

Call 06 – 23 May 2013  
Transcript

Brian Cute: Welcome, everyone, to the May 23rd call of the Accountability and Transparency Review Team 2. Let's start by opening the agenda. I still don't have Adigo up, so just give me course directions along the way if you need to. The agenda, proposed agenda, we have updates to declaration of interest, adopting preliminary report from call 5, discussion on international outreach. Item 5 work stream kickoff, defining (inaudible) expectations and activities. Item 6, independent consultants, and any other business. Are there any suggested changes to the proposed agenda? Hearing none, the agenda will be deemed adopted and we'll start the call.

Item #2, are there any updates to anyone's declaration of interest under our conflict of interest policy? Are there any hands up online, Avri or Alan?

Alan Greenberg: No, nothing.

Brian Cute: Okay. Hearing none, let's move to item 3. Alice, I think you circulated the preliminary report from call #5? Does anybody on the team have suggested edits, revisions to the preliminary report from call 5 before we post that on our Wiki? Any hands up online?

Alan Greenberg: Nothing online. I'm just looking to see that, Alice, the change I suggested was made?

Alice Jansen: Yes, it is.

Brian Cute: Okay, hearing no suggested edits, the preliminary report will be finalized and posted to the Wiki. If you'd take care of that Alice, thank you.

Alice Jansen: Will do.

Brian Cute: Now we're on to item 4 and we have 3 substantive items over an hour and a half and I anticipate that certainly the discussion around independent expert may take a fair chunk of time, so let's move through these 3 items as efficiently -- fully but efficiently as we can. So the first item is international outreach. I need to report back to the review team my discussions with Tarek and with Heather on the proposal that the review team engage in some form of international outreach. This has been discussed and proposed. I reported in Los Angeles that Fadi was open to the idea, had some questions, felt that perhaps if there were a benchmarking tool that could be developed against which future progress could be measured, there could be some utility. But again, said please talk to Tarek. Tarek is his right-hand person for coordinating interaction with governments and international outreach.

I spoke to Tarek last week. I would hopefully accurately summarize his thoughts as follows. He effectively had 2 thoughts. One was I explained to him what was being proposed, what the context was in the post WCIT environment, and his reaction was on the one hand he saw the

questions that we had about a communication coming from the chair of the ARTR2 as not being effective with senior level government officials. The notion of a survey not being coherent in terms of how well that would garner a response, and certainly understanding that if somebody of the public ministers level were to be communicated, that that type of communication would have a better chance of getting the type of attention and potentially response that was being considered or desired. But that being said, gave no more than just his observations and reactions to those points as I gave him the background.

He didn't, I think I can fairly say he didn't say that he felt that was not a productive thing to do, but I also didn't hear a clear endorsement from Tarek of that activity either. Just an assessment of potential effect.

The second point he gave to me was a question or a suggestion and I interpreted it as an alternative of the communication being proposed which was, would the government representatives who are participating in the ATRT2 be willing to participate in face to face meetings with high level government officials along with ICANN as meetings of that nature are arranged? It was an open question. I think we was looking for a reaction and it was a suggestion of another way to go about the outreach intended.

He also noted any importance of the GAC and GAC representatives in that discussion as well and in that hypothetical meeting with a given minister level or person having a government official from the ATRT2 present as well and the GAC representative from the country being involved in some fashion. That was Tarek's suggestion as an alternate approach to the outreach that we had put in front of him and he was very interested to see what the reaction of the members, particularly government members of the review team might be to that suggestion.

I also, just to finish the thought and the report back into the team, spoke with Heather as well. Our discussion centered around the role of the GAC and the importance of the GAC in terms of outreach to governments and really trying to more fully understand what exactly is being proposed in terms of outreach. For myself, I know we talked in Beijing about a communication coming from a minister, perhaps Steven. I know we have the questions for public comment that are outstanding and there was some discussion around looking to solicit interaction with high level government officials around input to the ATRT2 to process, but I don't think that's where we clearly landed. And I think there is still a need for clarification about what the communication would entail. So Heather and I talked about those issues but didn't come to a conclusive point in terms of what the proposed next steps would be. And certainly an underscore from Heather that the role of the GAC in all of this is critically important.

So that's my report back to the team. What I'd like to get is certainly a reaction to Tarek's question about willingness of government officials on ATRT2 to participate in some other way and then get perhaps some clarification about what exactly are we proposing in terms of an outreach from ATRT2 with putting a fine point on it so that the group can really discuss and come to a conclusion about how to proceed. So I'd like to open up the floor now for reactions to the report.

Alan Greenberg: Brian, you have hands up from Avri, Jorgen and Carlos.

Avri Doria: You have 3 hands up. I have mine up, Carlos has his hand up, and Jorgen has a hand up. Mine was just a clarifying question and I did put my hand up first. And that was, this is really just intended for government members of the ATRT2 and ICANN and GAC, not any of the other ATRT2 members, correct?

Brian Cute: Not entirely. I think Tarek's question was certainly looking for response from the government members. I think whether any outreach is done by the review team is something that the opinion of all review team members matter here. So for Tarek's question, certainly like to hear from the government representatives and for the broader do we do outreach, don't we, how do we do it if we do it, that's a full review team discussion. Is that helpful?

- Avri Doria: Yes, thank you. And then you had Jorgen had his hand up and then Carlos and the Olivier and then Alan. At least that's the order I noticed them in. I'm going back mute.
- Brian Cute: Thank you. So Jorgen, then Carlos.
- Jorgen Andersen: Yes, thank you, Jorgen Andersen for the transcript. Well, as I was the one to submit the proposal for outreach, maybe I should just say a few words about the background. And to some extent it will be repeating myself from the Beijing meeting and also from when we met in Los Angeles. What I intended was a proposal for doing outreach towards governments at the minister level, was to address the situation coming out of WCIT into by large here in December where we, on that occasion, but also on other occasions over the last half or even more than half a year, have heard several accusations about the way ICANN is working for lack of accountability and transparency. Which leads to what you could call lack of (inaudible).
- And I think that we're all a little bit confused about listening to these accusations. And not least because they are presented in a very unstructured manner, not directly vis-à-vis ICANN, not directly vis-à-vis ATRT2. So we agreed upon submitting the questionnaire or opening for answers to a questionnaire at one of our first meetings. But what we are facing is that only a very few governments have answered this questionnaire. If I look at the list of answers, I can only count I think 4 governments having answered to this. And in the world there are I think between 180 and 190 governments. Only 4 governments have answered the questionnaire.
- So if we want to get hold of these accusations which are often heard, which have been heard in WCIT in Dubai and elsewhere, I think that we must go much more directly to what governments and ministers is. And that was my intention with the proposal as was the rest of the reasoning for the post as reflected in the paper which I submitted. And as you also said, Brian, in your initial remarks, there have been some discussion about how could we draw the attention of ministers to this very important issue. And maybe a letter from the review team chair would be sufficient and in the margin of the meeting in Beijing it was discussed whether Stephen Conroy would be willing to sign a letter to his colleagues so that we would have it sort of peer to peer distributed all over the world and by doing enhancing the chances for getting a proper reply back.
- I think what we need is, in order to complete our task, to complete our mission, to have precise indications from ministers all over the world where do they see the problems. If you look at the report from the meeting in Geneva in the documents here, I think that it is very, very high on the minds of all the delegates who were present in Geneva that there are some problems which have to be dealt with.
- Would you allow me to quote from the report of the chairman from (inaudible)? It says, at the end of the report on page 26 where there's a report on the discussions of the draft opinion which was not adopted, the draft opinion on the role of government in the multi stakeholder framework for internet governance. And it says in the report, many delegates as well as the chairman agree that the issue of the role of governments in the multi stakeholder model of internet governance is a very important topic and one of the key issues that have not clearly been addressed to date. It was emphasized by the chairman that we should not shy away from talking about it and that until we do address the core issue, there will be a degree of uncertainty, especially when it comes to public policy issues. Unquote. So this is what was discussed in Geneva and I think it is very awkward and very strange that theses discussion take place in Geneva at the WTPS and that we don't get this news, this discussion included in the work that we are carrying out.
- So coming back to my proposal again, I think that why don't we take that chance to address ministers directly and ask them about their views on these accountability and transparency issues and get directly input to the work. If we don't get this input, I think that we are not able to provide appropriate recommendations for the future of ICANN. So this is the background for my proposal

and I really strongly urge you to support that we were wrong and come to a conclusion that such a letter be sent.

With respect to the other issue, the question raised by Tarek that a government official be present with I suppose it must be bilateral talks that are carried out with ministries and governments around the world, well that might be an option to consider. I have no firm view on this. But I think it's a little bit different from the background from my proposal and the proposal which I discussed here today. Thank you.

Brian Cute: Thank you, Jorgen. And let's go to Carlos.

Alan Greenberg: Brian, we can't hear you.

Carlos Raul Gutierrez: Can you hear me? Okay, I want to comment on two things. First, on the Geneva issue, I was present in Geneva. We had a formal meeting with Fadi and Tarek on governmental level. They have hired former foreign relations officer from Brazil, (inaudible), who was organizing the meetings. And they were in the process of meeting with all delegations. So we had our shot. I was not heading the Costa Rica delegation, the vice minister was heading the delegation. But in our division of boards, let's say the vice minister is more on a telecom side and less on the internet side. We have though an officer I work with on the internet side.

Since I had the charge of the agenda, let me tell you that I choose to concentrate on domestic issues for that meeting only because I thought it was the only appropriate thing to do because of the venue and because of the composition of our group. And I covered the conversation on local issue of the internet governance model, in particular the cost of the .TR, the domestic coordination that we have in Costa Rica of internet which was copied from the (inaudible) model. And I thought that was the right level, period. We didn't go into GAC issues although Heather was in the area because I thought this was not a GAC meeting to discuss public interest issues. And we didn't go into the legitimacy issues because the minister was not present, this was not a decision making meeting of IGU.

And the point I want to make that from the governmental side, you have to respect these different levels. You have to differentiate that there is a domestic internet policymaking. You have to separate that from the GAC which is a different kind of animal. Very important, but different. And right to the point, if you will hear through the recording of the Beijing meeting with GAC, this is a totally different conversation. The report is very difficult to put into a letter by the way. The Beijing meeting was very sophisticated, very, very specialized discussion.

And then there is the third level which is what governments think, what governments discuss with other governments and what governments discuss in the multilateral area. So when we talk about all three governments, the first thing we have to be aware is to be clear at which level. Are we talking about the domestic level, are we talking about the GAC level, are we talking about the government to government level, or are we talking about multilateral high level meetings like WCIT? I think this is basic differentiation.

And the reason I'm mentioning this is believe Costa Rica participated very active in WCIT and we didn't find the modification of the ITR. We have been under great pressure by Brazil to sign them and our position has been WCIT was not the place to discuss those issues, the place to discuss those issues was WTPS13 last week in Geneva. And we are one of the countries who heavily supported discussion of the government roles. I think this is key and I'm sorry to extend myself.

There was one consensus position on government which was very weak and it was approved beforehand. There was a second position on the role of governments by Russia and this went far into deep details of government's role in internet policy making. Very (inaudible) I would say. And then there was Brazil. And Costa Rica's approach to Brazil's position, because it was a development of government's role in the internet at all levels. It was not specific for the

international level. It could be developing to the domestic level, it could be the government to government level, to the multilateral venue. And we supported, we heavily supported this discussion of Brazil. That's why the outcome was at it was.

So to go back to Jorgen's proposition, I really support that independently of what Tarek thinks. We have to go out with this questionnaire. I have been discussion issues of the questionnaire with Jorgen, with Olivier, and we have to revise or we have to produce the right questionnaire which brings our ATRT2 worries and consideration into perspective with the different levels of government involvement as I have said before. I am sorry for taking so long. Thank you very much.

Brian Cute:

Thank you, Carlos. And Alan, if you'll just allow me, I'm just going to add a couple of thoughts here because I think we need to drive this discussion to some form of a conclusion. The reason I spoke to Tarek, the reason I spoke to Heather is because there are 3 elements that I think are important here. Number one, what is the role and responsibility of the ATRT2. And our role and responsibility is to assess ICANN's accountability and transparency under paragraph 9.1 and to make recommendations for improvement, in shorthand. And if we undertake this activity, be certain that it all falls within the scope of what we're doing.

Point number two, raised in Beijing, recognition of the review team itself of the outreach undertaken by senior ICANN staff. Fadi, Tarek, and recognizing that that activity is ongoing and that if the review team were to do anything in this regard, that at a minimum, discussion, coordination, insuring that any efforts on this front weren't to disturb unnecessarily the good efforts being undertaken by senior ICANN staff.

And third, and as importantly as the first two, the role of the GAC with a recognition that there have been, there has been activity coordinated with the GAC to do engagements with high level government officials. There was the first, to my knowledge, high government officials if you will, meeting in Toronto and that the GAP has a particular important role here. With a focus on those three points, again, the following speakers tried to clarify what we think we can, should or shouldn't do and start to bring this discussion toward a consensus conclusion. Alan?

Alan Greenberg:

Olivier is first.

Olivier Crepin-Leblond:

Thank you very much, Alan and Brian. Quick one basically. I totally agree I think what Jorgen has mentioned and also with what Carlos has mentioned as well. And I'm mindful of what Brian has just said now. A couple of things. I think that first, we're pretty clear into what our intent is, or the intent in the proposal is. And I'm mindful of the question which was originally going to be asked to both Fadi and to Tarek and I gather to Heather as well, was whether such an activity, an activity of going out there and asking those questions directly to government, I guess high ranking government officials such as ministers, to try and find out if this activity was going to affect the normal, usual outreach work of ICANN and of the GAC in a negative way. And from the answer that you have relayed, Brian, I don't see this being the case. So it doesn't appear to affect them negatively.

Now on the other hand, I'm quite surprised by the proposal that was made by Tarek to have members, government members of the ATRT accompany them in their work when they go and visit government departments. Because I just see it as a curbing of the independence of the ATRT. Just having those people in the room who on one side try to promote outreach and promote ICANN, and a member of the ATRT2 saying, so what is wrong with ICANN at the same time, just doesn't sound like unified front. And it seems to be somehow not fitting together. So that's the point that I wanted to make. Thank you.

Brian Cute:

Thanks, Olivier. I'm sorry for missing you in the queue. But let me clarify, because I represented what Tarek said, there was no suggestion that an ATRT2 government member would be representing what's wrong with ICANN. In fact it was the contrary. He saw this as a potential for

a constructive engagement I think an ATRT2 government representative, bringing the perspective of the importance of these ongoing accountability and transparency reviews to that discussion. So again, just to be clear, no hint of a suggestion that a negative view would be brought into that meeting by the ATRT2 government member. And Larry? I'm sorry, Alan, then Larry. Thank you.

Alan Greenberg: Thank you. I'm afraid I'm going to be the naysayer here. I think what is being proposed are all interesting views. I think that we need to keep in mind that our job is not to fix ICANN's public relations problems with governments. We're trying to keep information here. I think a general letter, if we can figure out what's on it, and it's certainly not the questionnaire that we've asked on the public comment field, would be fine. I don't know how effective it would be, but it's certainly something we can do. I think what Tarek is describing might be very effective, but the scope is going to be by definition very limited to a very few governments. There are only so many that we could handle in that kind of setup for a whole bunch of reasons.

So I think both of those are not going to help us a lot in doing our job. On the other hand, the fact that we've had this elongated discussion, positions us very well to make a recommendation or two on this whole issue. And the fact that despite Fadi's and Tarek's current efforts, we have a very broken process that needs to be fixed and needs to be fixed more effectively. I'm not sure that we are going to get a lot out of it for our job. And I'm willing to do something, but I think either of them is -- whichever one we pick is either going to have limited impact or -- I think either of them are going to have limited impact for different reasons. And I think we have to acknowledge that.

Brian Cute: Thank you, Alan.

Alan Greenberg: I have Larry next and then Lise.

Brian Cute: Actually I've got Larry and then Heather who has asked offline and then Lise. So Larry, Heather, then Lise. Larry?

Larry Strickling: I'll be brief, but I do want to respond to Alan's comment he just made about there being a very broken process. I don't think that's a fair conclusion from what's going on. I think a fair conclusion is that there's still a lot of deeper education out there, there's still a lot of need for governments to understand how they can work within the ICANN process, and I think we can all agree that that needs to be an action item for ICANN. But I think people already got it as an action item and they're working on it. Anyway, here's what I propose. I don't see the harm of a general letter going out as long as we know to whom to send it to. And that's not necessarily easy, but possibly that can be worked through. Because in a lot of governments, like here in the United States, that kind of letter might get sent to the chairman of the Federal Communications Commission instead of to the Department of Commerce and they'd be sending it to the wrong person. So if that problem can be solved, here's what I propose. And it reflects the fact that governments are on a continuum of knowledge and engagement with ICANN and with the GAC. And I think that needs to be reflected in the letter in terms of just doing the following.

I think we ought to -- if we do a letter, it ought to be short and brief and make these points. One, it ought to indicate that there is this team that's very interested in getting input from governments. There are a number of ways governments can provide input. We should alert them to the public comment process if they want to file answers to the broad questionnaire. We should let them know that we're going to be meeting with GAC in Durbin so that they can present input through their GAC representative. Or if they want to come along, they can come along, too. And then I think for those countries that aren't all that involved, we should make a general invitation that if you have any input you want the ATRT to consider, just respond in writing to this letter into the docket and people can say whatever they want.

I would -- so this is like a short, one-page letter. It gives people a variety of options to follow, and I would actually urge that it be signed by all members of the government representatives that are

participating in the team. Not just Stephen. I think it helps certainly to ask Stephen to headline as I think the one true minister among us, but I think it would send a nice message to have the other government representatives on it as well. I think if we did that we could move on. I think it would support the ICANN outreach process, certainly wouldn't interfere with it. The idea of a meeting I think is just absolutely not practical. We don't have time to do that and for what we want to do, I think it would be really not a good use of our time to participate in that. But I have no objection to a letter of the kind I just described which I think is very much resonant with the sentiments that Jorgen has presented.

Brian Cute: Thanks, Larry. I've got Heather and then Lise.

Heather Dryden: Thank you, Brian, and hello, everyone. So I'm fortunate in following Larry in that I think Larry makes it easier for me comment further on this. I think what Larry is proposing has a lot of strength to it and certainly moving on from this I think is going to benefit us as well. And I wouldn't want to downplay the amount of effort or thought that will need to go into identifying the right points of contact if a letter is sent along the lines that Larry described. And I would ask that it would be copied to all those GAC representatives where we have representation. And having 124 governments in the GAC currently is certainly a sufficient number to view the GAC as useful resource for connecting up what is intended to be outreach at the senior levels with those who are at the GAC level and responsible for ICANN and the GAC.

Because there's this particular interest in having senior government officials doing outreach and enraging their counterparts, there's nothing to prevent use of old networks occurring. I think it already is. But for the government people that are on the ATRT, surely they can be using their own networks. They have bilateral and have the opportunity to draw attention to ICANN and specifically the ATRT. I take Larry's point that there are varying degrees of knowledge about ICANN and we can't assume that there is going to be an interest or even a capacity to comment in a way that's useful on questions to clarify the ATRT if in fact someone is relatively new and has not taken a close look at an ICANN or government advisory committee before to be able to really move ahead the work of the ATRT.

So to make that, to sum that up, I think provided that we can address some of those issues and come up with a formulation along the lines of what Larry is proposing, I think also having all the government members of the ATRT2 may be an elegant solution as well to address this problem of who would be the right person to design such a letter. So anyway, I hope that's helpful. Thank you.

Brian Cute: Thank you, Heather. I've got Lise, then Stephen Conroy.

Lise Fuhr: Lise Fuhr for the record. Well, I support sending out the letter but I also think we should put -- Carlos was mentioning a more permanent question as to the governments. And that should be treated in work stream 4 I think. So sending a letter now is a good idea and the rest of Carlos' suggestions we should look at in work stream 4. Thank you.

Brian Cute: Thank you, and Stephen Conroy, please.

Stephen Conroy: Yeah, Steve Conroy. I support the idea of sending a letter and I'm very comfortable with Larry's suggestion of making it broader. I think that would help maximize the impact so I'm very comfortable with where the discussion is going.

Brian Cute: Thank you for that, Stephen. Alan, and then we'll close this.

Alan Greenberg: Thank you. I support what Larry said and there was follow-on in what Heather added as a good way of going forward which would be effective use of our time. And both target the larger long term issue peripherally but try to address what we need right now. So I think that's a reasonable way to go forward. Thank you.

Brian Cute: Thank you, Alan. Okay. And thank you, all, --

Alan Greenberg: By the way, for the record, Larry, we were actually saying the same thing. I was just trying to be dramatic.

Brian Cute: Thank you, all. I think we've got consensus and I think the opportunity for an ad hoc group of individuals to come together to draft that letter certainly the speakers who were up this afternoon to the extent you want to get together and cobble the letter together so it's agreeable. And Stephen, thank you for your willingness to put your name on it. I encourage you all to get on the business of putting that together. And Jorgen, thank you very much for the one pager and for putting issue forward to us. Any other comments on this before we move on?

Larry Strickling: Brian, this is Larry. I'm happy to put together just these thoughts and send it to Jorgen who is I think the quarterback on this process. And then from there, for him to send something out that he's comfortable with to everybody.

Brian Cute: Please proceed as you see fit. Jorgen, are you okay with that?

Jorgen Andersen: Very fine. Thank you, Larry.

Brian Cute: Very good. Thank you, all. Okay, I am going to flip the agenda items because the next, the independent consultants is a pressing decision for us, whether we engage one or not, and we'll put work stream kickoff as the last, the 6th item now. And just a note, I am on travel to and am going to have to drop off at quarter past the hour, so I've got the next half hour and then Alan will take the mike for the last 15 minutes.

For the question of an independent expert, I think which is the phraseology in the AOC, I'd like us to approach the discussion in the following sense. We have a number of one pagers that have been put forward as candidates or candidates for work that an independent expert may take on on our behalf. I think we have to make a fundamental decision of whether we need an independent expert and that's the most important thing.

We may or may not come to a consensus on which specific piece of work would be the one that forms the SOW today. We'll strive toward that, but let's focus on as we discuss these issues that have been presented, are we concluding that we in fact need an independent expert or not? That's an important decision to make today and let's strive toward a consensus and SOW if the answer to that is yes. And I am going to assume that everyone has read the one pagers and I'm going to ask that the people putting them forward not spend a lot of time rehashing the entire proposal. Please just give us a couple of minutes of why you think this is an important one and then we can get to discussion and use the rest of our time. So Carlos, you're up first, if you would very, very briefly just hit the high points of why you think this is an important piece of work that requires an independent expert.

Carlos Raul Gutierrez: Yes. We have had a discussion if we need high level expert or if we need some legwork analyzing data. I think my proposals are not about independent experts, they are about some legwork. The first one on the page is just my mental note how do I see this policy development process. The first one is on legwork. I would like to -- if I had a week free I could do it myself. If David Olive could go deeper. We got our report from him in Los Angeles about 51, if I'm not wrong, 51 public comments on procedures we had last year. And what I'm proposing here is taking these procedures and doing a little bit of an analysis who initiated them and who commented them and try to get some analysis out of that. I think this is data, this is hard data, the 51 public comments, and we should research it a little bit. And as we discussed, it's not an expert's task, it's just a lot of time analyze them in a useful manner for our discussion.



The second one is even easier. It's not even, it's not an expert, it's not legwork. I'm going back to PhD work, a student at MIT is doing and he presented it in TPRT last year in September which is bringing ICANN's public interest positions in perspective to other agents in the larger internet community. I think it's useful and this is also my recommendation to the letter of the minister. We should not depart from the position that ICANN is the center of the world. Every time we talk about our work we should bring it in perspective. And this is a very personal worry that I have that we might be thinking that ICANN is accountable and responsible for things that happen lower down in the business model. And I think this should be clearly separated to what we think ICANN is responsible for results in the market.

It's a delicate issue but we should say this. Otherwise we get more -- ICANN gets more (inaudible) than it deserves and I see a lot of progress in the relation of the registrars, agreement is (inaudible) that is being done that is not perfect. So what I'm proposing is if there is a possibility that this team has a kind of workshop, one-hour, two-hour session with this analyst, to give him a name, not an expert but an analyst, could do relative position of ICANN, it would be very useful and I think it would be useful to have him meeting with us, maybe Durbin or in one of our workshops so we get the experience or perspective. Those are the two ideas I am proposing the initial draft chart there is my own based on what the (inaudible) report on the board and this is a side discussion I'm having with each broker and I'm hopeful the next time I will be able to present it in a more clear way. Thank you very much.

Brian Cute: Thank you, Carlos. So to be clear on the specific question of whether you think the review team needs to engage an independent expert, I'm hearing you say only to the extent that it's an analyst who can help us for a small number of hours review one or two or both of the issues you put forward. Is that a correct capture of your suggestion?

Carlos Raul Gutierrez: I don't have -- yes, it is right. I couldn't develop terms of record for an overall expert. I see a lot of issues that we can get some expert help, yes.

Brian Cute: Thank you. Who owns the next one pager? Case studies, terms of reference for expert assistance?

Avri Doria: I think that one is me, Avri.

Brian Cute: Yeah, Avri, could you give us a quick --

Avri Doria: Sure, I think it was my homework assignment. So I don't have it in front of me but I'll talk from memory and it's quite quick. Basically it's doing a snapshot on various aspects of the policy development process. And looking at in terms of the policy development process, going from ATRT1 to ATRT2, has the process changed, has it improved, does it take into account what has been recommended, especially since it was a reworking of some of these processes since then. So to what extent have things gotten any better? And then basically I put down a set of possible, and certainly one would not pick all of these, but it was just while sitting there, a set of possible policy development processes probably overloaded with gNSO because I know those best. But also going through some of the other ones that have been done during the intervening period. And basically sort of saying that this snapshot at policy development processes can become a useful way of I don't want to call it a metric, but a useful anecdotal way of being able to see what kind of changes we get from ATRT1 to ATRT2 in terms of policy development. So it was a homework assignment and I did my best. I think it would be useful as a thing for ATRTs to do. Thanks.

Brian Cute: Thank you. So a quick summary is, you do see the need to engage an independent expert to conduct case studies. We haven't selected a case study and part of the output would be the analysis of the case study and some benchmarking between ATRT1 and ATRT2 time period in terms of implementation. Is that a fair capture?

Avri Doria: With one change of word from me to I see the utility.

- Brian Cute: Utility. Okay. Thank you. Alan? You're next if you'd give us a very brief summary?
- Alan Greenberg: Thank you. Alice included by background paper as a proposal. That wasn't a proposal, that was just sort of a tutorial or a primer on the expressions of policy versus implementation and policy development process was upper and lower case. Because around the table I hear people, and not only hear, I hear people using the terms somewhat interchangeable and I think they are very different issues.
- My proposal was that the formal development policy process of the gNSO, the one that is the crucial one for developing large scale and important policy regarding the gTLD space, I believe has some problems. The opinions of various people in ICANN vary all over the wall. I do not think we have the ability to look at these things in depth ourselves and yet I think it is absolutely crucial to ICANN's success. Transparency and accountability is nothing if we can't also be effective and I think this question goes to the core of it, can ICANN be effective in setting gTLD policy? And I believe it is a good study that would give us an outside perspective. I think there are a number of good cases of that that could be looked at which run the gamut from very successful to very unsuccessful. And I think it would be a good use of our resources. Thank you.
- Brian Cute: So, Alan, again, you see the utility of engaging independent experts to conduct case studies that fall under the umbrella of policy development process, policy versus implementation.
- Alan Greenberg: Not policy versus implementation. I'm looking just at the concept of policy development. When all parties -- the policy versus implementation comes at the tail end when we're trying to implement policy. And what decisions can we make versus which ones have already been made by the development process? I'm looking at the development process itself.
- Brian Cute: So the implementation would not be within the SOW?
- Alan Greenberg: Part of that might be. To what detail should the policy development process be specifying things so discretion is not a stab afterwards. Some of our PDPs are very specific. Others, such as the new gTLD one, was a very general, and we're paying the price for that now. So essentially, are we effective in setting policy for the gTLD space? Can we be effective?
- Brian Cute: Okay, thank you. The next one is Jorgen's which we have discussed and reached consensus on in a separate work stream. So let's move to the last one, I think, which was the one I put forward on metrics.
- Alan Greenberg: And we have one on finance.
- Brian Cute: Oh, I'm sorry, I jumped ahead. Sorry. My screen is jumping. Lise, are you next?
- Lise Fuhr: Yes, I'm next. Well I think a lot of the first review was about the processes and about how to treat comments and the relationship between GAC and the board and how to hear the community in a lot of ways. But another thing that's always been an issue as long as I have been participating in the ICANN work, is ICANN in the finance space and how are they used. And I see this a concern is growing now we have the new TLD and a more complex business model for ICANN. And I also see it in the comments we have got from some of the governments. I saw like Spain and Denmark remark on ICANN finance. And I think it would be very, very nice to have independent experts to look at is ICANN treating the finance in an accountable and transparent way, yes or no. And if no, what should we make the difference? And if yes, it's fine, we can kill all the worries. So to having an outsider telling are they doing it as they should do, it would be very nice. I think it's essential to ICANN because a lot of the fuss around ICANN's culture at the moment. Not only the policy and the multi stakeholder matters. Thank you. And I think it's very important not only to have an external expert to this one, I think we should have -- I know there's limited amount of money, but I think we should try and have two case studies because I think there's a lot of very

important subjects there. And well instead of saying we can only have one, why not have two?  
Thank you.

Brian Cute: Thank you, Lise. So support for engaging an independent expert for case studies. One potentially financial, one potentially other.

Lise Fuhr: Yes.

Brian Cute: Okay. And then lastly is the one pager on metrics and I've hit these notes before with the team, but a notion that the ATRT2 could engage an independent expert to help identify, define, suggest metrics that could be employed by ICANN for the purposes of measuring progress on accountability and transparency going forward. In a nutshell, that's a proposal and I think there could be utility for engaging an independent expert on that front. I do know that Denise, and I don't know if Denise is on the call, sent a note saying that staff has engaged or is in the process of engaging a consultant for this very purpose. Denise, are you there? And if you are, can you speak to that?

Larissa: Brian, this is Larissa. I don't think that Denise is on the line, but she would like to have a more in-depth conversation about the specifics of the work that staff is doing in this area.

Brian Cute: Yeah, okay. It would be important to hear from her what's being developed on staff's end. All right, we've gone through the one-pagers --

Avri Doria: I put another one in, this is Avri Doria.

Brian Cute: Sorry, go ahead, Avri.

Avri Doria: Yes, I had put another short one-pager in. This one wasn't a homework assignment, but basically with all the discussions we've had over -- yeah, there it is in front. Over the ICANN, whether it's whistle blower or hotline program, it struck me as this was something that we actually needed more than just utility to have someone external, someone that isn't one of us, that either thinks it's okay or doesn't know about it, but someone external to come in who is professional at such hot line whistle blower programs and to do an evaluation of ICANN. Thanks

Brian Cute: Thank you, Avri. Olivier, I see your hand, but before I come to you, let me make a couple of points and I want to drive the conversation to a conclusion or consensus of whether we need to engage an independent expert or not. Basic points. If we decide to engage an independent expert, time is critical. Putting together an RFP, getting it out, making a selection is a process we have to go through. That will take at least 6 to 8 weeks best case scenario. Engaging the expert in an SOW that has a scope of work that is reasonable manageable for them to complete in a meaningful way is also important. And also to have their input if possible in a time to integrate it into recommendations. Obviously that's the goal. So already we're up against a tight calendar. We need to make a decision. There are resource questions. I haven't seen a budget for ATRT2 yet. I've had a figure of \$60,000 communicated to me, although I don't know if that's a hard figure or not on this type of activity. But we need to make a decision one way or the other. So with those pints in mind, I'll open it up. Olivier?

Olivier Crepin-Leblond: Thank you very much, Brian. Olivier here. I wanted to ask a question to Lise Fuhr regarding the stuff of ICANN finances. In there she focuses on three main questions. I've not seen the term benchmarking being used and I wonder whether this was also to be considered, benchmarking ICANN finances versus other like organizations. Thank you.

Brian Cute: That's a question for Lise, right?

Lise Fuhr: Yeah, I didn't use the word benchmark, I used comparison. And what's the question? Why I want to benchmark against other, or -- I need you to give me a nod again, sorry.

- Olivier Crepin-Leblond: It's Olivier again here. No, it was just to basically ask whether actual benchmarking -- because benchmarking is a specific set of things that are done when you benchmark. Comparison might be just something that is more superficial. That's all. Thank you.
- Lise Fuhr: But I was meaning benchmarking, I just didn't like the word. So that was purely the reason.
- Brian Cute: Okay, thank you. I'd like to poll the review team. You've heard the proposal for issues that could be the subject of independent expert work and/or specific case studies. I'd like to poll the review team and for those of you who are online, please, a show of hands. Those who believe engaging an independent expert is something we need to do as part of our work. And I'll give you all a few minutes, so please raise your hands if you believe that's the case.
- Larry Strickling: Hey, Brian, this is Larry. You said you thought there might be \$60K available for this. Do you remember what the tasking by Berkman, what that ended up costing? I thought it was substantially more than that.
- Brian Cute: It was substantially more than that. I want to say, Larry, it was around \$200,000 or even in the high \$200,000s, I don't remember exactly which, but it was well into the low six figures.
- Larry Strickling: That was my recollection as well. And While I do believe that the scope of everything we're talking about here is smaller than Berkman, than the task Berkman undertook, I'm a little worried as to what we can really get for \$60K that's going to be valuable to us. So that influences -- I guess my vote is, I want to make sure the project is worthwhile. And if that's a hard and fast figure, I'm not necessarily inclined to vote in favor of hiring somebody when we can't get a work done that's going to be useful to us.
- Brian Cute: Fair question. And as I said, it was a figure that was communicated to me. I haven't seen a budget for it. I've asked for a copy of that, it's forthcoming., That's what I've heard I don't know if that's a hard figure. Steve, do you or Larissa, anybody on the staff side have an idea?
- Steve Crocker: This is Crocker. I do not. We can certainly ask the question, but I have not been involved in any budget decisions about ATTR2.
- Larissa: Brian, this is Larissa. I just wanted to clarify that we are putting together numbers that are inclusive fiscal year 2013 and fiscal year 2014 as the work of the ATRT2 overlaps both fiscal years. So there will be more information forthcoming on that point.
- Brian Cute: Yes, thank you very much, Larissa. I think you raised a fair question, Larry. It's tough to make a decision here not knowing what the available resources are. Did I hear someone just speak up?
- Carlos Raul Gutierrez: Yes, I have my hand up. Carlos for the record. The last time you asked the question, you said either an independent expert or help for processing data and doing small work. Is that right?
- Brian Cute: We'd be engaging independent experts who assist us in analysis on issues that were presented and/or specific case studies that were presented.
- Carlos Raul Gutierrez: For specific help, it might be different people, but shorter than \$250,000.
- Brian Cute: So I only see 3 hands up in response to my question of who supports engaging an independent expert. We have a question on the table of what the available dollars would be and some reticence about voting one way or another until we know. So let me suggest that we do two things. Larissa, could you, as soon as humanly possible, get to us some guidance on what the available resources would be for this activity or even a range of available dollars on this activity? What I would -- and premature to ask for a show of hands or a consensus until we know that piece of information, so I guess we're going to have to put that vote or decision off.

- Alan Greenberg: Can we go to the queue, Brian, please?
- Brian Cute: Sure. Alan, then Jorgen.
- Alan Greenberg: Okay. First of all, my recollection is we were told there is \$60,000 in this budget which expires in June. So we haven't been told, I believe, what the long term one is. And Larissa said they're working on it. I think we should put our stake in the ground and say we believe we need an allocation of so much which we may or may not use. Because this business of someone in a black room somewhere setting a number that we have absolutely no input into, and they have no idea of what we're talking about, I think this makes this whole process somewhat ludicrous. I originally put my hand up to give my opinions on the various proposals and if and when we're at that stage, I'm prepared to do that, but it doesn't look like we are right now. I saw a lot of tick marks by the way, supporting the concept when you originally asked it.
- Brian Cute: Thank you, Alan. Jorgen?
- Jorgen Andersen: Yes, thank you, Brian. Jorgen Andersen for the record. I just wanted quickly to say two things. First of all, I think that Larry's point is very important one. It's very hard to decide anything about consultants contracts, case studies, until we know exactly how much money we have available. In that connection, I think that it is very important to clarify that the amount which has been mentioned so far is in my view too limited to carry out the tasks appropriately of the team. My second remark, and I don't know whether (inaudible) in particular the paper provided by Lise I think I can give my full support. I think it's important that some very good work is carried out on that topic and I want to remind you that exactly this point was proposed by GAC at the Toronto meeting last autumn. This was a priority for our review team to deal with exactly this issue. So I think this is in all circumstances it ought to be dealt with and I think that the use of external experts is very relevant in that case. Thank you.
- Brian Cute: Thank you. So based on the presentations of the one-pagers and some comments of the review team members, it sounds like there's some support for engaging an independent expert with the caveat that it's difficult to make a decision not knowing what the available resources are. So that's where we are. We have a request to staff to provide us some guidance for the follow-on budget. And even if it's a range of what the resources may be, so that a firm decision can be made. Question to the review team. would it make sense in the meantime for example Alice to put together a survey or doodle poll mechanism where the review team members could rank in order the case studies or issues that have been presented and send them back to the list so we have a sense of prioritization among us in terms of specific work so that when we get the resource question answered from staff, if we decide to proceed, we can proceed quickly to an SOW and kicking that process off. Would that make sense? Olivier?
- Olivier Crepin-Leblond: Thank you very much, Brian. I was actually not going to answer your question whether it makes sense or not. I think it does make sense, but I was going to actually expand on the budget side of things quickly. I happen to be on the ALAC budget and finance subcommittee as well and we've had to review next year's budget for ICANN. There are -- there's clearly on the draft operational plan, which is currently up for review, the mention of the ATRT2. And that will give us a forecast of how much we would be getting as a group. And looking at the forecast, the total amount is in the region of \$300 -- let me just find. I just lost it, just a second. Here we go. ATRT2 -- where is it now? I've lost it now, sorry.
- Alan Greenberg: It's Alan. Without knowing what that includes though, the number doesn't have a lot of importance to us.
- Olivier Crepin-Leblond: It does. It does, Alan. It does because it's actually broken down in several fields. It's broken down in the travel, in staff support, but it also has a figure for professional services which I believe is what an outside consultant would be. So here we go. ATRT reviews, and that's under

Denise Michel, we are being allocated \$37,800 for professional services. Now of course this is a draft which means that if we wish to have a consultant that will be paid more than \$37,800, this committee has to send a note to the public comments and basically ask for more and establish how much would be required. Thank you.

Brian Cute: Thank you, Olivier. Alan?

Alan Greenberg: I'll comment on that. If that's all we're getting or that's what we have to do, this whole thing is a joke. We should have a more direct line to the budgeting process than that. I would suggest that before we just do a doodle, we should try to do a little bit of triage. Or at least have more flexibility to people giving comments. Because I think some of these proposals, as some of the proposers have said, are in different leagues. And the actual number of specific case studies we're talking about is quite smaller than the number of pieces of paper we have. So I think a little bit of triage or discussion before we go to a survey, whether it's a doodle or an emails survey, I think is warranted. Thank you.

Brian Cute: Are you suggesting discussion on this call, Alan?

Alan Greenberg: To the extent we have -- we only have 15 minutes left, so we've almost decided that we don't -- I don't think we're going to have that, but we need to have it I think before we go forward. Yes.

Brian Cute: Let me make a suggestion. I think it's -- from a pure timing perspective, as I mentioned, the constraints of the calendar, very important that we make a decision here rapidly. I do think the utility of prioritization so we know amongst us which ones we think are the top priorities that could become subject of the work, is critical that we do now. If you want to use the balance of this call to have a discussion to help clarify that prioritization, by all means do that. But I do think we need to weigh in right after this call and get the prioritization clear. I do have to step off. I'm only going to make one comment with respect to the item 6 work streams kickoff. I think the chairs of the work streams had good guidance from our last call in terms of kicking off their work. One thing I think is important that I've communicated this to ICANN Staff, is that ICANN staff now gather any and all background documents that the respective work streams are going to need to read in order to make preliminary determinations about whether the issues they have on their agenda or their backward looking assessment of implementation should rise to the level of a recommendation in December. It's very important that all the background documentation that's required to be read by the work streams members be gathered and provided to the chairs. And it's important that all of the review team members do their homework now in the coming weeks. That's my point on that. Alan, with that, I've got to go. I'll turn it over to you for the rest of the call. Thanks so much.

Alan Greenberg: Thank you, Brian. Hey, Brian, if you can stay on for 30 seconds, I know for work stream 3, I intended to work with Michael to get things kicked off before this meeting. We didn't. It's very easy to let the important things of each day get in the way and I think perhaps a little bit of prodding from staff to each of the work stream chairs and coordinators to really make sure it happens in the next few weeks.

Brian Cute: Agreed. Thank you very much. Thanks, all.

Alan Greenberg: Okay, I'll take the chair right now, and Fiona, you had a hand up. Did you want to speak? No? Okay. What I'd like to do is, I'm going to very, very quickly give you my impression of the various work streams and perhaps we can do a quick poll or get comments on whether there's any agreement. On Carlos' comments, what I heard is his first one is an analysis of the public comments. And from my perspective, I think that's something we can ask staff for. If they have to hire someone to do the actual arithmetic, that's not our concern, so I think it's a valuable exercise, but I don't think we need to wait for a formal hiring an expert to do it. And the second one I think Carlos said was just perhaps us getting his person to speak to us, the person he was referring to.

Avri, I think your comments, your statements, the first one was a general support for the concept and not actually advocating a particular type of case study. If I'm wrong, please speak up on that. On the whistle blower one, I think that's a fine recommendation for us to make. I'm not sure we're going to come out -- I'm not sure it's going to help our overall process a lot to have that analysis. But I would think it's a reasonable recommendation. I won't speak to mine. On Lise's, I strongly support the concept. I wonder if today is the right time to do it given that ICANN is just in the middle of turning the finance issues upside down. Because when Fadi and the others came on, they said there really was not a process they could support. And metrics I think is up in the air, waiting to hear from staff. I think it's something we could and should do unless staff is doing something in parallel with us.

So that's how I sort of take all of these. If we could have some other people give you their impressions, maybe we could do a little bit of triage before we go out to a formal poll or doodle. Carlos?

Carlos Raul Gutierrez: Yes, thank you, Alan. I fully agree with what you said on my proposals. In theory it should be done by staff. Just I would like to have a short reaction time so we can refine it a little bit. It should be easy to do, but it has to be refined based on what comes out of the public comments. We might have to adapt the metrics a little bit. I would like to wait one month than not having something that is useful. But I agree, if David Olive has people for that, it would be great, and I could start following up immediately. And on the second one, it's basically inviting somebody to our next meeting and just travel costs and some small per diem and having a structured discussion, then I would like to have that. Thank you very much.

Alan Greenberg: Lise?

Lise Fuhr: I just can't see in my screen that I raised my hand. So I'm trying to type it in. But well, I agree that ICANN has done a lot of work in trying to change the way they do their finances, but I think it's still a good time to do it because they can explain how they are doing it and what their plans are. And if that's going to look like a good way forward, this would be in the report. So I don't think that is in the way of having this survey. And to me it's very important to state it's not to be (inaudible). I don't have an opinion on if I think they use the way in an unaccountable manner. It's more too much talk about it and I really think it's essential for us to kind of say it's done in a proper way or if it's not there could be some advice on it. So that's why I put it forward.

Alan Greenberg: Thank you, Lise. Jorgen?

Jorgen Andersen: Yes, thank you, Alan. I want to reiterate what I said before that I strongly support Lise's proposal and I think that we should be very careful in taking note of the recommendations from the GAC from the Toronto meeting where this particular item is pointed at as a point which should be a priority for ATRT2. And I think that if we leave it aside, it would be hard to explain why this is done. So I would really strongly support that we do something on the finance issue. Thank you.

Alan Greenberg: I have no more hands. Does anyone else have any thoughts on how we go forward and select a project if we are going forward at all? Unfortunately if we leave it to email, we have not been particularly effective in having emails discussion and I don't think we want to leave any discussion for two weeks from now. Avri?

Avri Doria: I thought Brian was mentioning a ranking exercise that we all went through individually and then we look at that. Whether it was done through doodle or some other tool and just rank them one through four or one through six, whatever it is, and see where we're at and move from there. Thanks.

- Alan Greenberg: Okay, in that case we have I believe five projects on the table. Avri, are you going to try to identify a more specific one? Because what you have there is probably -- I'm not sure it's enough to create terms of reference from.
- Avri Doria: This is Avri again. For you mean the PDP?
- Alan Greenberg: Yes, your first paper.
- Avri Doria: Yes, for the PDP. I mean there's something that we probably need to talk about and that's the combining of what I did and what you did because I think there's a certain amount of compliment parody between the two of them although I'm not sure how you feel about that. But no, because certainly we wouldn't do all of those. I certainly would have my choice. I would think that that's almost a second step that if the PDP one or if yours' and the one I proposed were put together and that were to hit the top in priority, then a second quick step would be which of these are the top three that we should do. So I would actually think of that as a quick two stage that if the group feel that the PDP or policy development processes is the way to go, then within that, of the ones I put out. And I think all of those make interesting cases so I think it would just be for us as a group -- as I say, I look at it from a very gNSO centric view, but then again, in some ways I'm really interested in what's going on with some of the others. So I would go for two polls. One to see which of these is deemed as favored by the most members and then second, if that one is the favorite, figure out what we're doing. Thanks.
- Alan Greenberg: Any other comments? Avri, to answer your question, I think mine is one of the things that could be interpreted from yours. I think yours is a much larger overall question that I think we would have to narrow somewhere. Otherwise, we're not going to be able to hire an expert certainly for whatever money we end up having, which I'm presuming will be more than \$37,000 or we're wasting our time.
- Avri Doria: This is Avri again. Maybe it's 60 plus 37 as Stephen said in the chat. But certainly, as I said, there's no way we could do all those cases. I just was using my imagination to think of what all the possible cases were and then we would definitely have to narrow it.
- Alan Greenberg: Okay, I'm just trying to figure out what the process is to do that and I don't hear you saying you're going to volunteer it down which really means it's a group process.
- Avri Doria: Yeah, that's why I was suggesting that if the group feels that doing case studies, ala what I suggested, what you suggested, or some combination of the two is the way to go, then we poll the group on which of these they think are the ones that are most worth studying.
- Alan Greenberg: Based on the tick marks that people put up when Brian asked the question, I think there's a strong support, at least what I saw is a very strong support in the group for doing some sort of external case study project, presuming of course that we have enough money to do a rational job of it. So I think that decision has been made if we can find a project we all agree on or that we can come to consensus on.
- We have three more minutes left in this call. I am going to suggest that we -- it's Thursday morning where I am and varying times on Thursday for the rest of you. I would suggest we go to the weekend with any discussion and issues people want to raise. I encourage people to put stakes in the ground and try to identify the projects which might be of most interest to them and then we will work with staff early next week to come out with either a doodle poll or some other mechanism to try to come closer to closure.
- If anyone feels we should not be doing projects, please speak up quickly and effectively on the email list because otherwise I sense certainly from the tick marks that we saw that there is a general belief we should be going ahead with something if we have enough money. And you've already heard my opinion on the process we need to follow for getting money. Anything else?



- Avri Doria: Alan, if I can add something, we have, those of us that are playing chairs and vice chairs have another meeting later today, so I think we can be process geeks about this later today.
- Alan Greenberg: You're right, Thank you. I forgot about that. Any other comments? Olivier, you're typing but we're running out of time. If you have something to say, why don't you speak up quickly?
- Olivier Crepin-Leblond: It's Olivier here. I'll defer and just to say I'll send an email out regarding the FY'14 allocation for funding. That's all. Thanks.
- Alan Greenberg: Very good. Then with a minute or so left, if there's no one else who wants the last word, I will thank you all for a good meeting. For any of those on the west coast, thank you for getting up at 4:00 in the morning and see you all shortly. Thank you.