidents, review of security / stability issues
- Would this proposal result in changing to ICANN Bylaws? Probably not, but may need further consideration.
- Why is development of governing documents limited to group of registries and not a multistakeholder approach? This alternative is foreseen in proposal 2 and 3 and as such is also on the table for consideration.
- Composition of 2 and 3 are more aligned with views of At-Large
- Can different straw men proposals be mixed and matched? Yes, that is the intent. Not intended to be siloed proposals. Same structure was done with exactly the mixing and matching in mind.
- How is enhanced separability taken into account under strawman 1? Self-sufficiency within ICANN structure is considered here so it could be taken out if needed (e.g. no shared personnel, no shared IT resources, no shared support resources). No untangling needed should IANA division need to be taken out. How would this work in practice (taking IANA function out of ICANN as a mechanism for non-performance) - if performance is bad, taking IANA function out of ICANN may not be the solution if you would take the whole division, including staff out of it as well. Straw man 1 only foresees this option if the breach is as a result of ICANN action / role, not performance f IANA itself - those would be solved through review and remedial action (or potentially RFP for a new operator).

Strawman 2 Questions / Comments

Features of number 2 may result in a self-sustaining model, more separable from ICANN than 1, but duplication may add to cost (what would be barred resources). Consider difference between a separate division and completely separate entity.

Strawman 3 Questions / Comments

- Funding may be issue, different arrangements ccTLD and gTLD, stability ccTLD funding not as ensured as gTLD funding. Splitting up gTLd funding in portions may be possible
- Funding: difficulty agreement across registries.
- If funded by ICANN separability will be issue
- Participation of GAC: Example of Canadian government officials, not in position to participate in decision-making position in non-governmental organizational due to liability issues. GAC representatives requested to check with their own legal services if similar position as Canada.
- Question: Funding through charging fee for services?

Overall comments

- Re oversight overall body: should no oversight body as model be considered? Answer, not considered, unless in the context of organizational separation.
- Oversight functions can be realized in different way then creating external body, for example review every x years, with potential of separation, which assumes separability of IANA Function
- IANA Functions Contract needs to be replaced, in the elements continued in it. Whether this is done though external body or not is another question
- With regard to oversight Function, need for operational checks + need for oversight body/function to review of contract/review overall terms.
- A non incorporated oversight body -> risk of personal liability
- Alternative ideas, please add to matrix for further discussion. Discussion on merits of proposals and not on in or out of scope, to choose from ideas.
- NTIA function re delegation and delegation to be replaced by? (oversight body, is there a need/ serves a purpose) Maybe check with NTIA/IANA staff whether check has been useful?
- Where does oversight body need to incorporated? Some countries provide exemption to applicability of national law. However going into intricacies of comparing national laws way beyond scope of WG. Immunity is concept that may affect accountability adversely
- gTLDs have a contract with ICANN under California law, whether this has an impact discussion unclear.
- Immunity: two=edged swords protects against Frivolous accountability <-> accountability

Next point of discussion:

- Composition of oversight body/
- Suggestion to determine what is meant by oversight, to decide whether one or more entities. See also different proposals
- Use headings in Matrix in subject line in emails on the list to channel discussion.
- Use Google docs for comments, Pro's and Con's to be included in Google docs repository to make suggestions.

MATRIX HAS BEEN SEND TO LIST AND HAS BEEN UPLOADED ON WIKI.

Meeting Adjourned at 15: 34 IUTC

Transcript

The transcript is available here: RFP_Meeting2_12Nov.doc

Recording

The Adobe Connect recording is available here: https://icann.adobeconnect.com/p34f335sto4/

The audio recording is available here: https://icann.box.com/shared/static/x4mnl8in1d23v1ibx1it.mp3

Documents Presented

CWG RFP3 Strawman 1.docx

CWG RFP3 Strawman 2.docx

CWG RFP3 Strawman 3.docx

Strawman Matrix.docx

Chat Transcript

Marika Konings:Welcome to the RFP3 Subgroup Call of Wednesday 12 November

Amr Elsadr:Hi Greg. Hi all.

Greg Shatan:Good morning, good afternoon and good evening, all

Eduardo Diaz - (ALAC):¡Hola a todos!

Gary Campbell:Good Morining all

Bernard Turcotte - staff support:hello

Seun Ojedeji:Hi

Seun Ojedeji:I am in a meeting and will only be able to listen to Audio and communicate by text

Yasuichi Kitamura:hi, all

Matthew Shears (CDT):hello

Matthew Shears (CDT):Is the PROC also the contracting entity?

Robert Guerra:hello all

jaap akkerhuis SSAC:Hello all, Having a terrible cold and hardly a voice

Wale Bakare:Hello all

Robert Guerra, SSAC:Appreciate the work on the proposals. Would be good to discuss if there are elements missing or things to incorproate items raised during call

Matthew Shears (CDT):yes, really helpful

Alan Greenberg:Given the timing when this was sent, a very brief summary of the 3 proposals would be useful.

Seun Ojedeji:I think establishing a new body is not a principle and so we should try to have strawman proposals that address other options

Robert Guerra, SSAC:matrix was sent around, got it a bit later then the 3 docs

Matthew Shears (CDT):@ seun - I think it is useful for us to have it there no matter

Matthew Shears (CDT):as a point of comparability

Grace Abuhamad:@Alan -- resent Matrix

Marika Konings:Everyone has scroll control

Eduardo Diaz - (ALAC):Will strawman pro 1 require to change ICANN by-laws?

Amr Elsadr:I seem to be missing how seprability is possible under strawman1. Would appreciate clarification on what the thoughts behind seprability in this model.

Robert Guerra, SSAC:A couple of comments in regards to the oversight body: 1. Though we are focusing on names, there are other "clients" of the iana function. As such, might I suggest more inclusive language that includes other itnerested communities, such as numbers & protocols, (RIR's, IETF, etc). 2. There has been a focus/stress on security & stability of the system - suggest proposals include security & stability review as well.

Robert Guerra, SSAC:it could be under SLA.. which would be a way to cover it, but not sure.

Matthew Shears (CDT):I think Robert raises an important point (sent a mail to this effect to this list earlier today)

Matthew Shears (CDT):how holistic do we need these prposals to be? and how much do we need to take into account numbers and protocols

Allan MacGillivray:@Robert G - we are to only look at the nmaes portion. numbers and protocals have to be dealt with by the ICG.

Matthew Shears (CDT):can't really initiate an RFP for the IANA function without taking other affected parties into account

Donna Austin, RySG:My understanding is that the ICG will consider the proposals received from the 'affected parties' and will ultimately develop one transition proposal to cover all.

Mark Carvell:Excellent work on describing the proposals and providign a comparison matrix with well-identified headings. Very well thought through and presented. Key characteristic of SM 1 is the limited involvement in the "oversight" of other constituencies including governments - what happens if public interset issues and decisions emerge in the operations? How woudl they be handled?

Matthew Shears (CDT):+ 1 Olivier

Stephanie Duchesneau:It may be useful to think about the items form Allan's triage that we identified should be retained but aren't naming-specific.

Elise Lindeberg - GAC:Mark - You are right, - think this point to p.2 and 3 as beeing the most inclusive multistakeholder aproch

Amr Elsadr:Sorry. I actually got disconnected for a while. :P

Lars Erik Forsberg, GAC:Absolutely. I doubt Strawman 1 2a is even to be considered by GAC members

Elise Lindeberg - GAC:+1 Lars

Matthew Shears (CDT):have to acount for failure of IANA function for example performance and/or capture, etc., by ICANN (as the contract holder for the IANA function) I supose

Amr Elsadr:@Lars @Elise: My understanding is that oversight in strawman1 2a is limited to SLA clauses (if that makes a difference).

Wale Bakare:@Amr, i agree with you

Seun Ojedeji:Strawman2 says Proc will not have members and it says its BOD will be drawn from the various PROC commitees. My first question will be why do we need to create this new tree based organisation. Who determines members of the commitees, what will be start up BOD look like where does this committee get funding from.

Robert Guerra, SSAC:issue with 2& 3 is that it add a new level of duplication in regards to administration, governance, etc. there would be a large start up cost.

Lars Erik Forsberg, GAC:Maybe Amr but this is not clear from the strawman

Staffan Jonson:Amr: My understanding as well

Elise Lindeberg - GAC:Amr - I think thats the part of the problem here - to limit oversight to SLA`s

Robert Guerra, SSAC:would the multi-stakeholder groups be drawn ONLY from ICANN, or other communities as well?

Lars Erik Forsberg, GAC:+1 Elise

Seun Ojedeji:Also strawman 2 says the PROC will be from icann SO/AC but not those directly involved in same ICANN SO/AC...that sound like a contrast

Cheryl Langdon-Orr (CLO) ALAC:@robert I tji k it preferable that MSG input beyond ICANN is backed in... yes

Robert Guerra, SSAC:I like the principle of #2, as it imbeds IANA in ICANN in a way that, shoudl the need arise, it can be moved out. working out the detail is the challenge

Amr Elsadr:@Elise: OK. Got it. I can see how this limitation may be problematic.

Grace Abuhamad:Would oversight beyond SLAs be part of the Accountability CCWG's work?

Robert Guerra, SSAC:proposal 2 - i worry about having to duplicate staff roles, mostly adminsitrative ones - like HR, legal, etc.

Robert Guerra, SSAC:that are now available now from icann now

Amr Elsadr:@Grace: I suspect that is a grey area that needs to be resolved. :)

Elise Lindeberg - GAC:Amr - yes, oversight as I see it should be buildt on more than the cheking tecnical performance

Amr Elsadr:@Elise: You're probably right. I think keeping SLA oversight to the direct customer may work, but we should identify what else requires oversight, and how/why other stakeholders should be involved. I'm still stuck on the contractual authority role here as opposed to oversight, although I appreciate this may just be a semantic difference. :)

Elise Lindeberg - GAC:I have put this forward before - could a oversight function be more of a mechanism to be put together rather then a set entety

Allan MacGillivray:How would PROC be financed? By the registries I suspect. If AL:AC and GAC were on the Board, would they be willing to help defray the costs of operating it?

Seun Ojedeji:@Alan the document is saying that PROC will be financed by ICANN

Mark Carvell:Both PROC and IANA being funded by ICANN in SM 2 makes me nervous about loss of independence.

Donna Austin, RySG:Would it be useful to undersand the currently staffing/resourcing of IANA in order to understand possible implications of separation. We also need to take into account how IANA staff would feel about the possibility that they could at any point in time, through no fault of their own, be picked up and moved out.

Seun Ojedeji:I for one will appreciate that strawman 2(being the most promising) be further looked into with a view of reducing the over-reaching structure being introduced.

Amr Elsadr:@Mark: Not sure how funding by ICANN in SM2 is much of an issue, considering that in this model IANA is fully-owned subsidiary of ICANN.

Robert Guerra, SSAC:I see option #3 as more revolutionary then evolutionary. perhaps a long term goal, but not something we can do in our short timeframe

Avri Doria:why isnt there a colum for each of no new oversigth and for intermittent AOC type review oversight? Are we predetermining oversight?

Donna Austin, RySG:I agree with Robert

Elise Lindeberg - GAC:Amr - I agree in principle, - The most important will be to secure current contractual requirements for the separation of the policy and operations duties in one form or the other

Amr Elsadr:I like SM3 more than the others. It allows for the easiest option of seprability (although this does not necessitate immediate seperation). This is a good way to deal accountability issues.

Avri Doria:we need to pick one of these 3? I am iuncomfortable with that.

Amr Elsadr:I don't think we need to pick one. We can mix and match, as well as continue the discussion on other options. (I hope)

Brenden Kuerbis:Agree with Avri, Amr

Avri Doria:well is no oversight or intermittent gran review included in our considerations, with more focus on apppeals (exception management) than on active oversight.

Jonathan Robinson:@Amr. Yes that is my understanding too i.e. no need to pick one. Currently this is a walk through of the three but not with a view to picking one

Staffan Jonson:However: Even if these scenarios draw on complete differentiation from ICANN, we need to give it a thorough consideration. WE cannot throw out the proposal this early due to finacing ...

Seun Ojedeji:And how is the PROC accountable in all these. Perhaps we should also give that a thought.

Robert Guerra, SSAC:good point in regards to ability (or not) for Govt. reps to be involved

Avri Doria:Isn't one of our principle a full muitstakeholder model with equal footing?

Avri Doria:so how could we avoid equal Govt based org particpation.

Robert Guerra, SSAC:a range of funding options can be on the table. free for service to including cost in registrant icann fee could be options..

Robert Guerra, SSAC:fee for service i mean..

Graeme Bunton - RrSG:Will certainly raise that potential with the RrSG

Brenden Kuerbis:Re financing, SP1-2a is certainly the most direct, and could be used in other SM models

Donna Austin, RySG:any increase in registry/registrar fees would inevitably impact registrants.

Paul Kane:I am on a bad Internet link ..... (sorry).We need to be careful not to operate out of scope, we are just looking to transition NTIA oversight. The ccTLD community are currently conducting a survey and almost 75% are _not_ wanting to move IANA to a separate organisation Many ccTLDs already fund their local accountability processes and the IANA process is just updating a database which currently has 2 FTE.

Robert Guerra, SSAC:proposing a range of funding options might be good to get comments fro the community.

Mark Carvell:yes the government participation question certainly is a difficult issue (one of the benefits of consensus-based committee decisions is that it obviates risk of individual government liability for their contributing to a decision).

Avri Doria:I think all 3 models are overkill. i think we need a more delciate touch in all of this.

Eduardo Diaz - (ALAC):@Paul: What is FTE?

Seun Ojedeji:Oh...someone is remembering that the Registrant is at the receiving end

Stephanie Duchesneau:full time employee

Avri Doria:full time eqquivalent?

Alan Greenberg:@Eduardo Full Time equivalent (1 person, even if carried out by fractions of multiple people.

Seun Ojedeji:Thanks for that update @Paul

Eduardo Diaz - (ALAC):@Alan: Thanks

Seun Ojedeji:i really fear we are putting too much justice on this matter

Mark Carvell:I guess governments prefer committees - easier to set up and adapt to changing circumstances than a legal entity. And are cheaper to run.

Alan Greenberg:Cannot understand Avri

Robert Guerra, SSAC:Avri - your sound is terrible. can you type as well, please. thank you

Seun Ojedeji:I have too go now unfortunately....in other to make it back home for the next meeting

Seun Ojedeji:thanks

Staffan Jonson:Avri is breaking up

Grace Abuhamad:Avri's comment in chat earlier -- Avri Doria: I think all 3 models are overkill. i think we need a more delciate touch in all of this.

Robert Guerra, SSAC:@avri - for delicate/minimal touch - are there aspects of the proposals can could be helpful?

Olivier Crepin-Leblond:Avri's sound is too loud - so she could speak slightly away from the mic and it would be better

Brenden Kuerbis:Exactly

Avri Doria:i have aleeady wrotten this up on some list or other.

Avri Doria:so my sound problem was i was too loud? thanks, i will try to adjust, hard for me to tell.

Elise Lindeberg - GAC:Avri - separability without separation is something to discuss. I guess that goes to what the NTIA has today in the contract.

Brenden Kuerbis:There needs to be someone/something that can rescind the authority (embodied in a contract) to perform the function

Avri Doria:one of the things i suggested somewhere was putting it in a trust with and adminstrator who could c alll together the review team is necessary. which would be crated in a cross community WG sort of manner.

Avri Doria:but i guess it is doead on arrival with this pro oversight crowd.

Avri Doria:what we do not need is another unaccountable beureacracy being created.

Robert Guerra, SSAC:+1 to comments Allan M. just mentioned. IMHO, ties into Avri's comments as well

Avri Doria:especailly not a steady state group that will finding new things to do./ create a new oversigh mechanism and we will have a whole new rich field for feature creep.

Amr Elsadr:@Robert: +1

Amr Elsadr:Maybe we should proceed to identify the different aspects of IANA that require "overshight", so we can determine who is involved in what aspects, and how.

Amr Elsadr:"oversight", not "overshight". :)

Avri Doria:isn;t scope part of the merits discussion/ procss is not pserpate ffrom substance in this discussion about institutional arrangements.

Elise Lindeberg - GAC:Amr +1 - thats why the Triage is so essential...

Avri Doria:The substance of this issue is largely process.

Brenden Kuerbis:Where should we make comments on specific items within proposals?

Brenden Kuerbis:In the matrix draft document?

Avri Doria:oh no, i see there isn't a empty column for a minimalist approach. just a comments field.

Mark Carvell:Much will depend on the definition of "oversight": constant checking due process is followed by operator, appellate recourse for IANA operator decisions, conducting hearings, changing bylaws, strategic review of efficacy of IANA framework, periodic review of operator's performance, approval of senior appointments, over the horizon scanning.....

Grace Abuhamad:Documents are uploaded here: https://community.icann.org/display/gnsocwgdtstwrdshp/Current+Drafts

Grace Abuhamad:Also will be linked to in Meeting Notes

Avri Doria:i give up constantly. i just keep doing it over and over again.

Cheryl Langdon-Orr (CLO) ALAC:some other county for 'incorporation' needs to be an option listed. IMO

Cheryl Langdon-Orr (CLO) ALAC:good points @Alan Mc

Elise Lindeberg - GAC:looking into different jurisdictions...comperative law, - I agree its something that can not be done in our timeframe

Amr Elsadr:Is leaving the jurisdiction as is now, with the option to be changed by the oversight body/contracting authority an option?

Robert Guerra, SSAC:agree that might be good to have broader language used in regards to jurisdictions - US, other countries, etc. that being said. Would changing away from California law require contracts beng reopended?

Amr Elsadr:I'm not very excited about the prospect of being married to one jurisdiction. The nature of local laws changes. I would be more in favour of the flexibility to move to different jursdictions as/if the need arises.

Allan MacGillivray:@Alan - we will not get to choose whether a government e.g. Switzerland grants immunity from national law. This makes it very hard to proceed on this assumption.

Alan Greenberg:@Allan. Yes, understood. But I think it important that one person's panacea is another vexatious problem...

Paul Kane:FTE (Full Time Equivalents) ... ie 2 staff operate the IANA Database/Root Zone service

Mark Carvell:What is the expected output from Frankfurt based on this excellent exploratory work?

Cheryl Langdon-Orr (CLO) ALAC:this is good progress ,and staging point for the F2F meeting though developed by a good CA

Grace Abuhamad:We can do a Google doc if Greg would like

Cheryl Langdon-Orr (CLO) ALAC:... a good call today... I do like a collaborative document option though YES

Cheryl Langdon-Orr (CLO) ALAC:they could be shared for a collaboration great

Alan Greenberg:Greg obvouisly has far too much time to devote to thos! And I am grateful!

Avri Doria:i really with we were talking about ncessessry activities as opposed to what overisght body does.

Avri Doria:wish not with. i am out of consensus with y'all.

Mark Carvell:Yes - agree with Amr and we woudl then know better if it should eb a committee-type structure or a deepeer-rooted legal entity with allthat goes with that.

Avri Doria:and unfortunately can't come to Frankfurt.

Grace Abuhamad:Just audio

Eduardo Diaz - (ALAC):We need to have some consensus on which proposal (or combinations) is agreeable to the group. If not before at the begging of the F2F meeting. Then deep into the details of whatever is selected.

Cheryl Langdon-Orr (CLO) ALAC:bye for now then thanks all ... THANKS Greg

Grace Abuhamad:no visual in Frankfurt

Olivier Crepin-Leblond:Thanks for this very productive call, Greg!

Staffan Jonson:This is excellent work. Thank You!

Wale Bakare:Unfortunately, not many contributors could be part of consensus

Eduardo Diaz - (ALAC):Gracias

Bernard Turcotte - staff support:bye

Robert Guerra, SSAC:bye all

Allan MacGillivray:Great meeting!

Graeme Bunton - RrSG:thanks.

Elise Lindeberg - GAC:bye - thanks

Amr Elsadr:Thanks Greg and all. Bye.

Fatima Cambronero:thanks Greg, all. Bye

Wale Bakare:Only the CWG members

jaap akkerhuis SSAC:bye

Mark Carvell:Thanks and bye - sorry I can't be in Frankfurt.