Information requested from ICANN staff by the Accountability and Transparency Review Team

May 2010

Information requested by ATRT in April/May 2010:

1. *"Staff Responsibility for Accountability and Transparency –*

   - *How is the ICANN staff organized? (Please provide an organization chart; show responsibility for Affirmation 9.1 provisions.) Who are the key staff members, what are their responsibilities, where do they sit, and to whom to they report?*

   - *What does the staff view as its key tasks with respect to A&T, and how is responsibility for those tasks allocated?*

   - *How are goals relating to A&T established for responsible staff, and how is progress by staff measured?*

   - *What was done to train staff on the Affirmation of Commitments? What commitments/changes were made as a result of the training? How do you assess the results to date?*

   - *Other than the ICANN Bylaws and Articles of Incorporation, what documents and processes does staff consider in connection with A&T? What role do previous committee reports, Board guidelines, or external reviews play? Are there internal policies or procedures in place for ensuring that A&T issues are considered at appropriate junctures?*

- *How are A&T issues included/considered in strategic planning and budgeting?*

- *Provide copies of: Staff prepared observations on the AoC; AoC training materials that were used for staff and staff reactions (if available); Any existing policies concerning Accountability and Transparency and the AoC; Metrics – 1 pager (you described a document that condensed ICANN's metrics into one page); Updated Affirmation Tracking & Brainstorming Document; Project tracking metrics mentioned in our discussion about the dashboard that is not publicly available in the dashboard; Getty Foundation best practices document; Slides on ICANN's planning processes; 1 World Trust report link and contact information; Information on metrics, performance indicators, and project tracking; provide example of dashboard provided to Board."*

The ICANN executive team and key senior staff listed below are responsible for staff activities that support the Affirmation of Commitments' objectives. As indicated in the AoC Inventory, this involves every ICANN department. ICANN's President and CEO provides overall leadership and direction, and the following staff members ensure implementation:

- Doug Brent, COO, is responsible for general operations and management of objectives;

- Jamie Hedlund, VP Government Affairs, is responsible for numerous objectives that involve government relations;

- Barbara Clay, VP Marketing and Communications, is responsible for numerous objectives that involve transparency, global Internet user interests, and communication relating to all AoC objectives;

- John Jeffrey, General Counsel, is responsible for numerous AoC objectives that involve legal matters and ICANN's Board of Directors;

- Nick Thorne, the International Relations Advisor, is responsible for numerous AoC objectives that involve international entities, governments, and various ICANN stakeholders in all regions of the world;

- Greg Rattray, Chief Internet Security Advisor, with the support of Whit Diffie, VP Information Security and Cryptography, is responsible for AoC objectives that relate to preserving security, stability and resiliency of the DNS;

- Denise Michel, Advisory to the CEO, is responsible for key transparency and accountability projects;

- Kurt Pritz, Senior VP Services, is responsible for numerous AoC objectives that involve Registries, Registrars, Contractual Compliance, Internationalized Domain Names, new gTLDs, and IANA, including implementation of policies that promote competition, consumer trust and choice, and WHOIS policy implementation;

- David Olive, VP Policy Development, is responsible for numerous AoC objectives that involve supporting the communities' policy development and relate activities, including policy efforts that promote accountability, transparency, user interests, security, stability and resiliency of the DNS, competition, consumer trust and consumer choice, and activities related to Whois, as well as public participation;

- Kevin Wilson, CFO, is responsible for AoC objectives that involve finance and auditing.

- The Senior Director, Participation and Engagement (position currently being filled) is responsible for cross-functional leadership within the Broad ICANN staff and community organization to continually examine and improve mechanisms for public input, participation and engagement.

[Note: The ICANN staff organizational chart provided to the ATRT is not publicly posted.]

More information on ICANN staff members and their responsibilities can be found on ICANN's public website staff page.

"Staff prepared observations on the AoC"

Please see AoC Inventory.

"AoC training materials that were used for staff and staff reactions (if available)"

Upon the execution of the Affirmation of Commitments, a complete version of the AoC was distributed to all staff and posted on the ICANN website and staff web portal. Events were held in both Washington DC and Marina del Rey to commemorate the occasion and to introduce the AoC. Audio of the Washington DC event and audio/video of the MdR event were posted on the staff portal.

 In the late fall of 2009 (after the signing of the AoC) Rod Beckstrom, CEO, directed the Executive Team to hold discussions and brainstorming sessions with their staff with the objective of 1) ensuring a company-wide understanding of the AoC, 2) identifying activities that support the elements of the AoC, and 3) to begin generating ideas to further meet AoC objectives which potentially could be considered in future planning and budgeting processes. Each department subsequently held AoC meetings and one result is the AoC Inventory. Doug Brent, COO, also held meetings with staff throughout the organization to review the AoC, its significance and its impact on ICANN's future work. All participants were asked to read the AoC prior to the meeting they attended and the meetings were an interactive discussion around the role of individuals and departments in the furtherance of the AoC. The results of the meetings were published to staff.

 In terms of ongoing training, ICANN helps ensure staff, especially new staff, have a good understanding of ICANN through its ICANN University (IU) program. IU delivers training on a wide range of topics including:

·	Contractual Compliance 101
·	DNSSEC
·	GNSO Improvements Update
·	IANA 101
·	IDN ccTLD Fast Track Process
·	IDN's
·	Introduction to gTLD Registry Services

AoC objectives are being integrated into these training sessions and a separate AoC session also is being developed. All content is delivered by in-house or invited guest experts, video recorded, and placed on the staff web portal for viewing. As additional content is filmed it is added to the IU site.

ICANN has deployed an on-line on-boarding system that triggers sequential events to ensure new staff are properly on-boarded. One step in the process is to prompt the new hire to "attend" ICANN University and ultimately indicate when IU is completed. Reminders go out to the new staff member to complete this training until they indicate they have done so.

All staff are informed of and encouraged to "attend" activities relating to the AoC. For example, staff were invited to listen in on the Affirmation of Commitments Review Team public sessions held 5 May 2010 (a broadcast e-mail was distributed to all staff along with the link for hearing the proceedings). Interest and

participation in this event was high. Less formal discussions occur during staff meetings, operations meetings, CEO weekly lunches, etc. to keep a focus on AoC and accountability and transparency matters for all staff.

The following documents provide additional information about staff training and ICANN's performance management training: a power point presentation on ICANN staff's current goal setting/scoring process; a document that describes ICANN's Performance Management Program; instructions for entering goals into Halogen (ICANN's online performance management program); and relevant language from ICANN's most recent annual report.
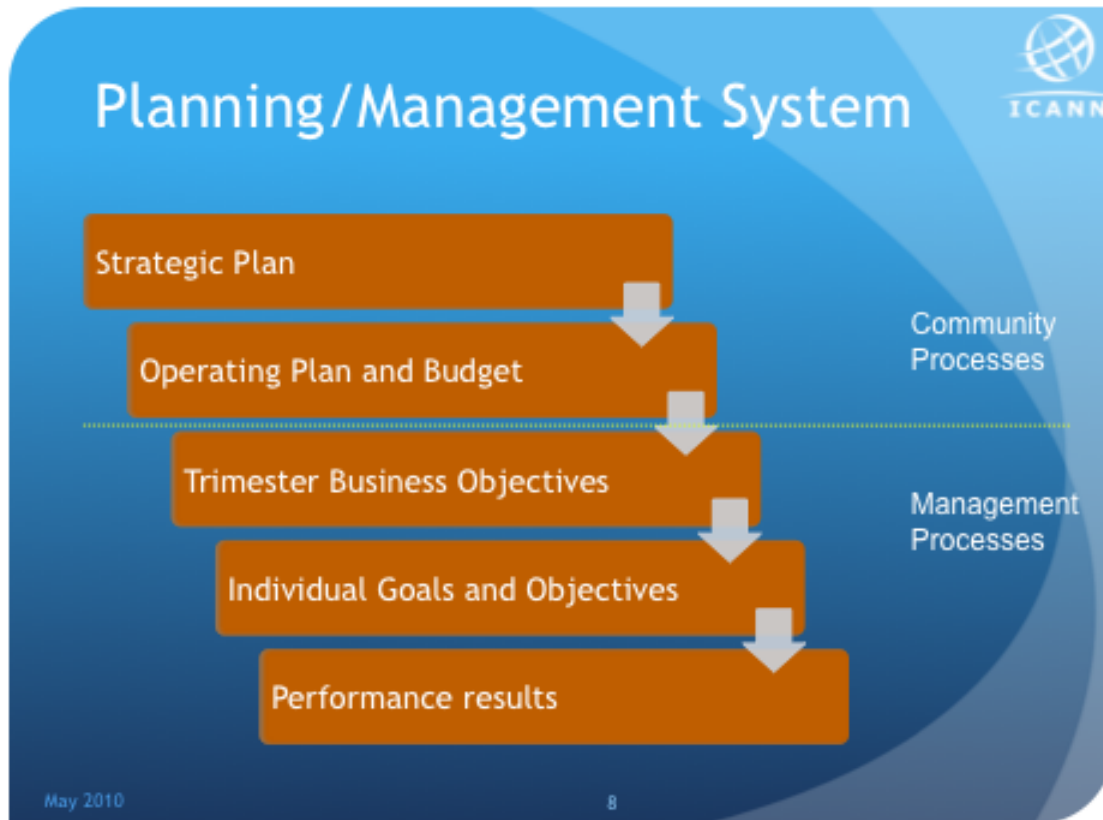
[Note: the above referenced ICANN Human Resources documents were developed for internal, staff use and are were not intended for public consumption.]

ICANN staff is engaged in a long-term effort and ongoing cycle of Accountability and Transparency improvement in its quest to be the standard bearer for transparent and accountable, international organizations. Staff has incorporated Accountability and Transparency in the work of every ICANN department. Many key tasks related to Accountability and Transparency are reflected in the draft "Affirmation of Commitments Inventory." Tasks are assigned by ICANN's executive team and senior staff listed above.

ICANN staff work is determined by an existing process which:

- Uses community feedback to set the strategy for the organization;

- Turns that strategy into an executable plan;

- Assigns the relevant portions of that plan to staff and to individuals; and

- Tracks performance and progress on plan objectives.

Annual efforts are considered by the community, and adopted by the Board as part of ICANN's yearly strategic and budget planning cycles, which is illustrated below.

Planning/Management System

Strategic Plan

Operating Plan and Budget

Community Processes

Trimester Business Objectives

Management Processes

Individual Goals and Objectives

Performance results

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ICANN's Strategic Plan aspires to identify organization priorities in clear language, and the deliverables associated with them. ICANN's Operating Plan and Budget is directly tied to the Strategic Plan and identifies organization deliverables and costs. The Operating Plan and corresponding Budget is executed through Trimester Objectives which have a four month plan horizon (approximately) and are created by management on an organization and department basis just after each ICANN meeting. In aggregate, these objectives identify necessary actions and results to deliver the Operating Plan objectives. All Trimester Objectives are assigned to individual staff by management and are tied to staff's performance compensation system, which is described below.

Tasks related to the Affirmation of Commitments are incorporated into this annual process.

Subsequent to this exercise, and staff training described below, changes were made to ICANN's activities and processes. These include incorporating Accountability and Transparency efforts in:

- Evaluating and improving public participation processes, including use of remote participation tools and public posting and translation of ICANN materials.

- Improving public comment analysis and the public comment webpage.

- Expanding ICANN international outreach and communication efforts.

- Carrying out management (including policy implementation) actions with more extensive public input and visibility.

- Creating a new GNSO policy development process (including public input elements).

- Developing GNSO Working Group Guidelines.

- Exploring changes in Board processes and support.

- Evaluating/implementing transparency and accountability measures through all structural reviews.

- Updating ICANN community "statement of interest" and "code of conduct" requirements.

- Updating ICANN Staff "code of conduct."

- Conducting bottom-up planning and budgeting efforts with extensive public input and visibility, including providing detailed information and analysis of the proposed budget, and considering improvements to the overall planning and budgeting process.

- Using social media to extend public outreach and information sharing.

- Conducting CEO community meetings.

Individual staff's efforts are assessed through the performance compensation system described below, and through the dashboard and monthly metric reports and Trimester Objectives reports. Additionally, ICANN management is exploring new methods of assessing organizational results to date.

All of the activities related to Accountability and Transparency discussed above are informed by a variety of documents and processes. In addition to the ICANN Bylaws, Articles of Incorporation, and Affirmation of Commitments, our efforts are informed by: the 2007 OneWorld Trust report; Transparency and Accountability elements of the review and improvement initiatives for the Supporting Organizations, Advisory Committees and Board; elements of the Strategic and Operating Plans and Budget; and processes and guidelines created by ICANN structures and the Board.

"Metrics – 1 pager (you described a document that condensed ICANN's metrics into one page)"

Please see the example of the CEO dashboard reports provided regularly to the ICANN Board that was shared with the ATRT. More extensive "dashboard metrics" can be found on ICANN's website at http://forms.icann.org//idashboard/public/.

"Updated Affirmation Tracking & Brainstorming Document"

Please see the AoC Inventory.

"Project tracking metrics mentioned in our discussion about the dashboard that is not publicly available in the dashboard"

In addition to the monthly CEO dashboard report mentioned above, ICANN staff also maintains a "Master Tracking Document," which is complied on a trimester basis to internally track anticipated publications for ICANN meetings. ICANN staff also internally tracks key projects on a trimester basis. . [Note: The ICANN staff Master Tracking Document provided to the ATRT is not publicly posted.]

"Getty Foundation best practices document"

Approximately three years ago, ICANN's CFO, Kevin Wilson, began researching a selection of not-for-profit organizations to ascertain possible Form 990 reporting options for ICANN. The reporting options ranged from only providing 990 forms in hard copy if requested (per IRS regulations) to full posting on the website.   In addition, some organizations had explanatory memos. The Getty Foundation was one that exemplified extensive disclosure.

The most recent Form 990 for the Getty is here: http://www.getty.edu/about/governance/pdfs/990pf-2009.pdf. The most recent compensation disclosure for the Getty is here: http://www.getty.edu/about/governance/pdfs/10_compensationdisclosure.pdf

ICANN's most recent Form 990 is posted on the finance section of ICANN's website at http://www.icann.org/en/general/financial.html. For FY09, ICANN has also posted a FAQ on the Form 990.

"Slides"

The slides Doug Brent presented at the Review Team's 5 May meeting are linked here.

"One World Trust report link and contact information"

The One World Trust report is posted on ICANN's website at http://www.icann.org/en/announcements/announcement-4-29mar07.htm. One World Trust staff that worked on this report are listed below. Please note that they currently do not have a contract for ICANN work.

Robert Lloyd, Projects Manager

Michael Hammer, Executive Director

Prince Consort House
109-111 Farringdon Road
Suite 301
London EC1R 3BW, UK
www.oneworldtrust.org

"Information on metrics, performance indicators, and project tracking"

Please see above references and attachments.

"Example of dashboard provided to Board"

Please see above references and attachments.

2. Progress on Accountability and Transparency

- *Identify specific mechanisms, processes or staff training that have been put in place or enhanced since September 30, 2009 in furtherance of the AoC.*

- *Identify such mechanisms or processes that have been proposed but are still under development and indicate the timetable for implementation.*

- *Assess any results to date.*

- *In each case, identify appropriate metrics that can and should apply to mechanisms under each area of review.*

- *If there are specific areas of improvement in any of the review areas, please identify them and explain why the RT should take them into account in its deliberations.*

- *Provide a catalog of changes since JPA*

The [AoC Inventory](#) provided to the ATRT and updated by ICANN staff presents ICANN accomplishments and activities that support the Affirmation objectives. The

inventory also indicates efforts that were initiated after 30 September 2009 (since the JPA), ongoing activities, and completed activities.

In addition to the dashboard reports ICANN's CEO regularly provides to the ICANN Board and the more extensive "dashboard metrics" (noted above), ICANN is considering potential metrics for activities throughout the organization.

3. Board Governance

- **How is Board performance measured, and what steps are being taken to improve Board performance? Are there specific ways in which Board performance could be supported?**

- **What factors are being considered to ensure that the Board composition meets ICANN's present and future needs? Are they effective?**

- **How does staff interact with the Board, and has that changed over time? What additional steps are being/can be taken in this regard to enhance accountability and transparency?**

- **Provide information on BGC workplans, and on structure of the Board standing committees.**

Information on the Board Governance Committee's plans and activities can be found on ICANN's website at http://www.icann.org/en/committees/board-governance/.

Information on Board committees can be found on ICANN's website at http://www.icann.org/en/committees/board_committees.html.

Questions regarding Board performance are better directed to the Board for a more comprehensive response. Staff notes that results of the first Board Self-Assessment, conducted in 2009, as well as the first formal assessment of the performance of the Chair of the Board, was recently posted on the ICANN website at http://www.icann.org/en/board/self-appraisal-2009-en.htm. Staff also notes that the ongoing work of the Board Governance Committee regarding training of Board members and identification of skills and knowledge necessary for Board

membership, recently culminated in a [resolution](#) at the March 2010 Nairobi meeting directing the development of a comprehensive Board training program.

Questions regarding Board composition are better directed to the Board for a more comprehensive response. Staff notes that the efforts mentioned in response to ATRT questions about Board self-assessment and training are likely to assist the ICANN Board in meeting ICANN's present and future needs. In addition, Staff notes that the Board Governance Committee is currently undertaking efforts to identify skill sets necessary for each of the committees of the Board and to require annual review of these skill sets. Some of this effort is reflected in the [26 April 2010 minutes](#) of the BGC. How the Board will communicate these suggested skill sets with the Nominating Committee and the ICANN community for consideration when appointing Board members and liaisons is a matter for Board discussion. Staff notes that all parts of ICANN responsible for selection of Board members and liaisons have independent processes for making those selections, therefore representatives from those Committees and Sponsoring Organizations may also have more information to provide. Staff does not select the members of the Board.

Questions regarding staff interaction with the Board are better directed to the Board for a more comprehensive response.

4. Mechanisms for Review of Board decisions

- **Describe the existing mechanisms for reviewing Board decisions and assess the effectiveness of these mechanisms as applied (community?**

- **What can be done to make these more effective, efficient, and transparent?**

- **Provide information on IRT**

A "President's Strategy Committee," which was convened by former ICANN President and CEO, Paul Twomey, issued a report on "Improving Institutional Confidence." This report, which is posted on ICANN's website at http://www.icann.org/en/jpa/iic/, suggested that a new "Independent Review Tribunal" (IRT) be created as " a separate process for independent third-party review of ICANN actions." A subsequent Board resolution regarding this report can be found at http://www.icann.org/en/minutes/resolutions-26jun09.htm#8.

Regarding existing mechanisms for reviewing Board decisions – the Bylaws specify three mechanisms for review of Board decisions: (1) The Ombudsman, for the review of Board actions alleged to be unfair; (2) The Reconsideration Process, for review of Board actions alleged to be taken (or refused to be taken) without consideration of material information; and (3) the Independent Review Process, for review of Board actions alleged to be inconsistent with ICANN's Articles of Incorporation or Bylaws.

The Ombudsman is only empowered to hear complaints that are not the subject of Reconsideration or the Independent Review process. The Ombudsman serves as a neutral dispute resolution practitioner who operates independently within ICANN to evaluate complaints and perform necessary investigation and "shuttle diplomacy" in seeking to resolve complaints. Complaints can be brought before the Ombudsman at no cost to the complainant, and depending upon the sensitivity of the matter, the Ombudsman may report the results to the Board and post reports on the ICANN website. The Ombudsman's Annual Reports and Investigation Reports are available at http://www.icann.org/ombudsman/reports.html. Of the posted Investigation Reports, few appear to relate directly to Board action, and instead focus on staff action or actions of ICANN's Supporting Organizations or Advisory Committees.

The Reconsideration Process is another review mechanism that can be commenced at no cost to the requester. The Board Governance Committee (BGC) has been designated for the review and consideration of Reconsideration Requests. The requester has a limited amount of time (30 days) after a Board action to submit a Reconsideration Request. All Reconsideration Requests are publicly posted on the ICANN website. The BGC then reviews the Request, and may seek additional information from the Requester, staff, or third parties, as set forth in the Bylaws. The BGC has 90 days to make a final recommendation to the Board regarding the request, and the recommendation is also publicly posted. The Board then considers and makes a decision regarding the Request, and that decision is included in the Board's preliminary report and minutes. Additional information on the specific procedural steps can be found in the Bylaws.

Since June of 2006, there have not been any Reconsideration Requests filed seeking review of a Board action. The only Reconsideration Request filed within the past four years (Request 10-1) addresses staff action in posting a Board preliminary report. All Reconsideration Requests submitted since 1999, and the corresponding recommendations, can be accessed at http://www.icann.org/en/general/bylaws.htm#IV.

The Independent Review Process is operated by an independent provider, the International Centre for Dispute Resolution (ICDR). A person or entity that has been materially affected by a decision or action by the ICANN Board that the person believes to be inconsistent with ICANN's Articles of Incorporation or Bylaws may submit a request to the ICDR for independent review of the Board decision. There are specific rules and procedures for the Independent Review process. There is an

initial filing fee of US$3,250 to initiate an independent review where the requester is not seeking any monetary relief from ICANN. ICANN does not receive any part of the fees. ICANN and the requester then proceed through the Independent Review process, including the identification of panelists and filing the required papers to support or oppose the claims asserted in the request. The Supplemental Procedures applicable to Independent Review proceedings suggest that the panelists – to the extent possible – conduct the review by electronic means, with phone conferences where necessary. ICANN posts all Independent Review submissions at http://www.icann.org/en/irp/. More information on the Independent Review process can be found at Article IV, Section 3 of the Bylaws, and links to the ICDR forms can be found at http://www.icann.org/en/general/accountability_review.html.

Once a review is initiated and panelists are selected, the parties to the Review must pay the panelists fees, which vary by panelist, and are often based on hourly rates. Under the Bylaws, the party not prevailing shall ordinarily be responsible for bearing all costs of the provider/panelists, though the panel may allocate costs in extraordinary circumstances. If the requester chooses to be represented by legal counsel in the review – which is not required – the requester is responsible for all legal fees incurred.

The Independent Review process has only been initiated once, in 2008, by ICM Registry. Over a year later, in September 2009 the panel held a weeklong hearing in Washington, DC. In February 2010, the panel issued its Declaration. Though the findings were not favorable to ICANN, ICANN's CEO tweeted about the receive of the Declaration almost immediately after receipt of the Declaration and the advisory finding of the panel, and within just a few hours (after time for review and redaction of confidential portions), ICANN posted the Declaration on its website. The Board considered the Declaration at its meeting in Nairobi, and the Board then instructed the CEO and General Counsel to post potential process options in light of the advisory findings, for community comment and insight. The Board will be reviewing the process options and the summary of the comment period at the Brussels meeting to determine how to proceed with the ICM application for the .XXX sTLD. As noted by the CEO, the first use of the Independent Review process is a testament to accountability – the ICANN Board is again considering the application for the .XXX sTLD, despite a previous Board decision rejecting the application.

This first Independent Review also brought to light many issues with the process. In terms of efficiency, the nearly two-year period between initiation and the Panel's declaration does not serve the community or ICANN in enhancing the accountability of the organization. The panelist expenses alone amounted to nearly US$500,000, not including legal fees incurred by ICM or ICANN, raising issues of accessibility to the process and the ability to sustain multiple requests for independent review.

Regarding making these mechanisms "more effective, efficient, and transparent" – there has been a lot of discussion on how ICANN's accountability and review mechanisms can be amended or added to in order to better serve the ICANN community. Under Paul Twomey, the President's Strategy Committee's work on Improving Institutional Confidence included suggestions on how to reform the accountability mechanisms. In July 2009, proposed Bylaws changes were posted for public comment, proposing the addition a Community Override of Board Decisions (a new accountability mechanism) and revisions to the Independent Review process, including an expansion of who can seek independent review and the creation of a standing tribunal to oversee the independent review requests. The proposed Bylaws changes and the community comment are posted at http://www.icann.org/en/public-comment/public-comment-200909.html#iic-bylaws.

As noted in the summary and analysis of comments (at http://forum.icann.org/lists/iic-proposed-bylaws/msg00020.html), the strong community consensus was that it was premature to adopt the proposed mechanisms, particularly when the first Independent Review proceeding was still ongoing. The commenters agreed that ICANN should not propose changes to the Independent Review process before having the opportunity for ICANN and community to review the effectiveness of the process as it currently exists. Commenters also questioned the transparency with which the proposed accountability mechanisms were created, as it was not apparent that the proposals stemmed from a team of experts as anticipated in the report on Improving Institutional Confidence. In addition, the proposals were created prior to the signing of the Affirmation of Commitments, which called for the creation of this Accountability and Transparency Review Team. Given the ongoing work, staff did not recommend the implementation of the proposed Bylaws changes, to allow recommendations and processes to be improved in light of the ongoing work.

Staff notes that there are continued advances in accessibility to Board decisions. The Board Governance Committee, in consideration of Reconsideration Request 10-1, recommended to the Board that the Bylaws discussing the availability of Board actions be enhanced, and the Board adopted that recommendation. As a result, and though the Bylaws changes have not been formally adopted, staff has already begun the practice of posting Board-approved resolutions within two business days after the conclusion of each meeting, followed by the preliminary report within seven business days. Under the current form of the Bylaws, the first access the community had to Board actions was after a five day period, when the preliminary report was due to be posted. Staff is also committed to using the two business day deadline as a maximum time frame, and posting the resolutions as promptly after the conclusion of a meeting as is feasible.

5. Government Advisory Committee

- *What are the Staff observations about the role and effectiveness of the GAC and its interaction with the Board?*

- *What improvements have been/are being implemented, and how are they measured?*

- *How does staff communicate with the GAC when it seeks advice from the GAC regarding public policy?*

- *How does staff consider GAC input on questions of public policy?*

- *How does staff look at the effectiveness of consideration by ICANN of GAC input on the public policy issues?*

- *What is staff's role in connection with Board consideration of the GAC's advice?*

These questions are better directed to the Board for a more comprehensive response.

6. *Public Input*

- *What are the views of the staff on the mechanisms for requesting and receiving public input (e.g., request for comment, public forums with Board presence, workshops and stakeholder meetings)?*

- *Which work best, least well? What improvements have been/are being implemented? How are improvements measured?*

- *How is public input reviewed, summarized, and weighed? How is this information communicated to other members of the staff and to the Board?*

- ***The RT has reviewed the various comments submitted on the AoC review process, as well as the staff summary of those comments. Which points seem most important/relevant to staff?***

- ***Provide information on public engagement plan***

Information on public engagement plan

ICANN's Senior Director for Public Engagement and the Board's Public Participation Committee is conducting a holistic review of ICANN's public participation processes and is creating a "Comprehensive Stakeholder Outreach and Engagement" plan. In addition, they are considering changes to ICANN's meetings and exploring distance communication tools and systems. Documents and information on these efforts can be found on ICANN's website at http://www.icann.org/en/committees/participation/.

ICANN uses a variety of public participation processes and mechanisms to inform and involve stakeholders worldwide. Two primary mechanisms are on-line public comment forums, and in-person community public forums (often with remote participation options).[1] [2]

On-Line Public Forums

In on-line public comment forums, any individual or organization from around the world has the opportunity to provide written comments on policy development and implementation proposals, a myriad of strategic, operational and process issues, and significant matters pending for ICANN Board votes. The material and information posted for comment can be produced by the ICANN Board, staff (or expert advisors under their direction), or any number of community supporting organizations, advisory committees or working groups. Some documents (e.g. documents for the New gTLD Program) are posted for comment in the six United Nations languages (e.g., English, French, Spanish, Chinese, Arabic and Russian). Depending on the issue,

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[1] ICANN Staff also has been investigating innovative new tools for public participation, including various social media and survey documents, but to-date they have not been widely tested.

[2] These answers focus on public participation in terms of individuals and entities providing comments; they do not address direct involvement in various, open SO and AC-related work efforts nor do they address the myriad of ways ICANN informs the global public.

some of the documentation produced for public comment is more structured then others. Documents produced by staff usually include a summary of the relevant issue and direction about the types of feedback or information that is being sought by the entity that is responsible for the forum.

New public comment forums are often accompanied by public announcements posted on ICANN's homepage and email notices sent to numerous community email lists. Each of these on-line forums is open for a minimum period of 21-days. Most comment periods are longer. The written comments are submitted via email and publicly archived/posted for all to see. The feedback requested is free form and there are no restrictions on response formats as long as it can be conveyed by email. Comments can also be submitted in various languages.

Shortly after the public comment period is closed, ICANN staff typically provides a summary and analysis of the comments submitted, which is also posted in the public forum on ICANN's web site. The format and consistency of the summary and analysis documents produced by staff have been improving considerably over the past year. In the case of new gTLD Program, for example, as the issues became more detailed, the quality and form of the summary and analysis was modified and improved. Submitted comments continue to be accessible in ICANN's public comment archives indefinitely.

In-Person Community Forums

In-person, real-time information and opinion sharing can be a valuable supplement to on-line written comments. Most in-person community forums happen during international ICANN meetings, which take place three times a year in varying locations around the world. Throughout the week-long ICANN meetings, community leaders, Board members, or staff host or co-host numerous public sessions with in-person and on-line participation. Community members and the public are invited to attend these events and share their views. These in-person public forums, workshops, and open meetings are often recorded and/or transcribed and are publicly archived on ICANN's web site. (See the ICANN Brussels meeting schedule as an example and click on scheduled to view presentations and transcripts.) Critical sessions involving large number of attendees usually now offer simultaneous translations in multiple languages (depending on audience needs) and those session often feature remote participation capabilities to enable broader participation by individuals who are unable to travel to the session. ICANN's use of remote participation tools continues to expand. Remote participation tools being developed by staff include the ability to simultaneously view and hear presentations and presenters, and the ability to contribute to discussions via various live connections including telephone, email, messaging, and chat tools. Remote participation tools and session structures take into account participants with low bandwidth issues. As

mandated by the Board, it is also an internal practice to post documentation for public discussions at least 15 calendar days before an ICANN meeting to give community and Board members sufficient time to review the materials.

Documentation of Processes

The staff's public participation manager/director provides basic guidelines for on-line and in-person public forums via email and web postings. The Board's Public Participation Committee also has provided guidance on improving forums via public announcements and emails to the staff and community. Staff is considering ways of improving forums, including developing better documented procedures and improving support and management of relevant processes. Since many forums are initiated and sponsored by community volunteers rather than ICANN staff, there is some flexibility in the application of guidelines. Overall, Staff is guided by ICANN's [Accountability & Transparency Framework & Principles](#) can that were adopted by the Board in February 2008 and shared with the community. It is our understanding that all staff members are issued a copy of the Framework and Principles when they are hired. The Framework & Principles document includes a Section D called "ICANN Consultation Principles." Staff members refer to these principles when they prepare a public comment forum.

Publicizing Opportunities for Participation

Public Participation opportunities are publicized in a number of ways. All public comment forums involving a developing policy issue are posted on the [ICANN Public Comment web page](#) and ICANN's homepage contains a prominent link for this. Typically each forum is formally announced at the top of the [ICANN.org](#) main web page.

Over 2500 individuals subscribe to an ICANN Alert service that delivers these announcements to their email inboxes so they don't need to check the ICANN.org site every day. Community members and the general public also can subscribe to/use a number of other services where the public forum announcements are often featured, including:

- [ICANN Newsletter](#) (emailed and posted weekly), which has over 3000 subscribers;

- ICANN [Monthly Policy Update](#), which is delivered monthly via email to approximately 1800 subscribers who have the option to receive the information in one of the six main UN languages;

- ICANN's website RSS feeds;

- [ICANN Blog](#); and

- [ICANN in the News](), which is a compilation of ICANN-related content on sites external to [www.icann.org]()

Depending on the issue and the community affected, ICANN staff also emails copies of the announcements to the leadership or representative bodies of those organizations. In addition, staff brings the open forums to the attention of potentially interested individuals and organizations. The regional managers of ICANN's Global Partnership team also promote participation opportunities to community members and potentially interested individuals throughout the world.

In-person forums are listed in the published calendar and agenda for each international ICANN meeting. They also are typically publicized by staff through email lists, press and outreach activities, and by the communities who are sponsoring, or are affected by or are interested in, the forum topic.

Timing of Public Comment Periods

The ICANN Consultation Principles (contained in ICANN's [Accountability & Transparency Framework & Principles]()) ensure that "the minimum time for a comment period is 21 days." Many forums go longer than that as certain proceedings may involve particularly long or complex documents. In other cases, longer periods are provided to account for document translations. In some cases, forums are extended to encourage comments, or members of the community simply ask for more time, and depending on the urgency of the issue, those requests are often satisfied. Many policy development issues frequently involve more than one public comment forum period to encourage input on evolving drafts of the documents involved. [Annex A]() and [Annex B]() of the ICANN Bylaws set forth specific policy development processes (including public participation opportunities) for ICANN's primary policy development bodies, the GNSO and ccNSO respectively. The GNSO Policy Development Process (PDP) is currently undergoing a modification process mandated by the ICANN Board (see [this link to the PDP Work Team]() effort).

Because public comment periods cover such a wide variety of topics and are driven by the staff, Board and so many different communities, each with their own set of priorities, public forum comment periods are typically not coordinated with other periods. At the insistence of the GNSO Council last year, ICANN adopted an informal practice of automatically extending comment periods that overlapped with international ICANN meetings. Staff attempts to stagger periods for comment forums they are responsible for, but typically the volume of issues, and the varied processes and deadlines driven by the Board and a myriad of community groups, makes this difficult to do.

Analyzing and Processing Comments

ICANN staff generally follows a standard, unofficial template for analyzing written public comments that was laid out by the General Manager of Public Participation a couple of years ago. In the Policy Development context, the Summary/Analysis document is a tool prepared by Staff to be used by community decision makers in

their decision making process. It is not a substitute for the individual comments, and staff ensures that individual comments are preserved for reference by decision makers. Each analysis is intended to include the following elements:

TITLE OF FORUM - Date Comment period ended/Date Summary is being published.

BACKGROUND – Staff provides a general description of the issue at hand and the origin of the proceeding with key historical benchmarks to offer context to potential readers. As applicable, a sense of the broader implications of this issue to the DNS, the community and/or the general public is particularly useful here. Specific citations or links to significant/useful documents and specific comments are often provided.

GENERAL COMMENTS – The Summary and Analysis

Summary: Staff provides a broad overall summary of comments, identifying specific commenters and their most substantive points, positions or opinions.

Analysis: Ideally, the summary/analysis document is not merely a straight recitation of the various points made by commenters, but it helps the reader see themes, identify patterns and get a generally better idea of the sense and rationale for various positions stated in the comments. Where possible, Staff organizes and/or combines the various comments under common headings that are easily identifiable to the reader.

In the policy development context, Staff does not treat the public comment forum as a poll or a popularity contest. Valuable ideas can come from any group or individual. The fact that a particular point of view is shared by many may be relevant. The fact that a set of common views was the product of a letter writing campaign is significant, but it should not and does not impact the validity of the point of view from a policy development standpoint. A useful Summary/Analysis document captures those different points of view regardless of their form or the means by which they are transmitted.

At times, the issues have quite a high profile and comments are fueled by legitimate and heartfelt passions. Staff makes every effort to contextualize the comments and viewpoints expressed and to accurately describe the comments submitted. Since comments can only be summarized or excerpted, readers are encouraged to view the full comment by any party in the comment forum itself. In addition to being shared with the decision-making body, the Summary/Analysis document is archived in the same place as all the comments from the community. It is the last document submitted before the forum is closed by the ICANN web-admin team.

Regarding the New gTLD Program, Summary/Analysis reports are usually structured by categories and feature the different proposals. The goals of those reports are to: (a) analyze the comments in order to develop amendments to the Draft Applicant Guidebook that are consonant with the meaningful input of the community; and (b) help ensure that the comments are taken seriously and carefully considered by all concerned.

7. Public and ICANN Community Support of ICANN Decisions

- *What are the staff's observations about the degree to which ICANN's decisions are embraced, supported and accepted by the public and the Internet community? How is that measured?*

- *What mechanisms have been/are being implemented to improve public and Internet Community embrace, support and acceptance of ICANN decisions? How does staff rate the effectiveness of those changes?*

See [5 May 2010 staff discussion with the ATRT](#)

8. Policy Development Process

- *How well does the current policy development process (PDP) facilitate enhanced cross community deliberations and facilitate effective and timely policy development?*

- *What issues have hindered cross community deliberations and/or effective and timely policy development?*

- *Does staff have sufficient resources to support PDP work? Does staff have the right kind of resources? How effective is this support, and what changes might make it more effective?*

- *If changes have been made, how effective have they been?*

- *If changes are being made/considered, how will they be evaluated?*

- *Provide process flow chart (reflecting PDP, implementation, other relevant processes).*

- *Provide description of ICANN staff's role with regard to Policy Development Processes and policy implementation. Please describe any "grey" areas as discussed.*

- *Provide copies of: study of GNSO constituency participation in working groups (related to workload/prioritization efforts); example of a final PDP report that includes a minority report where dissent is stated; example of monthly updates on policies.*

Summary: Flow charts reflecting the policy development process (PDP) of the GNSO can be found on ICANN's website at http://www.icann.org/en/processes/gnso/pdp-overview.html. A flow chart depicting the entire global policy development process of the ASO is attached (it was created by an ASO AC member) and additional information on the ASO PDP is publicly posted at http://aso.icann.org/documents/operating-procedures-aso-ac/. Information on the ccNSO PDP is posted on ICANN's website http://ccnso.icann.org/policy/policy-development.htm (note that detailed tables, rather than flowcharts, are available for the ccNSO PDP). The ALAC policy advice process can be found at http://spreadsheets.google.com/pub?key=tKrlhCospxnfewY_9R39SuQ&gid=4.

Additional flowcharts relating to implementation and other processes are available. For example, the Registry Services Evaluation Process can be found on ICANN's website at http://www.icann.org/en/registries/rsep/workflow.html and the IRP Declaration - ICM Application for .XXX sTLD - Evaluation Decision Process is posted on ICANN's website at http://www.icann.org/en/irp/icm-v-icann/eval-decision-process-26mar10-en.pdf.   Please indicate which processes the RT is interested in learning more about.

GNSO: The GNSO PDP (http://www.icann.org/en/processes/gnso/pdp-overview.html) is described in Annex A – GNSO Policy Development Process of the ICANN by-laws. Below you will find an overview of the main steps in the GNSO PDP. It is important to note that this process is currently under review as part of the

GNSO Improvement Process. The GNSO's PDP-Work Team that has been tasked with reviewing the GNSO PDP is expected to publish an Initial Report and Recommendations in time for consideration at the ICANN meeting in Brussels. It also is important to note that one of the main challenges of the existing PDP is the timelines included in the bylaws, which are not feasible in practice and therefore not always respected.

Voting Thresholds – Current

Create an Issues Report

> Either < 25% vote of both houses or simple majority of one house

Initiate a PDP within scope

> < 33% of vote of both houses or < 66% vote of one house

Initiate a PDP not within scope

> < 75% vote of one house and a simple majority of the other

Approval of a PDP without Supermajority

> Simple majority of both houses, but at least one rep of at least 3 of 4 SG

Approval of a PDP with Supermajority

> <75% majority in one house and simple majority in the other

* Future voting thresholds have been used in describing PDP process in following slides

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Raising an Issue

| Board | GNSO Council | Advisory Committees |

- Currently Board, ACs and GNSO Council can 'raise an issue'
- GNSO Council may raise an issue by a vote either greater than 25% vote of both houses or simple majority of one house

Creation of the Issues Report by Staff Manager

- Within 15 days of receiving the request
- Needs to contain:
  - Issue raised for consideration
  - Party submitting issue
  - How that party is affected
  - Support for the issue to initiate a PDP
  - Recommendations from Staff, with opinion of General Council on scope of issue

	Initiation of a PDP	
Issue raised by Board – no vote required	Issue raised by other – < 33% vote of both houses or <66% vote of one house	If issue is not in scope – <75% vote of one house and simple majority of other
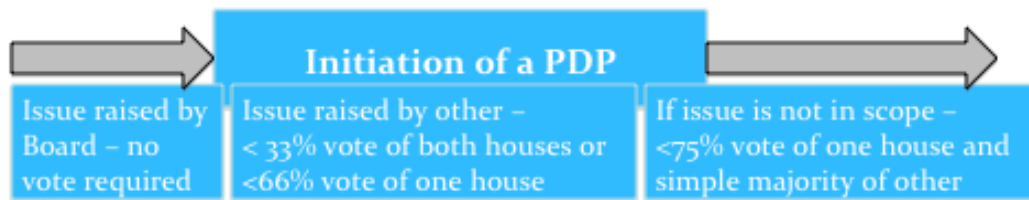
- Issue not raised by the board - PDP initiated by a vote in the GNSO Council
- Different voting thresholds for an issue deemed 'in scope' and 'out of scope'
- Currently no criteria for how Council should review or discuss findings of report – only requirement is to vote within 15 days

	Policy Development Process	
Working Group	Public Comments	Constituency Statements

- Strict timeline for submitting constituency statements and producing initial / final report
- Public comment period for 20 days – obligation to 'review' comments received, but no guidelines on what such a review should entail

Final Report to the Board

Staff Manager to prepare report **Content of board report prescribed by by-laws**

- Staff manager has 5 days to prepare council report to the board
- Report needs to incorporate amongst others the views of the Council, analysis of how constituencies might be affected and estimation of time needed for implementation

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Board Vote and Implementation

Different voting thresholds **Provide authorization or guidance to staff for implementation**

- Board vote to take place 'as soon as feasible'
- Different scenarios outlined in By-laws depending on level of approval by Council and in case board does not agree with Council recommendation
- As appropriate, board gives authorization / direction to staff to take all necessary steps to implement the policy

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Council Deliberation

| Final Report | Outside advisors, optional | Within 10 days after receipt of final report |

- Council has 10 days to consider final report and vote on the PDP
- Approval of a PDP w/o supermajority: majority of both houses (>= 1 rep from 3 of 4 SG)
- Super-majority approval: > 75% majority in one house and majority in other house

Evaluation and Review

| Currently no provisions in place | Some PDPs have recommendation for review built in |

- No mechanism in place to conduct systematic review of success of both policy and process

ccNSO: For the ccNSO, the ccPDP is described in Annex B of the ICANN Bylaws. The limited scope to conduct a ccPDP is defined in Annex C of the ICANN bylaws. A country code policy development process (ccPDP) has four distinct phases:

- o Initiation by a ccNSO Council vote on the Issue Report. The Issue Report includes an assessment by ICANN's General Counsel on whether issues are within the scope of a ccPDP.
- o Policy development resulting in Interim and Final Reports.
- o Voting by the ccNSO Council and ccNSO members. Formal votes may result in recommendations to the ICANN Board for adoption as a policy.
- Issue Reports, Interim Reports and Final Reports are published for public comments.
- A ccNSO policy is only applicable to members of the ccNSO and to ICANN. Membership in the ccNSO is voluntary and a ccTLD has to apply for membership.

At-Large: The At-Large Policy Advice Development Schedule is a mechanism that allows for transparent policy development within the At-Large community. It is regularly updated by a member of the ALAC Executive Committee. More information can be found at [http://spreadsheets.google.com/pub?key=0AtasV2tOgnqxdEtybGhDb3NweG5mZX dZXzlSMzlTdVE&gid=4](http://spreadsheets.google.com/pub?key=0AtasV2tOgnqxdEtybGhDb3NweG5mZXdZXzlSMzlTdVE&gid=4).

Staff's role: Staff's role differs depending upon whether it is supporting a new policy development initiative versus implementation of a board-approved policy. In the former role, Staff serves as a facilitator of the SO/AC's policy development processes, with the primary role of enabling the development of a consensus position on a specific topic.   In this role, Staff attempts to maintain a neutral stance, rather than actively advocate for a specific outcome.   Exceptions occur where Staff identifies issues that raise legal liability concerns for ICANN, where contract issues are implicated, where advice on specific technical issues is provided, or where policy proposals raise significant implementation challenges or cost concerns. Staff often prepares "implementation notes" or other memoranda to highlight these concerns prior to the adoption of the policy.

Once a new policy is adopted by the Board, Staff changes its focus and role to the development of the operational processes necessary to achieve the goals of the new policy through its implementation.   Because the new policy recommendations typically lack sufficient details to address all operational aspects, Staff undertakes an extensive internal analysis of the implications of implementing the new policy. From time to time, Staff uncovers aspects of the policy recommendation that lack

sufficient guidance, requiring decisions to be made in order to carry out the new policy.

There are several excellent examples where supporting organization members and staff worked cooperatively to achieve both sets of goals: policy development and its subsequent implementation. An early example is the implementation of the Inter-Registrar-Transfer Policy. That policy, as written and approved, contained many implementation "gaps." ICANN created an implementation team that included GNSO contracted party stakeholders in order to develop an implementation model that met the policy goals and also adequately accommodated business models of the involved entities.

Notably, during the 19-month new gTLD PDP, the GNSO committee often held collaboration sessions with staff members to test the "implementability" and potential outcomes of various policy choices. Similarly, once the ICANN Board approved the new gTLD policy, Staff has provided frequent detailed updates to the GNSO and GAC to ensure the implementation planning was in line with the policy goals. These sessions have real effect. A significant result was the formation of the IRT and the insertion of rights protection mechanisms into the proposed new gTLD process. As another example in the same policy implementation, intercessional sessions with the GAC and its leadership led to increased protections of geographical names in the process.

A later example includes vertical integration issues raised in connection with the New gTLD Program.   The GNSO Council recommendations approved by the Board did not specify what vertical integration rules should apply in new gTLDs. While some may question whether these issues are policy making or policy implementation, in many cases it will continue to remain unclear what constitutes "policy making." One definition distinguishes implementation details from policy making by observing that implementation details become an ICANN practice, that can be changed in the future for many reasons, such as changing market conditions. Policy making differs from ICANN implementation "practices" in that it involves a Board resolution to create a permanent rule, guide or framework that applies to multiple situations, and is expected to have lasting value or applicability.   Policies are relatively unchangeable, and reflect highly regarded principles that apply across-the-board to all similarly situated. While the Bylaws are unclear, changing a policy recommendation should involve GNSO Council approval and Board adoption, but changing an implementation practice would normally not call for such formalities.

However, these issues will continue to arise. The benefit of the ICANN model is the developing relationships among the Supporting Organizations, Advisory Committees and ICANN Staff, so long as ICANN staff can continue to participate in and provide advice to, and so long as the volunteer policy makers continue to energetically review implementation planning and stand by to re-engage where necessary. It is this flexibility and ability to work in cross-functional teams that allow ICANN to effectively address "gray areas" that will always arise.

Study of GNSO constituency participation in working groups (related to workload/prioritization efforts): In October 2009, Denise Michel, ICANN's former VP Policy, provided the GNSO community with a high level analysis of constituency participation and attendance in GNSO working groups. The attached slide presentation, which was delivered at ICANN's Seoul meeting, and the attached report and related spreadsheets, was intended as an inquiry to encourage further community investigation and discussion about GNSO workload and prioritization of tasks, as well as future work processes and structures. As a result of this report and subsequent community discussions and work, the GNSO is now considering changes to their operating procedures to prioritize their work. Information on the GNSO's activities in this area can be found on ICANN's website at http://gnso.icann.org/resolutions (GNSO Council resolution) and at http://gnso.icann.org/drafts/wpmg-section-6-and-annex-09apr10-en.pdf (recommended changes under consideration).

Example of a final PDP report that includes a minority report where dissent is stated: One example of such a PDP report is the GNSO's Final Report on the Introduction of New Generic Top-Level Domains, which can be found on ICANN's website at http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm.

Example of monthly updates on policies: ICANN's monthly policy updates can be found on ICANN'S website at http://www.icann.org/en/topics/policy/.