# Agenda Item 26: CCWG-Accountability WS2 Update

## Note: This information will need to be updated at the GAC meeting to take into account the face-to-face meeting of the CCWG-Accountability in Panama City on Sunday 24 June 2018 .

## Issues

1. Reports from GAC-nominated members of the CCWG-Accountability Work Stream 2 (WS2).
2. CCWG WS2 Final Report and Recommendations.
3. GAC position as a CCWG Chartering Organisation.

## GAC Action Required

1. **Reports from GAC members**

It has been the practice at recent GAC meetings to hear reports from GAC-nominated members of the CCWG. Inter-sessional reports have been prepared and sent to the GAC by the ACIG GAC Secretariat.

The GAC nominees to the CCWG are: Argentina, Brazil, Canada, Denmark, and Iran.

1. **Draft Final Report and Recommendations**

The CCWG posted its [Final Report](https://www.icann.org/en/system/files/files/ccwg-acct-ws2-final-27mar18-en.pdf), including recommendations, for public comment from 30 March to 11 May 2018. In theory this was limited to identifying inconsistencies across the recommendations. This was because the CCWG cannot reopen substantive issues as it must finalise its work by June 2018.

One GAC member (France) submitted public comments on diversity and jurisdiction.

The ICANN Board has concerns about some recommendations. At the time of preparing this brief these were still being discussed with the CCWG Co-Chairs. The aim is to develop “implementation guidance” to address the Board’s concerns without changing the recommendations. The current status is included in the table below.

The situation with the recommendations as agreed by the CCWG and posted for public comment is as follows:

|  |  |
| --- | --- |
| **Recommendation** | **Comment** |
| **Report and all Recommendations** | The GAC has not agreed on any consensus input. Some GAC members have made submissions to public comment processes and argued individual views at the CCWG working level. |
| **Diversity**   * An agreed definition of diversity to apply across ICANN. * SOs/ACs to review and publish their own initiatives to enhance internal diversity, supported by ICANN Org as appropriate. | **France**: The French Government regrets that the proposal for the establishment of an “Office of Diversity”, the main concrete and ambitious tool for improving diversity within ICANN, was not included in the CWG recommendations.  The diversity sub-group proposals contain several advances, including a multi-dimensional definition of diversity, regularly published data and a system for the community to query ICANN on progress in diversity.[[1]](#footnote-1) |
| **Guidelines for good faith conduct in removing individual Board members** | No GAC discussion. |
| **Human Rights Framework of Interpretation**   * ICANN to apply a Proposed Framework of Interpretation and Considerations concerning ICANN’s Human Rights Bylaw. | No substantive GAC discussion. |
| **Jurisdiction**   * ICANN to be pro-active in facilitating OFAC licenses. * A “menu” approach to enable parties to ICANN agreements to choose the governing law before executing a contract is supported; although there are other options. | **France**: Taking into account the strong disagreements within the sub-group, the French Government encourages the sub-group’s members to explore new paths to introduce immunities, including partial immunities, from jurisdiction in order to ensure its independence and accountability to all of the international Internet community.[[2]](#footnote-2)  **Brazil**: Sufficient time should be available to the GAC to discuss the recommendations on jurisdiction and reach a position if possible.[[3]](#footnote-3) |
| **ICANN Ombudsman** | No substantive GAC discussion.  ICANN Board has some concerns. Under discussion with CCWG Co-Chairs. |
| **SO/AC Accountability**   * SOs/ACs to implement recommended good practices (where applicable to their structure and purpose) with regard to Accountability, Transparency, Participation, Outreach and Updates to rules and procedures. | No substantive GAC discussion. |
| **Staff accountability** | No GAC discussion. |
| **ICANN transparency**   * ICANN to regularly and publicly disclose its interaction with governments. * ICANN to improve its information disclosure and whistleblower arrangements. | No GAC discussion.  ICANN Board has some concerns. Under discussion with CCWG Co-Chairs. |

1. **GAC position as a Chartering Organisation of the CCWG**

The GAC (together with other SOs/ACs) is a Chartering Organisation of this CCWG. The [Charter](file:///Users/tomwdale/Downloads/Enhancing%20ICANN%20Accountability%20FINAL%20-%20Clean%20-%20Charter%20-%20updated%203%20November%202014%20(1).pdf) provides that: *“…each of the chartering organisations shall, in accordance with their own rules and procedures, review and discuss the Draft Proposal(s) and decide whether to adopt the recommendations contained in it.”*

The GAC has a number of possible options for responding:

1. Support adoption of all of the recommendations.
2. Indicate specific areas of disagreement and propose alternatives. This could include, for example, particular issues to be addressed as part of the implementation process; and/or continuing review of contentious issues in another (perhaps simpler and less resource-intensive) forum.
3. For the CCWG Work Stream 1 recommendations, the GAC expressed its position as: *“While there are delegations that have expressed support for the proposal, there were other delegations that were not in a position to endorse the proposal as a whole. In spite of this difference of opinions, the GAC has no objection to the transmission of the proposal to the ICANN Board.”*[[4]](#footnote-4)

## Current Position

At the time of preparing this brief:

* No CCWG Plenary calls had been held since ICANN 61.
* The CCWG Co-Chairs were still reviewing ICANN Board concerns with some draft recommendations.
* Arrangements for the Report and Recommendations to be submitted to Chartering Organisations for consideration had not been finalised.

## Further Information

[CCWG-Accountability Work Stream 2 (WS2)](https://community.icann.org/display/WEIA/WS2+-+Enhancing+ICANN+Accountability+Home)

[CCWG-Accountability Sub-Group on Jurisdiction](https://community.icann.org/display/WEIA/Jurisdiction)

[CCWG-Accountability Sub Group on Diversity](https://community.icann.org/display/WEIA/Diversity)

[CCWG-Accountability Sub Group on Human Rights](https://community.icann.org/display/WEIA/Human+Rights)

[CCWG-Accountability Sub-Group on SO/AC Accountability](https://community.icann.org/pages/viewpage.action?pageId=59643284)

## Document Administration

|  |  |
| --- | --- |
| **Title** | CCWG WS2 Accountability Update |
| **Distribution** | GAC Members |
| **Distribution Date** | Version 1.0: 7 June 2018  Version 1.1: 14 June 2018 |

1. France: [Submission to Public Comment re diversity](https://mm.icann.org/pipermail/comments-ccwg-acct-ws2-final-30mar18/attachments/20180511/7043bf04/ICANN-WS2-2emeconsultation-Diversite-CommentairesduGouvernementfrancais-0001.pdf) [↑](#footnote-ref-1)
2. France: [Submission to Public Comment re jurisdiction](https://mm.icann.org/pipermail/comments-ccwg-acct-ws2-final-30mar18/attachments/20180511/7043bf04/ICANN-WS2-2emeconsultation-Juridiction-CommentairesduGouvernementfrancais-0001.pdf) [↑](#footnote-ref-2)
3. Brazil: Pre-meeting advice to Secretariat and GAC-appointed members of CCWG [↑](#footnote-ref-3)
4. [GAC Marrakech Communique](https://www.icann.org/en/system/files/correspondence/gac-to-board-09mar16-en.pdf) [↑](#footnote-ref-4)