

STEVE CROCKER: I think we're in an unusual position of actually being ready to start and the appointed hour has not quite arrived. We are expecting Stephen Conroy to be dialing in, so we'll give it one more minute and then start off.

Mr. Conroy, I presume?

STEPHEN CONROY: G'day. How are you all?

STEVE CROCKER: Perfect. This is Steve Crocker. We have everybody who is going to be here at this time assembled in the Postel B conference room in Los Angeles. Besides you on the phone, three people are in transit and will be with us this afternoon. Fiona Asonga, Jørgen Andersen, and Lise Fuhr. The rest of us are actually amazingly sitting at the table, queued up, ready to go. So I declare this meeting open. Let me turn the floor over to Heather, and then Larry Strickling, and then I'll say something all in terms of introductions. I think we need to shuffle the agenda slightly to accommodate the late arrivals. So Larry?

LAWRENCE STRICKLING: (inaudible)

STEVE CROCKER: (inaudible). I think Heather wants to address that right away, actually. So good question. So, Heather.

HEATHER DRYDEN: All right. Good morning, everyone. As has been proposed, perhaps we can deal first with the issue of streaming the meeting and having all of our practices open. We had some informal discussion about this yesterday at dinner, and there seems to be a strong view that we adopt really the same practices that were in place with the last Review Team

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*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.*

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so that all of our workings and meetings are made available. Did you want to put any refinements to that question, Alice?

ALICE JANSEN: If the team is comfortable with streaming the meeting, we will post the link with Adobe Connect on the wiki so it's available to the public, and you're also welcome to post it on social media (inaudible). But we're ready, technically speaking, to go live.

HEATHER DRYDEN: Okay.

STEVE CROCKER: I have a question. So this will be live streaming that we're talking about.

ALICE JANSEN: Yes.

STEVE CROCKER: Audio, but not video, right?

ALICE JANSEN: Audio and the presentation – what is on the screen will be available.

STEVE CROCKER: Okay. But we don't have to worry about whether we're fashionably dressed or...?

ALICE JANSEN: No, of course not. For instance, if you decide you wish to go into private mode at some point during the session, then we can stop the streaming in the Adobe room, as the conference details are still private.

STEVE CROCKER: So there was comment, and I don't remember who made it, but I read the comment in the back and forth before – was whether or not this would facilitate people asking questions or people on the committee reaching out and getting real-time input as part of acting as a representative of constituencies or not. That (inaudible) into a different space from my point of view. I don't have any problem with having

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these proceedings with being visible, but I wasn't sure that we wanted to make them interactive in that sense.

HEATHER DRYDEN: Avri, and then Larry, you wanted to comment.

LAWRENCE STRICKLING: Actually, I'd like to get (inaudible) and then we can start having these discussions (inaudible).

AVRI DORIA: Can I ask one question about the methodologies of openness? The other question I have is the GNSL has a method whereby it is streamed out to just a stream without all the heavy bandwidth of Adobe Connect for those people who are in areas where Adobe is not usable. So I'm wondering if we can also consider that as one of the ways of doing it, that it was just streamed and I listened to it through iTunes. Thank you.

HEATHER DRYDEN: Okay. So I have Alan and Olivier.

ALAN GREENBERG: Thank you. With regard to the question of openness to other people, I know last time Cheryl, who was the At-Large person, had a Skype chat going and I understand that, on occasion, she would intervene and say, "Here's another idea that other people raised," or "Here's an issue that there's some concern." Clearly it's up to the Review Team to what extent you allow interventions like that, but I'm not sure we would want to forbid that happening in the background.

HEATHER DRYDEN: Okay. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. It's Olivier. Just question. Streaming, yes. But would that be recorded and would that be transcribed as well?

ALICE JANSEN: That's all for you to decide.

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HEATHER DRYDEN: So, Alice, you can do all of that. You just need the decision from us.

ALICE JANSEN: Yes. Referring to recording, just to be safe, but we need a firm decision from everyone.

HEATHER DRYDEN: Okay. Brian?

BRIAN CUTE: We had audio files. Did we transcribe as well first time around?

ALICE JANSEN: (inaudible)

BRIAN CUTE: Okay.

HEATHER DRYDEN: Okay. So this is the proposal. To have Adobe Connect having a link and to have our proceedings recorded and transcribed. So through general agreement about that. I can see some nodding. No one is resisting strongly. Carlos? That's strong agreement, okay. Steve?

STEVE CROCKER: Yes.

HEATHER DRYDEN: Yes. Okay, fine. So Alice, please consider that to be a decision taken.

ALICE JANSEN: Okay. We're going live then. Okay, thank you.

HEATHER DRYDEN: Thank you. Okay, shall I continue, Steve?

STEVE CROCKER: Please. (inaudible) just gone live, so why won't you do that. (inaudible)

HEATHER DRYDEN: Good morning, everybody. So here we are at our first face-to-face meeting of the ATRT 2. I think we can begin perhaps with a tab of who is present, and then we can begin to move through the agenda for the day.

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So my name is Heather Dryden. I am the chair of the Governmental Advisory Committee. I also work for the Canadian Ministry of Industry. So I'll move to my left, the other interim co-chair. Steve, if you could, please.

STEVE CROCKER:

Yeah. We want to make the interim as short as possible. I'm Steve Crocker, chairman of the Board of the Directors of ICANN along with Heather and Larry Strickling, our designated ex-officio members of this group, and along with Heather, one of the co-selectors. Heather and I bear the responsibility for the selections of the composition of this committee. We have asked you to check your tomatoes at the door.

MICHAEL YAKUSHEV:

I am Michael Yakushev. I am from Russia. I worked in different organizations of the Russian Internet community. I am here as an independent expert.

CARLOS RAUL GUTIERREZ:

I am Carlos Raúl Gutierrez from Costa Rica. I'm a member of the National Regulatory Agency in Costa Rica. I also represent Costa Rica in the governmental advisory committee, but I am here as an independent expert as well.

ALAN GREENBERG:

Thank you. I am Alan Greenberg. I'm here representing the ALAC, or at least I was endorsed by the ALAC. I'm on the ALAC committee. I'm the ALAC liaison to the GNSO. In real life, I'm semi-retired and do ICT for development consulting when someone is willing to pay me.

AVRI DORIA:

Good morning. I'm Avri Doria. I'm a member of the non-commercial stakeholder group within the GNSO. I was endorsed by the GNSO for participation in this. I tend to work as an itinerant researcher getting contracts and jobs wherever and whenever I can. Thank you.

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- BRIAN CUTE:** Good morning. My name is Brian Cute. I'm the CEO of Public Interest Registry. I'm a member of the registry stakeholders group and was endorsed by the GNSO.
- LAWRENCE STRICKLING:** This is Larry Strickling. I'm the administrator of the National Telecommunications and Information Administration in the U.S. government.
- DAVID CONRAD:** I'm David Conrad endorsed by SSAC, Security and Stability Advisory Committee. In my other life, I am primarily doing Internet technologies related consulting.
- DEMI GETSCHKO:** I'm Demi Getschko from Brazil. I am also one of the GNSO endorsed members of this group and I'm (inaudible) since the very beginning.
- ZHANG XINSHENG:** Good morning. My name is Zhang Xinsheng. I am a former telecom (inaudible) of the Ministry of Industry and Information Technology of China. (inaudible) I was a participant in ATRT 1 review process. I am delighted to be a Review Team member. It's been (inaudible) transparency review process. Thank you very much.
- OLIVIER CRÉPIN-LEBLOND:** Olivier Crépin-Leblond, ALAC chair endorsed by the ALAC. I'm also a chair of the English Chapter of the Internet Society and a whole lot of other things as well. Thank you.
- HEATHER DRYDEN:** Thank you, Olivier. And we have Stephen Conroy on the phone, if you could introduce yourself please.
- STEPHEN CONROY:** Hi, everyone. This is Stephen Conroy. I'm the Minister for Broadband Communication with Digital Economy in Australia. I just apologize to everyone. I have some legislation that is being debated at the moment here in Australia. That means I can't leave the country just at the
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moment. I was all booked to come. But I was endorsed by the Australian government.

HEATHER DRYDEN: Thank you very much. We're just glad that you can participate remotely. So, Steve, shall we continue to look at the agenda?

STEVE CROCKER: Yes.

HEATHER DRYDEN: Okay. The next item is adoption of the agenda for our meetings today and tomorrow. One proposed adjustment is to the consideration of the leadership of the ATRT 2. It was planned to be our first main order of business, but as we have some travelers expected to join us this afternoon that wish to participate or wish to put themselves forward for a position leading the ATRT 2, it's proposed that we move that agenda item to the afternoon and begin working through the afternoon's agenda in order to accommodate that. I can see some nodding. That seems acceptable to others.

Are there any other comments on the agenda for either today or tomorrow as proposed? I know we had some discussion of this online as well, so you've had a chance to look at a draft agenda before today. Larry?

LAWRENCE STRICKLING: Sorry for the technical glitch. So about a week ago, I had sent around a suggested format for how we might go through the three reports of the previous Review Teams. I think Steve had responded by passing that along to ICANN staff, but I don't know if we ever got an affirmation back that, in fact, we'll be able to go through the reviews with the level of rigor that I suggested we ought to have. I think this is really for

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tomorrow, but I just was checking to see if we would be able to have a fairly good, detailed discussion of these three reports tomorrow.

ALAN GREENBERG:

I'm as eager as you are to see what we get. We did look at it. I looked at it closely and we discussed it. The form of what you said was eight or nine questions with respect to each of the recommendations in each of the three reports. If you just take it syntactically, that blows out to be a pretty big amount of stuff and it came in this week, so there was just a physical limitation on (inaudible).

So I tried to interpret that in a useful way and say, okay, for the immediate interaction that we're going to have this week, here's core stuff, that we can get that up. Then anything that we can't get done in session this week, that doesn't close the door. We can have it extended and so forth. The intent is constructive and substantive and useful, the responses we can within the limitations.

Also, you don't really want, I suspect, a detailed laborious deconstruction of the entire thing along that matrix because the real answers will be buried deep in there somewhere. The idea is to get to what really counts. I think we're completely aligned in that respect.

LAWRENCE STRICKLING:

Great, thank you.

HEATHER DRYDEN:

Okay. Are there any other comments on the agenda or questions? Okay. All right, let's consider the agenda as presented with the change in today moving the afternoon's agenda to the morning and moving the leadership question to the afternoon. Let's consider that adopted.

And then let's move on to item number three: introduction and opening remarks. We've had a bit of an introduction, but in terms of opening



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remarks, this might be an opportunity for Review Team members to talk a bit about some of the expectations that they have about the Review Team briefly and to help set the tone, if you will, for our work for today and tomorrow. We've got some key aspects of our work that we'll be covering in the next couple of days. Perhaps this is an opportunity for that.

We can move around the table and give each an opportunity, or you can signal that you would like to make comments. We could do this either way. But perhaps, Steve, did you want to start with one of the ex-officio members?

STEVE CROCKER: I'm happy to, or whatever order. I've got a small handful of points to knock off if you want.

HEATHER DRYDEN: Okay, please, go ahead.

STEVE CROCKER: All right, thank you. Let me extend my initial welcome of everybody to say welcome to ICANN's facilities here. First, I want to recognize the quite excellent and extensive work the staff has done in preparing and supporting. We have Alice Jansen, Charla Shambley, and Denise Michel all conveniently gathered at the end of the table there.

Fadi is very, very aware and supportive and engaged in this effort and apologizes that he isn't here at this moment. He will be here tomorrow morning and wants to be – and will be – heavily involved in the presentation of the previous results and engaging with the committee.

I know that there's some carryover in terms of sensitivity about how seriously management takes this process. There's no mistake here. On

his behalf, I apologize, but I want to convey that he absolutely is strongly involved.

I want to make a couple of points about the process, but before I do that, I want to say something about composition of the committee. Heather and I are responsible for making the choices. There are basically three classes of people here – those that came in through the road of representing or being endorsed by one of the constituent organizations, one of the SOs/ACs, people who came as independent experts and then Larry, Heather, and me who are named as part of the structure of the process to hold positions here.

I think we talked about this on the call and I just want to emphasize. It's certainly from my point of view, and I hope everybody's point of view, the path by which we arrived is now irrelevant and we are uniformly all equal undistinguished members. Indistinguished. One of those means something slightly different, right? Members of the group. It's just a straightforward egalitarian collegial operation here.

So nobody is of greater or lesser importance, and hopefully we are all lined up to the same objective which is to look at the accountability and transparency of the entire organization without necessarily being focused on one particular constituency or the needs of one particular group.

Let me move to the next point. So I'm sometimes going to speak as Chairman of the Board of Directors of ICANN and I will sometimes speak as a member of this group, and I want to address a single point from both perspectives. In the previous Review Team, generated 27

recommendations and the board adopted all 27 recommendations and directed staff and others to implement it as rapidly as possible.

The posture from the board's side and from staff is that we've done a very, very solid job of looking down that direction and the presentation that you will hear, I think, will talk about one version or another. I don't want to put words in anybody's mouth, but we've implemented a lot of those.

Let me now take my board hat off, and as a member of this group, that's great, but now it's our job to listen carefully and make our own decision about how well that was implemented. That should be a completely independent judgment. I'm not saying that in the sense of undercutting or taking anything away from the organization. It's just the variation of trust, but verify.

As a member of this group, I'm 100 percent behind taking the most honest and probing look at what happened in the past and making our own judgment about it. At the same time, I'm very supportive of the work that staff has done and the board and all of the organizations that participated in different aspects of that.

One last point. Sitting on the board, we see a fairly substantial number of expert groups earnestly work at putting together recommendations. One of the syndromes that I have noticed over a long period of time – and it doesn't matter whether or not its DNS experts or technical people or whether it's economist or whether it's politicians or others – there is a little bit of a tendency, sometimes greater and sometimes less, for a group like this to become very convinced of its decisions and to have an

expectation that whatever it says has an immediate, direct, and unequivocal implementation and acceptance.

I can tell you from sitting on the board that that has to be modulated. There is an acceptance process and an evaluation process that has to take place. Are the recommendations actually feasible to implement? What is the cost of implementing? How much time is it going to take?

The board is very, very strongly oriented toward accepting the output of this group, as it was for the previous group. That's one step short of automatic rubber stamp, no questions asked about whatever comes out of this group – just as it would be for any other group.

So I want to sort of set the context there. We have noticed, for example, in some other settings that if an expert group takes into account the practicality of implementation or some of the context and seeks some input on that, that that facilitates the adoption process, and if they don't, then it extends the adoption process because then that work has to be done otherwise.

I don't want to put any pressure one way or the other on how this group operates. I just want to share what it looks like from the other side of the fence, if you will. The board is not at all dismissive or casual or resistant, but it is thoughtful and the board has a very strong obligation, a fiduciary responsibility, and a duty of care which it takes seriously. It does not try to duplicate or substitute itself for the work that this group does, or any other group, but it does act as a knowledgeable consumer, if you will.

I'm happy to answer questions if I can be helpful in any of that if you want to probe into it, but I wanted to share that up front. That's the set of opening remarks. We're keenly interested. It is a historic moment, basically, that we are now in the second iteration. This is the first time that we've done something for the second time, if you will.

That has a certain levity to it, but it also has a certain importance because we have the benefit of watching the previous process, which I would say was a very, very successful process and we now are in the position of being the draw on that experience and focus our attention.

And I have no idea where we're going to focus, but to focus our attention and make this an even more constructive and useful process, and hopefully to do it reasonable efficiency. Everybody on this team here is very busy. We know full well how engaged everybody is. So what we're looking for is how to be effective, how to be efficient, and how to make this just the most positive process possible. That's the end of my opening speech.

HEATHER DRYDEN:

Thank you very much, Steve. So if I can turn to Larry to offer some remarks. Thank you.

LAWRENCE STRICKLING:

Thank you. And I'll be brief. But as the other signer to the affirmation of commitments, I think it's appropriate that I just say a few words. I think it's terrific that you're, for the first time, doing something a second time. I'm very much looking forward to it. I'm very pleased that some of the veterans of the first team are back to participate, but certainly it's great to have the new folks join as well to bring their knowledge and expertise to bear in all of this.

Our task is very straightforward and it's set out in the Affirmation of Commitments, and that is to take – evaluate ICANN in terms of how its outcomes reflect the public interest and are accountable to all stakeholders.

What's new about this, at least over the last three years, is that there's been a very strong effort to really internationalize this evaluation. I think that's reflected in the membership of this team just as it was in the first team. But I'm very pleased that we have all areas of the world represented, and this team in particular, we have Mr. Zhang from China, we have Russia represented, we have all other regions of the world represented and I think that's absolutely critical to continuing to build on the progress that ICANN has made over the last three years to become a more international organization and to be responsive to the needs of all the stakeholders wherever they come from.

I do believe that ICANN as an organization has made substantial progress over the last three years, in part due to the work of these Review Teams, but I think also just in terms of a tremendous amount of work that's been done throughout the organization and throughout its stakeholders to improve its accountability and transparency.

Now obviously we have a new challenge with this group which is to review the very substantial and substantive body of work that has been developed in the last three years in the form of reports of the three Review Teams that have come before us, but again, I don't think we want to lose sight of the very specific charge that's laid out in Section 9.1 of the Affirmation of Commitments in terms of what our role should be.

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So that while we will need to review this work, we should not feel that we're limited or constrained in any way by the issues that have been identified by previous teams. We certainly want to evaluate how well ICANN has understood the recommendations that have been made to it, how well they've implemented it. But I think at the same time we need to provide our own independent judgment as a group in terms of what still needs to be done.

Then the only thing I would hope that we can do, and I'm glad that we started off on a good foot this morning is that we need to practice what we preach. We need to be fully transparent and fully accountable through all of our activities, and I hope that that guides all of us in our work as we move forward with this. Thank you.

HEATHER DRYDEN: Thank you very much, Larry. Would any others like to offer some remarks at this point?

STEVE CROCKER: Are you going to go down the list or around the table?

HEATHER DRYDEN: Yes, I can go around the table if that makes things easier.

MICHAEL YAKUSHEV: I'm Michael Yakushev. I will try to be very, very brief. So I am here as an independent expert, but of course the Russian Internet Community within the former (inaudible) countries and the Russian government would also be very interested in what our Review Team would do and what kind of results are expected from our activity.

There is sudden dissatisfaction of, again, certain aspects of how and what ICANN does and how it can be improved. And also, this dissatisfaction comes from the governmental offices from our Russian

officials, as well from certain groups within the community and their community of registrars, especially if we are talking about (inaudible).

Given all that, of course we're all united and we all understand quite well that ICANN is a great achievement. It's a great common value, which we all respect and we should do our best to conserve all the positive, which can be found within ICANN and to improve all the negative factors and negative aspects of what can be now just be found in the ICANN activities.

So that's why I think our first task is to do our best to express our common understanding of the (inaudible) of ICANN and all the positive parts of ICANN of itself.

Second, I have had an experience of working within the (inaudible) of your team for the last two years and I'm very glad to see people with whom we did this hard work. I also understand the position of Steve that not all final recommendations should be accepted by the board as they are, and we will not have the final word on any process or any recommendation. However, the participation of our great colleagues, Heather, Steve and Larry within our group I think to be very helpful to make our final recommendations as feasible as they can and just to make them really work.

So my last suggestion is to stop our substantial work with expressing of our concerns and personal recommendations after the review of what happened before, how the previous AoC Review Teams worked, how their recommendations were implemented, and then it would be clear for us what the possibilities, the real potential, and the real possibilities



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for our group to deliver recommendations and to expect that they're fully implemented. So I wish to all of us great work and great results.

HEATHER DRYDEN:

Thank you for that, Michael. Carlos?

CARLOS RAUL GUTIERREZ:

Yes, thank you very much, Steve, for explaining the source of these nominations. I feel very honored. I'm used in my position to represent my personal position. It's my duty in Costa Rica on the Regulatory Board, but nevertheless I am grateful to the other board members that they let me come and act independently.

Our institution is very new. I feel very honored because I have very short experience in these matters, but when we started the opening of the telecom market four years ago, one of the first questions we faced was the high price of the (ITC), of the Costa Rican domain names. The software industry in Costa Rica is (thriving) and they saw it as a major hindrance to the development of (ITC) in Costa Rica, and ever since I've been involved in this issue.

So there is big interest in Costa Rica, not only by the government, but by businesses to know what's happening here, and I have to admit that we lack knowledge about this system and that's why I think it's very valuable to spend time here.

The second time I faced questions about ICANN is when ICANN Costa Rica. Rodrigo de la Parra was very active in the region promoting interest for ICANN and it helped us prepare journalists, politicians about the meeting and we prepared the first day, and you were there, the first meeting with governmental officials that we prepared and the board

was kind enough to show up in Costa Rica the first day and faced politicians from the region.

But the challenge Rodrigo and I had was to find out who are Internet policymakers in the region. It wasn't that easy. In the case of Latin America, if you ask these questions, are the ministers – who is making policy? Who is making policy in Latin America? It was quite a challenge. We got a mixed group of people, but it was very interesting the (inaudible) to Costa Rica and we keep working on trying to increase the representation of Latin America in this body, which we think it's pretty low.

Happily with the nomination of Rodrigo as the Vice President for Latin America, he has been doing a tremendous job, and just a few days ago the first draft of a Latin American policy group came up, so I think it's bearing fruit in the region as well.

The third time I faced this – well, and of course ever since you came to Costa Rica, I've had the opportunity to represent Costa Rica in GAC and it has been only an opportunity, but because GAC requires a lot of work, and we have not been able to dedicate enough resources from the Costa Rican government to GAC's work. This is another challenge that our country has faced to recognize how important GAC's work is, but how much it takes to actively participate in GAC.

The third time was, of course, Dubai which was very important to governments through Latin America. In the case of Costa Rica, we had the opportunity to do the first really multi-stakeholder work as preparation for Dubai. We had nine sessions. I myself participated in (IDN) Working Group in Geneva three times, and that allows to take the

decision in real time in Dubai, and I think the decision of Costa Rica not to sign the proposed changes to the ITR was well-thought and well-prepared decision, and it was multi-stakeholder.

And although we had few people on the ground, it was taken at the highest level and that was based in the involvement of Costa Rica into ICANN. So for that we are really grateful for this opportunity, although I'm not talking (inaudible) government of Costa Rica, but we're proud that we prepared well and we think that we had a sound decision.

(inaudible) I'm facing questions of my colleagues last week from our Brazilian colleagues of Anatel. Why didn't we sign? And I'm able to explain why we didn't sign, because I think it was not the right place to discuss these issues, and one of the right places to discuss a lot of those issues is here. As my friends of Anatel in Brazil answered, "Yes, but we don't have the representation to ICANN as the foreign industry."

Okay. Again, Latin American countries have a problem how to represent their positions on policies because of this very difficult division of responsibilities and lack of resources within the government.

Finally, I'm looking forward for this meeting. I'm fascinated by this process. I think ICANN is a process. But I'm fascinated. It's challenging for non-native speakers to follow discussions sometimes, and it's nothing to just translate documents. It's just the syntax of using words like "users", "stakeholders", "constituencies", "communities" that is pretty challenging. What is the ICANN community? How the ICANN community is different to the ISO community. When Olivier spoke, I forgot to say that I'm in the process of creating and keeping alive the Costa Rican chapter of ISO as well.

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So I come with a prejudice because of my training of focusing on the development of this institution. Independently of the governance model, I get a feeling from the first reviews that all this work has been very thorough, but very internally focused and it lacks contextual development to other related institutions.

In preparing to this meeting, I had a teleconference with Jesse Sowell from MIT and I was very happy to hear that he had a conversation with you a few weeks ago. For me, it's very important to relate ICANN, as I said, in Costa Rica. I don't know if I'm in the records to relate to ICANN. Where is ICANN in the food chain of the Internet business model? How does it relate with governments, with ITU? How does it relate with private sector agents that are acting for profit and so on? I think my fascination with this issue is where do we put ICANN and where do we put their accountability and transparency of ICANN in relation to all this other institutions? So thank you again.

HEATHER DRYDEN:

Thank you, Carlos. Please, Alan.

ALAN GREENBERG:

Thank you. I can't say I'm here representing a country or a region, but I do represent a part of the organization and have a fair amount of experience in the last several years of working within the grassroots of this organization and trying to make it effective, make it credible and make it productive. I know from my perspective, I'd like to focus on some of those issues.

The first ATRT looked at, to a large extent, the first two and the first three items in the laundry list that we had from the ALC. I believe we need to put a significant focus on the other items, in particular the last one, of the effectiveness of the policy development process. To a large

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extent, that's what many of our volunteers are here to do and I don't think we're doing it optimally right now.

So I think part of our responsibility is to look at it from that perspective, and to look at the other reviews and judge whether they're really meeting the end point that we were looking for as opposed to, did we implement the recommendations?

The more substantive question I think is are we using those reviews effectively to further the organization in the way the ALC was pushing it? Again, I personally have some views. They may be shared or not. But I think we have to look at some of those things. We of course will not ignore the board and the GAC, which were heavily focused on last time, if only to review those positions and perhaps look at some other new initiatives. But I think we need to fill the gaps this time. Thank you.

HEATHER DRYDEN:

Thank you, Alan. Avri?

AVRI DORIA:

Thank you. I come at this from really two separate perspectives. One of them is as an ICANN Working Group member for many years in many working groups sort of slogging through the work, and looking at it from the perspective of community ownership for that work and looking at very much the interactions between ICANN, the community that does the policy work; and ICANN, the board and staff that sort of oversees and serves that working purpose and find within the stakeholder groups and constituencies that I'm involved with, often we are confused by how all that is working is supposed to work.

So that's one of the things that both the stakeholder group that I come out of has charged me with sort of looking at and such. One of the

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things that comes out of that is, for example, the notions of transparency. I think it's really quite good that the ATRT this morning found its way back to transparency.

One of the things that we had advocated during the first ATRT was that transparency was a given and its only if you wanted to close something that you needed to take processes and come up with various stages of opacity that had to have good reason, good foundations, and that those decisions themselves were transparent, when you decided to close something for some reason.

So having us perhaps look at the notion of transparency, what it means to be a transparent organization and what it means to sometimes have to close things so that you can get the work done. Is it personal reasons? Is it financial? Is it whatever? They're obviously good reasons.

But we started this meeting from the perspective of it's closed; how do we open it? As opposed to it's open, it's transparent; is there anything we need to shield? That's a perspective thing I'd hope we can look at.

The other perspective I come from is, as a participant in things like the IGF, a participant in things like the issues that are coming up in terms of enhanced cooperation, which are very key in terms of ICANN's participation with the rest of the world.

In looking at those, while sometimes at ICANN I'm an annoyance and a pain in sort saying, "We have to do this, we have to do that," in that environment, I kind of find myself constantly defending ICANN and its perspective and its multi-stakeholder model and sometimes I feel some personal dissonance between the ferocity with which I defend it in one

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environment and the ferocity with which I argue about it in another environment.

So I'm hoping we can bring the image of what we are and what we sell to the world as the premier multi-stakeholder organization more in alliance with what we actually are. Thanks.

HEATHER DRYDEN:

Thank you, Avri. Brian, please.

BRIAN CUTE:

Thank you. I just want to first say that I appreciate very much Steve's remarks at the outset. Your remarks are well-received and your offering that from time to time you'll be offering perspectives in your role as chair of ICANN is completely understood, but also endeavoring to offer your view as a member of the Review Team. I hope that doesn't throw you into an acute state of schizophrenia, but I do trust that knowing you, you'll provide honest inputs from both perspectives along the way and that's well-received.

I think also the issue you touched on about the feasibility of recommendations is important. ATRT 1 was cutting new ground in all of this and I think you put your finger on something important, that there are real world issues about feasibility whether it's budget, resources, legal analysis that can affect the implementation of a recommendation.

Perhaps what we can do this time around is see that as we move the work forward, that inputs from both a board perspective and a staff perspective on feasibility aspects as something that's more fully entered into the discussion and the evolution of the work.

That being said, from my perspective, the most important thing about the work that we're going to do is that we do it with a sense of

independence and objectivity. There's a fine balance between the inputs from ICANN and the work of the Review Team that I think we're all acutely aware of in terms of the output.

But for each person on the team, I come from the registry stakeholders group. My thinking is certainly informed by the views of that group, but I think each of us does owe it to this work to come to the work with some sense of objectivity and independence as well, and that ultimately what we're trying to do is make recommendations to the organization about accountability and transparency and how to do that better.

And the last thought I would offer is also that we all come to the work with a full appreciation and respect for the work that staff does in supporting us. Denise and Alice were here the last time around and this broader staff is going to provide us with excellent support, I'm sure. That's well-appreciated.

Also, with respect to Denise in particular, Denise has a unique responsibility with respect to recommendation implementation. We worked long and hard together the first time around, and Denise does very good work, sometimes in challenging circumstances as well, that we're not fully aware of.

The point here is that as we work closely with Denise and staff, it's really the organization that we're speaking to and we need to keep that in mind. It's not just Denise, it's not just Steve, but the broader view of this is about accountability and transparency for the entire organization and we need to keep our focus there. Thank you.

HEATHER DRYDEN:

Thank you, Brian. David, please.



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DAVID CONRAD:

I am honored to be a part of this group. I come actually from I think a somewhat unique background. For people who don't know me, I was on staff at ICANN from 2005-2010. I ran IANA for a good portion of that time, so I do have some view as to how the (sausage) at least was made in the past internally within ICANN.

However, I left ICANN three years ago. I have since been involved in a variety of odd jobs here and there doing consulting in various forms. I'm particularly interested coming out of the Security and Stability Advisory Committee, in the aspects of the accountability and transparency review that impact the security and stability of the identifiers that ICANN is responsible for, I have a lot of background in pretty much all of the identifiers one way or another. I ran one of the regional registries for a while. I've been involved in DNS software development and that sort of thing. So I definitely come from a very technical background.

One of the areas – there are actually two areas that I'm particularly interested in. One is how we identify in the context of this group those substantive areas in which we will focus our attention. And in addition, figuring out if there is a way that we can come up with objective metrics by which we can measure the performance of these reviews for measuring the accountability and transparency improvement that ICANN makes over time. And obviously I interested in contributing in whatever way I can in that area. Thank you.

HEATHER DRYDEN:

Thank you very much, David. Demi, please.

DEMI GETSCHKO:

I am also very excited to be part of this group. I think this is a (inaudible) set of (inaudible). In my opinion, this is the right time to begin this revision because we are on the verge of completion of the first phase of

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New gTLD's dissemination. We also have another, in my opinion, very difficult issue, the (inaudible) IPv4 and the dissemination of IPv6.

I suppose this is a good opportunity to shed a very good light over what ICANN does as far as transparency and (inaudible) in a very big picture. I will stress that ICANN exactly very much (inaudible) domains, but we have to pay attention also to the second N of the name, that is numbers, not more names. ICANN is for names and numbers. It's very important for accountability reasons, also to take account of this very important job. This (inaudible) not names.

As for me, I work for a private not-for-profit institution, the Brazilian Registry, (inaudible). I am not a member of the Brazilian government. Just to stress a point that I suppose all of you know, in Brazil Internet is not under the regulation of the telecom agency. The Internet is a (valid) service and is not subject to telecom regulation and (rules).

Finally I want to just take the opportunity to recognize the terrific job that Steve Crocker is doing in ICANN. ICANN is a better looking institution to have this kind of quality leadership. Thank you.

HEATHER DRYDEN:

Thank you, Demi. Please, Mr. Zhang.

ZHANG XINSHENG:

Thank you. As to (inaudible) three years earlier, the work conducted by ATRT 1. The (suited) foundation for this process. (inaudible) community and the transparency for ICANN. Following up with the implementation of ATRT 1 recommendations, I'm delighted that ICANN has a (inaudible) regarding old performance GAC's interaction with the board (inaudible) development in the process. (inaudible) community (inaudible).

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In addition, this year it's noticeable that the piece of internationalization of ICANN is gaining momentum with (inaudible). So ATRT 1 provided (inaudible) for ATRT 2 in many aspects.

However, (inaudible) for ICANN. (inaudible). I hope all the Review Team's members may work together bringing (inaudible) in each area. Thank you.

HEATHER DRYDEN: Thank you. Olivier, please.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Heather. It's Olivier here. One of the problems with being the last person in the queue is that everyone else has said what you wanted to say, and I do echo a lot of what's been said around this table. I think it's great to follow up on the first ATRT.

One of the big problems that ICANN has faced over the years is that it has received a lot of criticism from outside the organization for being opaque, for being a (caval) of people who are just in it to make a quick buck for a number of accusations, some of which might have some truth to it, some of which might be totally wrong and might just be politically inclined. And yet with the first ATRT having been finalized and implementation having gone through, and there's still a lot of work on the horizon.

Recently when I was in Dubai as part of the U.K. Delegation in the WCIT discussions and corridors with some governments that have shown hostility towards ICANN have still shown that there is a misunderstanding of this organization. There is still a feeling from some parts of the world that this organization is run by the U.S. government, that it's just a smokescreen, that we're just here as little puppets and

that there needs to be another organization out there that will counteract this U.S. imperialism worldwide.

I personally think it's absolute rubbish to accuse the organization of such a thing. Just looking around this table seeing the number of nationalities, the number of people from around the table that are gathered here, it really comes as a credit to this organization.

And looking at the overall communities in ICANN, all continents are represented and so many countries are out there at various levels – industry, governments, but also users. And that multi-stakeholder model I think is particularly important in the ecosystem that we're a part of.

So as we're going into the second ATRT, I think the key point for me is to really look out for the public interest. That's actually in the briefing that we've got, and this is one thing which we need to really think about for absolutely each one of our reviews and each one of the things that we look at. Does it serve the public interest? I really hope that we manage to put our finger on it.

The first ATRT was accused also of being rushed. I think that we've got a bit more time hopefully this time around, and I really hope that we will be able to implement the findings of this group, although I do understand that the board might not agree with everything that's being said here.

But this is really very much like looking at ourselves in the mirror and being very critical of ourselves and not being shy of criticizing what we

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think is actually wrong and not in the public interest, and I hope that we'll all stick to our word on this. Thank you.

HEATHER DRYDEN: Thank you, Olivier. Stephen Conroy, would you like to make some comments?

STEPHEN CONROY: Look, thanks. I want to endorse many of the things that have been said, so I'm happy to let the meeting proceed.

HEATHER DRYDEN: Thank you. I guess I will take advantage of having the microphone just to make a few comments that are coming from a particular perspective as chair of the Governmental Advisory Committee at ICANN.

You are aware that that is one capacity which I serve, but also the chair of the GAC is a liaison to the board as well, so drawing on that, there may be things that I'm aware of, that I have observed, that I will be able to contribute to our work and I will endeavor to do that.

And along very much the same lines as other speakers, there are expectations from government about the Review Team and this is viewed as really being the key mechanism for looking at accountability and transparency at an organizational level.

There was certainly a great deal of interest in the first Review Team and I think we can see, at a minimum, via the participation from governments in this Review Team the second time around furthers that understanding about the value that governments see in this activity.

We did have a high level meeting in Toronto where the team was preserving and improving the multi-stakeholder model, so there was some discussion there about what participants in that meeting may put

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forward for our work in the Review Team, so I will be able to draw off that.

All this to say that I expect the contributions that I will make to the Review Team will be very much complementary not only to my government colleagues on the Review Team, but others as well. I do take the point that we need to work collegially, and as the Review Team as well as contributing other particular perspectives based on our backgrounds and so on.

I also would note that one of the running themes through what people have commented is in reference to the broader context. ICANN is not an island. It does not exist in a vacuum and we know there's a lot of interest in development and furthering this work. That clearly came across I think in the comments that people made.

Other things related to the importance of objectivity in our work, independence in our work and being able to draw on a diversity of views and experience not only on the basis of who's in the Review Team, but finding ways to draw on that from the community and others as well; and as we address this issue to begin our work in relation to openness of our working methods, so I'm glad to see that that's been established from the very beginning so we can now move on from that. So I think we can now move further through the agenda.

DENISE MICHEL: Heather?

HEATHER DRYDEN: Denise, yes, please.

DENISE MICHEL: Thanks. I just wanted to say hello and introduce myself to just a couple of members who have not met me before. I'm Denise Michel. I'm the

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Vice President for Strategic Initiatives and advisor to the President and CEO. I wanted to let you know that I'm very close to hiring a senior director in charge of reviews and assessments. Their first and most important job will be to be providing substantive support and serving as a key liaison to this team.

We're all very much looking forward to working with you. Fadi in particular has cut short his global tour to fly back and spend the morning with you tomorrow and he is also very much looking forward to that. And Jamie. We have the pleasure of having Jamie here too. Jamie Hedlund, our Vice President who's based in D.C. and head of North America. Welcome and thank you very much for volunteering your time for this really important endeavor.

HEATHER DRYDEN: Thank you very much, Denise.

DENISE MICHEL: Also, I may sound like I'm coughing up a lung, but it's really (worse). It's not as bad as it sounds and I'm not contagious. I apologize if I interrupt your session.

HEATHER DRYDEN: Thank you for clarifying that. Also, we do have other staff. I think it's worth mentioning Alice Jansen, because I believe she's really our point person for the team.

DENISE MICHEL: She is. Alice is one of the most extraordinary managers we have at ICANN and she'll be your go-to person for all the operational, administrative, and issues and support for the team. She is engaged and has a special vacation plan unfortunately that coincides with one of your meeting. But Charla Shambley, who is new to ICANN, is getting quickly

up to speed on support and working with Alice, so we have two people providing support. Charla is Alice's backup.

HEATHER DRYDEN:

Welcome, Charla, and thank you Alice for again taking on this task of supporting the Review Team. I know that we will be relying on you to help us and guide us based on that experience. That's very valuable to us. Just to draw on a point that I think Brian made in his comments, for us, the staff that we're working with in this Review Team, you really are our ICANN for us and a really important link to the organization and so I hope that Review Team members will remain mindful of that and the importance of the communications and enable us to work together positively on that basis.

Okay. All right. I think we can move to the next agenda item. So we're going to move four until this afternoon, as on the agenda presented to you and move to item five. This is to analyze and discuss the mandate – in other words, the Affirmation of Commitments and the charter.

What you have in hard copy is the section of the Affirmation of Commitments that relate to the Review Team, and as well the Terms of Reference and Methodology from the previous Review Team. So I propose that we start with the Affirmation of Commitments, and perhaps have a bit of discussion around this which will also serve the purpose of reminding us a bit about what are the contents of the mandate for the Affirmation.

In the Affirmation, there are one, two, three, four, five specific things that the Review Team is asked to do and that remains our main piece of guidance for our work, and then some related information about how the Review Team is comprised and to be formed.



So perhaps we can walk through the items marked as A, B, C, D, and E unless someone has an alternative proposal for how we organize a discussion about that. Then if we can pick up some speed as we get into an interesting discussion. Let's do that. Steve, do you have a proposal?

STEVE CROCKER:

Just a couple of points that I should have inserted earlier. One of the sort of side results of the selection process was a keen awareness that everybody who had applied to join this team was conscientious and very engaged and interested, and aside from whatever the disappointments were – and the numbers were, just to repeat, roughly our selection was about one out of three, just in terms of the (inaudible). So for every person in this room, there's two more people outside who wanted to be in this room and who are not here.

So a thought is that a potential useful task for us is to listen to those people and get their inputs, and that's just a suggestion. I mean, it's for this group to decide whether it wants to do it or not. But in terms of planning out our work, that might be one of the elements. I appreciated, Denise, that you mentioned Jamie. I was feeling bad that I hadn't mentioned you earlier.

Then the last thing is with respect to timing. I'm under the impression that there is a nominal desire to have this completed by the end of this calendar year. I am also under the impression – and I'm not 100 percent up to speed on whether there are any formal rules about this – but I'm also under the impression that that's a desire, but not a required result.

Larry, I'm watching you because you helped draft the rules and you were around before, and Brian you were. So I don't know what the dynamic is, but my own preference is get it right rather than get it fast.

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LAWRENCE STRICKLING: I think we should do both, and we did it the last time that way. Very, I think, early on in the process of ATRT 1, people started wringing their hands about, "We'll never get this done, we'll never get this done." But I think the AOC was quite clear that the first review needed to be done by the end of December 2010. It's clear that each subsequent review needs to occur on a three-year cycle. I think it would be tragic to start at our first meeting and suggest we aren't going to try to make an end date of the end of this year. I think our responsibility to the stakeholders as well as the need to get onto this, I would hope we would set a date to complete by the end of the year, and then find every way to stick to it.

STEVE CROCKER: I don't want to be misinterpreted as suggesting that we should slip longer, but if we're going to hold the end of the year as our target, then it becomes incumbent, just from pure management point of view that every decision we make about what we're going to take on and how we're going to schedule ourselves be viewed from the perspective of the entire period of time as opposed to, "Well, I'm busy this week and we can't get to that and so forth," because that's the way that things just slip and slip and slip.

LAWRENCE STRICKLING: And I think somebody already pointed this out. I think ATRT 1 didn't actually get started until May of 2010. We have a two month head start over the work of the last group and we have much more of a blueprint in terms of what to look at. So my feeling is there's no reason why we can't organize ourselves to get this done this year.

STEVE CROCKER: Right. And some of us in the software development business know about the second system syndrome, in which now that we've got it

under control, we can do all these things and know how to do it. So yeah.

HEATHER DRYDEN:

Okay. So we have a proposal to have a working deadline of the end of the calendar year. So, December 31, 2013. And while we can draw on experience from previous Review Teams, we do have an increased task in the sense that we're reviewing the three Review Teams that have already taken place so we will need to adjust a bit in light of that. But I don't see violent objections to proceeding on that basis and just keeping that deadline in mind as we begin to plan and scope the work in greater detail today and tomorrow. Okay. All right. So there we are. We have a working deadline.

So as I mentioned, we have the reference to the Affirmation of Commitments and the Review Team in front of us, and several things that remain relevant for us to guide our work and this is beginning with Point A. In A, the Review Team guidance is to continually assess and improve ICANN Board of Directors 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.

Okay. So would anyone like to comment on this in particular? Okay, the board chair might want to comment.

STEVE CROCKER:

So as you said, there's five big points here in the structure of this review, and we're talking about just the first point. But as I read that first point, it itself has some structure to it, and to my eye, it's helpful to break it apart into a couple of pieces.

The first thing that you said is continually assessing and improving ICANN Board of Directors governance which shall include an ongoing evaluation of board performance. So that is a chunk of work and I'm not 100 percent sure exactly what is encompassed in all of that and I'm eager to see how that goes, but that means we've got to define what the performance is an how to assess it and so forth, and that I'm keenly interested in.

The next item, the board selection process, the extent to which the board composition meets ICANN's presence and future needs I read as a separate, obviously related, but distinct piece of work requiring separate discussion and looking at that. Quite obviously the process of selecting board members, which includes half of them roughly come through the Nominations Committee process, and half of them come through the SOs and ALAC selection for the Voting Board members. Then if one wants to include the liaisons, which I can tell you are very valuable and organic piece of the board's operation, that's a separate piece of work.

And then, finally, the appeal mechanism for board decisions opens up a different set of issues and I don't want to be in the position of sounding defensive or anything, so I won't say very much about that with the exception that I'm not – the only board decisions – what I'm looking for is, what is our history of appeals? And my recollection – and this is top of my head without having done the homework – is that there's been a handful of reconsideration requests and I don't think any of them succeeded.

Then there was the XXX Decision that was done through an external process, and that in effect, overturned the board decision and put the board in a position for having to change its position and I know that that was highly controversial. I can also tell you that it was kind of an awkward situation in that the board was in a damned-if-you-do and damned-if-you-don't position no matter which side it took.

So my view is that – just returning to my main point here – is that the single bullet A is, in some ways, three distinct pieces, each of which has a fair amount of substance to it, and so if we're going to go into those, I don't want to lose track of which piece of that we're talking about. And maybe people disagree that they're separable or quasi-separable.

HEATHER DRYDEN:

Thank you, Steve. Please, David.

DAVID CONRAD:

With regard to the board composition, I just wanted to clarify. So is that – you mentioned the liaisons. Is the focus of this, or do we need to make a determination on whether or not the liaisons are considered part of this analysis or not? Because I would argue that we should include the liaisons because they do play a very critical role on the board as far as I'm aware. So if we need to make a distinction or determination about whether to include the liaisons when we're examining the composition of the board, then I would say that, yes, we should.

HEATHER DRYDEN:

Thank you. Okay. I would also point out that tomorrow morning we'll be starting to look at the work that was conducted in Review Team 1 in greater specifics, so we'll be looking again at what exactly was done in the first Review Team to put a bit of detail to the current discussion we're having at quite a high level. So just anticipate that as well.

All right. Did anyone else want to comment on the board? Avri, please.

AVRI DORIA:

Thank you. One of the things that I notice in this is this is one of three bullets that has the word “continually” in it, tending towards textual analysis. So basically I guess I’d also like to add to the list of things that we’re looking at what does it mean to have mechanisms in place that transparently and with accountability continually assess these things? To the point seem to be periodic that (B and E) assess it in the (inaudible). But three of them specifically have the “continually” which I think is a really good idea, but I’m wondering to what extent do we do that and to what extent do we have the mechanisms in place for a transparent, accountable, continual process of assessment?

HEATHER DRYDEN:

Thank you, Avri. Okay. Any other comments? All right. So the next part is B, assessing the role and effectiveness of the GAC and its 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.

I can perhaps start us off by saying a few things on this topic. You might be aware that there is a board GAC recommendation implementation Working Group that is still working, and this was formed between the GAC and the board in order to implement the recommendations that relate particularly to the GAC and that relationship that is covered in Point B.

In principle, those recommendations have been implemented or at least started in a meaningful way, and then some of the processes are somewhat iterative and so that has led to there being a continued effort by the Working Group to conclude on all the recommendations.

One of the points that is particularly challenging and was perhaps ambitious for the GAC with the board to make significant progress with a degree of isolation to that work is regarding GAC early engagement in the policy development process.

So in order to address that, it's something where you would want involvement of other parts of the community, and looking at things perhaps more at an organizational level than breaking it down to components of the GAC and the board. So that's one thing that really stands out for me as being an important area for the upcoming Review Team.

HEATHER DRYDEN:

Did anyone want to comment on this particular part of the Affirmation, the GAC? Carlos, please.

CARLOS RAUL GUTIERREZ:

I don't represent the GAC, but I really want to make emphasis as the different aspects of this very important and difficult relationship, to be able to assess – not difficult relationship. And following a little bit the separation of different niches there, I guess a lot of critique, as Olivier mentioned, from governments is based on the lack of understanding of GAC. Not GAC advice; GAC itself. GAC as a body. I don't want to get into the semantics of the issue.

So understanding of the governments of GAC is crucial. Evaluation of the resource is that GAC representation requires, not the resources that GAC requires. I don't want to get involved in the discussions of the Secretariat and the donor countries. As I mentioned in my introduction, the resources that governments have to devote to public policy in Internet is also a big black hole.

And also a third element of GAC is the representation. I don't know who mentioned that we, as a regulator, don't have a policy issue in Internet. We inherited from the U.S. because our (opening) is based on a free trade agreement. We inherited a philosophy of separating telecommunication issues from information issues, but we lack the flexibility of the U.S. court system every five years to review. It's different. I mean, in the U.S., they go to court and then one day decided where the line is, and five years later, they moved the line; and five years later, they moved the line back. But in our countries, we lack this flexibility.

Another source of the misunderstanding of GAC, and that's why I quoted my conversation with the Brazilian colleagues a week ago, is Brazil being the only country in Latin America that has a well-functioning coordinating system of the different parties involved in the public policy discussion, I feel here from my colleagues, well, the problem is we have to defend our interest in Dubai because it's another ministry who represents Brazil in ICANN or in GAC.

So only a few countries represented in GAC, based on my experience, have an integral coordinating system and I can count them basically with a hand. It would be the European Commission, Canada, Australia, and New Zealand which excel in their work in GAC. I want to thank Stephen Conroy because Australians are really leaders in our work. That's a problem and that's a major source of these comments and public comments.



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So it's not a review of GAC, but I think what GAC needs is GAC has an explanation and image – not an image probably in the negative sense; it has to be better solved. Thank you.

HEATHER DRYDEN:

Thank you. I would agree with that I think, Carlos. Demi, please.

DEMI GETSCHKO:

Just to make a short comment on that and also clarification. I remember historically the GAC was formed with the people that basically was indicated by ITU to ICANN in the very beginning. Then the people that comprised the GAC, the first versions of the GAC, was basically regulators or from the Ministry of Telecommunication account.

And one of the first problems that they found that they noted that there was something like the Internet in (inaudible), and normally this initiative was not under the Ministry of Telecommunication or under the regulator, but in the specific country. This began the (inaudible) between GAC and the (SEC) community in the very beginning with a lot of proposals to have regulations and so and so.

And just to touch briefly the Brazilian case, in Brazil have the ability to, at that time, we have established it yet the Steering Committee and they invited people from Brazil from two ministries – the Science and Technology end, also the Telecommunications and the Ministry of Technology of course indicated that the chair of the Brazilian Internet Steering Committee was still part of the official delegation, and to avoid all that kind of representation – official representation of course – the Ministry of Foreign Relations to (part) on this also.

I suppose we sometimes forgot to understand the game of the Internet. I am not sure if it's already fully understood.

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CARLOS RAUL GUTIERREZ: I'm sorry, Heather, because we're on record. My fifth mention was to do European Commission. I think DG CONNECT has an integral view. I also wanted to mention that, thank you.

HEATHER DRYDEN: Thank you. Okay. Are there any other comments on this item? Okay. All right. So let's move to C, which is continually assessing and improving the processes by which ICANN receives public input, including adequate explanation of decisions taken and the rationale thereof. So are there any comments on that? Alan, please.

ALAN GREENBERG: I think the last phrase that is explanations and rationales for why decisions are taken certainly at the board level, was looked at by the ATRT 1 and significant changes have happened because of that. We perhaps need to assess is it being done exactly right or could it be improved? But certainly things are better. I think things are also better at the non-board level on a similar level. What I don't think we're doing very well right now is soliciting input, and in some cases using that input when it does come in.

I think the largest part of the problem is we're not reaching people who really care enough to put any input in. For the typical public comment period – and ICANN runs numberable public comments – the total number of comments is also often very small, often very focused on (inaudible) aspects, and quite often sadly the major contributors are those who have much money in the game.

And I don't think we're effective. I don't think we're reaching the right people. I don't think we're always considering the input well. There's a whole bunch of things that I think we need to do better, and I don't have a clue how to do it. Thank you.

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HEATHER DRYDEN: So implicate in what you're saying, that there are some challenges with the current way that things are done. Okay. So I have Avri and Olivier.

AVRI DORIA: Thanks. Yeah, I very much agree with what Alan said. I think there has been great improvement beyond just the board, and the board, that has improved greatly. Again I'll point up the word "continually" – continue to do that.

But I think that that whole outreach for comment is really one of the places where there is a lack, so it may actually be an issue of methodologies, not of intent, that the problem lies. I think we've also seen improvement in some of the other processes in terms of not only getting those comments but responding to them and such. Again, a ways to go.

So I think there has been great improvement, but again the notion of continuing improvement is sort of missing. We've had sort of the leaps and starts. There is something new; we try it, but we don't necessarily go back and assess how is this working, is it working, can we improve it? And that's sort of the constant improvement process is sort of not really in place. It's we try something and then we kind of wait until the next time somebody raises a flag that there's a problem. So it's improved, but that continual process is what's missing for me.

HEATHER DRYDEN: Thank you. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. It's Olivier. The sentence here which mentions improving the processes by which ICANN receives public input to me resounds a little bit like a look at the bygone years of times when you just receive input these days with all the advertising and the campaigns

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that are out there, this really should be how ICANN actively seeks public input. It hasn't done so, and that could be one of the reasons why it is misunderstood, because it hasn't seeked it. It just said, "The door is open. You can come in as you wish." But if you don't know what is behind the door, it's very unlikely that we'll get people spontaneously walking in.

HEATHER DRYDEN:

Thank you. And I guess along with that is not just seeking, but then responding to it as well. Okay. Are there any other comments, requests, to speak? Okay. All right. So let's go through point B, which is continually assessing the extent to which ICANN's decisions are embraced, supported, and accepted by the public and the Internet community. Okay, Avri.

AVRI DORIA:

Are we doing this at all? I don't remember us sort of going back and sort of saying, "We made this decision last year and it has been implemented now and we'd like your feedback." So I don't even think I get to make my continual comment here. I'm not sure that I've noticed. Perhaps I've missed it, but I actually haven't seen us going back and saying, "Did we do a good job?"

HEATHER DRYDEN:

Thank you, Avri. Brian?

BRIAN CUTE:

This provision strikes me as one of those that, in part, may lend itself to measurement and in part is very difficult to measure. I'm going to encourage the team here to think creatively about how we could gather data on this point.

The first Review Team, we engaged an independent expert – The Berkman Center – who did some very helpful and very in-depth case

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study analysis for us. That exercise and engagement of that resource was fit for purpose for our first exercise. I think we need to think creatively and differently, and I think this is one of the questions that would be very helpful if we can do an effective job in collecting data on this, even if all we do is collect data and comment on it as opposed to make a recommendation at the end of the day. That would be helpful.

HEATHER DRYDEN:

Thank you. That's a useful bit of background for us, and I think our first real discussion about data, at least at these face-to-face meetings. So we are going to need to talk about indicators a bit as well and that kind of thing. All right. Nothing further on this point. Oh, sorry. Alan, I had you. Yes, please.

ALAN GREENBERG:

I know. I just fade into the background. I think we're approaching this one at an interesting time. The three words there are embraced, supported, and accepted. I think, for the most part, embraced, eh?; supported, eh?; accepted, yes. I mean, to a large extent what ICANN has done is done and the world had no choice but to accept. For purposes of the transcript, would you spell "eh"? That one was an E-H-?

We're in an interesting world right now. One of the recent decisions of ICANN was introducing New gTLDs. The world has not necessarily embraced everything that was in those details and we've seen a continual revision, relook, reevaluation. So I think we're in an interesting world right now to look at this one and the answer may well be different. The question of "How should we have done it better?" since not everything that we've done has been embraced timely.

HEATHER DRYDEN:

Thank you, Alan.

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DENISE MICHEL: Heather?

HEATHER DRYDEN: Denise.

DENISE MICHEL: Yeah. So a broader comment I think perhaps underlying a lot of this is the mandate that was followed by the first ATRT shifted focus of its analysis from how ICANN assesses its performance in these various key areas, which is what's stipulated in the Affirmation of Commitments to how ICANN actually performs in these key areas.

A lot of useful recommendations came out of it, but ICANN's commitment to assessing is often given short (inaudible) and I think Brian alluded to this. It's one of the more challenging aspects of what ICANN is committed to doing and one of the most challenging things to actually do. So I'd like to make a pitch for this team to consider the element of how ICANN should be assessing and benchmarking these (affirms).

HEATHER DRYDEN: Thank you, Denise. All right. Well, let's move to the next, which is point E, assessing the policy development process to facilitate, enhance cross-community deliberations and effective and timely policy development. All right. Would anyone like to comment on this point? David, please.

DAVID CONRAD: Out of all of these, the last two seem to provide themselves the best ability to actually come up with objective metrics in order to do measurement. Out of curiosity, has anyone actually looked at, particularly, the timely aspect of policy development? Has there been measurements judging how long it's been taking to get the policies implemented within the ICANN context since the last review?

HEATHER DRYDEN: No.

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DAVID CONRAD: Easy.

HEATHER DRYDEN: All right. Anyone else? Carlos.

CARLOS RAUL GUTIERREZ: I would add to your comment, David, the interaction. I was fascinated by the presentation we got in Toronto for the policy development process, the interaction between GNSO and GAC. I also am very interested in this discussion of the Policy versus Implementation paper that was distributed.

I think the metrics of this policy development has to be measured not only in time, but in terms of the interactions within the different organizations and so on. I see the light there. I don't see the light in the measurement of the growth of the Internet and so on, but I think there is a good basis to have a discussion very fast on what you just mentioned.

HEATHER DRYDEN: Thank you, Carlos. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. It's Olivier here. This (inaudible) sentence to me reads very much like an assessment of the balanced multi-stakeholder model of policy making, which is unique in its sense. So I very much support it.

HEATHER DRYDEN: Alan?

ALAN GREENBERG: Thank you. I'll just point out that this one folds back onto the second one on the GAC. As Heather mentioned, one of the issues is how does the GAC get involved in the process as opposed to critiquing it and commenting on it afterwards? And that folds right back into this. And there is the policy process factoring in all the needs of the community at

the time policies are developed, and if not, how do we fix that and make it better? I think it's a core question for the group.

HEATHER DRYDEN:

Thank you, Alan. I'll use that opportunity to add a bit of emphasis to something that I'm observing at ICANN and that is just the sheer volume of work. What I think is the need for the community to identify a way to prioritize this work in a way that supports the bottom-up nature of the policy development process.

But speaking from the perspective of the Governmental Advisory Committee where we have quite a broad remit, there's really quite a wide range of issues that we would look at in relation to gTLD, ccTLDs, as well as secondarily how ICANN is structured, that there are various processes that run related to that where the GAC also is trying to comment. It's really overwhelming. We are not keeping up and we're not even close.

And attempts to get this on the agenda or really get focused thinking about how to address this, what are the right mechanisms, have failed so far – at least with me raising it. So I do hope that this is something that the Review Team would seriously consider taking up and looking at because I believe going to constrain our ability to work effectively.

So you will see it in perhaps limited responses to public comment periods. You might see it – a need to focus on some issues that are very important and actually not being able to address others that are also very important, and that's a terrible situation to be in and the GAC doesn't control the timeline for the policy development process.



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We feel like we're on the receiving end of much of this. Anyway, I put that to you for your consideration. Alan, did you want to comment?

ALAN GREENBERG:

I think it's a problem that everyone feels, and moreover, everyone feels they're not in control. And yet if the solution is to prioritize, that translates in some people's minds as we are going to ignore issues that are critical to some groups in the community, and we need to figure out how we don't do that, because very few of the issues that we're spending time on are unimportant.

This is a messy world we're in right now. Sadly, to some extent, we ignored things for a bunch of years and it's coming back to bite us. We can talk when we get to the substance of ways around it. I'm not sure it's as simple as prioritizing and taking the top five items. I don't think that's going to fly.

HEATHER DRYDEN:

I think it's worth having that discussion about how to refer to it, that exercise, and bring the focus that's needed to allow people to work without, as I said, challenging the nature of the bottom-up policy development process and keeping all that good stuff that we like about how the community works, and at the same time being realistic about focusing and putting together a strategic plan for the organization that's realistic or that identifies areas of focus or whatever the best way there is to articulate that need. Yeah. But that's an important consideration. Thank you.

Okay. I see no other requests to comment on this. So we're a little bit early even with the planned coffee break. My feeling is that we might benefit from having a coffee break at this point, and then give Steve and

I a chance to plan to continue the discussion after the break. Okay. So let's take a 15-minute break. Thank you.

Okay. I think we can start up again, so thank you, everyone, for coming back to the room. I've spoken to Steve and done a bit of thinking about how we might spend our time between now and lunchtime to help flesh out the charter a bit further, building on what we've discussed this morning and the emerging points coming out of that discussion. I'm also mindful that our first order of business when we come back from lunch will hopefully be selection of leadership of the Review Team. So I don't want to be taking in too much into our current interim efforts until we have that leadership issue addressed. That way the leaders of the Review Team can shape the details further and the work plan, and I think it's important to allow them to do that.

So here's what I propose. That we look at inviting comments on the recommendations that Review Team members would anticipate or would like to see coming out of this Review Team, bearing in mind that this is to help us put together the beginnings of a charter. So if we can do a kind of list of the key issues that Review Team members see, we have mentioned a few of them this morning so we can keep those in mind. Some are probably worth repeating in the discussion we're having now. But does that seem like a good way to proceed for this next period? Okay. Good. I can see some nodding. Okay.

So as I mentioned, we have a series of recommendations coming out of ATRT 1 and if we're here again, the assumption is that there are perhaps new recommendations or refinements to be made to the

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recommendations that were made earlier, or perhaps the implementation of them ultimately.

So to start off, is anyone willing to come forward and talk about what are some of the key recommendations that they would like to see or issues that they would like to see the Review Team focus on following ATRT 1? (inaudible) question.

AVRI DORIA:

Quick question. This is beyond those that already came up or should those be at least reiterated, things that came up this morning? For example, we had talked about metrics for assessment, we had talked about the notions of transparency. Are those already on the list or are those things we're looking at adding now?

HEATHER DRYDEN:

I think it's worth reiterating. If you like, I can try to sum up some of those key points, and then we can flesh them out. I'm looking down the table to Alice. Can you assist us as well if we...? Perfect. Thank you. Okay. So we have a list that we will compile, at least in rough form, as we move through our discussion. So thank you, Alice. All right. Brian, yes?

BRIAN CUTE:

Yeah, if I may, maybe to order the work a little bit, could we start at the point at what under the AoC are we explicitly expected to do with respect to the prior reviews, implementation of those recommendations? Maybe if we start there and just be clear on the baseline work that we are expected to do, and then begin to build on that with the other issues that may be beyond the prior work. Just a suggestion. Because there's language at the end of 9.1 that I think informs what this group is supposed to do at a minimum.

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As said, “Each of the foregoing reviews shall consider the extent to which the assessments and actions undertaken by ICANN have been successful in ensuring that ICANN is acting transparently, is accountable for decision-making and acts in the public interest.” And “Integral to the foregoing reviews will be assessments to the extent to which the board and staff have implemented the recommendations arising out of the other commitment reviews enumerated below.”

So I think the basic baseline is we need to look back at the recommendations of the other Review Teams to make an assessment of how the board and staff have implemented those recommendations and come to some conclusions.

Beyond that language – this is just my view – is that this Review Team making an assessment of the review processes themselves is also something that would be a useful output as a discrete part of the exercise.

Thirdly, what I heard surfacing through some of the comments were specific areas or issues where maybe the original Review Team didn’t put emphasis, whether it was D and E in that list of five or perhaps other issues beyond what the original Review Team focused on began to surface. Maybe an approach to that as a charter building.

HEATHER DRYDEN:

Sounds good, I think. Larry, please.

LAWRENCE STRICKLING:

And just to add to Brian’s comments, I would hope that we would get community input very early into this process. I think everybody coming to this table obviously comes with their own ideas and concepts that we want to add to this review, but we certainly were guided last time by

what the community at large felt about this, and I would hope that perhaps taking some of the language Brian just read, we might be able to craft some sort of a request for comment that could go out very quickly to get at these issues in terms of how the community feels about it.

But I do think a good starting point is to look at, in terms of processing, to look at the recommendations from the three groups. It seems to me that it's not just implementation that we need to look at. We need to hear from the community in terms of how well ICANN interpreted what the recommendation was.

In other words, there was a written recommendation and then there was something that ICANN decided to go ahead and implement and I think we ought to have some evaluation as to, was that done in an appropriate and adequate way? I'm not suggesting it wasn't, but it does seem like that's the first question.

And then once ICANN said, "Here's what we're going to do," how well have they implemented it? Then the third part of it is, having done all that, does it satisfy the standard that Brian just read? And if it doesn't, what are the additional areas that need to be addressed?

And I think those four simple questions could go out in some sort of a request for comment from the community very, very quickly so that we could get the benefit of that thinking to inform us as we move forward.

HEATHER DRYDEN:

Thank you, Larry. I have Steve and then David.

STEVE CROCKER:

Yeah. Thanks very much, Larry. I realized that I don't know if we've got a session scheduled in Beijing to interact with the public, which would feel

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like it would be a natural thing to do to send out the kind of request you're talking about and then encourage some spirited interaction. We've had a lot of discussion about having this group meet in this kind of setting by itself, but we haven't had any discussion about a public interaction. Has that come up at all?

ALICE JANSEN: It's actually to be discussed today, so the team will be planning whether it wants to meet with this (meeting) Beijing today.

STEVE CROCKER: So I take it from that that the meetings – the planning process – anticipates that we might do that.

ALICE JANSEN: Yes, we have a placeholder.

STEVE CROCKER: We have a placeholder. So that's good. And then while I have the floor, whenever you like, if you like, I'll take you through a little tour of my thinking and actions that were taken about trying to improve board efficiency. It is pretty modest, boring bureaucratic stuff, but I like it a lot because I think we're making some improvements. So I'll be happy to give you the prospective from the chair's position operating as a bureaucratic manager, which I know is just the most exciting stuff possible.

LAWRENCE STRICKLING: So on Steve's very good suggestion of engaging with the public in Beijing, I certainly would support that, although I would guess that if the committee wants to move forward with a request for comment, that probably wouldn't have all come in in the short period of time we have before Beijing, but it still doesn't hurt to sit down and listen to the public every time we get together, frankly.

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Beyond that, I was going to suggest when we got to the discussion of Beijing, what I think would be a very potentially helpful discussion if we could sit down with those members of the other three Review Teams in a discussion in Beijing as well. Obviously not everybody will be there, but such members are present, the idea of having this group hear from some subset of members of each of the other three groups, I think would also be very helpful to our efforts as well.

HEATHER DRYDEN: Thank you. I think that is a good suggestion. So I have David, then Avri.

DAVID CONRAD: I'm not sure this exactly fits in with this section, but one of the things that I would be interested in hearing particularly from the folks who had participated in the previous ATRT is the areas in which they felt that the review process itself was done well or in areas where improvement was needed so that this version of the ATRT can actually try to leverage the lessons that were learned in the previous session.

HEATHER DRYDEN: Thank you. And as I understand it, it's a proposal to the Review Team participants about how the Review Team process works. Yes?

DAVID CONRAD: Right. In particular, the ones that participated in ATRT 1.

HEATHER DRYDEN: Okay. Thank you. All right. So next I have Avri, then Alan.

AVRI DORIA: In terms of going out and getting community input, I actually think that comment periods and requests for input that span a meeting are actually some of the most effective that we have. You start getting it, people start writing, you have sessions, then it really gets that – and then you have another couple weeks that give a notice that those are among the most effective.

Also, though, I'd to add two to the list there and that was the metrics and methods for continual assessment as something we need to look at. And then also, just as a way of phrasing it at the moment, transparency as a default condition as opposed to a longer phrase on what that means, but those two, I'd like to sort of add to the list if I could. Thanks.

HEATHER DRYDEN:

Thank you. Okay. So I just want to pause a moment so that we can capture what we're talking about. I still have you in the speaking order, Alan. So if we can go back to the first point that you have. So put it in front of that, first of all, looking at the recommendations of the three groups. So I think that was, yeah, a first step. Maybe an obvious one, but one that I think we can usefully state.

And then the third point of a set of three was asking the question: does it satisfy the standard that's outlined in the Affirmation? So we can use the language from the Affirmation I think to detail this. Okay. But we can toss that in. Yes, Brian, you're helping us.

BRIAN CUTE:

If I may. I think we're doing two things at the same time. One is trying to build our scope of work as a task and the other is engagement with the community. And what I heard Larry to suggest was that in our exercise of building our scope of work that community input is important. So just to cleave the two for a second from each other.

And with respect to Beijing, obviously if we want community input on what we should be reviewing, our scope of work, we need to be clear in terms of our call for that. We need to think about the mechanism for how we do that, whether that is an in-person interaction which is more of a listening session or a call for comments, which is its own mechanism, and that requires us to put some thought to what



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questions we're putting out, that a comment period be launched and opened and close in a sufficient time for us to integrate that into a scope of work building process which may or may not be the best vehicle.

So I just want us to stop and focus. Our first task is that we're building a scope of work. Community input is important to that. What's the best way to capture that, I guess is my question.

HEATHER DRYDEN:

Right. Okay. Thank you. So for the item building, the scope, and community input to assist us in doing that. We have the meeting in Beijing, and to be more specific, that is anticipated to be a meeting with the community or finding a mechanism for gaining community input, as well as meeting with the Review Team members that are present at the meeting. So if we can include that as well. It's good to be as specific as we can.

All right. And then in terms of greater detail about the scope, then we have two items currently and that is transparency as a default for the Review Team. Am I understanding that correctly, Avri?

AVRI DORIA:

Actually, I was actually broader than transparency as a standard for the Review Team. So transparency as a standard for all work done by ICANN.

HEATHER DRYDEN:

Okay. Thank you for clarifying. Okay. And then the other point was metrics and methods for continual improvement and put some emphasis on the word "continual" so it helps us remember that this is a particular reference to the affirmation of commitment, and a particular

concept there is that Avri is recommending that we pay greater attention to. Okay, so next I have Alan.

ALAN GREENBERG:

Thank you. I just want to call attention back to what Steve said earlier of trying to solicit input from the people who didn't get onto the group. Now that could be considered simply a subset of the community. I think we may want to address something to them in a more targeted way, and we may even want to consider for those who are in Beijing, and some of them will be, to have subsets of this group, go and interview them and talk instead of just soliciting the (document) input.

HEATHER DRYDEN:

Thank you. As I recall, there was a really good response to raising that with those that were not selected for the Review Team. We can certainly include that in the list. Steve, I have you next.

STEVE CROCKER:

Thank you. As you might imagine, listening to endless touting of our multi-stakeholders of our commitment to accountability and transparency, all which I think is absolutely fine and I'm 100 percent behind it. But I have to share, and I've said publically many times, that the other side of my personality said, "Do we ever get anything done?" because it's perfectly possible to be completely accountable, completely transparent, and completely ineffective.

So the mantra that I've been pushing is efficiency and effectiveness, not at the expense of accountability and transparency, not at the expense of a multi-stakeholder model but also not to be compromised.

It doesn't say anything like that in this charter, and if this group says, well, that's not in our charter and we're not going to do it, that's fine. But I tell you that, from my position – and now I'm speaking as the

board chair as opposed to a member of the committee here – it is a very strong concern of mine, and I’ve put energy into it and I’m happy to share with you the set of moves – some small, some slightly larger than small – none of which are super dramatic and some of which are open issues that we haven’t solved yet in my view.

But I am not comfortable focusing only on accountability and transparency without looking at the rest of the picture. It’s not really the other side of the coin. It’s sort of broadening the picture of how we make this organization really work. Because if it doesn’t get anything done, if it’s not effective at its job, who’s going to care about whether or not we’re open and transparent and all that?

HEATHER DRYDEN:

Okay. Thank you, Steve. All right. So we can, I think, detail that point a little further as well and I suspect others will be making essentially the same point, but may articulate it a bit differently. I think that’s useful. Okay. So would anyone else like to raise a point to put forward as a particular scope or emphasis for this effort of the Review Team? David, please.

DAVID CONRAD:

So coming from SSAC, one of the issues that is core to my participation here is the how the processes by which ICANN is doing the things that it does, how they are ensuring the security and stability of the Internet and how that can be verified in an accountable and transparent way.

So in the AoC, there were large sections that talked about the security and stability, resiliency of the systems that ICANN is responsible for in some sense, or coordinates, rather. I would like to have a sort of greater emphasis in the analysis that we perform on those aspects of how

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ICANN can be accountable and transparent in ensuring security and stability moving forward.

HEATHER DRYDEN: Okay. So I think we can mention security and stability as part of that point. I think that's an important link in what David is saying. Next, Olivier, please.

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. It's Olivier here. I have a question. Under the efficiency and effectiveness that Steve has mentioned, would cross community interaction and work fall under that? And would also extra community interaction work fall under that?

STEVE CROCKER: You're posing that as a question to me. I would absorb your question and transform it slightly. "Has there been sufficient input and coordination across the community and from the different segments?" is the question and that relates to – I'm sorry, that relates to efficiency. That relates to effectiveness, actually. And if the answer to that is no, then going to the processes for supporting that. So that's kind of an interpreted yes to your question, but transformed into the mode of looking at the effectiveness.

OLIVIER CRÉPIN-LEBLOND: And so externally. Engaging externally with the community outside those walls.

STEVE CROCKER: I guess I don't understand the distinction. I'm not pushing back. I just don't understand what line that you're drawing in terms of – say more.

OLIVIER CRÉPIN-LEBLOND: It's basically the difference between in-reach and outreach, if in-reach is being correctly undertaken. If we've broken down the silos within ICANN, that's one side of the argument and the other one being if we've broken down the paper walls to the outside world.

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STEVE CROCKER: Yeah. So that, actually, in my mind touches on probably a very important and bigger topic about both the structure of ICANN in terms of are the SOs and ACs the right structure, and the constituencies and stakeholder groups within them and so forth on the one hand? And a point raised first this morning by Michael and by others. To what extent can people who are not intimate insiders understand what we do? How do they engage and do we make sense? I think all of that is part of a grand discussion that's worth having.

HEATHER DRYDEN: Okay, thank you. Alan, please.

ALAN GREENBERG: Thank you. I think these discussions are starting fold back on themselves several times. It shows how tied together these are. By talking about efficiency, effectiveness, that goes right back to the issue of: how do we prioritize and make effective use of our time and still get our job done? How do we get people involved?

It's easy to say what we do is so complex that people outside of the organization just don't understand it, but let's face it, most of what we do is not well-understood by people inside the organization if it's not in their particular little niche. I think this all comes together of how do we end up doing the work we're supposed to be doing? How do we deliver? How do we deliver good policy and how do we do it in an effective manner?

HEATHER DRYDEN: Thank you. Are there any other? Larry.

LAWRENCE STRICKLING: Just looking at what's up on the screen, I wanted to propose a slight amendment. What's on the screen right now, there's a line that reads "Looking at the recommendations of the three other groups" and then

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underneath that, there's a line "ICANN's interpretation of recommendations" and then below that "Does it satisfy the standard outline?"

It seems to me that those are two of three bullets that probably ought to go under the issue of looking at the recommendations. And then the third one that's missing that I would propose go in between the two that are there are "Assessing ICANN's implementation of the recommendation."

So question one was, did they interpret it the way it was intended or did they have to scale it back or modify it for whatever reason? Then secondly, how well did they implement what they said they were going to implement? And the third one was, does that implementation basically take care of the issue, satisfy the standard?

I would propose that we indent the two that are there under "reviewing recommendations" and add the third one as a second bullet of the three, if that makes sense.

STEVE CROCKER:

But I did. So go down one line to the "ICANN's interpretation". Indent that one and the one below it, so indent the (asking) there. Just tab that. Same with the one above. The one above it, "ICANN's interpretation" – nope, nope, nope, nope. Good. Yes.

PARTICIPANT:

There we go. Thank you.

HEATHER DRYDEN:

Thank you. That makes it quite clear I think. All right. So further comments to help us flesh out, in particular, the scope and how to invite community input? Carlos.

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CARLOS RAUL GUTIERREZ: I have a question to Larry related to community input. Being the second round, would you expect that the output is another list or could we foresee that we design a better output that covers some issues like the ones discussed in (reach out), outreach, silos and so on and that we should not only define the scope and the boundaries but try to foresee an output that is more, I don't know, holistic integral so that we can show that's what we're expecting?

And that would, in my view, facilitate input because if I hear that people don't understand ICANN, people are in (inaudible) and we come with another laundry list of 30 points and ask the points that we might receive if we get many – I doubt we get many – will be very, very specific. Shouldn't we include maybe this is too early in today's? Should we have a discussion of what we expect – I would expect from the second Review Team that the output is a little bit more structured than just what we have from the first one, 27 points or something like that, that already (is the output) addresses these questions that were so nicely discussed between Steve and Olivier just before and Alan. I thought it was very useful to continue with discussion, apart from the list. Thank you.

HEATHER DRYDEN: Thank you, Carlos. Larry?

LAWRENCE STRICKLING: My only point in suggesting we would like to get public input early on is just that we're all smart people, but none of us individually and certainly as a group, in no way could assume that we really understand what everybody is thinking about the state of accountability and transparency in ICANN and I just would like to make sure that our work is informed at

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the outset from having given everybody else an opportunity to tell us what they think about it. It certainly helped us a lot three years ago.

How we then take that information and structure it in terms of what the work plan becomes, I think we keep that open as a question to talk about at our next meeting. But I'd like to have – just as I've heard a number of really outstanding ideas already expressed here, I'm confident that the community will bring additional ideas to the table that we haven't thought of and I'd like to make sure we have the benefit of that.

HEATHER DRYDEN: Thank you. Alan?

ALAN GREENBERG: As Larry was talking it struck me that we wasted an awful lot of time over the last few months where we could have had a public comment soliciting input from the community before we even met. Maybe we should suggest the third Review Team does that. It would have been a great opportunity. So our first face-to-face meeting, we would have the benefit of community input.

HEATHER DRYDEN: Thank you, Alan. Oliver, please.

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. It's Olivier. I fully support Larry's views here. Maybe I'm ready to make a suggestion, to open a common period as soon as possible for public input, have our public meeting in Beijing and keep that comment period open for another three weeks after the Beijing meeting. As we know, everyone is absolutely beat the week afterwards and maybe even two weeks afterwards, and therefore we'll have three weeks after the Beijing meeting, hopefully, quite a decent set of input from people.



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- LAWRENCE STRICKLING: This is Larry. We'd be happy to participate in a smaller group to draft what that would look like. I don't think it's long. It has to have a certain amount of structure, but I think we could get something circulated early next week with the input from anybody else who would like to participate to put something together.
- STEVE CROCKER: The "we" is you and Fiona? I got it. You said you'd be happy to – that we'd be happy to draft something.
- LAWRENCE STRICKLING: Right. But I don't want to be presumptuous.
- STEVE CROCKER: No, no, I was just trying to understand.
- LAWRENCE STRICKLING: We're willing to put resources to this immediately and invite everyone else to join.
- STEVE CROCKER: More than happy for you to do it. I was just trying to understand who the "we" was and it's you and your partner there.
- HEATHER DRYDEN: Okay. So I think this is good progress. So, all right, are there any other contributions to this effort at this point? In terms of meeting in Beijing, I just looked at the schedule and I see we're meeting near the beginning of the week and then there's a question mark next to "meeting with the ICANN community". What would the opportunities really be for us to meet with—
- ALICE JANSEN: That would be Wednesday.
- HEATHER DRYDEN: It would be Wednesday. And are Review Team members anticipated to be there until Wednesday or some coming or...?
- ALICE JANSEN: The travel team has the approved dates. So they should be here.
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HEATHER DRYDEN: Okay. So Wednesday for the GAC we have meetings all day. Is that open time for other parts of the community? Is that realistic for others? I just don't know the schedule well enough.

STEVE CROCKER: Most of us have meetings scheduled all the time. GNSO meets in the afternoon. There's usually Work Group meetings in the morning. So anything we schedule is going to be either miss it or miss something else.

HEATHER DRYDEN: Yes. We need to prioritize. Thank you, Steve.

STEVE CROCKER: Or I can supply us with time machines so we can be in two places at once.

HEATHER DRYDEN: Okay. David?

DAVID CONRAD: Clarification. Alice, I believe the travel – so Wednesday, the 11<sup>th</sup> right? April 11<sup>th</sup>?

ALICE JANSEN: (inaudible)

DAVID CONRAD: Okay, never mind.

HEATHER DRYDEN: Okay. All right. It looks like we would try to schedule something for Wednesday to invite comment. Hopefully by the beginning of next week we can take this effort and refine it further so that we can put out an invitation in the form of a public comment, as well as prepare for that interaction with the community and with other Review Team members when we get to Beijing. So those are our nearer term targets for this effort.

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All right. So coming back to the scope, are there any other salient points that people feel they would like to raise at this point? And because we're going to be developing this further, this isn't your last chance to get in a comment on this. Yeah, Alan?

ALAN GREENBERG:

Thank you. I'm not sure. I can construe some of those as implying we're talking about reviewing the policy development process in ICANN, but it's not explicitly there, so I don't know if the intent was, that is – whatever it is – C – D or E of the AoC review. I could construe it as being there, but I'm not sure it's clear to everyone.

HEATHER DRYDEN:

Okay. All right. We can clarify that and make it a bit more clear about the policy development process and I would happily take in suggestions about how to articulate the point that I raised about the volume of work at ICANN and the nature of the policy development process as it relates to that issue. If I can find the right words, I will propose them, if not today, then as we develop this further.

Okay. So no one else has input on this currently. All right, so what to do next?

STEVE CROCKER:

I stand ready if you want to...

HEATHER DRYDEN:

Steve, please, I will hand off to you.

STEVE CROCKER:

Okay. Well, so what I offered before, just to be clear, is to give you a little tour of the evolution of the processes that we've made and, to some extent, are still making or still have some open problems. So just to be super clear, treat this as if you were meeting with a member of the community. In this case, the member of the community is Chairman of the Board talking about board processes. So now I'm not one of you;

I'm a visitor into this committee informing the committee about what things look like.

So the ATRT recommendations contain a number of changes proposed for the board's operations and we took all of those seriously. One of the ones that was quite substantive was adding rationale – more substance to the rationale about why we've made various decisions and how they relate to the inputs we've had.

But in addition to what's come out of the ATRT recommendations just driven by our own intuitions and standards, we've been trying to tighten up and improve the board processes. I want to take you through a handful of somewhat related and somewhat separate – just things that what I really view as sort of management level tuning and tightening and dealing with things. These are in no particular order.

One of the problems that I inherited is that the board meetings tended to run on extraordinarily long. I'm talking particularly about telephonic board meetings that would be scheduled for two hours and would run three hours, and these are scheduled at – whatever time they're scheduled, they're always awkward for somebody. So it starts at 1:00 AM and goes to 4:00 AM and are physically painful.

A related phenomena is that during the ICANN week we had a pattern of trying to move things through from committee meetings to board meetings during the course of the week or from SO inputs into board meetings, and we had late night drafting sessions typically on Thursday night lasting – and I'm not exaggerating – until 2:00 or 3:00 in the morning frequently. Again, physically painful, and error prone, frankly. And then we'd try to pass resolutions on Friday morning.

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My attitude about all of that is this was a fundamental mistake and that we should really change the mode of operation. We should be deliberate in making our decisions. We should put the right amount of time in there.

The other aspect is that when you dissect why there was so much time going into all these at the last minute, it was really because the process had not matured. We had a resolution that was mostly right but not quite right. There were people coming in late to the people who said, "Oh, now I understand what we're talking about. I want to have a discussion about this issue," or redrafting something.

So in the mode of trying to tune and debug a program, one of the things that I pushed hard on – I don't have any problem if we have disagreements and we want to put those disagreements on the record, but I do have a problem with people who haven't done their homework and we're cramming all of that process into the same period that we're trying to run our formal process.

So I want to divide those apart and move the discussion, debate, deliberation process that allows each of us to come to our opinion, our decision, about something earlier in the process. So we initiated information calls focused on particular topics, tried to institute a process of having, for everything that comes before the board, a shepherd, somebody who's moving it through the board. Typically a board member; sometimes a staff member. It's not a super political process, but the main issue is more one of attention cycles than it is about lining up support and getting people to pay attention, to engage early enough. And then if it doesn't happen, if it isn't mature, then

having the discipline to defer the boat until that's ready. So that's been one stream of activity that tried to institute.

Another thing which I tried experimentally and it didn't work out was to try to make the board meetings lightweight enough, short enough, relatively short in time, and schedule them on demand so that the board is not a bottleneck when something is actually ready. That turned out not to work very well, because what I had not realized was how much of the rest of the system is geared toward setting the pace of their own work in order to make a board meeting schedule.

So I backed away from that and flipped 180 degrees and said, "Okay, we will have set schedules for board meetings." But I didn't back away from that doesn't mean you get to rush things through and then say, "We made it, ha!" and now you're going to pass it. Well, if it's ready, yes. And if it's not ready, well then, you didn't make it.

An entirely different thing is we've had a somewhat peculiar process for choosing board members. We had a staggered system in which the NomCom selected people started at the Annual General Meeting, the last formal meeting of the year. And the SO appointed people started six months after that. And the reason for that was to provide clarity for the NomCom as to what the geographic balance was going to be so that they can meet the requirements for at least one, and no more than five, from any given region.

That led to multiple oddities. One oddity was that people's terms expired in no man's land in between meeting and without ceremony and somebody else had to be appointed and showed up again with no – didn't fit anywhere. So in May or in June or April or something,

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somebody would all of a sudden now be on the board, but induction process was messy and so forth.

There was an attempt to fix that problem by having the terms extended for up to two months so that it would synchronize with an ICANN meeting if it existed.

We've set that aside and simply said all of the voting members will start at the Annual General Meeting, but the selection process or the SO and ALAC appointed people will be early, as it had been. So we have the same flow of information going into the NomCom and we just have a deferral of the seating of those people until the fall – northern hemisphere fall I'm obliged to say.

And that was a nontrivial piece of work that required a change to the bylaws and the public comment process and it has been put in place, I'm pleased to say. That means that this year, I guess it's just two people, whose terms would have expired in April are now going to remain on the board until the fall and that begins the cycle. So it's extended the current periods for all of those people. It's six from the SOs, plus Sebastian from ALAC.

So that's a very small thing people will never remember. It's not going to make any headlines. But in addition to the awkwardness of comings and goings, it also had a deleterious effect on the committee structure. A lot of the work on the board is done by various committees.

There's a fair amount of work put into populating those committees, getting the right balance, not overloading certain individuals who are very capable and all that, and having to do that incrementally during the

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year in addition to the annual repopulation was awkward. And then occasionally it was worse than that in that last time we had Peter Dengate Thrush disappear in the middle of the year, so I became chair and we have a new vice chair. It's all doable. It wasn't fatal, but it also was unnecessary. Yes?

DEMI GETSCHKO: Can I interrupt you?

STEVE CROCKER: Please.

(DEMI GETSCHKO): Did you need to have our representatives be able to act as the board? Do you need a quorum of all of them or can you act with 80 percent of the members?

STEVE CROCKER: Well, we can certainly act with 80 percent of them. It's actually – I've never thought about it (inaudible). It isn't that they disappeared. It was that new people would come, and so it was a small piece of bureaucracy but it was unnecessary and it was every year. It was repetitive. So we straightened that out.

As I say, these are not heroic, dramatic landmarks in governance. This was just a smoothing out. But we now have a situation in which we have five voting members' terms ending in synchrony at the Annual General Meeting every year out of 15. We have 16 total. We have 15 plus the CEO.

So of the 15 non-CEO board members we're voting exactly a third of them have their terms ending once a year. So that's an improvement. As I say, it's a tinkering of the machine.



I mentioned all of the successes so far. Nothing dramatic. Let me tell you some of the things that we have wrestled with and not succeeded yet. We have, as I mentioned earlier, a very, very effective group of liaisons – or sometimes we think of them as non-voting directors chosen from SSAC, RSAC, GAC, the ITF and one very special one, the Technical Liaison Group which is a single seat shared by three organizations so we have a new person showing up every year. I'll come back to that in just a minute.

One of the things that the ATRT 1 insisted on was paying board members, and we did in fact implement that. The voting board members thank you. I thank you. But we didn't cover the liaisons yet. And there have been other issues about what their role is and should they be treated as stay quiet unless spoken to or do they get to participate and so forth?

Different people on the board have different attitudes about that. What the original motivation was of having this designation of liaisons added to the board versus the way it's worked out in practice, my view is the way – and I'm quite biased because that's the route that I came into the board and spent a lot of time, so full disclosure.

Well, I'll continue with that. When I joined the board as liaison from SSAC, one of the questions that occurred to me right away was: was there any distinction in the obligations that I should feel in terms of fiduciary responsibility, in terms of confidentiality, in terms of duty of care versus the voting board members?

And it was instantly clear to me that irrespective of what was required of me or what I was allowed to do that I would be foolish if I tried to set myself apart to a lesser, and hold myself to a lesser standard.

So from my point of view, it made no sense to be in the room without being fully committed to the same standard of behavior or the same standard of involvement and responsibility as everybody else in the room. So the flipside of that is we get a very high-quality of involvement from the liaisons and yet we have this particular sort second-class citizenship.

I don't know what the right answer to it is. I can see it going wrong in multiple different directions. It is a selection process made by those groups, which is sort of qualitatively different. "Well, is it really?" one could ask from the way that the SOs appoint people; maybe not. So anyway, that's an open area to talk about.

Let me talk about the Technical Liaison Group. So that was a brokered deal some many years ago of ETSI, W3C, and the ITU to share one seat; and most peculiarly, to make sure that there was no communication across them so that they don't have one representative who's serving all of them. They divide it up. They time slice it, so each year they appoint somebody and then that person goes away, and then the next year a different person shows up from a different organization.

Over time, we've seen the same faces come back, so there's a small cadre of semi-permanent intermittent (inaudible). But it takes a long time to come up to speed with the current set of issues, so it is a structurally weak position to be in. No matter how good these people are and no matter how well motivated, it's just a very peculiar thing.

And then, again, there's the question of what the role is of these people in terms of are they representing the organization or are they a member of the board and how all of that fit. Open problem.

The last thing that I want to say is I'm going to go back to an entirely different element of the whole equation. We fully understand and appreciate that the board is not supposed to substitute itself for the formal processes that have been set up – the policy development processes, the public comment processes and so forth, and yet one of the prized, treasured institutions, if you will, or rituals, is the public forum.

And I've been trying to understand exactly what the role of the public forum is because in many times, people present themselves and are basically talking to the board and saying, "We want you to do the following," or "We think you should not vote on this," or "We think you should pass this," or whatever.

And that's appealing, in a way, of having some direct engagement with the public, but I don't know how it fits in with our commitment to the formal processes that we've set up. And in particular, when we have a public board meeting scheduled and there are issues pending or there's items – not issues so much, but resolutions pending – and people come to the public forum immediately before that board meeting.

Oh, yes. I forgot to mention one other improvement. We moved the public board meeting from the nearly-vacant room on Friday to Thursday afternoon, and I don't have the accounting report, but I think we've saved some money in the process and certainly saved a lot of unnecessary time.

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But people come and argue in front of us in a public forum, and I'm thinking, so in some sense, that's a complete breach of the process to even have the appearance that we're listening. And on the other hand, I know if we say, "Well, we're not going to listen to you," that would create a different problem. So I just share it with you as one of the open, unsolved problems in terms of trying to make this a smooth, sensible, rational, organized process.

And, hey, you guys can choose to take on board these – anything I've said here or not, but I'm just sharing with you sort of the things that have been on my mind from what I think of as primarily a managerial role with respect to the board's processes. And now we have the late arrivals and we are now complete. So I'll turn things back over to Heather to say hello.

HEATHER DRYDEN:

Thank you, Steve.

SPEAKER:

Hi, there.

SPEAKER:

Welcome.

SPEAKER:

I'm joining the meeting.

SPEAKER:

I figured.

SPEAKER:

Should we take a quick – so we'll go around the table and take (inaudible)?

HEATHER DRYDEN:

Okay. So if we can reconvene after a moment of break to welcome two new colleagues that have just arrived – and congratulations on finally making it to L.A. I understand you had a nice tour taking you to Canada, and so I hope you felt welcome there. Yes.

Just to keep you apprised, we are working our way through the agenda. We have moved the selection of the leadership and the related discussion to this afternoon, so we will start with that after the lunch break. So we've reordered things a little bit so that we're now working on some high-level points or considerations and Steve was just relating some of his thoughts and experiences in relation to the board and some of the changes that have been made there or some of the issues that have come up.

And you can see from the screen, we have begun to scope out our work so that we can present it to the community and others to invite their thoughts on what we need to be doing and looking at. There's a strong feeling that as diverse as we are or have tried to be, that an important component of our work is being able to go out to the public, into the community, to get in their experiences as well and be able to draw on those in our work.

So this is an effort that we will work on over the next few days and hopefully be able to present something at the beginning of next week in the form of an invitation for public comment as well as meetings in Beijing with Review Team members that happen to be there from the previous reviews and the public and so on.

So you see all around this table, and we have Stephen Conroy who's participating remotely, and we are waiting for one Review Team member, Fiona Alexander, who is due to arrive fairly soon. I don't know whether we've heard from Fiona yet.

(ALICE JANSEN):

Any minute now.

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HEATHER DRYDEN: Any minute now, great. Okay. So we're almost at a full complement. So I have a few wanting to comment on Steve, so my speaking order is Brian, Olivier, and Carlos and Avri.

BRIAN CUTE: Thanks, Steve, for the overview and report. One question I wanted to ask – and I'm not sure if this is something we talked about in ATRT 1 or if it's just conversations that have been had on this topic – is with respect to the board resolutions, and you talked about the process of how things can come in late in the process and you have worked to minimize that – the dynamics of decisions being made during the ICANN week and the late-morning drafting sessions and working to minimize the potential weaknesses of that approach.

Have you given any thought to when resolutions are made and untying them, if you will, or a large number of them, from the ICANN community meetings that happen three times a year?

In discussions that have been had on that point, there's a clear recognition that there's a community expectation that's almost built in that when we get to the end of the week, the board's going to issue this whole raft of resolutions, and that that expectation is important and shouldn't be overlooked or minimized. But from a reality perspective and focus on getting the best possibly built resolutions, has there been some discussion about unchaining them, if you will, from having that happen at the end of an ICANN week?

STEVE CROCKER: Yeah. And thanks for the question, Brian. There's been sort of multiple fragments or threads of discussion, so let me share a couple of them.

Some of the resolutions that come before the board are pretty straightforward and ordinary and not very controversial. Some of them have a great deal of interest and weight behind them, and people are very, very interested. One of the things that I learned by not doing it correctly was that even if all of the homework is done and there's no issue about what's going to happen and that by the time it gets to the board we're going to pass it – if we make the mistake of using – so during an ICANN week, we typically will have two formal board meetings. We'll have one on the weekend, like Saturday, to just clear the workload, take care of it, and get it done. And then one in public, now on Thursday, late afternoon.

And made the mistake – and I'll take the heat for this myself – of including some resolutions on Saturday. One was the dot com agreement and the other was the budget adoption. And people thought that that was inappropriate. They wanted to see that done in public.

I can tell you that there would be zero difference in the result. The work was done. There wasn't any choice about it – all the discussion – we knew what we were going to do and so forth. And the idea of that it could be swayed by some comment in the public forum, as I said, seems to me inappropriate.

Nonetheless, I did take to heart that people wanted to see that process and they want to see the board act and so forth, and I think that's perfectly reasonable. And to the extent that there's any interesting opinions or that board members want to express themselves and put themselves on the record, doing that in public in front of the audience, in front of the community, is perfectly fine.

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So that's a tuning issue of if we've got some set of resolutions that are ready to go but they have a great deal of interest in one form or another to defer them for a few days. That's not related to rushing things through and having a bunch of stuff that is the culmination.

My predecessors, both Peter and Vint, did, I could tell, like the idea of capping off the week with works done and sort of having a sort of coda to the week of having these announcements. And my reaction after watching over a long period of time is that the drama was nice, but as I said, the workload was inappropriate. The potential for errors was wrong, and it just was the wrong style, I think, for the way we want to be when we grow up.

There has been discussion about not having a board meeting at all as part of the – late in the week – and deferring things for a couple of weeks and doing it in a more orderly, smooth way. That's been expressed more than once. We haven't gone down that path at all. It's certainly one thing that could be dealt with, but speaking for myself, I'm now comfortable with the pattern that we've got. Unless I get a lot of pressure, I'm inclined to feel like we've pretty much done it, subject to this sort of detail, if you will, of how do we set up the right expectations in the public forum and use that in a constructive way without having it undermine the rest of the processes that we built up. Does that answer all your – okay. Thanks.

HEATHER DRYDEN:

Thank you, Brian. Just as an aside to Alice, it seems to me that Steve has given us quite a good list of discussion points, so as long as we're able to track those, I think it's useful for us to keep hold of those points for us



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to come back to. But in my speaking order, I have Olivier, then Carlos, Avri, and Larry. So, Olivier, please.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Heather. It's Olivier, for the transcript. Just two things I wanted to touch on. First, the technical liaison group. It's more of a procedural thing, and I think it's not only the technical liaison group that liaises with those important organizations, but I think it might also be something that deals with the GAC and the ALAC. And I'm speaking here about involving those liaisons and those members of the organization in links that ICANN has with those organizations directly.

To be a bit clearer, when ICANN met with the ITU at the WCIT over in Dubai, I'm unaware of how the technical liaison actually filled their role and whether there had been very much involvement from them or whether it was taken on at another level.

More recently, ICANN CEO has met with members of governments, and I'm not quite sure how much the GAC was involved at that level. And with regards to members of the ICANN board – for example, going over to the IGF and (inaudible), I have noticed some discrepancy with involvement from the community in, let's see, IGF and members of the board not able to know what the committee was doing and where the committee was. So there certainly is maybe some communication that could be improved on that.

The other thing I wanted to touch on was to do with the public forum and the whole stage show, I guess that one could say, when the board members put their hands up voting in favor or against resolutions. One particularly interesting moment – and the ALAC is on record, by the way, to say that it does deplore the lack of such interaction due to the

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fact that the body language of board members also sometimes said more than the actual vote that they provided at the end.

But one interesting time which took place was in San Francisco. I believe the vote on the .xxx, and that of course, showed the best and the worst of the public forum. Certainly the interaction and the body language and the statements that board members made during the vote were particularly interesting and did show that there had been a lot of consideration on that very touchy issue.

On the other hand – and actually, again, it’s a total dichotomy in this. You had absolute strangers of the ICANN process that were able to speak on the microphone and that were given their – was it two or three-minute time limit – and able to voice their concerns, but at the same time, being able to completely control that half an hour by carefully timing one person after another.

And then, of course, as you said, board members not, probably – and I’m saying probably not changing their point of view right after that, right after these points were made. So it’s something to take into consideration. Thank you.

HEATHER DRYDEN: Thank you, Olivier. So you do want to comment on that point, specifically, Alan, or can I go back to my order?

STEVE CROCKER: It’s a comment (inaudible).

HEATHER DRYDEN: Okay. Thank you. So I have Carlos next.

CARLOS RAUL GUTIERREZ: It’s very interesting, your comments, Olivier. I think it’s excellent. I want to comment from the point of view that I’ve been looking at the board

from my personal experiences being a board member of public entity and about the liabilities of the board members.

And I understand that the Public Utility Commission of California has particularly stringent liability conditions, and that's where my interest grew, and I'm very aware because every decision we take – we meet every week, and we take substantial decision.

But when I hear you going into more details, I mean, it doesn't sound very different from standard corporate governance that you have directors which are more involved, more directly involved in the action of the companies, and you have this form of the external directors. And I agree with you. Directors have to be treated differently, but I think it's positive to have these nametags that some are external directors.

I don't know if the technical liaisons would be external directors or not, but I don't see anything against having standard conditions for all directors, but to recognize that some directors have a different role. They are less involved in the interests of the decisions of the company. That's the reason for the external directors.

And the second thing I want to mention that sounds also very similar to private corporate governance issues is the public forum. It sounds equal to me to these shareholder meetings where minority shareholders try to impose restrictions on golden parachutes and things like that. We had a strong discussion (in Sweden) to this, and I've been only to one – to the one in Costa Rica – and I was amazed. I thought I would never dare to stand up in a public forum and ask anything to Steve Crocker. I think you managed the 30 minutes in a fabulous way.

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But, yes. It was too fast, and then it's almost impossible to expect a reaction or a rational feedback from this exercise, and it puts into question all the other public input systems. Thank you.

HEATHER DRYDEN:

Thank you for that, Carlos. So Avri, you are next, please.

AVRI DORIA:

Thank you. Yeah. I guess I'd like to actually respond to your comment on the value of public forums being perhaps, unfortunately, one of those who's been a petitioner before the board enough times to actually feature on the Bingo card, I've understood.

The reason I view it as worthwhile is that in some sense, I see it as a sanity check for you should be able to have listened to all of us knobbing off then and say, "Yep, we looked at that and this. Yep, we looked at that and this."

Now, there could be the occasion where someone comes up to that microphone with a point of view, a position, that's enough for you to say, "Oops. We did not look at that. We should." And then you have, at your bylaw's abilities, various ways to initiate conversations in the process, to basically take things back to the GNSO, to take things back to the ccNSO or whoever it is and say, "You know, we went through the whole process, but this issue came up and was not covered. Therefore, please." As those of us that are sitting out in the seats there, we haven't necessarily seen evidence that you considered all these issues.

We know we spoke into a comment form, and we did this and we did that, but we don't know that you've heard it. We don't know in what way you've taken it into account. So that's what I see as the opportunity there. And the statements – the voting statements – that board

members make in some of these occasions are important because it's one of the few times we actually see their way of thinking about it and looking at it.

Certainly, when we have the rationales and the votes, we see a synthesis of it that says, "This view was stated and this view was stated," but we don't see Georgia's strong view about something. And those are important things, I think, for the community to be able to see.

Now, if we had written statements that board members did write written statements on their positions before a vote, then those speeches might be a little less critical to the community trying to gauge, "Who are these people? What do they think? How are they evaluating things?" So I think that from someone that sits out in the community, and as I said, comes up to the microphone, those are the reasons I value it.

STEVE CROCKER:

So let me just reply. And, Jørgen and Lise, for your benefit, you walked in at a moment in which the mode in which we are having this discussion is I am operating – I'm talking as chairman of the board, as a visitor to this committee, informing as if taking input from (inaudible) as opposed to a member of the committee. So there's some back-and-forth.

I had just completed, as you walked in, a short tour of modest, small changes that we tried to make over a period of time while I've been chair to improve efficiency and effectiveness. So if it wasn't clear, this is sort of the nature of the thing.

So, Avri, first of all, with respect to not knowing what happens to your comments when you put them in the public comment, I think that's an issue that needs to be addressed foursquare – forthrightly, irrespective of the public forum. And maybe that's something that should be added to the agenda for what we want to address – what you want to address, since I'm a visitor. So I think that has appropriate (inaudible).

Having a board meeting in public so you can hear the comments from the voting board members so that you can see the body language and all of that I think is fine, and I'm 100 percent behind that. And as I say, I acknowledge that we made some unfortunate choices as to what to schedule during that period and not, and we'll try to bias things in favor of putting anything that might be interesting in public so that it doesn't have the appearance of being, you know, hustled through.

The public forum, which is a separate event – it's adjacent to, but a separate event – strikes me still as not really fit to the purpose of trying to catch last-minute errors. If it's succeeded, if the scenario that you pointed out, that you lay out were to happen it would really signal a fundamental flaw that had taken place, because by the time something gets to the board, it's not a first pass. That's the last step in a process and multiple steps have been involved in it.

So if a brand-new, “Oh, my God, we didn't think about this,” kind of event happened, then it really means that there was multiple errors, not just a single modest oversight, but it means that something didn't happen all the way along the process. Staff didn't do the work. People didn't bring the subject in. The SOs or ACs or whatever didn't plumb the issues thoroughly.

So, sure, it's possible, but I can tell you in now quite a few years that I've been sitting on the board – first as liaison and voting member, now chair – I do not know if any instances in which a genuinely new, “Oh, my God, we didn't think about that. Let's stop and send it back,” has actually happened in that way.

And if it did happen, we'd accept that and we'd say, “Oh, yeah. Let's stop this,” and rather than go through with the vote, I wouldn't have any hesitation of saying, “Let me make a suggestion.” I'll do it out in public and (inaudible). But it just doesn't happen.

And the expectation or creating the sense in the community that this is a time in which you can come and make your last best objection because you really don't like what's going on and you've been heard multiple times, but you really want to get it across again I think is, at root, a disservice to the people who are petitioning, and it's a disservice to all the other people who have to spend their time listening to all of this.

It just fails for me on good governance and management and best use of resources, frankly. And you're coming of a Bingo card. I don't know. You may or may not be on it, but you're not at the top of the list. You have a ways to go yet.

HEATHER DRYDEN:

Thank you. So next I have Larry and Alan, and I've put myself in the queue, too, to one of the topics. So, Larry, please.

LAWRENCE STRICKLING:

Steve, I wanted to come back to the last set of comments you made, which I think focuses on a really important issue for us in terms of accountability, and that's the question of the board's standard in terms

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of as matters come before you. Exactly what standard does the board apply? Because we see that we – there's lots of lip service around the world supporting the multi-stakeholder process, but increasingly, we see people who feel they aren't getting what they wanted, and they look for their avenues to appeal.

And so in the United States, of course, we see people running to our Congress, we see people running to our Federal Trade Commission because they want to influence an outcome that they weren't able to influence the way they wanted through the multi-stakeholder process at ICANN.

So I guess the question – and I'm not sure you gave an explicit description of this – but is the standard that the board applies one of simply saying is there a consensus support from all stakeholder groups for this particular action? In other words, are you looking at the process that was engaged in as opposed to the actual merits of the substance of the proposal? And if you don't have that clear cut a standard that kind of limits you to ensuring that consensus was reached through an appropriate multi-stakeholder process, should that be the standard?

Could it be the standard? Because you've mentioned this idea of the public forum perhaps preventing you from having that rigid a standard, and indeed, I think the GAC process might also prevent that because the bylaws envision the GAC dealing directly with the board to change outcomes that might have been developed up through the process.

But then the third question is that if you don't have that as the standard, what does that mean for accountability in the sense that we want to make sure that the process is working, that we're reaching



consensus at the lower levels? And one way to enforce that discipline and to ensure that accountability is for the board to simply say, “Look. Either we’ve got the consensus or we don’t; and if we don’t, we send it back. And that’s our role.”

But I’m not sure that you would agree that that’s the standard you apply, but I’m interested in having you address some of these issues because I do think that every time somebody else substitutes their judgment for the multi-stakeholder process, whether it be Congress or the Federal Trade Commission or even the ICANN board, it potentially damages the process itself.

STEVE CROCKER:

Yep. So you covered sort of a mixture of things, and I think that there were certain assertions buried in your questions, but I don’t want to go deconstruct all that. The basic function of the board is to satisfy itself that the processes have been followed and the consensus has been reached. The board is very, very conscious that it is not its role to substitute itself for those processes.

And even though we have an awful lot of subject matter expertise on the board, the interplay – so with that comment, you might say, “Aha, Here’s what he said, but do you really mean that?” When there is, as there is occasionally, a concerned – by having fairly deep knowledge of the subject that there’s discomfort with the result that it’s being presented to us – the way that plays out is not to say we’re going to set aside everything that came to us, we’re going to make a decision independently.

Instead, what happens is we do a kind of deeper check on the process. We say, “Okay. So that’s what the process says,” but we ask ourselves,

“Did that process actually take into account everything or was there something broken in the process?”

So the favorite target for that kind of inquiry is in the GNSO, which is a complicated, multifaceted, two houses, multiple stakeholders, multiple constituencies, and a very complicated set of balances of power and so forth and not unknown to be subject to capture or to have the appearance of being subject to capture or having been stalled in various fashions.

So at that point, we sometimes will poke a little deeper, but we are always poking from a process point of view, joining the board in order to make – in order to get the right result – is not exactly the right thing. We know that that is not the role that we should have – that we do have.

And then if we think that a wrong result is coming, then what we need to do is initiate some process or challenge – send it back for review. I’ll give you a worked example which is very, very current and the beginning of an interesting conversation that you and I have not had but we might as well make it interesting here.

The WHOIS Review Team put forth its recommendations, and the board was faced with a very interesting conundrum. We absolutely wanted to be 100 percent supportive of the Review Team. We appreciated all the work that we did. We also knew from a long history that there are some deep, fundamental flaws in the whole WHOIS process, having nothing to do with the Review Team, but much deeper and older.

We knew when the affirmation of commitments was written and presented to us in September of 2009 that the wording that was in the review for WHOIS enforced some things that we thought were too restrictive – public access and I forget the precise words. We can pull them out.

But they go to the core of the way WHOIS has evolved and left them sort of cemented in place as if there was no issue there. And when we tried to deal with that when it was presented to us, there was a very strong argument made to us that this was not the time to make a change, this has all been negotiated and the whole deal will come apart. And so it was sort of rammed through us. And we took note of that and we said, “Okay. But we’re going to have that discussion sometime.”

Fast forward a few years, Review Team is constituted, does its job within the parameters that are set, comes forth with a very earnest and solid result, and yet we still know that we’ve got an emperor new clothes situation, which WHOIS has been broken for years and years and years. When are we ever going to deal with it?

So what we did is we didn’t substitute our judgment and say, “We’re going to throw out the Review Teams.” We didn’t say we’re going to institute a brand-new system. What we did is we said we’re going to do two things. We’re going to be very supportive of the Review Team and we’re going to initiate another track of activity that is going to open up the subject and do it in a solid, substantial way, a key piece of which is still in front of us, which is after the expert Review Team – expert Working Group, rather – does whatever it’s going to do, it will get pushed over to the GNSO for proper policy development process.

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So that's the interplay between subject matter expertise, if you will, and process. And I would suggest that that's pretty good, to go very positive about it and stays well short of overriding or substituting ourselves and saying, "That's wrong decision."

LAWRENCE STRICKLING:

If I could just comment on whether you think the bylaw structure with respect to where GAC advice comes in and interferes with the ability of the board to carry out the standard as you've described it, because doesn't it almost force the board that starts substituting judgment as it negotiates with the GAC at the level – because that comes in under the bylaws after the SO has already done all of its work.

And so I'm not proposing any change in things. I mean, (it's) in your evaluation or perception as to how does that work in terms of meeting the standard you've described.

STEVE CROCKER:

So this is some sense of as almost as if we were staging this, with Heather sitting here. The interplay of GAC advice and how to deal with it precisely is undergoing a very careful attempt to document and regularize the process.

And one of the open questions that is obviously being debated is what is the role of GAC advice compared to the input from GNSO or from the other SOs or ACs and so forth. I'm not sure I'm going to give a definitive answer because some of that's still evolving, but at bottom, the board takes its inputs from multiple sources and has to give weight, perhaps, to those.

I don't think we've had – we certainly haven't had very many cases, if any in which the GAC has said, "We want you to do this," and somebody

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else has said, “We want you to do that,” and we’ve caught ourselves – and we’re caught in an irreconcilable position, and even if you say, “Well, what about this case?” I would say we don’t have any formal rule that says it will always go a particular way.

What we do have is a very strong obligation in the case of GAC advice that if we are inclined not to follow GAC advice, then there is a process that has to be followed, and the details of what that process is are being elaborated and documented and worked out with timescales and formal steps and so forth.

And it’s the usual thing where you don’t want very many of those to happen and you usually learn something in the process. But we’re working pretty hard on trying to (inaudible). But again, the board does not want to be in the position of overriding subject matter decisions and carefully worked-out negotiations. We do want to make sure that nobody has been smothered in the process – not the right word, but disenfranchised in the process – and we do want to make sure that things have been thoroughly examined. And then we take it where it goes.

HEAHTER DRYDEN:

Thank you. I just might add to that, since I have the microphone and I’m able to, I think some of what you’re discussing relates to this concept of community consensus that Larry raised, and if you have a concept that the GAC should be part of reaching a community consensus, then that would change I think your posture at the board level, where you’re wanting to take in a policy that has reached a level of maturity resulting from the GAC being able to have influence earlier on in the formulation of those policies.

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And the less that happens, then the GAC is really compelled to use the one channel it sees as being available to it and that's the board – the sole focus is the board. And in fact, the way things are currently configured, you could argue that it encourages a kind of oppositional approach to things, which is really quite different from my understanding of community consensus or bottom-up or having governments advising as part of this model regarding the PDP.

There are issues where there is a difference in view in what policies come forward to the board and what the GAC consensus advice is on a particular topic. And I think that's quite difficult to deal with. In fact, there are issues where there is not agreement over whether the extent to which governments would have a particular purview or a particular say in an issue relative to other parts of the community.

For example, in interpreting a treaty that a government is a signatory to, for example, and I think my colleagues in the GAC would think that that is a particular area where they would have a particular say, in fact. And that is not, perhaps, typical example, but maybe one that illustrates the point better. But I think this is really an important area to explore further, so I'm glad this has come up in the discussion.

Okay. So next I have Alan.

ALAN GREENBERG:

Thank you. I want to talk about opaqueness and collective accountability. The board is selected by the SOs, the ALAC and the NomCom. When approached by a candidate who has not been around before on the board, all of those groups have a really difficult job in deciding is this going to be a good board member or not. And sometimes you do it right, and sometimes you do it wrong.

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But we're in the interesting position that those people can now be reappointed two more times. And the groups that appoint them, be it a NomCom or an SO or the ALAC, have virtually no information as to whether – how their board member or how the board member has performed.

The open board meeting used to be the one crack in opaqueness – not particularly satisfying, but you could get a little bit of feedback. The only other feedback that's gotten is people essentially breach confidentiality and whisper something to someone, and then of course, they can't share that.

And so we are continually in a position where we're – the various groups, be it the NomCom or the SOs or AC to reappointing people or potentially reappointing people with very, very, very little information about how they have performed on the board. And I'm not talking about how they performed on behalf of the SO. I'm just saying we don't have hardly any information.

HEATHER DRYDEN:

Thank you. Steve, I think you can talk about what the board has done.

STEVE CROCKER:

Yeah. Thank you. So I'm puzzled, in a way, Alan. The processes through which the SOs, ALAC and NomCom use are their own processes. They can be whatever they want. Nothing precludes having inquiry request for input, private or public, about the performance of people that they've appointed. I don't think that any of us would hesitate to, in a civilized and appropriate way, be responsive about evaluating or sharing our thoughts about how much work a particular board member's done or where they put their energy and so forth.

And there's other evidence. I mean, there's participation on committees and there's other board members typically fairly active, some more so than others, in the community. So I think there's a range of information that's available.

And in any case, the public board meetings are not – as I said, I'm perfectly happy that we have public board meetings and having them be on Friday mornings. When only ten familiar faces are there regularly, give or take. I mean, the numbers were exceedingly small. It didn't strike me as particularly helpful, even if those people who came really liked it. But, I mean, it was a very expensive (show) for a very small audience. So I don't – I can't match up what you're saying with what it looks like from where I'm sitting. There's a lot of information available.

ALAN GREENBERG:

As I said, the public board meeting's a small part of that. It was a crack. If there is indeed an ability to get honest, candid feedback on board members' performance from other board members, it has rarely been volunteered and often been asked. So let's talk about it offline perhaps, but I think it's a real perception.

STEVE CROCKER:

Well, it's one of the elements in the charter, about the selection process. What I'll say is that it would be pretty forward for a board member to go seek the selection committee and talk to them. It's happened, but more to the point, I think it would be perfectly sensible if the selection committee or whatever group goes and asks and interviews or gets input.

Now, we're all pretty experienced people. You'd want to get multiple opinions. You wouldn't want to just ask one person about one other person. You want to have multiple people ask multiple people, and you



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want to assemble all that, and there's lots of room for bias and other things in here. But you could sort all that out.

ALAN GREENBERG: One last comment. I can see that might work for the NomCom, which works under confidentiality. The ACs and SOs all have to meet public processes to select or to renew, and probably somewhat more different – difficult.

HEATHER DRYDEN: Okay. Avri, you wanted to add on this point?

AVRI DORIA: Yeah. I think one thing that did get instituted this year with the NomCom was actually having the board – or perhaps it was you or perhaps it was someone else – actually give an evaluation of the people whose terms were ending without knowing whether they were candidates or not. There's that whole wall between are we evaluating a candidate, and thus candidacy becomes known, versus these are the three people whose terms are ending. This is what we thought of them.

And perhaps that model could work for an AC or SO, but you did actually already have one small jump this year, and I just wanted to add that in.

STEVE CROCKER: Yes. I now recall that we had a session, right? And I was – you and Olivier were both on the NomCom?

AVRI DORIA: I wasn't, no.

SPEAKER: I was at some point.

STEVE CROCKER: Yes.

OLIVIER CRÉPIN-LEBLOND: Not this one, no. I can't be (inaudible).

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STEVE CROCKER: Yeah. But I was interviewed, debriefed, what did I think, what were you looking for, and some comments about current people, which is an interesting challenge. How do you say something appropriate and positive and still with differentials in there so that it has some degree of information?

HEATHER DRYDEN: Okay. All right. So I have myself next in the queue, and it does relate to this point in that I was going to talk a little bit about the GAC liaison role in particular and how the GAC might view that and some of the considerations associated with it.

There wasn't a great deal of discussion about the distinction between voting and non-voting. And, Carlos, you were talking more about external directors versus those that tend to be corporate directors on the board, yes. So, well, the GAC has a liaison that's also the chair. And this issue of non-voting is really an important consideration because it relates to liability. And you can expect that the chair of the GAC will be a public servant, and if the government is to clear a public servant to participate in a board, the status of it being non-voting becomes relevant from a legal perspective.

Also, the GAC really, I think, has always viewed the role as being one of representing the GAC's view, so on a policy issue where there is a consensus view or even comments or a range of views to communicate, that is the primary expectation of the chair in that – and the other function is often coming back to explaining the nature of governments.

One of the themes in the introductory remarks this morning was the challenge of understanding the GAC and understanding how governments work. Well, I can say firsthand that that is an ongoing

challenge, and being on the board, it is to use Avri's word of the day, continual. It is continual that – or continuous anyway – that that needs to occur. And so that's really an important function, I think, going along with that.

[audio cuts out]

Okay. All right. So let's continue. So the point I was making just before we were cut off relates to the ability of the liaison from the GAC to influence the decision, and if it was to boil down to a simple yes/no vote, I think that's actually less influential over the decision making. In light of the approach where you have a consensus view on a policy issue, it's hard to see how you could boil that down to yes/no vote on a negotiated resolution that's a bit of an ongoing process, as Steve has described. So there are reasons why the GAC approaches things the way that they do and some considerations there that I think may be particular to that liaison position, but also may relate as well to some of the considerations for other liaisons.

David, did you have something to add on this point? No? Okay. Okay. I have others in the speaking order, so shall I go through those? Okay. All right. So next I have Michael, then I have Brian, Lise, and then David.

MICHAEL YAKUSHEV:

I have just one very brief comment on what Steve told about the procedures, how the board treats – would treat – the recommendations of the Review Reams. And with reference to the WHOIS Review Team, yes, I do understand your point. However, there are situations where some urgent decisions are necessary.

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And if we refer to the WHOIS Review Teams it's, for example, the problem of IDNs – of the WHOIS n the IDNs – which doesn't have any solution by now, but it should. And I think that, for example, the introduction of the New gTLDs may also require some urgent matters of implementation of some recommendations without waiting for new policy to be developed somewhere in the future.

So that means that on certain occasions, maybe your approach, the approach of the board should also be modified for such really urgent and necessary –

STEVE CROCKER:

Let me – I think there's been perhaps a bit of confusion or tangling of issues. We understand – we're not directly involved, but we understand – that there are indeed some difficulties in the IDN rules and decisions that have to be made about that and that's creating some issues.

The board is actually not in the middle of all of that, and I don't know the way to improve that since we got in the middle. The board's response to the WHOIS Review Team recommendations was go make that happen. We accepted the recommendations. I guess I recall that there was some complaint that we took longer to do that than we did for some of the other reviews, and that's because we were trying to digest this problem of how do we treat this recommendation versus the underlying problems that we knew.

But at the end of the day, we said, "Go implement all of those, and don't wait for anything else." It's not tied to anything because we fully understood. I mean, reasonably sophisticated set of people here. We fully understood that we were embarking on a strategic path that did not have a tight timeframe and a certainty that it was going to reach a

conclusion in any particular set of time, so we did not want to tie these two things together, so we set them on entirely different tracks. We said, go forward with the review recommendations from the WHOIS Review Team on its own schedule as fast as possible, and separately start this deeper process of trying to reconsider what it should look like with no schedule set as to when that outcome would come and no schedule, and certainly no schedule set as to what the adoption or transition process would be, because we don't have those facts in place yet.

But as a separate thing, we do understand there's a set of issues that haven't been dealt with, and that's a different set of fires in a neighboring neighborhood.

HEATHER DRYDEN:

Thank you. Okay, Brian. You're next.

BRIAN CUTE:

Thanks. And, Steve, This is on the WHOIS Review Team, and thank you very much for bringing that issue up proactively. I want to make sure I heard you correctly in your comments – and please correct me if I misheard or mischaracterize. But what I thought I heard you say, effectively, was we the board knew that there were some problems that were older and deeper on this issue.

And in conjunction with that, I thought I heard that perhaps the terms of the AoC in scoping the work of the WHOIS Review Team itself may have somehow constrained them from getting at the older and deeper problems. And parenthetically, I participated on the WHOIS Task Force in 2003, so I'm versed in the oldness and the deepness.

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Was that the case that the WHOIS Review Team's ability to unearth or otherwise identify these problems that are motivating the board was a result of the constraints of the AoC scoping of their work or – and I guess my real question is why did they miss what you were seeing or not get at what you were seeing as a board?

STEVE CROCKER: Probably the most efficient thing would be to pull up the terms of reference in the AoC. They ought to be burned in my mind.

SPEAKER: (Inaudible).

STEVE CROCKER: Yep.

SPEAKER: (Inaudible). Yeah. So my recollection is there were two aspects. certainly the unrestricted access forecloses the possibility of tiered access or differentiated access for different classes of people as one of the structural tenets of the way the WHOIS system is built.

The other one, which I think is implied by that language, is that the current structure of WHOIS in which you have a technical contact and you have an administrative contact which has, structurally, no relationship whatsoever to the business arrangements or operational aspects of the registrant and the registrar – are the seeds of how you build the system that is geared toward fraying and becoming difficult to maintain unless you apply outside force.

So those are the deeper aspects that are referred to, and those words in the affirmation of commitment translate into what the tasking is of the WHOIS Review Team that basically says, "Make this system as-is work better, but don't change the underlying fundamentals of it." And so

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that just puts a box around that. And you guys worked earnestly, very, very hard, but it was sort of outside the scope in which you could say this is a broken system. We need to redo it from scratch.

HEATHER DRYDEN: Thank you. Okay, Lise, please.

STEVE CROCKER: With apology, I'm scheduled to give a briefing to government on the East Coast pretty quickly and had timed it to – this is our lunch break, so I need to ask – we can do one more, maybe, and then I need to take a break.

LISE FUHR: Okay. You might have discussed this before, but what I find would be very nice to have is a clear trace of the public comments you get and the reply to these comments, and to the board's decision of which one of the comments has been taken into account and which ones have not and why. This can be done in different ways, but this is one of the issues that we have been discussing in Denmark.

STEVE CROCKER: I'm looking down toward our esteemed staff, because assembling all of this and putting all that together falls on their heads to put together, so I think we're in strong agreement the – if it's not working well enough, it's not because of policy. It's execution and practice and so forth, so feedback and improvement in that, I think, no fundamental resistance. It's only a question of how do we actually make it work.

LISE FUHR: Yeah, but what I've seen, it has more been like comments being gathered together and not analyzed, and that's what would be nice to have. You might have –

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(DENISE MICHEL): Yeah, I see the same thing. And I think you're scheduled to look at all of the sort of implementation, recommendations, one group of which, of course, was the public comment forum, and you'll certainly have an opportunity to delve into that tomorrow. I'm happy to discuss more details today if you'd like.

STEVE CROCKER: Bridging my role as board chair and as member of this group, I would say it would be entirely appropriate and welcome to articulate that with you, to make that very clear and to push on that, and I think that would be helpful all around. And I don't think from a board point of view that we'd have any resistance to that. No.

HEATHER DRYDEN: Okay. Good. That's helpful. And I have one last request. No need? Okay. All right. So we're at the lunch break. We will break for one hour and then when we return, we will do agenda item number four to address the ATRT 2 leadership question. So, one hour, and we will start again. Thank you.

(AICE JANSEN): Yes, lunch is right outside the room

HEATHER DRYDEN: Okay, let's restart our efforts for the afternoon. Welcome back, everyone. Hope everyone had a good lunch. As I mentioned before we broke, the first order of business for us this afternoon will be selecting, I hope, and discussing issue related to the leadership of the Review Team. As you know, Steve Crocker and I have been acting as chairs on an interim basis, and I think we're both keen to hand over the responsibility to at least two other members of the Review Team to handle.



So if you look at your agenda, there are six parts proposed to this discussion. And what I would like to propose is that we do B first, and B is selecting the leadership structure, which means come to a decision about whether it's a chair and vice chair or co-chairs or having an alternate chair and so on.

So assuming that is acceptable to everyone, Alice has projected for us – thank you – a chart showing what views have been expressed so far. There are three options identified. In the first column, you have those that are supporting the chair and vice chair option. The second column is the co-chairing arrangement, and no one so far has supported that. And in the third column, you have the chair and alternate chair configuration.

So as presented, it looks like there is some inclination towards the first option, which is to have a chair and a vice chair which is much along the lines that we're used to seeing. So can we have a discussion and come to a decision, please? Alan.

ALAN GREENBERG:

Yes, you may, since you asked for our permission. But that isn't what I put my hand up for. It dawned on me after this poll went out that there's another option that might be considered if the workload is deemed to be really heavy. And that's a chair and two vice chairs, which gives a bit more flexibility of tailoring tasks to people's skills and covering people when they're not going to be around or people who have other obligations and can't always jump in a moment's interest. So just something to think about.

HEATHER DRYDEN:

Thank you. Can we consider that to be an extension of category one? Yeah? Okay. So we still have three main options then in front of us. Are

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there strong views and, in particular, are there views who aren't in favor of column one where, as I say, it does seem we have the highest degree of support. Avri, please.

AVRI DORIA:

Thanks. Yeah, as the person that sort of inflicted the chair/alternate chair option into consideration, I just wanted to sort of say two things. One, I tended to see it as sort of the in-between of co-chairs and chair/vice chair, where point person, but in essence there are two equals with a slight more equal. But on seeing this, I certainly am not at all pushy about it. It's definitely a preference I have, but at two-to-one of those who care, it doesn't seem worth pushing.

HEATHER DRYDEN:

Okay, thank you for that flexibility. Okay, so I think this is something we can move on from quite quickly. So can we consider it agreed then that we will seek to appoint a chair and vice chair? Yes? Great. Okay.

ALAN GREENBERG:

Or two vice chairs.

HEATHER DRYDEN:

Yes, thank you for the correction. Or possibly two vice chairs. Great. Maybe three. All right. [laughter] Let's all be vice chair. Okay. All right, so if we look at point A now, what is proposed is that we have a discussion to define roles and responsibilities for leaders and members. So that's going to be chair and vice chairs and members of the Review Team. And apparently, there isn't a document outlining this from ATRT 1; however, it is something that they did for the SSR Review Team. So we do have a decision to make about whether we find this useful or not. But if we perhaps have a look at what Alice is projecting, you can see that the Security, Stability and Resiliency Review Team came up with some responsibilities, some skills and attributes for experience, and what is the third section, Alice? The ideal candidate? Okay. And is this

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something that the Review Team referred to throughout their work?  
What was the intention, if you could give us more?

ALICE JANSEN: Pretty much never, I think.

HEATHER DRYDEN: Thank you. Okay. So is this something we want to spend some time on?

ALAN GREENBERG: I'd like to just read them.

HEATHER DRYDEN: Okay. So please go up to the first section, and let's just take a moment to read. Welcome, Fiona. Okay, so a number of responsibilities are outlined there for the chair and vice chair positions. I think it's fairly straightforward, nothing surprising there. All right. And then in the second section, we have skills and attributes or experience. Perhaps we could have a look at that. Avri, please.

AVRI DORIA: While B is good for any group dealing with ICANN, I think it probably could be substituted something that mentioned transparency and accountability. Although I think, as I say, this is ICANN, so it's always good to understand security and be in this landscape, but it's less critical than it was for that particular group.

HEATHER DRYDEN: That's a good point, I think. Also, I think one point that's not explicitly stated is around the representational role. It does say "be a spokesperson" in the first section, so I think that is an important consideration for whoever is chairing and acting as the vice chair as well. Typically, there's a great deal of interaction with other parts of the community and, as we mentioned earlier, with staff as well. And so that takes a particular amount of time and effort to manage, so that's another consideration. If we just have a look at section three about the

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ideal candidate. Okay. Again, nothing too surprising there. Okay. All right. So, Avri?

AVRI DORIA: Yeah, I don't know if this is what I was just hearing out of the side of the ear, but fee is – I mean, yeah, we want people to think well of us, but they shouldn't think any better of us than they think of any other Review Team.

HEATHER DRYDEN: Okay. All right. So C is perhaps less important for this Review Team. All right. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you, Heather. Sorry to have to share your mic all the time. It's Olivier, here. 3B I see here ideally would have additional resources behind them. Does that mean that a chair comes with their own PA and team and everything? I mean, I would have thought that would have been a given for any chair here to be extended capabilities from ICANN.

ALAN GREENBERG: (inaudible)

HEATHER DRYDEN: So, Denise?

DENISE MICHEL: No, there's no personal assistant that comes with the position.

ALAN GREENBERG: From ICANN.

HEATHER DRYDEN: Yeah. Feel free to provide your own. Okay. All right. So I don't think we need to take any particular further action with this. And I think we feel quite comfortable in our understanding about what are the roles and responsibilities for the chair and vice chair. In terms of the members, again, I think we've all participated in similar efforts and on committees and such. And unless someone has something that they think is particularly important to flag.

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CARLOS RAÚL GUTIERREZ: (inaudible)

HEATHER DRYDEN: Can we go back up, Alice, to find the question that Carlos is referencing?

CARLOS RAÚL GUTIERREZ: (inaudible)

HEATHER DRYDEN: Right.

CARLOS RAÚL GUTIERREZ: (inaudible)

HEATHER DRYDEN: Yeah, we will discuss later whether we need to formally engage external work to support our efforts in the Review Team. Okay. But I think we can take that as written, as well as guidance. Okay. All right. So let's move on then from that and look at C in agenda item 4, and that is adopt a voting mechanism to elect the chair and vice chairs. There are a variety of practices, I believe, in the community and other sources, I think, of inspiration for us on the voting mechanism. I think we need to talk about a voting mechanism without talking about the candidates, so let's make that clear. I think we need to decide on the process first and then get to the candidates. Steve?

STEVE CROCKER: I'm not understanding the complexity, so maybe I'm just not being imaginative enough. And so I don't want to drive this down any particular direction if there's an alternative, but I would imagine we vote for the chair and then we vote for the vice chair. And given the names that are up there and the choices, the vote for the chair is straightforward. You've got two people, so that should be – well, it's really straightforward, whatever way it comes out. And then you've got three people running for vice chair. What? Yeah, we could open it up, of course.

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HEATHER DRYDEN:

Okay, so we are going to invite additional candidates to come forward. We need to at least do that as a formality, I think. So if we can talk about process first, I think we can accept to elect a chair first and then a vice chair – or vice chairs, in case we have more than one vice chair. A show of hands – is that fine? I see nodding. Okay. All right. Brian? Oh, that's a yes. That's what that means. Okay, very good.

All right. So that's fine. And so next I think we can move to the call for candidates, and then we will ask all to make statements. So we have four that have come forward. Are there any additional that would like to come forward for either the chair or vice chair position? No? Okay, fine.

All right. So if we can go through the list. Are they ordered by the date of coming forward? Is that what the significance of the dates is, Alice? Okay. So let's invite statements to be made in that order. So, Lise, if you could please begin. Thank you. Yes. Okay, take statements from those that are open to being the chair. Right. Okay, in which case, I will move to Avri to begin. Yes.

AVRI DORIA:

Okay. Yeah, I put my name forward. I guess I feel that I do well coordinating activities. I tend to view it as coordination activities. I don't tend to view it as leading and managing, but I guess those are similar. So I looked at a group like this and felt that experience at coordinating groups within an ICANN environment was a useful set of skills to have. Having spent two and a half years chairing the GNSO Council, I felt gave me sort of the background that could make me a useful chair, and therefore put my name forward for any role that might be available. Thanks.

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HEATHER DRYDEN: Thank you. Okay, and next then I'll ask Brian to make his statement, and then we'll have some opportunity for discussion.

BRIAN CUTE: Thank you very much. I put myself forward for the chair, but explicitly for one of the roles. And first and foremost, I think this is very important work. I had the privilege to chair the first ATRT group, and the work continues to be very important both to the organization and to me personally.

I put myself forward for one of the positions because, in honesty, chair or vice chair would be fine from my perspective. I wouldn't mind being a second role. At a minimum, though, I felt it was important knowing the dynamics of this work that having a leadership position was something I desired because I think my experience the first time around was very enlightening in terms of how we interact with the community and ICANN.

So I also want to note for those who haven't worked with me that I view this role as a very collegial role. The work becomes very collegial. It's really teamwork as you get into this process. But for those moments where the absolute formality of acting as a chair were necessary, that's how I approach the work and the engagement.

HEATHER DRYDEN: Thank you, Brian. Okay, so we have statements from two candidates for the chair position. If you have any questions or comments you would like to make, or questions of the candidates, now is your opportunity. Carlos, please.

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- CARLOS RAÚL GUTIERREZ: I would like you to refresh what roles do you have in your respective constituencies during this year to add these to the presentation, if you have any. Thank you.
- AVRI DORIA: Within my constituency, I'm a NCUC representative to the NCSG's Policy Committee, and that's pretty much the only responsibility I've got within the constituency or the stakeholder group.
- HEATHER DRYDEN: Is everyone familiar with the acronyms that we're using?
- AVRI DORIA: Right. I'm sorry. So within the GNSO – What's the GNSO? If we don't know that.... Generic Names Supporting Organization. That's right. We don't need to know that. So within the Generic Names Supporting Organization, I am a member of the Noncommercial Users Constituency, which is part of the Non-Commercial Stakeholder Group, which is part of the Non-Contracted Parties House. Within that, the NCUC, Noncommercial Users Constituency, and the Not-for-Profit Operational Concerns Constituency both appoint two members to the NPSG's Policy Committee. So I'm one of the two appointees from the NCUC to the NPSG Policy Committee.
- HEATHER DRYDEN: Thank you. That's very helpful. Brian.
- BRIAN CUTE: I don't hold any roles or positions in the Registry Stakeholder Group. The Director of Policy for Public Interest Registry, Paul Diaz, is the vice chair, and that's the extent of our involvement in the group.
- HEATHER DRYDEN: Thank you. Okay, Jørgen, did you have a question?
- JØRGEN ANDERSEN: Thank you very much. I would like to hear the views and positions of the two candidates regarding the current environment in which this ATRT
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takes place, taking into account of what we experienced in Dubai, taking into account what some describe as an increasing mistrust of the ability of ICANN to do its job in the proper manner. How do you see the role of this Accountability and Transparency Review Team in that context? It could be very long interventions, but what are the main challenges that you see and how do you think that we could make a difference in this team in a positive direction? Thank you.

HEATHER DRYDEN: Thank you. Brian? Avri?

AVRI DORIA: Should I go first again?

HEATHER DRYDEN: Brian? Let's reverse the order. Yeah, Brian, please.

BRIAN CUTE: That's a great question. One of the reasons I'm drawn to this and am coming back for a second round is because I think it's very unique the process that's taking place here – the dynamics of who's around the table; the engagement with ICANN, with the Board, with the community. I think this is a dynamic, important aspect of the Multi-Stakeholder Model at work. Our primary responsibility from my view is to review what has been done and look at accountability and transparency issues very closely and independently and objectively, make recommendations back to the organization as to how they can improve.

But I think you do point to an element that is critical, which is the external audiences and how ICANN is viewed – holistically and with respect to accountability and transparency. And in the earlier discussions, I was focusing in on an aspect of 9.1 of how do we measure, how could we as a team gather data from the external audiences to

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measure how they are embracing ICANN's work, how they are accepting ICANN's decisions. I think it's important because it'll be a measure of, well, how well-known is ICANN? How well-known is this particular process? And even if some of the data is that it's not very well-known, well, that's useful data to us. And the question is, how can ICANN continue to improve on accountability and transparency, and how can that be projected and understood to the outside world?

HEATHER DRYDEN:

Thank you, Brian. Avri.

AVRI DORIA:

Thank you. Certainly, there's absolutely nothing in that I would disagree with, but I tend to also look at it from the perspective of somebody that was in the Working Group on Internet Governance, where my first reencounter with ICANN was actually judging it in the WGIG to see whether we felt it was accountable and transparent. At that time, we decided that it was the most accountable and transparent. It is, I believe, the main model – one of the main crucibles – for the Multi-Stakeholder Model in this world. I believe that whether it's in the ITU WCIT, the ITU World Telecommunication, a Policy Forum, or next year's events is being able to firmly stand and show that this model does work, that this model is a viable way.

So certainly, our first obligation is to ICANN and it's to making sure that the bottom-up process with its AoC type of reviews is working properly, but I also think it's important in terms of making our case to the larger world that the Multi-Stakeholder Model is indeed the way to manage Internet governance. So we really have a dual obligation on us – a first one to ICANN, but a second one to the whole notion of internet governance.

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HEATHER DRYDEN: Thank you. Are there any other questions or discussion you would like to have about the candidates? Stephen, go ahead.

STEPHEN CONROY: This is Stephen here from Australia. Apologies. Obviously, it will be hard for me to put up my hand from Melbourne, but I was just wondering how we can record my vote.

HEATHER DRYDEN: We will ask you when we come to it.

STEPHEN CONROY: That was all. Thanks very much.

HEATHER DRYDEN: Yes, we're keeping it fairly low-tech, but it's good to know that you're there, so thank you.

STEPHEN CONROY: Yep, still here, having breakfast.

HEATHER DRYDEN: Oh, great. Okay. All right. So no more questions or comments? All right. So we're now going to move to voting. So, again, going back to – ah, Olivier, please.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Heather. It's Olivier. Case situation: ICANN is not accountable to anybody or anyone. How would you respond? It's a case situation, a question, basically. Now, as chair of the Accountability and Transparency Review Team, you might wish to know.

HEATHER DRYDEN: Avri?

AVRI DORIA: I believe that it is accountable. It's accountable to its stakeholders, and it is these periodic review processes that are actually a key part of that accountability mechanism.

HEATHER DRYDEN: Brian?

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**BRIAN CUTE:** I hope I'm answering your question, but I'm going to use a real example from the first ATRT. There was, during the Brussels ICANN meeting, a statement made by then-CEO Rod Beckstrom publicly that called into question the ability of the Review Team to undertake its work with objectivity. I was called on as chair of the group to make a public statement in response in real time, but that statement itself was the product of complete team consensus, full team discussion. And it was an instance where we felt that the CEO in that moment was not being accountable to the process that he should have been invested in. So I had that experience of having to operate as a chair in that capacity and make that public statement and do the right thing.

**HEATHER DRYDEN:** Thank you. Okay, I see no further requests to ask a question. All right. So let's return to the order listed on the projected list and invite votes for Avri Doria for the position of chair. So if you support that vote – if you're voting "yes" – please raise your hand. One for Avri. Okay. All right. So then I take it we invite a vote – oh, Stephen, did you have a vote "yes" on Avri?

**STEPHEN CONROY:** I was going to vote for Brian.

**HEATHER DRYDEN:** Okay. All right. It looks like for Brian, all those that vote yes, please raise your hands. Okay, and it is so decided. All right. So, Brian, congratulations on your reelection as chair.

**BRIAN CUTE:** There's a two-term limit.

**HEATHER DRYDEN:** Yes. It's too late to back out now, Brian. Okay. And thank you to Avri for coming forward for this position and for participating in the Review Team as well. We know it's a significant amount of time whether you're

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chairing or not to contribute to this work, and I think we're all a testament to that will and the importance of the Review Team for the organization.

Okay. So next, for the position of vice chair, are we going to decide whether we want one vice chair and have an election on one vice chair. And, Alan, your proposal that we might need more than one, is that something we would look at later based on need rather than building it into the election now?

ALAN GREENBERG:

It was just a suggestion because I know in these things people's lives occasionally get in the way, and I would not want the chair to be completely alone in that kind of thing. So I think it's better to have two and not use them very heavily than have one and have situations where you might be without a second.

HEATHER DRYDEN:

Okay. All right, Larry.

LAWRENCE STRICKLING:

I would say I support the notion of two vice chairs, and we can certainly let Brian and the two of them work it out in case Brian's unavailable in terms of who gets the chair.

But the other factor that I'd like to bring to the table, and I don't even know how we would implement this if people thought it was a good idea, but I think Avri is incredibly well-qualified to have been chair of this group. My vote for Brian was largely influenced by the fact he has been through it before and knows what we're dealing with. I can see three years out when we get to the next team – which Brian has already taken himself out of consideration for, at least as chair – it would be nice to have that same benefit two years from now.

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So I don't know if I by having two vice chairs that might increase the likelihood that one or both of them might be appointed three years from now to take advantage of the building up that skillset. I realize the selection process doesn't really account for that type of tenure and continuity, but I do think it's an important feature that we might want to think about as to whether it's even appropriate to try to plan ahead for.

HEATHER DRYDEN:

Thank you. I know that in my own experience with the GAC, it's tremendously beneficial having more than one vice chair, and it does allow you to go to a small team for advice and guidance and to, as well, introduce them to some of the inner workings of the GAC with the rest of ICANN. And so you can plan for some continuity and keep some depth of experience in that way. So I take your point, and I think it corresponds very well to what Alan is saying.

So on that basis then, let's look at electing two vice chairs. And if we look at who has come forward currently then, my understanding that we have Lise Fuhr, Avri Doria, and Alan Greenberg currently on the slate. All right. So let's do the same again with this process and invite Lise to make a statement, and then we will continue, as I say, do the same. Please, Lise.

LISE FUHR:

Okay. Well, yes, I'm a strong supporter of the ICANN Multi-Stakeholder Model, and that's why I find this group's work is very, very important because that's a good sanity check on the Multi-Stakeholder Model is that fulfilled. I have no positions of chair or vice chair within ICANN. I participate in the ccNSO group and in the Finance Working Group. I'm a fairly newcomer to ICANN. I've been here four years, but actually I was

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the first Danish staff member. So I've been in GAC for like a year before I left to another company, and that was (inaudible) business.

And I'm also a member of CENTR Board. CENTR, that's the European domain name organization. I'm a strong team player. I have good analytical skills, and I'm very passionate with what I do. So I hope to contribute as a vice chair.

HEATHER DRYDEN: Thank you. So next, Avri, would you like to make a statement?

AVRI DORIA: Yep, a brief one. It looks like we have the possibility of having a chair that came out of the GNSO. We've talked about two vice chairs. We could have a vice chair coming out of the ccNSO and a vice chair coming out of the ALAC. It doesn't seem appropriate that two of them should come from the GNSO, so I withdraw.

HEATHER DRYDEN: Okay, thank you, Avri. I don't think we can force Avri to run as vice chair, no. So, okay, duly noted. Then we will move to a statement from Alan, but if we have two vice chairs positions, I think we can see what the outcome will be. But I think it would be appropriate for you to nevertheless make a statement.

ALAN GREENBERG: I could consider this riding in on the coattails, but no. Part of what I say will be very similar to Lise's. I believe in this work we're doing. I am passionate about it. I believe we can do better than we are right now. I'm an exceedingly hard worker.

I do have a number of other positions right now. I'm in the ALAC, and I'm currently the liaison for the GNSO. And I work in a bunch of work groups, and I fully intend to relieve myself of some of those responsibilities because I believe the ATRT, whether as a member or a

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vice chair, is going to take up some significant amount of my time. I am semi-retired, and I have plenty of time to do that in, but I think I will be shedding some of those responsibilities. I'm a hard worker, I'm organized, and I think I can do it. And I think I can help the organization go forward, so that's why I put my name in. The pay didn't attract me all that much.

HEATHER DRYDEN: Thank you, Alan. Okay, so let us consider Lise and Alan elected by acclamation as vice chairs to the Review Team. Okay, and so a round of applause for all. Okay, Brian.

BRIAN CUTE: If you don't mind, I'd just like to make a statement. First of all, I'm very pleased with the results but would like to perhaps, if she's willing, impress Avri into service as a vice chair as well and open that door one more time. I think you would be a huge asset to the leadership team.

ALAN GREENBERG: I see no problem with three vice chairs, and I'd like to see Avri involved in a leadership role in this. I really do.

HEATHER DRYDEN: Great. Would you accept on that basis, Avri?

AVRI DORIA: If I can be useful, sure.

HEATHER DRYDEN: You can certainly be useful. There's no question about that. Okay. Great. So I think that's a really good resolution of arriving at leadership for the Review Team, and so congratulations to all of you and thank you for taking this on. We know that this is a significant amount of work, and we're here to support you as colleagues in the Review Team. And I think we're already well on our way to having a collegial way of working, and this is going to help us enormously as we get more and more into the issues in front of us in the Review Team.



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So I think I can at this point hand over to Brian. Steve, I think we are both quite happy to be moving the responsibility over to our newly-elected leadership.

STEVE CROCKER: You bet.

HEATHER DRYDEN: Great.

STEVE CROCKER: Thank you all.

HEATHER DRYDEN: Good. So at this point, can we take maybe a – yes, they're all lined up in a row. They planned it. All right. So shall we take just a two-minute pause? Do you need just a moment, Brian, to hand over to you?

BRIAN CUTE: I think as we launch in that I want to shift gears a little bit and then take a break, if you don't mind.

HEATHER DRYDEN: Fine. As you wish. So over to you, Brian.

BRIAN CUTE: Thank you very much. And thank you very much, Steve and Heather and staff for getting us to this point and helping us to organize the work so that we could begin in earnest. And thank you to all of you for your support in the election.

What I'd like to do for the next five or ten minutes if everyone is comfortable is, we've got an agenda that we're working our way through, but if we could take maybe five or ten minutes to focus uniquely on, what do we want the outputs to be at the end of the day tomorrow? I think we have a sense in terms of documents or decisions that we'd like to have wrapped up when we close up business tomorrow. We've been working our way through some of these documents, you know, in Terms of Reference and whatnot, but I'd like

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to take just a moment for us to be clear amongst ourselves of what we want to have done and completed by tomorrow.

So from that perspective, from the documents that we've been working our way through and will work our way through: we have Terms of Reference; we have the mandate, which we've discussed; a draft charter; work plan and activities; methodologies; and, importantly, a calendar. And I think no matter how far we get in any one of those documents, we should be able to walk out of here tomorrow with at least a straw man calendar for our work for the year between now and December 31<sup>st</sup>. We know enough to do that.

What we've been doing is walking through some draft documents that Alice has put together or, alternatively, documents that were used by ATRT 1. And when we had this meeting the first time around in ATRT 1, we walked into it with some drafts that were created by the team. So we're at a different juncture now. I guess what I'm going to get to is assignments. We're going to have to have people take ownership in developing the documents I'm referring to, but let's start with the document list.

The mandate and charter document – how should we handle this? Should we make a call for volunteers to draft these respective documents, or what do you think?

AVRI DORIA: It might be a thing that you can actually stick your vice chairs with starting out.

BRIAN CUTE: I couldn't do that to them.

AVRI DORIA: You could do that.

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- BRIAN CUTE: I could do that too. Okay.
- AVRI DORIA: And then they could get other people to help them.
- ALAN GREENBERG: The mandate's the Affirmation.
- BRIAN CUTE: We don't need the Affirmation.
- ALAN GREENBERG: I don't think we need that.
- BRIAN CUTE: So we don't need to draft that. We've got the 9.1 document. So just to do a stocktaking, we have the charter, and that is the Affirmation of Commitments 9.1 with the Terms of Reference. We need a work plan and activities document, and we have one from the ATRT 1 that we will walk through together. We have Work Methodologies document, which again we have one from ATRT 1, but we need to make one of our own. And we have a calendar that we need to develop. I guess the question to the group is if the first assignment was to ask the vice chairs individually to take on those documents and put them into draft form for circulation and review, is everyone comfortable with that? Yes? Okay. So then the next document that we were going to walk – yes, Jørgen.
- JØRGEN ANDERSEN: Yes, I have a question. I think it's a good idea now we have three vice chairs, a lot of manpower which can be assigned to drafting documents. But my question would be, do the vice chairs have sufficient basis for drafting the documents? Should they do it out of their own mind, or do we need kind of discussion in this group before it is possible for the vice chairs to draft a document or subsequent discussion?

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**BRIAN CUTE:** I think for the balance of today, we want to walk through the documents from ATRT 1 that are points of reference for all of these and have a discussion. And once that discussion has been had, the act of assignment to the vice chairs to take on the task. Certainly.

**AVRI DORIA:** Yeah, when I was thinking of sticking the three vice chairs with the sort of lead on the task, I was actually hoping that the notion would include other people volunteering to work with them after these discussions but that just somebody had the assignment but not that they necessarily had to do it alone.

**BRIAN CUTE:** Yes, Fiona.

**FIONA ASONGA:** I think I'd like to support Avri's proposal, because that was what I understood it to be, that the vice chairs would lead but would form small committees and work together. That way everyone gets involved and has more ownership.

**BRIAN CUTE:** Certainly. Agreed? Okay. So shall we walk through the first document that is next on the agenda, which is the Terms of Reference – correct, Alice? – and Methodology document. So that will go up on the screen, right? Okay. So it's up on the screen now. All right. So the Terms of Reference and Methodology document, again, this was developed by ATRT 1. We need not follow this to the letter. We should develop one of our own. The Background Section is essentially quoting from the Affirmation of Commitments, Section 9.1. And that's a direct quote, so as that Background really also serves as our draft charter.

Now the Framework section, moving on to section – any discussion on that point or questions? Yes.

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CARLOS RAÚL GUTIERREZ: This is Carlos. We have here in the title “this counts as a draft charter terms of reference.” What is the draft charter?

BRIAN CUTE: So the draft charter – the document we’re looking at, Background Section 1, is a direct quote of Section 9.1 of the Affirmation of Commitments. Yes, the single page that we had earlier. It’s the exact same quote, the same Section, and for all intents and purposes is the charter of this group. Anything to add to that? Any discussion?

CARLOS RAÚL GUTIERREZ: Yes. This morning, there was a discussion that tomorrow we are going to start to see the progress of the other three – 9.2, 9.3, 9.4 – I don't know how do you call them. And we had also a comment on the other group that this should be the better group. And I mentioned this morning I hope that in the second round all these four elements might start converging and not being seen as separate exercise. So if you confirm that this is just exact wording of 9.1, I would mention that this is one of four efforts that should converge in the second round or in the third or whatever. They relate somehow to the others, even if they are not going to be presented at the same day.

BRIAN CUTE: So your question for discussion I think is 9.1 is clearly the charter for this group in terms of its scope of work; 9.2 and the other Sections which refer to the other Review Teams are clearly going to be the subject of review of this group. As we undertake our work, we will look at their implementation, their recommendations. It’s an open question though. Is this the entirety of the charter for this group, or would you append the other Sections of the Affirmation of the other Review Teams to scope the charter of the group? So that’s an open question. Yes, Alan.

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ALAN GREENBERG: I think to some extent we have to understand how we're going to view the charter. In some working groups, the working group goes over the charter and says, "Have we addressed Point A? Have we addressed Point B?" I sensed from the initial discussion that the A/B parts of this laundry list from the AoC are ones we're not likely to focus on as much, and we're maybe focusing on other issues that weren't covered as well in ATRT 1. So I want to make sure that there's not going to be – it's not going to come back and bite us. That if we don't focus on, let's say A, we're not going to be criticized afterwards because we used the overall laundry list as the charter.

BRIAN CUTE: So that opened the question in my mind of, are you suggesting that we might not look at letter A in 9.1 or that other aspects of 9.1 get more emphasis in the review?

ALAN GREENBERG: I suspect that's the way it's going to come out. I'm not demanding that we don't look at A. I just think our focus is going to be – as we have the discussion and we look at what was already done, what we decide was not only recommended by ATRT 1, but it was implemented well – we may not be focusing on those issues nearly as much. And I wouldn't want how we word the charter to have that count as a negative point against us.

BRIAN CUTE: Understood. Any other thoughts on this discussion?

ALAN GREENBERG: I think we can fix it simply by adding a sentence at the end saying, "The group will be deciding on the relative priorities of these Sections as we go along."

BRIAN CUTE: Okay. Any discussion? Yes, Heather.

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HEATHER DRYDEN:

Thank you. For the record, this is Heather. Just to add to Alan's point, I think certainly we would want to emphasize or deemphasize as makes sense for us this time around, and there's scope for that. As I read the Affirmation in 9.1, we are able to do that, and that flexibility is useful to us. So if we can reflect that in the charter in some way, let's do that. And as well, of course, we're picking up this point as Carlos indicated about looking at the other Review Teams, which wouldn't have been taken in. So that will be reflected as well in all the documents, I think, that you outlined that we need to work on. So there would be some changes needed there as well. Thank you.

BRIAN CUTE:

Thank you. So the incorporation of scope and flexibility provisions, the incorporation of reference to the other Review Teams' work explicitly and to the charter. Any other suggestions for additions or modifications of the charter as we understand it now? Oh, I had referenced a baseline of being that this team has to review the implementation by ICANN of the recommendations of the prior Review Teams as the baseline. Yes, and that is part of 9.1. But we'll be adding language to identify that the scope and perhaps the focus of this team, in addition to the specific references to the other Review Teams' work you raised. Anything else to add? Suggestions for the charter as it's to be drafted? Jørgen?

JØRGEN ANDERSEN:

Excuse me again for not being present at the whole morning discussion, but what struck me when I saw the slide of the points discussed this morning, there was something about – and I wonder whether it was you yourself who put on the agenda – the metrics methods to continued improvements issue, which I consider as a very, very important one.

I don't know whether there should be an addition of this under this section or whether it should be done in a later stage, because I think that we're looking at the implementation of the recommendations from the first Review Team. You could choose the tick in the box approach, or you could add something onto this by introducing some performance indicators, some metrics giving a possibility of assessing whether you actually also with respect to substance have actually implemented the recommendations as it should have been done. But I don't know whether it fits into this part of the charter or somewhere else. Can anybody elucidate on the right place for having this introduced?

BRIAN CUTE:

It might be – is it in methodologies? So we've got a Term of Reference. We've got methodology of the work. We've got the logistics of the work of the Review Team in Section 4 here. It's a very important point. Metrics is a critical point. It could fit into the charter. Go ahead, Steve.

STEVE CROCKER:

So I think all of this is very healthy, but this discussion about metrics presumes that there's a positive satisfactory answer to what those metrics are. And we may find ourselves striving but not quite getting satisfied that we have metrics that capture what it is that we're trying to capture. So there's a degree of risk in there that I think we need to be aware of so that we don't paint ourselves into a corner, unless you're pretty clear that we know how to do the measurement, what to measure and how to measure it.

BRIAN CUTE:

My own view on the metrics question, I do think it's a critical question we have to address is – and Larry and Mr. Zhang, please feel free to jump in – but ATRT 1 did not present ICANN with a specific list of metrics to apply to all of the recommendations. To the extent that we



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put metrics in place, it was around implementation dates for certain of the recommendations, but we really didn't – and I think we talked about this at some length – we didn't feel that we wanted to impose metrics on the organization. Rather, the organization could take the opportunity to develop metrics in implementing the recommendations.

So that's just some perspective on the past, but I think for this team's work it certainly would be appropriate for us to ask the organization, what type of metrics did you develop and have you hit the bar? Are you applying them actively? It certainly would be appropriate for this Review Team at the end of its work to offer specific metrics. I wouldn't rule that out as a possible outcome. With respect to where the metrics question fits, whether it's in the work charter or the statement of our Work Methodology, I'm still not certain and I'd leave that to the rest of the team.

STEVE CROCKER:

So all of that's fine. It's just that, given that no metrics have appeared, that may be a signal that it's not a trivial question. So we should, one way or another wherever you put it, I like the idea very much that we would address it. And then we should carve the charter in such a way that if we find ourselves with an incomplete discussion underway, that we still have a way of saying, "Well, we addressed it. Here's how far we got. Here's what the open issues are. Here's what work needs to be done to further it," and not be in violation. Just a pragmatic comment.

BRIAN CUTE:

Thank you. Jørgen.

JØRGEN ANDERSEN:

Sorry to prolong the discussion on this item, but as you also said yourself this is an essential issue. And I want to point at the e-mail sent by Larry a couple of days ago about how the staff members of ICANN

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actually perceive the implementation to have been. Because, again, coming back to the ticking the box implementation, I think that you have to go one step further. And that is why I think that we – for future purposes at least – must have developed such metrics.

And I'm afraid, Steve, that I've got to disagree with you that if it's difficult, it can't be done, then it should be left aside. I think that we should really focus on that. I think this is very, very important. So I just want to – I will finish now – but I think that this particular point is very essential seen from my perspective and, again, I would draw the attention to the e-mail from Larry. Thank you.

BRIAN CUTE:

So in terms of the charter – I'm sorry. Alan?

ALAN GREENBERG:

I guess I want to give a half rebuttal on that. I always have a little fear when you talk about metrics and say they're essential that one develops metrics because they have numbers in them. But they don't really end up judging whether something is a success or a failure, but you manage to quantify it, and therefore meet the target. So I have a little concern of that.

BRIAN CUTE:

So what I'm hearing for the charter is, in addition to the prior points we discussed, integrating the metrics issue that will be taken on by the team and a suggestion of how it will be taking it on at least at a high level, incorporation by reference perhaps of Larry's points. As example, the metrics we want to explore is something we should bake into the charter. Any disagreement with that?

AVRI DORIA:

On a, I guess, clarification between the metrics or something that means numbers and such. I think that's probably a misfortune in the use

of the words metric. I think, if I understand correctly, we're really looking for a sense of criteria and success criteria and that some of them may indeed be metric, but by and large what we're really trying to define is success criteria.

BRIAN CUTE:

Okay, so we're still working on the elements of the charter to be drafted. Are there any other suggestions for the charter for incorporation? And this isn't closed when we finish the discussion. Someone will take up the draft and circulate it to the team, and we'll have an opportunity to further edit and add as well. Anything else on the charter? Okay.

Now we'll come back to the Terms of Reference and Methodology document, where we just started. We looked at Background Section 1, which is 9.1 of the AoC effectively. Section 2 is a statement on Framework that the first Review Team put together which offers some statements from the Review Team's perspective on the notion of accountability, the notion of what ICANN is as an organization in its ecosystem, and offered three specific notions of accountability that are in the middle of page two that I think are at least worth us touching on.

We, again, may or may not adopt these as part of our work, but 1 was on accountability, a notion of public sphere accountability, which deals with mechanisms for assuring stakeholders that ICANN has behaved responsibly; 2, corporate and legal accountability, which covers the obligations that ICANN has to the legal system and under its bylaws; and 3, participating community accountability that assures that the Board and executives perform functions in line with the wishes and expectations of the ICANN community.

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I'd like to pause there, as this is central to the work that we're going to do, and open up for discussion. Carlos.

CARLOS RAÚL GUTIERREZ: Hi. I would like to mention that the Berkman Report goes a little bit deeper and in more detail without being specific, recognizing different concepts of accountability, transparency, public participation, and corporate governance, which are very rich. It's a little bit too long to put, but I would ask that this section is reviewed in face of what the Berkman Report says the respective chapter of basic concepts, which I think it's more advanced than what you had in this document.

BRIAN CUTE: Thank you, Carlos. Any other discussion on this point? Reflections? Jørgen.

JØRGEN ANDERSEN: I think that I can support the three items mentioned here, but I wonder whether the issue which has come out of the experience we gained in Dubai in December and the mistrust among some of the countries in the world raises the question that we should add a fourth item which is about the perception of the accountability and transparency among the global community, be it countries or be it other stakeholders in the Internet community.

I don't know how to phrase it, but I hope – I can see Olivier is nodding. But I think that we must deal with something about how the work of ICANN, how the accountability and transparency level is perceived. It may be right. It may be completely okay, but we have a problem if the perception around the world is differing from what we consider to be the facts.

BRIAN CUTE: Thank you. Olivier.

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**OLIVIER CRÉPIN-LEBLOND:** Thank you, Brian, and I absolutely agree with Jørgen on this. As it reads at the moment, it really looks a little bit like navel gazing. And we've been used to looking at ourselves all the time, but obviously now with WCIT having taken place in Dubai there was some kind of a waking up call that what we might see might not be what others see in ICANN. And certainly either the perception – or I would even go further by saying, what can we do to make ICANN accountable to the world, to the Internet users and in which way can we show that accountability?

Now it might be something that we can't do directly as in, "If we do this, we will be accountable to the world," but in the actions that we take, in pretty much the same way as the ALAC cannot represent 2.1 billion Internet users but can act in the interest of the public interest and the users out there, perhaps this Review Team could also act in the interest of the users which have nothing to do with ICANN.

**BRIAN CUTE:** Thank you. Larry.

**LAWRENCE STRICKLING:** I think both the points raised are important ones, and the concept that I see emerging that I think fits under the first point here that talks about public sphere accountability, I think what Jørgen is getting at is this sense of legitimacy of ICANN and is there something about the accountability aspects of this that adds to and enhances the world's view of the legitimacy of what ICANN does. I'm not quite sure exactly how to work that in, but I think that's the concept you're trying to get at. So rather than just assuming that you've got that sort of consensus support about what it does, the idea is that you still have to be demonstrating that legitimacy to the rest of the world.

**BRIAN CUTE:** Carlos.

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CARLOS RAÚL GUTIERREZ: Yes, I think it's getting very risky, and I insist when I read the section of the Berkman Report, it talks about four terms, not only accountability. It says accountability, transparency, public participation, and corporate governance. I would like to compete with WCIT-12 or ITU. On the one hand, we have an international treaty by nations and, on the other hand, we have here a private sector led support stability policy formulation system for a different animal. And then in ITU, we're stuck with the downpipes with the regulators, with the infrastructure. And what we are doing here is working on the second layer, logical layer, and then we have the (inaudible).

So I really respect a lot, and I think we have to open bridges to the ITU and so on. But when I read the Affirmation of Commitments, we're not on a peer-to-peer basis. We are talking here this is a private sector led multi-stakeholder part of the infrastructure which is different to the other part and that we are developing under a non – (inaudible) to regulate this area, and it's not organized on a country-by-country basis. So this is a very elemental discussion; it has to be. And I think it can be addressed by facing simultaneously the four areas of the Affirmation of Commitment – 9.1, 9.2, 9.3, 9.4 – putting them all under your transparency across, as Avri said this morning.

But we're talking here about private sector led multi-stakeholder section of the Internet. We're not competing with the views that are on the other side; otherwise we won't make any progress. And punctually to address these issues when we fall into the corporate governance and the GAC issue, there we have the interface, just an interface. We're not going to be able to solve with the ATRT 2 all these issues. We just have

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to be clear that there is an interface and at some point we have to respond to that.

BRIAN CUTE:

Thank you, Carlos. So taking this back to purposes of drafting concepts of accountability, we have the suggestion from the Berkman Center Report that those aspects be incorporated into the draft, the discussion there was led by Jørgen, Olivier, and Larry. On the additional fourth point with respect to global legitimacy put in shorthand need to be incorporated as well.

I just want to get back to one point because, Olivier, you said this looks a little bit like navel gazing, the first three. So to take that point, does anybody have a thought that we should not incorporate the three that are here and just start with a blank page or change some of them?

OLIVIER CRÉPIN-LEBLOND:

Thank you, Brian. It's Olivier. I'm just saying that it looks like navel gazing because the first point has stakeholders, and we often assume that stakeholders are ICANN stakeholders. The second one, of course, deals with the obligations of ICANN and the corporate and legal responsibility. And the third one deals specifically with expectations of the ICANN community. So none of them are going outside the bounds of ICANN's walls. Thank you.

BRIAN CUTE:

So by adding the fourth point that you're suggesting, we're expanding it to its proper reach. Okay. So we'll start with these three. We'll add that fourth point. We'll incorporate Berkman. Are there any other suggestions about additions or modifications to the draft of the accountability concepts we'll be operating with? I see none. Okay.

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So let's work on to the, work forward to Section 3, the very exciting Work Methodology section, which talks about our logistics of teleconferences and minutes and the nitty-gritty of how we do all of this in a very transparent and open way. I guess my first question is for Alice. This is from ATRT 1. Has there been an expansion or evolution of the Work Methodology over the ensuing Review Teams that we should be considering here?

ALICE JANSEN: With the WHOIS Review Team, for instance, they had the private wiki – that's the only difference with the ATRT – where they would post some private documents and private information on there. And the SSR, on the other hand, they did not stream their calls. So that was the only difference, but apart from that, everything was almost the same, same meeting (inaudible).

BRIAN CUTE: Can you expand on the private wiki concept just a bit, exactly what were they doing and why?

ALICE JANSEN: Basically, you need to enter the wiki reviewer credentials. So you create an account for members. And you have viewing rights and editing rights. So you need to be logged in to actually see the wiki.

BRIAN CUTE: So this was a private space for the Review Team members to do work, drafting, things of that nature?

ALICE JANSEN: Secure, private, yes. No one else can see it apart from the team members who have credentials.

BRIAN CUTE: Okay.



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ALICE JANSEN: Sorry? Yes, usually you can see who has edited last. And people also had a tendency to leave their name and the date they changed the document.

BRIAN CUTE: Alan.

ALAN GREENBERG: A question: was this done because they had access to private information which they didn't want to share or just for early drafts of documents?

ALICE JANSEN: For instance, they had calls that they didn't want to make available to the public so they posted all the recordings of the calls on the private wiki. They also had some – do you remember, Michael, we had some drafts as well? And they were preliminary drafts, so it was just a way of having a central repository of private.

BRIAN CUTE: I don't recall, honestly, how we handled early drafts of our recommendations. I'm assuming we probably did that. We had a small drafting group of a few people, and we probably handed the document – a soft copy – back and forth over e-mail. I'm not sure that we had that in public view. Did we?

ALICE JANSEN: No. We published the ATRT 1 documents on the ICANN website as soon as they were finalized.

BRIAN CUTE: Right. So I guess for point of discussion is, is there any opinion on which direction we should go in the drafting of documents aspect of our work?  
Alan.

ALAN GREENBERG: My experience is if you make drafts available, most people won't read them. Some will and will start blogging about them as if they were final.

So I tend to feel that things that are truly drafts and may well be changed radically should not be put in total in public spaces, not so much because we're afraid someone's going to see them and see what we're thinking but because it will be interpreted liberally.

And I prefer to have a private space where all the work team members can look at them and comment and then just trade them over e-mail and things like that. There's always going to be if you assign five people to be the drafting team, there's likely to be a sixth person who's interested enough to read it and comment, so I think that's a useful capability.

BRIAN CUTE:

Okay. Avri.

AVRI DORIA:

Oh, that's okay, thanks. It's good to turn it off and turn it back on. I guess I tend to think that there's really no problem with drafting in public. You put a big sign at the top of it. I certainly agree that the only people that should have write access to the wiki pages – except for the comment area perhaps – should be the team members, but I don't really see a problem.

And I think part of the overall transparency is watching it develop, watching it evolve, letting people see the various levels and how it changes over time. Again, there's content in that, yes, somebody will in a private scratch place write the first draft before it gets into the wiki, but then at that point I'm not sure that I see a problem with letting the people that want to watch and see it evolve.

And, yes, nothing is going to be final until the end. If we wait for when it's final, then the ATRT period will be over. So then it's a question of

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deciding, at what point is it not first draft-ish enough to let it out, and I just think that get people used to the fact that they're looking at drafts. We can put a big, "This is a draft." We can have any number of things we can do with it, but I would tend to sort of say do it in the open, let people watch.

ALAN GREENBERG: I don't feel very strongly. It just relieves us of one extra detail that we don't have to defend, but it's not a big issue from my point of view.

BRIAN CUTE: Any other thoughts on this? Yes.

(LAWRENCE STRICKLING): I guess the concern that I might have of having drafts sort of essentially openly available is the potential for getting stuck into debate over non-finalized language that would delay our ability to move forward on stuff that we really need to get done given the timeframes that we have to get stuff done in. I would ask what sort of experiences you all had in ATRT 1 with regards to public input. How much of that input – did you get any with regards to drafts that you had released? Did that impact your ability to follow the schedules that you had set for yourselves?

BRIAN CUTE: No. We did not release drafts and solicit input from the community. Did we? Drafts?

LAWRENCE STRICKLING: Well, Fiona reminds me that since all the e-mails were opened, anybody could look at all the drafts because they were attached to e-mails. Now you're right, we didn't seek public comment.

BRIAN CUTE: That's true.

LAWRENCE STRICKLING: But people could follow everything that was going on. And, frankly, I don't remember getting any input from people about that. But they

could watch every draft that was going through the e-mail, so it was not that big a deal.

BRIAN CUTE:

Yeah, you're right. You're right. He's right on both counts. We didn't solicit any specific input on the drafts themselves, but they were available on the e-mail, which was public. My personal hesitation about putting drafts up there is that sometimes they're just terribly written. You know, a draft is something that's just ugly and difficult to understand.

LAWRENCE STRICKLING:

I would think that following the same sort of model, the question where it gets a little complicated is if we have a private wiki in which drafts are actually put aboard. If we make it available, obviously it's not private. So the fact that there were past discussions that were held internally within the group, that information was passed through e-mail and that didn't generate any significant delays in actually getting to the final output, I would say would argue for doing sort of the same model moving forward.

BRIAN CUTE:

As between the two discussed approaches so far – using the e-mail list as open and drafts are attached and the public can review them or standing up a wiki – do we have strong opinions on either? Avri.

AVRI DORIA:

I guess the other possibility is also an open wiki that just members of the team can write on but anybody can look at. I mean, we don't have to go back to passing draft trials through the e-mail. We could just use a wiki that was open.

BRIAN CUTE:

Olivier. Thank you.

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**OLIVIER CRÉPIN-LEBLOND:** Thank you, Brian. I guess before I mention this, I'm a firm supporter of transparency on all levels. And the ALAC has been, I can't say a model of transparency, but we've done as much as we can to be as transparent as we have been and as we could be.

I just have a question with regards to something that's mentioned later on in the document and that's the Chatham House Rules. If you do have some parts of the discussion that require Chatham House Rules and you do have publicly accessible documents as they are being drafted, that might break the Chatham House Rule. Whilst correspondence could be chosen to take place in e-mails by direct e-mail rather than on the public list with regards to the Chatham House Rules. So that's one thought.

The other thing is experience in drafting documents publicly, which is something that we do very regularly in our community, there have sometimes been observers in statements that we were developing where the first statement was particularly acidic, should I say – or (publically) strong, and a barrage of e-mail, a flood of e-mails, got my way from some people saying, "You cannot honestly think that you're going to send this out," when really it was just a first draft, and you know the first often bear very little resemblance to the final draft when it goes out. So these are some of the dangers with having such a huge transparency. That's all.

**BRIAN CUTE:** Thank you. Jørgen.

**JØRGEN ANDERSEN:** Just a quick question to Larry. I understood that you mentioned that under ATRT 1 there was openness about the e-mail traffic, meaning that everybody could watch the drafts and that didn't cause any problems. So why couldn't we just do as last time?

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I think that the point raised by Olivier about the Chatham House Rules could correspond well with that. You could say concrete decisions where there's a particular need for having something behind closed doors, so to speak. But if you deviate from what was the approach last time, you must explain why you're deviating, and I see no reason for doing that.

LAWRENCE STRICKLING: Yeah, I agree. And the other thing to keep in mind about this document Brian's leading us through is this was prepared at the front end of the ATRT process, and I think there are things in here – because I don't ever recall that we invoked Chatham House Rules at any point. Maybe once? Okay. And there are other things in this document that we were anticipating what might emerge, but my sense was that in the actual course of things we were quite open and transparent and it really wasn't an issue.

In fact, I'm hoping that one of the reasons we didn't have a lot of interventions on particular drafts was that people understood the openness and transparency and felt comfortable that they were going to get their opportunities to comment at the appropriate times with more final documents and didn't feel the need to be jumping in on intermediate drafts. But it was not a problem in the actual execution.

BRIAN CUTE: Thank you, Larry. Avri.

AVRI DORIA: Quick comment on the Chatham House Rules, there are two points about it. If they do get invoked, first of all, anybody that writes something themselves, Chatham House Rules always allow you to say what you said. They only prohibit you from saying "So-and-so other said." The second thing, if we ever had a case like that, then you have

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somebody act as a reporter that synthesizes what is said in Chatham House as opposed to having everybody's name attached to it. So it wouldn't really be a problem. You would just go into a slightly different method of working where someone – probably one of the vice chairs – but someone would act as a synthesis reporter for what was said as opposed to having a direct transcript.

**BRIAN CUTE:** So getting back to what we're going to draft in terms of our methodology, I'm hearing no discomfort with what is in this document as a baseline. Avri made a suggestion earlier in the day about simple streaming as opposed to streaming with Adobe, correct?

**AVRI DORIA:** Not necessarily an either/or but certainly simple streaming for those whose PCs can't handle Adobe or their local bandwidth won't handle – or allow even Adobe in some cases. So yeah, just the simple streaming.

**BRIAN CUTE:** We'll draft this but, Alice, please check too as too – as you'll be responsible for that – that the streaming aspect is included. And what I'm hearing is a general comfort level with the open e-mail approach to documents and drafts. Okay? Okay. Any other thoughts on that section before we move on?

**AVRI DORIA:** Does that mean we can't use an open wiki, that we have to use the e-mail, or can we actually use open tools of various sorts?

**BRIAN CUTE:** So let me then ask specifically. I saw a lot of nodding heads for using the open e-mail in terms of handling our drafts and evolving them. Is there – do we want to do an open wiki as well? Carlos.

**CARLOS RAÚL GUTIERREZ:** I think an open wiki has big advantages, nothing to do with transparency of handling one document. The problem with the open e-mail list is you

never know who has the last version. So I'm for the open wiki for that purpose. To be able to track down where is the latest version with all the comments, it's most useful. The e-mail lists are – how do you say? – they're a virus. It might have been useful 20 years ago when Steve managed the RFCs, but now I think it's just too much information and too many e-mails in the e-mail box to handle specific documents.

BRIAN CUTE:

So that's well accepted. My observation is going to be that when it came to drafting in ATRT 1, the drafting teams were in fact extraordinarily small, and there was no problem as between the small number of drafters in terms of document control. So what I'm also hearing and welcoming warmly is if we take an open wiki approach and a greater investment of writers and authors across the team. Alan.

ALAN GREENBERG:

I strongly support having a wiki as a repository of the latest document. Using the technology in the wiki which allows multiple people to edit the document, we have found, is a dog's breakfast. Because essentially, although you can through relatively tedious methods find out who changed this and when was it changed, it's not nearly as easy as redlined documents and you end up with almost a situation of he who speaks last speaks loudest.

So using the editing capabilities of documents, I'm really hesitant to do. Using it as a repository or a place for a very small number of disciplined people to be drafting something, yeah. But we can end up spending a lot of time fixing problems that way, which I don't think we need to do.

BRIAN CUTE:

Thank you. I'm going to suggest that this is not something we're going to decide definitively right now. I think we've all raised some very good points. Let's reflect a bit on this. We'll have someone draft this section



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of the document. We will include the e-mail approach. We will include the open wiki approach, and maybe with Alan's suggested modifications to that, as well, as a repository. And then I think as a team we can come back to this and make a definitive decision of how we proceed. Alan.

ALAN GREENBERG:

Yeah, one more thought. We don't have to pick something. If Lise, I, and Heather decide are given the task of drafting some particular document, we may choose to use a wiki and someone else may choose to use e-mails. People use whatever they're comfortable with and whatever they don't waste time on – or Google Docs.

BRIAN CUTE:

Okay. Any other points to be made before we move on? Okay, thank you. Now I'm on page three, and we've just finished IV. So what follows speaks to how the Review Team interacted with the various constituent bodies over the course of its work, be it ICANN staff, the Board, the ACs, the SOs, the broader community, the GAC. I guess one way to approach this is I think it's pretty self-evident that the Review Team will want to interact with each of these entities that are listed here. At least one question is, are we missing anything? Carlos.

CARLOS RAÚL GUTIERREZ:

I would like to recall that this morning in terms of the scope of work you had a timeline for the interaction with these groups. Two weeks after Beijing, we should have collected all the feedback on the scope of the work.

BRIAN CUTE:

I think the suggestion was to put out for public comment questions from the Review Team looking for input from the community as to the issues or scope of our work and to close that out by two weeks after Beijing and have those inputs. Is that correct? I think that was it. Yes, Lise.

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- LISE FUHR: Avri had an idea of talking to the IGF or going to the IGF and have discussions there. I don't know if that should be put in here, but that's opening up to a broader community.
- BRIAN CUTE: Interesting suggestion. Discussion? Avri.
- AVRI DORIA: Yes. Just to amplify the idea a little, I mean, the IGF does have its open forums, which are places normally they're used as propaganda sessions where some group comes in and says, "This is all the wonderful stuff we're doing. Love us." But one could use one of those sessions to present and open questions and get dialogue as part of the further reach out, the further global accountability process and use it in that respect. So that's what I was thinking of, the use of an open forum.
- BRIAN CUTE: Discussion? Carlos.
- CARLOS RAÚL GUTIERREZ: I don't know how often they meet. I don't follow IGF, but I don't if that goes. I think they meet only once a year and that's later in the year. That's going to be difficult with our schedule, I think.
- BRIAN CUTE: And the deadline to get workshop requests in is upon us. Go ahead.
- AVRI DORIA: The first workshop is in the next two weeks, but the open forums is later. So if it's a workshop – and I don't want to get into the whole difference between an IGF workshop and an open forum – but this would qualify as an open forum. So certainly we can present. If we want to, we can write up an initial proposal for the workshop deadline. But otherwise, we could use the open forum deadline. Thank you. Olivier.
- OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. The workshop is one week from tomorrow. It's very quick.
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- BRIAN CUTE: Thank you. Yes.
- LAWRENCE STRICKLING: I'm struggling to see any sort of downsides other than the timing considerations for seeking input from the IGF community. Is there something I'm missing here?
- BRIAN CUTE: Actually, that was my question. Is there a nobody who thinks this is a bad idea? Larry.
- LAWRENCE STRICKLING: I think one's ability to get meaningful input from IGF given how late it is in the year is somewhat slim. Because I think under any schedule to make the end of the year, we're going to have to have draft recommendations out in October sometime. What I see the IGF doing is providing an opportunity to talk about what the ATRT is, how we have the measures of self-evaluation in a multi-stakeholder process. I think it helps with the legitimacy point that Jørgen raised a little bit earlier. But in terms of actually getting people to give input in terms of what recommendations this group ought to make, I don't hold a lot of hope that the timing would give you much opportunity to get that. But that's not a reason not to try to utilize the idea in an appropriate way.
- BRIAN CUTE: Thank you. Other thoughts? Avri.
- AVRI DORIA: What I think you end up bringing is here's pretty much the latest close-to-final draft of what we're doing. And it's that same notion of sanity check, that same notion of "What? You guys spent six months, but you've not touched upon this?" And so it really gives that view that it's explaining it to them while there's a still a chance in that respect. So that's what I was thinking of, but certainly you're right. It's not an early part of the process. It's part of the last editing part of the process.
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BRIAN CUTE:

Thank you, Avri. Any other suggestions in terms of interaction? So we'll take the IGF suggestion on board and discuss it further with the draft. Okay, the last paragraph here is Management Review. It says, "The Review Team has appointed a working group to consider issuance of a request for proposals to engage a management consulting firm to assist the Review Team."

What this turned out to be was the engagement of the Berkman Center, specifically to undertake the task of doing case studies. And we worked with Berkman and they issued their report in conjunction with the Review Team. So I guess the question to this Review Team is: do we envision using or engaging an independent expert – which is actually the phrase in the AoC – in the course of our work? Carlos.

CARLOS RAÚL GUTIERREZ:

As I mentioned, I think we should in the second exercise try to have a broader context of where ICANN stands and the Review Team stands related to other organizations, like ITU and IGF and so on. And I mentioned some work in progress by MIT which is available. But I think that if we're going to go to this external view to change this navel gazing as Olivier said, we should consider some kind of guidance. I don't know if it's Berkman. I don't know if it's this work that they are doing at MIT or somebody else. But we should consider some guidelines about this contextual evaluation and the interfaces to other processes.

BRIAN CUTE:

Thank you. Other thoughts? Any dissent? We can leave that in the draft and come back to how we might specifically pursue that element. Okay. Now on page four moving forward. Ah, there are some important issues here. The Work of Review Team, 4AI – decision-making within the Review Team, how we come to decisions.

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Let me read you the paragraph. “Under the Aoc, the Review Team is to make recommendations regarding ICANN’s accountability and transparency processes in service of the public interest, to be provided ‘to the Board and posted for public comment.’ The RT will seek, but will not require, consensus with respect to such recommendations. To the extent that the RT is unable to achieve consensus with respect to any such recommendations, its reports and recommendations will reflect the variety and nature of the RT member’s views. Any conflicts of interest that may affect the views of an RT member will be disclosed and addressed in accordance with the conflict of interest policy discussed below.”

Let’s address these as two separate items. The first is the decision-making methodology and then secondly we need to address the conflict of interest policy and conflict of interest policy statements. Alan.

ALAN GREENBERG:

In ICANN, we use the term consensus in many, many different ways. From reading this, it sounds like consensus is unanimity in this particular case. Was that the intent?

BRIAN CUTE:

I don’t believe that was the intent. I think that’s where we landed. I know there was one issue – if I remember correctly, I think it was one – where we actually did part ways on a conclusion if I remember correctly. But that wasn’t the intent of this language. Unanimity was not. It was the flexibility to part ways and make explicit why we parted ways.

ALAN GREENBERG:

Just to be clear, so you can have consensus on something and still call it consensus even though there are one or two people dissenting or some number of people dissenting?

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Consensus in the DNSO essentially is three quarters; ALAC uses 80%; other people use consensus in different terms – that’s why I’m trying – for the GNSO work groups, they have a definition of six different levels of consensus, several of which use the word with a modifier in it. And we also use it differently here if we have a capital C. But that’s what I’m asking, which one were we talking about here?

BRIAN CUTE:

There was no specific suggestion. The language is the language on the page. I tend to think consensus is like other things – you’ll know it when you see it – or lack of consensus as well. Any other specific thoughts or suggestions here? Should we come up with a more specific definition of consensus? Is there another approach here that anyone would like to recommend? Yes, David.

DAVID CONRAD:

I don’t have a strong opinion on the word. I would agree with Alan that my reading of this was that it was unanimity and if you don’t agree with the consensus of the group that you would then be able to express your view as perhaps a callout. I know in SSAC we use objection statements where there is consensus within the committee on a particular topic. We have a section within the document that says, “So-and-so objected and here is the rationale for that objection.” That might be an approach that we can take to deal with the separation of unanimity from consensus.

LAWRENCE STRICKLING:

Well, I’m confidence we didn’t intend unanimity. It’s in the sense of everybody affirmatively voting in favor of a particular statement. I do remember one matter on which there most certainly was not consensus across the board, but the team, guided by this language, worked to find as much consensus as we could, and then I think identified, if I’m

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remembering correctly – and it’s been three years – this was on the issue of the question of having an external group to review board actions.

And I think we all were able to agree on a diagnosis of the issue and such, but there was a split – a fairly substantive split – in terms of the number of people on each side of the issue where we weren’t going to agree that, yes, we needed this external court of appeal to review board actions.

But I think keeping this language is important, and I think it’s important that every place we can we try to find language that people do have consensus about; and where we don’t, we’re able to articulate where the differences remain. But I don’t think the idea is that we conduct ourselves where everybody has to agree with every piece of language. I don’t think that’s the way ICANN operates in general, and I don’t think it’s the way we necessarily have to operate.

BRIAN CUTE:

Thank you, Larry.

HEATHER DRYDEN:

Thank you. This is Heather. I would agree with that. The definition I’m accustomed to working with is to determine that you have consensus where there’s no strong objection. So even if you have people that are, you know, maybe not 100 percent but they can go along with it, that actually enables you to move ahead with your work and if you’re wanting to pursue unanimity, that might actually be a bit too stringent an objective for a Review Team like this. So I would support that kind of understanding and certainly it doesn’t limit us from identifying where there is a clear lack of consensus and a range of views or such that can be communicating usefully on any topic. That’s my view.

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**BRIAN CUTE:** Thank you, Heather. And if I recall, it was the strong objection in the example Larry is referring to that was our litmus test. So we could take this language and circulate it, and if we need to refine it, we certainly can. We could add to the extent that the RT is unable to achieve consensus, not unanimity, with – and tweak it in a way where it's very, very clear. But we'll take that on board as a drafting task.

Meetings. Anything here that – we're going to have face-to-face meetings and we're going to have telephone calls. Carlos, please.

**CARLOS RAUL GUTIERREZ:** I hate telephone calls of ICANN. I don't understand why they don't use WebX or a more modern way to participate over the phone where you can raise your hand, where you can see who is connected and so on. Even in Central America where we have a very old (inaudible) based organization between the six regulators we use. (inaudible). It's so much better than what you have that I would really like to have something more that keeps attention and gives a better feeling where it's connected and better opportunities than what you use today. This is a strong feeling I have. It's very difficult to follow the GAC telephone calls. They're terrible.

**BRIAN CUTE:** Alice, do we have a solution?

**ALICE JANSEN:** Well, we have Adobe Connect which is rather interactive. We have used this before. Again, I can always talk to our IT team to see what we can suggest.

**(FIONA ALEXANDER):** (inaudible) as well.

**(ALICE JANSEN):** We'll investigate and get back to you on it.



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BRIAN CUTE: Thank you. Jørgen?

JØRGEN ANDERSEN: Yes, thank you. Also I think that telephone calls are not very appropriate. I don't know whether these video conferences are much better; in particular, not when you're many people. So my suggestion would be that we consider whether it would be possible to extend the number of face-to-face meetings compared to what is proposed in the documents distributed so far.

I could make one proposal. I know it's very late in the process, but as many of the group here will be present at the IGF in (autumn), that might be a possibility for another face-to-face meeting. But I would really strongly recommend that we extend the number of face-to-face meetings. I would even myself be willing to come to L.A. directly again.

STEPHEN CONROY: Sorry, it's Stephen in Australia. Look, depending on the timing, if it was felt there was a need for further face-to-faces, we'd love to host a meeting, depending on how that works with ICANN if Australia if people didn't find that it was too far. And I do fully understand that it's a long way, but we'd be interested in talking to ICANN if there was a need for more face-to-face meetings.

BRIAN CUTE: Thank you very much, Stephen, for the generous offer. Everyone's points have been heard on the telephone calls. Certainly using other technologies when we do have to communicate other than face-to-face will be made available, or at a minimum.

Focus on the face-to-face meetings. Clearly, we have Beijing, we have Durban in July, we have Buenos Aires in November. So I'd assume that we'd all be agreeing to meet at those ICANN meetings over the course

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of our work. The July to November stretch provides a gap, and as we move into the fall timeframe, we will be engaging and drafting at that point. It's very important that we connect there. I certainly see on the calendar a window for a face-to-face in that timeframe. We have heard Australia. We have heard the IGF. Are there any specific thoughts about the number of face-to-face meetings before we get to where we'll go? Open floor. Alan.

ALAN GREENBERG:

Face-to-face meetings we tend to be able to support, essentially, two days of work easily. You can't do anything like that on a conference call. A full day of conference call is debilitating. Two days is – I know I've done that, but it's not easy and it's not productive. So face-to-face, to the extent the budget allows and to the extent our schedules allow are – I won't say (inaudible) – but there's a huge gap.

BRIAN CUTE:

If I can offer, too, that clearly – maybe not as in-depth in Beijing, but in Durban and likely in Buenos Aires, part of the time that we will spend is engaging with the community as well. So we have to engage with the community robustly, but the face-to-face time that we spend together also talking through the substantive issues and where the work is going, and ultimately where the recommendations are going, is going to be an important time investment.

So what I'm hearing is probably four meetings at a minimum face-to-face, and perhaps an openness to additional if need be. Okay. Well, I think that's a good enough baseline to start with. David?

DAVID CONRAD:

I know ICANN appears to be having a larger number of sort of smaller meetings. I was at an Amsterdam meeting relatively recently with the Registry and Registrars. I don't know the schedule of these meetings or

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their audiences, but they may also provide a way in which we can interact with particular subsets of the communities that attend these meetings. So that might be another option to look at in terms of face-to-face opportunities.

BRIAN CUTE:

Thank you, David. And I'll also add, too, that in terms of the drafting and delivering a report by December 31<sup>st</sup>, once you get past November, there's diminishing returns. So I would see the November meeting really as the last face-to-face for this group.

AVRI DORIA:

Yeah. This is Avri again. In terms of juxtaposing if we're actually looking at multiples – for example, in May, a lot of people will probably in Geneva for the ITU World Telecommunications Technology, plus one of the IGF prep meeting, so that becomes an opportunity. I know probably very few people go to things like the ICANN Studienkreis, but a lot of ICANN people do. (inaudible).

So there's probably, if we look through, like you were suggesting, at various things that a bunch of people might already be inclined to go to, you might find matches.

BRIAN CUTE:

Okay, thank you. Any other thoughts on meetings? Heather.

HEATHER DRYDEN:

I'd like to vote for going to Canberra. I think that was a very kind invitation.

(STEVE CROCKER):

This (inaudible) always starts early, doesn't it?

BRIAN CUTE:

Okay. I think we're probably getting to a point where we're going to need a brief pause. Is it scheduled? Yeah. I think this is as good a place as any to take a 15-minute break, and then come back to the document

and continue. Okay. Thank you all on the line. We'll be taking a 15-minute break and be back here shortly .Thank you.

Okay, folks. We're going to recommence, if everyone could take their seats. Okay, everyone, we're going to recommence. So where we left off, we were on the Terms of Reference and Methodology Document page four. We're going to continue through that document for discussion purposes and gathering ideas about drafting our own terms of reference. Excuse me, working methodologies documents.

So at the bottom of page four, we're now moving onto reporting and there is I-V. These provisions speak to how members of the Review Team are free to interact with their respective constituencies and others, with respect to the ongoing work of the Review Team.

So the baseline rule that was adopted by ATRT 1 was that anyone from the Review Team was free to interact with the constituencies that they came from or were representing in some capacity. Again, a reiteration that we're going to conduct our business on the record and transparently, but also II and III get specifically to the issue of using Chatham House Rules, and where required or necessary, engaging in private discussions purview teamwork.

Generally speaking, are there any suggestions, concerns, considerations that we should take into account in drafting our own methodology on those points? I see none.

IV, members of the Review Team are volunteers and each will assume a fair share of the work of the team. Where appropriate and with the consensus of the Review Team, ICANN staff will be used to provide

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administrative support services related to travel, meeting logistics, and technology. To preserve the independence and integrity of the Review Team, however, ICANN staff will not be asked to perform substantive tasks such as drafting reports with respect to the work of the Review Team. I think that's pretty well understood. Any questions? Yes, Jørgen.

JØRGEN ANDERSEN: Yes, I also think it's pretty well understood, but I think there is maybe something that should be agreed upon in the group that ICANN staff might be asked to answer questions, keep reports about the implementation of the recommendations of the first report of the ATRT 1 team. And I refer again to Larry's e-mail a couple days ago.

BRIAN CUTE: Yes, and we expect to have a good interaction with the ICANN staff tomorrow morning. My own perspective on that is I think that Larry has asked some critical questions, and I also think that in fairness to ICANN staff, they've had about a week's time from that e-mail to prepare, so I'm personally looking forward to a good presentation from the staff that gets to the heart of some of those questions. I also would be fully prepared to ask for a follow on presentation from staff if we don't feel as though we've gotten as full a download, if you will, as possible.

DENISE MICHEL: Brian? Pardon me.

BRIAN CUTE: Yes, Denise?

DENISE MICHEL: A paradigm that we used in the WHOIS Review Team and also the Security and Stability Review Team that actually worked out quite well in terms of the end product was that just as the Review Team sought input on draft recommendations and draft report from the community

and the board, staff also provided input on the draft recommends and report.

This allowed staff to actually do a more thorough assessment of whether the recommendation was feasible, what resources and time it might require to actually implement them. And then the end result, some staff input and suggested changes were accepted; others were not.

But on the whole, the end result left a lot of the recommendations that were more feasible and, hence, phrased in a way and with deadlines and so forth that were more feasible and appropriate for implementation. I think as a result implementation has gone smoother.

So I would suggest that the ATRT follow in that vein, and also build in, as you do, soliciting comments from staff as well as the community on draft recommends and your draft report.

BRIAN CUTE:

Thank you, Denise. Very well appreciated and clearly learnings over the course of the Review Teams as to how to do it better. Point very well taken. When we move into the phase where we are developing recommendations as you suggested and as we discussed with Steve, any data that ICANN staff or board can provide, with respect to feasibility issues along the way would be very well received.

V, just continuing on, chair and vice chair – vice chairs in this case – will propose an approach to providing appropriate support to the efforts of the RT. Since we're not reinventing the wheel and Alice is providing excellent support along the way, we can just package up in document

form what the support mechanisms will be and probably have them in place for Beijing if I'm not mistaken. Thank you.

Okay, moving on. D, participation. And this is something that I think we did use. Members could be assisted where necessary, for example for translation purposes, although the emphasis must remain on direct interaction between the named members. Assistance should not intervene themselves, nor should they be able to substitute for a member who is unable to participate. This applies to conference calls as well as face-to-face meetings. Remote participation possibilities should be provided in cases where a member is unable to attend a face-to-face meeting.

I think we respected this to some degree, but with respect to one member, he did have an appointee who sat in his place on a more active basis. I don't know. Are there any strong feelings about this particular provision one way or the other? Open floor.

DENISE MICHEL:

Yeah, Brian, if I may. Staff also – in thinking back three years ago – did receive some complaints about this. And I think if for no other reason than to respect the long and very careful selection process that everyone has gone through and all the work that the selectors themselves have put into creating a representative group. I would recommend that this be adhered to more closely.

BRIAN CUTE:

And I would add to that the other members of the community who put their names forward who were not selected and who would love to be here puts an onus on us to participate fully in our own capacities. Alan?

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ALAN GREENBERG: Yeah, I think this should be the rule, to the extent that exceptions will be necessary for particular cases, either (one-of) on a regular basis. We can judge that as necessary and/or revoke if appropriate.

BRIAN CUTE: Seems sensible. Any other comments on this? Okay, moving on to II, D2, the chair and vice chair of the Working Group will coordinate the work of the RT but will serve as full participants in the substantive deliberations of the Review Team and in the development of the Review Team's deliverables. All members of the Review Team will have equivalent voting rights.

This is how we conducted the work last time. Myself as chair and Manal as vice chair participated fully in all the work. I'm certainly conscious of the need as a chair to operate in a neutral manner with respect to the group and the administration of the group's work. But other than that, this was the first time around and all hands on deck effort with everyone pitching in. Speaking for myself, I'm happy to take that approach again. I'd ask the vice chairs their views on that. Nodding heads. Carlos?

CARLOS RAUL GUTIERREZ: (inaudible)

BRIAN CUTE: You don't have to worry about that. That's on the record. Okay, any discussion?

CARLOS RAUL GUTIERREZ: (inaudible) vice chairs.

BRIAN CUTE: Vice chairs, in plural. That will be done. Okay, E. I think we've already touched on this – the means of communications. We're going to look at Adobe and any other tool that's at our disposal to facilitate easy and useful communications. Yeah, Avri.



AVRI DORIA: On the Adobe, one of the things I'd like to request up front is that we have the Adobe with the audio turned on option. Well, some groups use it without that audio option and I've always been told that one has to request that specially if they want that, so I wanted to get that request in. But I just want to—because often when it's a telephone call, they decide that's not needed and I think it's good to have it in any case.

BRIAN CUTE: Thank you. Yes, Alan.

ALAN GREENBERG: Probably not the communications that this title was thinking of. I find it useful in a group like this to have contact information, including phone numbers, for people. It's rarely necessary, but when it is, it's really convenient.

BRIAN CUTE: Everyone okay with that? Nodding heads. Okay. F is indicators. And this is actually something we alluded to earlier. Jørgen, your question on metrics and where do we fit those if we develop them or statements on metrics.

There is, in addition to this paragraph which speaks to the identification of reliable indicators of progress, the Review Team did develop a standalone document on evaluation criteria performance measurements and KPIs. I'm not sure we're going to have time to go through this document in full and thoughtfully today, at least as a first pass, but we need to go through this document. It was developed. It's a good point of reference and we know already that metrics is going to be an important part of our work. But that's what paragraph F, indicators, was speaking to. So we'll move on from that and come back to the document for a fuller discussion.

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Deliverables. Final recommendations to ICANN. So if you bear with me. The Review Team will endeavor to post draft recommendations in October in order to solicit public comment in advance of its November meeting. Recommendations should be clear, concise, and concrete. We will have a full discussion about the proposed calendar and we can peg where we think it would be appropriate for us to put out the proposed recommendations for public comment in that exercise.

Those recommendations should aim at building greater trust among members of the ICANN community, establishing an open candid debate on enhanced accountability, which is necessarily an ongoing process, and building a partnership that includes the ICANN staff, board, and stakeholder community commitment to working as a team to improve the organization. Just pause for any thoughts or discussions on that paragraph. Nope.

CARLOS RAUL GUTIERREZ: On this paragraph, there should be a similar paragraph of the outreach. This is the clear statement of the internal scope of the first Review Team. There should be a 2B or a 3B or something like that trying to build trust and transparency to the rest of the world or the rest of the community or the rest of the stakeholders or institutions, whatever. But (inaudible) also the place to develop this stuff.

BRIAN CUTE: Consistent with our earlier points on that. Yeah, thank you. Yes, Lise.

LISE FUHR: Well, I was thinking if we define stakeholders too narrow, because every time we talk about stakeholders we talk about it within ICANN, but if we're going to have the approach of the stakeholder as being the world, we might want to define what we think stakeholders are according to this review.

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BRIAN CUTE: Excellent point. That will be taken on board. Any other discussion on this paragraph? No. Okay, III, the team will need to demonstrate the rationale it has employed for any individual recommendation, but focusing on recommendations rather than on a lengthy report of the proceedings. We did produce a fairly lengthy report of the proceedings the first time around, I must say. Yes.

Okay, IV, prior to the first face-to-face meeting but also to the process, team members should be encouraged to circulate their views on the various issues that need to be discussed. Once an issue has benefitted from a first tour between members to gauge the level of interest and/or consensus, a volunteer can be sought to take responsibility for developing the exchange of views with a view to developing a recommendation. Ad hoc work teams may be formed to most effectively get initial drafting a recommendations done. I'm not sure this dynamic actually evolved. Yeah.

(CARLOS RAUL GUTIERREZ): (inaudible) deliverables.

BRIAN CUTE: Yeah. Yeah, it has no tie to the final recommendations to ICANN. Okay.

(CARLOS RAUL GUTIERREZ): (inaudible)

BRIAN CUTE: We could find a better home for it. I honestly am agnostic about how the dynamics of this team evolve in terms of how we discuss and identify issues and gather around them and then build work streams. I'm completely open to what the team wishes that to be. Any concerns, thought, discussion? Okay.

B, recommendations to the next review panel. To the extent it deems appropriate and useful, the Review Team will provide suggestions

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regarding the timing and procedures for conducting future reviews as called for in the AoC. Such suggestions will be advisory only.

We had the good prudence to not make any recommendations to this team. Yes?

OLIVIER CRÉPIN-LEBLOND: It's Olivier for the transcript. What did you choose for 5-IV. What was your choice on that? Moving to somewhere else or scrap it?

BRIAN CUTE: Oh. Well, I think it doesn't belong in this paragraph. So as we develop a document of our own, it does not relate to this final recommendations to ICANN.

OLIVIER CRÉPIN-LEBLOND: Right. So if that's the case, are we scrapping or moving it? Because if it's moving it, then I was going to suggest 3-A-V.

BRIAN CUTE: Okay. 3-A, page three. Yes, we can make that move. And I didn't hear any discussion one way or the other about the perceived import of that paragraph to this team's dynamics, but we'll make the move in the document and we can take it from there.

So the recommendations to the next review panels. Clearly the first team felt that it should give itself the latitude to do that. It shows not to, if I recall correctly. I think we could provide ourselves the same latitude to make a recommendation if we wish. Any dissent, any concern? Okay.

Conflicts of interest. Okay, this is an important one. I know that we all submitted our conflict of interest statements with our respective applications to become members of the Review Team, but given the nature of the work of this team, it's very important that we, A, have a

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conflict of interest policy that we've agreed on and that we each refile our conflict of interest statements. And a good suggestion that was made was that the meetings be opened with a query to the members as to whether or not they need to update their conflict of interest statements just to put into practice a present consciousness about the importance of this issue.

There was a policy from the first Review Team. I think it's important that we bring that policy into the meeting tomorrow, that we discuss that policy and agree amongst ourselves on a policy and bring updated statements of our conflicts of interest to the team meeting tomorrow, if humanly possible. Any discussion, thoughts, suggestions? Alan.

ALAN GREENBERG:

Not on this point, but on the next point, which isn't there, do we need a confidentiality agreement to the extent that we may be given privileged information?

BRIAN CUTE:

Good question. Steve. We didn't do that last time, but it's a good question.

STEVE CROCKER:

Yeah, we've spent so much time discussing how open we are that we didn't actually spend any time at all about what we're going to do if we have to go the other way, except to note that we might have to turn off the (inaudible) for Chatham House Rules or something.

I wasn't around for the last incarnation of this, so I don't know what issues came up that might have been sensitive. Nothing immediately comes to mind that I know of that would be relevant. I could imagine it could, but I don't have a case or scenario in mind. And I took you through the set of issues that I wanted to report, speaking as board

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chair, and it never occurred to me while I was doing that that what I was saying should be kept confidential. It would be sort of what I would describe to anybody who's interested. So I don't have any guidance or caution on that.

BRIAN CUTE: Is everyone comfortable with addressing that issue if it were to come up?

BRIAN CUTE: Denise, do you have a thought about any of this?

DENISE MICHEL: I have not been paying attention. What are we talking about? Sorry, my apologies.

BRIAN CUTE: Thank you.

DENISE MICHEL: Fadi was wondering what was happening here and he's looking forward to seeing you tomorrow, so I was just updating him.

BRIAN CUTE: Thanks. The question came up on whether or not we have a confidentiality agreement within this group.

DENISE MICHEL: Yeah, that's a good point to raise. Both the WHOIS Review Team and the Security and Stability Review Team came up against some NDA type of issues. Some of their work got into areas and they requested information that was of a confidential nature or was not, for whatever reason, in the public domain.

So both teams considered having all their members sign a nondisclosure agreement to get access to these documents, and ultimately they decided to take a different approach and they decided not to sign NDAs and not request the confidential information.

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BRIAN CUTE: So I guess the question – David, you were on that team, right? I’m sorry.

DENISE MICHEL: Yeah. I’m taking the Security Stability Review Team, not the SSAC.

BRIAN CUTE: Sorry. So the fact that they took an ad hoc approach to the issue, what I’m hearing is that the ad hoc approach to the issue would not have compromised their ability to get the work done had they done the NDA and gone that route as a matter of timing. When did the issue come up in their work process? Was it in the first half of the year or the second half of the year?

DENISE MICHEL: Well, because the first ATRT decided to investigate an issue that was the subject of ongoing litigation and arbitration and we ran into some issues of disclosure with the first ATRT team, we raised the NDA issue at the beginning of the work of both WHOIS and SSR asking them if you think, in the course of your work, you will want access to this type of information. Here are a couple of options of how you could handle this.

So we raised it at the beginning. They considered it, deferred the issue, and then had approached the subject again when a specific document request came up. And again, ultimately they decided not to sign NDAs and get the information and handled it in other ways, and I think their work product was robust and ultimately didn’t suffer from it, if that’s what you’re asking. Yeah.

BRIAN CUTE: Yes. So any thoughts about taking an ad hoc approach to this issue and addressing it if and when we need to? Is everyone comfortable with that? I see nodding heads. Okay. Yes, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. It’s Olivier for the transcript. Just a quick one from experience. In the DSSA, there was a lot of discussion with regards to

handling confidential information. We spent, I would say, hours – perhaps weeks – discussing it and basically discussing what is confidential information and whether there’s one, two, three levels or whatever and so on. And we somehow wasted much time without even needing to have gone to that. So the ad hoc solution that you suggest is probably the safe one.

DENISE MICHEL: It did take up quite a few cycles – that’s an excellent point – both with the WHOIS team and with the SSR team. They spent a great deal of time debating this issue. So taking the ad hoc approach and then finding yourself faced with wanting to request information that can’t be disclosed publically, it tends to raise an issue and then take a lot of time to resolve. You know, it’s possible you may want to discuss either being able to ask us non-public information or committing to conduct your work in a manner that will not have you ask for this type of information. But in both cases, it did take quite a bit of time to resolve.

BRIAN CUTE: Okay. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. We will cross that bridge when we need to.

BRIAN CUTE: Sounds about right. Okay. We now have gotten to a point in this document where it goes into work tasks that are really mapped to the calendar and I think we’re going to have a full calendar discussion tomorrow. So if everyone is comfortable with not finishing this document – yes, Steve.

STEVE CROCKER: Alice approached me earlier in the day and asked about schedule and so forth, so let me ask you to chime in here. You were concerned about getting things on the calendar and making schedules. Why don’t you



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share the problem that you need to have solved so that we're responsive to that.

ALICE JANSEN: Brian, if you remember, I circulated the proposed calendar on the list with final dates, biweekly calls, and proposed either one fixed time or a rotation system that you had in the ATRT 1. I thought maybe this was a good time to discuss this, just to start planning and getting the dates into people's schedules.

BRIAN CUTE: We could do that. Let me just—

STEVE CROCKER: Is there value to you in having this today versus tomorrow?

ALICE JANSEN: There is.

BRIAN CUTE: Then it's a priority. Okay. So then let's, instead of going through the rest of this document which is specific to ATRT 1's work plan and calendar, can we pull up your document and have a discussion? Okay. So this is the proposed calendar document that's up on the screen now. So Alice, you've got it broken up into conference calls at the top and we've had a discussion about not just telephone calls. And then face-to-face meetings. I think it probably would be better to go to the face-to-face meeting discussion first. We'll probably have a clearer sense of what we think we need to accomplish there.

So we're at our first meeting – 14<sup>th</sup> and 15<sup>th</sup> of March. Next gathering is in April, in three weeks' time roughly. Let me just map a little bit of our work that we're going to do between now and then. At a very high level, we have – for the work we're doing between now and Beijing, let me just start off.

First of all, for tomorrow, we want to have our conflicts of interest policy document established and agreed upon. We want to have our conflict of interest statements into the process. We also have identified putting out questions for public comment from the ATRT with a proposal that we get them out as soon as possible and have that period closed sometime after Beijing to provide adequate time and space for community input. And again, that was input that's, in part, going to tie into how we scope our charter of work.

So developing those questions is a separate task that we need to get to into the short-term. Developing a draft charter is a task that will go past tomorrow, if someone will take that on and circulate that between now and Beijing. Developing and drafting the Terms of Reference and Work Methodology document, again, that task will be assigned and that document will be circulated to the group before we get to Beijing. And then the other document that we'll need to draft and get circulated before Beijing is the Evaluation Criteria or Metrics document, if you will.

So those are the document work streams that we have in front of us (between) now and Beijing. Having said all that, looking ahead to Beijing, is there another specific piece of work that we need to identify and prepare in advance of that meeting? Just to start taking discussion right now. Yes, Jørgen.

JØRGEN ANDERSEN:

I think your summary is excellent. What strikes me when listening to you is that I think that I personally need a list of general topics to be dealt with by this team, which I don't see reflected directly in the list you mentioned.

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I think one specific item for discussion here is the evaluation of the implementation of the recommendations from the ATRT 1. (inaudible) discussed. Personally, I can see a general topic which would be, as I mentioned, the (inaudible) issue – how is ICANN and the work methods of ICANN, how are these received by the governments around the world, by the general Internet community.

That topic, which I would like to see addressed by this team, is the transparency and accountability issues related to the finances of ICANN, the financial aspects. Do we have the necessary transparency with respect to the accounting? We hope introduction (inaudible) will generate substantial additional income to the ICANN. ICANN is a nonprofit organization. How do we deal with this? How can we provide the optimal transparency on affairs in that area?

So these were my (inaudible) points of attention which I think could be part of a list of topics, and I would urge every member of the team to add additional items for consideration.

BRIAN CUTE:

Thank you, Jørgen. We absolutely need to develop that list. That list will become discrete work streams, either individually or in combination for certain with assigned members who are probably taking on the task of looking in deeply to those issues.

I think, though, that we wanted to incorporate these into the charter. Is that correct? Just so we all agree there's a home for the issues that you're talking about, I think the charter is the home for these issues. Again, the review of implementation of prior Review Teams, ATRT 1, the Security and the WHOIS, and then identification of these specific issues

that this team wants to look at, we would put them in the draft charter. Yes? Okay.

With respect to your question, the issue on finances, in reviewing the work of the prior team, the prior team did take note. While 9.1 in the Affirmation of Commitments was the clear guide in terms of the terms of reference, I'm pretty sure the ATRT 1 made a reference to paragraph seven and paragraph eight of the AoC as points of reference. Is that not correct?

So if you look at seven and eight, seven "ICANN commits to adhere to transparent and accountable budgeting processes, fact-based policy development, cross-community deliberations, etc." Both of these paragraphs were made by reference to ATRT 1 as potentially informing its work.

So your question on financial is certainly the AoC provides a point of reference. How we may integrate that into our focus to work is for discussion. Any thoughts on that? No, okay. Jørgen.

JØRGEN ANDERSEN:

I'm not sure whether I understand you correctly. Are you saying that if it's not specifically mentioned in line one, but the (inaudible).

BRIAN CUTE:

The opposite. The ATRT 1 actually pointed those provisions as potentially informing its work. Any other discussion? Okay. So again, we'll endeavor to draft the charter to include the issues that you've pointed to, Jørgen. I think a simple list of issues would also be helpful, as they'll provide the basis for work streams to be developed.

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So where did we leave off? We're back on the calendar, okay. What has to be done before Beijing. Thank you, Larry. So we've got the public comments – or the request for public comments. Yes, Carlos.

CARLOS RAUL GUTIERREZ: I just wanted to mention public comment. We are talking about two different ones. One to the larger. One to the community, one to the applicant of the ATRT 2. We have been speaking, but I don't know when and how are we going to act all the applicants for (inaudible) to supply their input, and if we're going to inform them on this first meeting or are you going to treat them just like any other input.

BRIAN CUTE: Thank you, Carlos. For discussion, I'd like to open the topic. Number one, we've got public comment that we're going to put out. A request for public comment to the broad community. We've put something on the calendar for us to meet with the community in Beijing, right Alice? So we may have a face-to-face meeting – open meeting – there and we raise the issue of the applicants for ATRT 2 who were not selected as a separate audience. I'd like to open that for discussion to the team as to how we should approach those respective audiences. Avri.

AVRI DORIA: I would suggest that we use the regular – I mean, the same call that we're putting out to the community, but then just with some sort of cover note, send a mailing to each of them saying we're especially interested or we really wanted to reach out to you, etc. on that. But not to create a whole separate call.

If we come up with, perhaps, a couple extra questions – I'm not sure why we would – but somehow I think using the same call, but just making it a personal invitation to them to participate might be a way to go.

BRIAN CUTE: Thank you. Other thoughts, Alan?

ALAN GREENBERG: I think we need something that would give them a little bit more opportunity to contribute than speaking at a microphone in a public meeting or something like that. I mean, these are all people who were willing to put a month-plus of their lives, plus who knows what other time, into it and they probably have more thoughts than they're likely to be able to contribute in any public form, if presumably they could even make it. Assuming they're in Beijing and can make it at that time slot. I think we want to do something a bit more targeted with them, whether it's just electronically or an opportunity to meet with a couple of members of the Review Team or something like that.

BRIAN CUTE: Carlos.

CARLOS RAUL GUTIERREZ: Repeat what I said. Probably was not very clear. Are we going to share some of the documents produced today or tomorrow or before Beijing with this group? Specifically I agree (inaudible) or not. Are they part of this process? Are we going to specifically send them the charter or the methodology, or just ask them for their thoughts?

BRIAN CUTE: Okay. A separate suggestion about incorporating their input into the development of our charter, the development of our work methodologies, perhaps the development of the interaction with the public and the questions we pose to the public. That's what's on the table. I honestly don't have a particular view and I'd like to hear from other members of the team if they have any thoughts on that one way or the other. Yes, Fiona.

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FIONA ALEXANDER: Fiona. My views are, I think, for purposes, we've had this discussion (inaudible). I think for purposes of being able to give their input, I would contract them to give us their views individually. That's (inaudible) been able to get as much input from them as possible (inaudible) issues are without necessarily having to put a limit on which areas – sort of an open request. Personal communication, but an open request for them to give their views on issues they think we should be addressing. But we don't involve them so much in the work plan, the Terms of Reference, and the charter and all that. So that then we just get their input and their thinking and we are able to use that to help us move forward. Thank you.

BRIAN CUTE: Thank you, Fiona. Other thoughts. Yes? Sorry Michael.

MICHEAL YAKUSHEV: Michael Yakushev. I don't see any specific reason what for we should do so, because what was agreed, what was discussed now have more procedural aspects rather than substantial. So all this processes and the preliminary arrangements, they were done for ourselves. So if there are any substantial amendments, if we missed something, I think we will get it during the substantial – the process of having substantial comments to our work in the future and then we can amend the list of what we have forgotten with something that is reminded by the public. But by now I don't see any necessity to spread this information.

BRIAN CUTE: Thank you, Michael. Fiona I think offered a very focused suggestion in terms of just a request to those individuals of what they think the important issues are that we should address. Can I get reactions to that approach to the interaction as opposed to Michael's alternative of not

doing anything in particular and involving them as we would in the overall interaction with the community? Larry.

LAWRENCE STRICKLING:

I think it's really important we get the request for public input out as soon as we can, and I would urge that Alice's proposed March 27<sup>th</sup> is the next time we talk. I would hope that could be the date on which we could agree to go forward with that. I think if we agree with that, it looks a little strange to put out the request for comment without some of our foundational documents going with it. I don't know if we have to have everything you listed, but certainly the Terms of Reference would seem to be something you'd want to be putting out at roughly the same time.

So I think the idea of extending the time to do that in order to get more input beyond this group doesn't make a lot of sense to me. I think it's more important to get that document out there so that people can see it.

Now, once the request for input has gone out, if the issue is, does it make sense, I think Alan suggested this – that those people who applied for the ATRT but who didn't get selected, setting aside some time in the evening or on the margins of our meeting in Beijing to just give those people an opportunity to chat with members of the team. That makes a lot of sense to me. But I don't know that we need to be doing anything more involved than that for that group. I think it's much more important that we get our work organized and get on with it, and certainly I have no problem showing some consideration to the people who didn't make it on the team, but at the end of the day, we really need to organize ourselves and get going on this stuff.



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BRIAN CUTE: Thank you, Larry. Alan.

ALAN GREENBERG: Over and above the general call, I did suggest for those who were in Beijing, perhaps give them an opportunity. But I think over and above the call, just a direct e-mail pointing out that we have opened a public comment period, and we of course would appreciate any input they have. That costs us absolutely nothing and it's a nice courtesy.

BRIAN CUTE: If I'm hearing the group clearly, extending a direct invitation is appropriate, but carving out unique questions or requests for unique input may be going beyond the bounds of prudence. Is that a fair summary? So extending the courtesy of an interaction. A communication that's separate and addressed to them. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. It's Olivier. I'll support Larry's suggestion and the courtesy thing is something that can be extended anyway. I'm just thinking we're now starting to spend a bit too much time on that.

BRIAN CUTE: Okay, thank you. All right. Are we going until 5:15, Alice? That's when the buses get here.

ALICE JANSEN: 5:30.

BRIAN CUTE: 5:30, okay. So we have some time. So let's keep working through the calendar. So looking at the proposed dates, as Larry just pointed out, the 27<sup>th</sup> of March I'm going to revert to call now. That's when we propose our first call.

ALICE JANSEN: Proposed.

BRIAN CUTE: Okay. Alan.

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- ALAN GREENBERG: The document said we may use these times or we may use a single time. Just for the record, that particular time on that day, I can't make it I know. That's the only one of all of them that I have a problem with.
- BRIAN CUTE: The rule of thumb last time around was that since we're all geographically dispersed, we all get to share the pain from call to call. So each of us will have a chance to have a 3:00 AM phone call. That being said, it's incumbent on everybody who has this in their inbox to give feedback to Alice now about your availability, please, so if we need to make some adjustments to these times, we can do that quickly.
- CARLOS RAUL GUTIERREZ: Yes, I have made my comments to Alice. I have a problem not with the hours or the spread. I have problem with the Wednesdays.
- BRIAN CUTE: Okay, thank you, Carlos. It is a priority for all of us to communicate with Alice what our conflicts are and aren't so she can create a firm calendar with us. Yes, Avri.
- AVRI DORIA: If we're moving off of Wednesdays, I find Mondays and Tuesdays totally impossible because almost everything else is already crowded into those two days. So if we move off of Wednesday—
- ALICE JANSEN: And bear in mind that Mondays and Fridays sometimes is Sunday or Saturday for someone. So Thursday.
- BRIAN CUTE: Let's go with Thursday, and circulate a document so we can get – you're welcome. So let's focus on the work into Beijing. As Larry pointed out, we want to have the questions requesting public comment drafted relatively soon, and we could have that as a topic on the agenda for the call on the 27<sup>th</sup>. It's now the 28<sup>th</sup>, correct. If we agreed on those questions, just as a process question, Denise, getting them out for
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public comment ought to be within the week after that or a few days.  
How would the process move?

DENISE MICHEL: I'm sorry. What's your question?

BRIAN CUTE: If we agree as a team on the questions we want to put out for public comment prior to Beijing and we agree on the 28<sup>th</sup>, can you just walk us through the public comment process, when those would likely be posted, when would the period likely close?

DENISE MICHEL: So you're planning on posting – opening a public comment forum on March 28<sup>th</sup>?

BRIAN CUTE: Or soon thereafter.

DENISE MICHEL: And you're aware of the GNSO's requested ban on opening up public comment forums right before ICANN meetings and through ICANN meetings. Well, I can tell you the process. It's a very quick process. We can open up a forum within, say, three or four hours if that's your question. And they have a set methodology where you have (ATRT) requested, you have an initial comment forum, and then you have a reply comment forum. So, the length is – we have a minimum length. You can add to it, but – does that answer your question?

BRIAN CUTE: Should be 30 days in the first one or...?

DENISE MICHEL: Longer than that...

ALICE JANSEN: 45 days.

BRIAN CUTE: So 45 days for the first one.

SPEAKER: Are we required to have a reply one?

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- DENISE MICHEL: Not if there is no comments filed initially. Then we skip it.
- BRIAN CUTE: Yeah. The nature of these questions I think wouldn't require a reply round. We would be soliciting input from the community to help us scope our work.
- DENISE MICHEL: I think you might be the first group to open a public comment forum that ignores the rules of the first ATRT team in establishing the comment reply comment forum paradigm. But, you go.
- AVRI DORIA: I guess two comments. One, if we are going to break the GNSO rule of not opening them sooner than two weeks before a meeting, I think we have to go for the slightly longer period to sort of exclude – have it open, but have it long enough so that – and I definitely think that we should not avoid the reply. I think we could start working with the comments made while the reply is going on, but I think that would be a really awful example to set as the first ones to break it. I think it's – often nothing comes in during the reply and that's all well and good, but we can work on the comments while the reply is happening.
- DENISE MICHEL: Yeah. I would just suggest if you are going to post at that time, acknowledge that normally we don't do this before an ICANN meeting but you wanted the public to have the benefit of these questions to help them prepare and guide the conversation that you're having with them in Beijing and that you're adding additional length on to accommodate that.
- BRIAN CUTE: Right. Thank you. Olivier.
- OLIVIER CRÉPIN-LEBLOND: Thank you very much. It's Olivier for the transcript. There's been a lot of discussion with regards to public comment periods with the PPC that's
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going on for a long time. And the issue of having an initial comment period in the second reply comment period is one which has already been broken by the board through the recent request for closed generic TLDs where it was just a single comment period with no reply. So we're not the first ones to break.

The second thing is the GNSO is one thing, but we're not the GNSO, so we are not bound by (inaudible) either. So I think that your suggestion of starting with it the 28<sup>th</sup>, but then not looking at the number of days, but perhaps looking at the fact that we do have – according to the suggestions, which at the PPC were made about a year ago but which don't seem to have gone anywhere, where that blackout period could be exercised during an ICANN meeting. And also a week after the ICANN meeting, we could probably look at the whole month of April, until the end of April, to have enough time – two or three weeks after the ICANN meeting – for people to bring their input, after the (inaudible). Thank you.

BRIAN CUTE:

I think the importance of getting this going is that this input we're going to use to help scope our work, and it's very important that we get our scope of work finished early in this process. So it may be bumping into things that are irregular, but it's important that we get this done.

We also will have the opportunity to interact with the community directly in Beijing, and in that face-to-face meeting, certainly provide an opportunity to get input live and have those questions perhaps up on the screen as part of that interaction. Alan.

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ALAN GREENBERG: Two small things. First of all, it's not only the GNSO that has had no comment periods during meetings, or at least the time doesn't count. The ALAC has also been furciferous on it.

And on calendars, just to note, the days that are listed in August are already Thursdays, so don't advance those ones. The dates listed for August were already Thursdays.

BRIAN CUTE: Okay, Alice, just take a look at that calendar and make sure it's all on Thursdays. Thank you. So let's move to the question of interacting with the community in Beijing. Is there anything that we need to do to prepare for that interaction? Let me ask first, Alice, what you have in the calendar as a straw man or placeholder, is that a single session that's open to the entire community – and it's on a Wednesday did you say?

ALICE JANSEN: The first (inaudible) have a face-to-face meeting on the Friday and Saturday, and then the placeholder we have is on Wednesday at 11:00 AM with the community. So it will be an open session in a big room and people will come in and talk to the mic.

BRIAN CUTE: So with a view toward being prepared, is there anything other than the questions for public comment that we should prepare in advance of that session? Larry.

LAWRENCE STRICKLING: Actually, I'm going to raise a slightly different point, which is the assumption that our questions will only have been out for maybe a week to ten days, I don't think we should be looking at Beijing as the major opportunity to get public input in an open forum. I think that's really going to have to be done more wholesomely in Durban in July.

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Again, I think it's fine if there's a session to let the public see the team and interact with it, but I don't think we should hold out much hope that we're going to anything particularly useful in that first.

I do think that, to the extent time is a finite resource, where we could really benefit, though, is talking to the members of the WHOIS team that are on the ground and members of the Security and Stability Review Team that are on the ground. My guess is they're not going to be there on April 5<sup>th</sup> or 6<sup>th</sup>, so if you're going to try to find a time to invite them to chat with us, that's going to have to fit in that week starting after the 7<sup>th</sup>.

And so I think as we look at how we use our time and where we find blocks of time, I'd rather see an opportunity to talk with those folks and not worry about having a large public forum.

BRIAN CUTE:

Yeah, Steve.

STEVE CROCKER:

I'm wondering if we might be more efficient in terms of getting input from (defined) groups like the unselected folks or the WHOIS or the SSR. If we set up phone calls with a small subset of us interviewing representatives from them and taking notes as opposed to trying to hack into this very dense period of the public meeting – just a thought – then get it out of the way and move it along.

BRIAN CUTE:

Thank you. Reactions? Yes, Olivier.

OLIVIER CRÉPIN-LEBLOND:

Thank you, Brian. As someone who usually sees an ICANN meeting is a very long tunnel. I think that Steve's idea is a pretty good one. I would support that.

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- BRIAN CUTE: Avri.
- AVRI DORIA: A question. I guess two questions. Is this instead of the Wednesday type meeting? And then the other thing about the Wednesday meeting, I want to make sure that it doesn't conflict with the – I understand there's a Policy versus Implementation meeting, which is something that this probably shouldn't conflict with also on that Wednesday. But I'm not sure about the times.
- STEVE CROCKER: So I can only answer the first one. My understanding of the Wednesday one is that it's an open unstructured (inaudible). But we know that we have these specific groups and we could reach out and move those along, if you will, and sort of discharge those independently perhaps.
- BRIAN CUTE: Thank you, Olivier.
- OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. I think like Larry said earlier, the amount of input we will get in Beijing is quite likely to be very small, but certainly the kicking off of the whole thing for everyone else and the explaining of what we're doing is a very worthwhile thing to do. And certainly the input should be what comes in then in writing afterwards during the three or four week period that follows Beijing.
- BRIAN CUTE: Thank you. I just want us to keep a focus on – we're talking about different work streams and let's keep our eyes on that. One work stream is developing our charter and scope of work. So the questions for public comment are targeted toward getting that feedback.
- Meeting, even in sub-teams with the WHOIS Review Team and the Security Review Team is going to go to the substance of our review of the work of those review teams and the success of the implementation



of recommendations. So let's be clear that we're talking about different work streams. I think in the natural course, we are going to organize our work into sub-teams.

So somebody on this team will probably be leading a small group and reviewing the WHOIS Review Team implementation. So that should naturally occur, and maybe it's just a matter of making those assignments before we get to Beijing and taking advantage of that interaction. Anything else we should be doing to prepare for Beijing?  
Steve.

STEVE CROCKER:

Let me add just a little emphasis to what I was suggesting. In thinking through the idea of trying to engage with the people who weren't selected, my thought was that it would be useful to offer them the courtesy and listen to them before the public stuff is open so that they aren't being dealt with kind of just as part of the (inaudible). It's part of the courtesy issue, but also whatever thoughts they have are currently live and fresh. And we don't need to ask them "Were things implemented?" or so forth. It's just what were they planning to bring to the table, so that's raw input. We get whatever we get out of that, but they have the opportunity to unburden themselves.

BRIAN CUTE:

If we were to pick that up, certainly the vice chairs and myself could organize a call in the very short-term with Alice's assistance. If we could make that happen in the next—

STEVE CROCKER:

There's a lot of them. There's two dozen of them. So I don't know. You want to do them in ones or pairs or en masse or whatever...

BRIAN CUTE:

Or we could divide the work between the four of us.

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STEVE CROCKER: Or you could have a handful of calls and offer that they could join and different ways to do it.

BRIAN CUTE: Sure. Are we all willing to do that? Okay. If the team is fine with that, then the four of us will take that on as a task to interact with the ATRT applicants.

AVRI DORIA: I would suggest, following the suggestion, that we set up a couple calls and then anybody from this team that can fit the call in and participate should.

BRIAN CUTE: Absolutely. So we would agree on that point. Jørgen.

JØRGEN ANDERSEN: Thank you. Just a quick question. You mentioned the development of the charter. And as we discussed some time ago before the break, we agreed that the charter would be, among other things, containing a list of items for discussion in this group.

Maybe I didn't listen sufficiently careful. I didn't really remember – did we agree upon a calendar for the development of the charter? Should it be ready before Beijing or should it—

BRIAN CUTE: I would propose before we leave tomorrow somebody will be assigned to draft the charter, and that document should circulate before we get to Beijing with an eye toward getting further input from the community in Beijing and finalizing – pardon. Hold that thought.

Have public comment get input from the community and finalize probably near the beginning of May at this rate. So that would be an assignment.

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Then also with the Terms of Reference and Methodology of Work document, that by tomorrow someone will be assigned to develop that draft and have it circulated to the group before we get to Beijing. That's a suggestion. Alan.

ALAN GREENBERG: I would think for the charter, we want to have a first draft in time for the meeting on the 28<sup>th</sup> of March.

BRIAN CUTE: Yes. To put a fine point on it, these documents would be the focus of our discussion on that call on the 28<sup>th</sup>. Thank you.

ALAN GREENBERG: I'm not sure the larger one, but certainly the charter should be. I mean, at least something to be criticized by the rest of the group.

BRIAN CUTE: Sure. Did that answer your question, Jørgen? Okay. All right. So we are back to the calendar now. After the 28<sup>th</sup>, we go to Beijing. We discuss what we need to do to prepare for that. We will, just to tie off that point, identify members of the team who are willing to engage with the WHOIS Review Team and the SSR Review Team in Beijing. That's a to-do. Now, moving past Beijing. Sorry, Carlos – Fiona?

FIONA ALEXANDER: Just a quick one. I think I'm a bit lost. We are having one meeting before Beijing. That is on the 27<sup>th</sup>. Oh, 28<sup>th</sup> of March. That means the documents we need to prepare including the questions for public comments should be ready by that meeting. Thank you.

BRIAN CUTE: Yes, thank you, Fiona. Carlos.

CARLOS RAUL GUTIERREZ: Regarding Beijing, GAC has, as heard this morning, GAC is very worried about workload. So GAC has scheduled April 4<sup>th</sup> and 5<sup>th</sup> in Beijing for full-day work that affects the participation of a few people on the 5<sup>th</sup> at

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least. I'm mentioning it because Heather is not in the room right now, but we just exchanged (inaudible) and I wanted to mention in defense of Heather who is not in the room.

BRIAN CUTE: So I assume that the dates are well set, right Alice, in terms of we don't have latitude – do we have latitude to move those? It's an issue.

CARLOS RAUL GUTIERREZ: (inaudible) because there is a lot of work to be done on this.

BRIAN CUTE: Understood. Clearly understood. Can it be moved to Saturday and Sunday so there's no – so shifting the days is not a solution. Okay. So the issue is noted, and so what it means is we will need to collectively put some careful thought and focus on the agenda of the work for the two days, identify the areas where the GAC members participation is going to be critical and otherwise need to pay attention to it and have that discussion.

CARLOS RAUL GUTIERREZ: And I get a feeling that a lot of work is shifting to the days previous to the public meeting, so we should consider this also for Durban and Buenos Aires.

BRIAN CUTE: Yeah. Okay. So the other thing we need to develop for the call on the 28<sup>th</sup> is a proposed agenda for our work in Beijing with specific items, and then we can focus on how to structure those two day to optimize the GAC members' participation. Is that the right approach? Larry asked if we even have two days of work. We're not sure yet.

(ALAN GREENBERG): Can we still rethink being vice chairs? [laughter]

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- BRIAN CUTE: Nope. Nice try. No, but the clear emphasis will be structuring the agenda so the GAC representatives and members have the optimal participation.
- STEVE CROCKER: Did I mention that the other side of the two term rule is that there's automatic renewal of the first term?
- BRIAN CUTE: Okay. Anything else before I move beyond Beijing on the calendar? Okay. So moving beyond Beijing, we have Durban in July and on the calendar, one, two, three, four, five calls which may all be necessary. Six calls, pardon me. Six calls.
- ALICE JANSEN: Brian?
- BRIAN CUTE: Yes.
- ALICE JANSEN: These are fortnightly calls, but if you think that you need weekly calls, that can be arranged as well. I mean, it was just a suggestion based on the ATRT 1.
- BRIAN CUTE: Okay. I think we'll start with fortnightly assumed, and if we need more we can figure that out quickly enough. Yes, Jørgen.
- JØRGEN ANDERSEN: I just want to repeat what was discussed earlier today about the possible option of adding an extra face-to-face meeting. Would it be appropriate to consider a face-to-face meeting between Beijing and Durban? What do you think?
- BRIAN CUTE: There's two things that come to mind for me. I think there's going to be – we have clear work streams that we have to do in terms of looking at what the other review teams did in implementation, and those working
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groups can be set up and they can start hacking away at that piece of work.

The other issues that we're going to develop, we don't know what they are yet. And those may – depending on what we need to collect in terms of data on those issues, that would inform the necessity of a face-to-face.

The other thing that would inform the necessity of a face-to-face is preparation for Durban, and what we want to get out of the Durban meeting in terms of inputs and from which groups and how we structure. We have to take a structured approach to Durban in what we ask of the various constituencies, ACs, SOs, the board, the GAC, etc.

I'm not sure beyond that what would necessitate the need for a face-to-face meeting. Any other thoughts? Larry.

LAWRENCE STRICKLING:

I think a bigger issue may be we're going to have WTPF in the middle of that timeframe, and that's going to involve some of us, so we're going to have to be focused on that week or two in May, so I'm not sure. Putting in another face-to-face may be hard to do given that other work. But I don't have a strong feeling.

BRIAN CUTE:

I know that this is going to be a different exercise than ATRT 1, but the arc of the work of the first one was such that we ended up having a meeting at the end of August and a meeting at the beginning of October, and the rhythm of this work is that you're in data collection mode at the outset, defining your scope of work, data collection mode and then we get to in-depth discussion and analysis and we start drafting and moving toward recommendations.

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So the second half of the year is when things get really heavy. So at least the first time around, it was the late August and early October timeframe where we had independently scheduled meetings outside of the ICANN meeting framework, and that seemed to make sure. That supported that work stream well. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. I would support this, especially when drafting. It's a lot easier to draft when face-to-face than being on a Google doc or whatever other stuff.

BRIAN CUTE: But I can easily see – we had five face-to-face meetings on the first one. I could see that with this team and I think we should hold out the possibility of others as well.

So just quickly looking to Durban, I'd like to get some specific thoughts about what we should try to capture in Durban, what type of work we should structure for Durban. Any specific thoughts on that?

Well, in the Brussels meeting what the ATRT 1 did was over the course of the week we met face-to-face with each unit – I think ACSO, GAC, the board. I don't know if we had a staff specific meeting. But that was what we did. Alice?

ALICE JANSEN: I don't think there was a staff meeting in Brussels. (inaudible)

DENISE MICHEL: Actually, it wasn't a meeting so much as staff were interviewed by (inaudible). But there really was never (inaudible) interaction with the ATRT and the (staff).

BRIAN CUTE: Well, yeah, and Brussels also we actually had – we interviewed candidates to be the independent experts. In the springtime, we issued

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an RFP. We had identified the fact that we wanted to engage an independent expert. We published an RFP and we used part of the Brussels meeting to interview respondents to that as well. So that's something we should keep in mind. That might be a piece of work that develops for us.

But beyond preparing to interact with each of the ACs, SOs, GAC, board, etc. in Durban, is there something we would envision we need to prepare to do? I'm not seeing any hands. Okay.

So moving past Durban, again we've got the next face-to-face meeting in November, but I very strongly suspect we're going to meet again between July and November once, if not twice. Anything to add to the calendar? Yes, please, Lise.

LISE FUHR: I was just thinking if we're going to attend the IGF and consult those guys, that's in October and I don't know who's going. So we just have to take that into account for the calendar too.

BRIAN CUTE: Actually, Alice, could you develop a version of this calendar that has the IGF dates in there, WTPF. If there were any other relevant meetings that members think we should have our eyes on, please communicate that to Alice and just plug those in as well.

AVRI DORIA: I'll send them to you.

BRIAN CUTE: Okay. Any other questions or suggestions on the calendar as it stands now, incorporating the discussion with just had? Clear. Go ahead, Larry.



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LAWRENCE STRICKLING: I think before we finalize this, we really need to figure out when we need to release draft recommendations because those do have to go through a public comment process.

BRIAN CUTE: Oh, yes.

LAWRENCE STRICKLING: And I don't know. Last time, we compressed that timeframe. We may not have as much discretion to do that this time. So if we don't, we need to really backup the dates because, obviously, you want to have the opportunity in Argentina to have the final input from stakeholders so you can go to final recommendations. So we need to get that onto the calendar so we know the (inaudible) for releasing the draft recommendations for public comment in advance of that.

BRIAN CUTE: Yeah, I agree. We need to work backwards in not just comments, but replies. So, Alice, what we need to engineer on the calendar working backwards from submitting a report to the board on December 31<sup>st</sup> – and we would want, ideally, at a minimum, the last round of comments to have closed two weeks, three weeks in advance. If we're drafting the final recommendations and we want public input, we're going to want at least two weeks I'd think to factor in the last round of public comments into the final recommendations. That might even be tight. Three weeks.

So let's assume a reply round closed – what's three weeks prior to December 31<sup>st</sup>? The 10<sup>th</sup> of December. Tuesday, the 10<sup>th</sup>. So the reply round of comments closes on Tuesday, the 10<sup>th</sup> of December and that would be – is that 30 or 45 days? Working back, it's 30 days for the requirement, and then 45 for the comments. So 30 days, that takes us to the 10<sup>th</sup> of November is when that reply comment round would open.

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- SPEAKER: (inaudible)
- BRIAN CUTE: Yeah. And in terms of any typical gap because the closing of a comment period and the opening of a reply round, what's the standard procedure? Next day? It's (inaudible) gap. So back up 45 days from November 10<sup>th</sup>. Can you do that in your head? Wow. October 8<sup>th</sup>. It's 45 days backwards from November 10<sup>th</sup>. Yeah, it's got to be September 27<sup>th</sup> – 26<sup>th</sup>, yeah, you're right.
- LAWRENCE STRICKLING: If I could just say, if we want to hang it back to the ATRT, what the ATRT said was timelines for public notice and comment should be reviewed and adjusted to provide adequate opportunity for meaningful and timely comment.
- STEVE CROCKER: The 45 days doesn't come from ATRT and it may just be that we need to reflect the reality that we have only until December to do this. It's March. We didn't get started in January, which would've been ideal. And maybe you can't have 75 days for comments at the end of the year.
- (LAWRENCE STRICKLING): (inaudible) 60 or less.
- BRIAN CUTE: So 45 plus 30 would take us – would mean we'd have to publish draft recommendations by the 27<sup>th</sup> of September which is aggressive. Yeah, Olivier.
- OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. It's Olivier. I'm a bit confused about the use of 45 days because I thought it was 21 plus 21. So here we're looking at 45 initial comment period and 45 second comment. Well, 45 and 30. It's a lot more than the minimum, which has been used in the past. So if we are a bit compressed for time, we might – although (inaudible) in saying that.
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STEVE CROCKER: Let me echo that. There's a certain tyranny of having these numbers and (inaudible) them as absolute. They're intended to be, in the language that was in the ATRT, sufficient for the purpose. If we shave them by a few days here and a few days there in order to get it to fit right, yeah, somebody will come and say, "You only gave us 42 days, how come you didn't give us 45?" and the answer is, "Get over it."

Actually, I'm not – there are some numbers that are firm and then there's some – and I'm not actually fully up to speed. But what are the requirements that we...

DENISE MICHEL: And the official minimum reply period is 21 days. That's what's posted on the public comment forum.

STEVE CROCKER: Are there any situations where that's extended and there's a rule associated with that or is that just practice that we've instituted when, in our judgment, we think it would be helpful?

DENISE MICHEL: Yeah. These are official minimums, and often forums are extended if it's deemed appropriate or necessary.

STEVE CROCKER: Right. And the question I'm asking you is have we codified that extension so that we've locked ourselves into some other set of numbers under certain circumstances?

DENISE MICHEL: No.

STEVE CROCKER: Okay. So we have flexibility and all you have is a lot of practice and...

BRIAN CUTE: Thank you, Steve. So if we did the 21, 21, on my quick math, that would mean we would have proposed recommendations out for first comment not reply by October 30<sup>th</sup> give or take a day, plus 21. Then we just have

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to check the Buenos Aires date, because again, we don't want to put out a request for reply comments just before the ICANN meeting, just test that.

So if we went October 30<sup>th</sup>, comment period for 21 days takes us to November 20<sup>th</sup> which is the opening day of the Buenos Aires.

STEVE CROCKER: Here's two interesting dates. The Buenos Aires is Sunday, November 17<sup>th</sup>, for example. But in the previous month, in October, I see we have an IGF meeting in Bali, October 21.

LAWRENCE STRICKLING: I say we hang out in Australia (inaudible) Bali. [laughter]

(DAVID CONRAD): Get the recommendations out, go to the IGF.

LAWRENCE STRICKLING: Yeah, there you go.

(DAVID CONRAD): Tell them (inaudible) full steam into start booking hotels.

BRIAN CUTE: The buses are outside, folks. So let's just put a wrap on this. I think we right now see a potential scenario where October 30<sup>th</sup> is our deadline to put proposed recommendations together and put them out to the community, and we will work the comment period timeframes as optimally as we can to garner public reaction to the recommendations. Everyone okay with that? Okay. Any other thoughts on the calendar before we close up for the day?

(LAWRENCE STRICKLING): (inaudible) easier to recognize that we made a mistake.

BRIAN CUTE: Right. Okay. All right. Okay, if there are no other thoughts, then we'll draw this meeting to a close. Thank you to everyone online for staying with us and thank you to everyone in the room.

STEPHEN CONROY: G'day (inaudible).

BRIAN CUTE: Thank you. Talk to you tomorrow.

STEPHEN CONROY: Sorry I'm missing the dinner.

DENISE MICHEL: Don't leave any electronics or anything valuable in this room. I think you're welcome to leave papers, but I really would urge you not to leave any valuables in this room overnight.

[End of Transcript]