

9 March 2016

Transmittal of results of GNSO Council consideration of CCWG-Accountability Supplemental Final Proposal

Thomas Rickert, Mathieu Weill, León Felipe Sánchez Ambía
CCWG-Accountability Chairs

Dear Thomas, Mathieu, León,

On behalf of the GNSO, one of the Chartering Organizations of the CCWG-Accountability, and its diverse community of Stakeholders and Constituencies, we are pleased to hereby inform you that the GNSO Council has approved the CCWG Supplemental Final Proposal and its recommendations, and approves submitting the proposal to the ICANN Board.

The attached Council Motion Recorder details the level of support for each of the twelve (12) CCWG Recommendations, along with any accompanying statement or rationale provided by individual GNSO Council members. These statements reflect the positions of the individual(s) or group(s) submitting them, and are not reflective of the GNSO as a whole. It is our hope that this is informative and useful to the CCWG as it finalizes its work. We also expect volunteers from the GNSO community to contribute to the implementation of the Work Stream 1 recommendations as well as the Work Stream 2 topics.

Finally, on behalf of the GNSO, we would like to express our appreciation for the work of the Members, Participants, and especially the Rapporteurs and Co-Chairs of the CCWG to bring this phase to a successful closure. Well done!

Sincerely,

James Bladel
GNSO Chair

Donna Austin
GNSO Council Vice-Chair

Heather Forrest
GNSO Council Vice-Chair

Annex A - Adopted Resolution on CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations

Made by: James Bladel

Seconded by: Donna Austin and Heather Forrest

Whereas,

1. The GNSO Council, together with other ICANN Supporting Organizations and Advisory Committees, chartered the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) on 13 November 2014 'to deliver proposals that would enhance ICANN's accountability towards all stakeholders.
2. The CCWG-Accountability published its third draft proposal for public comment on 30 November 2015 (see <https://www.icann.org/public-comments/draft-ccwg-accountability-proposal-2015-11-30-en>).
3. All GNSO Stakeholder Groups (SGs) and/or Constituencies (Cs) submitted their input on the third draft proposal and its 12 recommendations.
4. The GNSO Council submitted input on the third draft proposal on 22 January 2016 (see <http://gns0.icann.org/en/correspondence/gns0-council-to-ccwg-accountability-22jan16-en.pdf>).
5. The CCWG-Accountability reviewed all the input received and submitted its Supplemental Final Proposal on Work Stream 1 Recommendations to the Chartering Organizations on 23 February 2016 (see <https://www.icann.org/news/blog/ccwg-accountability-delivers-report-to-chartering-organization>) for their consideration.
6. The GNSO Council has confirmed with the leadership of the CWG to Develop an IANA Stewardship Transition Proposal on Naming Related Functions (CWG-Stewardship) that conditions identified in its approval of its Final Report have been met (include link).
7. The Stakeholder Groups and Constituencies of the GNSO have considered the Supplemental Final Proposal on Work Stream 1, and the GNSO Council has discussed these positions at the ICANN 55 meeting in Marrakesh, Morocco.

Resolved,

1. The GNSO Council adopts the CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (see <https://community.icann.org/x/8w2AAw>) and more specifically the following recommendations:
 - a) **Recommendation #1:** Establishing an Empowered Community for Enforcing Community Powers
 - b) **Recommendation #2:** Empowering the Community through Consensus: Engagement, Escalation, and Enforcement
 - c) **Recommendation #3:** Standard Bylaws, Fundamental Bylaws and Articles of Incorporation
 - d) **Recommendation #4:** Ensuring Community Involvement in ICANN Decision-making: Seven New Community Powers
 - e) **Recommendation #5:** Changing Aspects of ICANN's Mission, Commitments, and

Core Values

- f) **Recommendation #6:** Reaffirming ICANN's Commitment to Respect Internationally Recognized Human Rights as it Carries out its Mission
 - g) **Recommendation #7:** Strengthening ICANN's Independent Review Process
 - h) **Recommendation #8:** Improving ICANN's Request for Reconsideration Process
 - i) **Recommendation #9:** Incorporating the Affirmation of Commitments in ICANN's Bylaws
 - j) **Recommendation #10:** Enhancing the Accountability of Supporting Organizations and Advisory Committees
 - k) **Recommendation #11:** Board Obligations with Regard to Governmental Advisory Committee Advice (Stress Test 18)
 - l) **Recommendation #12:** Committing to Further Accountability Work in Work Stream 2
2. The GNSO Council instructs the GNSO Secretariat to share the results of this motion with the Chairs of the CCWG-Accountability as soon as possible.
 3. The GNSO Council wants to express its sincere appreciation to the CCWG-Accountability, the GNSO members and participants in that effort, and especially the GNSO appointed Chair, Thomas Rickert, for all their hard work and delivery of Supplemental Final Proposal on Work Stream 1 Recommendations.

Annex B – GNSO Council Motion Recorder

GNSO Council Motion Recorder

DATE: Wednesday, March 9, 2016

Title of Motion: CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 3,4,5,7,8,9,12)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin
Motion / Action Type: All Other (Default)
Motion Date: 9-Mar-2016
Outcome (Pass = Green): **PASS**

Note: <ctrl+e> reset by clearing all voting entries
 Note: Rules Table & Logic found on cell O8.

Attendance	GNSO Council Members	House	S-Group	Order	Vote Count			
					Yes	No	Abstain	Absent
0	Hsu Phen Valerie Tan	CPH	NCA	1	1			
1	James Bladel	CPH	RrSG	2	1			
1	Volker Greinmann	CPH	RrSG	3	1			
1	Jennifer Gore Standiford	CPH	RrSG	4	1			
1	Donna Austin	CPH	RySG	5	1			
1	Keith Drazek	CPH	RySG	6	1			
1	Rubens Kuhl	CPH	RySG	7	1			
1	Johan Helsingius	NCPH	NCA	8	1			
1	Philip Corwin (BC)	NCPH	CSG	9	1			
1	Susan Kawaguchi (BC)	NCPH	CSG	10	1			
1	Heather Forrest (IPC)	NCPH	CSG	11	1			
1	Paul McGrady (IPC)	NCPH	CSG	12	1			
1	Anthony Harris (ISPCP)	NCPH	CSG	13	1			
1	Wolf-Ulrich Knohen (ISPCP)	NCPH	CSG	14	1			
1	David Cake	NCPH	NCSG	15	1			
1	Amr Elsadr	NCPH	NCSG	16	1			
1	Marilyn Maciel	NCPH	NCSG	17	1			
1	Stefania Milan	NCPH	NCSG	18	1			
1	Edward Morris	NCPH	NCSG	19	1			
1	Stephanie Perrin	NCPH	NCSG	20	1			
19								
		Percent	ClSum Total					
CPH Total		100.00%	7		7	0	0	0
NCPH Total		100.00%	13		13	0	0	0

Comment/Proxy/Alternate/Reason

Proxy to Rubens Kuhl

Statement submitted on behalf of IPC for CCWG Package

Statement submitted for Rec #7, #8, #12

Statement submitted for Rec #7, #8, #12

Statement submitted for Rec #7, #8, #12

Statement submitted for Rec #7, #8, #12

Statement submitted for Rec #7, #8, #12

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Title of Motion: CCGW-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 1)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin
Motion / Action Type: All Other (Default)
Motion Date: 9-Mar-2016
Outcome (Pass = Green): **PASS**

Note: <ctrl+r> reset by clearing all voting entries
 Note: Rules Table & Logic found on cell O8.

Attendance	GNSO Council Members	House	S-Group	Order	Vote Count				Comment/Proxy/Alternate/Reason
					Yes	No	Abstain	Absent	
0	Hsu Phen Valerie Tan	CPH	NCA	1	1				
1	James Bladel	CPH	RsSG	2	1				
1	Volker Greimann	CPH	RsSG	3	1				
1	Jennifer Gore Standiford	CPH	RsSG	4	1				
1	Donna Austin	CPH	RySG	5	1				
1	Keith Drazek	CPH	RySG	6	1				
1	Rubens Kuhl	CPH	RySG	7	1				
1	Johan Helsingius	NCPH	NCA	8	1				
1	Philip Corwin (BC)	NCPH	CSG	9	1				
1	Susan Kawaguchi (BC)	NCPH	CSG	10	1				
1	Heather Forrest (IPC)	NCPH	CSG	11	1				
1	Paul McGrady (IPC)	NCPH	CSG	12	1				
1	Anthony Harris (ISPCP)	NCPH	CSG	13	1				
1	Wolf-Ulrich Knoen (ISPCP)	NCPH	CSG	14	1				
1	David Cake	NCPH	NCSG	15		1			Statement submitted on Recs #1
1	Amr Elsadr	NCPH	NCSG	16	1				
1	Marilyn Maciel	NCPH	NCSG	17	1				
1	Stefania Milan	NCPH	NCSG	18	1				
1	Edward Morris	NCPH	NCSG	19		1			Statement submitted for Recs #1, 10, 11
1	Stephanie Perrin	NCPH	NCSG	20	1				
19									
		Percent	CkSum Total						
CPH Total		100.00%	7		7	0	0	0	
NCPH Total		84.62%	13		11	2	0	0	

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Title of Motion: CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 2)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin

Motion / Action Type: All Other (Default)

Motion Date: 9-Mar-2016

Outcome (Pass = Green):

PASS

Note: <ctrl-r> reset by clearing all voting entries
 Note: Rules Table & Logic found on cell O8.

Attendance GNSO Council Members

Order	House	S-Group	Vote Count			
			Yes	No	Abstain	Absent
1	CPH	NCA	1	1		
2	CPH	ReSG	2	1		
3	CPH	ReSG	3	1		
4	CPH	ReSG	4	1		
5	CPH	RySG	5	1		
6	CPH	RySG	6	1		
7	CPH	RySG	7	1		
8	NCPH	NCA	8	1		
9	NCPH	CSG	9	1		
10	NCPH	CSG	10	1		
11	NCPH	CSG	11	1		
12	NCPH	CSG	12	1		
13	NCPH	CSG	13	1		
14	NCPH	CSG	14	1		
15	NCPH	NCSG	15	1		
16	NCPH	NCSG	16	1		
17	NCPH	NCSG	17	1		
18	NCPH	NCSG	18		1	
19	NCPH	NCSG	19		1	
20	NCPH	NCSG	20	1		
Percent			CkSum Total			
100.00%			7	0	0	0
84.62%			11	2	0	0

Comment/Proxy/Alternate/Reason

Proxy to Rubens Kuhl

Statement submitted on Rec#2

Statement submitted on Rec#2

Statement submitted on Rec#2

Statement submitted on Rec#2

Statement submitted on Rec#2

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Title of Motion: CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 6)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin

Motion / Action Type: All Other (Default)

Motion Date: 9-Mar-2016

Outcome (Pass = Green):

PASS

Note: -ctrl+r- reset by clearing all voting entries
 Note: Rules Table & Logic found on cell O8.

Attendance GNSO Council Members

Order	House	S-Group	Vote Count				
			Order	Yes	No	Abstain	Absent
1	CPH	NCA	1	1			
2	CPH	RySG	2	1			
3	CPH	RySG	3	1			
4	CPH	RySG	4	1			
5	CPH	RySG	5	1			
6	CPH	RySG	6	1			
7	CPH	RySG	7	1			
8	NCPH	NCA	8	1			
9	NCPH	CSG	9	1			
10	NCPH	CSG	10	1			
11	NCPH	CSG	11	1			
12	NCPH	CSG	12	1			
13	NCPH	CSG	13	1			
14	NCPH	CSG	14	1			
15	NCPH	NCSG	15	1			
16	NCPH	NCSG	16	1			
17	NCPH	NCSG	17	1			
18	NCPH	NCSG	18	1			
19	NCPH	NCSG	19			1	
20	NCPH	NCSG	20	1			
Percent			ChSum Total				
100.00%			7	0	0	0	
92-31%			13	12	0	1	0

Comment/Proxy/Alternate/Reason

Proxy to Rubens Kuhl

Refer to transcript for Abstention statement

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Title of Motion: CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 10)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin
Motion / Action Type: All Other (Default)
Motion Date: 9-Mar-2016
Outcome (Pass = Green): **PASS**

Note: <ctrl-r> reset by clearing all voting entries
Note: Rules Table & Logic found on cell O8.

Attendance	GNSO Council Members	House	S-Group	Order	Vote Count				Comment/Prox/Alternate/Reason
					Yes	No	Abstain	Absent	
0	Hsu Phen Valerie Tan	CPH	NCA	1	1				
1	James Bladel	CPH	RrSG	2	1				
1	Volker Greimann	CPH	RrSG	3	1				
1	Jennifer Gore Standiford	CPH	RrSG	4	1				
1	Donna Austin	CPH	RySG	5	1				
1	Keith Drazek	CPH	RySG	6	1				
1	Rubens Kuhl	CPH	RySG	7	1				
1	Johan Helsingius	NCPH	NCA	8	1				
1	Philip Corwin (BC)	NCPH	CSG	9	1				
1	Susan Kawaguchi (BC)	NCPH	CSG	10	1				
1	Heather Forrest (IPC)	NCPH	CSG	11	1				
1	Paul McGrady (IPC)	NCPH	CSG	12	1				
1	Anthony Harris (ISPCP)	NCPH	CSG	13	1				
1	Wolf-Ulrich Knohen (ISPCP)	NCPH	CSG	14	1				
1	David Cake	NCPH	NCSG	15	1				
1	Amr Elsadr	NCPH	NCSG	16	1				Statement submitted for Recs #10
1	Marilyn Maciel	NCPH	NCSG	17		1			Statement submitted for Recs #10
1	Stefania Milan	NCPH	NCSG	18	1				Statement submitted for Recs #10
1	Edward Morris	NCPH	NCSG	19		1			Statement submitted for Recs #1, 10, 11
1	Stephanie Perrin	NCPH	NCSG	20	1				Statement submitted for Recs #10
19									
CPH Total		Percent	CkSum Total		7	0	0	0	
NCPH Total		100.00%	7		11	2	0	0	
		84.62%	13						

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Title of Motion: CCWG-Accountability Supplemental Final Proposal on Work Stream 1 Recommendations (Rec #s 11)
Maker & Second of Motion: James Bladel & Heather Forrest & Donna Austin
Motion / Action Type: All Other (Default)
Motion Date: 9-Mar-2016
Outcome (Pass = Green): **PASS**

Note: <ctrl-r> reset by clearing all voting entries
 Note: Rules Table & Logic found on cell O8.

Attendance	GNSO Council Members	House	S-Group	Order	Vote Count				Comment/Proxy/Alternate/Reason
					Yes	No	Abstain	Absent	
0	Hsu Phen Valerie Tan	CPH	NCA	1	1				
1	James Bladel	CPH	RrSG	2	1				Proxy to Rubens Kuhl
1	Volker Greimann	CPH	RrSG	3	1				
1	Jennifer Gore Standiford	CPH	RrSG	4	1				
1	Donna Austin	CPH	RySG	5	1				
1	Keith Drazek	CPH	RySG	6	1				
1	Rubens Kuhl	CPH	RySG	7	1				
1	Johan Helsingius	NCPH	NCA	8	1				
1	Philip Corwin (BC)	NCPH	CSG	9	1				
1	Susan Kawaguchi (BC)	NCPH	CSG	10	1				
1	Heather Forrest (IPC)	NCPH	CSG	11	1				
1	Paul McGrady (IPC)	NCPH	CSG	12	1				
1	Anthony Harris (ISPCP)	NCPH	CSG	13	1				
1	Wolf-Ulrich Knoen (ISPCP)	NCPH	CSG	14	1				
1	David Cake	NCPH	NCSG	15	1				Statement submitted for Recs #11
1	Amr Elsadr	NCPH	NCSG	16	1				Statement submitted for Recs #11
1	Marilyn Maciel	NCPH	NCSG	17	1				Statement submitted for Recs #11
1	Stefania Milan	NCPH	NCSG	18		1			Statement submitted for Recs #11
1	Edward Morris	NCPH	NCSG	19		1			Statement submitted for Recs #1, 10, 11
1	Stephanie Perrin	NCPH	NCSG	20	1				
19									
CPH Total		Percent	CkSum Total		7	0	0	0	
NCPH Total		84.62%	13		11	2	0	0	

Rules	Logic	Result
Create Issue Report - >1/4 from both		0
Create Issue Report - >1/2 from one		0
Initiate PDP Within Scope - >1/3 from both		0
Initiate PDP Within Scope - >2/3 from one		0
Initiate PDP Not Within Scope - >=2/3 from both		0
Initiate PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Approve PDP Team Charter for PDP Within Scope - >1/3 from both		0
Approve PDP Team Charter for PDP Within Scope - >2/3 from one		0
Approve PDP Team Charter for PDP Not Within Scope - >=2/3 from both		0
Approve PDP Team Charter for PDP Not Within Scope - >=3/4 from one AND >1/2 from one		0
Amendment to an Approved PDP Team Charter - >1/2 from Both		0
Terminate a PDP - >=2/3 from both		0
Terminate a PDP - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Without GNSO Super Majority - >1/2 from Both		0
Approve PDP Recommendation With GNSO Super Majority - >=2/3 from both		0
Approve PDP Recommendation With GNSO Super Majority - >=3/4 from one AND >1/2 from one		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=2/3 from both		0
Approve PDP Recommendation Imposing New Obligations on Certain Contracting Parties - >=3/4 from one AND >1/2 from one		0
Modify or Amend an Approved PDP Recommendation - >=2/3 from both		0
Modify or Amend an Approved PDP Recommendation - >=3/4 from one AND >1/2 from one		0
All Other (Default) - >1/2 from Both		1

Annex C – Statements from Constituencies and individual Council Members



Statement of the Intellectual Property Constituency

The Intellectual Property Constituency (IPC) is pleased to participate in this historic vote regarding the future of ICANN. We appreciate all of the hard work and thousands of hours that have been put into the robust Final Proposal prepared by the Cross-Community Working Group on Enhancing ICANN Accountability (“CCWG”). We do have concerns about the process to date and future implementation. We note those concerns below. Our members have participated in the CCWG and we recognize that the time has come to vote to support the work of the CCWG-ACCT or to reject it. The IPC casts its votes in favor of the CCWG Proposal.

The Proposal offers accountability improvements which we believe should be made regardless of whether or not there is an IANA stewardship transition. Our votes are not for or against the concept or timing of the “transition” itself – those threshold questions have never been asked of the community, and we express no opinion on those topics.¹ Instead, we cast our votes in favor of the Proposal on Enhancing ICANN’s Accountability in spite of reservations we might have with specific aspects of certain recommendations.

With regard to the overall process:

While the effort of the CCWG has spanned 14 months, many of the details ultimately provided in the Proposal were not completely articulated until the Third Draft Proposal circulated in late Fall 2015. Further, a last minute, Board-initiated change was made less than two weeks before the commencement of ICANN 55 and the deadline for CCWG Chartering Organization decisions whether to approve or reject the Final Proposal. The Board-initiated change did not involve a fringe issue; rather it went to the heart of the proposal, and in particular the balance of government interests and private sector interests. Review of the final proposal between publication and the Marrakech meeting, as well as the earlier truncated comment period for the Third Draft Proposal, which fell during the Winter holidays, required herculean efforts to review, digest and (when called for) draft responsive comments.² Given their importance, it is unfortunate that the proposed changes to ICANN governance and accountability mechanisms

¹ The IPC recognizes that the IANA transition has its genesis in former United States President Clinton’s Framework for Global Economic Commerce, as well as the NTIA green paper Proposal to Improve Technical Management of Internet Names and Addresses, and their subsequent Statement of Policy on the Management of Internet Names and Addresses. For example, the “green paper” provides, “The U.S. government would gradually transfer existing IANA functions, the root system and the appropriate databases to this new not-for-profit corporation [i.e., ICANN].”

² There was no public comment period for the final CCWG-ACCT report as presented for vote in Marrakech.

were fast tracked. We note that there may be external political considerations regarding the timing of the proposal; however, external politics should not override thorough diligence.

These recommendations will affect overarching ICANN governance concerns. However, it is not entirely clear how they will affect ICANN's day-to-day operations or whether unintended consequences may arise, particularly given the timeframes for review that were provided to the community. Given these timing concerns, we strongly urge ICANN to provide more reasonable comment periods when the actual bylaws are drafted and published for community input. As the revised bylaws themselves have yet to be produced, and the new paradigm for ICANN accountability remains practically untested, the IPC is deeply concerned that the voices of the businesses and individuals who own intellectual property may be unfairly marginalized. Therefore, the IPC will be vigilant regarding any deleterious, unintended consequences that may emerge during implementation, which could have been identified and avoided earlier had more reasonable opportunities for public review and comment been prioritized throughout this process.

With regard to Recommendation 5:

The IPC appreciates the improvements that have been proposed with respect to the ICANN Mission Statement. We remain concerned, however, that the Mission Statement fails to spell out explicitly ICANN's responsibility to enforce the contracts into which it enters as part of its coordination of the Domain Name System (including agreements with registries and registrars), rather than merely ICANN's ability to enforce such contracts. This responsibility is fundamental to the effective execution of the multi-stakeholder model, which is built upon a framework of private contracts as a preferable alternative to government regulation. The IPC looks forward to reviewing and commenting on proposed bylaws text with respect to this aspect of the Mission Statement, particularly with regard to providing a clear mandate for ICANN to effectively enforce its contracts, both as they currently stand and in the future.

With regard to Recommendation 6:

The Human Rights Bylaw proposed in Recommendation 6 will not become effective until ICANN adopts a Framework of Interpretation, which the CCWG will prepare in Work Stream 2. There are two specific issues that need to be addressed in the Framework of Interpretation:

- IPC encourages those preparing the Framework to strongly consider the Universal Declaration of Human Rights as the foundational document for application of the Bylaw.
- It is critical that all internationally recognized human rights are considered in any analysis, rather than concentrating on certain human rights (e.g., freedom of expression and privacy) to the exclusion or minimization of others (e.g., rights of authors and creators in their intellectual property as enshrined in the Universal Declaration of Human Rights).

With regard to Recommendation 9:

The process for selecting members of Review Teams (formerly part of the Affirmation of Commitments) was not modified to ensure that constituencies or stakeholder groups would be

directly represented on Review Teams for topics of greatest interest to those stakeholders, or to ensure adequate GNSO representation on issues of gTLD policy). As these reviews are vital to gTLD policy-making, it is critical to ensure that the appropriate participants are chosen for the relevant Review Teams.

With regard to Recommendation 11:

Two aspects of this recommendation continue to cause concern for Intellectual Property Stakeholders.

The IPC continues to believe that in order for GAC Advice to be given the deference by the Board that Recommendation 11 calls for, that GAC advice must be discussed and drafted, and consensus reached, in transparent sessions open to all ICANN stakeholders.

In addition, in GAC consensus advice, the IPC continues to believe that the GAC must state that it is not aware of any national or international law or treaty which the consensus advice would contravene.

David Cake (NCUC/NCSG), Julf Helsingius (Nominating Committee Appointee)

Recommendation #1: A number of members of NCSG remain concerned about the impact of changing the traditional role of the GAC from an advisory committee to a decisional participant in the empowered community.

Statement submitted by Marilia Maciel on behalf of specific Councilors representing the NCSG

These comments are submitted by the councillors identified under each of the recommendations to either clarify our understanding of the recommendations, or put some concerns associated with them on the record. They are not meant, in any way, to either renegotiate the substance of the recommendations, nor provide any instructions regarding their implementation. It is also important to be clear that the councillors identified with each of the comments have supported these recommendations, and have voted in favor of the GNSO adopting them as one of the chartering organizations from the ICANN names community.

Recommendation #2: Empowering the Community through Consensus: Engagement, Escalation, and Enforcement Statement presented on behalf of Amr Elsadr, David Cake, Stephanie Perrin and Marília Maciel.

The aforementioned NCSG representatives in the GNSO council support Recommendation 2 with the understanding that bylaws will reflect the CCWG's requirement that the exercise of community powers should not require unanimity of participating AC/SOs, and that no single AC/SO could block exercise of any power.

Statement presented by Stefania Milan

A number of members of the NCSG are concerned about providing governments with the new powers contained in the Empowered Community and the impact of changing the fundamental nature of governments at ICANN by allowing GAC to be a Decisional Participant.

Recommendation #7: Strengthening ICANN's Independent Review Process

Statement presented on behalf of: Amr Elsadr, David Cake, Stephanie Perrin, Marília Maciel, Stefania Milan

The following NCSG representatives in the GNSO council support Recommendation 7 with the understanding that the revised Cooperative Engagement Procedure and the IRP processes will : 1) allow any person, group, or entity "materially affected" by an ICANN action or inaction in violation of ICANN's Articles of Incorporation and/or Bylaws to have the right to equal participation in CEP and IRP proceedings on par with the original IRP filer; 2) require timely notification at filing to all parties known to be materially affected by the process or decision being challenged; 3) require ICANN to provide prompt and timely publication to the larger community of the filing so that other interested and materially affected parties can come forward to participate; and 4) enable and support the timely, full and equal participation of all materially affected parties in an IRP proceeding. It is our understanding that reform of the Cooperative Engagement Process (CEP) is included in the IRP implementation plan.

Recommendation #8: Improving ICANN's Request for Reconsideration Process

Statement presented on behalf of: Amr Elsadr, David Cake, Stephanie Perrin, Marília Maciel, Stefania Milan

The following NCSG representatives in the GNSO council support Recommendation 8, but emphasize that the Ombudsman may not be the proper office to evaluate a RFR and make an initial recommendation to the BGC. We encourage WS2 to consider whether another office or official should be granted this authority instead. We want to emphasize that this responsibility should be independent or at a minimum neutral and insulated from pressure from the ICANN Board and staff. Under no circumstances should ICANN's Office of the General Counsel assume this responsibility.

Recommendation #10: Enhancing the Accountability of Supporting Organizations and Advisory Committees

Statement presented on behalf of: Amr Elsadr, David Cake, Stephanie Perrin, Stefania Milan

The following NCSG representatives in the GNSO council support Recommendation 10, but are concerned that Recommendation 10 would allow the Board too much control over SO/AC reviews that could undermine the bottom-up structure of ICANN. Therefore, implementation of Recommendation 10 should ensure that the terms of reference of a review should be developed in a cooperative manner between the Board and the AC/SO under review. The GNSO also believes as a matter of fairness that the GAC, if it becomes a decisional participant in ICANN, should also be subject to some manner of review as with the other AC/SOs.

Recommendation #11: Board Obligations with Regard to Governmental Advisory Committee Advice

Statement presented on behalf of: Amr Elsadr, David Cake, Stephanie Perrin, Marília Maciel

The following NCSG representatives in the GNSO council support Recommendation welcome the important accountability reform of locking-in the definition of “consensus advice” for the Governmental Advisory Committee, which triggers the board’s obligation to consider that advice and reach a mutually agreeable solution. Nonetheless we remain concerned because it raises the threshold by which the board can refuse to follow GAC advice.

Statement presented by Stefania Milan

A number of NCSG members remain concerned about providing GAC enhanced power over the ICANN Board of Directors, and about the Board’s ability to refuse to follow GAC advice, particularly when said advice contradicts policy developed through the bottom-up policy development process by the ICANN community.

Recommendation #12: Committing to Further Accountability Work in Work Stream 2

Statement presented on behalf of: Amr Elsadr, David Cake, Stephanie Perrin, Marília Maciel, Stefania Milan

The following NCSG representatives in the GNSO council support Recommendation 12 with the understanding that WS2 issues, while not necessary for the transition to occur, remain vitally important and must be budgeted and supported at a level sufficient to ensure their development and implementation.