
BRENDA BREWER: Thank you very much. Hello, everyone. I'd like to welcome you to the ATRT3 plenary call number 64 on the 8th of May 2020 at 21:00 UTC. The members attending the call are Cheryl, Daniel, Jaap, Pat, Sébastien, Vanda, and Tola. Observers: Avri Doria and Chantelle Doerksen.

Attending from ICANN Org is Negar, Larisa, and Brenda. Technical writer Bernie Turcotte is on the call, and we do have apologies from Jennifer, and León will be delayed. Today's call is being recorded. Kindly state your name before speaking for the record. Pat and Cheryl, I'll turn the call over to you. Thank you.

PATRICK KANE: Thank you so much, Brenda. As we do every time, do we have any updates to SOIs? Seeing no hands raised and nothing in group chat, I'll take it as that there are none, so we'll move onto action items. Negar, are you going to stand in for Jennifer today, or are we going to skip over that?

NEGAR FARZINNIA: Hi, Pat. No, happy to stand in for her. We do have one action item from last week that I'm happy to report has been closed, and the action item was for the team members to add items of specific concern under each of the bullets in the draft –epilogue text ahead of the call today, which has been done. So, with that, I'll hand it back over to you.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

PATRICK KANE:

Thank you so much, Negar. So, the first topic that we have on the agenda today is finalizing the epilogue text. One of the suggestions that came in from KC in the last couple of days was to consider moving this either as a preface to the document or including it at the end of the executive summary because, rightly so, putting it at the very end, people will read the document or not read all the document and never get to the reasons why we didn't cover certain topics.

So, I'm happy to throw that out to the group for conversation, as to which way we'd like to go for that. Bernie suggests inside the group chat that we could make it a prologue. All right. I see no hands or commentary as to preface except there—Osvaldo has agreed as a prologue. Tola agrees with the proposal.

So, unless there are any objections to those particular suggestions, we will roll it in as a prologue. If you object select no or, if you have something you'd like to say, please raise your hand. All right. So, we will make it as the prologue. Bernie, are you okay with that? Thumbs up from Bernie. Thank you, Bernie. All right.

So, the second item, I want to squeeze in here between three and four, is Bernie routed around a document today that was "ATRT3 Detailed Explanation of Select Topics." So, Bernie, would you mind taking us through that for a couple of minutes as to what it is/how it's set up and, if we like, we can read through it?

BERNARD TURCOTTE:

Sure. I'd be glad to.

PATRICK KANE: Thank you, Bernie.

BERNARD TURCOTTE: Oh, I see Sébastien has his hand up, first.

PATRICK KANE: Ah, yes. Sébastien, please.

SÉBASTIEN BACHOLLET: Yeah, sorry. Just to be sure, we decide that it's not anymore an epilogue, it's a prologue, but we need to go through the text because, contrary to what was announced, I didn't see any new text since last time. Therefore, we were supposed to add things and we didn't. What do we do with the text today? Thank you.

PATRICK KANE: So, thank you for that, Sébastien. When I last looked at it, I did not see any new text. Is there new text?

SÉBASTIEN BACHOLLET: No, but it was supposed to be. We were supposed to change things and to add, but nobody had done that. There are still comments from León we didn't decide what we will do. Therefore, I don't know what is the status of this document. Yeah. I think we have a little work to do to be sure that it's our final text. Thank you.

PATRICK KANE: Thank you, Sébastien. Tola?

ADETOLA SOGBESAN: Yeah. I agree with Sébastien because, if we take item three, what we state is for us to finalize the text based on the [ten member] input.” What we have all just done is renaming [for make lots of problem.] We have not discussed analyzing it. So, I think in that aspect, before jumping to Bernie discussing the detailed explanation, we should have stayed a little longer finalizing the text. That’s my thinking. Thank you. Back to you, Pat.

PATRICK KANE: Thank you very much, Tola. I appreciate that. So, if that is the case then let’s walk through what’s there. If we could bring up the epilogue, please, then? Or now, the prologue. So, this does look the same as it was before and I think that ... Can we scroll down, Brenda, to the bullets?

So, part of what we had talked about doing was adding some specific items in this area under each of the five bullets that we wanted to call out as events that are worthy of an accountability and transparency discussion, and we were going to put specific items in here that were areas of concern and that has not been done.

So, we need to get this done soon. Does the team want to do this now or would the team like to take the next 48 hours and add this to this so that we can have a conversation on that at the next possible meeting? Sébastien, your hand is raised.

SÉBASTIEN BACHOLLET: Yes, thank you. I feel that it's not a good idea to do it on the fly here. But at the same time, if between now and the next meeting nobody answers anything, it will be difficult. May I suggest that the first thing to be done is to ... I guess we agree on what is in pink. At least it will clear up, a little bit, the document. If it could be clear that we have to work on the five bullet points and we have 48 hours, I think it's better than to do it on the fly now. Thank you.

PATRICK KANE: No, I agree with that, Sébastien, in terms of not doing it on the fly, but we've had nothing added in the last 48 hours. Now, I think the pink is largely entered by KC, which makes it more readable, I think. Thank you for that, KC.

And I think that if we don't have details under these within the next 48 hours I'm going to take it upon Cheryl or myself to plug stuff in at the end of 48 hours if we don't have any items because I do think it's important that we call out specific areas of concern—not necessarily recommendations, but specific areas of concern—two or three maximum per each bullet.

So, let's make a declaration that we're going to have that done within 48 hours. Actually, why don't we make it until Monday so we can have a conversation if we need to on Monday afternoon? So, 72 hours to get that done. Tola, is that an old hand or a new hand?

ADETOLA SOGBESAN: Oh, sorry. No, it was an old hand.

PATRICK KANE: All right, thank you. Wolfgang, please.

WOLFGANG KLEINWAECHTER: Yes, Pat. I think what Sébastien is proposing you have supported. It's also my opinion because I raised the issue with the concerns. At this moment, if we just do it online, it's nearly impossible. So, to give us 72 hours to add some language, probably Bernie could make a more specified draft so that we can work on the text and to add some language. This is better than to discuss it here and now on the basis of the old text we had already during the last meeting. So, full support for you and for Sébastien's concerns. Back to you.

PATRICK KANE: Thank you, Wolfgang. KC.

KC CLAFFY: Hi. I agree, I think, with everything, although it would help to have a little discussion about what kinds of things we're looking for. Is this just a to-do item that's being thrown at everyone or are some people thinking they're going to be better at doing some items than others? Well, either way, maybe we could go through one and just say examples of sub-bullets you imagine for each bullet, and if nobody else has any, I can throw some out and say, "Is this the kind of sub-bullet you mean?"

PATRICK KANE: Okay. So, thank you for that, KC. Wolfgang, last week, had put four or five bullets of areas of concern on the PIR. So, Wolfgang, if I can put you on the spot, would you please describe a couple of specific concerns that we would list under the PIR.org-proposed acquisition or sale so that KC can get an understanding of what we talked about on Wednesday? Thank you.

WOLFGANG KLEINWAECHTER: Yes. The issue I raised was that we did see some discussions within the community which have questioned the functioning of the accountability mechanisms which we have introduced after the [un-authorization]. That means questions were raised with regard to the efficiency of the Empowered Community, how the Empowered Community works.

There were also concerns with regard to the role of the GA from California and with the role of governments. And so, that means the whole multi-stakeholder approach was questioned, also, by groups which were more or less on the sideline, so that for some people it was not a .org issue anymore, it's now an ICANN issue.

And so, these were the concerns and my proposal was not to take a position with regard to concerns but to say, "Okay. Here, we see that there are some concerns in the community with regard to the functioning of the accountability mechanisms," and we would leave it in the hands of a special task force, or whatever, to have a special look into this functioning and to make concrete recommendations to the board because this is outside our mandate of the ATRT3.

It is also too late to take a position, but we should not be silent on this issue which is, obviously, a big problem for a lot of parts of our broader community. Back to Pat. Thank you.

PATRICK KANE:

Thank you for that, Wolfgang. And so, KC, along those lines, one of the things that I would consider putting a bullet underneath that would be, in the 2016 IANA transition, some of the wording from the US Government was that the US Government would not be replaced by another government or an inter-governmental organization.

And the question would be, if we wanted to put specific questions in there, “As ICANN outsourced the topic of global public interest or public interest on this specific case to another government,” and that would be a “concerning item,” that if we had a couple that might be an example of what that would look like.

KC CLAFFY:

Can I talk? Should I talk?

PATRICK KANE:

Yep.

KC CLAFFY:

Great. That helps a lot. And to Wolfgang’s point, and also León’s question in the chat—who’s asking, “What do you think failed?”—I think what I heard Wolfgang say is it’s really not about us taking a position on what

we thought failed but, as Pat outlined, capturing what other people have said or articulated in comments and various things.

So yeah, I've seen comments about the role of the California Attorney General's communication in this context and the ICANN decision that explained how it took into account that ... And I think there are a lot of questions on both sides. I mean, frankly, I think probably neither side is happy in this case with how things went and how long it took.

So, now I understand a little bit. The reason I was asking is also I feel like I should probably take on one of those bullets since I'm the one who pushed to have it in there, the Interisle reports. So, I'm kind of looking for what is going to be satisfying as sub-bullets for that, but I think I have a reasonable understanding. It's basically, what are the accountability issues that we see, that we can extract from the item here, that we think it would have been nice if we had time to take on ourselves but we didn't, for example.

PATRICK KANE:

Right. Or if we were starting today and we had a year to go forward, what would be the questions that jump right out to say, "These are issues we have to investigate?" And to your point, not to take a side on whether it was right or it was wrong, whether it was successful or was failed, but what would be the question that we would be investigating from an accountability or transparency standpoint?

KC CLAFFY:

Yep, okay. Thanks.

PATRICK KANE: Tola, please?

ADETOLA SOGBESAN: Hi. Thank you, Pat. You just paraphrased one of the things I wanted to speak about with your concerns about the aspect of accountability and transparency. But there was something I wanted to clarify, whether we are saying [inaudible] IANA transition is not a government [inaudible] from the U.S. or is it thrown back to the empowered community. ICANN is going to be incorporated in a particular country, or in a particular city. So, how does it bother us in terms of accountability whether ICANN is responsible to the host's city where it is incorporated? Is it supposed to be our responsibility, looking at it from an accountability perspective?

PATRICK KANE: Tola, I'm having a tough time hearing you. You're very muffled.

ADETOLA SOGBESAN: [inaudible] Apologies. Yeah. I'm far from—let me get closer to my mic. Is it better now?

PATRICK KANE: That is better, yes.

ADETOLA SOGBESAN:

Okay. I was a bit far from my microphone. I was saying there are two things. I agree completely that we need to take a look at accountability and transparency. [They are the only aspects of consensus,] not about who is right or wrong.

However, I am mindful of the fact that, even beyond IANA transition 2016, ICANN, at the end of the day, is going to be incorporated in a particular city. So, what is the fiduciary responsibility to that city that is being incorporated? Does it imply that that city or the country is in charge of ICANN and not other countries, or they have to be accountable to the country or to the city where they incorporated?

So, for me, the longer we try to investigate the more we'll be expanding what we need to do. So, I'm just thinking that we just focus on this little bullet we want to talk about and leave the rest of the [inaudible] to whoever will be picking up the assignment after our job is submitted. Back to you, Pat.

PATRICK KANE:

Again, you were pretty muffled for me. And so, if I'm hearing you correctly, or if I picked it out correctly, it sounds like you're wanting to make a suggestion, which I think we decided that we weren't going to make a suggestion as to how to handle it. We were just saying, "Here's the issue, here's the reason why we couldn't get to it, and here are some of the things that, when we look at it, we're concerned about or interested in looking at," but not calling for a suggestion to go review. Is that correct?

ADETOLA SOGBESAN: Yes, I think so. I'm trying to change my network since everybody seems not to hear me. I'm going to switch from one network to another.

PATRICK KANE: All right. When you're done getting switched, go ahead and raise your hand and we'll come back to you. Thank you, Tola. Bernie, please.

BERNARD TURCOTTE: Thank you, Pat. First of all, reminding us that we had the discussion on the failure of the Empowered Community at our last meeting and that that cannot really be said. The Empowered Community is structured to react to decisions by the ICANN Board, not to preempt them.

And so, there is no way to judge in any way if the Empowered Community has failed or not. So, I think we made that clear last time. I was saddened to hear that being brought up again. If people have a concern, maybe they don't understand the role of the Empowered Community properly.

Second thing, we're giving 78 hours to this so I just want to make sure I understand our time parameter. Would that make it 23:59 UTC on Monday?

PATRICK KANE: That would be correct, yes.

BERNARD TURCOTTE: All right. Thank you.

PATRICK KANE:

Any other questions about what is now the prologue? All right. Thank you very much. So, again, we have until 23:59 UTC on Monday, so roughly 72 hours to add items in that, and then we will shape it from there. I think we should only put two or three per item. So, if we have more, we'll try to either get them carved down or we'll prioritize them.

All right. Thanks, everyone. So then, Brenda, if we could pull up the document that Bernie sent out today, the "ATRT3 Detailed Explanation of Select Topics"? And Bernie, if you will please take us through that at this time?

BERNARD TURCOTTE:

Thank you, Pat. I'll be glad to do that. All right. After discussion with the co-chairs, there were still a couple of questions floating around. We thought we would take a stab at a deep-dive as to where we stand on those things, or at least what we have.

So, the first one is around ICANN reporting that specific review recommendations were completed when review teams do not agree. Why is the ATRT3 not making a specific recommendation on this point? I'm saying that in the context of that's different than a recommendation that we have in our report, that ICANN complete the ATRT2 recommendations per our evaluation, but more in the context of a general evaluation.

So, what we look at is, basically ... I'm not going to go through everything in detail but the idea is that if you actually go through the facts ... I mean, the only official notice ICANN got that this was a problem was with RDS2.

Let's remember for those previous specific reviews, such as WHOIS1, there were no implementation shepherds.

So, once the review recommendations were accepted, they were sort of thrown over the wall for implementation. The only thing that was obvious to the universe were the implementation reports, and those were certainly public and published on the review site Wiki, but there were no comments until the following review, which is tasked with making sure that the review recommendations are implemented properly, then takes issue with that.

And the only example—if we could go down a bit, please? Lack of implementation. So, there is no implementation guidance because there were no requirements for that on the recommendations. Basically, review groups would just make recommendations and, again, toss them over the wall and, “ICANN, figure out what you're going to do with that,” which is a bit of a recipe for disaster if you don't have an ongoing relationship with the people who wrote the recommendations. Let's go to 1.3 please, Brenda. Oops. Brenda? We may have lost Brenda.

[NEGAR FARZINNIA:]

Bernie, what section did you want to go to? I can see if I can move it.

BERNARD TURCOTTE:

Okay. 1.3. We're at 1.2 right now on the screen.

[NEGAR FARZINNIA:] Okay. It appears that I cannot, unfortunately, move it, as Brenda has the rights to the document right now.

BERNARD TURCOTTE: Yep.

[NEGAR FARZINNIA:] Give us one minute, please, and we will sort this out.

BERNARD TURCOTTE: Okay. I can certainly talk to it. I mean, that's not a big issue, here. The point is that there was one formal notice that the recommendations of a review team were not implemented, specific reviews, and that was RDS2 who put in its final report, which was handed into the board, that the recommendations from the previous report were not implemented. The board took action on these and accepted to schedule the fixes for most of these, except two. I think if you read the details, I think it's understandable why that decision was made.

So, if we go down just a bit more ... Let me just end up sharing my screen. It might be easier. Nope, can't do that. Sorry. So, that's the only one that's official. ATRT3 will be making a recommendation and talking about this and SSR2 will also be making a decision on this and putting something in its final report, but nothing has gone to ICANN. I mean, this is still internal. The only thing that has been reported to the board, officially, has been acted on.

So, I think we have to be fair with respect to ICANN in these things in understanding that the basic situation from the previous reviews created an environment where it was easy to have a misunderstanding as to what should be implemented and how, and that when this is actually brought up it has been dealt with, but it has only been brought up once with RDS2.

So, if we go down a bit to section 1.4? So, we're going to have those previous things to deal with and the only one that has been brought up has been dealt with. So, there is no expectation that the board will deal with any such reports differently from other reviews.

And then, the idea is, is there anything being done to avoid this going forward? And yes, the new operating standards basically regard that reviews be smart and they have implementation shepherds so that there is a description of what is required of the recommendation to implement it and there is an ongoing link with the review team while the thing is being implemented.

Now, it's hard to determine if these things will work because no specific review has produced recommendations using this framework and ATRT3 will probably be the first. Now, we've gone through these. We've looked at them. I think as a minimum we can say it's very promising. If ICANN actually uses the information that's given in there, I think it could address the issue in a going-forward basis.

So, 1.5, we conclude that ICANN has been transparent with respect to its implementation of specific review recommendations. No one commented when we produced those reports. No one put in formal requests for changes. Maybe they could have been more forthcoming,

and it would certainly have been better if there were implementation shepherds, but there weren't. So, it's not that ICANN kept this and then, boom, it was a surprise. These things were published and no one said "boo."

Now, it's the job of the following reviews to review this and complain about this. It has been done once and the board has dealt with it. Not only has the board dealt with it, it has adopted the new operating standards for specific reviews. So, really, the conclusion is—at least to our thinking—that it's a little early to start drafting a general recommendation about ICANN implementing specific review recommendations.

Probably the best we can say at this point, given there is no experience with reviews producing recommendations under the new operating standards, is a suggestion that ATRT4 should probably have this on its radar to ... Oh, boy. We're going all over the place, here. That ATRT4 should have this on its radar to make sure that this issue is not continuing but that there is a process for handling the ones that are incomplete, and it seems to be working, and there is a process to avoid it happening in the future. So, I'll stop there and see if there are any questions on this section. There are only two sections. KC.

KC CLAFFY:

I guess I'm not as familiar with the RDS situation. When you say there is a process for handling the ones that have happened, that have been judged as incomplete, can we point to it in some text?

BERNARD TURCOTTE: Well, actually, if you look at the text, there is a footnote to the board decision regarding the implementation of the RDS2 report. So, all the links are in there explaining that.

KC CLAFFY: So, what happened with the RDS2 report? I mean, it says that the board accepted the RDS2.

BERNARD TURCOTTE: Well, basically, if you go into the details—and I didn't want to make this overly long—if you go through the RDS report, basically, I think we say it in there, if we can go back up to 1.3.1, I believe.

KC CLAFFY: Yeah.

BERNARD TURCOTTE: Okay. So, the implementation reports for the succinct recommendations from WHOIS1 Review Team. So, ICANN said all 16 were implemented. "The RDS WHOIS2 Review Team's conclusions are that, of the 16 recommendations, eight were fully implemented, seven were partially implemented, and one was not implemented." Okay. And I give the reference to that.

"In its final report, RDS2 presents 22 recommendations, 16 of which are partially or completely focused on completing the implementation of the RDS1 WHOIS1 recommendations. In the board action of 25th February

2020.” I give the reference to that. “With respect to the RDS2 final report, the board accepts 14 of the RDS1 WHOIS1-related recommendations for implementation, with implementation shepherds, and places one on hold and rejects one. So, there you go. That’s what I was referring to as a process when I was describing it. The next review in the series, RDS2. [inaudible], what they thought was a failure to ...

NEGAR FARZINNIA: Bernie, we’re having an issue hearing you.

BERNARD TURCOTTE: Did that answer your question, KC?

KC CLAFFY: It partly answered my question, until I lost you. You definitely went away for the last 60 seconds. But I think the text partly answers the question, which it says there is a step. I don't know that I would call it a process because ...

And again, I'm trying to read this with a critical eye of somebody who's coming in ... Well, the person who came in with this complaint. Like, “Okay, you guys have said all of these things haven't been implemented, so why isn't ATRT3 saying something about that?”

And it looks like the response here is, “Well, the board accepted them the second time when RDS2 came to present them,” but what happened after that? It's sort of too soon to say because that was just three months ago. But I don't think whoever wrote the complaint at the top, that we

aren't addressing this issue, would be satisfied with 1.3.1 as addressing the issue because it just sort of kicks the can down the road. That's my concern.

PATRICK KANE: León, your hand is raised?

LEÓN SÁNCHEZ: Yes, Pat. Thank you. I mean, this is just a little bit of history on how this came to be, I guess. So, my understanding is that, when WHOIS1 RT concluded, the board directed ICANN Org to implement these recommendations in a way that was slightly different, or significantly different, than the review team had recommended.

So, there was already a disconnection between the recommendations from the WHOIS Review Team and direction from the board to Org. Then, on RDS WHOIS2, Chris, who is the liaison from the board to that group, signaled this to the group and the group chose to actually review the implementation or to evaluate the implementation based on the review team recommendations and not the board direction toward.

So, we are never going to be able to reconcile both positions because Org received instructions from the board that were different from recommendations from review team, as I understand this.

I don't know. Maybe, Larisa, would you want to correct me if I'm saying something that's not exactly how it happened? But that is my understanding and that is why I think we are not going to be able to reconcile this issue and, well, of course, it needs to be dealt with at some

point. I agree with that. But I'm just trying to highlight why I don't think we will be able to reconcile these differences.

UNIDENTIFIED MALE: Larisa, please?

LARISA GURNICK: Hi. León is correct. I just wanted to point out, also, that this was done under a different set of requirements. This was back in the day when these were AOC reviews under the affirmation of commitments. Since the specific reviews were brought under the bylaws, there is no longer, really, that option for the board to accept the recommendation with a modification.

So, at this point, this is probably not a situation that will be perpetuated because the board only has the option of accepting or rejecting, not accepting with a modification. So, we don't anticipate that, procedurally, this will continue to happen in the future, but that was the case at that one point in time with the first RDS set of recommendations. I hope that helps. Thank you.

PATRICK KANE: Thank you, Larisa. I think that helps a little bit but I think we still have the issue—and I hear this and read this in what KC sent over—that we still need to make certain that we're not declaring things are complete when they're not.

We talked about this on Wednesday, and the way that we talked about that not being an issue, and probably why we're a little more optimistic than I think SSR is, is that we've said that the prioritization process and the ability to retire recommendations/forgoes the need or the incentive to declare that something was complete.

And having shepherds be a part of that process is what allows us to continue on so that, when Org is implementing, the members of the Review Team that are the shepherds will be there to remind them as to, "This is what we were talking about, and this is what we intend it to be, and this is not where our suggestion was meant to go.

So, if you take away the incentive to say we're complete when we're not by having a retirement process that is more pragmatic, hopefully, and that we have remnants of our team as shepherds continuing on through those reviews, that is why we believe that this situation—where we've declared victory when there has been no victory, or a partial victory—we're optimistic that it will go away. I think that's what we talked about on Wednesday. Larisa, your hand is still raised. Is that an old hand, new hand?

LARISA GURNICK: Sorry, old hand. Sorry.

PATRICK KANE: Okay. No worries, no worries. Thank you. Any other commentary on that? I think this is helpful, Bernie. Thank you.

BERNARD TURCOTTE: All right. Great. KC?

PATRICK KANE: KC, your hand is raised.

KC CLAFFY: I like what Pat just said and I like what Larisa said in the chat, and I wonder if it could be emphasized at the beginning of this text. Is this text going in the report, by the way, or are we just ...?

PATRICK KANE: No, this is just for us right now.

KC CLAFFY: Ah, okay. Okay. Then I guess I'll shut up. Are we going to put something in our report after that, and that has yet to be written, to address these two points, or what's the thinking?

BERNARD TURCOTTE: I'll pass that over to the chairs. I mean, the idea behind this exercise was just for the group to understand how and why we made the recommendations. This goes into great detail to say why we're not making a recommendation, but let's just walk our way through this. We've got one more item, and then if people really feel strongly about it we can consider, or the co-chairs can consider, that question.

KC CLAFFY: Okay.

PATRICK KANE: Yeah. Thanks, Bernie. If I can just jump in, since you kind of threw it to us. If we can come up with a short piece that combines what Larisa wrote and what I just said and we can find the right place to plug it, I think if that helps to clarify how we tie these things together, to do that, I think that would be helpful and we probably should consider it. But yes, it probably should be part of the “next steps” discussion. Thank you, Bernie. Cheryl, your hand is raised.

CHERYL LANGDON-ORR: Yes, if I can unmute myself. There we go. Thank you, and thanks for indulging me for only being via my mobile up until now. I have been furiously Skyping with Pat, so anything that I was desperate to say he has at least heard about, if not passed on.

I think we can come back to this—and I mean come back to this today—but I also would like to just say that I think we should note in the text of the report the specifics of the disconnect between what was, and what is, and what we hope shall be. So, I'm just reinforcing what you've just said, Pat. Thanks.

BERNARD TURCOTTE: All right. So, we will get back to it if, obviously, detail of this is not in there. Maybe we can have a condensed version, if everyone, plus me and the co-chairs, will sort of ram that together and include a couple of

paragraphs relating to that, if people find it useful in our discussion on next steps. Is that what I understood out of the discussion, Pat?

PATRICK KANE: I think that is what we heard, yes, Bernie.

BERNARD TURCOTTE: Okay, great.

PATRICK KANE: Thank you. All right. If we could bounce back to the agenda, please?

BERNARD TURCOTTE: We've got one more item to cover in this report, Pat.

PATRICK KANE: Oh, I'm sorry. Go ahead, Bernie.

BERNARD TURCOTTE: If we can go to two, please?

PATRICK KANE: Ah, yes.

BERNARD TURCOTTE:

All right. So, in this one, we've been hearing from our members here that where we ended up on organizational reviews is not where we were in with the input we got back either from our survey or from the public comment on our draft report. So, we decided to have a look at that very specifically and see what that gave.

So, our first input was, of course, our survey results, "How would you rate the effectiveness of the organizational reviews?" And we had, for individuals, 41% effective, 16% no opinion, 43% no. And for structures, 46% effective, 15% no opinion, 38% somewhat ineffective.

"Should organizational reviews be reconsidered or amended?" Individuals, 85% yes; structures, 83% yes. "Should organizational reviews continue to be undertaken by external consultants?" Individuals, 79% yes, and structures 90%.

So, there is no strong support that the current organizational reviews are effective. There is very strong support to reconsider or amend these and strong support to maintain external evaluators. With the exception of external evaluators, one should consider these results as being consistent with the results of the public comment on the draft report. We're going to go through that in a sec.

So, the next input was the public comment, basically talking about organizational reviews, specifically. We had two options, you'll remember. Option one was, "As is, but introduction of an independent accountability office," and the comments were [inaudible] here. Basically, we had one in support, one neutral, and ten that did not support going this way.

Our second option was organization reviews maintain the current concept of individual organizational reviews for each SO/AC but connect them as three-to-five-day workshops focused on SO/AC self-inspection in the context of a continuous improvement. These reviews would be conducted every three years or more frequently, as determined by each SO/AC, and the reports of these reviews would then feed into a holistic review.

So, let's go down a bit for comments. Basically, you've got the reports there. Let's go down a bit more to ... Right. Okay. So, in summary, there are only nine comments, of which six support but want more details, two against, and one against because it does not represent enough of a change.

So, on our conclusion on this part, option one with only one supporting comment is not a viable option. Option two, with six in support but wanting more details, two against, wanting to maintain the current system, and one against because they want more changes, would make this the only viable choice even if there are only nine comments, which is balanced off by considering the responses to option one.

These results are generally consistent with those of the ATRT3 survey. As such, ATRT3 should refine option two while considering weak support for the three-to-five-day workshops and the strong support for the holistic review. Basically, if you go through the comments and you start distilling things, that's what it boils down to.

So then, we look at comparing option two and the ATRT3 proposal in this report. So, option two we're breaking down into three main parts. Exact

same text. One, maintain the current concept of individual organizational reviews for each SO/AC but conduct them as three-to-five-day workshops focused on SO/AC self-inspection in the context of a continuous improvement.

Two, these reviews would be conducted every three years or more frequently, as determined by each SO/AC. That should be a three, there. Sorry. Three, the reports of these reviews would then feed into a new holistic review.

So, let's look at one, "Maintain the current concept of individual organizational reviews for each SO/AC but conduct them as three-to-five-day workshops focused on SO/AC self-inspection in a context of continuous improvement." The final ATRT3 recommendation and reviews require that each SO/AC implement individual continuous improvement programs and—

PATRICK KANE: We lost you, Bernie.

BERNARD TURCOTTE: Okay, I'm back. I see a hand from Osvaldo.

OSVALDO NOVOA: Sorry, I was on mute. No, I will raise it again after you have finished. I thought you were going to stop now.

BERNARD TURCOTTE: Okay. No, my audio fell off. So, basically ... Where was I? So, considering the comments from the PC, ATRT3 felt that mandating a three-to-five-day workshop was overly prescriptive—that this should only be one option. So, the conclusion is that ATRT3 meets objective one from option two, which considers the comments on the three-to-five-day workshops.

The second objective is these reviews would be conducted every three years, or more frequently, as determined by each SO/AC. The final ATRT3 recommendation on reviews requires that each SO/AC and C hold a review of its continuous improvement programs at least every three years or more frequently, as determined by each SO/AC. So, the ATRT3—

PATRICK KANE: Bernie, we lost you.

CHERYL LANGDON-ORR: That's longer than usual.

PATRICK KANE: Yep.

BRENDA BREWER: Bernie will rejoin us momentarily. He has disconnected.

CHERYL LANGDON-ORR: That's fine. I'm going to suggest you get a dial-out to him, as well. Osvaldo, you're going to hold your hand until the end of this section. Sébastien, did you want to intervene now or at the end of this section?

SÉBASTIEN BACHOLLET: As we are waiting for Bernie, just to say that in this specific—

BERNARD TURCOTTE: I'm back.

SÉBASTIEN BACHOLLET: In this specific paragraph I think we need to be clear that, yes, at least every three years or more frequently, as determined by each SO and AC, but also as determined by the budget we have. It's one of the reasons I really feel that every three years is the best way to do it because it staggers everything and it allows to have a budget available equivalent for each SO and AC. Thank you.

BERNARD TURCOTTE: All right. Thank you, Sébastien. Sorry about that. For some reason, my Internet decided to take a walk again. All right. So then, we were on the third objective, and we certainly do that. So, if we go down a little bit, please, to the section "conclusion," 3.5. So, the final ATRT3 recommendation and reviews meet the three requirements included in option two from the public consultation held on a draft ATRT3 report. So then, we have a look at the results from—

CHERYL LANGDON-ORR: Do you want to break for Osvaldo now?

BERNARD TURCOTTE: Sure.

CHERYL LANGDON-ORR: Osvaldo?

OSVALDO NOVOA: Hello. Do you hear me?

BERNARD TURCOTTE: Yes.

OSVALDO NOVOA: Okay. Yes. I disagree with your conclusion. The thing is, most of the comments support adoption, too. Many said they thought that these two or three days, or five days, were too short for a review. It should be longer. But I don't know—how can you equate a continuous improvement program which is reviewed—the program is reviewed every three years—to a review of the organization every three years? For me, they are different things. That's the problem I have with an interpretation of the recommendation.

BERNARD TURCOTTE:

Okay. Well, I think if we can go back up a bit it's maybe a discussion on interpretation, and maybe it will never get resolved. If we can go back up to a bit further? I want to have the full text of option two. Up, up. Up some more. Okay, there we go.

So, option two on organizational reviews. "Maintain the current concept of individual organization reviews for each SO/AC but conduct them as three-to-five-day workshops focused on SO/AC self-inspection in the context of continuous improvement."

Maybe this is where there is a disconnect between Osvaldo and my reading of that, that I think what we did following that is we worked on ... As we said in our report, the text says we're evolving the content of the organizational reviews to a continuous improvement program which will have a full review at least every three years. Before I get to you, KC, I'll let Osvaldo come back on that.

OSVALDO NOVOA:

Okay. I don't know. Perhaps it's my lack of knowledge but I don't equate a continuous improvement program to an organizational review. For me, a continuous improvement program is to get the organization improving in its work on how it is evolving, but a review is to see how all the organization is working and to see the—how do you say—weak points and the errors they are having right now, and see how to correct them. So, I see them as something quite different.

And then, I see the review as a review of the continuous improvement process. So, it's not a review of what the process has come to—to be

honest with you, that's a given—but to how it is being handled. I don't know. Perhaps I understand it wrongly.

BERNARD TURCOTTE:

Well, I think that what we tried to do—and I'll get to other people in this discussion in a sec—Osvaldo, is you're mentioning the review is not the same thing. It depends what people are including in their continuous improvement programs, one.

Two, you'll remember that, in what we're proposing in our details of the continuous improvement programs that we're evolving the organizational review into, is that there is a survey of the membership to bring up issues on a yearly basis. And finally, then, we're taking that and the results of all of that are going into the holistic review. So, in my mind, we're sort of [feeling with it]. But we've got a huge queue. Enough of me. KC.

KC CLAFFY:

Well, I had two things. One was this logistic. I think I don't understand what you're calling the objective of option one and the objection of option two. Sorry, I've got a plane overhead, here. So, somebody just needs to point out to me, syntactically, when you say, "This ATRT meets objective three from option two," can I find objective three from option two in this text?

BERNARD TURCOTTE:

Yeah. If you go to 2.3.1, I've labeled them.

KC CLAFFY: Oh, 2.3.1. Oh, three. Oh, it's labeled two. So, it's the 1.2.3 in parentheses, the 1.2.2 in parentheses?

BERNARD TURCOTTE: Yeah, I made a mistake. I had two twos. The second two should be a three.

KC CLAFFY: That explains it. Okay. And then, my second thing I just want to say is I fully agree with Osvaldo. I think what you've described, this self-inspection in the context of continuous improvement, I don't know anybody that would confuse that with the review. That's not a review, that's something different. That's a self-assessment.

BERNARD TURCOTTE: Okay. Excellent. All right. Next. Cheryl wants to go last, so Tola.

ADETOLA SOGBESAN: Okay. Thank you. I am toeing the same line as KC and Osvaldo. There are two things that just came to me straight away. If [we're in this short] group of ourselves, here, and some of us are finding it difficult to understand what we are [reading, then we can understand] when we release this document to the public, how some portion of the public may find it difficult to interpret. What that implies to me is for us to make this as simplified as possible so that it can be easily interpreted by those that

are reading it. Okay. Because if we're [—sorry,] I don't see continuous improvement as equivalent to organizational review. That's the first point [I'd like to] make.

The second point is the language we use must be [free flowing] such that people don't need to be checking what we intended to write. So, I don't know how we're going to change that, even after we have concluded on which one is right. Is continuous improvement the same as an organizational review? Otherwise, once we have done with that then we may need to check the free flowing of the language we have used, such that people will not be questioning what we intended to achieve with what we have written. Thank you. Back to you, Bernie.

BERNARD TURCOTTE:

All right. Thank you, Tola. Larisa.

LARISA GURNICK:

Thank you very much. Coming from the perspective of having supported the last cycle of organizational reviews, I just have a couple of observations that might be helpful here. Many of the commenters, including the board, I believe, indicated that they wanted more detail, and I remember discussions when the team was working through some of these ideas that went into option two. And in fact, there was agreement that further details would have to be evolved as time went on.

So, I think maybe part of this is just a matter of trying to understand those other aspects and also tying it back to how this new proposed structure

for replacing or evolving organizational reviews would still uphold the intent of the bylaws and for, especially, the particular point on the independent nature of the review of different structures.

So, there has been a lot of criticism and a lot of input over the time that we have been conducting this wave of organizational reviews. Some of it was expressed very publicly. I know RSSAC had issued a statement and there were many others.

As a matter of fact, there was some really useful public comment a couple of years ago on ideas for streamlining reviews and, more recently, maybe about a year or so ago when the board put out a proposal for how organizational reviews could be streamlined—this was right before ATRT3 started doing their work—there was public comment on that.

So, perhaps it's a matter of stepping back and looking at what the real problems were with organizational reviews, and how the different groups commented on that, and how to take all of that and also demonstrate that whatever the way forward is that ATRT3 chooses meets most of those objectives. Perhaps that part is not completely clear yet and might help in addressing this particular topic. Thank you.

BERNARD TURCOTTE:

Thank you, Larisa. KC, I'm going to give Pat a chance since this is his first go at it, and then I'll come back to you. Pat?

PATRICK KANE:

Thanks, Bernie. I may have heard you wrong, Larisa, on this, but I'm not certain that we're trying to make suggestions that fit within the bylaws

when what we're hearing from the community is that what's in the bylaws isn't working.

And so, in migrating to a continuous improvement program, each SO or AC has the ability to develop their own approach to what their continuous program looks like. All that we've said is that within 18 months there needs to be a plan in place, and how that continuous improvement program works is going to be different and it's going to have flexibility for each of the organizations.

And I think one of the things we said on Wednesday, which addresses other comments that have been made, is that I'm not certain it makes a difference if we come up with 12 recommendations every three years or 12 recommendations over three years. It's a matter of, how do you want to work in a program? How do you want to have each SO/AC view their own continuous improvement program?

And it will be tailored, I imagine, to each group as to how they will do that and how they will want to work. But it's really designed to provide some flexibility in what works for each SO and AC and to get away from these monolithic organizational reviews that clearly the survey and other conversations we've had showed dissatisfaction. So, thank you.

BERNARD TURCOTTE: Thank you for that, Pat. Tola, is that an old hand?

ADETOLA SOGBESAN: Yes, sir. It has been an old hand.

BERNARD TURCOTTE: All right. Thank you. I see León. We'll give León, since this is his first chance, and then I'll get back to KC and Cheryl. León.

LEÓN SÁNCHEZ: Thanks, Bernie. No, I just want to add to what Larisa was describing. I want to remind us that the board was supportive of option two but it clearly expressed that we needed more details in [many ends]. So, it would be useful if, in some way, we fleshed out in the report a little bit of trying to reply to those doubts or those questions that were raised in the board's assessment of option two. I think that will be very useful and would also help address other groups' questions and concerns, I guess.

BERNARD TURCOTTE: Is that is, León? Yes, okay.

LEÓN SÁNCHEZ: Yep.

BERNARD TURCOTTE: KC.

KC CLAFFY: Cheryl might have been before me. Oh, she took her hand down. Oh, no. There are two Cheryls.

BERNARD TURCOTTE:

Cheryl wants to go last. So, you're next, and then Cheryl goes last.

KC CLAFFY:

Okay, great. Sorry. I guess I heard Larisa differently than Pat did. I thought Larisa was suggesting that the important part about our explanation here is how it addresses the intention in the bylaws about accountability. And again, I still think the accountability issue is key, here, not the cadence of whatever review is happening.

So, if we want to replace what's in the bylaws now with something else, I just think—and this is what I have been saying for months—that I don't understand how what we're suggesting addresses the objective in the bylaws for accountability.

I think one of the keywords they use in the bylaws is "independent," and what you're replacing the reviews here with is something that's not independent, as if the SOs and ACs basically need to be accountable to themselves but no one else. That's not what the point of accountability is, or the point of all these reviews in the bylaws.

So, that's where my confusion is. And I should say that the self-assessment part of the organizational reviews already happens. SSAC had to go through a self-assessment, RSSAC had to go through a self-assessment. I take the point that Larisa made, also, that RSSAC wasn't too happy with the external review process and thought they missed some stuff.

I think that's all part of the process and I'm perfectly fine with RSSAC complaining about that after the fact as long as it's all on paper that

different independent angles on this problem found different things. I think that's good for the community, never mind that there were some disagreements there. Those need to be worked out, and that should be also part of the process.

But I think what the team seems to be suggesting here is to just get rid of the independent part of the review process and leave the self-assessment part, which means get rid of what I believe the bylaws intended to be the accountability lever. I continue to be fully perplexed by that decision.

BERNARD TURCOTTE: All right, KC. Thank you. Osvaldo, and then Cheryl.

CHERYL LANGDON-ORR: Osvaldo next, then.

BERNARD TURCOTTE: Yeah.

OSVALDO NOVOA: Hey. Should I talk now, or I wait?

BERNARD TURCOTTE: You're up, Osvaldo.

OSVALDO NOVOA:

I agree with what KC said. We are on one side taking out the external consultants for the work and, on the other side, we are leaving all to our own organizations, whereby it's possible that that group of members of each organization—the majority or not—could control the organization in some way—all the changes that are needed. There is going to be a subjective view of the organization and not an objective view.

That's what the organizational review are looking for. They want somebody from the outside to look at the organization and see how it's working. We are taking out the external consultants, and then we are turning the organizational review into a continuous improvement program that could be very light. It depends on the organization and how the different groups inside it control it. You may be leaving some minority representative with no possibility of making any change at the thing they need. Thank you.

BERNARD TURCOTTE:

Thank you for that, Osvaldo. Cheryl.

CHERYL LANGDON-ORR:

Thank you very much. I would love to know how a minority representative gets their voice heard, leveraged, and a majority support other than via strong argument, which can occur in any of these models, but perhaps that's just my naivety, Osvaldo, and my lack of apparent experience in this field. That was not a joke.

What is apparent to me is that we seem to be thinking about this somehow decoupled from the parallel and integrated plan of holistic

reviews, which, of course, just like any of the formal points of organizational review that is outlined in option two.

That is, those punctuation points of review that occur within the context of a continuous improvement program and most of the, at least modern, quality systems that, at least, I'm familiar with—the difference between having more regular internal audits that check on an organizational state, health, accountability, and transparency.

Or indeed, fitting with regulatory processes, which is where I've worked most of my last 20 years of working life in. But also, a very essential part of a wider, broader, and often external—certainly externally qualified in terms of what needs to be done and what needs to be checked—less periodic review.

So, those regular ... In the ISO systems, “external audits” is the term that is frequently used. I guess I'm thinking about option two and the way it works with holistic reviews based on that experience and knowledge.

I'd also like to suggest that, of course, what happens in, at least, the existing model of organizational reviews, with our apparent benefit of accountability by using something termed “independent,” as an external examiner is, how that is in any way, shape, or form other than, I'd venture to say, necessary in a more immature organization than a maturing one, process, can't be changed.

I also doubt very much, based on not inconsiderable experience in reviews across a number of parts of ICANN since the very beginning of them, and well in advance of the current model, that the mere presence

of having an external examiner doesn't make it any more or less accountable and certainly doesn't make it any more or less transparent.

But that aside, I think we need to look at what we need to expand on to meet the questions that were raised. This could, of course, be some implementation guidelines, because a lot of this can be done in the gory details in implementation guideline.

I'd like to thank León in advance for putting himself forward to work with a couple of us to make sure we answer the very particular—and, I must say, most of the eluded me—questions that the board had on this area to make sure that we have dotted the I's and crossed the T's.

And I guess, as a personal statement, I have no problem changing bylaws and I certainly have been involved in the development of each of the bylaws since the concept of reviews, in any way, shape, or form, have been part of ICANN. So, I look forward to continuing with that.

So, we need to move on but we also need to make sure that we don't decouple what we've said in terms of the importance of holistic reviews as part of an overall set of the package talking about reviews. Thank you. Back to you, Pat.

PATRICK KANE:

Thank you, Cheryl. Bernie, do we have anything else we wanted to cover in section two of this document?

BERNARD TURCOTTE:

Nope. I think we're done on this topic.

PATRICK KANE: All right. Then let's go back to the agenda, please. Actually, we're at one hour and 15 in and we had talked previously about being—

CHERYL LANGDON-ORR: If we could take a break?

PATRICK KANE: Yes?

CHERYL LANGDON-ORR: If you want to take a break, that's important, but I think we need to come back to putting a little bit of text—or agreeing to the putting of a little bit of text—that picks up on the earlier discussion. Because I think some of what has been discussed as we've gone through this document has highlighted things that do need to be drafted and included. Not in terms of, necessarily, changing "recommendations" but certainly in terms of explanatory and some caution or delimiting factors. So, Pat, we need to come back to that after our ... Before you move on. Thanks.

PATRICK KANE: Okay. Thanks, Cheryl. So, that was the text to talk about how we are looking at the recommendations and how we believe that they will be more accountable and transparent in terms of getting completed or retired appropriately. Correct?

CHERYL LANGDON-ORR: Yes.

PATRICK KANE: Okay. Because I thought what we had decided on that was that we would take that text and we would work that into the document with you and I, and then have Bernie put it in an appropriate place. If we want to [work with the text] we've got to write something up and put it to the team, but I felt like we had enough from the team to do that, and get that put in, and then identify where it is.

But if we want to walk through that and look at what that might look like ... I'm not certain we want to build that on the fly but how do we want to move forward? Let me, then, put it to the team. For that particular text, are you guys okay with Bernie, and Cheryl, and I putting together some brief verbiage, and then putting that to the team for review and approval? Again, it's not changing recommendations, it is clarifying.

VANDA SCARTEZINI: I agree.

PATRICK KANE: Okay. So, if there is no opposition to that ... Or if there is opposition, please select "no." I see nothing in chat and no "no's" in the participant window, so we will do that. We will identify where it is and we'll make sure that you guys see it and look at it. All right. So, let's go ahead and take five minutes, then, and be back at 6:23. I'm sorry, at 23 past the hour.

Thank you for starting us back up again, Brenda. All right. So, the next item we've got is the discussion of next steps. I think what we have—and this is what we'll talk about now—is the following. We need to complete the prologue, get the specific concerns that we have finalized, complete the text that we just talked about before the break, get minority statements in by next Friday close of business, and then shape up the document and submit. In that process, we will take a look at the prologue and the clarifying text at 23:00 UTC on Wednesday of next week.

CHERYL LANGDON-ORR: Pat, do you mean “as at” that time?

PATRICK KANE: I'm sorry?

CHERYL LANGDON-ORR: Well, that we'll meet at that time?

PATRICK KANE: We will meet at that time. We will get everything in by ... I'm sorry.

CHERYL LANGDON-ORR: Okay.

PATRICK KANE: I was confused. If I confused people ... We will have the prologue text and the clarifying text available late on Monday because we're going to be

done with the prologue stuff on 23:59. Actually, that's probably not doable given that it's the end of the day, but on Tuesday we'll have that text out for people to look at, and we will talk about it on Wednesday and close that text out on Wednesday at 23:00 UTC, get the minority positions in, or minority statements in, by close of business Friday of next week.

And then, we will finish up the document, put it together for everyone to see, and we will then submit. Questions, or concerns, or support for that process? Cheryl's thumb is up. Vanda, I get a green check. Sébastien is supportive. Thumbs up from Daniel. All right.

I see no objections either in the participant window or in the group chat, so that will be the course of action for next week. We'll get that documented and send that out. All right. Do we have any other business at this time? Sébastien, Wolfgang, is that a checkmark to say we have other business?

WOLFGANG KLEINWAECHTER: No. No other business at this time. Thank you.

PATRICK KANE: Thank you, Wolfgang. All right. If we have no other business, Negar, will you go through the action items that we have identified for today?

NEGAR FARZINNIA: I would be happy to, Pat. So, here are the items I've captured so far. The review team decided to change the epilogue to prologue. Review team

members are to review and provide input on the prologue by 23:59 UTC on Monday in preparation for the plenary discussion on Wednesday.

Pat and Cheryl to work with Bernie to put in clarifying text around the implementation, the disconnect between ICANN Org's reporting of implementation versus the community perception of implementation, that is due by 23:59 UTC on Tuesday. Both of these texts are to be presented to the Review Team on Wednesday and to be finalized.

Minority statements are to be submitted by next Friday by 23:59 UTC. Next Friday is the 15th of May. And last but not least, all of these documents are going to be put together/completed after the Friday input and sent to the review team for review. Please let me know if I've missed anything.

PATRICK KANE: No, Negar. Thank you very much. The only thing I would clarify is that, when we send them back out to the team for review, the documents are closed at that point in time.

NEGAR FARZINNIA: Thanks, Pat. Noted.

PATRICK KANE: Thank you. Bernie, your hand is raised.

BERNARD TURCOTTE: Yes. Negar, those texts, that includes both items. It includes the implementation of review recommendations and the organizational reviews.

NEGAR FARZINNIA: Thanks, Bernie. Appreciate the clarification. I'll put it in.

PATRICK KANE: All right. Thank you all very much. Cheryl, closing words?

CHERYL LANGDON-ORR: Other than thank you, everybody, for all of the discussion today, it really is important at this end of our process to get as much of these niggling little issues aired and sorted out. I think we're in a better situation because of it, so thanks to one and all for the effort they've made today and, of course, leading up to today.

PATRICK KANE: Thanks, everyone.

[END OF TRANSCRIPTION]