



# ICANN Accountability and Transparency Metrics and Benchmarks: Consultancy Report

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# 1 Introduction

As a non-profit organisation with a mandate to act in the public interest and the responsibility to manage a global public good, in the form of Internet domain name system, ICANN faces considerable demands to improve and demonstrate its accountability. It is perhaps the ironic dilemma of ICANN that its multi-stakeholder structure both necessitates accountability and creates complexity in the process of accountability being achieved. Recent efforts within ICANN to improve accountability to its stakeholders have been notable, however ICANN still faces questions on how to quantify or validate its accountability.

In September 2013, ICANN commissioned the One World Trust to develop a draft set of metrics to measure and track ICANN's accountability performance, and a set of benchmarks to annually compare ICANN's accountability policies and practices with other similar organisations. This was in part in response to the recommendations of the first Accountability and Transparency Review Team report (2010). It was also because there was recognition within ICANN the organisation and the broader ICANN community of a need to actively communicate the wider story of how ICANN is meeting its accountability obligations, and to benefit from learning how other organisations are accountable to their stakeholders.

The following report presents the draft Accountability Framework, and recommendations for its finalisation and implementation. In order to provide the contextualisation and rationale behind the development of the Framework, it begins with an over-view of the outcomes of the background research conducted by the One World Trust consultants. The full reports for each of these accompanying research strands are available in the Appendixes of this report.

## 2 Consultancy Summary

The following summary presents the research design and research findings that led to the development of the proposed Accountability Framework. Further information can be found by reading the full reports presented in the Appendix.

### 2.1 *Research Design*

In order to establish a solid and credible basis for the development of the accountability and transparency metrics and benchmarks, the consultants set the following three research questions, in agreement with ICANN:

1. What are the international expectations of ICANN's accountability performance?
2. How is ICANN currently performing against these expectations in terms of accountability?  
Where are the strengths and challenges?
3. How are other international, multi stakeholder organisations meeting their accountability challenges?

In order to answer these questions the background research was therefore divided into three complementary strands:

1. A review of the accountability principles promoted by **four international accountability standard setting initiatives**, in order to establish how they define accountability, and what standards they regard as key to being accountable (see Section 2.2).
2. A qualitative analysis of ICANN's policies and practices through desk research and interviews with key staff and stakeholders, to provide us with an insight to **ICANN's current accountability strengths and challenges**, as well as gathering ideas about how the metrics and benchmarks might work (see Section 2.3).
3. A comparative analysis of the accountability policies and practices of **three multi-stakeholder, international non-profit organisations**, to establish their current level of accountability in comparison with ICANN, and identify useful learning for ICANN to take forward (see Section 2.4).

## 2.2 *Key Accountability Expectations of International Non-Profit Standard Setters*<sup>1</sup>

The first strand of research was a review of the accountability principles promoted by four international, accountability standard setting initiatives. In the past decade increasing attention has turned to how non-profit organisations meet their commitments to their stakeholders, and particularly those on whose behalf they work. Alongside national government efforts to regulate non-profit organisations, a number of collective initiatives have formed, where these organisations have come together to agree on voluntary standards of accountability and good practice<sup>2</sup>. Such standard setting initiatives are often developed with expert contributions and extensive consultation of the Non-Governmental Organisation (NGO) community, and have then been widely used by participating NGOs to guide and improve their internal accountability policies and procedures. Analysis of the content of such initiatives therefore offers a good overview of current expectations of accountability standards for non-profit organisations.

The review of the standard setting initiatives had the following objectives:

- To consider the approach to accountability promoted by the standard setting initiatives organisations
- To identify the key principles and benchmarks of accountability promoted by the standard setting initiatives
- To compare the scope and content of the accountability standards contained within the four frameworks and codes

The following four initiatives were selected as case studies for the review because of their international, cross-sectoral focus, and wide recognition by non-profit organisations worldwide:

- **The Global Accountability Framework II** (One World Trust)
- **Code of Ethics for NGOs** (World Association of NGOs)
- **INGO Accountability Charter** (INGO Charter Company)
- **The 2010 HAP Standard in Accountability and Quality Management** (Humanitarian Accountability Partnership)

The review of the four standard setting initiatives' accountability frameworks and codes produced the following broad conclusions:

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<sup>1</sup> The full report is available in APPENDIX B: *Key Accountability Expectations of International Non-Profit Standard Setters*

<sup>2</sup> Also known as Self-regulatory Initiatives, or Collective Accountability Initiatives. See the One World Trust's CSO Self-Regulatory database for details of over 350 national, regional and international initiatives, plus a series of analytical briefing papers on the subject <http://www.oneworldtrust.org/csoproject/>

- **Definition of accountability:** The definition of accountability used by the four standard setting initiatives broadly focuses upon the ways in which an organisation meets its organisational mission through its interactions and relationships with its multiple stakeholder groups. This is in line with the approach to accountability taken by most non-profit organisations, rather than traditional principle-agent binary forms of accountability<sup>3</sup>.
- **Key Principles and Benchmarks:** Each initiative organises its accountability standards around a different set of overarching principles or benchmarks. Both HAP and the One World Trust frameworks are structured around similar thematic principles of accountable behaviour: committing to accountability; transparency; stakeholder participation; evaluation and learning; and complaints handling. The HAP Standard also includes the operational principle of Staff Competency. The INGO Charter and the World Association of NGOs Code of Ethics feature a mixture of thematic accountability principles, and operational principles, such as Human Resources and Fundraising. However as can be seen from the analysis of the Codes' actual constituent standards, all four cover to some degree the high level principles of **transparency, participation, evaluation and learning, and complaints handling.**

The outcomes of this review of accountability standard setting initiatives supported the consultants' stakeholder centric approach to accountability. The identification of key principles was used to structure the accountability framework, and establish the level of accountability that the Benchmarks should be aiming for.

### ***2.3 An analysis of ICANN's accountability policies and practices<sup>4</sup>***

The analysis of ICANN's current accountability policies and practices aimed to establish where ICANN's current strengths and challenges lie, and where there are areas that the benchmarks and metrics can help to drive forward ICANN's accountability performance. To achieve this, the analysis drew on various ICANN policies, reports and pages of the website, as well as interviews with twenty-two key ICANN staff and stakeholders. The analysis takes a stakeholder perspective of accountability, and assesses the following dimensions:

1. Accountability Strategy
2. Transparency

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<sup>3</sup> Hammer, M. and Lloyd, R. (2011) *Pathways to Accountability II: the 2011 revised Global Accountability Framework* p30

<sup>4</sup> The full report is available in Appendix C: *An Analysis of ICANN's Accountability Policies and Practices*

3. Board Governance
4. Participation
5. Evaluation and Learning
6. Complaints and Response mechanisms.

The analysis of ICANN's accountability policies and procedures has revealed that in many respects ICANN has strong accountability practices. This was underscored by the deep commitment expressed by many staff and stakeholders interviewed to the broad principle of accountability, which is in itself an essential component of any attempt to improve an organisation's accountability. However the organisation lacks a clear definition or framework of accountability, to support and direct practical efforts, or a regular process to monitor and reflect on current accountability practices.

The analysis found that ICANN has particular strengths in relation **to transparency and information sharing**, and its Document Information Disclosure Policy (DIDP) meets several good practice criteria. The amount of information provided to stakeholders can be a barrier to accessibility however, as it can be hard to find particular documents or reports. The translations provided can also be of an inconsistent quality and some key policy documents, including the DIDP and details of the complaints handling mechanisms are not available in languages other than English.

Policies regarding the **governance and election of the Board** meet all of the One World Trust's good practice criteria. There remain concerns amongst stakeholders however, about the accountability and transparency of the NomCom, and about how the Board takes into account the opinions of different stakeholders when making decisions.

ICANN provides extensive opportunities for its **formal stakeholders to engage with the organisation**, through tri-annual meetings, working groups and public comment processes. However ICANN's efforts to consult with its stakeholders and encourage their participation, are not always guided by formal procedural guidelines. This causes challenges with stakeholder expectations, and in particular, accusations that the GAC holds greater weight with the Board than other stakeholder groups.

In the past year ICANN has made notable efforts to reach out to regions that have not historically been a focus of its proceedings, and to support the development of industry in such regions to provide a basis for greater engagement in the future. Monitoring and evaluation over the next few years will indicate the success of these efforts. One approach effectively used by the International Organisation for Standardisation (ISO) to address stakeholder engagement, which ICANN might find particularly useful, is to partner a Working Group Chair or Vice-Chair who is from a developing

country with a counterpart Chair or Vice-Chair from a developed country. Such an approach might help to increase participation from under-represented countries within ICANN's formal stakeholder groups.

**External evaluations** of ICANN bodies (Supporting Organisations and Advisory Committees) are recognised by staff to have been inconsistent, and not clearly followed up on. The current development of a new Organisational Audit Procedure, and of clear organisational objectives, will facilitate stronger evaluations and learning in the future.

ICANN's **internal and external complaints mechanisms** meet some good practice standards, and exceed those of the three case study organisations assessed as part of this consultancy. However, they are not perceived as effective by the stakeholders interviewed, indicating there is still some room for improvement.

Following from the above analysis of ICANN's accountability policies and practices the consultants provided a set of recommendations as to how we believe ICANN could improve. In some cases these recommendations directly echo those of the second Accountability and Transparency review team. ICANN should consider each recommendation in terms of its necessity, practicality, implementability and resource requirements, before determining which recommendations should be acted upon, and across what timescale.

## ***2.4 A comparative analysis of the accountability policies and practices of three multi-stakeholder, international non-profit organisations<sup>5</sup>***

The main aim of the comparative case studies analysis is to present the key features of the accountability systems of the World Fair Trade Organisation (WFTO), Forestry Stewardship Council (FSC) and the International Organisation for Standardization (ISO) in order to identify areas of learning and good practice sharing for ICANN. The key features of the accountability systems of these three organisations were analysed along the dimensions of 'accountability strategy', 'transparency', 'responsiveness of executive body', 'participation', 'responsiveness of executive body', 'evaluation and learning' and 'complaints and response'. This is in line with the six Principles that form the outline of the ICANN Accountability Framework.

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<sup>5</sup> The full report is available in Appendix D: *A comparative analysis of the accountability policies and practices of three multi-stakeholder, international non-profit organisations*



It should be noted that conducting a comparative “scoring” or “benchmarking” between large, multi-stakeholder organisations such as these is a complex process, which must take into consideration the different contexts and motivations of each organisation, as well as ensure the full, informed participation of the subject organisations, which will require the agreement of senior management. It therefore requires careful engagement with all parties, and opportunities for the subject organisations to comment on draft assessments, before finalisation. For this reason a formal benchmarking of ICANN against the three case study organisations was beyond the scope of this consultancy. However the qualitative analysis provides some insight as to how the different organisations perform in terms of accountability to their stakeholders, and it lays the ground for a more formal benchmarking process in subsequent years.

As can be seen from the summary below, the review of the case study organisations identifies some useful approaches which ICANN may wish to adapt to fit its unique context, and implement in order to strengthen its accountability performance. Overall it is clear that in comparison with the other three organisations ICANN performs relatively well in terms of transparency, evaluation and learning and complaints handling. This should not however be taken to mean that ICANN’s current level of accountability to its stakeholders is sufficient: there are a number of internationally agreed good practice standards that ICANN does not yet meet. Furthermore, the unique nature of ICANN’s work, its responsibility for the governance of a global public good, and the commitment of its stakeholders to transparency and accountability means that there are elements of its work where a greater degree of accountability should be the aim. The ICANN Accountability Framework Goals and Objectives aim to guide ICANN as to the internal standards it should be aspiring to achieve.

### *Accountability strategy:*

- Similarly to ICANN, the WFTO, FSC and ISO do not provide a clear definition of accountability, nor do they produce an annual Accountability Report. Therefore none of these organizations have particular mechanisms in place that assess whether they are effectively meeting their accountability commitments.
- In contrast to ICANN, the WFTO, FSC, and ISO clearly identify their key internal and external stakeholders and map prioritizations amongst them, enabling all three organizations to strategically respond to the needs of their diverse stakeholders.
- Strikingly, in contrast to WFTO and ISO, FSC does not formally count staff and donors as stakeholders, emphasising the ‘neutrality’ of both without providing further explanation of the meaning and application of neutrality.

- WFTO and FSC have a strong degree of engagement with civil society organizations; ISO with national governments. However, these engagements must be understood in the context of their emergence and nature of work.

*Summary:* Regarding the principle of ‘accountability strategy’ WFTO, FSC and ISO show similar weaknesses that have also been detected with ICANN, such as lack of an annual Accountability Report and a concise accountability definition. However, the clear identification and mapping of the diverse stakeholders offers a good learning practice for ICANN.

## *Transparency*

- WFTO and ISO make commitments to transparency which are explicitly laid down in their constitutions, bylaws and directives and the wide dissemination of core documents in several languages (English, French and Russian in ISO case; English and Spanish in WFTO case). However their practice of transparency in comparison to ICANN is weak. For instance, both organizations do not provide sufficient information about the minutes of governing body meetings, transcripts of crucial stakeholder meetings, or detailed rationales for decision making. Thus, ICANN has a profound and extensive sharing of information from which WFTO and ISO can learn.
- In contrast to WFTO and ISO, FSC’s transparency practice is quite strong and shows numerous similarities with ICANN, such as practice of full disclosure which ensures that all relevant information is publicly available and easily accessible.
- FSC’s “Motion Forum” and “Stakeholder Portal”<sup>6</sup>, which provide detailed information on policy and operational levels, are good examples for regular flows of ad hoc communications among diverse stakeholders that might inspire ICANN to create similar communication channels.
- In comparison with WFTO, FSC and ISO, ICANN has outstanding guidelines regarding its Non-Disclosure Policy. None of the three case study organizations define the conditions for non-disclosure and appeal process for documents that have been withheld. Thus, ICANN’s Document Information Request Policy which details specific conditions for Non-Disclosure is a good learning example for WFTO, FSC and ISO.
- However, FSC and ISO might provide ICANN with useful policies and practice on ensuring the *quality* of translated documents, for instance through the processes of certified translations.

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<sup>6</sup> <https://ic.fsc.org/stakeholder-portal.8.htm>

*Summary:* In relation to the Principle of ‘transparency’ it can be noted that ICANN has robust and comprehensive mechanisms in place from which WFTO, FSC and ISO can definitely learn; however ICANN has to take into account the different needs of its stakeholders regarding information sharing.

## *Participation*

- FSC and ISO have strong participation mechanisms in place that enable the balancing of the need and the empowerment of diverse stakeholders. This is less the case for the WFTO.
- FSC’s tri-partite structure: FSC intends to take the whole range of forest stakeholders into account. In order to do so, a tri-partite structure has been built, with an economic, an environmental and a social chamber. Members of the FSC are required to specify their core interest on applying for membership. For example, the membership in the social chamber of the FSC is limited to indigenous organisations and social movements as well as assigned individuals active in promoting environmentally appropriate, socially beneficial and economically viable forest management. FSC’s decision making processes are also characterised by an explicit North–South parity. It aims at ensuring a balance between ‘Northern’ and ‘Southern’ interests. Hence, the FSC’s three chambers each have a Northern and a Southern sub-chamber. FSC’s governance structure consists of splitting the total voting power available equally between the three chambers (one-third each); and then splitting each chamber vote evenly between Northern and Southern members (one-sixth for each sub-group). Thus, all six sub-chambers have equal voting power in the organisation’s General Assembly, without having to restrict the number of members which sit in each chamber. However, despite this well-crafted multilevel governance structure, the problem of low participation of stakeholders from specific geographical regions remains a problem.
- ISO’s “twinning”: For decades developing countries played a passive role in ISO even as they supplied the majority of members. In 2012, the number of ISO’s technical bodies led by developing countries rose to an historic high of 9%; this occurred mainly via *twinning*, in which representatives of member bodies from developed and developing countries hold leadership positions jointly. Nevertheless, despite “twinning” developed countries still hold more than 45% of council seats, but comprise only 23% of ISO member bodies.
- ISOs “concept of consensus”: ISO defines ‘consensus’ as a general agreement that is characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking *to take into account*

*the views of all parties concerned and to reconcile any conflicting arguments.* Thus, the ‘consensus’ practice formally emphasises the active participation of all relevant stakeholders during the decision making process.

*Summary:* For the Principle of Participation FSC’s unique tri-partite structure, ISO’s “twinning” and its “concept of consensus” offer good practice and learning opportunities for ICANN about how to engage effectively with formal and informal stakeholders.

### *Responsiveness of executive body*

- WFTO, FSC and ISO are membership based organisations and thus the highest decision making authority is the General Assembly consisting of members.
- The responsiveness of the executive bodies (WFTO and FSC have a Board of Directors; ISO has a council) towards stakeholders’ demands and needs are high, which is directly related to the internal governance structure as the executive body is elected by the General Assembly and is accountable to the members of WFTO, FSC and ISO.
- WFTO and FSC have well-balanced governing bodies, ensuring regional and gender balance. However ISO governing bodies tend to be dominated by white males from advanced industrialized countries.

*Summary:* Regarding the Principle ‘responsiveness of executive body’ it can be noted that ICANN shows a high level of responsiveness in comparison with ISO. However WFTO and FSC efforts to ensure regional and gender balance might serve ICANN as good learning examples. Additionally, it is worthwhile to note that only ICANN regularly undertakes independent evaluations of the Board’s conduct. WFTO, FSC and ISO do not undertake such independent evaluations, which might be due to the fact that the governing bodies are directly elected by the General Assembly.

### *Evaluation and Learning*

- FSC and ISO do not have a particular emphasis on evaluation and learning, nor do they conduct regular reviews of internal evaluations. Rather, ICANN’s policy of undertaking commissioned organisational reviews on a regular basis is in comparison to FSC and ISO exceptional, even if it has been inconsistent, and not clearly followed up on in the past.
- WFTO does have an effective evaluation and learning scheme in place. WFTO Guarantee System (GS) is a monitoring tool/system that aims to identify organizations as having met

internally agreed accountability standards of fair trade practice. WFTO GS is based on a three-tier process. Self-assessment is the first step of the monitoring process; WFTO members assess themselves against nine standards using the self-assessment guidelines and regionally developed indicators. The nine standards are: Creating Opportunities for Economically Disadvantaged Producers, Transparency and Accountability, Capacity Building, Promoting Fair Trade, Gender Equity, Working Conditions, Child Labour, the Environment and Payment of a Fair Price. The self-assessment report (largely narrative based) outlines the degree of compliance with the standards and is sent to WFTO every two years. The second step of WFTO GS is mutual review (a type of internal verification); the WFTO members send their self-assessment Reports to their trading partners allowing for comments and feedback in a process that encourages accountability and transparency (in line with practices such as 360 degree assessment or feedback). The external verification is the last component of the WFTO GS monitoring system. Registration is given to organizations that have successfully completed their self-assessments and met the demands of the WFTO monitoring system. The external verification identifies them as fair trading organizations. WFTO GS encourages organizational self-learning and self-reflection as it requires organizations to reflect on their practice; it explicitly promotes democratic structures amongst the producer organizations. However, it should be noted that the WFTO GS is not a genuine evaluation and learning tool, rather it is a certification system that can be seen as an example of ‘governance by disclosure’.

*Summary:* Whilst ICANN’s policy of conducting regular organisational reviews exceeds the evaluation and learning practice of the FSC and ISO, the WFTO’s Guarantee System provides an interesting example of how stakeholder groups can be encouraged to self-assess their own performance.

### *Complaints and response*

- In comparison with ISO and FSC, ICANN’s complaints handling mechanisms are more comprehensive, and meet more best practice standards (the WFTO’s complaints handling mechanisms are currently under review, and therefore are not available for public dissemination or analysis). Indeed, the case study organisations may wish to consider adopting some of the mechanisms from ICANN, such as the existence of multiple channels for complaints handling, providing a complaints mechanism for staff, and the Office of the Ombudsman, in order to strengthen their complaints handling practice.

- FSC has in place two different procedures for resolving external complaints. Most complaints fall under FSC-PRO-01-008, and are handled by an internal FSC staff member within a timescale of thirty days. Where evidence exists of a serious violation of FSC’s core values, FSC-PRO-01-009 may be used which is managed by an independent panel appointed by the FSC Director. The panel provides their recommendations to the FSC Board of Directors within sixty days.
- The ISO Directives guide the handling of “internal” stakeholder complaints relating to non-compliance within the standard development process. This mechanism enables ISO national members to lodge compliance-based complaints. External complaints can only be presented to ISO when one receives 'an unsatisfactory' response to a complaint from the national accreditation body; after this step, one can only make a complaint by email: no other mechanisms are available. Against good practice, by submitting a complaint, the complainant is deemed to have automatically authorised ISO to share any parts of the information contained in the complaint, including name and contact details. If the complainant wishes to remain anonymous, he/she must clearly specify this in her/his complaint.
- Staff Complaints: This is a notable area of weakness for both FSC and ISO. Within the FSC, staff are seen as a 'neutral' group and perhaps as a result there is no staff complaints policy publicly available. However there is a small division within the human resource unit of FSC which handles staff complaints according to German employment law. Within ISO there is no policy regarding how staff can make complaints, beyond appealing decisions that have been made against them.

*Summary:* Whilst ICANN does not meet several good practice standards of complaints handling, and it is evident that concerns exist about the *practice* of ICANN’s complaints mechanisms, they are none the less more comprehensive and protective of complainants than those of ISO or FSC. In particular the absence of satisfactory complaints mechanisms for staff at ISO or FSC is a notable omission.

### 3 Introduction to the proposed ICANN Accountability Framework

The proposed ICANN Accountability Framework is intended to guide ICANN's accountability to its different stakeholder groups, both formal (such as staff, the Board of Directors, members of supporting organisations and advisory committees) and informal (those who are not members of the ICANN community but are still affected by its work). The Framework, consisting of accountability **Principles, Goals, Objectives, Metrics**, and cross-organisational **Benchmarks** will help ICANN to clearly articulate how it is intending to strategically improve its accountability, the practical activities it will undertake to achieve this, and how it will measure performance. This will help ICANN to plan activities and efficiently allocate resources according to where there is the greatest need to improve accountability to stakeholders. It will also provide a clear directory for formal and informal stakeholders to understand what they can expect from ICANN, and for ICANN to refer to when addressing stakeholder concerns about a lack of accountability. As has been established by this consultancy, in many respects ICANN practically performs well in terms of accountability to stakeholders; thus this Framework aims to provide a clear structure to ensure that existing good practice is embedded within the organisation, as well as to facilitate strategic targeting of areas for improvement.

It is important to note that this is a *draft* Accountability Framework, and it is expected that there will be a process of piloting and redrafting of the Objectives and Metrics, in consultation with ICANN Staff and Community, before finalisation.

This section provides an introduction to the different elements of the ICANN Accountability Framework. The Framework is then presented in Section 4, and suggestions for finalising and implementing the Framework follow in Section 5.

#### 3.1 *Accountability Principles*

The Framework is composed of six Accountability Principles, which have been identified as key components of accountability for non-profit organisations:

1. Accountability strategy: how an organisation makes a formal commitment to accountability to its different stakeholders and details how this will practically be achieved.
2. Transparency: how an organisation provides stakeholders with information about its activities.
3. Participation: opportunities that an organisation makes available to its stakeholders to engage in the decisions and activities of its work.

4. Responsiveness of the Executive Body: how the executive body takes consideration of the perspectives of its different stakeholders during its decision making processes.
5. Evaluation: ways in which an organisation critically assesses its achievements against its mission.
6. Complaints handling: how the organisation encourages, facilitates and responds to stakeholders raising concerns about its work.

The Accountability Principles provide a framework for the Goals, Objectives, Metrics and Benchmarks, all of which will be applied to measure changes in ICANN's accountability over time.

### **3.2 *Accountability Goals***

Each Accountability Principle is accompanied by an Accountability Goal. The Goals provide a clear and succinct statement of what ICANN stakeholders can and should be able to expect in the future with regard to ICANN's accountability commitments. The six constituent ICANN Accountability Goals are as follows:

1. *Accountability Strategy: ICANN makes a public commitment to be accountable to its different stakeholder groups, and regularly reports on how effectively it is meeting these commitments*
2. *Transparency: Stakeholders can easily access any information they require to stay informed about ICANN's work, including its policy development processes*
3. *Participation: ICANN creates opportunities for everyone affected by ICANN's work to contribute their opinions, participate in ICANN and collaborate with engagement encouraged from all regions, cultures and sectors of society*
4. *Responsiveness of the Executive Body: The ICANN Board of Directors takes consideration of stakeholder perspectives when making decisions, and is transparent about the rationale behind this process*
5. *Evaluation and Learning: ICANN regularly evaluates its work, taking into consideration the perspectives of its different stakeholder groups, and ensures that recommendations are considered and acted upon where appropriate.*
6. *Complaints and Response: ICANN provides effective mechanisms through which stakeholders can raise complaints about ICANN's work, and receive a prompt response*

The Accountability Goals provide a practical definition of each accountability Principle, specific to ICANN. The Goals are aspirational, in that they articulate a level of accountability that ICANN has not yet achieved, but they are also practically achievable over time. They are intended to provide a clear focus for ICANN's accountability activities, and to drive improvement.



### 3.3 *Accountability Objectives and Metrics*

Within each Accountability Principle sit several accountability Objectives that detail practical ways in which the Goals will be achieved by ICANN. Each principle is also accompanied by metrics that will help to measure progress of achieving these Objectives.

It is recognised to be very difficult to measure the actual *impact* of accountability<sup>7</sup>, since effective accountability involves an intangible “sense” for stakeholders that they are being listened to and respected. Measurements of accountability can also be challenging to isolate from other external factors, in order to determine causality: for example, the response that a public consultation process receives can be due to a more effective strategy to inform stakeholders about the process (which would show greater accountability on the part of ICANN), or can be because a particularly contentious issue is being discussed (which has no relation to ICANN’s accountability). Finally, the fairly common approach of simply counting accountability mechanisms, such as the number of consultations held, or the number of complaints mechanisms available, provides no indication as to how *effective* the organisation’s accountability actually is, and risks accountability becoming a mere box-ticking exercise.

The Objectives and Metrics have been designed in order to try and overcome these challenges. The Objectives and Metrics look for practical outcomes that will directly *indicate* that the organisation is being accountable, such as the publication of Board minutes, or responses to stakeholder complaints. They focus on measurements where the causality of any increase or decrease can be attributed to the effectiveness of ICANN’s accountability mechanisms. In a few cases Objectives and Metrics require only a Yes/No answer, where the very presence of an accountability mechanism or approach is particularly important. It should also be noted that the Objectives and Metrics are not intended to provide a comprehensive summary of all aspects of ICANN’s accountability performance: in order to be concise, and easy to communicate, they select three or four key practices of accountability for each Principle.

Whilst the principal aim of the Objectives and Metrics is to track improvements in ICANN’s accountability over time, they will also guide ICANN in practically realising their accountability commitments to their stakeholders, by referencing processes or mechanisms that are important to each accountability principle, such as the Document Information Disclosure Policy, or stakeholder consultations.

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<sup>7</sup> See for example the discussion in Gaventa, J. and McGee, R. 2013, “The Impact of Transparency and Accountability Initiatives” *Development Policy Review* (31: S1) pp3-28; and Featherstone, A. (2013) *Improving Impact: Do Accountability Mechanisms Deliver Results?* (Report produced for HAP-International) <http://www.hapinternational.org/pool/files/improving-impact-do-accountability-mechanisms-deliver-results.pdf>

The Objectives and Metrics have been designed using SMART criteria<sup>8</sup>. The Objectives and Metrics are:

- **Specific:** they are limited to precise activities within ICANN. Collectively the Objectives and Metrics measure a few indicative aspects of accountability, but do not try to look at every activity related to accountability.
- **Measurable:** data can be collected about them, and will allow for analysis and tracking of progress over time. They also avoid measuring aspects of ICANN's work which could be affected by outside forces: where causality might be questioned.
- **Actionable:** measurements will track changes incrementally, and clearly indicate which is a good or bad result, so that action can be taken in order to remedy the flaws.
- **Realistic:** the Objectives and Metrics can practically be achieved by ICANN staff, and as such should be used to guide activities and work plans.
- **Timebound:** there is a limited timeframe within which ICANN should aim to achieve its accountability Objectives.

The Objectives provided in the framework do not specify dates or levels which ICANN should be aiming to achieve, with some exceptions where timelines have already been set in ICANN policies or the Bylaws. Places where values or dates need to be fixed are marked with a **highlight**. These figures should be set by staff in the relevant teams, in line with their planning processes. A key part of this will be establishing the baseline data for 2014, so that ICANN can establish what level of improvement is realistic and feasible (see Suggestions for Implementation).

The Metrics look for three different types of data for assessing how well ICANN is meeting its Objectives. Firstly, there are metrics for which the ICANN staff are already gathering data- in many cases the practicalities of accountability are already being measured for other purposes such as the CEO Dashboard on the website. Secondly, there are new metrics, where there is an important aspect of accountability to measure, but not yet a readily available metric. Thirdly, an annual survey of ICANN stakeholders' perceptions is proposed (potentially as an extension of the newly introduced Reputation Audit conducted by the Global Stakeholder Engagement Team), which will provide a further source of data for the metrics (see Appendix A: *ICANN Stakeholder Perceptions Survey: suggested questions* for details). As the subjects of ICANN's accountability efforts, stakeholders are obviously key, and this survey will also allow ICANN to measure factors which are not directly within the organisation's control.

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<sup>8</sup> There are different definitions of the SMART criteria: a brief summary can be found in Davis, C. 2013, *Managing through Metrics: the Other Side of SMART* (Metis Strategy) p21 <http://www.metisstrategy.com/managing-through-metrics-the-other-sides-of-smart-executive-summary/>

### 3.4 *Benchmarks of Good Practice*

The Benchmarks of Good Practice are the final component of the Accountability Framework, sitting alongside the Goals, Objectives and Metrics, and structured around the same Principles of accountability. The Benchmarks were developed following an analysis of four widely accepted, international Accountability Frameworks or Codes (see Section 2.2: Key Accountability Expectations of International Non-Profit Standard Setters). They therefore reflect internationally accepted standards of stakeholder accountability.

The Benchmarks are intended to guide a regular qualitative comparison of ICANN with other organisations, to identify strengths and challenges and to highlight areas where learning can be shared. They will also allow ICANN to assess how well it is meeting its accountability commitments to its stakeholders, in comparison with other organisations. These Benchmarks are intended to be applicable to different organisations that are governed through a multi-stakeholder model.

As discussed in Section 5.3 Suggestions for implementing the Benchmarks, in order to ensure a productive Benchmarking process between ICANN and its peers, efforts will need to be made to establish positive relationships with these organisations. It is of course, respectful to receive the agreement of another organisation that one is assessing. However, it would also be beneficial to secure the peer organisations' agreement to provide internal documents, and details of policies and processes to the Benchmarking consultant, so that ICANN can benefit from learning about their peers' practices which may not be apparent from publicly available sources.

The Benchmarks of Good Practice are not intended to generate scores or ratings, but to guide qualitative comparisons. This is for three reasons. Firstly, as the organisation will be commissioning the comparative analysis, ICANN has no legitimacy to "score" the performance of others against its own framework. Secondly, in order to achieve sufficient access to the other organisations, ICANN will be reliant on the good will and enthusiasm of the staff of those organisations to participate in the comparative process, which could be undermined should there be an element of competition. Thirdly, ICANN arguably has a unique mission that makes meaningful quantitative comparisons with other organisations meaningless. Qualitative analysis, on the other hand, will allow for the context of each organisation to be taken into account. This means that explanations can be given if there is a good reason why an organisation does not meet a particular Benchmark. For example, Benchmark 6A iii states that "The organisation makes a commitment that,[...] when handling complaints the identity of complainants will be protected". However ICANN Bylaws mandate that for both ICANN's Reconsideration Request and Independent Review processes, complainants must be identified, and

all documents made publicly available. This would therefore be explained and contextualised in the qualitative assessment.

## **4 The Draft ICANN Accountability Framework**

The Draft ICANN Accountability Framework has been developed by drawing on extensive desk research, interviews, learning from other Accountability Frameworks and the policies and practices of other multi-stakeholder international organisations. However, it is expected that it will undergo further redrafting, following piloting and consultations with ICANN stakeholders. Suggestions for the finalisation and implementation of the Accountability Framework can be found in the next section.

As has been described in the previous Section, the Objectives currently do not have fixed target dates or percentages: these should be determined by ICANN in line with organisational planning processes.

# 1. Accountability Strategy

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN makes a public commitment to be accountable to its different stakeholder groups, and regularly reports on how effectively it is meeting these commitments</i></p>
<p><b>Template Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b> ICANN has developed a formal accountability framework, detailing how it will practically meet its accountability commitments to its different stakeholder groups.</li> <li>• By <b>date</b> ICANN has established a process to produce an annual Accountability Report.</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• Progress with the Accountability Report for this year (complete/on track/at risk).</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation makes a public commitment to be accountable to its different stakeholders, and details in a single source what mechanisms it employs to deliver these commitments.</li> <li>ii. The organisation identifies its different stakeholder groups, and publishes details of how this identification process was undertaken.</li> <li>iii. The organisation regularly reviews how well it is meeting its accountability commitments, taking consideration of a range of internal and external stakeholder perspectives. Reviews include an analysis of strengths and challenges and recommendations for improvement.</li> <li>iv. Regular accountability reviews are made readily available to the public (e.g. prominently published on the website).</li> </ol>

## 2. Transparency

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN’s stakeholders can easily access any information they require to stay informed about the organization’s work, including its policy development processes</i></p>
<p><b>Template Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b>, all reasonable document information requests received through the DIDP are responded to within 30 calendar days of receipt of the request.</li> <li>• By <b>date</b> ICANN can demonstrate that it is meeting the translation needs of the community by achieving <b>XX%</b> of Language Services Key Performance Indicators.</li> <li>• By <b>date</b>, <b>XX%</b> of surveyed visitors to the website say that they find it “easy” or “quite easy” to find the information they are looking for.</li> <li>• By <b>date</b> all reports from the Affirmation of Commitment Reviews and Organisational Audits include a “simple language” summary and an appendix explaining any acronyms or technical terms.</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• % of all reasonable document information requests received through the DIDP that are responded to within 30 calendar days of receipt of the request.</li> <li>• % of Language Services Key Performance Indicators that have been met</li> <li>• % of stakeholders that say they find it “easy” or “quite easy” to identify the information they are looking for on the website.</li> <li>• % of reports from the Affirmation of Commitment Reviews and Organisational Audits include a “simple language” summary and an appendix explaining any acronyms or technical terms.</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation commits to a principle of full disclosure, with narrow and clearly defined conditions under which information may be withheld.</li> <li>ii. A formal process exists for stakeholders to request access to information or documents that have not been made public.</li> <li>iii. The organisation publishes details of all requests for information, including a justification for any refusals of disclosure.</li> <li>iv. Approaches to sharing information take into consideration the different needs of the organisation’s stakeholders (e.g., translations, “simple language” summaries, use of different media, explanations of</li> </ol>

	acronyms and terminology).
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### 3. Participation

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN creates opportunities for everyone affected by ICANN’s work to contribute their opinions, participate in ICANN and collaborate with engagement encouraged from all regional, cultures and sectors of society.</i></p>
<p><b>Template Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b>, there has been a <b>XX%</b> improvement from the 2014 baseline, in the number of participants in all Supporting Organisations and Advisory Committees working groups that are from a “targeted region” (i.e. Latin America; Middle East; Africa)<sup>9</sup>.</li> <li>• By <i>date</i> there has been a <b>XX%</b> increase from the 2014 baseline in the number of contributors (excluding those from ICANN bodies) to the public comment processes that are from a “targeted region” (i.e. Latin America; Middle East; Africa).</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• % change from 2014 baseline in the number of participants in SO/ AC working groups who are from a “targeted region” (i.e. Latin America; Middle East; Africa).</li> <li>• % change from the 2014 baseline of contributors (excluding those from ICANN bodies) to the public comment processes of the past 12 months who are from a “targeted region” (i.e. Latin America; Middle East; Africa).</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation has a policy which guides its engagement with stakeholders: this specifies in which circumstances the organisation seeks stakeholder contributions, the types of consultation mechanisms it uses, and the seniority of staff that stakeholders can expect to engage with in consultations.</li> <li>ii. The organisation provides sufficient notification of consultation events and adequate information about the issue being discussed, to enable informed participation by stakeholders</li> <li>iii. The organisation identifies which of its stakeholder groups face barriers to participation, and details the strategies that are proactively pursued to encourage their engagement.</li> </ol>

<sup>9</sup> Long term intention is to measure the increase in participation across all regions in the regional and functional engagement activities. Participation in Supporting Organizations and Advisory Committees work is a practical way to implement this metric at this time.

## 4. Responsiveness of the Executive Body

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>The ICANN Board of Directors considers stakeholder perspectives when making decisions, and is transparent about the rationale behind this process.</i></p>
<p><b>Template Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b>, the ICANN Board publishes the rationale behind all its decisions.</li> <li>• By <b>date</b> the ICANN Board acknowledges all consensus recommendations directed to the Board by Supporting Organisations and Advisory Committees.</li> <li>• By <b>date</b>, ICANN is transparent about the extent to which the Board adopts the consensus recommendations of its different Supporting Organisations and Advisory Committees.</li> <li>• By <b>date</b>, all comments received through ICANN public comment process, are summarised by ICANN staff and provided to the Board, including the identity of all commentators and the nature of their comment</li> <li>• By <b>date</b>, <b>XX%</b> of stakeholders who have contributed to an ICANN decision making process (through consultations, meetings or working groups) felt that their contribution was “considered” .</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• % of Board decisions which have been accompanied by a public explanation of their rationale.</li> <li>• % of consensus recommendations directed to the Board by Supporting Organisations and Advisory Committees that have been acknowledged by the Board.</li> <li>• <i>% of policy level recommendations from the Policy Development Process, provided to the Board by each Supporting Organisations and Advisory Committees that have subsequently been adopted<sup>10</sup>.</i></li> <li>• % of public comment processes that result in a summary being provided to the Board which includes details of the identity of all commentators and the nature of their comment.</li> <li>• % of stakeholders that have contributed to an ICANN decision making</li> </ul>

<sup>10</sup> It is understood that this information may prove difficult or time consuming to gather, and additional criteria need to be established such as what will be counted as a single “recommendation”, and what will constitute a recommendation being “accepted”. However it is considered that this information is potentially very useful to ICANN stakeholders, and in demand. We therefore suggest that ICANN staff devise a pilot methodology, gather a preliminary baseline of data, and then decide whether this is a feasible metric to implement, or whether it needs to be revised.

	process (through consultations, meetings or working groups), and felt that their contribution was “considered”.
<b>Benchmarks of Good Practice</b>	<ul style="list-style-type: none"> <li>i. Minutes of the Board meetings are made publicly available, with explanations provided for any redactions.</li> <li>ii. The Board publishes the rationales for its decisions, when they have involved stakeholder contributions.</li> <li>iii. The governance and decision making processes of the Board is regularly reviewed by an independent evaluator, to establish whether it is in line with organisational policies and/or Bylaws.</li> </ul>

## 5. Evaluation and Learning

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN regularly evaluates its work, taking into consideration the perspectives of its different stakeholder groups, and ensures that recommendations are considered and actioned where appropriate.</i></p>
<p><b>Template Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b>, all Supporting Organisations/Advisory Committees are on schedule with their Organisational Review/Audit process.</li> <li>• By 6 months after the submission of the AoC review reports, all recommendations contained therein have received a formal response from the Board.</li> <li>• By <b>XX months</b> following the submission of the AoC review reports, all approved recommendations from the AoC reviews are “complete” or “on track” to meet their implementation plan targets (broken down by ATRT, SSR of DNS, WHOIS and Competition, Consumer Trust and Choice).</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• Number of Supporting Organisations/Advisory Committees which are on schedule with their Organisational Review/Audit process.</li> <li>• % of recommendations from the AoC reviews that have received a formal response from the Board within the mandated six-month response period.</li> <li>• % of recommendations from the AoC reviews that are “complete” or “on track” to meet their implementation plan targets (by ATRT, SSR of DNS, WHOIS and Competition, Consumer Trust and Choice).</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation makes a commitment to regularly evaluate and review its work, against set criteria or an evaluation framework.</li> <li>ii. External stakeholder perspectives are included in all evaluations.</li> <li>iii. Where evaluations are conducted internally, they are either: conducted by an internal evaluation function, which is independent of Senior Management and reports directly to the CEO and/or the Board OR evaluations are conducted by, or include a review by an independent expert.</li> <li>iv. The organisation makes the top level findings of all evaluations readily available to the public (e.g. publishes them on its website).</li> <li>v. The Board or Senior Management provide a public response to evaluation recommendations, detailing what actions will be taken as a result, or providing justification for not acting upon the recommendations.</li> </ol>

## 6 A. Complaints and Response: External Stakeholders

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN provides effective mechanisms through which external stakeholders can raise complaints about ICANN’s work, and receive a prompt response</i></p>
<p><b>Suggested Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• All complaints received through the Reconsideration Request Process result in a recommendation being delivered to the Board within 30 days, unless impractical in which case the procedure of reporting the delay to the Board detailed in the Byelaws shall be followed.</li> <li>• The Board annually publishes the number of Reconsideration Requests which have been accepted or denied by the Board each year.</li> <li>• By <b>date</b>, <b>XX%</b> of survey respondents know how to make a complaint to ICANN.</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• % of complaints received through the Reconsideration Request Process this year which have resulted in a recommendation being delivered to the Board within 30 days.</li> <li>• % of Reconsideration Requests which have been denied by the Board this year.</li> <li>• % of survey respondents who state that they know how to make a complaint to ICANN.</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation provides multiple channels for external stakeholders to make a complaint.</li> <li>ii. The complaints mechanisms are accessible to stakeholders: they have been translated into appropriate languages; details of how to make a complaint are easily available (e.g. on the website); clear explanations of how the complaints mechanisms work are provided.</li> <li>iii. The organisation makes a commitment that, when handling complaints:             <ol style="list-style-type: none"> <li>a. The identity of complainants will be protected</li> <li>b. Investigators of a complaint will be independent from the issue being investigated</li> <li>c. All complaints will be responded to within a specified timescale</li> </ol> </li> <li>iv. There is a mechanism through which the complainant can appeal a decision, and escalate the complaint.</li> </ol>

## 6 B. Complaints and Response: Staff

<p><b>Goals</b> (“What you can expect from ICANN”)</p>	<p><i>ICANN encourages its staff to raise any serious concerns through the Staff Hotline, and ensures their confidentiality and protection from retaliation</i></p>
<p><b>Suggested Objectives</b> (“What ICANN is planning to achieve”)</p>	<ul style="list-style-type: none"> <li>• By <b>date</b>, ICANN publicly reports on its website the number of complaints received by the Anonymous Hotline; the number of reports verified as containing issues requiring action; the number of reports that resulted in changes to ICANN practice, subject to maintaining the privacy and confidentiality of the reporter.</li> <li>• By <b>date</b>, <b>XX%</b> of staff who anonymously report that if they had a concern about something that could seriously impact ICANN’s operations, they would feel willing to report it via the Anonymous Hotline.</li> </ul>
<p><b>Metrics</b> (“How we will be measuring progress”)</p>	<ul style="list-style-type: none"> <li>• Number of reports made to the staff Hotline that are verified as containing issues requiring action</li> <li>• Number of reports made to the Anonymous Hotline that resulted in change to ICANN practices</li> <li>• % of staff who report that if they had a serious concern about something that could seriously impact ICANN’s operations, they would be willing to report it via the Anonymous Hotline.</li> </ul>
<p><b>Benchmarks of Good Practice</b></p>	<ol style="list-style-type: none"> <li>i. The organisation provides a confidential mechanism for staff to make complaints.</li> <li>ii. The organisation makes a commitment that, when handling complaints from staff:             <ol style="list-style-type: none"> <li>a. The identity of complainants will be protected.</li> <li>b. Investigators of a complaint will be independent from the issue being investigated.</li> <li>c. All complaints will be responded to within a set timescale.</li> <li>d. Sanctions will be imposed against any retaliation towards complainants.</li> </ol> </li> <li>iii. There is a mechanism through which the complainant can appeal a decision, and escalate the complaint.</li> </ol>

## 5 Recommendations for finalising and implementing the Accountability Framework

The precise processes by which the ICANN Accountability Framework is piloted, redrafted and implemented is a matter for ICANN staff to decide upon, taking into consideration existing work plans, the parallel development of organisational performance metrics, and the availability of resources. However the following suggestions and recommendations are provided to help guide the process.

### 5.1 *Finalising the Accountability Framework*

The current version of the Accountability Framework is an initial draft, designed to provide ICANN with a basic format and layout, as well as to provide suggestions for the key areas of accountability that should be measured and tracked. In order to embed the Accountability Framework within ICANN a process of piloting, consultation and redrafting should be undertaken. This process will ensure that the Framework can be practically implemented, that it addresses staff and stakeholder needs, and that there is acceptance of the identified principles that constitute ICANN's accountability. The consultation process will also help to establish the legitimacy of the Framework, and to generate a sense of ownership amongst the staff and community, which will underpin its success as both a communication tool and a driver of organisational improvement.

When undertaking the consultation process, it should be understood that the *Benchmarks* are developed to apply to different multi-stakeholder organisations. They are not specifically tailored to ICANN and draw on internationally accepted standards of accountability practice for non-profit bodies. These standards therefore should not be altered, since any alteration by ICANN stakeholders would risk weighing the Benchmarks in favour of ICANN's own accountability processes, and thus affecting the final assessment outcome. If ICANN feels consultation around the Benchmarks is necessary, it should include a broader panel of accountability experts and staff of other international multi stakeholder organisations in this process, so that their perspective of organisational accountability can be taken into consideration.

The following process for finalising the Accountability Framework is therefore recommended:

1. Initial piloting: where possible, gather available data from metrics that are already being tracked, or where information is readily accessible. This will give some sense of the workload required by the metrics, and will also provide a baseline of data. In some cases it may be that the piloting reveals that metrics are reporting full or nearly full achievement, in which case more challenging metrics should be developed.

2. Targeted consultations: present the draft Framework, and initial results at several consultation events, with invited stakeholders. Attendees should have a familiarity with and interest in the issue of ICANN’s accountability, and should come from across ICANN’s different stakeholder groups, including staff. The consultation workshops should provide a clear introduction to the Framework and what it is intended to achieve. Stakeholders will then be given an opportunity to have any questions answered, and to provide feedback on the Framework’s design, content and proposed methodology of implementation. It is recommended that at this stage there is not an open public consultation: rather there is a need for a more interactive and targeted approach to ensure that ICANN can build understanding and support for the Framework.
3. Redrafting: Following the outcomes of the consultation activities the Framework should be redrafted, in the light of feedback and any problems identified in the initial piloting of the metrics (such as challenges in gathering data).
4. Public consultation: the redrafted framework should then be publicised to the wider community for comment, accompanied by a clear explanation of how it will work, and what it will show. Comments received from this consultation should be summarised, and responded to.

## 5.2 *Suggestions for Implementing the Objectives and Metrics*

Once the Accountability Framework has been finalised, ICANN staff should establish a clear process for implementing the Objectives and Metrics. This process should ensure that the Objectives and Metrics reflect and link in with existing organisational processes wherever possible, and therefore should be designed by ICANN staff. However the following suggestions might be considered:

- A primary activity should be gathering a **baseline of data** against the metrics, including conducting an initial stakeholder satisfaction survey. The newly introduced Reputation Audit conducted by ICANN’s Global Stakeholder Engagement Team may be a useful vehicle for gathering stakeholder perspectives, if its scope were expanded to include “informal”, as well as “formal” stakeholders.
- The **stakeholder satisfaction survey** should incorporate the questions referred to in the Metrics (see Appendix A), as well as other areas where ICANN staff feel they could benefit from further knowledge about ICANN stakeholders. An emphasis should be placed on clarity and ease of completion (it should not require in depth knowledge about ICANN). In order to access a broad range of stakeholders, an online “pop up” survey of all visitors to the ICANN website over a set period of time (e.g. two weeks) may be an option to consider.



- Once the baseline data has been gathered, relevant staff should determine **reasonable dates and achievements** to aim for in the objectives, in line with organisational planning. This should include **regular milestones** such as at 2, 4 and 6 years, so that any deviations from progress are promptly identified and addressed.
- The objectives should be **regularly revisited** to ensure they continue to provide a balance between being feasible and being challenging. Any resulting changes should be clearly highlighted on the webpage of the Accountability Framework.
- There should be a clear **allocation of responsibility** amongst ICANN Staff for the achievement of each Objective, with plans set as to how the Objectives will be achieved, what resources are required to reach them and who has responsibility for oversight.
- In order to ensure that the Framework fulfils its function of communicating ICANN's accountability commitments and achievements to stakeholders, a strong **communication strategy** should be developed to launch the Framework. It is also recommended that the Framework, and the results of the Metrics are given a dedicated page on the ICANN website, with prominent links from menus and other related pages such as those pertaining to the Ombudsman, Board Governance, or Documentary Information Disclosure Policy.
- Whilst the Metrics will provide valuable quantitative data as to whether ICANN is progressing against its accountability Goals, there will also be value in providing a qualitative analysis of the reasons behind any increase or decrease in their values. We therefore recommend that ICANN publishes an annual **Accountability Report** to contextualise and reflect on ICANN's accountability performance each year.
- Staff commitment to, and engagement with the Metrics is crucial to their success. Roll out of the Metrics should be accompanied by **staff training and workshops** on the importance of accountability, what the metrics aim to achieve, and how this will be beneficial to ICANN. There may be value in extending these workshops to interested stakeholders such as members of the ATRT, Supporting Organisations and Advisory Committees.

### 5.3 *Suggestions for implementing the Benchmarks*

As described above, the Benchmarks of Good Practice are intended to facilitate comparisons of ICANN's accountability performance with that of other multi stakeholder organisations. In order to generate useful learning for ICANN, the following recommendations for implementing the Benchmarks are offered:

- It is suggested that the Benchmarking process could be undertaken every **three years**, comparing ICANN's performance with two or three other organisations. The frequency and scope of the exercise should take into consideration available resources and staff time.
- To promote confidence in the Benchmarking process ICANN should **engage external consultants** to undertake the analysis. ICANN may also wish to explore developing relationships with peer organisations to share the cost of the benchmarking comparison, which would help mitigate concerns of bias in favour of the client.
- The consultant should produce a **qualitative analysis** of ICANN and the other organisations guided by the Benchmarks as a form of "accountability checklist".
- ICANN needs to **build positive relationships** with "peer" organisations that may be the subject of the Benchmarking, in order for the consultant to be able to achieve a sufficient level of access to be able to draw out meaningful learning from the comparison.
- ICANN should develop a list of **potential organisations** for Benchmarking, and explore whether these organisations would be interested in participating. Selection criteria could include:
  - i. *Non-profit*, so that organisational goals will focus on the delivery of a public good rather than commercial transactions: this can include non-governmental and intergovernmental organisations.
  - ii. *Multi-stakeholder*, so that the organisation has to find ways of meeting accountability commitments to different stakeholder groups.
  - iii. *Regional or international focus*, so the organisation faces challenges of geographic and cultural diversity.
  - iv. *Open to benchmarking and comparisons*: they must be willing to open themselves to the researchers, and answer their questions, in order to provide a full picture of their accountability. They must also be willing to engage with ICANN in the mutual sharing of learning about their accountability strengths and challenges.
- **Examples** of some non-profit or intergovernmental multi-stakeholder organisations include:
  - i. The International Federation for the Red Cross/ Red Crescent
  - ii. The Global Fund to Fight AIDS, Tuberculosis and Malaria
  - iii. Global Partnership for the Prevention of Armed Conflict
  - iv. World Trade Organization
  - v. World Business Council for Sustainable Development
  - vi. Social Accountability International

- vii. International Labour Organization
  - viii. International Chamber of Commerce
  - ix. World Energy Council
  - x. World Water Council
  - xi. Doctors Without Borders
  - xii. OECD
  - xiii. The three organisations considered as Case Studies for this consultancy (World Fair Trade Organisation, ISO and the Forestry Stewardship Council) should also be considered as candidate in several years' time, to allow for new learning about their accountability practices to be generated.
- The Benchmarking reports should include **an explanation of why the organisation(s) were selected**, recognising the differences, but emphasising the value of comparative analysis. A brief overview of the mission, values and context of each organisation should also be provided.
  - The Benchmarking process should include the following stages in its **methodology for each organisation**:
    - i. Document review of publicly available policies, reports, and webpages
    - ii. Interviews with key staff and stakeholders from the organisation (10-15 individuals)
    - iii. Review of any further internal documentation that has been provided through the interviews
    - iv. Drafting of the accountability assessment, following the Benchmarks of Good Practice
    - v. Review of the draft assessment by 2-3 key staff from the assessed organisation, opportunity provided for feedback and further evidence to be provided if necessary
    - vi. Finalisation of the accountability assessment
  - Following the finalisation of the accountability assessment for each organisation, an **overarching comparative analysis** should be prepared, again in consultation with representatives from each assessed organisation.

## 6 Conclusion

As an international, multi stakeholder organisation with responsibility for a global public good, ICANN faces considerable demands to demonstrate and improve its accountability to its many and diverse stakeholders. ICANN has made some notable improvements in recent years towards achieving greater accountability: as the preliminary research for this consultancy has demonstrated in several areas ICANN meets accepted good practice, and exceeds the achievements of other multi-stakeholder, non-profit organisations. However, as is clear from the Accountability Assessment conducted as part of this consultancy, and the report of the second Accountability and Transparency Review Team, there remain a number of areas in which ICANN is not yet achieving a satisfactory level of accountability to its stakeholders.

The development of the ICANN Accountability Framework offers a unique opportunity for ICANN to make a strategic and targeted commitment to improve its accountability by clearly stating what its stakeholders can expect from ICANN in terms of accountability (Goals), how ICANN will practically achieve this (Objectives), and what ICANN will measure so that stakeholders are fully aware of ICANN's progress or challenges (Metrics). It will also help ICANN to understand how it performs in relation to other similar organisations, and to learn from their experience through the Benchmarks.

In order to ensure that the Framework can be implemented successfully and effectively, it is important that time is taken to undertake piloting and consultation with staff and the ICANN community. This is partly to ensure that the Framework can be practically implemented, and that it provides stakeholders with the information they wish to see. However it will also establish an important sense of engagement and ownership amongst the ICANN community, to ensure that the Framework becomes an integral and long-lived part of ICANN's accountability systems.

It is hoped that once the Framework is refined and implemented, it will act as a powerful catalyst and guide for ICANN, helping to drive forwards a process of continual improvement to ensure that ICANN's stakeholders are engaged, respected and listened to, in order to provide the level of accountability that they expect and deserve.

## **APPENDIX A: ICANN Stakeholder Perceptions Survey: suggested questions**

As part of the development of the Accountability metrics and benchmarks, the consultants recommend that ICANN introduces a yearly “stakeholder perceptions” questionnaire. As the focus of ICANN’s accountability efforts, both internal and external stakeholders can provide an important insight into how effectively ICANN is being accountable. Stakeholder perceptions also provide a complementary external dimension to the other metrics which measure internal organisational processes. This avoids the situation whereby all the metrics are within ICANN’s control, therefore lessening the risk of ICANN “teaching to the test” and only focusing on the aspects of accountability specifically measured by the metrics.

The newly introduced Reputation Audit conducted by ICANN’s Global Stakeholder Engagement Team may be a useful vehicle for gathering stakeholder perspectives, avoiding unnecessary repetition of effort. If this approach is taken, it is suggested that the scope of the Reputation Audit is expanded to include “informal”, as well as “formal” stakeholders, since it will be important for ICANN to understand how those not engaged in formal ICANN governance mechanisms perceive the organisation. An alternative may be to use the Reputation Audit to survey “formal” stakeholders in depth, and a much briefer web-based questionnaire to gather the perspectives of “informal” stakeholders.

If ICANN decides that the stakeholder perception survey is a useful approach, time should be spent carefully designing an effective survey (a task which is out with the scope of this consultancy). This should consider the following points:

- Are there other aspects of Stakeholder perceptions, which it would be useful for ICANN to hear about, which could be included in the survey?
- What lessons from previous experiences with stakeholder surveys can usefully be applied?
- How can the survey be designed in order to ensure simplicity and ease of use?
- What is the best mechanism to ensure a wide variety of stakeholders has an opportunity to respond to the survey?

Some initial thoughts to these points are as follows:

- The survey should be designed to be quickly and easily answered, and not require a pre-existing knowledge of ICANN's structure or processes.
- A useful approach might be to ask all users of the website to respond to the survey within a set period of time (eg. two weeks). This should allow the survey to capture perceptions of those who are not "formal" ICANN stakeholders (ie. members of Supporting Organisations/ Advisory Committees).
- ICANN staff are important stakeholders: it may be that there are alternative ways of anonymously gathering staff perceptions however, such as existing Human Resources surveys, which could include relevant questions for the metrics.

In order to gather the required data for the "stakeholder perception" metrics, the following questions should be included in the survey. Following the piloting, consultations and redrafting of the metrics, the questions may be redesigned, and added to. For example it might be useful to include questions that explore the reasons behind some answers, such as reasons why the respondents find it difficult to find information on the website. It is intended that the survey be translated into the five UN languages, to increase accessibility to respondents.

### ***Suggested survey questions:***

1. What is your level of engagement with ICANN?
  - a. Not familiar with the scope of their work
  - b. Familiar with ICANN's work, but not formally engaged
  - c. I am a member of a supporting organisation or advisory committee, a Board member or a member of staff
  - d. I am a member of one of the above groups and have participated in one or more working groups.
2. How often do you use the website?
  - a. Never visited it before
  - b. Visited it less than 3 times in the past year
  - c. Visited it less than 3 times in the past month
  - d. Visited it more than 3 times in the past month
3. How easy do you find it to locate what you are looking for on the website?

- a. Challenging: I struggle to find what I want
  - b. Not easy: I can find what I want, but I have to explore different links and pages first, and they are not logically arranged
  - c. Easy: I can find what I want by clicking through logically arranged links and pages
  - d. Very easy: the information I am looking for is readily available and clearly signposted
4. How involved do you feel in ICANN's decision making processes?
- a. I have never been involved in ICANN's decision making processes
  - b. I know that ICANN asks for contributions to its decision making processes (through consultations meetings and working groups), but I have never participated
  - c. I have participated in ICANN's decision making processes (through consultations meetings and working groups), but I did not feel my contribution made a difference
  - d. I have participated in ICANN's decision making processes (through consultations meetings and working groups), and feel that my contribution was listened to and/or made a difference
5. If you had a concern or complaint about ICANN's work, do you know how you could report it?
- a. I do not know how to report a complaint about ICANN's work
  - b. I know at least one way of reporting a complaint about ICANN's work
  - c. I know of at least two ways of reporting a complaint about ICANN's work
6. Staff alternative: if you had a serious concern about something that could seriously impact ICANN's operations, would you feel able to report it via the Staff Hotline?
- a. I do not know how the staff hotline works
  - b. I know how the staff hotline works, but would not be willing to report a concern (please provide explanation of why)
  - c. I know how the staff hotline works, and feel confident reporting a concern

# APPENDIX B: Key Accountability Expectations of International Non-Profit Standard Setters

## 1 Introduction

In the past decade increasing attention has turned to how non-profit organisations meet their commitments to their stakeholders, in response to a number of high profile media scandals at both national and international levels. Alongside national government efforts to regulate non-profit organisations, a number of collective initiatives have formed, where these organisations have come together to agree on voluntary standards of accountability and good practice<sup>11</sup>. Such standard setting initiatives are often developed with expert contributions and extensive consultation processes of the NGO community, and have then been widely used by their members to guide and improve their internal accountability policies and procedures. Analysis of the content of such initiatives therefore offers a good overview of current expectations of accountability standards from non-profit organisations.

This brief summary analyses four such standard setting initiatives in order to identify best practice principles, as a starting point for the development of ICANN's Accountability and Transparency Benchmarks. The four initiatives were selected because of their international, cross-sectoral focus, and wide recognition by non-profit organisations worldwide.

The analysis takes the form of an annotated table, structured around the five principles of stakeholder accountability identified by the One World Trust<sup>12</sup>. The content of the individual Frameworks and Codes has been summarised into similar language and terminology for ease of comparison: the precise content of the codes can be viewed by following the links below. The analysis had the following objectives:

- To consider the approach to accountability promoted by the standard setting initiatives organisations
- To identify the key principles and benchmarks of accountability promoted by the standard setting initiatives
- To compare the scope and content of the accountability standards contained within the four frameworks and codes

## 2 Summary of the analysis

The analysis of the four standard setting initiatives accountability frameworks and codes produces the following broad conclusions:

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<sup>11</sup> Also known as Self-regulatory Initiatives, or Collective Accountability Initiatives. See the One World Trust's CSO Self-Regulatory database for details of over 350 national, regional and international initiatives, plus a series of analytical briefing papers on the subject <http://www.oneworldtrust.org/csoproject/>

<sup>12</sup> See *Pathways to Accountability II: The 2011 Revised Global Accountability Report* (One World Trust: 2011) p29



- **Definition of accountability:** The definition of accountability used by the four standard setting initiatives broadly focuses upon the ways in which an organisation meets its organisational mission through its interactions and relationships with its multiple stakeholder groups. This in line with the approach to accountability taken by most non-profit organisations, rather than traditional principle-agent binary forms of accountability<sup>13</sup>. As an initiative originally intended to focus on accountability to beneficiaries of humanitarian aid, HAP articulates this specifically in how an organisation responsibly manages its power over stakeholders. Although the WANGO Code of Ethics doesn't detail its specific definition of accountability, the elaboration of what constitutes "ethical" behaviour of an NGO within the Code, can be seen to also concern relationships with different internal and external stakeholder groups.
- **Key Principles and Benchmarks:** Each initiative organises its accountability standards around a different set of overarching principles or benchmarks. Both HAP and the One World Trust frameworks are structured around similar thematic principles of accountable behaviour: committing to accountability; transparency; stakeholder participation; evaluation and learning, and complaints handling. HAP also includes the operational principle of Staff Competency. The INGO Charter, and the WANGO Code of Ethics feature a mixture of thematic accountability principles, and operational principles, such as Human Resources and Fundraising. However as can be seen from the analysis of the Codes' actual constituent standards, all four cover to some degree the high level themes of **transparency, participation, evaluation and learning, and complaints handling.**
- **Accountability Strategy:** the One World Trust, HAP and WANGO frameworks all explicitly require the organisation to have a strategic commitment to accountability. HAP and the One World Trust extend this to mapping who the organisation's stakeholders are. Being clear about what an organisation's accountability commitments are, and who they consider themselves accountable to, can help them to focus policies and resources on key areas necessary to meet these commitments, as well as providing a clear statement of what stakeholders can justifiably expect from the organisation.
- **Transparency:** All the initiatives expect an organisation to commit to transparency and sharing information: with the exception of the INGO Charter, this includes specifying the exceptions where information will not be made public (non-disclosure). Interestingly, only HAP looks for accessibility of information to different stakeholder groups. This is an important dimension of transparency: simply providing access to information does not necessarily mean that stakeholders can properly understand it, or can find the answers they are looking for. Translations to appropriate languages, use of plain language rather than jargon, use of different media such as video presentations or films, can all play an important role in helping stakeholders to understand what an organisation's objectives and activities are.

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<sup>13</sup> One World Trust (2011) p30

- **Participation (Internal stakeholders):** with the exception of the HAP Standard, which focuses on external stakeholders, all the initiatives include standards around how an organisation is governed by internal stakeholders, in the form of a board or executive body. These contain broadly similar standards around the criteria of the governing board (independent of the organisation, a transparent selection procedure, limited terms), and the conduct of the board (regular meetings, board minutes taken). The Code of Ethics features the most detailed standards around the governing board, including their “ethical” behaviour, concern for the well-being of the organisation, having an appropriate level of experience and skill set, and not being remunerated for their participation.
- **Participation (external stakeholders):** Whilst the WANGO Code of Ethics is expansive on internal governance standards, it does not include the participation of external stakeholders. The other three initiatives promote soliciting stakeholders opinions on the organisation’s activities both in the pre- implementation and post-evaluation phases. Facilitating *effective* engagement is a further concern of One World Trust’s framework, ensuring sufficient information is shared before the consultation, and of the HAP Standard, looking for the use of context appropriate mechanisms. Without such a focus on how to ensure meaningful, informed, and representative consultation processes, there is a danger that they can become tokenistic, and the organisation loses a valuable opportunity to learn about how best to meet their stakeholders’ needs.
- **Evaluation and Learning:** If an organisation’s accountability is understood in terms of how it meets its commitment to its stakeholders, evaluation is key. To promote continual improvement against an organisation’s mission, all four initiatives have standards which concern an organisation evaluating its work, and committing to learn from these evaluations. All except the INGO Charter look for stakeholder engagement in the evaluations. One World Trust’s Framework recommends that at the highest standards, evaluations should be independent and publicly available. Whilst there may be occasions where the subject of evaluations is not appropriate for public dissemination, publishing evaluations can promote transparency about an organisation’s activities to its stakeholders, as well as providing an incentive to act upon the report’s recommendations.
- **Complaints handling:** Recognising that staff are important internal stakeholders, who have an important perspective on how an organisation is working, all four initiatives look for an internal complaints mechanism, or whistle-blowing procedure. Both HAP and One World Trust’s frameworks also look for external complaints mechanisms (WANGO’s Code of Ethics requires soliciting feedback, which implies a less formal procedure). These two frameworks require that all complaints can be made confidentially, and that non-retaliation against complainants is assured. One World Trust’s framework goes a step further in terms of the integrity of the procedure by looking for sanctions against any retaliator, and the option to appeal any decision. HAP, however focuses on the *effectiveness* of the mechanism: there should be a process to ensure complaints are acted upon, serious complaints can be fast-tracked, and the mechanisms should be accessible and understood by its stakeholders.

- **Human Resources and Working with Others:** As well as standards around the five principles of accountability detailed above, the initiatives contained some standards about how an organisation actually operates. In particular, HAP Standard, INGO Charter and WANGO Code of Ethics were explicit about the treatment of staff, and expectations of staff behaviour (One World Trust's Framework only goes as far as promoting accountability amongst staff). As mentioned above, staff should be recognised as a stakeholder group, however, depending on their context and history, an organisation may feel staff are adequately covered by policies concerning stakeholders in general, or that accountability to staff should be the concern of specific Human Resources policies.

The HAP Standard, INGO Charter and WANGO Code of Ethics also feature standards concerning relationships with partner organisations, in particular ensuring that they meet similar ethical and accountable standards. When an organisation regularly works with other organisations, especially where these partners may be in a lower position of power, or where new partnerships are frequently formed with unfamiliar organisations, standards specifically governing these relationships can be helpful. Again however, relationships with partner organisations can be covered by policies around engagement with broader stakeholder groups: depending on how an organisation works, and whether relationships with partner organisations have caused challenges in the past.

- **Other standards:** As can be seen from the table below, both the INGO Charter, and Code of Ethics contain standards around other areas such as financial controls, advocacy, fundraising, and human rights. The precise scope of accountability standards varies considerably, and can extend to more specific operational areas, which would come under the broader accountability principles of other standards. Again, when developing their own accountability principles, an organisation should decide whether it is necessary to focus on specific areas, for example if they constitute an important aspect of their work, or have been an area of concern or criticism in the past.

**Table 1: Comparative analysis of four standard setting initiatives**

	Global Accountability Framework (One World Trust, 2011) <sup>14</sup>	The 2010 HAP Standard in Accountability and Quality Management (Humanitarian Accountability Partnership, 2010) <sup>15</sup>	INGO Accountability Charter(INGO Charter Company, 2005) <sup>16</sup>	Code of Ethics for NGOs (World Association of NGOs, 2004) <sup>17</sup>
<b>OVERVIEW</b>				
<b>Introduction</b>	The One World Trust's Global Accountability Framework aims to comparatively measure how well global organisations from all sectors respond to the challenges of delivering global public goods to citizens and communities. Originally developed in 2008, and used to assess over 90 INGOs IGOs and TNCs, it was revised in 2011 to incorporate measurements of accountability strategy, and quality management.	The Humanitarian Accountability Partnership (HAP) is widely recognised as a leader in the setting of standards of accountability in the humanitarian and development field. Members can achieve certification against the HAP Standard, which was revised in 2010 to include standards around working with partners, and to be more broadly applicable.	The INGO Accountability Charter Company was founded by a group of INGOs including World Vision, Oxfam International, Greenpeace and Amnesty International. However the Accountability Charter is intended to be broadly applicable, and it claims to be the only global, cross sectoral accountability framework for NGOs. All INGO Charter members are required to submit an annual accountability report against the Charter.	The Code of Ethics responded to a recognised need amongst WANGO members for a code that was applicable internationally, and to all sectors of non-profit organisations. It was developed by a committee representing NGOs from around the world, and drew on extensive consultations and other existing Codes and Principles. Compliance is entirely voluntary- organisations can publicly note their support of the

<sup>14</sup> [http://www.oneworldtrust.org/publications/doc\\_download/470-pathways-to-accountability-ii](http://www.oneworldtrust.org/publications/doc_download/470-pathways-to-accountability-ii)

<sup>15</sup> <http://www.hapinternational.org/what-we-do/hap-standard.aspx>

<sup>16</sup> <http://www.ingoaccountabilitycharter.org/wpcms/wp-content/uploads/INGO-Accountability-Charter-Text.pdf>

<sup>17</sup> <http://www.wango.org/codeofethics.aspx?page=14&action=download&file=COEEnglish>

				Code.
<b>Definition of Accountability</b>	"Accountability is the process by which an organisation actively creates, and formally structures, balanced relationships with its diverse stakeholders, empowering these to hold it to account over its decisions, activities and impacts, with a view to continuously improve the organisation's delivery against its mission".	"Accountability is the means through which power is used responsibly. It is a process of taking into account the views of, and being held accountable by, different stakeholders, and primarily the people affected by authority or power."	"Our first responsibility is to achieve our stated mission effectively and transparently, consistent with our values. In this, we are accountable to our stakeholders"	"An NGO should be accountable for its actions and decisions, not only to its funding agencies and the government, but also to the people it serves, its staff and members, partner organizations, and the public at large."
<b>Overarching Principles</b>	Accountability Strategy Transparency Participation Evaluation Complaints and response	Establishing and delivering on commitments; Staff competency; Sharing information; Participation; Handling complaints; Learning and continual improvement.	Independence Responsible Advocacy Effective Programmes Non Discrimination Transparency Ethical Fundraising Professional Management	NGO Integrity Mission and Activities Governance Human Resources Public Trust Financial and Legal Fundraising Partnerships, collaboration & Networking
<b>ANALYSIS OF ACCOUNTABILITY PRINCIPLES</b>				
<b>Accountability Strategy</b>	-Organisation makes specific accountability commitments  -Organisation maps its stakeholders	-Organisation makes specific accountability commitments  - Organisation maps its stakeholders	<i>None</i>	-Organisation makes specific accountability commitments  - Commitments are approved by the governing

	-Commitments include engagement with external accountability standards	- Organisation has a management system for implementing the commitments		board
<b>Transparency</b>	<p>-Organisation makes a commitment to transparency and information sharing</p> <p>-There are defined conditions for non-disclosure of information</p> <p>-There is a process for information requests and appealing decisions</p>	<p>- Organisation makes a commitment to transparency and information sharing</p> <p>-There are defined conditions for non-disclosure of information</p> <p>-Organisation publishes how input from participation activities has contributed to organisational decisions</p> <p>- Organisation ensures accessibility of information to stakeholder groups (appropriate languages, formats and media)</p>	-Organisation makes a commitment to transparency and information sharing	<p>-Organisation makes a commitment to transparency and information sharing</p> <p>-There are defined conditions for non-disclosure of information</p>
<b>Participation of Stakeholders: Internal governance</b>	<p>-There is a governing body, controlled by the organisation' members</p> <p>- Criteria of governing body are: transparent recruitment procedure; limited terms; independent members; CEO and Chair are</p>	<i>None</i>	<p>-There is a governing body, with responsibility for: oversight of CEO; budgeting; financial probity; strategy; evaluation; maintaining public trust</p> <p>- Criteria of governing body are: Written</p>	<p>--There is a governing body, with responsibility for: budgeting; financial probity; strategy; evaluation; legal compliance</p> <p>-Criteria of governing body are: limited terms; independent</p>

	different people		<p>procedures covering the appointment, responsibilities and terms of members of the governing body, and preventing and managing conflicts of interest;</p> <p>-Conduct of the governing body requires: A regular general meeting with authority to appoint and replace members of the governing body</p>	<p>members; diversity; beneficial skill set; unpaid members; no compensation for members; transparent recruitment procedure</p> <p>-Conduct of the governing body requires: quarterly meetings with publicly available minutes (redacted where necessary); preventing and managing conflicts of interest; ethical conduct in interest of the organisation</p>
<b>Participation of stakeholders: external stakeholders</b>	<p>-Organisation has a commitment to engage external stakeholders</p> <p>-Consultation processes have a balance of stakeholder voices</p> <p>-Stakeholders are provided with necessary information before a consultation</p> <p>-Results of the consultation are fed back to the stakeholders</p>	<p>-Organisation implements context-appropriate methods to engage stakeholders</p> <p>-Stakeholders are engaged in project design, implementation and evaluation</p>	<p>-Stakeholders are consulted on proposed activities</p> <p>-Organisation encourages public comments on programmes and policies</p>	<i>None</i>
<b>Evaluation and Learning</b>	- Organisation has a commitment to evaluating its	- Organisation has a commitment to evaluating its	- Organisation has a commitment to	- Organisation has a commitment to evaluating its

	<p>activities</p> <ul style="list-style-type: none"> <li>-There is a commitment to learn from evaluation findings</li> <li>-Stakeholders contribute to evaluations</li> <li>-Level of Evaluation: Operational, Policy, Strategic</li> <li>-Evaluations are independent</li> <li>-Results of evaluations are published</li> </ul>	<p>activities</p> <ul style="list-style-type: none"> <li>-There is a commitment to learn from evaluation findings</li> <li>-Stakeholders contribute to evaluations</li> <li>-Level of Evaluation: includes against accountability commitments</li> </ul>	<p>evaluating its activities</p> <ul style="list-style-type: none"> <li>-There is a commitment to learn from evaluation findings</li> <li>-Level of Evaluation: boards, staff, programmes and projects</li> </ul>	<p>activities</p> <ul style="list-style-type: none"> <li>-There is a commitment to learn from evaluation findings</li> <li>-Stakeholders contribute to evaluations</li> </ul>
<p><b>Complaints and response</b></p>	<ul style="list-style-type: none"> <li>- There is a staff complaints procedure (whistle blowing procedure)</li> <li>- There is an external complaints procedure</li> <li>-Investigation into complaints is: confidential; independent; option to appeal and/or escalate complaint</li> <li>-Protection of complainant details: non-retaliation, sanctions for any retaliation</li> </ul>	<ul style="list-style-type: none"> <li>- There is a staff complaints procedure (whistle blowing procedure)</li> <li>- There is an external complaints procedure</li> <li>-Investigation into complaints is: confidential; option to fast track serious complaints; ensure complaints are acted upon</li> <li>-Protection of complainant details: non-retaliation</li> <li>-Accessibility: stakeholders are involved in the design of procedure; ensure stakeholders understand the</li> </ul>	<ul style="list-style-type: none"> <li>- There is a staff complaints procedure (whistle blowing procedure)</li> </ul>	<ul style="list-style-type: none"> <li>- There is a staff complaints procedure (whistle blowing procedure)</li> <li>-Investigation into complaints is: confidential</li> <li>- Feedback is solicited from external stakeholders</li> </ul>



		procedure		
<b>Operational standards</b>				
<b>Working with others</b>		-Organisation supports partners to meet accountability standards	-Organisation ensures partners meet standards of accountability and probity	- Collaboration should be where there are shared values, mission compatibility, and mutual benefit
<b>Human Resources</b>	-Staff capacity: Building staff capacity on accountability issues	- Staff capacity: organisation ensures staff have the capacity to meet its mission	-Staff capacity: investment in staff development -Staff ethics: prevention of bribery and corruption	-Staff capacity: investment in staff development -Staff ethics: principled behaviour; corrective action in response to wrongdoing; managing conflicts of interest -Staff treatment: treatment with fairness, and in line with employment rights
<b>Other standards</b>			Respect for Universal Principles Independence (political, economic and business) Responsible public criticism Responsible advocacy Ethical Fundraising Audit Financial controls; Accuracy of	Human Rights and Dignity Religious Freedom NGO Integrity Public Trust Financial and Legal Fundraising

			information (in presenting and using research)	
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# An Analysis of ICANN's Accountability Policies and Practices

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Commissioned by the Internet Corporation for  
Assigned Names and Numbers

Christina Laybourn with Manija Kamal

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## Executive Summary

As a non-profit organisation with a mandate to act in the public interest and the responsibility to manage a global public good, in the form of Internet domain name system, ICANN faces considerable demands to improve and demonstrate its accountability. It is perhaps the ironic dilemma of ICANN that its multi-stakeholder structure both necessitates accountability and creates complexity in the process of accountability being achieved. Recent efforts within ICANN to improve accountability to its stakeholders have been notable, however ICANN still faces questions on how to quantify or validate its accountability. The findings of this analysis reveal that, on the basis of the One World Trust's understanding of accountability good practice, ICANN does perform well in many aspects of accountability. However, as highlighted in our recommendations, there is room for improvement both in terms of policy, implementation and quality management systems.

The following analysis draws on various ICANN policies, reports and pages of the website, as well as interviews with twenty-one key ICANN staff and stakeholders. The analysis takes a stakeholder perspective of accountability to assess the following dimensions:

1. Accountability Strategy
2. Transparency
3. Board Governance
4. Participation
5. Evaluation and Learning
6. Complaints and Response mechanisms.

The analysis finds a strong commitment to accountability from both staff and stakeholders, accompanied by some areas of good practice, most notably in relation to information sharing, board governance and the participation of stakeholders. However, there are still areas for improvement concerning strategic commitments to accountability, accessibility to participation opportunities, systematic evaluation and learning, and the implementation of complaints and response mechanisms.

ICANN's unique mandate, and unusual multi-stakeholder structure provides it with some considerable accountability challenges, but also the opportunity to truly engage with the citizens of the world about the governance of the Internet. It is hoped that the recommendations of this accountability assessment, and the accompanying draft Accountability Metrics and Benchmarks, will go some way to supporting ICANN in its attempts to be accountable to the millions of people affected by its work.

# 1 Introduction

As a non-profit organisation with a mandate to act in the public interest and the responsibility to manage a global public good, in the form of the Internet domain name system, ICANN faces considerable demands to improve and demonstrate its accountability. It is perhaps the ironic dilemma of ICANN that its multi-stakeholder structure both necessitates accountability and creates complexity in the process of accountability being achieved. Recent efforts within ICANN to improve accountability to its stakeholders have been notable, however ICANN still faces questions on how to quantify or validate its accountability. The findings of this analysis reveal that, on the basis of the One World Trust's understanding of accountability good practice, ICANN does perform well in many aspects of accountability. However, as highlighted in our recommendations, there is room for improvement both in terms of policy, implementation and quality management systems.

This analysis of ICANN's accountability policies and practices forms a component of a wider consultancy project to develop a series of accountability and transparency metrics and benchmarks for ICANN, which will compare ICANN's accountability with other similar organisations, and track ICANN's accountability performance over time. The metrics and benchmarks will aim to both explicitly demonstrate to stakeholders how ICANN is meeting its accountability commitments, and to drive a process of continual reflection and improvement within the organisation.

This report intends to provide a deeper understanding of where ICANN's current challenges are, and provide the basis for the development of the metrics and benchmarks by highlighting key areas where further improvement (driven by monitoring and reporting) are required. As described below the analysis draws on a review of key ICANN documents and webpages, as well as a series of interviews with ICANN staff, board members and stakeholders. However the analysis has been limited in its scope by the time available for the consultancy, and therefore does not include an in-depth analysis of ICANN's supporting organisations and advisory committees. It is also recognised that this analysis comes directly on the heels of the second Accountability and Transparency Review Team report: although this analysis could not achieve the depth ATRT2 reached over its yearlong investigations, it is nonetheless hoped that it provides a complementary, independent perspective on similar issues, which, alongside the implementation of the metrics and benchmarks, will help drive forward improvement within ICANN to a greater level of accountability to its stakeholders.

# 1. Methodology

## 1.1 *Defining Accountability*

It is widely recognised that “accountability” is a normative term, with different meanings, which lead to different understandings about how an organisation should in practice be accountable<sup>18</sup>.

Traditional understandings of accountability follow the binary Principle-Agent approach, whereby only those with formal authority over an agent – those that have delegated authority to it – have the right to claim accountability. This approach is often used to conceptualise the accountability relationship between politicians and the electorate, or company directors and shareholders. However, this approach excludes many other individuals and groups who are affected by the organisation’s work (“stakeholders”). Increasingly, accountability is being understood in more nuanced, holistic terms, particularly in the non-profit sector, where an organisation may act in the interests of stakeholders who have no authority whatsoever over its work. As demonstrated by a review of four widely recognised international non-profit accountability standard setting initiatives<sup>19</sup>, non-profit organisations tend to consider themselves accountable in various ways to all their various stakeholders, which may include staff, donors, governments, members of civil society, and their final beneficiaries. The One World Trust’s Global Accountability Framework defines this stakeholder approach to accountability as:

“the process by which an organisation actively creates, and formally structures, balanced relationships with its diverse stakeholders, empowering these to hold it to account over its decisions, activities and impacts, with a view to continuously improve the organisation’s delivery against its mission”.

To successfully meet this definition of accountability it is important that stakeholders know what to expect from the organisation, can access information about how the organisation is meeting its mission, can engage in its work, are aware of the strengths and challenges of the organisation’s work, and can hold the organisation to account. Such a stakeholder approach to accountability therefore identifies six key areas of accountability:

1. Accountability strategy: how an organisation makes a formal commitment to accountability to its different stakeholders.

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<sup>18</sup> See Blagescu, M., de Las Casas, L. and Lloyd, R. (2005) *Pathways to Accountability: the GAP Framework*; Scholte, J.A. (2011) “Global Governance and Accountability in Civil Society” in *Building Global Democracy* Scholte, J.A. (ed) pp8-41;

<sup>19</sup> Laybourn, C. for ICANN (2013) *Key Accountability Expectation of International Non-Profit Standard Setters*

2. Transparency: how an organisation provides stakeholders with information about its activities.
3. Board Governance: how the executive body takes consideration of its stakeholders in its decision making.
4. Participation: opportunities that an organisation makes available to its stakeholders to engage in the decisions and activities of its work.
5. Evaluation: ways in which an organisation critically assesses its achievements against its mission.
6. Complaints handling: how the organisation encourages, facilitates and responds to stakeholders raising concerns about its work.

This analysis therefore considers ICANN's accountability in terms of these six principles. Following the analysis for each accountability principle, recommendations are provided where the consultants feel improvement is warranted.

## ***1.2 Research sources***

Research for this analysis has been conducted by a desk review of available ICANN policies, reports and information available on the ICANN website. The desk review was supplemented by semi-structured interviews with twenty-one key ICANN staff, board members and representatives of ICANN stakeholders groups (see Appendix A). The consultants would like to take this opportunity to thank all interviewees for their time and contribution to this analysis, and especially to staff who helped locate key documents.

## **2. Accountability Strategy**

Accountability strategy concerns itself with how an organisation defines and promotes its accountability to stakeholders. The experience of the One World Trust has shown that without strategic guidance from the very top of an organisation, efforts at more practical accountability achievement will lack the drive, commitment and resources necessary to ensure success<sup>20</sup>. In analysing whether ICANN takes a strategic approach to accountability, we therefore consider policy level commitments to accountability; identification of key stakeholder groups; and how the organisation evaluates the quality of its accountability.

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<sup>20</sup> Hammer, M. and Lloyd, R. (2011) *Pathways to Accountability II: the 2011 revised Global Accountability Framework* p23



## 2.1 Policy commitments to accountability

Both ICANN's Bylaws<sup>21</sup> and Affirmation of Commitments<sup>22</sup> broadly commit ICANN to accountability to its stakeholders. In particular the latter states that:

ICANN commits to maintain and improve robust mechanisms for public input, accountability and transparency so as to ensure that the outcomes of its decision making will reflect the public interest and be accountable to all stakeholders.

The Affirmation of Commitments goes on to detail the various aspects of ICANN's accountability that should be assessed, which consists of:

- a. The Board of Director's governance
- b. The role and effectiveness of the Governmental Advisory Committee (GAC)
- c. The process to receive public input (including explaining decisions taken and rationale thereof)
- d. Acceptance and support of ICANN's decisions by the public and internet community
- e. The Policy Development Process<sup>23</sup>

A more detailed description of accountability commitments can be found in ICANN's Accountability and Transparency Frameworks and Principles (2008)<sup>24</sup>, which identifies three spheres of accountability (Accountability in the Public Sphere; Legal and Corporate Accountability; Accountability to the Participating Community), and commits to principles of transparency, engagement with stakeholders, evaluation, and handling of complaints. However this policy document is no longer considered to be active, following the explicit commitment to accountability in the Affirmation of Commitments (2009), and the subsequent report and recommendations of the Accountability and Transparency Review Teams, which staff see as setting new and higher expectations of accountability for ICANN.

Whilst the Affirmation of Commitments provides a commitment to accountability, and some description of what this entails, it does not explicitly define its terms of "accountability" and "public interest". This was noted as a key deficit in several interviews with stakeholders, who highlighted that this made it harder to clearly judge whether ICANN was being accountable or not. Staff

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<sup>21</sup> *Bylaws for Internet Corporation for Assigned Names and Numbers: A Californian Non-Profit Public Benefit Corporation* (amended April 2013) <http://www.icann.org/en/about/governance/bylaws>

<sup>22</sup> *Affirmation of Commitments by the United States Department of Commerce and the Internet Corporation for Assigned Names and Numbers*(2009) <http://www.icann.org/en/about/agreements/aoc/affirmation-of-commitments-30sep09-en.htm>

<sup>23</sup> *ibid*

<sup>24</sup> *ICANN's Accountability and Transparency Frameworks and Principles* (2008) <http://archive.icann.org/en/accountability/frameworks-principles/contents-overview.htm>

discussions of the continuing demands they face from the stakeholder community to be more accountable, despite their efforts, also suggest that there is a lack of agreement about what can reasonably be expected from ICANN in terms of accountable behaviour. A clear definition of accountability, with an accompanying description of what this accountability means in practice, would provide guidance for staff activities, and provide criteria against which the community can judge ICANN's accountability practice. It should be remembered however that having a clear definition of accountability does not imply that it is perennially valid. A clear definition always requires contextualisation and change over time (see *Recommendation i*).

## **2.2 Identification of stakeholder groups**

A challenge of the stakeholder approach to accountability is that an organisation can arguably be accountable to a vast number of stakeholders, from very different backgrounds, with very different interests. This can lead to what Jonathan Koppell, writing about ICANN itself, describes as Multiple Accountabilities Disorder (M.A.D.)<sup>25</sup>, as it is impossible to provide an equally high level of accountability to all groups. A key aspect of being strategically accountable therefore involves identifying precisely who the organisation's stakeholders are, and deciding which stakeholders should be prioritised.

ICANN's multi-stakeholder structure means that there are "formal" stakeholder groupings, representing the range of diverse interests in ICANN, through the different Advisory Committees and Supporting Organisations. In this way ICANN has officially identified its different stakeholders. However the interviews revealed two key challenges with ICANN's approach. Firstly, some interviewees noted that ICANN only tends to look as far as its formal stakeholder groups. Much less attention is paid to "informal stakeholders": internet users who do not officially engage in ICANN groups, councils or meetings, but may be widely affected by ICANN's policies. Secondly, there does not appear to be any attempt to officially *prioritise* ICANN's different stakeholder groups. This was a highly contentious issue in the interviews: it was argued by some that no stakeholder group should have priority of the Board's attentions over another, although the Board was frequently accused of privileging the GAC or commercial contract holders in practice. Others argue that the GAC should be prioritised, because it represents national governments, who arguably speak on behalf of their citizens.

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<sup>25</sup> Koppell, J.G.S. (2005) "Pathologies of Accountability: ICANN and the Challenges of "Multiple Accountabilities Disorder" in *Public Administration Review* 65:1, pp94-108

It is the opinion of the consultants that no organisation can deliver the same high level of accountability to *all* of its stakeholders and therefore a degree of prioritisation is necessary. However, the prioritisation should be on the basis of which groups most affect or are most affected by the organisation's activities, not where financial or political interest lie. Furthermore, the organisation should be transparent and explicit about which stakeholder groups it has decided to prioritise, and why. Clearly mapping its stakeholders, and openly identifying which groups should be prioritised would enable ICANN to identify the best ways of meeting their different accountability demands, and allocate resources to achieve this more efficiently (see *Recommendation ii*).

### **2.3 Accountability review and assessment**

The existence of accountability policies and practices is insufficient if they do not operate effectively, and meet the accountability requirements of an organisation's stakeholders. Organisational wide systems for monitoring and reviewing the implementation of accountability mechanisms are therefore important to ensure that they are functional, effective, and credible.

As detailed below, ICANN does publish details of information disclosure requests and both individual details and summaries of complaints received from external stakeholders. However, there is no attempt to analyse the *effectiveness* of the particular mechanisms in terms of whether they are enabling practical achievement of ICANN's accountability commitments and meeting the requirements of its stakeholders. ICANN's regular Accountability and Transparency Review Team reports and independent assessments of accountability aim to achieve this, however they are infrequent, and in the case of the independent reviews, haphazard.

ICANN may therefore wish to instigate an annual "Accountability Report", which clearly details ICANN's accountability commitments, progress that has been made in achieving these commitments as determined through the accountability and transparency metrics, and any barriers or challenges to accountability which have been identified. This would also be a good vehicle for regular independent evaluations of particular aspects of ICANN's accountability which are felt to be in need of attention, such as the scope of stakeholder engagement strategies or the efficacy of complaints and response mechanisms (see *Recommendation iii*).

### **2.4 Accountability Strategy: Recommendations**

- i. Develop a clear definition of what ICANN means by accountability to its stakeholders, and expand to defining the precise principles and standards of accountability that ICANN's stakeholders should expect it to meet.

- ii. Map ICANN's formal and informal stakeholder groups, taking consideration of power dynamics, and which groups are most affected by ICANN's work. On the basis of this, identify those groups which should be prioritised for accountability efforts. Any stakeholder prioritisation should be made public, and rationalised.
- iii. Initiate an annual Accountability Report that clearly provides analysis of the accountability metrics and reflects on any identified challenges to accountability.

### **3. Transparency**

Stakeholders must be able to understand how organisational and policy decisions are made and the rationale behind them in order to determine whether an organisation is effectively delivering against its mission. For an organisation which operates for the public good, it is particularly important. Being transparent can be seen to consist of two inter-related strands: information sharing- the process by which the organisation actively presents itself to its stakeholders through published materials, and information disclosure- the system by which stakeholders can request organisational documents which have not been published.

#### ***3.1 Information sharing and accessibility***

The amount and type of information that an organisation is willing to publicly present is a key element of its accountability. ICANN is notable for the extent of information which is available on its website. This goes beyond good practice sharing of information about the organisation's mission, activities and governance, to include: transcripts of meetings including Board minutes, commercial contracts, statements of Board member's interests, as well as detailed rationales behind Board decisions, which will be discussed later. It was clear from interviews that this extensive sharing of information about ICANN is seen as the principle manifestation of ICANN's accountability. One staff member remarked that they felt ICANN was "ultimately accountable" because of the amount of information shared. However, some stakeholders and staff recognised that the sheer volume of information presented on the website did not necessarily translate to full transparency in practice. In particular the accessibility of the website, given the amount of information presented, was questioned. This is an issue that has been recognised by ICANN: initiatives such as MyICANN<sup>26</sup>, which allow the user to select which areas of ICANN's work they are interested in hearing about, and ICANN Labs<sup>27</sup>, which is piloting more effective ways to share information and encourage participation, are addressing these challenges. Regularly reviewing stakeholder opinions on the

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<sup>26</sup> <https://www.myicann.org/home?language=en>

<sup>27</sup> <http://labs.icann.org/en>

accessibility of the website and whether the information presented is useful and/ or adequate would be a valuable additional component of this drive for improvement (see *Recommendation iv*).

As an international organisation, it is important that non-English speaking stakeholders can access important information about ICANN. Currently key documents are translated into the six UN languages and Portuguese, and some information on the website and MyICANN is also available in these languages. It is understood that this is a relatively new emphasis on translation, which should be welcomed. However some (non-native English speaking) interviewees highlighted that the translation of documents of lesser importance can be of poor quality, resulting in the overall meaning of the document being lost, or even completely misrepresented. As will be discussed in subsequent sections, the predominance of documents available only in English was also identified as a considerable barrier to participation of non-English speakers in stakeholder working groups, and the lack of translations of policy documents concerning the Documentary Information Disclosure Policy and the complaints handling mechanisms is concerning (see *Recommendation v*).

### **3.2 Information disclosure**

Although transparency is a key principle of accountability, practically it is not feasible (or in some cases legal) for an organisation to make every piece of information public knowledge, and therefore clear guidelines should be established regarding what is, and is not accessible to stakeholders.

Both the Affirmation of Commitments and Bylaws commit ICANN to operate in a transparent manner. The practical details of this are outlined in the Documentary Information Disclosure Policy (DIDP)<sup>28</sup>, which has an individual page on the ICANN website which includes an email address to submit requests to.

The DIDP meets several good practice standards of transparency<sup>29</sup>:

- ICANN commits to publishing the majority of its information on its website,
- ICANN commits to responding to requests for information within a set timescale of 30 days,
- ICANN commits to provide justification for any denial, and
- Appeals against denials of requests for information can be made through one of ICANN's three complaints channels.

As is standard, the DIDP details specific conditions for Non-Disclosure, however these are fairly broad, and include conditions which could be generally applied or involve value judgements such as

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<sup>28</sup> ICANN Documentary Information Disclosure Policy (2009)

<http://www.icann.org/en/about/transparency/didp>

<sup>29</sup> As identified in the One World Trust's *Global Accountability Framework II* (2011): Principle 2: Transparency

requests “which are not reasonable” or “are made with (a)... vexatious purpose or by a vexatious or querulous individual”. This was also noted by the Berkman Center review (2010), and the ATRT report (2010) consequently recommended narrowing the conditions for redaction of Board related materials. More detailed guidelines on the parameters for redaction of Board related materials are detailed on the ICANN website<sup>30</sup>, however these have not been integrated formally into the DIDP, which still seems to be the version published as part of ICANN’s Accountability and Transparency Framework in 2008 (see *Recommendation vii*).

A further recommendation of the ATRT1 was to be more transparent about the deliberations behind Board decisions. To this end, ICANN has implemented a limited exemption to the non-disclosure of Board deliberative materials as specified in the DIDP Non-Disclosure clause<sup>31</sup>. Deliberative materials are therefore posted on-line, from a principle of full disclosure, with narrow, specific conditions for redaction of any information, and justification for redaction to also be published. This is an admirable development from ICANN to improve transparency, however integration of this guidance regarding Board Deliberative material into the DIDP is advisable (see *Recommendation vi*).

Previous DIDP requests, and their response are published on the ICANN website, as are staff guidelines on the process for receiving and responding to a DIDP. However the website does not clearly sign-post where the DIDP itself is, or how to make a request. The link to the policy is at the very bottom of the Accountability and Transparency webpage. Good practice would suggest that this should be more prominently positioned (see *Recommendation vii*).

### **3.3 Transparency Recommendations**

- iv. Solicit stakeholder opinions on the accessibility of the website, and whether the information provided is adequate.
- v. Review the quality and extent of translated materials in line with stakeholder needs; translate the Document Information Disclosure Policy and associated materials into the five UN languages.
- vi. Update the Document Information Disclosure Policy to include detailed conditions for the redaction of Board materials, and the commitment to provide Board deliberative material and Board rationales for decisions.
- vii. Review the positioning of the Document Information Disclosure Policy to facilitate its use.

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<sup>30</sup> <http://www.icann.org/en/groups/board/documents/briefing-materials-guidelines-21mar11-en.htm>

<sup>31</sup> *ibid*

## 4. Board Governance

As the executive body with ultimate responsibility for ICANN, the accountability of the Board of Directors comes under particular scrutiny. In this analysis the mechanisms by which the Board is held accountable by its stakeholders, and takes account of them in its decision making therefore warrant particular discussion.

### 4.1 *Board member selection*

An organisation's Board of Directors can be held to account by their stakeholders through the agreed processes of good governance that the Board works to, and the systems of selecting members of the Board. The ICANN Bylaws provide extensive details as to the governance of ICANN's Board of Directors, which are expanded upon in the Board Code of Conduct<sup>32</sup>. The details of Board governance contained within these documents meet all the good practice standards identified by the One World Trust<sup>33</sup>, in that:

- There is a clear process for the recruitment and selection of Board members;
- The terms of Board members are limited to three years;
- Board members must declare their interests on an annual basis;
- Board members refrain from participating in any vote in which they have a material or financial interest; and
- The CEO and the Chair are not the same person.

As detailed in the Affirmation of Commitments the ICANN Board is composed of sixteen voting members: the President/CEO of ICANN; two members each respectively selected by the GNSO, the ASO and the ccNSO; one member selected by the At Large Community; and eight members selected by the Nominating Committee (itself composed of representatives of other stakeholder groups). In this way the different stakeholders groups can be seen to be represented at the highest decision making level of ICANN, although once seated, the Board members are required to act in the interests of ICANN generally, rather than the stakeholder group from which they came, and which may have selected them. The Affirmation of Commitments also mandates that at least one Board member will come from each of the five regions of the world, and no more than five Board members will come from any single region, in order to try and prevent regional dominance. An interviewed member of the Nominating Committee explained however that attempts are made to ensure greater regional

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<sup>32</sup> *Board of Directors Code of Conduct* (May 2012) <http://www.icann.org/en/groups/board/governance/code-of-conduct>

<sup>33</sup> Global Accountability Framework (One World Trust: 2011) Standard 3b.3: Good Governance

balance wherever possible, and to try and select Board members from the same region who have different skill sets to provide diverse perspectives. This attempt to ensure regional and sector diversity is admirable, and in line with good practice of other international multi-stakeholder organisations. The interviews did not raise any concerns with the composition of the Board, indicating that it meets its stakeholders' expectations.

As mentioned previously, eight members of the Board are selected by the Nominating Committee (NomCom). This mechanism was introduced after the experiment with open Board elections in 2000 was abandoned. The NomCom is provided with criteria for new candidates by the Board, and this year engaged a recruitment consultancy to help in their search for potential candidates. The procedures of the NomCom have come under scrutiny, being accused of promoting their own members, and lacking transparency<sup>34</sup>. Transparency is admittedly a complex issue for the NomCom, since candidate information, and NomCom members' assessment of candidates must be kept confidential (although the specific criteria which the Board provides to the NomCom each year to guide their candidate search is published<sup>35</sup>). With such a contentious organisation, however, it would be advisable to ensure that in addition to the Organisational Audits being proposed as a means to evolve the current Organizational Reviews (see Section 5: Evaluation), annual internal reviews of the NomCom's work are conducted, and published, to provide assurance to the community that it is operating ethically and in the interests of ICANN and its stakeholders. These reviews could productively use the set criteria being developed for the Organisational Audit Programme. (see *Recommendation viii*)

## **4.2 Board decision-making**

The process by which the Board makes decisions on behalf of its stakeholders is one of the most contentious within ICANN. As a multi stakeholder organisation ICANN has a large number of stakeholders from very different backgrounds, of whom it should take account. However, unlike many other multi stakeholder organisations, ICANN does not have a General Council of Members: the Board has ultimate responsibility for policy and operational decisions. The Board invites comments and recommendations from its stakeholder groups and the general public, ensuring an opportunity for a wide variety of perspectives to be heard. However the lack of a formal filtering process from open public comments to Board decision making means that the Board can be faced

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<sup>34</sup> Kieran McCarthy, "Sickening-NomCom must be reformed says ex-chair" in *.NXT* (October 2012) <http://news.dot-nxt.com/2012/10/12/sickening-nomcom-must-be-refor>

<sup>35</sup> <http://www.icann.org/en/groups/board/governance/nomcom-skills-advice-10apr13-en.pdf>, <http://www.icann.org/en/groups/nomcom/2012/board-skills-advice>,



with a challenging diversity of opinions and recommendations. This unusual structure could be seen as the root of concerns with the Board’s decision making process.

As described later, public comment processes allow open discussions on policy issues under consideration by the Board. ICANN’s Supporting Organisations and Advisory Committees also have the opportunity to contribute to these discussions on behalf of their constituents. The Policy Development Process of the GNSO has been the subject of a separate independent review which highlighted weaknesses within that particular process<sup>36</sup>, however issues were also raised in the course of our interviews with this comment process more broadly, and in particular when such a public comment process should be started and who should have access to participation. A public comment process is only *mandated* by ICANN’s Bylaws when a GNSO Policy Development Process (PDP) has been initiated<sup>37</sup>, although public comment processes for other aspects of ICANN’s work are regularly used, and the Bylaws and Affirmation of Commitments do not mention any limitation on the points at which ICANN should receive public input. For this reason the distinction between what constitutes *policy*, and what constitutes *operational or implementation* issues has been the subject of much debate. ICANN has made recent efforts to facilitate discussion about the distinctions between the two, however many interviewees highlighted the confusion as a considerable cause of disagreement and upset within the ICANN community. Clear criteria is therefore needed to precisely detail when the community can expect an open comment process on an issue under consideration by the Board (policy or otherwise). This may admittedly be challenging to develop, but would at least provide a framework against which claims of a lack of transparency or “decision making behind closed doors” could be adequately tackled/answered.

The second area where concerns with the Board’s decision making process have been raised relates to the *acceptance* of recommendations that have been submitted by stakeholder groups. Here issues around the privileging of the GAC over other groups was particularly felt, with some claiming that the GAC appears to have an effective veto, or at least that the Board respects their opinions above that of other groups. Others suggested that this actually has much to do with the late stage of the GNSO policy development process at which the GAC makes their contribution. However, representatives of other stakeholder groups highlighted that they generally do not feel that their recommendations are taken into account by the Board. One described the process as “like throwing a brick over a wall”, never to be heard of again. The Board has made recent efforts to address such

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<sup>36</sup> InterConnect Communications for ICANN (2013) *ATRT2 GNSO PDP Evaluation Study* see Appendix A of [ATRT2 Final Report and Recommendations](#)

<sup>37</sup> ICANN Bylaws, (revised 2013) Annex A: Section 4 “Creation of an Issue Report”; GNSO Operations Manual (2013), Section 6 “Public Comment on the Preliminary Issues Report” <http://gns0.icann.org/council/annex-2-pdp-manual-13jun13-en.pdf>

concerns: a list of the evidence considered by the Board, including a summary of comments from different stakeholder groups, is published alongside each decision. In addition the Board publishes the rationale behind each decision, and at the Durban 2013 meeting made a commitment to respond to each submission made by an ICANN stakeholder group: a tool on MyICANN is currently being developed which will ultimately track the Board's response to all SO/AC recommendations<sup>38</sup>. However it was clear from the interviews conducted that whilst some stakeholder groups now feel that their recommendations are being considered by the Board, others still feel ignored. Clear commitments as to what stakeholders can expect in response from the Board, alongside measurements of the extent to which this happens in practice will hopefully address these issues. (see *Recommendation ix*)

### **4.3 Board evaluation**

As explained in Section 2, evaluation is a key component of practicing enhanced accountability. The Affirmation of Commitments specifically requires regular assessment of the governance of the Board of Directors, as well as the Boards' relationship with the GAC, which is carried out by the Accountability and Transparency Review Teams<sup>39</sup>. Independent reviews have been commissioned which have assessed, for example, Corporate Governance at ICANN<sup>40</sup>, and the Board Code of Ethics Policy<sup>41</sup>. The Board Code of Conduct also mandates that the Board conducts a yearly self-assessment of its work, and that the Board Governance Committee annually reports any breaches of the Code<sup>42</sup>. It could be argued however that the above reports lack substantive or qualitative depth (the self-assessment is entirely quantitative, and lacks any analysis of underlying issues). There would be considerable benefit to the Board in including the perspectives of its stakeholders when assessing its effectiveness, as those to whom it is ultimately accountable. A regular 360 degree review of the Board, facilitated by an independent expert would provide further analytical depth to the existing evaluation processes. (see *Recommendation x*)

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<sup>38</sup> See <https://www.myicann.org/board-advice>

<sup>39</sup> Affirmation of Commitments, (2009) Section 9.1: a; b.

<sup>40</sup> Cooley LLP for ICANN (2011, revised 2012) *First Report on Corporate Governance*; Cooley LLP for ICANN (2012) *Second Report on Corporate Governance: Governance comparisons*

<sup>41</sup> SI Sustainable Integrity GmbH for ICANN (2012) *Review of ICANN's Board Code of Ethics*

<sup>42</sup> *Board of Directors Code of Conduct* (May 2012) <http://www.icann.org/en/groups/board/governance/code-of-conduct>

#### **4.4 Board Governance: recommendations**

- viii. Consider initiating an annual internal review of NomCom activities, in addition to Organizational Reviews which under the mandate of the Bylaws are conducted every five years, to provide assurance of ethical and efficient operations.
- ix. See *Recommendation xii*. Develop a Stakeholder Participation policy, providing explicit criteria as to when stakeholders will be consulted about Board decisions, the process by which the Board will consider stakeholder recommendations, and a commitment for the Board to respond to recommendations issued by formal ICANN stakeholder bodies.
- x. Initiate a 360 degree review of the Board of Directors, whereby Board members review themselves, and are reviewed by each other and by selected other stakeholders (such as senior members of staff).

## **5. Participation**

To be accountable to the different stakeholders that are affected by an organisation's actions, strategies should be undertaken to ensure their meaningful participation in governance and policy making decisions. ICANN's Bylaws recognise the organisation's diverse stakeholder groups, and the need to ensure that there is "broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision making"<sup>43</sup>. For many of the stakeholders interviewed, participation was felt to be at the heart of ICANN's accountability. Given ICANN's multi stakeholder structure, this analysis separately considers ICANN's approach to the participation of *formal stakeholders* (members of supporting organisations, advisory councils and other ICANN community groups), and *informal stakeholders* (those not engaged formally with the ICANN community but who are affected by the work of ICANN in some way), as they demand and receive quite different approaches.

### **5.1 Participation of formal stakeholders**

It has been discussed in relation to Board governance that ICANN provides considerable opportunities for its stakeholders to engage with and contribute to the decision making process. For example, the GNSO Policy Development Processes mandate a public comment period, and it is standard procedure for key reports and evaluations to be posted on the website for public comments before final redrafting. In line with good practice to facilitate meaningful engagement, ICANN provides information to stakeholders in advance of a consultation on its website, and publishes the outcomes of the consultation afterwards. In addition, tri-annual ICANN meetings

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<sup>43</sup> ICANN Bylaws (revised 2013) I:2.4

provide an opportunity for the community to directly engage with ICANN staff, board members, and each other, to discuss and debate current issues. The Supporting Organisations and Advisory Committees engage their members in thematic working groups to produce recommendations on particular issues. Representatives of the SO/ACs engage in the regular reviews mandated by the Affirmation of Commitments.

However, despite numerous opportunities for formal stakeholders to participate in ICANN, the interviews revealed several barriers to effective participation. Some barriers are the result of ICANN's international scope: time-zones were highlighted as causing problems in finding suitable times for online meetings or conference calls; Internet or phone connectivity can mean participation on calls is hampered by line drop-outs, and the cost of travel to ICANN meetings can be prohibitive. ICANN does provide support for a large number of participants to attend their meetings however (121 travellers for each meeting in 2014), supporting representation from At Large, GNSO, ccNSO, SSAC and GAC, and from non-constituent stakeholder groups through the ICANN Fellowship Programme<sup>44</sup>.

Challenges of language were reported as a principal barrier to non-English speaking participants. As discussed above, efforts are being made to translate more of ICANN's documents, but problems remain with the quality of translations, which can mean the intention of the document is lost or misrepresented. In addition, participation in SO/AC working groups requires a considerable amount of preparatory reading in order to engage effectively: when not all material is translated, or is translated poorly, this can be a daunting task for those who are not fluent in English. Interviewees related that even within ICANN's formal stakeholder groups, such barriers can prevent the majority of stakeholders from actively participating.

The issue of how the Board responds to recommendations or advice submitted by formal stakeholders has been discussed in the preceding section. However several interviewees highlighted that the Board's attitude could also discourage participation in itself. It was related that members of SO/AC working groups can devote considerable time and energy to developing recommendations for the Board, often when they have demanding jobs of their own. Feeling that their recommendations are not considered, or are unjustly dismissed by the Board was seen as a major disincentive to further participation. Recent efforts to ensure all recommendations are responded to, and that the Board provides rationales for their decisions should help to mitigate this sentiment. (see *Recommendation xi*)

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<sup>44</sup> ICANN Travel Support Guidelines FY14 <http://www.icann.org/en/news/in-focus/travel-support/travel-support-guidelines-fy14-02aug13-en.pdf>

ICANN's approach to consultation is to one of open participation: any individual or group, whether formally engaged or not, can post comments, and most events at the ICANN meetings are open to all physical and virtual attendees. In this way ICANN avoids some of the selection pitfalls involved in inviting particular stakeholders to consultation events. However in some ways the open participation approach can be self-selecting: stakeholders need a firm grasp of the issues and language used to comment insightfully; language can be a barrier to understanding relevant documents, or articulating concerns effectively; cultural differences can mean some stakeholder groups are less willing to be outspoken in their comments than others. This can prevent ICANN from achieving a true balance of stakeholder opinions, or from hearing from groups which may be especially affected by the issues being debated. In order to ensure that their participation processes are truly reflecting the breadth of the community, ICANN may wish to conduct a study of comments received on line and stakeholders attending and participating in meetings to identify whether any stakeholder groups or regions are under-represented and in need of targeted support or engagement. Individual SO/ACs may wish to build on this approach in order to consider any ways to encourage their individual constituents to participate more actively. (see *Recommendation xii*)

## **5.2 Participation of informal stakeholders**

Whilst a multi-stakeholder structure provides clear opportunities for the engagement of formal stakeholders, it is important that such an organisation does not omit to engage with other stakeholders who are affected by their activities. This is particularly the case with ICANN, who may be considered to affect every current and potential Internet user in the world: one interviewee highlighted that the next billion internet users will be from developing countries. However as argued in Section 3.2, there is a need to prioritise different stakeholder groups, and so informal stakeholders justifiably do not require the same level of consultation as members of ICANN's SOs/ACs.

With informal stakeholders, ICANN experiences many of the same barriers to effective participation of language, time zones, and culture. This is greatly accentuated however by a lack of familiarity amongst most of the general public about the nature or technical detail of ICANN's work. Efforts to encourage effective participation with informal stakeholders should therefore take the form of more active *outreach*: spreading awareness and knowledge of ICANN's work, in an accessible format. ICANN's Stakeholder Engagement team have made considerable efforts in this regard: establishing regional hubs in Singapore and Istanbul, engagement centres in Beijing, Tokyo and Montevideo, and launching targeted regional strategies for improved outreach in Africa, Latin America and the Middle

East. The Stakeholder Engagement Team reports that efforts so far have been met enthusiastically, for example with demand for the services of the Beijing office far outstripping supply. However in some countries, where there is little or no domain name industry, the work of ICANN can seem irrelevant. A particularly interesting approach has been to support burgeoning internet industries in developing countries: thus providing clear incentives for their business community, citizens and governments to engage with ICANN. Over time this should help to encourage engagement from regions where participation in ICANN has traditionally been weak, such as in Africa or Eastern Europe.

It will take time to establish the effectiveness of ICANN's efforts to engage with informal stakeholders: tracking and analysing engagement with ICANN in under-represented communities will be important in continually improving this approach. (see *Recommendations xviii; xiv*)

### ***5.3 Participation: recommendations***

- xi. *See Recommendation x.* Develop a Stakeholder Participation Policy, providing explicit criteria as to when stakeholders will be consulted about Board decisions, the process by which the Board will consider stakeholder recommendations, and a commitment for the Board to respond to recommendations issued by formal ICANN stakeholder groups.
- xii. Provide public access to the registers of members of all ICANN constituencies, Supporting Organisations and Advisory Committees. Track and analyse the engagement and participation of these members in Public Comment Processes and ICANN meetings.
- xiii. Develop a strategic approach to targeting participation and consultation efforts at under-represented or under active stakeholder groups (sectoral, geographic and cultural).
- xiv. Provide support to individual SO/ACs to review the participation of their constituents in a similar manner.

## **6. Evaluation**

By reviewing how well an organisation has achieved its stated objectives, both internal and external evaluation forms an important part of an organisation's accountability: allowing it to learn from its mistakes, and identifying innovative spaces for future improvements.

## **6.1 External evaluation**

ICANN is committed to commissioning regular Organisational Reviews of each Supporting Organisation, Advisory Committee and the Nominating Committee in the Bylaws, by independent experts. The Affirmation of Commitments also requires ICANN to regularly review how well it is meeting its commitments with regards to preserving security stability and resiliency of the DNS, promoting competition, consumer trust and consumer choice, and enforcing its existing policy relating to WHOIS. It also importantly requires ICANN to review its commitment to ensure accountability, transparency and the interests of global internet users. The Affirmation of Commitments also specifies the timescales under which such reviews take place and the composition of the review teams from volunteer community members.

The outcomes of the reviews are communicated by publishing them on the ICANN website<sup>45</sup> and public comments or responses to proposed recommendations are invited throughout the process. The implementation of the evaluation recommendations should also be publicly reported on, although in practice this is not done consistently. It is also notable that although the progress of the reviews should be publicly reported on, which is good practice, the relevant information is often out of date, and the schedule for conducting the next cycle of reviews has not been adhered to. Staff and stakeholders interviewed also raised concerns with the haphazard scope of the Organisational Reviews, which relies on the interests and focus of the different independent reviewers, leading to challenges with consistency and rigour.

These challenges are currently being addressed by the Board's Structural Improvements Committee and ICANN's Organisational Review Team, who are developing a new "Organisational Audit Programme". The new approach will be guided by set criteria for assessment of each SO/AC, which will guide and structure the evaluations, and hopefully facilitate comparisons over time and between ICANN organisations. The new approach will also include assessment by a panel of ICANN staff and representatives of other ICANN organisations, to complement the perspective of the independent reviewer.

It is interesting to note, however, that there are no current procedures, or future plans to independently evaluate the work of the ICANN Staff as a constituent body of ICANN (as opposed to evaluations of individual staff performance). This is regarded by the Board's Structural Improvement Committee as the responsibility of ICANN's CEO. There are indications that such an evaluation would be worthwhile: interviews revealed the strained relationship that sometimes exists between ICANN Staff and stakeholder groups, with some stakeholders accusing staff of a lack of transparency, and

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<sup>45</sup> See <http://www.icann.org/en/groups/reviews>.

staff feeling under pressure to be continually accountable to the stakeholders. A regular evaluation of the work of the staff might go some way in identifying whether there are any systematic problems that need to be addressed and providing recommendations for improvement. It would also help to answer the stakeholders' concerns, and determine whether they are justified or not. Such an evaluation could consider:

- Whether ICANN Staff are providing satisfactory support to the other stakeholder groups, such as the Board, Supporting Organisations and Advisory Committees.
- How successfully ICANN Staff are balancing stakeholder demands for greater transparency with the need for efficient working and organisational confidentiality.
- Whether individual departments are meeting departmental objectives efficiently and effectively, for example providing an analytical accompaniment to the outcomes of the internal Project Portfolio Management System.

Although an external review every 3-4 years might be beneficial, it would be acceptable for the annual review of ICANN Staff to be conducted internally, guided by set criteria. We would also suggest that stakeholder groups are asked about how well they feel ICANN Staff have met their needs, through surveys and/ or targeted interviews. ICANN may wish to integrate the evaluation of ICANN Staff with the system of Key Performance Indicators currently being developed. (see *Recommendation xv*)

## **6.2 Internal Evaluation**

ICANN staff gather extensive data on specific organisational metrics, some of which are publicly available<sup>46</sup>, in order to track the work of the organisation. This provides comprehensive information about the scope of ICANN's work, and the progress against the organisation's mission. However there are two key challenges with this approach to monitoring ICANN's work. Firstly, as several stakeholders highlighted in interviews, there is a lack of reporting against set practical objectives, which was seen by some as a fundamental barrier to true accountability. It is understood that to address this a new approach to strategy development, which will result in the development of organisational objectives, is currently being established. Secondly, there is a lack of analysis of the metrics: there is therefore no opportunity for ICANN to discuss what the metrics show, reasons behind the results, or to identify strengths or challenges that the metrics make apparent. This is therefore a considerable barrier to organisational learning, and therefore improvement. In order to

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<sup>46</sup> ICANN Dashboard of performance metrics: <https://charts.icann.org/public/index.html>; ICANN Portfolio Management System: <https://www.mycann.org/plan>



make this monitoring process meaningful, ICANN should therefore consider introducing an accompanying regular evaluation of what the metrics reveal, and what conclusions can be reached for the organisation. (see *Recommendation xvi*)

ICANN does not have an internal evaluation function in the way that some other global organisations such as the World Bank or International Monetary Fund do. Internal evaluators can provide a regular assessment on the workings of an organisation, with greater insight into entrenched organisational challenges than an external evaluator is able to achieve. It can also be more cost effective than commissioning a series of independent consultants. However in order to achieve an acceptable level of legitimacy, the internal evaluator must remain independent, reporting directly to the Board, and providing public accounts of their work where appropriate. If ICANN considers that an independent evaluator would be of use to the organisation, their role might include the analysis of organisational metrics. (see *Recommendation xvii*)

### **6.3 Learning and communication**

A key function of effective evaluations is the production of learning and recommendations for the improvement of the organisation. The current system of Organisational Reviews, and reviews mandated by the Affirmation of Commitments includes the production of recommendations. Implementation of these recommendations is then publicly reported on (although with some Organisational Reviews this is not kept up to date). Developing clear recommendations from evaluations, and publicly tracking progress against them is a good approach to driving forwards organisational improvement. Good practice however would suggest that efforts should also be made to clearly communicate the findings and outcomes of evaluations to stakeholders<sup>47</sup>: this should go beyond merely publishing the evaluations to include developing communication plans in order to ensure they are made accessible to different stakeholder groups. ICANN may wish to consider improving the accessibility of its different evaluation findings by providing a dedicated Evaluation webpage, with clear and concise summaries of evaluation recommendations, accompanied by up to date tracking of implementation progress against the recommendations. Thought should be given as to whether this information would be most clear and meaningful if presented by separate organisational evaluation (e.g., ATRT, NomCom, GNSO, etc.) or by grouping recommendations from across evaluations into thematic areas (e.g., Board governance, policy development, accountability, financial procedure, etc.). (see *Recommendations xiii; xix*)

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<sup>47</sup> One World Trust Global Accountability Framework (2011) Standard 4a.10 “Disseminating Lessons and Learning”

## **6.4 Evaluation: Recommendations**

- xv. Expand the scope of ICANN's regular reviews to include evaluations of the work of ICANN Staff, as a constituent body of ICANN.
- xvi. Accompany the provision of organisational metrics on the website with summaries and analytical evaluations of ICANN's work.
- xvii. Consider whether ICANN would benefit from an independent internal evaluation function to supplement the process of regular external reviews.
- xviii. Ensure tracking of the implementation of recommendations from various evaluations is up-to-date.
- xix. Publish accessible summaries of ICANN evaluations and reviews to accompany tracking of recommendations. Consider whether summarising findings and recommendations thematically may increase understanding by stakeholders.

## **7. Complaints and Response**

The final dimension of stakeholder accountability concerns soliciting, processing and acting upon complaints from both external and internal stakeholders. This dimension of accountability allows stakeholders to raise concerns about how the organisation is delivering against its mission, with the expectation that their complaint will be investigated and responded to, with action taken as appropriate. It is thus the final stage in stakeholders holding an organisation to account for its activities, decisions and impact. Complaints mechanisms are crucially distinct from consultation exercises in that they allow stakeholders to raise unsolicited concerns about how an organisation works. An effective complaints and response mechanism is not only important for holding an organisation to account; it can also be a valuable way for the organisation to detect systematic failures in how it works. Because the stakeholder model of accountability includes staff, complaints mechanisms should address the needs of both external and internal stakeholders.

### **7.1 External Complaints Mechanisms**

The Bylaws specify that "ICANN shall have in place a process by which any person or entity materially affected by an action of ICANN may request review or reconsideration of that action by the board"<sup>48</sup>. ICANN has three channels by which external stakeholders (including members of Supporting Organisations and Advisory Committees) can raise a complaint about ICANN: the Board run Reconsideration Process, the Independent Review Process currently conducted by the International Centre for Dispute Resolution, and the Office of the Ombudsman.

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<sup>48</sup> ICANN Bylaws (revised 2013) IV:2.1

Complaints about the Registrars' compliance with their contract with ICANN are handled by the Contractual Compliance Team. This forms an important part of ICANN's responsibility to safeguard the interests of its end users, and manage the behaviour of parties contracted on ICANN's behalf. However as Contractual Compliance is concerned with handling complaints about the behaviour of *external* parties (rather than ICANN itself) they are not considered as part of this analysis<sup>49</sup>.

ICANN's three organisational Complaints and Response mechanisms are listed on the Reconsideration and Independent Review page of the ICANN website<sup>50</sup> with details and links about how to submit requests. The existence of multiple channels, including an independent process, is in line with good practice standards.

Also in line with good practice, complaints which have been received through the ICANN complaints mechanisms are made publicly available. Reconsideration Requests dating back to 1999 are available through the Board Governance Committee webpage, accompanied by the Board's decision on the issue<sup>51</sup>. The material relating to the two cases considered under the Independent Review Process is also available<sup>52</sup>. Annual reports are composed which summarise complaints received through these two mechanisms<sup>53</sup>. The Ombudsman's blog includes details of complaints he has received and is investigating, which also invites comments<sup>54</sup>. The Ombudsman's annual report also provides some analysis of the nature of complaints, and geographic source of the complaints<sup>55</sup>.

Despite strong performance in the above areas of complaints handling, there are some areas where ICANN's policies do not meet good practice standards, concerning the protection of complainants. Whilst all complaints made to the Ombudsman (and Contractual Compliance) can be made confidentially, the ICANN Bylaws specifically require that all documents related to complaints made through the Reconsideration Process and Independent Review Process are made publicly available: this includes disclosing the names of the complainants. ICANN staff see this as integral to their transparency obligations, highlighting that the community should be fully aware of who is making a particular complaint. The individual requirements of each organisation and its relationships with its stakeholders will necessarily shape the design of its different complaints mechanisms. It is good practice however to at least provide stakeholders with the *option* to make complaints confidentially.

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<sup>49</sup> The consultants are aware of recent concerns which have been raised with the Ombudsman about the Compliance Team's handling of complaints, which have been dismissed following investigation (see <http://www.icann.org/en/help/ombudsman>)

<sup>50</sup> <http://www.icann.org/en/news/in-focus/accountability/reconsideration-review> )

<sup>51</sup> <http://www.icann.org/en/groups/board/governance/reconsideration>

<sup>52</sup> <http://www.icann.org/en/news/irp>

<sup>53</sup> <http://www.icann.org/en/groups/board/governance/annual-reports#reconsideration-requests>

<sup>54</sup> <http://omblog.icann.org/>

<sup>55</sup> <http://www.icann.org/en/help/ombudsman>

A further area where ICANN does not meet good practice standards of complaints handling is that there are no specific statements that guarantee non-retaliation towards complainants and to sanction those that retaliate against complaints. Although the Bylaws state that no complainant shall be handled in a discriminatory manner, and ICANN considers that this covers potential acts of retaliation, it is good practice to make an explicit commitment to this effect. Providing protection for complainants is an important component of an effective Complaints Response Mechanism (CRM), as it encourages those who may otherwise be inhibited from making complaints to come forward. (see *Recommendation xx*)

Given ICANN's broad, international focus, access to, and awareness of complaints and response mechanisms is an important issue. The current Ombudsman, Chris LaHatte, has made notable efforts to raise the profile of his role and to increase his accessibility to stakeholders through blogs, tweets, Facebook entries and presentations on his role within ICANN. The Ombudsman 2012 annual report noted more than a ten-fold increase in complaints received by him<sup>56</sup>, indicating that such efforts were necessary and worthwhile. The Ombudsman's webpage is available in English, Spanish, French, Chinese and Arabic, and the Ombudsman readily accepts complaints made in any language, which he will then have translated by an independent translator. However the other complaints channels are only described in English, and complaints are expected to be made in English. This is a considerable failure for an organisation which is making strong efforts at translation elsewhere, since it discourages non-English speakers from raising complaints or understanding the process by which complaints are investigated and responded to. (see *Recommendation xxi*)

In the interviews, stakeholders also raised a number of concerns about the practicalities of the complaints handling mechanisms. The Independent Review Process was cited as being too expensive for most to engage with. The Reconsideration Process was repeatedly accused of being too narrow in its scope, and of making decisions inconsistently. Most interviewees regarded the Ombudsman favourably, recognising his positive role in dispute mediation, and his efforts to increase the profile of his office. However some felt he still lacked authority, and that his decisions were not taken seriously by the Board.

The extent of concerns about ICANN's complaints handling mechanisms suggests that they are not adequately serving the communities' needs. It is understood that a review of the Reconsideration Request Process and the Independent Review Process has recently taken place, and it may therefore be that stakeholder concerns will be met by the revisions to the mechanisms. However a review of the Office of the Ombudsman should be scheduled. ICANN may also wish to consider timetabling a

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<sup>56</sup> <http://www.icann.org/en/help/ombudsman/documents/annual-report-2012-19mar13-en.pdf> p2

regular review cycle of the different external complaints mechanisms within ICANN (every 3-5 years) to determine whether they continue to operate effectively and efficiently and whether they collectively provide sufficient provision for all of ICANN’s diverse stakeholders to raise complaints, and have those complaints investigated and responded to. (see *Recommendation xxii*)

## **7.2 Internal Complaints Mechanisms**

It is important that any organisation not only recognises the importance of accountability to its external stakeholders, but also to its internal stakeholders, and particularly to its staff. ICANN has several avenues for staff to raise concerns within the organisation including those described in the Open Door, Prohibition of Harassment and Fraud policies. For particularly serious complaints (“Whistle-Blowing”), ICANN has a separate Anonymous Hotline Policy for staff.

ICANN staff can report serious concerns through the Hotline, by phone, email, fax, the web, or ICANN intranet. Staff can choose to make their complaint anonymously, the policy specifies that there shall be no-retaliation against complainants, and that "appropriate corrective action" will be taken against any who do retaliate, which is in line with good practice. The Procedures for Handling Reports to ICANN’s Anonymous Hotline<sup>57</sup>, details how the Hotline Committee, composed of ICANN’s Chief Operating Officer, General Counsel and Secretary, Deputy General Counsel responsible for employment matters, and Director of Human Resources, will investigate the complaint. This includes provisions for excluding a member of the Hotline Committee from committee communications, if they are implicated in the complaint, which again meets good practice standards.

To ensure that staff members are widely aware of the existence and mechanisms of the Hotline, copies are posted in several positions in the ICANN offices. Every year staff are sent a copy of the policy and asked to sign a declaration indicating they are aware of, have read and understand the policy.

However, the Hotline Policy does not meet some key areas of accepted good practice with regard to stakeholder protection<sup>58</sup>. For example, it does not make any provisions for the complainant to appeal the decision of the Hotline Committee, or to escalate the complaint. Also, although the confidentiality of the complainant is assured as far as legally possible, the policy warns that their identity may be “unintentionally revealed” in the course of the investigation. (see *Recommendation xx*)

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<sup>57</sup> *Procedures for Handling Reports to ICANN’s Anonymous Hotline* (ICANN: no date provided)

<sup>58</sup> As identified by the One World Trust Global Accountability Framework II (2011) Standards 5b.1-4

In interviews, some stakeholders raised concerns that the Whistle-blower mechanism was ineffective. They felt that the protection of staff offered by the mechanism is not sufficient to allow concerns to be raised, and that it is too limited in its scope. One stakeholder reported that they have heard of issues from current and previous staff that should have been reported through the Whistle-blowing mechanism, but which have not been, for these reasons. It may be that there is a need to provide a less formal dispute resolution mechanism for staff, with guarantees of anonymity and non-retaliation, to encourage them to voice any concerns more readily .

Issues with the internal complaints mechanism, concerning protection of complainants and effectiveness, are therefore very similar to those identified with the three external CRMs. There we recommend that the staff Whistle-blower policy is included in the review of ICANN's complaints and response mechanisms. (see *Recommendation xxii*)

### **7.3 Complaints and Response Mechanisms: Recommendations**

- xx. Revise all CRM policies to include protection of complainants against retaliation, and sanctions for retaliation, in line with good practice standards.
- xxi. As a matter of urgency translate website descriptions and submission forms related to the Board Reconsideration Process and Independent Review Process into the five other UN languages and Portuguese.
- xxii. Initiate an immediate review of ICANN's Ombudsman and Staff Anonymous Hotline, and timetable a regular review (every 3-5 years) of all of ICANN's complaints handling mechanisms, to consider:
  - a. How they should be revised to meet good practice standards, particularly around the protection of complainants and provision of alternative mechanisms for complaints.
  - b. If they are effectively meeting the needs of ICANN's stakeholders.
  - c. Whether they should be restructured to increase efficiency and effectiveness, and in particular whether there is a need for an alternative mechanism to handle staff complaints.

## 8. Conclusion

This analysis of ICANN's accountability policies and procedures has revealed that in many respects ICANN has strong accountability practices. This was underscored by the deep commitment expressed by many staff and stakeholders interviewed to accountability principles, which is in itself an essential component of any attempt to improve an organisation's accountability. However the organisation lacks a clear organisation definition or framework of accountability, to support and direct practical efforts, or a regular, internal process to monitor and reflect on current accountability practices.

ICANN has particular strengths in relation to transparency and information sharing, and its Document Information Disclosure Policy (DIDP) meets several good practice criteria. The amount of information provided to stakeholders can be a barrier to accessibility however, as it can be hard to find particular documents or reports. The translations provided can also be of an inconsistent quality and some key policy documents, including the DIDP and details of the complaints handling mechanisms are not available in languages other than English.

Policies regarding the governance and election of the Board meet all of the One World Trust's good practice criteria. There remain concerns amongst stakeholders however about the accountability and transparency of the Nominating Committee, and about how the Board takes on board the opinions of different stakeholders when making decisions.

ICANN provides extensive opportunities for its formal stakeholders to engage with the organisation, through tri-annual meetings, working groups and public comment processes. However stakeholder participation is not guided by a formal policy, causing challenges with stakeholder expectations, and accusations that the GAC holds greater weight with the Board than other stakeholder groups.

In the past year ICANN has made notable efforts to reach out to regions that have not historically been a focus of its proceedings, and to support the development of industry in such regions to provide a basis for greater engagement in the future. Monitoring and evaluation over the next few years will indicate the success of these efforts.

External evaluations of ICANN bodies are recognised by staff to have been inconsistent, and not clearly followed up on. The current development of a new Organisational Audit Procedure, and of clear organisational objectives, will facilitate stronger evaluations and learning in the future.

ICANN's internal and external complaints mechanisms meet some good practice standards, and exceed those of the three case study organisations assessed as part of this consultancy. However,

they are not perceived as effective by the stakeholders interviewed, indicating there is still some room for improvement.

Following from the above analysis of ICANN's accountability policies and practices the consultants have provided twenty-four recommendations as to how we believe ICANN could improve. In some cases these recommendations directly echo those of the second Accountability and Transparency review team. ICANN should consider each recommendation in terms of its necessity, practicality and resource requirements, before determining which recommendations should be implemented, and across what timescale.

ICANN's unique mandate, and unusual multi-stakeholder structure provides it with some considerable accountability challenges, but also the opportunity to truly engage with the citizens of the world about the governance of the Internet. It is hoped that the recommendations of this accountability assessment, and the accompanying draft Accountability Metrics and Benchmarks, will go some way to supporting ICANN in its attempts to be accountable to the millions of people affected by its work.



## **Appendix: Persons Interviewed**

Adam Peake, Executive Research Fellow, GLOCOM (NomCom)

Akram Atallah, President, Global Domains Division, ICANN

Amy Stathos, Deputy General Counsel, ICANN

Avri Doria, Freelance Researcher (GNSO; ATRT2)

Becky Burr, Chief Privacy Officer, Neustar (ccNSO)

Brian Cute, CEO, The Public Interest Registry (Chair, ATRT2)

Carole Cornell, Senior Director, Project Office, ICANN

Chris LaHatte, Ombudsman, ICANN

David Olive, VP Policy Development, ICANN

Denise Michel, VP Strategic Initiatives, ICANN

Jacks Khawaja, Enterprise Risk Director, ICANN (responses submitted in writing)

Manal Ismail, Director of the International Communications Coordination Department, National Telecommunications Regulatory Authority, Egypt (GAC; ATRT)

Olivier Crepin-Leblond, Global Information Highway Limited, (Chair, ALAC; ATRT2)

Ray Plazk, ICANN Board, Chair, Board Structural Improvements Committee

Roelof Meijer, CEO, SIDN (ccNSO)

Rolf Weber, Professor for Civil, Commercial and European Law at the University of Zurich (Non-Commercial Users Group)

Sally Costerton, Sr. Advisor to President - Global Stakeholder Engagement, ICANN

Steve Crocker, CEO, Shinkuro Inc. (Chair, ICANN Board of Directors)

Susanna Bennett, Chief Operating Officer, ICANN

Tarek Kamel, Sr. Advisor to President - Governmental Engagement, ICANN

Tijani Ben Jemaa, Executive Director, Mediterranean Federation of Internet Associations (ALAC)

Xavier Calvez, Chief Financial Officer, ICANN

**APPENDIX D: Accountability Systems of Three Multi  
Stakeholder Non-Governmental Organisations**



# Accountability systems of three multi-stakeholder non-governmental organisations

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Commissioned by the Internet Corporation for  
Assigned Names and Numbers

Manija Kamal

# 1. Introduction

This part of the consultancy project offers a comparative analysis of the current accountability systems of the World Fair Trade Organisation (WFTO), Forestry Stewardship Council (FSC) and the International Organization for Standardisation (ISO). The analysis aims to demonstrate *how* WFTO, FSC and ISO meet their accountability commitments in a multi-stakeholder setting. Or to put it differently: we selected WFTO, FSC and ISO as case studies in order to illuminate how they *enact* accountability as multi stakeholder organizations. Thus, this comparative overview discusses the key features of the accountability systems of WFTO, FSC and ISO in order to identify areas of learning and good practice sharing for ICANN which will then inform the development of ICANN's accountability and transparency benchmarks and metrics.

The report is structured as follows: following this Introduction in **Section 1**, **Section 2** provides a brief explanation of how the comparative analysis of WFTO, FSC and ISO's accountability systems was conducted and describes the data gathering methodology. **Section 3** introduces the three case study organisations including describing their mission and vision. In **Section 4**, a summary of the comparative analysis draws out conclusions about how the three case study organisations perform in relation to ICANN, in terms of the six accountability Principles of Accountability, identifying areas of learning. Finally, in **Section 5** the key findings of the comparative case studies analysis are presented in the form of six annotated tables highlighting areas of strengths and challenges of WFTO, FSC and ISO accountability systems.

## 2. Methodological approach to assessing the accountability of WFTO, ISO and FSC

We define accountability systems as *on-going processes* which not only enable WFTO, FSC and ISO to engage with and balance the needs of their multiple stakeholders, but also actively and effectively empower their diverse stakeholders to hold WFTO, FSC and ISO to account over their activities, decisions and impacts<sup>59</sup>. Thus, in order to be able to capture the key features of WFTO's, FSC's and ISO's accountability systems, we introduce, in line with the One World Trust Global Accountability Framework II<sup>60</sup>, the following three analytical dimensions.

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<sup>59</sup> For more discussion of our approach to accountability see Laybourn, C. for ICANN, (2013) 'Analysis of ICANN's Accountability Policies and Practices'.

<sup>60</sup> Hammer, M. and Lloyd, R. (2011) *Pathways to Accountability II: the 2011 revised Global Accountability Framework*

- **Governance structure:** Governance plays a key role in how an organization functions. We define governance as the processes, structures and organizational traditions that determine how *power* is exercised, how stakeholders have their say, how decisions are taken and how decision-makers are answerable for the impacts of their decisions to those whom they affect. Our analysis of the WFTO, FSC and ISO governance structure is thus guided by the following two questions:
  - How are WFTO, FSC and ISO organized (key features)?
  - What kind of governance arrangements allow WFTO, FSC and ISO to engage with, to balance the needs of and to empower their diverse multiple stakeholders?
  
- **Accountability Strategy (commitment):** We understand accountability strategy (commitment) as the processes of how an organization defines and promotes accountability to its internal and external stakeholders. Thus, accountability strategy of WFTO, FSC and ISO encompasses all core accountability policies (bylaw, standards, framework, strategic plans, strategy and annual reports, quality management systems, certification schema, commitment to external accountability standards, codes of conduct and etc.) that determine and foster their accountability commitments to stakeholders and to the values and principles underpinning these commitments. Therefore, our analysis of WFTO, FSC and ISO accountability strategy focuses on the following four questions:
  - What are WFTO, FSC and ISO's core accountability policies (claims)?
  - How do WFTO, FSC and ISO identify their (key) stakeholders and prioritize between them? <sup>61</sup>
  - What kind of engagement do WFTO, FSC and ISO have with national governments?
  - What kind of engagement do WFTO, FSC and ISO have with and civil society organizations?
  
- **Established Accountability Practices:** We define established accountability practices as the processes by which an organization noticeably and effectively translates its accountability strategy (claims) into practice. Our discussion of established accountability practices of WFTO, FSC and ISO focuses on four core accountability

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<sup>61</sup> It is very important to note that that an organization cannot be equally accountable to all stakeholders, thus this question reflects upon this unrealistic expectation and aims to find out how WFTO, FSC and ISO prioritise their accountability claims between their diverse stakeholders according to their missions and other relevant criteria such as representation, vision and decision making influence.

dimensions: transparency (which implies that stakeholders have timely, reliable and clear access to information in order to understand and to monitor organizational commitments, actions, procedures, and decisions); participation (the active engagement of internal and external stakeholders in the activities and decisions that affect them, particularly their ability to influence decision making and to contribute to the development of accountability policies and procedures); evaluation and continuous learning (internal and external monitoring and reviewing processes against accountability goals and objectives aiming to provide learning and improvement including building staff capacity); and complaint and response (mechanisms that ensure that internal and external stakeholders can not only file complaints against decisions and actions and on issues of non-compliance, but also to ensure that complaints (internally and externally) are properly reviewed, processed and acted upon). Our comparative analysis of the established accountability practices of WFTO, FSC and ISO are thus guided by the following questions regarding each dimension:

**Transparency:**

- Do WFTO, FSC and ISO have a mandatory policy for making information public and does it apply to all activities and functions?
- How do WFTO, FSC and ISO identify the conditions under which information will not be disclosed and is there an appeals process for documents that have been withheld?
- What are WFTO, FSC and ISO policies for translation of core documents (particularly in relation to numbers of languages, quality and timeliness)?
- Do WFTO, FSC and ISO have a coordinated and strategic approach to communicating effectively with stakeholders?

**Participation:**

- How do WFTO, FSC and ISO internal and external stakeholders participate in the decision making processes?
- Are stakeholders' contributions to consultation responded to?
- How open are WFTO, FSC and ISO governing bodies about the processes by which policy decisions are made?

**Evaluation and learning:**

- How do WFTO's, FSC's and ISO's framework for evaluation and learning on performance take place (do they include strategic, policy and operational field? Are stakeholders involve in the evaluation?)?
- Are evaluations and learning shared publicly?
- Do WFTO, FSC and ISO conduct regular reviews of their accountability performance, either in entirety or individual elements?
- Who conducts evaluations i.e. is there an independent evaluation function, use of external consultants within WFTO, FSC and ISO?

**Complaints and response:**

- How do WFTO, FSC and ISO handle complaints from internal stakeholders/complainants?
- How do WFTO, FSC and ISO handle complaints from External stakeholders/complainants?
- Do WFTO, FSC and ISO review their complaints mechanisms?
- Do WFTO, FSC and ISO have formal systems in place for reviewing and monitoring the implementation of complaints and response policies and procedures?

### *Data gathering methodology*

Two different sources of data were used for our comparative analysis. We reviewed a wide range of publicly available documents, such as bylaws, policies and annual reports which are produced by WFTO, FSC and ISO and are available in the public domain, mainly on their websites. ISO kindly provided us access to 'ISO connect', an internal communication system that helped us to analyse documents that are not publicly available.

The second source refers to interviews. We conducted seven semi-structured phone interviews with the representatives of governing bodies and stakeholders of WFTO, FSC and ISO. The phone interviews, which lasted between 1 ½ and 2 hours, made a valuable contribution to understand and contextualise the publicly available documents.

The following representatives of each organisation were interviewed:

*World Fair Trade Organization:*

- Geoff White (Member of WFTO Global Board of Directors; Member of Trade Aid New Zealand)

- Doug Dirks (Founding member of WFTO; Regional Representative of WFTO Pacific; Chief Executive Director of Ten Thousand Villages USA)

*Forestry Stewardship Council:*

- Marion Karmann (Monitoring and Evaluation Manager)
- A female interviewee from the FSC's Social Chamber and a male interviewee from the Economic Chamber requested to remain anonymous

*International Organisation for Standardisation:*

- Pamela Tarif (Head of Membership)
- Daniele Gerundino (Strategic Adviser to the ISO Secretary-General)

The consultants would like to take this opportunity to thank all interviewees for taking the time to speak with us, and for their valuable contribution to our analysis.

### **3. Overview of the Case Study Organizations**

#### **1.1 *World Fair Trade Organization***

##### *Introduction*

WFTO, founded in 2008 from the International Fair Trade Association, is an independent, non-governmental and membership based organization which represents a global network of Fair Trade Organizations. WFTO operates in over 70 countries across Africa, Asia, Europe, Latin America, and North American and the Pacific Rim and has over 400 members (65% of WFTO members are based in the "Global South": Asia, Africa and Latin America). According to the Charter of Fair Trade Principles, Fair Trade defines a trading partnership, *based on dialogue, transparency and respect* that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers – especially in developing countries. Fair Trade constitutes the core of Fair Trade Organizations' objectives and activities.

##### *Vision:*

Creating a world in which *trade structures and practices* have been transformed to work in favour of the poor and promote sustainable development and justice.

***Mission:***

To enable producers to improve their livelihoods and communities through Fair Trade. The interests of producers, especially small farmers and artisans, should be the main focus in all the policies, governance, structures and decision making within the WFTO.

## ***1.2 Forestry Stewardship Council***

***Introduction:***

FSC, founded in 1993, is an independent non-governmental and membership based (851 members) organization which promote responsible forest management worldwide. FSC provides a certificate of 'well managed' forestry to firms and/or land owners who pass an audit against pre-established social and environmental standards of FSC. As of November 2013, FSC oversees roughly 181 million hectares of forestland in 80 countries and 1229 forest management projects and chain of custody have been certified according to FSC's principles and criteria. These 10 general principles include: clearly defined, long-term land tenure and use rights; recognition and respect of indigenous peoples' rights; equitable use and sharing of benefits derived from the forest; reduction of environmental impact of logging activities; maintenance of high conservation value forests; and promotion of the restoration and conservation of natural forests. These general principles are codified through a set of around 60 performance-based criteria and a set of detailed standards against which these criteria are, in turn, measured.

***Vision:***

The world's forests shall meet the social, ecological, and economic rights and needs of the present generation without compromising those of future generations.

***Mission:***

To promote the environmentally appropriate (i.e. the harvest of timber and non-timber products maintains the forest's biodiversity, productivity, and ecological processes), socially beneficial (i.e. long term benefits for local people and society) and economically (i.e. forest operations are structured and managed so as to be sufficiently profitable, without generating financial profit at the expense of the forest resource, the ecosystem, or affected communities) viable management of the world's forests.



### **1.3 *International Organization for Standardization***

#### ***Introduction:***

ISO (derived from Greek 'isos' which means equal), founded in 1947, is an independent non-governmental and membership based organization which is made up of national standards bodies of 164 countries, one per country, from all regions of the world. ISO is the world's largest developer of voluntary International Standards. ISO have published more than 19,500 International Standards covering almost all aspects of our modern life, such technology, business, health, environment and quality management systems.

#### ***Vision:***

To be the world's leading provider of high quality, globally relevant International Standards through its members and stakeholders.

#### ***Mission:***

To develop coherent, effective, widely recognized standards through an effective process which meets customer needs and ensures consensus amongst stakeholders and across countries, through the national delegation principle.

## **4. Summary of the Case Study Comparative Analysis and Comparisons with ICANN**

As can be seen from the summary below, the review of the case study organizations identifies some useful approaches which ICANN may wish to adapt to fit its unique context, and implement in order to strengthen its accountability performance. Overall it is clear that in comparison with the other three organizations ICANN performs relatively well in terms of transparency, evaluation and learning and complaints handling. This should not however be taken to mean that ICANN's current level of accountability to its stakeholders is sufficient: there are a number of internationally agreed good practice standards which ICANN does not yet meet. Furthermore, the unique nature of ICANN's work, its responsibility for the governance of a global public good, and the commitment of its stakeholders to transparency and accountability means that there are elements of its work where a greater degree of accountability should be aimed for. The ICANN Accountability Framework Goals and Objectives aim to guide ICANN as to the internal standards it should be aspiring to achieve.

#### ***Accountability strategy:***

- Similarly to ICANN, the WFTO, FSC and ISO do not provide a clear definition of accountability, nor do they produce an annual Accountability Report. Therefore none of these organizations have particular mechanisms in place that assess whether they are effectively meeting their accountability commitments.
- In contrast to ICANN, the WFTO, FSC, and ISO clearly identify their key internal and external stakeholders and map prioritizations amongst them, enabling all three organizations to strategically respond to the needs of their diverse stakeholders.
- Strikingly, in contrast to WFTO and ISO, FSC does not formally count staff and donors as stakeholders, emphasising the ‘neutrality’ of both without providing further explanation of the meaning and application of neutrality .
- WFTO and FSC have a strong degree of engagement with civil society organizations; ISO with national governments. However, these engagements must be understood in the context of their emergence and nature of work.

*Summary:* Regarding the principle of ‘accountability strategy’ WFTO, FSC and ISO show similar weaknesses that have been also been detected with ICANN, such as lack of an annual Accountability Report and a concise accountability definition. However, the clear identification and mapping of the diverse stakeholders offers a good learning practice for ICANN.

### *Transparency*

- WFTO’s and ISO’s make commitments to transparency which are explicitly laid down in their constitutions, bylaws and directives and the wide dissemination of core documents in several languages (English, French and Russian in ISO case; English and Spanish in WFTO case). However their practice of transparency in comparison to ICANN is weak. For instance, both organizations do not provide sufficient information about the minutes of governing body meetings, transcripts of crucial stakeholder meetings, or detailed rationales for decision making. Thus, ICANN has a profound and extensive sharing of information from which WFTO and ISO can learn.
- In contrast to WFTO and ISO, FSC’s transparency practice is quite strong and shows numerous similarities with ICANN, such as practice of full disclosure which ensures that all relevant information is publicly available and easily accessible.
- FSC’s “Motion Forum” and “Stakeholder Portal”, which provide detailed information on policy and operational levels, are good examples for regular flows of ad hoc communications among diverse stakeholders that might inspire ICANN to create similar communication channels.

- In comparison with WFTO, FSC and ISO, ICANN has outstanding guidelines regarding its Non-Disclosure Policy. None of the three case study organizations define the conditions for non-disclosure and appeal process for documents that have been withheld. Thus, ICANN's DIDP which details specific conditions for Non-Disclosure is a good learning example for WFTO, FSC and ISO.
- However, FSC and ISO might provide ICANN with useful policies and practice on ensuring the *quality* of translated documents, for instance through the processes of certified translations.

*Summary:* In relation to the Principle of 'transparency' it can be noted that ICANN has robust and comprehensive mechanisms in place from which WFTO, FSC and ISO can definitely learn ; however ICANN has to take into account the different needs of its stakeholders regarding information sharing.

### *Participation*

- FSC and ISO have strong participation mechanisms in place that enable the balancing of the need and the empowerment of diverse stakeholders. This is less the case for the WFTO.
- FSC's tri-partite structure: FSC intends to take the whole range of forest stakeholders into account. In order to do so, a tripartite structure has been built, with an economic, an environmental and a social chamber. Members of the FSC are required to specify their core interest on applying for membership. For example, the membership in the social chamber of the FSC is limited to indigenous organizations and social movements as well as assigned individuals active in promoting environmentally appropriate, socially beneficial and economically viable forest management. FSC's decision making processes are also characterised by an explicit North–South parity. It aims at ensuring a balance between 'Northern' and 'Southern' interests. Hence, the FSC's three chambers each have a Northern and a Southern sub-chamber. FSC's governance structure consists of splitting the total voting power available equally between the three chambers (one-third each); and then splitting each chamber vote evenly between Northern and Southern members (one-sixth for each sub-group). Thus, all six sub-chambers have equal voting power in the FSC's General Assembly, without having to restrict the number of members which sit in each chamber. However, despite this well-crafted multilevel governance structure, the problem of low participation of stakeholders from specific geographical regions remains a problem.
- ISO's "twinning": For decades developing countries played a passive role in ISO even as they supplied the majority of members. In 2012, the number of ISO's technical bodies led by

developing countries rose to an historic high of 9%; this occurred mainly via *twinning*, in which representatives of member bodies from developed and developing countries hold leadership positions jointly. Nevertheless, despite “twinning” developed countries still hold more than 45% of council seats, but comprise only 23% of ISO member bodies.

- ISOs “concept of consensus”: ISO defines ‘consensus’ as a general agreement that is characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves *seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments*. Thus, the ‘consensus’ practice formally emphasises the active participation of all relevant stakeholders during the decision making process.

*Summary:* For the Principle of Participation FSC’s unique tri-partite structure, ISO’s “twinning” and its “concept of consensus” offer good practice and learning opportunities for ICANN about how to engage effectively with formal and informal stakeholders.

## Responsiveness of executive body

- WFTO, FSC and ISO are membership based organizations and thus the highest decision making authority is the General Assembly consisting of members.
- The responsiveness of the executive bodies (WFTO and FSC have a Board of Directors; ISO has a council) towards stakeholders’ demands and needs are high, which is directly related to the internal governance structure as the executive body is elected by the General Assembly and is accountable to the members of WFTO, FSC and ISO.
- WFTO and FSC have well-balanced governing bodies, ensuring regional and gender balance. However ISO governing bodies tend to be dominated by white males from advanced industrialized countries.

*Summary:* Regarding the Principle ‘responsiveness of executive body’ it can be noted that ICANN shows a high level of responsiveness in comparison with ISO. However WFTO and FSC efforts to ensure regional and gender balance might serve ICANN as good learning examples. Additionally, it is worthwhile to note that only ICANN regularly undertakes independent evaluations of the Board’s conduct. WFTO, FSC and ISO do not undertake such independent evaluations, which might be due to the fact that the governing bodies are directly elected by the General Assembly.

## *Evaluation and Learning*

- FSC and ISO do not have a particular emphasis on evaluation and learning, nor do they conduct regular reviews of internal evaluations. Rather, ICANN’s policy of undertaking commissioned organisational reviews on a regular basis is in comparison to FSC and ISO exceptional, even if it has not been systematically fulfilled in the past.
- WFTO does have an effective evaluation and learning scheme in place. WFTO Guarantee System (GS) is a monitoring tool/system that aims to identify organizations as having met internally agreed accountability standards of fair trade practice. WFTO GS is based on a three-tier process. Self-assessment is the first step of the monitoring process; WFTO members assess themselves against ten standards using the self-assessment guidelines and regionally developed indicators. The ten standards are: Creating Opportunities for Economically Disadvantaged Producers, Transparency and Accountability, Capacity Building, Promoting Fair Trade, Gender Equity, Working Conditions, Child Labour, Commitment to Non Discrimination, Gender Equity and Women’s Economic Empowerment, the Environment and Payment of a Fair Price. The self-assessment report (largely narrative based) outlines the degree of compliance with the standards and is sent to WFTO every two years. The second step of WFTO GS is mutual review (a type of internal verification); the WFTO members send their self-assessment Reports to their trading partners allowing for comments and feedback in a process that encourages accountability and transparency (in line with practices such as 360 degree assessment or feedback). The external verification is the last component of the WFTO GM monitoring system. Registration is given to organizations that have successfully completed their self-assessments and met the demands of the WFTO monitoring system. The external verification identifies them as fair trading organizations. WFTO GS encourages organizational self-learning and self-reflection as it requires organizations to reflect on their practice; it explicitly promotes democratic structures amongst the producer organizations. However, it should be noted that the WFTO GS is not a genuine evaluation and learning tool, rather it is a certification system that can be seen as an example of ‘governance by disclosure’

*Summary:* Whilst ICANN’s policy of conducting regular organisational reviews exceeds the evaluation and learning practice of the FSC and ISO, the WFTO’s Guarantee System provides an interesting example of how stakeholder groups can be encouraged to self-assess their own performance.

### *Complaints and response*

- In comparison with ISO and FSC, ICANN's complaints handling mechanisms are more comprehensive, and meet more best practice standards (the WFTO's complaints handling mechanisms are currently under review, and therefore are not available for public dissemination or analysis). Indeed, the case study organizations may wish to consider adopting some of the mechanisms from ICANN, such as the existence of multiple channels for complaints handling, providing a complaints mechanism for staff, and the Office of the Ombudsman, in order to strengthen their complaints handling practice
- FSC has in place two different procedures for resolving external complaints. Most complaints fall under FSC-PRO-01-008, and are handled by an internal FSC staff member within a timescale of thirty days. Where evidence exists of a serious violation of FSC's core values, FSC-PRO-01-009 may be used which is managed by an independent panel appointed by the FSC Director. The panel provides their recommendations to the FSC Board of Directors within sixty days.
- The ISO Directives guide the handling of "internal" stakeholder complaints relating to non-compliance within the standard development process. This mechanism enables ISO national members to lodge compliance-based complaints. External complaints can only be presented to ISO when one receives 'an unsatisfactory' response to a complaint from the national accreditation body; after this step, one can only make a complaint by email: no other mechanisms are available. Against good practice, by submitting a complaint, the complainant is deemed to have automatically authorised ISO to share any parts of the information contained in the complaint, including name and contact details. If the complainant wishes to remain anonymous, he/she must clearly specify this in her/his complaint.
- Staff Complaints: This is a notable area of weakness for both FSC and ISO. Within the FSC, staff are seen as a 'neutral' group and perhaps as a result there is no staff complaints policy publicly available. However there is a small division within the human resource unit of FSC which handles staff complaints according to German employment law. Within ISO there is no policy regarding how staff can make complaints, beyond appealing decisions that have been made against them.

*Summary:* Whilst ICANN does not meet several good practice standards of complaints handling, and it is evident that concerns exist about the *practice* of ICANN's complaints mechanisms, they are none the less more comprehensive and protective of complainants than those of ISO or FSC. In particular the absence of satisfactory complaints mechanisms for staff at ISO or FSC is a notable omission.

## 5. Comparative analysis of the WFTO, FSC and ISO accountability policies and practices

Table 1: Governance Structure of WFTO, FSC and ISO

	WFTO	FSC	ISO
Internal Governance	<ul style="list-style-type: none"> <li>- WFTO is a membership-based organization</li> <li>- There are two steps to becoming a full WFTO member: <b>provisional</b> and <b>registered</b>. Members must pass through both steps in order to promote their membership of the WFTO and use the WFTO logo. Organizations are initially approved as provisional members, after submitting their profile and self-assessment report, and then need to comply with the audit procedures of the WFTO Guarantee System to become full members. Thus, all WFTO members are obliged to pass through the monitoring process. This requires a thorough self-assessment (every two years), peer visits by peers, and a monitoring audit by an approved WFTO auditor against the <b>10 principles of Fair Trade</b>. These 10 principles are: 1. Creating Opportunities for Economically Disadvantaged (poverty reduction through trade forms a key part of the organization's aim); 2. Transparency</li> </ul>	<ul style="list-style-type: none"> <li>- FSC is a membership-based organization and it is governed by its members</li> <li>- individuals and organizations can become members of the FSC and each member is assigned to one of the three chambers—the <b>economic, environmental, or social</b> chamber</li> <li>- Internal governance of the FSC is accomplished through its <b>General Assembly (GA)</b> of all FSC members and ‘the supreme authority’ of FSC</li> <li>- the representation within GA is divided in three chambers representing <b>economic, social, and environmental</b> interests which each have one-third of the vote and each one of which are further subdivided to allow for equal representation from the North and South Further, there is a North–South split, with the North composed of developed nations, and the South composed of developing nations</li> </ul>	<ul style="list-style-type: none"> <li>- ISO is governed by its members</li> <li>- ISO membership is only open for national standards bodies</li> <li>- ISO has currently 164 members divided in three membership categories: 114 full member (Member Bodies) retain full voting rights and take active part in all ISO activities. Membership is subject to payment of annual dues; 46 correspondent members and 4 subscriber members have no voting rights and cannot take an active part in the technical and policy development work, but attend the General Assembly as observers</li> <li>- ISO is comprised of several organs - a <b>General Assembly (GA)</b>, a <b>Council</b>, a <b>Technical Management Board (TMB)</b>, <b>technical committees</b>, and a <b>Central Secretariat</b>, and several Officers of the Organization – a President,</li> </ul>

	<p>and Accountability; 3. Fair Trading Practices; 4. Payment of a Fair Price; 5. Ensuring no Child Labour and Forced Labour; 6. Commitment to Non Discrimination, Gender Equity and Women’s Economic Empowerment and Freedom of Association; 7. Ensuring Good Working Conditions; 8. Providing Capacity Building; 9. Promoting Fair Trade; 10. Respect for the Environment</p> <ul style="list-style-type: none"> <li>- membership is open to both the founding Fair Trade Organisations (FTOs) of traders and retailers in the North and FTOs of producers in the South</li> <li>- WFTO membership covers five regions (Africa, Asia, Europe, Latin America, and North America and the Pacific Rim, and in all of them regional groups have been formed: Cooperation for Fair Trade Africa (COFTA), WFTO Asia, WFTO Europe, WFTO LA, and WFTO Pacific</li> <li>- WFTO is primarily led by its membership. The most important gatherings of WFTO members are the biennial international conferences, which act as a General Assembly (GA)</li> <li>- at the GA, WFTO members set the strategic priorities of the next two years. Additionally, general meetings of GA are held on annual basis where WFTO members discuss WFTO’s general</li> </ul>	<ul style="list-style-type: none"> <li>- FSC’s split into ‘North’ and ‘South’ seems a somewhat arbitrary delimitation being based on income criteria, instead of e.g. on a representation of the world’s population</li> <li>- all decisions regarding changes of FSC’s Principles &amp; Criteria are relegated to the GA</li> <li>- The day-to-day business of the FSC is entrusted to a board of directors. This board has nine members, three from each of the divisions, and divided 50–50 between North and South, with each new 3 year board term rotating the 4/5 split between the North and South. Meeting three to four times per year, the board is mainly responsible for overseeing the organizational activities of the FSC, providing strategic guidance to the secretariat, and approving the accreditation of certification bodies and of national certification standards. The board cannot itself amend the Principles and Criteria, however, it plays an important role in the interpretation of the Principles and Criteria</li> <li>- The Board of Directors aims to make decisions by consensus. If consensus cannot be reached, resolutions of the Board of Directors shall be validly adopted by the affirmative vote of at least seven of the acting members of the Board present at the meeting, with at least two positive votes per</li> </ul>	<p>two Vice Presidents, a Treasurer, and a Secretary-General</p> <ul style="list-style-type: none"> <li>- ISO’s main governing organ is a General Assembly which meets annually</li> <li>- most governance functions are, however, delegated to a Council which meets twice a year. Its 20 members are elected from among the full members for staggered two-year terms chaired by the President or the Vice-President (Policy) and decision are taken by majority vote of members voting. Its composition is supposed to reflect ISO’s membership, but developed countries, which comprise 23% of full members, currently hold over 45% of Council seats</li> <li>- the Council is responsible for ISO’s operations, policy and foreign relations, in accordance with the policy laid down by the members and reports on its operation and future planning to the GA</li> <li>- The Council sets the Central Secretariat’s budget and appoints the Treasurer, TMB and chairs of ISO’s three policy development committees which are open to all full and correspondent members and which report to Council</li> <li>- the ‘real’ power in ISO lies in the Technical Management Board (TMB), a general name for</li> </ul>
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	<p>plans</p> <ul style="list-style-type: none"> <li>- WFTO governance structure comprises a <b>Board of Directors</b> and several sub-committees (including the Standards and Monitoring Sub-committee and the Registration Sub-committee which are chaired by a member of the Board of Directors without having decision-making power ) consisting of appointed WFTO members, associates, and external experts</li> <li>- The Board of Directors are responsible for the implementation of the general plans agreed by the membership and acts as the guardian of the WFTO’s Constitution, its Code of Practice and Principles of FTOs, thus, the Board of Directors ultimately decides which FTOs may be eligible to join WFTO and carry its logo</li> <li>- WFTO members elect regional representatives as Board members consisting of five representatives from the South and four from the North, with due regard being given to balance of skills, gender, and geography</li> <li>- The Board of Directors is assisted by a (very) small secretariat of appointed staff, based in the Netherlands, which also provides a point of contact for WFTO members and facilitates coordination of their activities/initiatives</li> </ul>	<p>chamber</p> <ul style="list-style-type: none"> <li>- The Board of Directors appoints technical advisors to support the Board both during meetings and at other times. These technical advisors are selected by the Board of Directors on the basis of essential additional skills required at the time; e.g. fundraising, organizational development, legal issues, and consensus decision making, among others. The technical advisors are selected based on their relevant skills, experience and commitment to FSC’s mission and goals, by the selection process particular emphasis is put on the regional (South-North) and gender balance</li> <li>- In addition, the FSC has established four regional offices in Africa, Asia Pacific, Europe and Latin America to complement its decentralised structure</li> <li>- As the third key governing body of the FSC, the international secretariat is located in Bonn, (Germany). It administers the day-to-day activities of the FSC, oversees the finances of the organization, coordinates the activities of the regional offices, and ensures consistency of FSC policies and practices worldwide. Moreover, the secretariat—in particular its Policy and Standards Unit (PSU)—is also influential as an interpreter of the Principles and Criteria</li> </ul>	<p>hundreds of Technical Committees (TCs), Sub-committees (SCs) and Working Groups (WGs) which reports to the Council</p> <ul style="list-style-type: none"> <li>- TMB is responsible for the overall management of the technical committees; among other things, for organizing, planning and monitoring ISO standards development activities, approving new fields of activity, creating and disbanding technical committees, allocating secretariats, appointing committee chairs, appointing advisory groups</li> <li>- Participation in TMB is open to all members, however, members are selected according to criteria set by the Council, including that they must hold at least one committee or subcommittee secretariat. This mechanism precludes most developing countries which are underrepresented on the TMB as a result</li> </ul>
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<p><i>Governance arrangements that allow to engage with, to balance the need of and to empower diverse stakeholders</i></p>	<p>- ‘<i>standard-setting process</i>’: this governance mechanism provides a good example of how to balance the needs of diverse stakeholders and empower them, since several bodies are involved in the governance process of standard-setting: the <b>Global Steering Committee (GSC)</b> which consists of three Board Members and the WFTO Executive Director, designated by the WFTO Board with the responsibilities of overseeing the development of the Standard (content and process); the <b>Technical Committee (TC)</b> consisting of GSC; the Technical Project Team for the Label; and CEOs of Fair Trade Organizations from the WFTO regions. Additional people will be invited to join for specific activities. TC is responsible to provide a platform for informed discussion, and act as a sounding board during the development process; the <b>Editorial Committee (EC)</b> consisting of nominated members of WFTO Regional branches, experts and WFTO Board members. Senior Fair Trade representatives will be increasingly integrated in the EC. EC is responsible to incorporate comments into Standard, producing Response Comment Document, addressing critical political issues; the <b>Governance Body (GB)</b> consisting 6</p>	<p>- <i>FSC’s tri-partite structure</i>: FSC intends to take the whole range of forest stakeholders into account. In order to do so, a tripartite structure has been built, with an economic, an environmental and a social chamber. Members of the FSC are required to specify their core interest on applying for membership. For example, the membership in the social chamber of the FSC is limited to indigenous organisations and social movements as well as assigned individuals active in promoting environmentally appropriate, socially beneficial and economically viable forest management. FSC’s decision making processes are also characterised by an explicit North–South parity. It aims at ensuring a balance between ‘Northern’ and ‘Southern’ interests. Hence, the FSC’s three chambers each have a Northern and a Southern sub-chamber. FSC’s governance structure consists of splitting the total available equally between the three chambers (one-third each); and then splitting each chamber vote evenly between Northern and Southern members (one-sixth for each sub-group). Thus, all six sub-chambers have equal voting power in the organisation’s General Assembly. However, despite this well-crafted multilevel governance structure, the problem of low participation of stakeholders from specific geographical regions remains a</p>	<p>- <i>ISO’s twinning</i>: For decades developing countries played a passive role in ISO even as they supplied the majority of members. In 2012, the number of ISO’s technical bodies led by developing countries rose to an historic high of 9%; this occurred mainly via twinning, in which representatives of member bodies from developed and developing countries hold leadership positions jointly. Nevertheless, despite “twinning” developed countries still hold more than 45% of council seats, but comprise only 23% of ISO member bodies</p> <p>- <i>‘concept of consensus’</i>: ISO defines ‘consensus’ as a general agreement that is characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking <i>to take into account the views of all parties concerned and to reconcile any conflicting arguments</i>. Thus, the ‘consensus’ practice formally emphasises the active participation of all relevant stakeholders during the decision making process</p>
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	<p>representatives of stakeholders, chaired by the WFTO President (3 from Fair Trade organisations; 1 from Government agencies, trade unions or UN bodies; 1 NGOs working in the field of nature conservation, and consumer protection, representing civil society; 1 from the business sector representing Retailers, Federations or Business Initiative Networks) is responsible to maintain and to promote the highest common shared values and vision of</p>	<p>problem</p> <p>- it should be noted the boundaries between the these three chambers are highly heterogonous</p>	
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**Table 2: Accountability Strategy (commitments) of WFTO, FSC and ISO**

	WFTO	FSC	ISO
<b>Core accountability policy documents</b>	<ul style="list-style-type: none"> <li>- 10 Principles of Fair Trade</li> <li>- WFTO Code of Practice</li> <li>- WFTO Global Constitution</li> <li>- Charter of Fair Trade Principles</li> <li>- WFTO Guarantee System</li> </ul>	<ul style="list-style-type: none"> <li>- FSC International Standard (FSC Principles and Criteria for Forest Stewardship)</li> <li>- FSC Statutes</li> <li>- EFSC Directive on Forest Management valuations</li> <li>- The Development and Approval of FSC Social and Environmental International Standard</li> </ul>	<ul style="list-style-type: none"> <li>- Code of Ethics</li> <li>- Code of Good Practice for Standardization</li> <li>- ISO Statutes and Rules of Procedure</li> <li>- ISO Directives</li> </ul>
<b>Identification and prioritization of key stakeholders</b>	<ul style="list-style-type: none"> <li>- Clear identification of its internal and external key stakeholders; WFTO mission and vision serve as a point of reference for the identification</li> <li>- Prioritization of stakeholders which is explicitly explained in Charter of Fair Trade Principles and in WFTO Code of Practice</li> <li>- <u>Stakeholder-mapping:</u></li> <li>1. Economically disadvantaged, marginalized small producers; 2. Marginalized Artisan; 3. Marginalized Farmers; 4. Members; 5. Fair Trade buyers; 6. Importers of Fair Trade products; 7. Supplier of Fair Trade Products; 8. Marginalized Women; 9.</li> </ul>	<ul style="list-style-type: none"> <li>- Clear identification of its internal and external key stakeholders; FSC mission and vision serve as a point of reference for the identification</li> <li>- Prioritization of stakeholders, but no further explanation is provided ‘why’</li> <li>- <u>Stakeholder-mapping:</u></li> <li>1. Forest management and forest product companies; 2. Affected communities; 3. Environmental NGOs; 4. Environmentally oriented communally-owned organizations, indigenous organizations and community groups; 5.</li> </ul>	<ul style="list-style-type: none"> <li>- Clear identification of its internal and external key stakeholders; ISO mission and vision serve as a point of reference for the identification</li> <li>- Prioritization of stakeholders, but no further explanation is provided ‘why’</li> <li>- <u>Stakeholder-mapping:</u></li> <li>1. Members; 2. Consumers; 3. Companies from different sectors and industries; 4. Private organizations; 5. Public Organizations; 6. Labour Organizations; 7. Governments; 8. Developing Countries; 9. Social and environmental NGOs; 10. Industry-oriented</li> </ul>

	Children; 10. Supporters; 11. Staff and 12. General Public	Organizations and associations working to promote recreational uses of forests; 6. Manufacturing companies; 7. Research organizations and academics whose primary interests are: social issues within forestry; the protection, the technical aspects of forest management and the preservation or conservation of the natural environment; and the economic or trade of forest products; 8. Socially or commercially oriented communally-owned organizations, indigenous organizations and community groups; 9. Development NGOs; 10. Wholesalers, retailers, traders and brokers; 12. Trade unions and workers' associations; 13. Supporters  - It is striking that staff and donors are not map as stakeholders	professional associations and scientific societies; 11. Staff; 12. Manufacture and commercial associations; 13. Industrial consortia and 14. ISO'
<b>Engagement with national governments</b>	- through WFTO's emphasis on advocacy, engagement with national governments, particularly in Asia and Africa, has been systematically reinforced	- despite the governance arrangement that does not allow governmental agencies to be voting members, government-owned forest companies have been permitted to join the economic chamber since 2002. National governments provide financial and technical support and advice during standards-setting processes	- ISO members are national standards bodies (NSB), that means their composition (private or governmental entities) are determined by the respective originating countries. Thus, the majority of ISO members are of governmental nature, either governmental departments or autonomous governmental bodies
<b>Engagement with civil society organizations</b>	- engagement with a wider scope of civil society organizations, in particular consumer and environmental organisations, such as Consumer International, and global standard-setting bodies,	- strong engagement with diverse environmental and developmental civil society organizations which is due to the strong influence of these organizations during the establishment process of	- through the status of 'liaison organizations' civil society organizations can engage and participate in the standardization process and influence its products. For example, the

such as ISO and ISEAL Alliance, are strong

FSC

participation of environmental NGOs in ISO 1400, which addresses various aspects of environmental management, demonstrates this engagement clearly

**Table 3: Established Accountability Practices of WFTO, FSC and ISO regarding Transparency**

	<b>WFTO</b>	<b>FSC</b>	<b>ISO</b>
<b>Policies and practice for making information public</b>	<ul style="list-style-type: none"> <li>- 10 Principles of Fair trade and the Charter of Fair Trade entail transparency commitments</li> <li>- Key documents, such as constitution , are not easily made publicly available</li> <li>- Very limited dissemination of core documents relating to strategic and operational level</li> <li>- From WFTO Conference Download Centre, only documents from the latest conferences can be downloaded (no archive available)</li> <li>- Website is available in English, Spanish and French, however, information are not always timely and adequate</li> <li>- Very limited publications of rationale behind policy decisions which are publicly available</li> </ul>	<ul style="list-style-type: none"> <li>- FSC Principles and Criteria for Forest Stewardship and FSC Directive on Forest Management Evaluations entail transparency commitments</li> <li>- A wide dissemination of core documents which are available in English and Spanish</li> <li>- A wide dissemination of core documents relating to strategic, policy, operational level and certification system; minutes of all meetings and drafts are available in English and Spanish to any interested party</li> <li>- A comprehensive and up-to-date website in English and Spanish, however, finding documents can be quite time consuming as the available information are not well-structured</li> <li>- No publication and dissemination of how stakeholder’s input from participation activities has resulted in policy decisions</li> </ul>	<ul style="list-style-type: none"> <li>- ISO Code of Ethics and the Code of Good Practice for Standardization entail transparency commitments</li> <li>- A wide dissemination of core documents which are available in English, French and Russian</li> <li>- A wide dissemination of core documents relating to strategic, policy and operational level</li> <li>- ISO publishes in detail how input from participation activities has contributed to standardization</li> <li>- well-structured, comprehensive and up-to-date website in English, French and Russian allows easy access to documents; ISO ‘Online Browsing Platform’ and ‘ISO Connect’ are useful search tools</li> </ul>
<b>Conditions for non-disclosure and appeal process for documents that have been withheld</b>	<ul style="list-style-type: none"> <li>- we could not find any published document which clearly refers to the conditions for non-disclosure and appeal process for documents that have been withheld. Our conversations with the interviewees did not provide us with insightful information in</li> </ul>	<ul style="list-style-type: none"> <li>- FSC has a full disclosure policy in place, and thus deliberately avoid to define the conditions for non-disclosure</li> <li>- however, the only official document that we found relates to the FSC Advice Note on</li> </ul>	<ul style="list-style-type: none"> <li>- we could not find any published document which clearly refers to the conditions for non-disclosure and appeal process for documents that have been withheld. Our conversations with the interviewees did not provide us with</li> </ul>

	this regard	participation of external observers states that the participation of external observers in on-site FSC certification audits requires a formal non-disclosure agreement which has been signed between observers and Certification Bodies prior to audits or before permission for participation is granted. However, no further appeal process is described	insightful information in this regard
<b>Translation policy and practice of core documents</b>	- Working languages are English and Spanish. None of the core accountability documents refer explicitly to translation. Core documents are available in English and Spanish, WFTO Code of Practice is also available in French. However, the practice of translation is ambiguous and weak. Limited translation of core documents from English is common practice. The quality of translated documents into Spanish seems to be poor and an issue among stakeholders as confirmed by the interviewees. Key stakeholders who are non-English and non-Spanish speakers encounter major difficulties to understand core information	- Working languages are English and Spanish. According to FSC Statutes 'Title One Third' all core documents including member application requests must be translated in both languages. The quality and accuracy of the translated documents are certified by the social, environmental and economic chamber members, thus ensuring that a wide range of stakeholders' perspective and understanding regarding translation are taken into account. However, considering the wide range of external stakeholders, availability of core documents for non-English and non-Spanish speakers might constitute an important obstacle	- Working languages are English, French and Russian. According to ISO Statutes Article 19 and ISO Directives, all International Standards and guides issued by ISO, the work of the Council, the President's Committee and the Technical Management Board, as well as of the technical committees and the policy development committees and minutes of meetings of the General Assembly and the Council are published in English, French and Russian. The quality and accuracy of translations are certified by the Secretary-General Office. Several Survey of stakeholders and independent research confirm the high quality and timeliness of translations
<b>Communicating effectively with stakeholders</b>	- Circulates every two weeks a newsletter to every member but interviewees point out that WFTO's communication channels are poor which is mainly due to the fact that key stakeholders are widely	- through the 'Stakeholder Portal' and the 'motion forum' operating in English and Spanish, FSC effectively communicates with stakeholders, providing detailed information on policy and	- powerful tool called 'ISolutions' ensures that stakeholders have an effective access to e-committees, e-balloting, to several project portals and to the ISO Web Store. However,



spread around the globe and have limited or non-access to communication technologies

operational level, on certification systems, offering a forum of regular flows of ad hoc communication among stakeholders who bring up their concerns and constructive criticisms ,

this tool is only available for members and thus excludes other stakeholders and is fee-based

Table 4: Established Accountability Practices of WFTO, FSC and ISO regarding Participation

	WFTO	FSC	ISO
<p>Stakeholders' participation in the decision making processes</p>	<ul style="list-style-type: none"> <li>- WFTO's decision making processes are centred on four areas: 1) setting standards for FTOs; 2) monitoring and registration of FTOs; 3: supporting fair trade market development; and 4) advocating fair trade at the global lever</li> <li>- the decision-making of standards are developed with technical sub-committees (see table one), however, the final approval of decisions are endorsed by the whole WFTO membership and not by a reduced group of members' representatives, thus the highest decision making body is the General Assembly</li> <li>- through this decision making procedure WFTO facilitates the establishment of robust links between its members and encourage exchange of genuine engagement among them</li> </ul>	<ul style="list-style-type: none"> <li>- FSC intends to take the whole range of stakeholders during the decision making processes into account</li> <li>-as described in Table 1, FSC is characterised by its intent to base governance on an explicit North–South parity. It aims at ensuring a balance between 'Northern' and 'Southern' interests. Hence, the FSC's three chambers each have a Northern and a Southern sub-chamber. FSC's decision making structure consists of splitting the total voting power equally between the three chambers (one-third each); and then splitting each chamber vote evenly between Northern and Southern members (one-sixth for each sub-group). Thus, regardless of their actual membership, all six sub-chambers have equal voting power in the General Assembly, the highest decision making body of FSC</li> <li>- thus this explicit intent to base decision making on North-South parity clearly distinguishes the FSC from other multi stakeholder organization; however, a major concern is related to FSC's definition of 'North' and 'South': as stated in table 1, the focus on 'income' as criterion leads that stakeholders from high-income countries retain 50% of the overall</li> </ul>	<ul style="list-style-type: none"> <li>- ISO shows at the level of full membership a deep commitment to a wide participation during the standardization process</li> <li>- all members have the right to participate in the work of the technical committees and sub-committees, however, members are required to notify in advance whether they intend to participate actively or if they wish to follow the work as observers; in former case, all members are obliged to vote and participate in meetings; in latter case, members can submit comments and attend meeting, but cannot vote</li> <li>- ISO's 'notice and comment' mechanism also advances wide participation as through recurring rounds of circulating documents and the comments received include wider participation of members as several rounds of circulation and comments are possible until a consensus is reached</li> <li>-all ISO standards are reviewed, as a default action, at least every five years in order to decide whether they should be confirmed, revised or withdrawn. This review</li> </ul>

		<p>voting power even if they represent less than 15% of the global population</p> <p>- furthermore, the crosscutting divide between organizational and individual members within the decision making process may generate that the Northern interest representation can be more effective than on the Southern part as more than two-thirds of Southern members are individuals and more than three-quarters of Northern memberships are organizations</p>	<p>mechanisms not only ensure that the standards remain up-to date, but it also promote stakeholder participation on a continuous/dynamic basis</p>
<b>Responses to Stakeholders' contribution</b>	<p>- excellent responses to stakeholder contribution, as already demonstrated in the 'standard-setting process' (see hereto Table 1)</p>	<p>- responses are strong, however, it should be noted that FCS's bylaws allocates to Northern and Southern representatives at least four of the nine seats on the Board of Directors, but the current composition of the Board reveals geographical disparities as three board members originate from Latin America, there is currently only one Asian board member, and African stakeholders are not represented on the board at all. Contrary to this, three of four Northern board members are Europeans, one North American stakeholder is represented</p>	<p>- despite the openness to wide participation, several rules have the potential of excluding members from developing countries, such as the obligation to justify negative votes as it requires resources and expertise to examine a wide range of documents and to provide reasons for its rejection, thus it leads to either vote 'yes' or the refrain from voting altogether</p>
<b>Openness of governing bodies about policy decision making processes</b>	<p>- very open, as decisions need to be endorsed by the whole membership</p>	<p>- very open, as decisions need to be endorsed by the tri-partite structure</p>	<p>- both powerful governing bodies (Council and TMB) are dominated by developed countries</p> <p>- ISO does not give preference to requirements or characteristics of specific countries/regions and ISO standards do not</p>

			address the priorities of developing countries
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**Table 5: Established Accountability Practices of WFTO, FSC and ISO regarding Evaluation and Learning**

	WFTO	FSC	ISO
<p><b>Framework for evaluation and learning on performance</b></p>	<p>- WFTO does have an effective evaluation and learning scheme in place. WFTO Guarantee System (GS) is a monitoring tool/system that aims to identify organizations as having met ten agreed accountability standards of fair trade practice. WFTO GS is based on a three-tier process. Self-assessment is the first step of the monitoring process; WFTO members assess themselves against ten standards using the self-assessment guidelines and regionally developed indicators. The self-assessment report (largely narrative based) outlines the degree of compliance with the ten standards and is sent to WFTO every two years. The second step of WFTO GS is mutual review (a type of internal verification); the WFTO members send their self-assessment Reports to their trading partners allowing for comments and feedback in a process that encourages accountability and transparency. The external verification is the last component of the WFTO GM monitoring system which also includes a complaints procedure, whereby complaints can be investigated by external verification and may lead to suspension of membership and withdrawal of authorization to</p>	<p>- not publicly available</p>	<p>- not publicly available</p>

	use the WFTO logo		
<b>Sharing of evaluation and learning on performance publicly</b>	- to some extent	- none	- none
<b>Regular review of accountability performance</b>	- WFTO is a 'kind' of accountability mechanism as it evaluates and monitors the compliance with fair trade principles, thus reviewing the GS implies also a regular review of WFTO accountability performance	- none	- none
<b>Independent evaluation functions</b>	- third party verification of WFTO members' performance which is carried out randomly might be seen as an independent evaluation function	- none	- no official documents available; however, the interviewees have confirmed that independent evaluations of ISO standard development systems are taking place, however, the results are not shared publicly

**Table 6: Established Accountability Practices of WFTO, FSC and ISO regarding Complaints and Response**

	<b>WFTO</b>	<b>FSC</b>	<b>ISO</b>
<b>Internal Complaints Handling</b>	- currently under review, however the interviewees have confirmed that staff can file complaints directly to the Board of Directors and it provides multiple channels (email; intranet, phone) to make complaints; it has been also noted that that WFTO is not planning to provide description of the process for investigating and responding to complaints	- FSC’s staff are seen as a 'neutral' group and perhaps as a result there is no staff complaints policy publicly available; however there is a small division within the human resource unit of FSC which handles staff complaints according to German employment law.	- there is no policy and publically available documents regarding how staff can make complaints, beyond appealing decisions that have been made against them
<b>External Complaints Handling</b>	- currently under review, however WFTO website describes a procedure called ‘Fair Trade Accountability Watch’ that allows the public, especially consumers and traders, to post an alert regarding Fair Trade compliance issues of WFTO members	- FSC has in place two different procedures for resolving external complaints. Most complaints fall under FSC-PRO-01-008, and are handled by an internal FSC staff member within a timescale of thirty days. Where evidence exists of a serious violation of FSC’s core values, FSC-PRO-01-009 may be used which is managed by an independent panel appointed by the FSC Director. The panel provides their recommendations to the FSC Board of Directors within sixty days	- The ISO Directives guide the handling of “internal” stakeholder complaints relating to non-compliance within the standard development process. This mechanism enables ISO national members to lodge compliance-based complaints  -External complaints can only be presented to ISO when one receives 'an unsatisfactory' response to a complaint from the national accreditation body; after this step, one can only make a complaint by email
<b>Review of Complaints Mechanisms</b>	- currently under review	- a review of external complaints handling has been undertaken in 2013	- none

Formal systems for reviewing and monitoring the implementation of complaints	- none	- none	- none
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