






**Cross-Community Working Group on Enhanced Accountability (CCWG-Accountability) Proposal  
NTIA Criteria Assessment Chart**


In the chart below, NTIA analyzes the CCWG-Accountability portion of the IANA Stewardship Transition Proposal against a series of questions developed by NTIA and other U.S. government agencies. The questions build on NTIA’s March 2014 criteria for the transition proposal with the purpose of assisting in determining whether and how the proposal meets the criteria.

- KEY:**
-  **Criteria Component Met**
  -  **Criteria Component Partially Met**
  -  **Criteria Component Not Met**

**Process Used to Develop Proposal**

<b>Component</b>	<b>Assessment</b>	<b>Justification</b>	<b>Citations</b>
Have all stakeholder groups been consulted, including those who may not be deeply involved in the immediate ICANN community?		Yes, the CCWG-Accountability was open to the public. It consisted of 28 members from the Chartering Organizations (GNSO, ccNSO, ASO, GAC, ALAC), as well as 172 individual participants. Each of the Chartering Organizations appointed between two and five members to the CCWG-Accountability. Anyone interested could join as a participant or observer. This created an opportunity for meaningful participation from both ICANN community members and groups and individuals not traditionally part of ICANN.	CCWG-Accountability Proposal:  Appendix A, pg 1, para 5
Were clear opportunities and timelines for engagement provided during the development of the proposal?		Yes, the CCWG-Accountability proposal development process provided many opportunities for engagement with clear timelines for input. To enable transparent engagement, the group used a public website to host working documents. In addition, the group maintained a public email list that was open to any interested parties to join or monitor. The public website archived all email exchanges in real time.  The proposal development process also included three public comment periods, which drew over 200 comments. These comment periods were each	CCWG-Accountability Proposal:  Appendix A, pgs 1-13  Appendix C, pgs 1-9  Appendix D, pgs 1-10

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		<p>open for comment for around 30 days. The group gave each recommendation multiple readings, allowing many opportunities to offer edits and discuss before issuing the report. CCWG-Accountability meetings also offered language translation. Co-chairs set meeting schedules well ahead of time, and sent agendas ahead of each meeting. All of this information was available to all public observers. This entire proposal development process included 221 calls or meetings and more than 13,900 email messages over two years.</p>	<p>CCWG Mailing List Archive:  <a href="https://community.icann.org/display/acctcrosscomm/Mailing+List+Archi+ves">https://community.icann.org/display/acctcrosscomm/Mailing+List+Archi+ves</a></p> <p>Public Comment Report on CCWG Third Draft Proposal:  <a href="https://www.icann.org/en/system/files/files/report-comments-draft-ccwg-accountability-proposal-08jan16-en.pdf">https://www.icann.org/en/system/files/files/report-comments-draft-ccwg-accountability-proposal-08jan16-en.pdf</a></p> <p>CCWG Meeting Schedule:  <a href="https://community.icann.org/display/acctcrosscomm/Meetings">https://community.icann.org/display/acctcrosscomm/Meetings</a></p>
<p>Is the proposal reflective of a broad community-supported, practical and workable plan for enhancing ICANN’s accountability?</p>		<p>Yes, the final proposal of the CCWG-Accountability enjoys broad community support. Of the over 200 regular participants in the proposal development process, only five minority statements were included for the record. None of these statements questioned the premise of the transition, but instead took issue with specific items in the CCWG-Accountability proposal. The ICANN Board unanimously approved the proposal on March 10, 2016.</p> <p>The proposal reflects significant compromises reached by the diverse group of participants. Given the need for the transition proposal to meet the needs of the entire community, each Chartering Organization’s representative fought for the proposal to match what was best for his or her constituency. This created disagreements throughout the development process, but the effort to</p>	<p>CCWG-Accountability Proposal:</p> <p>Appendix A, pgs 1-13</p> <p>Appendix B (no page numbers)</p> <p>Appendix D, pgs 1-10</p> <p>Board Resolution:  <a href="https://www.icann.org/r">https://www.icann.org/r</a></p>

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		resolve these differences resulted in a stronger proposal.	<a href="#">resources/board-material/resolutions-2016-03-10-en#2.c</a>

**NTIA CRITERIA**



**I. Support and Enhance the Multistakeholder Model**

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Does the proposal support and enhance the multistakeholder model?		<p>Yes, the proposal supports and enhances the multistakeholder model of Internet governance. The proposal enshrines in ICANN’s Bylaws the main elements of NTIA and ICANN’s Affirmation of Commitments, which commit ICANN to seeking and supporting “broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making to ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent.”</p> <p>The proposal builds on the existing community structure by empowering the community with the ability to reject strategic plans and budgets, including the IANA functions budget; reject changes to bylaws; remove individual Board Directors; recall the entire ICANN Board; initiate binding independent review processes; and reject Board decisions related to reviews of the IANA naming functions.</p> <p>In addition, to use any of these powers, the community must engage in a process to escalate a petition from one of the community’s SOs or ACs. This process includes a community-wide forum on a petition, which can only happen after an additional SO or AC joins the petition. The community forum is an ICANN-funded opportunity for the entire community, including the ICANN Board, to discuss whether to use a community power. If the issue is not resolved through multistakeholder dialogue, then SOs and ACs will vote on</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 1, pgs 1-10</p> <p>Annex 2, pgs 1-15</p> <p>Annex 3, pg 2, para 4</p> <p>Annex 3, pgs 3-4, paras 10-14</p> <p>Annex 3, pg 7, para 35</p> <p>Annex 4, pgs 1-26</p> <p>Annex 5, pg 19, para 139</p> <p>Annex 7, pgs 2-3</p> <p>Annex 8, pg 1, paras 1-3</p> <p>Annex 9, pg 5, paras 33-</p>


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		<p>whether to use a community power. Different powers require different thresholds of stakeholder support. Four Decisional Participants (among the GNSO, ccNSO, ASO, ALAC, and GAC) must support a petition to reject a budget, reject Board decisions associated with the IANA naming functions, and recall the entire Board. To initiate a binding independent review process, remove an individual Board Director, or reject or approve a Bylaw, three Decisional Participants must support the petition. In no case can more than one Decisional Participant object to using a community power.</p> <p>If the Board does not comply with the outcome of the community’s use of a power, the community will be able to use its standing as the Sole Designator of the ICANN Board of Directors—a legal designation that gives the community standing in courts—to seek legal remedy to enforce a decision.</p> <p>In addition, the creation of Fundamental Bylaws, for which amendments, additions, and removals will require a 3/4 vote of the Board and positive assent from the community, ensure that ICANN’s commitment to consensus-based multistakeholder processes cannot be changed without supermajority approval by the community.</p> <p>The proposal ensures, by codifying the GAC’s existing operating principle to work by consensus, which is “understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection,” that a group of governments will not be able to unduly influence the ICANN Board. This, in turn, provides a safeguard for the protection of the multistakeholder model.</p> <p>The proposal will also enshrine in ICANN’s Bylaws regular independent reviews of SOs and ACs. This addition will ensure that SOs and ACs remain accountable and inclusive, and do not restrict opportunities to participate in ICANN decision-making by a diversity of participants.</p> <p>Finally, enhancements made to the independent review process will allow the</p>	<p>34</p> <p>Annex 9, pg 11, paras 85-89</p> <p>Annex 10, pg 1, para 3</p> <p>Annex 11, pg 3, para 13</p> <p>Annex 12, pgs 3-4, paras 7-11</p> <p>GAC Operating Principle 47:  <a href="https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles">https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles</a></p>



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		community to hold the Board accountable and ensure that ICANN adheres to its commitment to “employ open, transparent, bottom-up, multistakeholder processes.”	
Does the proposal reflect input from stakeholders? Do stakeholders support the proposal?		Yes, the proposal reflects input from stakeholders and demonstrates stakeholder support for the proposal. This entire proposal development process included 221 calls or meetings and more than 13,900 email messages over two years. The CCWG-Accountability held three public comment periods during the proposal development process. The group considered each round of comments and used them to guide revisions and discussions leading up to the next draft. The group offered the proposal to the ICANN Board with consensus approval and five minority statements. Each Chartering Organization supported the proposal going forward. The ICANN Board vote on the proposal was unanimous.	CCWG-Accountability Proposal:  Appendix D, pgs 1-10  Board Resolution: <a href="https://www.icann.org/resources/board-material/resolutions-2016-03-10-en#2.c">https://www.icann.org/resources/board-material/resolutions-2016-03-10-en#2.c</a>
Does the proposal replace the USG role with one that is dominated or controlled by governments or intergovernmental institutions?		<p>No. The proposal protects against replacing the U.S. role with one dominated or controlled by governments or intergovernmental institutions. Post-transition, governments will retain their advisory role via the GAC. The proposal includes a bylaw amendment that codifies the GAC’s existing operating principle to work by consensus, which is “understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection.”</p> <p>ICANN’s current bylaws require the Board to notify the GAC if it is not going to follow GAC advice and try, in good faith, to reach a mutually acceptable solution. The proposed bylaw change institutionalizes the current practice that the Board-GAC consultation is predicated on consensus advice, as defined by the lack of formal objection. This will effectively prevent different governments from forcing the Board to choose between conflicting advice. The Board, however, will retain the ability to reject any GAC advice if a mutually acceptable solution cannot be found.</p> <p>In addition, there is no situation in which the GAC could unilaterally use or control the new community powers. The escalation and engagement requirements for advancing a petition require a high level of agreement from</p>	CCWG-Accountability Proposal:  Annex 1, pg 7, paras 40-45  Annex 2, pg 13, para 74  Annex 4, pg 25, para 113  Annex 4, pgs 22-23, paras 99-103  Annex 9, pg 11, paras 85-89  Annex 11, pgs 1-2, paras 5-11  GAC Operating Principle

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		<p>the various stakeholder groups across the community. The GAC is also barred from participating in the community powers when the subject of a petition is the Board’s implementation of GAC advice.</p> <p>Finally, the proposal recommends that the effectiveness of the relationship between the GAC, the ICANN Board, and the ICANN community is regularly reviewed as part of the accountability and transparency reviews enshrined in ICANN’s Bylaws.</p>	<p>47:  <a href="https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles">https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles</a></p>
<p>Does the proposal build in protections against unilateral decisions that are not pursuant to publicly-documented and stakeholder-accepted procedures?</p>		<p>Yes, the proposal protects against unilateral decision-making.</p> <p>The proposal empowers the community with the ability to reject strategic plans and budgets; reject changes to bylaws; remove individual Board Directors; recall the entire ICANN Board; initiate binding independent review processes; and reject Board decisions related to reviews of the IANA naming functions. These powers exist for the community to use in the event that it decides, collectively, that existing ICANN mechanisms have failed to result in action despite a community-wide recommendation.</p> <p>Since these powers are meant to be used only when the community is in agreement regarding what needs to be done, none of these powers will be able to be exercised by a single SO or AC. Instead, each decision to use a power must meet a threshold of community support. The thresholds are different for each power, but in no case will a single SO or AC be able to exercise a power without at least two others supporting the decision and no more than one opposing. However, before even being able to have a vote among SOs and ACs to use a community power, the petitioning SO or AC must engage in an escalation process that includes a community-wide forum on a petition. This forum will give the ICANN Board and the community the opportunity to discuss the petition, taking in the views of all stakeholders, with aim of resolving an issue through dialogue rather than calling a vote to use a community power.</p> <p>In addition, regular independent reviews of SOs and ACs are enshrined in ICANN’s Bylaws and ensure that SOs and ACs continue to represent their</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 1, pgs 1-10</p> <p>Annex 2, pg 11, paras 46-70</p> <p>Annex 7, pgs 2-3</p> <p>Annex 8, pg 1, paras 1-3</p> <p>Annex 9, pg 5, paras 33-34</p> <p>Annex 10, pg 1, para 3</p>


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		<p>respective constituencies and stakeholder-accepted procedures. Also, the enhanced independent review process recommended in the proposal will allow any individual with standing—any person/group/entity “materially affected” by ICANN action or inaction—to challenge a decision by the Board that the community believes to be in contravention of ICANN’s Bylaws, which will enshrine bottom-up, transparent processes.</p>	
<p>Does the proposal provide adequate checks and balances to protect against capture?</p>		<p>Yes, the proposal provides adequate checks and balances to protect against capture. The proposal will increase power sharing by empowering the community to hold the ICANN Board accountable. A single SO or AC cannot exercise any of the newly created community powers without the support of other stakeholders.</p> <p>The proposal makes no change to the process of Board selection. The Board is selected via a diverse constituency framework to ensure all stakeholder groups are represented, except for governments, which are not permitted to serve on the Board. Terms will continue to be staggered and adhere to geographical/regional diversity requirements. Board members will also still be subject to removal by a vote of 3/4 of all other members. While the empowered community will be able to remove individual directors and the entire Board, it must do so through the escalation and engagement process (except for removing non-NomCom Directors, which can be removed by a 3/4 vote within the appointing SO or the ALAC).</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 2, pgs 10-19, paras 55-76</p> <p>Annex 4, pgs 22-23, paras 99-103</p> <p>Annex 11, pgs 1-2, paras 5-11</p>
<p>Does the proposal ensure transparency?</p>		<p>Yes, the proposal ensures transparency. The proposal will enshrine in ICANN’s Bylaws the accountability and transparency reviews required today by the Affirmation of Commitments. Specifically, the Board will be obligated to review periodically ICANN’s “execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and be accountable to all stakeholders.”</p> <p>The accountability and transparency review teams will have access to ICANN documents, and if ICANN refuses to disclose documents, it must provide a justification. If the review team is not satisfied with ICANN’s justification, it can</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 3, pg 5, para 8</p> <p>Annex 7, pgs 2-3</p> <p>Annex 8, pg 5</p> <p>Annex 9, pg 6, para 39</p>

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		<p>appeal to the Ombudsman and the ICANN Board. The community can challenge the Board’s inaction related to an accountability review’s recommendations.</p> <p>In addition, any SO or AC can request to inspect accounting books and records of ICANN, as well as the minutes of proceedings of the Board of Directors and committees of the Board of Directors. If the Board refuses or ignores the request, the petitioning Decisional Participant could enforce its inspection right directly through the independent review process or by petitioning the community to initiate the escalation processes for a community independent review. The California Corporations Code outlines the right to such an inspection, which the Bylaws will protect as a Fundamental Bylaw.</p>	<p>Annex 9, pg 9, para 65</p> <p>Annex 9, pg 11, paras 78-97</p> <p>Annex 12, pg 5, para 16</p>

**II. Maintain the Security, Stability, and Resiliency of the Internet DNS**


Component	Assessment	Justification	Citations
<p>Does the transition proposal propose steps for ensuring a smooth transition that maintains the stability, security, and resiliency of the DNS?</p>		<p>Yes, the proposal will ensure a smooth transition that maintains the stability, security, and resiliency of the DNS. No significant change to the organization will happen without the clear, unambiguous intent of the vast majority of the Internet community. The rigorous escalation process to use the community powers will ensure this stability. Fundamental Bylaws, which only the community can change with supermajority approval, protect the pillars of ICANN’s structure, as well as its values. In addition, any petition from the community to reject the ICANN budget would have no impact on the IANA functions budget. Creating a separate budget for the IANA functions allows the community to hold ICANN accountable via budget rejection without jeopardizing the stability of the DNS.</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 2, pgs 1-15</p> <p>Annex 3, pgs 2-3, paras 6-9</p> <p>Annex 4, pgs 6-7, paras 19-29</p> <p>Annex 5, pgs 1-26</p> <p>Annex 9, pgs 1-19</p>





**III. Meet the Needs and Expectations of the Global Customers and Partners of the IANA Services**

Component	Assessment	Justification	Citations
<p>Are there processes for transparency, accountability, and auditability of all parties?</p> <p>1. Are audit and accountability mechanisms considered and meaningful?</p> <p>2. Are other periodic reviews considered? If so, how would they function?</p> <p>3. Are dispute resolution mechanisms considered?</p> <p>4. Will results of reviews be made publicly available? If not, why not?</p> <p>5. Do proposed reviews, audits, etc. trigger corrections or enhancements</p>		<p>Yes, the proposal builds in processes for transparency, accountability, and the auditability of all parties.</p> <p>The proposal will enshrine in ICANN’s Bylaws the accountability and transparency reviews currently required by the Affirmation of Commitments. The reviews serve as effective and meaningful accountability tools because they allow community stakeholders to review ICANN’s execution of tasks. The review teams operate in a fully open and transparent manner, engaging stakeholders at all stages of issue identification and recommendation development.</p> <p>In addition to enshrining in ICANN’s Bylaws the accountability and transparency reviews currently required by the Affirmation of Commitments, the proposal will also establish in ICANN’s Bylaws the need for independent organizational reviews to include an assessment of whether and how SOs and ACs are accountable to their constituencies.</p> <p>The proposal strengthens existing dispute resolution mechanisms by enhancing the independent review process with a standing panel of experts, and making the process available for the community to seek a binding review of Board decisions. It also strengthens the reconsideration process by narrowing the grounds for dismissal of a reconsideration request and extending the time limitation for filing a request. The proposal further considers dispute resolute in its construction of the process necessary for using any of the new community powers. SOs and ACs would need to participate in a community forum with the Board to discuss a petition to use a community power, with the aim of resolving a dispute between the Board and the community through dialogue.</p> <p>All community reviews, independent reviews, organizational reviews, and reconsideration requests results are public.</p>	<p>ATRT2 Implementation Tracker:  <a href="https://community.icann.org/display/atrt/ATRT2+Implementation+Program">https://community.icann.org/display/atrt/ATRT2+Implementation+Program</a></p> <p>CCWG-Accountability Proposal:</p> <p>Annex 2, pgs 7-9, para 32</p> <p>Annex 7, pg 2-3</p> <p>Annex 8, pgs 5-6</p> <p>Annex 9, pg 6, para 39</p> <p>Annex 9, pg 9, para 65</p> <p>Annex 9, pg 10, para 76</p> <p>Annex 9, pg 11, paras 78-97</p> <p>Annex 10, pg 1, para 3</p> <p>Annex 12, pg 5, para 16</p>

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when deemed necessary? If not, why not?		Community reviews and organizational reviews produce formal recommendations and require the ICANN Board or the SO or AC being reviewed to take appropriate action, develop an implementation plan, and regularly update the community on its implementation progress.	
Are there processes for periodic assessments of performance and procedural evolutions or improvements, as needed?		Yes, the proposal includes meaningful processes for periodic assessments of performance that allows for procedural improvement as needed. The proposal will enshrine in ICANN’s Bylaws an IANA Function Review, as well as the reviews currently contained in the Affirmation of Commitments. The four subjects of the ongoing Affirmation reviews are: ensuring accountability, transparency, and the interests of global Internet users; preserving the security, stability, and resiliency of the Internet DNS; promoting competition, consumer trust, and consumer choice in connection with any implementation of generic top-level domains (gTLDs); and meeting the needs of law enforcement and consumer protection in connection with WHOIS implementation and recognizing national laws.	CCWG-Accountability Proposal:  Annex 7, pgs 2-3  Annex 8, pg 1, paras 1-3  Annex 9, pg 2, para 5  Annex 9, pg 4-5, paras 22-23  Annex 9, pg 6, para 39  Annex 9, pg 11, para 79  Annex 9, pg 15, para 140  Annex 10, pg 1, para 3

**IV. Maintain the openness of the Internet**

Component	Assessment	Justification	Citations
Does the proposal maintain the impartial and apolitical administration of ICANN?		<p>Yes. NTIA believes the proposal maintains the impartial and apolitical administration of ICANN. The proposal maintains this posture by empowering the community to hold the Board accountable through a series of powers only used when the community, as a whole, can reach agreement on the need to use these powers. This feature limits the influence any stakeholder or stakeholder group can have to impose political or other pressures on ICANN. The proposal also maintains this apolitical posture by enshrining the bottom-up, multistakeholder process in a Fundamental Bylaw that cannot be changed without supermajority community agreement, and enabling the members of the community, and the community acting as a whole, to challenge decisions that are not bottom-up. Individuals, as well as the community acting as a whole, can use the reconsideration and independent review processes to challenge such decisions.</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 3, pg 1, para 1</p> <p>Annex 3, pg 2, para 4</p> <p>Annex 3, pgs 3-4, paras 10-14</p> <p>Annex 8, pgs 1-8</p> <p>Annex 9, pg 5, paras 33-34</p>
Does the proposal address human rights or the free flow of information?		<p>Yes, the proposal addresses human rights and the free flow of information by enshrining ICANN’s commitment to “neutral and judgment free” administration of the DNS, as well as its commitment to the “openness of the DNS and the Internet,” as Fundamental Bylaws. These provisions will effectively prevent any party from using ICANN to limit access to the DNS, or implement any other policy that would attempt to use the administration of the DNS to restrict the free flow of information online.</p>	<p>CCWG-Accountability Proposal:</p> <p>Annex 1, pgs 1-10</p> <p>Annex 3, pg 1, para 3</p> <p>Annex 3, pg 2, para 5</p> <p>Annex 5, pg 16, para 112</p>