9. Incorporation of the Affirmation of Commitments

The Affirmation of Commitments (AoC) is a 2009 bilateral agreement between the U.S. Government and ICANN. After the IANA agreement is terminated, the AoC will become the next target for elimination since it would be the last remaining aspect of a unique United States oversight role for ICANN.

If the AoC were to be terminated without any equivalent replacement, ICANN would no longer be held to these important affirmative commitments including the related requirement to conduct community reviews. If this were allowed to occur it would significantly diminish ICANN’s accountability to the global multistakeholder community.

Elimination of the AoC as a separate agreement would be a simple matter for a post-transition ICANN, since the AoC can be terminated, by either party, with just 120-days’ notice. The CCWG-Accountability evaluated the contingency of ICANN unilaterally withdrawing from the AoC in Stress Test #14, shown below:

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| **Stress Test #14:** ICANN or NTIA choose to terminate the Affirmation of Commitments. | |
| **Consequence(s):** ICANN would no longer be held to its Affirmation commitments, including the conduct of community reviews and implementation of review team recommendations. | |
| EXISTING ACCOUNTABILITY MEASURES | PROPOSED ACCOUNTABILITY MEASURES |
| The Affirmation of Commitments can be terminated by either ICANN or NTIA with 120 days notice.  As long as NTIA controls the IANA contract, ICANN feels pressure to maintain the Affirmation of Commitments.  But as a result of the IANA stewardship transition, ICANN would no longer have the IANA contract as external pressure from NTIA to maintain its Affirmation of Commitments. | One proposed mechanism would give the CMSM standing to challenge a Board decision by referral to an IRP with the power to issue a binding decision. If ICANN cancelled the Affirmation of Commitments, the IRP mechanism could enable reversal of that decision.  Another proposed measure is to import Affirmation of Commitments provisions into the ICANN Bylaws, and dispense with the bilateral Affirmation of Commitments with NTIA. Bylaws would be amended to include Affirmation of Commitments 3, 4, 7, and 8, plus the 4 periodic reviews required in paragraph 9.  If ICANN’s Board proposed to amend the AoC commitments and reviews that were added to the Bylaws, another proposed measure would empower the community to veto that proposed Bylaws change.  Some of the AoC commitments would be designated as Fundamental Bylaws, for which changes would require supermajority approval by the community mechanism.  Note: none of the proposed measures could prevent NTIA from canceling the Affirmation of Commitments. |
| CONCLUSIONS: Existing measures are inadequate after NTIA terminates IANA contract. | Proposed measures in combination are adequate. |

Stress Test #14 led to the CCWG proposal to preserve in ICANN Bylaws any relevant ICANN commitments from the AoC, including Sections 3, 4, 7, and 8, plus the four AoC review processes. Two of the AoC reviews include ICANN commitments that will be preserved in the Bylaws.

Other sections in the AoC are either preamble text or commitments of the U.S. Government. As such they do not contain commitments by ICANN, so they cannot usefully be incorporated in the Bylaws.

After these aspects of the AoC are adopted in the ICANN Bylaws, ICANN and the NTIA should mutually agree to terminate the AoC.

| ICANN Commitments in the AoC | As expressed in ICANN Bylaws |
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| 3. This document affirms key commitments by DOC and ICANN, including commitments to:  (a) ensure that decisions made related to the global technical coordination of the DNS are made in the public interest and are accountable and transparent;  (b) preserve the security, stability and resiliency of the DNS;  (c) promote competition, consumer trust, and consumer choice in the DNS marketplace; and  (d) facilitate international participation in DNS technical coordination. | *Proposed revision to ICANN Core Values:*  Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making **to ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent;**  *Proposed bylaw requiring AoC review of Promoting Competition, Consumer Trust, and Consumer Choice:*  **ICANN will ensure that as it expands the Top-Level Domain (TLD) space, it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection.** |
| 4. DOC affirms its commitment to a multi-stakeholder, private sector led, bottom-up policy development model for DNS technical coordination that acts for the benefit of global Internet users. A private coordinating process, the outcomes of which reflect the public interest, is best able to flexibly meet the changing needs of the Internet and of Internet users. ICANN and DOC recognize that there is a group of participants that engage in ICANN's processes to a greater extent than Internet users generally. To ensure that its decisions are in the public interest, and not just the interests of a particular set of stakeholders, ICANN commits to perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS. | *Proposed new Section 8 in Bylaws Article III Transparency*:  **ICANN shall perform and publish analyses of the positive and negative effects of its decisions on the public, including any financial or non-financial impact on the public, and the positive or negative impact (if any) on the systemic security, stability and resiliency of the DNS.** |
| 7. ICANN commits to adhere to transparent and accountable budgeting processes, fact-based policy development, cross-community deliberations, and responsive consultation procedures that provide detailed explanations of the basis for decisions, including how comments have influenced the development of policy consideration, and to publish each year an annual report that sets out ICANN's progress against ICANN's Bylaws, responsibilities, and strategic and operating plans. In addition, ICANN commits to provide a thorough and reasoned explanation of decisions taken, the rationale thereof and the sources of data and information on which ICANN relied. | *Proposed revision to ICANN Commitments:*  In performing its Mission, ICANN must operate in a manner consistent with its Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions, and applicable local law and through open and transparent processes that enable competition and open entry in Internet-related markets.  *Proposed revision to ICANN Core Values:*  Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making to ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent;  *Proposed requirement for annual report, to be included in bylaws section on required reviews.*  ICANN will produce an annual report on the state of improvements to Accountability and Transparency. ICANN will be responsible for creating an annual report that details the status of implementation on all reviews defined in this section. This annual review implementation report will be opened for a public review and comment period that will be considered by the ICANN Board and serve as input to the continuing process of implementing the recommendations from the Review Teams defined in this section.  *Proposed new Section 9 in Bylaws Article III Transparency*:  ICANN shall adhere to transparent and accountable budgeting processes, providing advance notice to facilitate stakeholder engagement in policy decision-making, fact-based policy development, cross-community deliberations, and responsive consultation procedures that provide detailed explanations of the basis for decisions, including how comments have influenced the development of policy consideration, and to publish each year an annual report that sets out ICANN's progress against ICANN's Bylaws, responsibilities, and strategic and operating plans. |

| ICANN Commitments in the AoC | As expressed in ICANN Bylaws |
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| 8. ICANN affirms its commitments to:  (a) maintain the capacity and ability to coordinate the Internet DNS at the overall level and to work for the maintenance of a single, interoperable Internet; | *Proposed revisions to ICANN Commitments:*  2. Preserve and enhance **the neutral and judgment free operation of the DNS, and the operational stability, reliability, security, global interoperability, resilience, and openness of the DNS and the Internet**;  **3. Maintain the capacity and ability to coordinate the DNS at the overall level and to work for the maintenance of a single, interoperable Internet;** |
| (b) remain a not for profit corporation, headquartered in the United States of America with offices around the world to meet the needs of a global community; and | The nonprofit commitment in 8b is reflected in ICANN’s ARTICLES OF INCORPORATION:  “3. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for charitable and public purposes. "  A change to the Articles would require 2/3 vote of the Board and 2/3 vote of the Members.  The ‘headquartered” commitment in 8b is already in current ICANN Bylaws, at Article XVIII Section 1:  “OFFICES.   The principal office for the transaction of the business of ICANN shall be in the County of Los Angeles, State of California, United States of America. ICANN may also have an additional office or offices within or outside the United States of America as it may from time to time establish.”  While the Board could propose a change to this Bylaws provision, Members or Designators could block the proposed change (75% vote).  The CCWG-Accountability proposes that Bylaws Article 18 Section 1 should be a regular bylaw, subject to the community power to block any change to regular bylaws. |
| (c) to operate as a multi-stakeholder, private sector led organization with input from the public, for whose benefit ICANN shall in all events act. ICANN is a private organization and nothing in this Affirmation should be construed as control by any one entity. | *Proposed revision to ICANN Commitments:*  Employ open, transparent **and bottom-up, multistakeholder policy development processes, including business stakeholders, civil society, the technical community, academia, and end users that (i) seek input from the public, for whose benefit ICANN shall in all events act,** |

| ICANN Commitments in the AoC | As expressed in ICANN Bylaws |
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| 9. Recognizing that ICANN will evolve and adapt to fulfill its limited, but important technical mission of coordinating the DNS, ICANN further commits to take the following specific actions together with ongoing commitment reviews specified below: | *See next section for proposed bylaws to preserve ICANN commitments to perform the AoC regular reviews.* |

Suggestions gathered during comment periods in 2014 on ICANN accountability and the IANA Stewardship Transition suggested several ways the AoC Reviews should be adjusted as part of incorporating them into ICANN’s Bylaws:

Ability to sunset reviews, amend reviews, and create new reviews.

Community stakeholder groups should appoint their own representatives to review teams.

Give review teams access to ICANN internal documents.

Require the ICANN Board to consider approval and begin implementation of review team recommendations, including from previous reviews. The CCWG-Accountability concluded that some review team recommendations could be rejected or modified by ICANN, for reasons such as feasibility, time, or cost. If the community disagreed with the Board’s decision on implementation, it could invoke a Reconsideration or IRP to challenge that decision, with a binding result in the case of an IRP. In addition, CCWG-Accountability independent legal counsel advised that ICANN Bylaws could not require the Board to implement review team recommendations because that could conflict with fiduciary duties or other Bylaws obligations.

In Bylaws Article IV, add a new section for Periodic Review of ICANN Execution of Key Commitments, with an overarching framework for the way these reviews are conducted and then one subsection for each of the four current AoC Reviews.

Note***:*** Legal counsel has not reviewed the underlying proposed Bylaw revisions at this stage. The proposed language for Bylaw revisions is conceptual in nature at this stage; once there is consensus about direction developed through this comment process, the legal team will need time to draft appropriate proposed language for revisions to the Articles of Incorporation and Bylaws.

New review rules will prevail as soon as the bylaws have been changed, but care should be taken when terminating the AoC to not disrupt any AoC Reviews that may be in process at that time. Any in-progress reviews will adopt the new rules to the extent practical. Any planned AoC review should not be deferred simply because the new rules allow up to 5 years between review cycles. If the community prefers to do a review sooner than 5 years from the previous review, that is allowed under new rules.

Bylaw That Provides a Framework for All Periodic Reviews

All of the reviews listed in this Section would be governed by a general Bylaw:

| PROPOSED BYLAW TEXT | COMMENT | |
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| ICANN will produce an annual report on the state of improvements to Accountability and Transparency.  ICANN will be responsible for creating an annual report that details the status of implementation on all reviews defined in this section. This annual review implementation report will be opened for a public review and comment period that will be considered by the ICANN Board and serve as input to the continuing process of implementing the recommendations from the Review Teams defined in this section. | This is a new recommendation based on one in ATRT2 and is more important as reviews are spread further apart. | |
| Review teams are established to include both a fixed number of members and an open number of participants. Each SO and AC participating in the Review may suggest up to 7 prospective members for the Review Team. The group of chairs of the participating SOs and ACs will select a group of up to 21 Review Team members, balanced for diversity and skills, allocating at least 3 members from each participating SO and AC that suggests 3 or more prospective members. In addition, the ICANN Board may designate one director as a member of the Review Team. | The AoC has no specific requirements for number of members from each SO and AC.  The AoC lets the Board and GAC Chairs designate Review Team members, and has no diversity requirement. | |
| If consensus cannot be reached among the participants, consensus will be sought among the members. In the event a consensus cannot be found among the members, a majority vote of the members may be taken. In this case both a majority recommendation and a minority response should be provided in the final report of the Review Team. | While showing a preference for consensus, a resolution procedure should be defined. It is important to avoid both tyranny of the majority and capture by a minority. | |
| Review Teams may also solicit and select independent experts to render advice as requested by the Review Team, and the review team may choose to accept or reject all or part of this advice. | This was not stated in the AoC, but experts have been appointed to some AoC Review Teams. | |
| Each Review Team may recommend termination or amendment of its respective review. | This is new. A recommendation to amend or terminate an existing Review would be subject to public comment, and the community would have power to block a change to the bylaws. | |
| PROPOSED BYLAW TEXT | | COMMENT |
| Confidential Disclosure to Review Teams:  To facilitate transparency and openness regarding ICANN's deliberations and operations, the Review Teams, or a subset thereof, shall have access to ICANN internal information and documents. If ICANN refuses to reveal documents or information requested by the Review Team, ICANN must provide a justification to the Review Team. If the Review Team is not satisfied with ICANN’s justification, it can appeal to the Ombudsman and/or the ICANN Board for a ruling on the disclosure request.  For documents and information that ICANN does disclose to the Review Team, ICANN may designate certain documents and information as not for disclosure by the Review Team, either in its report or otherwise. If the Review Team is not satisfied with ICANN’s designation of non-disclosable documents or information, it can appeal to the Ombudsman and/or the ICANN Board for a ruling on the non-disclosure designation.  A confidential disclosure framework shall be published by ICANN. The confidential disclosure framework shall describe the process by which documents and information are classified, including a description of the levels of classification that documents or information may be subject to, and the classes of persons who may access such documents and information.  The confidential disclosure framework shall describe the process by which a Review Team may request access to documents and information that are designated as classified or restricted access.  The confidential disclosure framework shall also describe the provisions of any non-disclosure agreement that members of a Review Team may be asked to sign.  The confidential disclosure framework must provide a mechanism to escalate and/or appeal the refusal to release documents and information to duly recognized Review Teams. | | New ability to access internal documents, with non-disclosure provisions. |
| The draft report of the Review Team should describe the degree of consensus reached by the Review Team. | | From public comments |
| The Review Team should attempt to assign priorities to its recommendations. | | Board requested prioritization of recommendations |
| The draft report of the Review will be published for public comment. The Review Team will consider such public comment and amend the Review as it deems appropriate before issuing its final report and forwarding the recommendations to the Board. | |  |
| The final output of all Reviews will be published for public comment. The final report should include an explanation of how public comments were considered. The Board shall consider approval and begin implementation within six months of receipt of the recommendations. | | AoC requires Board to ‘take action’ within 6 months. In practice, the board has considered review recommendations and either approved or explained why it would not approve each recommendation. |

ICANN staff has committed to provide Operational Standards for workable reviews.

Regarding composition and size of review teams, some CCWG participants requested publication of ICANN staff summary of composition of prior AoC Review Teams, partly to indicate that 21 review team members from AC/SOs could be more than needed.

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| **ATRT1** (14 people; 12 from AC/SOs):  1 ALAC  2 GAC  1 ASO  3 ccNSO  5 GNSO  ICANN Board Chair or designee  Assistant Secretary for NTIA | **ATRT2** (15 people; 11 from AC/SOs)  2 ALAC  3 GAC  1 SSAC  1 ASO  2 ccNSO  2 GNSO  2 Experts  ICANN Board Chairman or designee  Assistant Secretary for NTIA |
| **SSR** (15 people; 12 from AC/SOs):  1 ALAC  1 GAC  2 SSAC  1 RSSAC  2 ASO  3 ccNSO  2 GNSO  2 Experts  ICANN CEO or designee | **WHOIS** (13 people; 9 from AC/SOs):  2 ALAC  1 GAC  1 SSAC  1 ASO  1 ccNSO  3 GNSO  3 Experts / Law Enforcement  ICANN CEO or designated nominee |

| PROPOSED BYLAWS TEXT FOR THIS AFFIRMATION OF COMMITMENTS REVIEW | NOTES |
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| 1. Accountability & Transparency Review.  The Board shall cause a periodic review of ICANN’s execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders. | The commitment to do a Review now becomes part of ICANN Bylaws.  The second part of this sentence (“its commitment to maintain…”) clarifies an ICANN commitment that would also become part of the Bylaws. |
| Issues that may merit attention in this Review include:  (a) assessing and improving ICANN Board governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which Board composition meets ICANN's present and future needs, and the consideration of an appeal mechanism for Board decisions; | Public commenter suggested making this a suggestion instead of a mandated list of topics. |
| (b) assessing the role and effectiveness of GAC interaction with the Board and making recommendations for improvement to ensure effective consideration by ICANN of GAC input on the public policy aspects of the technical coordination of the DNS;  (c) assessing and improving the processes by which ICANN receives public input (including adequate explanation of decisions taken and the rationale thereof);  (d) assessing the extent to which ICANN's decisions are embraced, supported and accepted by the public and the Internet community; and  (e) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development. | Rephrased to avoid implying a Review of GAC’s effectiveness. |
| The Review Team shall assess the extent to which prior Accountability and Transparency Review recommendations have been implemented. | AoC required ATRT to assess all AoC Reviews. |
| The Review Team may recommend termination or amendment of other periodic Reviews required by this section, and may recommend additional periodic Reviews. | This is new. A recommendation to amend or terminate an existing Review would be subject to public comment. And the subsequent Bylaws change would be subject to IRP challenge. |
| This Review Team should complete its review within one year of convening its first meeting. | New. |
| This periodic Review shall be convened no less frequently than every five years, measured from the date the previous review was convened. | The AoC required this Review every 3 years. |

| PROPOSED BYLAWS TEXT FOR THIS AFFIRMATION OF COMMITMENTS REVIEW | NOTES |
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| 2. Preserving Security, Stability, and Resiliency.  The Board shall cause a periodic Review of ICANN’s execution of its commitment to enhance the operational stability, reliability, resiliency, security, and global interoperability of the DNS.  In this Review, particular attention will be paid to:  (a) security, stability and resiliency matters, both physical and network, relating to the secure and stable coordination of the Internet DNS;  (b) ensuring appropriate contingency planning; and  (c) maintaining clear processes.  Each of the Reviews conducted under this section will assess the extent to which ICANN has successfully implemented the security plan, the effectiveness of the plan to deal with actual and potential challenges and threats, and the extent to which the security plan is sufficiently robust to meet future challenges and threats to the security, stability and resiliency of the Internet DNS, consistent with ICANN's limited technical Mission. | 1. *Proposed revisions to ICANN Mission:* 2. **In this role, with respect to domain names, ICANN’s Mission is to coordinate the development and implementation of policies:** 3. **- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS; and** |
| The Review team shall assess the extent to which prior Review recommendations have been implemented. | Make this explicit. |
| This periodic Review shall be convened no less frequently than every five years, measured from the date the previous Review was convened. | AoC required this Review every 3 years. |

| PROPOSED BYLAWS TEXT FOR THIS AFFIRMATION OF COMMITMENTS REVIEW | NOTES |
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| 3. Promoting Competition, Consumer Trust, and Consumer Choice.  ICANN will ensure that as it expands the Top-Level Domain (TLD) space, it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection. | This Review includes a commitment that becomes part of ICANN Bylaws, regarding future expansions of the TLD space. |
| The Board shall cause a Review of ICANN’s execution of this commitment after any batched round of new gTLDs have been in operation for one year.  This Review will examine the extent to which the expansion of gTLDs has promoted competition, consumer trust, and consumer choice, as well as effectiveness of:  (a) the gTLD application and evaluation process; and  (b) safeguards put in place to mitigate issues involved in the expansion. | Re-phrased to cover future new gTLD rounds. “Batched” is used to designate a batch of applications, as opposed to continuous applications. |
| The Review team shall assess the extent to which prior Review recommendations have been implemented. | Make this explicit. |
| For each of its recommendations, this review team should indicate whether the recommendation, if accepted, must be implemented before opening subsequent rounds of gTLD expansion. | Board proposal, accepted by CCWG as Option B in Dublin. |
| These periodic Reviews shall be convened no less frequently than every five years, measured from the date the previous Review was convened. | AoC also required this Review 2 years after the 1st year Review. |

| PROPOSED BYLAWS TEXT FOR THIS AFFIRMATION OF COMMITMENTS REVIEW | NOTES |
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| 4. Reviewing effectiveness of WHOIS/Directory Services policy and the extent to which its implementation meets the legitimate needs of law enforcement and promotes consumer trust. | Changed title to reflect likelihood that WHOIS will be replaced by new Directory Services. |
| ICANN commits to enforcing its policy relating to the current WHOIS and any future gTLD Directory Service, subject to applicable laws, and working with the community to explore structural changes to improve accuracy and access to gTLD registration data, as well as consider safeguards for protecting data.   1. This Review includes a commitment that becomes part of ICANN Bylaws, regarding enforcement of the current WHOIS and any future gTLD Directory Service policy requirements. | This Review includes a commitment that becomes part of ICANN Bylaws, regarding enforcement of existing policy WHOIS requirements, as proposed by the ICANN Board (1-Sep-2015). |
| 1. The Board shall cause a periodic Review to assess the extent to which WHOIS/Directory Services policy is effective and its implementation meets the legitimate needs of law enforcement, promotes consumer trust, and safeguards data. | Per Board proposal (1-Sep-2015). |
| This Review will consider the OECD guidelines regarding privacy, as defined by the OECD in 1980 and amended in 2013. | New. A public comment submission noted that OECD guidelines do not have the force of law. |
| 1. The Review Team shall assess the extent to which prior Review recommendations have been completed, and the extent to which implementation has had the intended effect. | Per Board proposal (1-Sep-2015). |
| This periodic Review shall be convened no less frequently than every five years, measured from the date the previous Review was convened. | The AoC required this Review every 3 years. |

The CWG-Stewardship has also proposed an IANA Function Review that should be added to the ICANN Bylaws, as a Fundamental Bylaw.

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| IANA FUNCTION REVIEW AND SPECIAL IANA FUNCTION REVIEW |
| The CWG-Stewardship recommends that PTI’s performance against the ICANN – PTI contract and the Statement of Work (SOW) be reviewed as part of the IANA Function Review (IFR). The IFR would be obliged to take into account multiple input sources including community comments, IANA Customer Standing Committee (CSC) evaluations, reports submitted by the PTI, and recommendations for technical or process improvements. The outcomes of reports submitted to the CSC, Reviews and comments received on these reports during the relevant time period will be included as input to the IFR. The IFR will also review the SOW to determine if any amendments should be recommended. The IFR mandate is strictly limited to evaluation of PTI performance against the SOW and does not include any evaluation relating to policy or contracting issues that are not part of the IANA Functions Contract between ICANN and PTI or the SOW. In particular it does not include issues related to policy development and adoption processes, or contract enforcement measures between contracted registries and ICANN.  The first IFR is recommended to take place no more than 2 years after the transition is completed. After the initial Review, the periodic IFR should occur at intervals of no more than 5 years.  The IFR should be outlined in the ICANN Bylaws and included as a Fundamental Bylaw as part of the work of the CCWG-Accountability and would operate in a manner analogous to an AoC Review. The Members of the IANA Function Review Team (IFRT) would be selected by the SOs and ACs and would include several liaisons from other communities. While the IFRT is intended to be a smaller group, it will be open to participants in much the same way as the CWG-Stewardship is.  While the IFR will normally be scheduled based on a regular cycle of no more than five years in line with other ICANN Reviews, a Special IANA Function Review (Special IFR) may also be initiated when CSC Remedial Action Procedures (as described in the CWG-Stewardship Proposal) are followed and fail to correct the identified deficiency and the IANA Problem Resolution Process (as described in the CWG-Stewardship Proposal) is followed and fails to correct the identified deficiency. Following the exhaustion of these escalation mechanisms, the ccNSO and GNSO will be responsible for checking and reviewing the outcome of the CSC process, and the IANA Problem Resolution Process and for determining whether or not a Special IFR is necessary. After consideration, which may include a public comment period and must include meaningful consultation with other SOs and ACs , the Special IFR could be triggered. In order to trigger a Special IFR, it would require a vote of both of the ccNSO and GNSO Councils (each by a supermajority vote according to their normal procedures for determining supermajority).  The Special IFR will follow the same multistakeholder cross community composition and process structure as the periodic IANA Function Review. The scope of the Special IFR will be narrower than a periodic IFR, focused primarily on the identified deficiency or problem, its implications for overall IANA performance, and how that issue is best resolved. As with the periodic IFR, the Special IFR is limited to a review of the performance of the IANA Functions operation, including the CSC, but should not consider policy development and adoption processes or the relationship between ICANN and its contracted TLDs. The results of the IFR or Special IFR will not be prescribed or restricted and could include recommendations to initiate a separation process, which could result in termination or non-renewal of the IANA Functions Contract between ICANN and PTI among other actions. |