

BEIJING – Accountability and Transparency Review Team 2 (ATRT 2)

Saturday, April 06, 2013 – 08:30 to 17:30

ICANN – Beijing, People’s Republic of China

Good morning. This is the Accountability and Transparency Review Team 2 Meeting. This is day two. It is Saturday, April 6th 2013. We are in Function Room 11 of the International Beijing Hotel. Please go ahead and start your meeting.

BRIAN CUTE:

Good morning, this is Brian Cute, Chair of the ATRT 2. Welcome to everyone in the room and everyone online. We’re going to commence day two’s work picking up on the Terms of Reference and Methodology document. We had one outstanding Item there, which was to discuss and bring in a definition of transparency to complete the document. We have a draft definition of transparency to review and discuss. Thank you to Avri for putting that together and we’ll get that up on the screen in a moment and begin the discussion.

There is a proposed definition that we’ll look at. There was also a request that the definition include an element of spheres. I don’t recall exactly who made the suggestion but in the definition of accountability we have a numerated three spheres of accountability. We will endeavor, if it makes sense, to add a sphere’s articulation to the definition of transparency. Transparency, yeah. From Avri. Okay. Avri? Alice doesn’t have the email with the definition of transparency. Hold on.

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.

AVRI DORIA: Yeah, I sent you a list with all the various changes. The mail that you sent back to me that said it had no enclosures, it was actually in-line, the changes. But I can try and send them again? I've been having a horrible time with email and...

BRIAN CUTE: Okay, so Alice is typing the definition up on the screen.

AVRI DORIA: That's right, and there should be only... Thank you for correcting my double leading.

BRIAN CUTE: So again, this is a proposed definition of transparency that we would bring into our Terms of Reference and Methodology document. Okay, is that the entire proposed definition?

AVRI DORIA: That's the first sentence. Then there was a second sentence that went on, and also there are a couple of my standard illiteracies in it, which I should probably fix.

BRIAN CUTE: Do you want to just read it out?

AVRI DORIA: I'll read it out. Right, so; 'in this Review, transparency is defined as adhering to the fundamental principle that all materials and discussions leading to Policy decisions by ICANN, or any part of ICANN, are made public in an accessible manner. While occasional exception may be made on privacy or other legal basis, these must be documented in a transparent manner. So...

BRIAN CUTE: And that's the entire...?

AVRI DORIA: And then the next sentence was; 'this has impact that with respect to its work, the ATRT 2 assumes that ICANN's transparency is the default... [overtalking].

BRIAN CUTE: Slow down for Alice please Avri.

AVRI DORIA: Sorry. Sorry, sorry. I... [laughter] Okay, 'that ICANN's transparency...' so it's 'as defined'... Or even... Yeah. '...Is the default condition for all activities.' And that's what I wrote. On the above, just if we could get the corrections to...? On the last sentence it's; 'while occasional exceptions may be made on privacy or legal basis, these must be documented in a transparent manner.' Thanks. And that's what I wrote.

Now, to be clear, the second sentence was the one where there had been then an opening for spheres for transparency, and where I was

looking at it and didn't quite understand how to include spheres. I was feeling the same anxiety I always feel when you start enumerating things; is that as soon as you enumerate a set of spheres, someone will find a sphere or an exception to that sphere, or something that isn't in one of those spheres and say 'aha! Here's a place I don't have to be transparent!' So that's why I went for the 'default condition for all activities'.

BRIAN CUTE:

Thank you Avri. Okay, here is the proposed definition of transparency. I'd like to open the floor for discussion. Questions? Alan?

ALAN GREENBERG:

I think there's an aspect that is missing, and part of the reason is this kind of definition works very well for the big, substantive decisions. There's a myriad of decisions that get made along the way, not each of which is going to be documented with a paragraph and a little section in some manual explaining why it's made. And I think it comes back to the word transparency.

One needs to be able to see, from outside the Organization, how decisions are made and who they're made by. Not necessarily by a person but where in the Organization is it made. So at least if the documentation is not obvious, you know where to go. And it's a link between transparency and accountability, but I think it's got to be mentioned.

BRIAN CUTE: Thank you Alan. And if anybody has language to propose along the way, feel free to offer that as well. Other discussion on the definitions? Questions? Michael?

MICHAEL YAKUSHEV: It's Michael Yakushev. Good morning. Not like a proposal but maybe just a suggestion to think on. What is written here – and I fully agree with this – is like a passive notion of transparency. So my suggestion is whether it's reasonable to think about an active part of this transparency, in the meaning that if something is ambiguous or doesn't seem clear it's the obligation of ICANN, ICANN Staff to make this clear and to make it less ambiguous and more transparent.

So the principle transparency also gives the duty, imposes the duty on ICANN and ICANN Staff to guarantee their visibility, clarity or what is being done within ICANN. So it's an active part of this principle.

BRIAN CUTE: Thank you Michael. For clarification, for me, is your suggestion is similar to Alan's in that there has to be an element where the person, seeing what's being done, also understands what's being done? Is that what you mean by clarity? Or do you mean more transparency?

MICHAEL YAKUSHEV: Well, that could be, as Alan mentioned, some situations where the situation is not very clear whether such a decision should be somehow revealed or it's somehow hidden for another reason etc., etc. So it's an

obligation of ICANN to give the full picture, the full clarity on what happened and to explain to the people if they have questions.

BRIAN CUTE: Thank you. Lise?

LISE FUHR: I'm a bit worried about if we say 'all materials and discussion leading to Policy decisions' because I actually think that's too narrow. I think we should say 'decisions by ICANN' because you have economic decisions; you have other decisions that need to be transparent.

BRIAN CUTE: I'm seeing nodding heads. Avri, do you agree with that?

AVRI DORIA: Oh yeah, I wanted to comment on the other ones if I could, too.

BRIAN CUTE: Please.

AVRI DORIA: Yeah, no... I knew I was being narrow when I put in 'Policy', but I wanted to leave it to other people to take it out. [laughs] No, it wasn't a trick, it was an ambivalence on my part, of is it Policy? Is it not? And what I admit is the word accessible. When I said 'in an accessible manner' I was thinking of things like what Alan said and what you said, that for

example sometimes people consider a data-dump, just making everything available – transparency.

And they say ‘well, it’s all out there’, but it’s not accessible. Then sometimes they’ll say ‘well, if we just explain what happened, that’s understandable and easy’ but then it’s not all available. So in the term ‘accessible’ I admit that I left that open, almost as if I was begging the definition of ‘what’s accessibility?’ Because that to me is harder to define than transparency.

Because accessibility is very much something that’s in the eye of the beholder. ‘Was I able to access it?’ And so that’s why I, thinking about it, decided to stay with the word ‘accessible’ as opposed to once again enumerating, for example, we need org charts. We need to know who signed off on every document. We need to know if it was ambiguous, why was it ambiguous? So in terms of your question, when it’s ambiguous that means it’s not accessible.

But I didn’t define accessibility in all its measures, just assuming that accessible is something that’s subjective in the viewer’s eye. We have to believe it’s accessible. But I’m not saying I’ve necessarily captured either of them well, but that was my idea in saying ‘accessible manner’.

BRIAN CUTE:

So I think there’s an agreement to strike the word ‘Policy’? Do we have agreement? I’m looking at nodding heads. Yes. Okay. So that’s one edit. Michael and Alan, does accessible, as explained by Avri, operate to provide sufficient basis to address the issues that you had? Alan?

ALAN GREENBERG: If Avri is always attached to the document to exploit it, perhaps...

AVRI DORIA: So should I come up with a sentence that's... Waves my hands about accessibility? Because it'll be at best a hand waving.

ALAN GREENBERG: Let me give you a stupid example, and it's nothing that we're going to care about. If someone decided in ICANN that we really needed a classroom organized room for this Group, they're not going to document it in a paragraph somewhere of why we decided that, but we should be able to find out whom to go to to tell them it was wrong. And that's the level of transparency I think we need.

This is a stupid example but you can come up with similar ones at a much more substantive level.

BRIAN CUTE: Can you come up with the language for the definition, in addition to an example? I will try...

ALAN GREENBERG: I refuse to draft while I'm speaking, but I will try to come up with a sentence.

BRIAN CUTE: Okay. The question I have... And I just want to make sure as a point of clarity that the last sentence is directed at the ATRT 2's activities. Correct?

AVRI DORIA: Yes, it was meant to take that definition and say with relation to our work we will be that.

BRIAN CUTE: Okay. So I might add the word 'its' as referring back to ATRT 2, I might even drop the word ICANN. Although we're trying to find... Do you see my point?

AVRI DORIA: Right, yeah. What I probably should have said; 'transparency, as defined above...', but that's there, 'as defined' so yeah, 'ICANN' is probably superfluous.

BRIAN CUTE: 'Transparency as defined above is the default condition for all the ATRT 2's activities' or something... Is the meaning correct? Yes, Stephen?

STEPHEN CONROY: Sorry, I just had a couple of extra sentences, possibly, that may or may not help. 'ICANN's transparency provides a basis for a public understanding of its processes and decisions...'

BRIAN CUTE: Stephen? I'll have Alice type on the screen. If you go a little bit more slowly and then we can just...?

STEPHEN CONROY: Sure, no worries. Sorry Alice. We need a translator as well; I appreciate it. 'ICANN's transparency provides a basis for the public understanding of its processes and decisions for the public understanding of its processes and decisions. Transparency is both a necessary foundation for ICANN's accountability and enables participation in ICANN's processes by the broader Internet Community.'

That's following on a little bit from the discussion we were having yesterday about processes and...

BRIAN CUTE: And that looks like good prefatory language potentially, before we enter the definition. Larry?

LAWRENCE STRICKLING: Now, I like the addition a lot. What I would suggest though is I think disclosure processes ought to be in the definition of transparency. We have materials, discussions and I think what Stephen captured in the first sentence ought to be part of the actual definition, as opposed to a descriptor of it. Because I think that goes to Michael's points, that you have to understand the process in order to really have transparency in the Organization, so I would suggest that.

The other dimension that's not here now, that I'd like to see added... We talk about these materials and discussions being made public in an accessible manner. I think we also need to capture the concept of timeliness; in a timely manner. To the idea that, as much as possible, there ought to be real-time disclosure of information; not something you get three, six, nine months later.

BRIAN CUTE:

Thank you Larry. So if I may... Taking those points. Alice, go back up to the first paragraph. After 'materials', put a comma. Put in "processes' and discussions leading to decisions of ICANN or any part of ICANN are made public in an accessible and timely manner.' Okay. Now, Alan you just suggested that that might capture the concern that you had about whom do I go to? Do you want to weigh in on that?

ALAN GREENBERG:

Yeah, I think the whole issue of the public understanding of the processes and decisions opens up to that. It may not be said but I think it's clear that you can understand what is completely opaque and I'm happy with that at the moment.

BRIAN CUTE:

Olivier then Avri.

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. With ‘exceptions maybe made on privacy or legal basis’, would ‘basis’ be plural or are we looking at a single basis? In which case I would suggest on ‘a privacy or legal basis’.

BRIAN CUTE: I could see the plural of bases.

OLIVIER CRÉPIN-LEBLOND: It’s B A S E S.

BRIAN CUTE: Yes. Yeah. Thank you Olivier. Avri?

AVRI DORIA: I was trying to craft a sentence that would come after ‘accessible and timely manner’ on accessible, and I came up with. Talking at typing speed. ‘Accessibility’ – this is after ‘manner’ in that one, after ‘manner’...

BRIAN CUTE: New sentence?

AVRI DORIA: Yes, it’s a new sentence. ‘Accessibility is defined by the needs of the Internet Community, and may include but is not limited to: translations, detailed explanations, and...’ And then I didn’t know what the third one was but I was sure there was a rule of three so I wanted to leave it open.
[laughter]

OLIVIER CRÉPIN-LEBLOND: Rationales.

BRIAN CUTE: Okay. Comfort with this construction? Discussion? Avri?

AVRI DORIA: One edit. The ‘to’ should be before the colon, ‘is not limited to:’. Thank you.

BRIAN CUTE: Discussion? My inclination is that Stephen’s paragraph is the lead, in terms of flow, does that make sense? I’m not wed to it but... Yeah, can you cut the last paragraph and put it to the beginning? Okay. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. I’m a bit confused about accessibility being put... That sentence being put between the definition of transparency and then ‘while on occasional exceptions may be made on privacy or legal bases’. I don’t know, it just cuts the flow to speak about accessibility in the middle. So I would have put one underneath so... Yeah, that sounds good. A new paragraph. Yeah. ‘While occasional exceptions...’ New paragraph.

BRIAN CUTE: And on the last paragraph... Sorry David?

DAVID CONRAD: I think we might have been about to say the same thing, but this doesn't have a good referent.

AVRI DORIA: Right.

BRIAN CUTE: On the last paragraph a little bit of minor surgery. Drop ICANN. 'With respect to...' Yeah. Yes. Delete that. Okay.

ALAN GREENBERG: Comma after 'work' I think.

BRIAN CUTE: Yes. Okay. I think we're just about there. Any discussion? Larry?

LAWRENCE STRICKLING: Really minor, but I would change 'assumes' to something more active. 'The ATRT will conduct its business...'

BRIAN CUTE: ...With transparency as the default condition?

LAWRENCE STRICKLING: Yeah. [clears throat]

AVRI DORIA: You'd have to change 'is' to 'as'. 'As defined above, as the default condition'.

BRIAN CUTE: 'With transparency as defined above, as the default condition for all its activities.' Yeah. Change 'all' to 'its'. Right?

ALAN GREENBERG: Second to last word.

BRIAN CUTE: Okay. Stephen – sure.

STEPHEN CONROY: Just a very minor one in the second paragraph; 'in this Review transparent...' should probably be 'transparency' now.

BRIAN CUTE: Yes, author; Review Team. 'Transparent' in the second paragraph becomes 'transparency'. Yes. Anything else? Are we in the station? Okay? Concurrence? All right. I think we have the definition. We'll port that into the Terms of Reference and Methodology document and I believe that document is now closed. Yes, Avri?

AVRI DORIA: I had offered two other minor edits that I wanted to, as I was reading it through working on this...

BRIAN CUTE: Sure.

AVRI DORIA: ...And as I mentioned to you at breakfast, I wanted to go back, if we have that document...?

BRIAN CUTE: The Terms of Reference? Okay.

AVRI DORIA: And it's in the accountability section right above this, which I read a couple of times before writing the first... Okay, yeah. Oh no. Those you've got? Oh, okay. Okay, sorry. Those two were the other things. I hadn't seen them yet but...

BRIAN CUTE: Yeah, so for the Group, these are suggested edits, by Avri, to the recitation of accountability across three spheres. So if we take a look at this and discussion or editing suggestions? Go ahead.

AVRI DORIA: The reason for the two is... The first we had the various conversations yesterday about is Stakeholders just us core addicts or is it the wider Internet Community, and I wanted to make sure that it included those who weren't addicted yet. And in the second one, the problem that I've always had of the category of ICANN, that we're speaking of and in this

case that is its responsibilities, as a Corporation, not as a Community, not as a Staff, but as a Corporation. So that's why I got specific.

BRIAN CUTE:

Thank you. I'd like to note... And we might want to go through this document one more time for consistencies sake – not now, we can do that offline – but we use the phrase 'public', we use the phrase 'Community', we use the phrase 'Stakeholders'... We've got a phrase here now 'Internet Community at large.

I think we want to take a little bit of care in being consistent and clear about the phrases we're using. So we have 'Internet Community at large', that's grabbing my attention in that context. No objection to the concept, just clarity of the phrases we're using and the meanings we intend. Olivier?

OLIVIER CRÉPIN-LEBLOND:

Thank you Brian. In the sake of removing ambiguities, the use of 'at large' in the ICANN context is sometimes understood as being a specific Sub-Community. I thought if maybe the 'wider Internet Community' might be something that's a bit more generic?

BRIAN CUTE:

Yeah, so we... Avri? A suggestion?

AVRI DORIA:

Yeah, I'm fine with it, it's just that I didn't capitalize it and I didn't put a hyphen in it so it wasn't the proper name; At-Large. [laughs]

BRIAN CUTE: So you're okay with going 'wider Internet Community'? 'Global Internet Community'? I'm seeing nodding heads on global, global Internet Community? The small [CR Capitalcy? 00:26:20]. [laughter] Small C... Small C. I was kidding. [laughs] Okay, any other discussions so we can close this off? And I will... The Vice Chairs will go through this document offline too, just for consistency check as well. Alan?

ALAN GREENBERG: I was just going to say I can't tell if the 'I' in Internet is uppercase or lowercase. It should be uppercase. It may already be.

BRIAN CUTE: Yes Olivier?

OLIVIER CRÉPIN-LEBLOND: Brian, I understand you want to move forward, but just to register my concern regarding the previous definition of transparency...

BRIAN CUTE: Sure, could you pull that back up please? There it is.

OLIVIER CRÉPIN-LEBLOND: Oh, it's a green now. I can't read green.

BRIAN CUTE: But you know what your concern was?

OLIVIER CRÉPIN-LEBLOND: The concern was having a definition for accessibility in the middle of the second paragraph, which does introduce some ambiguity with regards to the next paragraph, which say ‘occasional exceptions may be made’. I just feel that the accessibility part doesn’t belong in that paragraph, but let’s not waste time over it.

BRIAN CUTE: That it belongs elsewhere, or not at all?

OLIVIER CRÉPIN-LEBLOND: Just sort of separate it underneath or something? Because I think the occasional exceptions must be specifically to do with the transparency. Oh, well it doesn’t say this here.

BRIAN CUTE: But we could add it.

OLIVIER CRÉPIN-LEBLOND: Oh, we could add it, yeah.

BRIAN CUTE: The editing session has reopened.

OLIVIER CRÉPIN-LEBLOND: Great. [laughter]

BRIAN CUTE: ‘...While occasional exceptions to transparency may be made.’ No no, the third paragraph? There you are. No, no. After the work ‘exceptions’ add ‘to transparency’. Okay. Olivier, does that address your concern?

OLIVIER CRÉPIN-LEBLOND: I’m satisfied. Thank you.

BRIAN CUTE: Terrific. Okay. We all set?

ALAN GREENBERG: May I make a comment?

BRIAN CUTE: Of course Alan.

ALAN GREENBERG: I just wanted to go on record. I usually abhor community drafting sessions and wordsmithing, but this was very effective. Thank you.

BRIAN CUTE: And drawing to a timely close. Thank you all very much. Good work. Okay, at 10 o’clock we... I’m sorry. Okay. At 10 o’clock, so we have 25 minutes, we will be interacting with former Members... I’m sorry, at 11:30 we will be interacting with former Members of the ATRT 1 Review Team, so I thought we should take a few minutes.

Now, just because we will be interacting with them today but there is also a request from the former Members of the WHOIS Review Team for a meeting on Wednesday and interacting with the former Team Members is part of our data collections process. An important part. So I thought we ought to take a few minutes to think about and talk about the specific questions that we might want to pose to those Review Team Members, both today and on Wednesday and following on after this meeting, with a focus on that first task of data collection.

It won't be the last touch we have with these Review Team Members; we'll certainly have follow-on opportunities to interact with them and gather more input and reflections and observations from them, but let's spend a little bit of time thinking and talking about these specific questions we'd like to pose.

Wednesday, this entire Team may not be able to meet with WHOIS Review Team representatives so it'd be good that we have some common understanding of the scope of data we want to pull in this first interaction. And to be clear on the record, no Cheryl, you may not participate in this discussion. You'll have to wait until 11:00. You don't get to form the questions, you get asked.

So, putting that on the table for open discussion. What are the top-of-mind questions that you think we should be asking the former Review Team Members, both today, Wednesday and afterwards? What type of data would you like to gather from them, in this initial phase? Open floor. You don't want to just hand Cheryl the microphone. [laughs] Larry?

LAWRENCE STRICKLING: Well, I'm just wondering for this exercise if it might be worthwhile to give us all three to five minutes to jot down questions we might want to ask and then go around and collect those? As opposed to just trying to do it off the top of our heads?

BRIAN CUTE: Sure. Absolutely. So why don't you take some time to jot down some questions and we'll circulate them. Okay.

LAWRENCE STRICKLING: That's right, and then you need to go around and ask each person for a contribution. [laughs]

BRIAN CUTE: Yeah. Cue the Muzak. So everybody take five minutes and put down questions you have. We're going to go silent for about five minutes, those online.

Okay, a couple more minutes and it'll be put your pencils down. Okay, is everyone more or less complete with a question or two for former Review Team Members? It looks like that's the case. So let's... What I'll do is go around the room and have people read off their questions. Alice will type them up onto the screen and we'll compile a list. So I'll start at the end with Michael and go clockwise. Michael do you have a question drafted or two, or three?

MICHAEL YAKUSHEV: Unfortunately I was trying to access my email where it was a very good message from Emily Taylor, the Head of WHOIS Review Team, who addressed certain questions and comments. And I just managed to enter it right now, so if possible a little bit later. Okay?

BRIAN CUTE: Not a problem. We'll go around the table and come back to you. Jørgen, did you have a proposed question or two?

JØRGEN ANDERSEN: Well, for obvious reasons I'm very much concerned about the legitimacy issues. A very difficult word to say. And I don't know how to phrase the question exactly, but could it be something like did you have, and if yes, what were your considerations about the legitimacy issue?

BRIAN CUTE: Legitimacy of ICANN?

JØRGEN ANDERSEN: Yes. Exactly.

BRIAN CUTE: Okay. Thank you very much.

JØRGEN ANDERSEN: Considerations.

BRIAN CUTE: What were your considerations? Thank you Jørgen. Fiona?

FIONA ALEXANDER: I have a question I'd like to ask from our Review Team regarding issues of Recommendation 6 on the Policy Development Process versus the Executive Functions. I just want to understand what were the underlying issues they observed that led to that particular recommendation.

BRIAN CUTE: Thank you Fiona. Larry? Yeah, hold a moment as Alice is finishing up. Thank you.

LAWRENCE STRICKLING. Ready? So do you just want one or one set?

BRIAN CUTE: Whatever you have.

LAWRENCE STRICKLING: Well I think it would be good to go around and get everybody's instead of mine... Just putting up ten questions. [laughs] So let me just focus on one...

BRIAN CUTE: We'll come back to you nine times.

LAWRENCE STRICKLING: That’s okay. The question would be – and there are some subparts – how do you assess the Board’s response to your recommendation? And then underneath that there’s a couple of subparts; the first one is do you feel the Board understood you recommendations? What process did the Board use to review your recommendations? And stay on the same line; do you have any concerns about the process they used?

Did the Board accept all of your recommendations? This would be a new question. Or new subpart. Do you have any concerns about the implementation of your recommendations? And I think that’s enough for now.

BRIAN CUTE: Thank you Larry. Stephen?

STEPHEN CONROY: My questions follow along a little from that theme. A generic big one is what are your main objectives that you hope to achieve? Did the Terms of Reference support you in that? Should they have been broader or narrower? Which recommendations worked? Were there any that you would change looking back? In terms of the Review Process, reviews often hand over their recommendations and then disband. Would there be value in a formal Alumni process or some sort of post facto examination of how well recommendations have been implemented?

BRIAN CUTE: Thank you very much Stephen. Lise?

LISE FUHR: Well, the two I had have been touched upon. Sorry. I had the hindsight, was there something you would have changed and which ones?

BRIAN CUTE: Okay, thank you. Alan?

ALAN GREENBERG: Two questions. The first is what areas of your mandate do you believe you did not sufficiently focus on and that therefore we should? And what areas of your recommendations do you believe... Sorry. Were there areas that were within the ATRT Mandate that the ATRT 1 did not particularly focus on? Yes, this is ATRT.

BRIAN CUTE: This is specific to ATRT 1 so let's make that specific.

ALAN GREENBERG: And number two; are there areas which either the... You now believe the recommendations were insufficient or the implementation was insufficient, that we need to revisit? Lise's pointing out that the first one could well apply to others.

BRIAN CUTE: Lise?

ALAN GREENBERG: If they don't apply the answer is none. And that's fine.

LISE FUHR: I just wanted it to say are there areas, instead of what areas. Because you assumed that they had areas that were...

ALAN GREENBERG: Fine. And the second one is areas where you believe the recommendations were insufficient or the implementation was inappropriate? Insufficient? Something that we should now revisit? Any of those apply. Either they were incomplete or inappropriate or insufficient, so...

BRIAN CUTE: Larry? David?

DAVID CONRAD: I suspect some of this is a duplicate of what other people have said, but give an existing implementation efforts, which recommendations do you feel was not interpreted as intended? And which recommendations, as yet unimplemented, if any, do you feel should have the greatest priority in implementation? And the last one; what was ATRT 1's interpretation of public interest?

BRIAN CUTE: You just can't let it go, can you? [laughter] Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. All of my suggestions have actually already been made earlier, so I haven't anything more to add I'm afraid.

BRIAN CUTE: Thank you Olivier. Avri?

AVRI DORIA: I have two. First one; overall do you believe that ICANN Management respected the processes of the AOC and of your final outcomes? Please explain. [laughter] And the second one is even more subjective; do you consider the effort that you put into the AOC process well invested?

BRIAN CUTE: Oh, terrible. [background chatter]

BRIAN CUTE: Thank you Avri. Mr. Zhang?

XINSHENG ZHANG: Thank you. Some of them have been proposed by others but I still could make a sweep of questions. So firstly is what area do you think ATRT should pay special attention? [inaudible 00:48:30] looks like some previously some people mentioned it. Secondly is do you think the ATRT 1's recommendations are implemented effectively. A second question; so for ATRT 1 Members; what is the most valuable experience you can [assure? 00:48:56] with ATRT 2? Okay.

BRIAN CUTE: Thank you. I think we've made the rounds. Michael, back to you.

MICHAEL YAKUSHEV: Thank you. I would like to underline Avri's question number two, twice, so maybe it's better to ask it several times to the people. However, I would also address the question that was raised by Emily Taylor and I think it's important; do you think that the structure, human and other sources of ICANN, are adequate to implement their recommendations of your Review Team?

BRIAN CUTE: Thank you Michael. Lise?

LISE FUHR: I don't know...

BRIAN CUTE: I'm sorry.

MICHAEL YAKUSHEV: Excuse me, excuse me... Structure, human and other sources. It's an overall. Yeah. Thank you.

BRIAN CUTE: Thank you Michael. Lise?

LISE FUHR: I would like us to have a question about the involvement of the ICANN Community and the process in the ATRT 1 process? And I don't know how to phrase it directly because I'd really like to ask them did they think they involved the Community effectively and well enough, and if not, what could be done differently?

BRIAN CUTE: Do you think you involved the Community in an effective way or not? What could be done differently? Oh. Crosscutting? So that's not just specific to ATRT 1? That would be for all Review Teams. Fiona?

FIONA ALEXANDER: It's another question and this came up in our discussion with Carlos when we were trying to work on the metrics. And it is specifically to ATRT 1. To what level was ATRT 1 able to address the issue of continually assessing and improving the processes by which ICANN receives public input? If ATRT 1 would share that with us, because it would then guide us in work on our metrics issues that we need to look at when we come to discuss that, and ATRT 1 will be able to give us some feedback to work with.

BRIAN CUTE: Thank you. Any other questions? Larry, you had some more?

LAWRENCE STRICKLING: So these questions focus on the actual conduct of the investigation. The first one would be; did you have any concerns about the manner in

which you conducted your Review? And then these are subparts underneath it; did you receive an adequate level of support from ICANN? Would you propose a change in the level of support you received? Were there issues the Group could not Review fully or at all, and if so why not?

BRIAN CUTE: You have more? Does anybody... Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. I was going to add something to something that was done a bit earlier regarding the implementation by the Board and the willingness of the Board to implement recommendations. I wanted to add Staff as well on that. Board and staff.

BRIAN CUTE: Modifying a prior questions?

OLIVIER CRÉPIN-LEBLOND: Yes. Someone else's prior question.

BRIAN CUTE: Could you scroll up? Yes, thank you for the addition. If you can identify it when you see it Olivier, please...?

OLIVIER CRÉPIN-LEBLOND: David has also mentioned maybe and Community. So Board, Staff and Community.

BRIAN CUTE: Board, Staff and Community.

OLIVIER CRÉPIN-LEBLOND: There might be stumbling blocks everywhere.

BRIAN CUTE: To Denise’s point, there were tasks for the GAC so I think that breath is important. [sneezing] How do you assess the Board’s response...?

OLIVIER CRÉPIN-LEBLOND: Did the Board accept all your recommendations? For example did the Board, Staff and Community...? [sneezing]

BRIAN CUTE: God bless you. Is it just acceptance of recommendations but is also actions that they took? That you’re getting at, Olivier? So maybe the topline question; how do you assess the Board and Staff and Community’s response to your recommendations? Larry, are you okay with that edit?

LAWRENCE STRICKLING: Yeah, it’s fine. The process was that the recommendations went to the Board and the Board had to have a process of its own to review and adopt the recommendations. I do want to make sure that we focus on that, but it seems that Olivier is raising an excellent point of additional enquiry in terms of how the recommendations have been accepted by

the Staff and the Community. So I fully endorse getting into those issues as well, but I don't want to lose sight of our focus on exactly what the Board did, because that's part of what our charge is.

BRIAN CUTE: So it's a small but important thing. Why don't we make a standalone question, at the end, which is how do assess the Staff and Community's response to your recommendations?

OLIVIER CRÉPIN-LEBLOND: In which case then you can keep the question about the Board specific so that we can focus and have a whole chapter on that; that would be great.

BRIAN CUTE: Thank you. So delete Staff and Communities from up top. Okay. Any other questions besides Larry? We'll get back to Larry in a moment. I have a question. I'm not quite sure how to form it but something along the lines of do you believe that ICANN's culture has been impacted by the Review Team process and implementation of recommendations? Olivier? If so, how?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. Should we have do you believe? Or should we just put has ICANN's culture been impacted? Because a belief can always be subjective.

BRIAN CUTE: Yeah. Alan?

ALAN GREENBERG: I think there's merit in dividing that up into the Board, Staff and Community. If I was answering the question I would put quite different answers on the different parts.

BRIAN CUTE: Point taken. No objection. Mr. Zhang?

XINSHENG ZHANG: This is another for my [inaudible 00:56:35]. Do you think ICANN located appropriate resources to the Review process and implementation of [comments? 00:56:52]?

BRIAN CUTE: Thank you. Larry? Larry, more please.

LAWRENCE STRICKLING: I think – and these are really great questions we're getting up here – I'm not sure that the specific one has been asked but it's suggested by yours, Brian, which is; have there been improvements of ICANN due to the implementation of your recommendation. We ought to get their assessment in terms of whether it's improvement or impacts or however you want to phrase it, but I'd like to hear the Review Team say yeah... And I think it's not just culture change, it's more broader; have they seen an improvement.

And then the other I would recommend asking is; what do you hope this Team – meaning ATRT 2 – will do as we carry out our task under the AOC to Review the implementation of the previous Team’s recommendations?

BRIAN CUTE: Is that first question captured or is there more at the end there?

LAWRENCE STRICKLING: I’m trying to remember what I said. What did I say? [laughter] Oh, have you seen any improvements as a result of the implementation of your recommendations. If so, describe.

BRIAN CUTE: Thank you Larry. Any other questions? And when we’re done here, at the break, Alice and I will go through and put similar questions together in groups. Avri?

AVRI DORIA: This has just come to me, probably because of my natural contrary nature. But when we’re asking them about whether they’ve seen any improvements because of your recommendations, I would probably like to ask the counter question; have you seen any worsening of a situation because of your recommendations? It’s not spite. Something you recommend something and then you see it put...

BRIAN CUTE: Despite

AVRI DORIA: Despite. Oh. [laughter] Spite was better.

BRIAN CUTE: Okay. Is that the construction you're looking for Avri? I'm just focusing on the sentence. Okay. Anyone else? Jørgen?

JØRGEN ANDERSEN: Thank you Brian. As I was the first person to phrase the question, I have benefited to listening to the others. So can we get back to the very first one [laughter] because I think it should be rephrased? I would like to ask the question; do you think that the recommendations 9 to 14 in the set of recommendations from the first ATRT have been implemented appropriately? First question. And do you think that the overall legitimacy of ICANN has been enhanced by this implementation?

BRIAN CUTE: Thank you. Any others? Larry? Do you have more? That's a yes, okay. Okay. You can talk for 90 minutes. [laughs] Okay. I'm not seeing any hands. All right. A very, very good list and as I said, Alice and I will go through and organize it a little bit. I think there were some questions that were closely related so we'll do some groupings. Also suggest that after our session with the ATRT 1 today we may develop other questions, but let's get this list out to the WHOIS Review Team Members quickly so they can have them in advance of our interaction, and also SSR, when we schedule that, would be a good thing to do.

Okay. Thank you. So just to walk through what else we have to do today; a brief recap of the Agenda. We finished the Terms of Reference and Methodology document again, and Chair and Vice Chair will go through that document for the consistency review of terminology and suggest any tweaks there is we need to. We also need to go through the conflict of interest policy and close that up, and I think at the lunch hour I'll ask Members to take the time to fill out their Declaration. Please do that and have that to me before the end of the day.

We've established some questions for the Review Team. Another Item we have is... I'm not going to put it up now but we will have taken the issues list and mapped each of those issues to a provision of the AOC on one of the Review Teams' work and also identify and have a discussion on the crosscutting issues that we believe we want to apply to our assessments and recommendations that will come later.

I also want to have – and this is on the heels of what we just started – I want to have a clear discussion and agreement on next steps in data collection. We need to pull inputs from the former Review Team Members. We need to pull data from ICANN Staff and Board, in the short-term. And I want to leave today with a clear agreement among us on the next steps for those actions and that process.

Alice has drafted some slides for our interaction with the Community on Wednesday so we'll review those slides and make sure we're all comfortable with that presentation. So I think that's what we have to get through today and we should be able to do so in fairly good time. Our first break is at 10:30. Do you have the slides ready? We could start with that? If you're all comfortable let's look at the slides that we'll

present to the Community on Wednesday in our interaction for our interaction with the Community.

And what time is the session again? So 11:00 am on Wednesday. Okay, so background slide; a verbal overview of paragraph 9.1 of the Affirmation of Commitments, which is established as our Terms of Reference. ICANN's accountability and transparency commitments under the AOC, noting that this is the second Accountability and Transparency Review Team as called for under the AOC, for being in a three-year cycle of reviews. Any suggested changes here? Next slide.

Okay so the Membership of the Team. You want to reverse that parenthetical. Okay. Everyone comfortable? Okay. Move on. So we'll speak to our timeline. Draft recommendations, I would add recommendations, by October 2013. Final Report to the Board by 31st December 2013. Yeah, Lise asked do we have a reference to the outstanding public comment period in the slide? We do? Okay. Olivier?

OLIVIER CRÉPIN-LEBLOND: You'll probably have to reformat at as the '3' is being eaten up by the clock.

BRIAN CUTE: Okay. Next slide? The ATRT 2's mode of operation; that we ourselves will be open and transparent in all our dealing as default. That there can be silent observers on the calls and the meetings. That there is a public Wiki where we will be posting draft documents in process. That the email archives will be open and published to the public.

I'm noting that there are two emails and I think we have to come back to that outstanding question about the email list for anonymous inputs that we were addressing yesterday; let's close that off today. Best practices. What's the reference there? Hold on. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. Are there call recordings and transcripts as well?

BRIAN CUTE: Yes. Alice, recordings and transcripts I think should be a bullet as well, it's important to note. Yeah. I'm a little wary of using the phrase best practices because it assumes something concrete or formed. Of course we would use best with quotes around it, but not as though there's best practices of a review process. Correct? Olivier?

OLIVIER CRÉPIN-LEBLOND: Yes, thank you Brian. If one says 'best' practices, one would think that we would have a best practices document, and I don't think we want to indulge in spending another day on that.

BRIAN CUTE: Yeah, thanks. Avri?

AVRI DORIA: If we want to say anything we can say building on practices from previous reviews, which is what we did. We talked about them, we took them. And then we may be adding to them but building on practices of prior Review Teams.

BRIAN CUTE:

Building on practices of prior Review Teams. Yeah, just capture it, we can... Okay. Next slide. [coughing] All right. Yes, work streams. So this is where we will signal to the Community how we've initially organized our work; make it clear that there's public comment... Request for public comment outstanding, we're looking for input at the early phase.

These are work streams that we've organized. We have not hardened on the specific issues that would be the subject of assessment and recommendations where we're going to be looking for public comment, to help inform that, but that Organizationally, these are the four work streams. Everyone okay with this? Any edits? Okay. Next slide.

And community input. So the public comment period questions to the Community on accountability and transparency. It's really questions to the Community about ICANN's implementation recommendations of Review Teams, right? I'm just wondering is that a better...? Yeah, I would edit that Alice. Questions to the Community re: ICANN's implementation of Review Team's recommendations. That's more precise.

Okay. Now, the public comment period. Is that stated there? Is May 2nd the date it closes? Okay, so May 2nd would be the date the public comment period closes and then reply opens on the 3rd and closes on the 24th. Okay. So outreach sessions... [say no? 01:11:07] to the Community that in Durban we'll have a number of structured interactions with the Community, ACs, SOs, ICANN, Board, GAC, etc., and

that will be getting to the mid-advance of those sessions to help frame a constructive interaction.

Again, October 2013 is a target for us to release a Draft Report for public comment. And what does via email TBD? Okay, well we've got a reference to email on the prior slide, right? I think. Email archives, yeah, I can address it there. Yeah. Oh, I'm sorry, you're going to post the email addresses there? That's what TBD means? Okay, yeah, let's post the email addresses on the slide.

So while we're on this issue, if we could come back and perhaps come to agreement on the outstanding questions of whether or not we want to maintain an email that would allow members of the public community to provide anonymous inputs to the ATRT 2. It's an important question. It's a prior practice. If we weren't to do it I think at the minimum we'd want to have a clear rationale as to why we weren't doing it. That would certainly be a question I would ask, but I think we need to come to a conclusion on whether or not we want to maintain this.

I did speak to Louie Lee, who was on ATRT 1, last night. He, like me, didn't have a clear recollection but I thought he was the custodian. He was going to talk to Alice but he also had the recollection, like I, that there were very, very few inputs to that list, if any, and in all honesty don't have a recollection of how we disposed of those inputs as a Review Team.

So with that being said, let's have some discussion and come to a decision. Open floor. For, against, make your case now. Avri?

AVRI DORIA:

Sort of repeating myself from yesterday but I believe that it is important that we have the ability to capture whatever someone might have to say that they are either afraid of saying or are just too embarrassed to say or what have you. I think it's important also for those comments to be visible by others so that they can be debunked. But I understand what came up yesterday that often...

Certainly if I write something people can always tell it's me writing it, unless I work to disguise myself, but by and large there was the fear that even making it visible that opens them to being discovered. I tend to think that one can make anonymous comments but the anonymous should be seen so that they can be countered if they are calamitous.

BRIAN CUTE:

Thank you. Alan?

ALAN GREENBERG:

I think it's reasonable that if someone wanted to speak to us in such a way that they are anonymous, their comments are not going to be repeated verbatim, which may well be traceable to them, that we need to give them the opportunity. We do not want to set up conditions so that we do not receive information, which may impact our decisions and our recommendations.

I think we can normally satisfy the conditions that Avri's referring to by perhaps paraphrasing what was said. Disguising it in such a way so the impact is not completely invisible but we're protecting things. So I would not want to see us only being able to work under Chatham House

Rules, where we must repeat or disclose exactly what was said without the name, I think we need a flexible set of rules.

We do not want people to feel they cannot tell us something important and we need to make sure we have a process that will allow that. There may not be many of them but they may be important ones.

BRIAN CUTE: Olivier then David.

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. For the sake of my understanding, how does the anonymization process work? Is this performed by an external company that anonymizes an email or is it an email that gets sent to you and you anonymize it?

BRIAN CUTE: Well, all I can speak to how the technology would work from the person giving input is a separate question. In ATRT 1 it was a list that went only to the ATRT 1 Members, not ICANN Staff. So it was anonymized in the sense that it was out of view, except to the ATRT 1 Members. What's being discussed here is slightly different. Do we provide that type of an email but the contents are visible to the public? That's one variant that's being discussed.

Not an answer to your question, just an explanation of what was done the first time. And I think we need to be clear. I'm hearing anonymous

but public, anonymous but closed. And I don't think we have clear agreement on the approach either. Yes, Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. There's a question of liability here. Anonymized and public does open the door to a whole number of things if it gets run by an ICANN based website. Anonymized and private, but still run by ICANN also, opens the door if one has serious concerns about a Member of the IT Staff. Well, that's obviously not going to remain anonymous because that can be found out.

There's a whole number of questions around this so I don't have an answer but I'd be interested in hearing...

DAVID CONRAD: I thought Steve mentioned yesterday that ICANN has a whole whistleblower type mechanism that he was going to provide information about. Did he get around to doing that or...?

BRIAN CUTE: He did. I don't know if we've received that yet.

DAVID CONRAD: That's just something that we might want to take a look at. Given – as I mentioned yesterday – given the availability of free email accounts, I don't see anonymity being that big of a concern. You can always get a Gmail or Yahoo email address to send something that you want to hide yourself with. I think more important is the ability to withhold that

information, verbatim, from the public in order to allow it to be interpreted by the ATRT directly.

But then you get into the questions I mentioned yesterday about how do you validate that the information isn't just somebody pissed off because they didn't get a raise or anything.

BRIAN CUTE:

Thank you. And with respect to the whistle-blower material we will take a look at that when Steve forwards it. And an observation; yesterday we used the word whistle-blower to describe in some way the context of the avenue we were trying to afford, but whistle-blowing, in most cases, is defined as someone who is on the inside of an Organization. And what we're talking about is an avenue for both people on the inside of ICANN but also outside of ICANN. So I want to be careful that that terminology is clear as well. Alan?

ALAN GREENBERG:

I would suggest that we not talk about setting up a specific email list. The ALAC learnt a number of years ago that even private, non-published email lists are accessible to the Ombudsman, and at least our previous Ombudsman felt that they could then make them public if they felt it was required. So I don't think we should be talking about email. I think we should be explicitly saying, and I'm not quite sure of the wording, that we are open to receiving input from people that they do not feel they can make public, and we'll treat them with suitable confidentiality.

BRIAN CUTE:

Thank you. So I'm not hearing a lot of consensus and I think I want to force this a little bit. Let me ask a couple of questions. It's an avenue that the ATRT 1 offered, so if we don't offer it I think it's important for us to have a rationale to why not. At the same time, if mine and Louie's recollection turns out to be true, it may be that two or three inputs were received through that avenue, and from a practicality standpoint you have to ask about the utility of a given mechanism in the bigger picture.

That's another question. Thirdly, if we decide we want to provide the avenue we also need to do it thinking consciously about how are we going to dispose of the inputs that are received? I don't have a clear recollection. We'll try to find out what ATRT 1 did with that, but if you're providing the avenue for someone to do that, very much like the black box problem that was identified in ATRT 1 about how ICANN decisions are made, you cannot have someone provide an input through that avenue and not give them some sense of you've been heard and here's how we reacted to your input.

So if we afford the avenue we have to do so consciously, understanding we will address that issue in some form. So I'm going to ask for a show of hands. Do you think we should afford this mechanism, this avenue, in some form? Whether it's anonymized and public or anonymized and private. Let's start there. A show of hands in favor?

LAWRENCE STRICKLING:

When you say this do you mean an email facility?

BRIAN CUTE: An email facility. A show of hands in favor of that? [laughs] David?

DAVID CONRAD: I think the facility should be provided; I'm not 100%... I don't absolutely require the email; I think a web form would work as well.

BRIAN CUTE: Should we afford this type of facility? Raise your hands please in favor. Stephen has a comment.

STEPHEN CONROY: I just had a question. It would depend on whether or not we were going to make it public or not. My experience with trying to set these avenues up is they can be misused with malicious intent and while I'm strongly supportive of whistle-blower and its necessity, if it is maliciously used and is something that we've got our name behind; something that is... Just because we're automatically publishing it, and it gives it a greater status than if someone just blogs it somewhere else.

So my hand goes up or down depending on whether or not it's a public, automatic feed-through. Okay, we had this allegation against X; it's out there as part of our process. So my hand goes up and down depending on whether or not the condition of the emails...

BRIAN CUTE: Okay, so I'm going to use the word public and I'm going to use the word private and I'm going to ask for hands and I'm looking for majority. Yes?

AVRI DORIA: There's public, there's private and then there's moderated. And in a sense I'm almost hearing that there is a moderated, in other words and that in a sense the moderated says any of the verifiable issues will be publicly listed somehow. And so you can moderate and list. And especially if it was an online form you could actually do that. And so you're going between the two poles.

BRIAN CUTE: Thank you. And I would note the obvious that if that's an approach we take that puts the burden on this Team to look under the rocks sufficiently and reach a decision that may be disagreed with, and act on that decision. Okay. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. I would caution regarding moderation because that would also put a responsibility upon this Team to choose whether something should be published or not published and it's bound to get some people annoyed.

BRIAN CUTE: Larry?

LAWRENCE STRICKLING: I don't have a strong view one way or the other. Except none of us who were on the first Team in this room have any recollection of any information coming in that ever was used by the Group in performing or completing a recommendation, so I just have to wonder how important

an issue this really is and if you're worried about giving a reason for why we're not doing it this time, since we did it the first time, that's the answer; which is at that point in time I think people were very concerned that we might well get something in that would be important to the Team's Review.

I don't think that happened. I certainly can't recollect anything and it sounds like as you're asking folks, none of them can remember it either. So it's like why are we torturing ourselves with how to set this thing up if it isn't really likely to lead to anything useful for this Group to use. That's all. I will go with the will of the majority here but I frankly don't see the need.

BRIAN CUTE:

Thank you Larry. Actually let me ask, because I haven't asked. Cheryl, do you have any recollection on this mechanism and inputs?

CHERYL LANGDON-ORR:

I do realize that. Cheryl for the transcript record. In fact we had... I'm remembering two but I think it might have been three... There was very little need for that to be incorporated or worked in, but if you are seeking not just whether it was used or not but my opinion, I don't often disagree with you Larry but this is one of those times. It wasn't particularly used last time but the fact that it exists, in my view, is important and part of the whole transparency...

BRIAN CUTE:

Thank you. Olivier and then I'm going to go to hands.

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. The world has changed and there's a lot more light on ICANN today than there was during ATRT 1 so it might well be that this will get used more. It might be that it won't, but certainly providing the facility that is needed. Especially in the fact that there is a lot more light shining on ICANN as an Organization.

BRIAN CUTE: Thank you. So the question is for a show of hands, should we provide a facility that allows for anonymous inputs that would remain private and out of public view. Show of hands in favor? Three, four, five. Question? Please Alan.

ALAN GREENBERG: I didn't think we were talking about anonymous input, I thought we were talking about input that we do not attribute. That's different. I want to see the name of who's complaining and who's making the statement. I will promise not to reveal it. Just anonymous input is something I put far less value on.

BRIAN CUTE: Phew. Should we provide a facility that allows for input, attributable input that remains private and out of public view, only to the ATRT? Hands. No, there'll be more. One, two, three, four, five, six. How many people on the Team, total? 16? Okay, not a majority. Should we... Ah, do we have Carlos and Demi on the phone? No. We have quorum [inaudible 01:28:25] though.

Should we provide a facility that allows for anonymized input that is visible to the public? Hands. One. Okay. Is there another form of the question I should ask? [laughs] [laughter] Okay, I think we have the view of the Team and the decision. Which is that we will not be providing a facility. We had six hands on the first question. We have a Team of 16. We have three absent, that's less than the majority of the quorum. Is that correct? Four absents.

So we have six... Oh. That means I break the tie. [laughter]

AVRI DORIA: You had seven votes for something. [laughter]

LAWRENCE STRICKLING: Not to make it hard on you but I'm not voting in opposition to it, I'm just not voting in support.

BRIAN CUTE: So to be clear the six hands in favor were for a facility to provide non-attributable, private input to ATRT 1, but to Alan's point the preference would be that the name is assigned to the input. Are we clear? Okay, I'm voting in favor. I believe that breaks the tie. Seven votes out of a quorum. A quorum is present; we have 12 Members, right? Seven, that's the seventh vote. We'll set up an email that allows for inputs for the ATRT 2 Team Members only and make that address available to the Community and public. Alice?

ALICE JANSEN: My next question would be, who will be the list administrator of that list? You'll need a volunteer for that.

BRIAN CUTE: David Conrad. [laughter]

LAWRENCE STRICKLING: I vote in favor of that.

BRIAN CUTE: Thank you David. Yes, Olivier?

OLIVIER CRÉPIN-LEBLOND: A question of process Brian. You need to record the votes or is it not worth...?

BRIAN CUTE: Good point. Let's have a show of hands on this. Hold on. Larry?

LAWRENCE STRICKLING: Look, we ought to operate by consensus. You never asked the question in terms of consensus, but I didn't vote against and I'm not sure anybody voted against, but I think you had a consensus. I don't think you need to record votes.

BRIAN CUTE: Point well taken. We had consensus. Thank you. Let's take a coffee break shall we?

[Coffee break until 01:53:55]

BRIAN CUTE:

We're going to stay offline for a few more minutes while we're organizing questions for our guests. For those online, we're going to stay offline for a little while longer. We're organizing our questions for the former Review Team Members at 10:30. Thank you for your patience.

We're going to recommence at 11:30 with the former ATRT Review Team Members. My apologies for the delay, to those online. Thank you very much for your patience.

Okay, this is the ATRT 2 recommencing on April 6th. The next session is an interaction with former Members of the ATRT 1 Review Team. I'd like to welcome Manal Ismail and Cheryl Langdon-Orr. We are anticipating another Review Team Member from ATRT 1 or 2 to join us. Welcome. What we'd like to accomplish in the next hour is for ATRT 2 to begin some data collection, if you will.

We've assembled a list of questions to pose to you. We're looking for your initial responses. It is a lengthy list. We will not get through the entire list. We'll do our best with the time we have, but we view this as an initial interaction that we would certainly be open to subsequent interaction with you, welcome fulsome responses to any and all of these questions and any additional observations, beyond these questions, that you may have.

Looking forward to hearing them from you over the course of our work. So welcome and thank you very much for coming. With that in mind, of the questions that we just assembled as a Team, the ones that you see highlighted are the ones that were specific to ATRT 1 as identified by this Team. We'll certainly walk through those. Any additional ones that we can get to. My recommendation for how we proceed here is a little bit of high-level or rapid-fire response, if you will.

Manal and Cheryl, if you could provide in response to the questions you really high-level responses at this point in time, feel free to add pertinent depth as needed. And then as I said, we'll have follow-on interactions to have a more fulsome view. So with that being said, the first question – and I'll walk through the combined questions because they are interrelated – for ATRT 1 Members, which recommendations worked? Were there any that you would change looking back?

Why don't we start with those two and then we'll go through the rest of the questions. So in your opinion, which of the recommendations that you made to the ICANN Board worked and were there any that you would change looking back? And before we get there let me welcome Chris Disspain to the room; a former Member of ATRT 1. Thank you for joining us Chris.

Just to recap we're going to have a first interaction with former Members of ATRT 1 Review Team. We'll do this with all the Review Teams, and we're going to do our best in the next hour to get some initial high-level responses from you with respect to these questions. They'll be a follow-on opportunity to get your fulsome responses.

So we're going to start with the question which recommendation of ATRT 1 in your view worked, and were there any that you would change looking back? And I'll start with Manal.

MANAL ISMAIL:

Okay, thank you Brian and thanks for outreaching to ATRT 1 Members. I think it's very important that we look into the past recommendations and build upon what has been achieved so far. I have to say that the six GAC-related recommendations are not yet over, in terms of implementation. We already have a session tomorrow in which we hope we are going to accomplish some more work, but again, looking into the six recommendations I truly believe that they were all equally important and looking back I would not change any of them.

They might be a bit overlapping. In terms of implementation there is a great deal of overlap, but again I don't see it as a bad thing because when you finish something then it's crosscutting across more than one recommendation so... But again I think they were all relevant and they have advanced our work with the Board.

BRIAN CUTE:

Thank you Manal. And a question for clarification; when you say overlapping are you speaking within the context of the Board/GAC focused recommendations or...? Board/GAC?

MANAL ISMAIL:

Yes, yes.

BRIAN CUTE: Thank you. And Manal, as you know, was the Vice Chair of the ATRT 1 and welcome again. Cheryl?

CHERYL LANGDON-ORR: Thank you Brian. Cheryl Langdon-Orr for the transcript record. I want to answer those in discrete little bits. Which recommendations worked, it's far too soon to say because very few of them have been fully implemented so I'll wait and see if they've worked or not when I actually have some meaningful data to talk about. There are some that have been 'a fair way through their implementation', right down to Recommendation 6, which supposedly is completed. I could drive trucks through it, so without putting too finer point to it, I think it's too early to answer that question, which I think in itself says a great deal to you.

Were there any I could change look back? Quite possibly. I think for example some of those that we thought were quite clear in terms of what we meant to the Board, for example how the particular skill-sets and needs of the Board and the constituency of the Board... I thought that was really, really clear. Apparently that's not the case, at least from where I sit right now as the Chair Elective of NomCom.

So perhaps I would be changing them but only to make them even more, absolutely unambiguous, and perhaps we should have done Q&A before we handed them over, to know that our intent was actually the Board's understanding. In terms of review processes being handed over and then disbanded, I think the fact that we have informally reconvened on a number of occasions answers this question; there is a real need for what

we could call an Alumni to keep an eye on the process of implementation.

I do think that it may be of great value to have some formal reconvening or accessing, but then again, you as ATRT 2 are in some ways doing that now. So I think the fact that it does say formal is a good thing. It has happened informally and I think the rest of the ATRT 2 need to know that. And in fact how well the recommendations have been implemented when any two or more of us gather together over a cup of coffee that's been the topic of conversation. So I think that does say how very important it is for that to happen. And I'd prefer to treat the second one secondly after Chris responds.

BRIAN CUTE:

Thank you Cheryl. And Manal actually I didn't tee up the last question. Cheryl didn't follow my directions but she rarely does. I'd like to give you the opportunity to address those follow-on questions. In terms of the review process, one of the questions from the ATRT 2 Members was would there be any value in a formal Alumni process or post facto examination by ATRT 1 Members of how well the recommendations have been implemented?

MANAL ISMAIL:

Yes, I think this is going to be very important. And I believe also you have to hear from people who have been impacted by the recommendations themselves. I mean, I feel they are functioning very well but maybe the GAC Chair would be in a better position to say whether recommendations that are GAC-related has facilitated the

communication with the Board. Maybe you can also hear from the Board's side whether the GAC has been clearer in providing their advice.

And I personally feel that the joint Working Group has been doing a good job and the communication is clearer. The response you get it more timely and clearer and I'm hoping that also the Board feels the same. So I think you also need to hear from people who were impacted by the implementation of the recommendations and also to the ICANN Community in general; is it clear how the GAC do things? Is the online register clear enough or maybe it needs some redesigning.

There is always room for improvement. It's not a matter of a checklist that we're going to tick. And we have to make sure that it's being followed in the day-to-day and the continuity of practicing the recommendations is also a crucial point. Thank you.

BRIAN CUTE:

Thank you Manal. Chris?

CHRIS DISSPAIN:

Thanks Brian. So I guess I stand in a slightly unique position because I spent god knows how many months on the ATR Team making all these recommendations, then immediately went and sat on the Board and had to implement them. Just very briefly what hasn't worked; the main one for me that I think hasn't worked and simply hasn't worked is the public comment stuff. The reply period thing is just not working. It's great to have it but people don't use it, they abuse it and so on.

We originally said it's because of education and we just need to explain to people that this is the reply, but it doesn't work. But whether you think you need to revisit it, the timelines don't work because it says a minimum of 21 days and ALAC want...? I can't remember, Cheryl was it 30 days or something that you think you want? And so on. So there's work that needs to be done. I'm not suggesting that this ATRT 2 needs to necessarily make recommendations; I'd just acknowledge that that needs to be fixed.

I think the answer to the Alumni question for me is very simply yes, I think it's worthwhile. The GAC recommendations have probably taken – as Manal's acknowledged – have taken a long time to get sorted out. That is a function of the relationship between the Board and the GAC. Not that it's a bad relationship, it's that it's a complicated relationship. But I have to say that to endorse what Manal said, from the point of view of communication between the GAC and the Board, it's incredibly improved.

The way that the communication is now set out, thanks to recommendations from the ATRT, that sort of thing is much more effective and the Board feels it has a far more open relationship with the GAC than it has in the past. And most of that flows from the ATRT recommendations, so that's good. The only other point I would make is that whilst I acknowledge what Cheryl said, I think it's a little simplistic to say this recommendation hasn't been done or has been done.

There aren't that many recommendations in ATRT 1 that are simple and straightforward 'do this' recommendations. Putting in place a comment period and a reply period is a 'do this' recommendation. A lot of the

recommendations are ‘let’s make improvements on this’, ‘let’s talk about that’ and so on. That stuff has been going on and there are incremental improvements but the key one actually goes to a discussion that we spent a lot of time discussing this in the ATRT, which is the transparency thing.

Part of the problem with the Community’s understanding of how well the ATRT recommendations have been implemented is that it’s not transparent, which is one of the recommendations. [laughs] So I think that really needs to be reinforced. And I don’t know – for those that were on the original ATRT will remember this but we specifically said, and Brian, you and I spent a fair bit of time working on this – ICANN should come from a default of transparency and redact from there, instead of counting from a default of complete closeness and then opening up.

And that still needs to happen. I’ve no clue how you make it happen but I think reinforcing the recommendations and things like that would be very helpful. Thanks.

BRIAN CUTE:

Thank you Chris. Let me apologise too. We didn’t provide these questions to you in advance for any reflection before you joined us, we made them in real-time in the last session. But we’ll leave them with you and you can come back with more responses as well. Cheryl?

CHERYL LANGDON-ORR: Thanks Brian. Cheryl again for the record. I said I'd come back to a part two and that's the cultural change. And I think the example that Chris has brought up, Manal also reflected on the GAC that there's 9 to 14 or... I think they're vaguely the numbers anyway. That's one of the clear and evidential pieces of cultural change as far as I can see and that's a very good outcome. There's probably a number of others that we could point out but has there been a change in culture? Absolutely. And I think it's a good thing.

I think we've also seen it with the then following Review Teams; they've had an admittedly different topic but very different experience as well. I think the concept of what the Community thinks of a Review Team is markedly different between us starting and this time around. And I think you probably just need to look at the number of people and the diversity of people who applied. I think that they're remarkably different groups.

So I think there has been a change and it's predominantly a change for the better, but it's a work in progress. Just like the implementation questions are hard to answer because we are in implementation; not looking at it being implemented in a number of those points. Thanks.

BRIAN CUTE: Thank you. Manal, question two. Has ICANN's Board, Staff, Community culture been impacted by the Review Team process and implementation recommendations, and if so how? And feel free to take that individual, Board, Staff, Community or as a whole. Thank you.

MANAL ISMAIL:

Yes, I would say yes. The Board is now more responsive to the GAC. As soon as the communiqué is out we get some response or at least a timeline for the expected response. We try to be as clear as possible from the GAC side with respect to the exact advice we want to give. We've separated facts and informational text from the GAC advice. I think the Staff also has been impacted by the recommendations. We get documentations and briefs, the webinars.

Also specific face-to-face meetings on certain topics, conference calls on certain topics. All this exchange of information has been improved and is very important. The Public Policy Circular, the monthly Public Policy Circular has also been modified and adapted for the GAC as an early engagement; as one mechanism for early engagement. I would say it's good progress. It's still to be evaluated at tomorrow's meeting.

We're going to receive feedback from the GAC Members on how well this is working but again, all this is prepared material. Of course the online register I would say is an achievement by itself. In terms of an institutional memory, if I may say, it's been a platform where we can put the GAC advice; where we can easily follow up on and monitor deadlines. It's not a real-time communication platform because sometimes it is misinterpreted for being a real-time platform for communication between the GAC and the Board, so it's not. But again it's more of a monitoring tool and archive or an institutional memory.

What I'm not really sure of is how this is clear and useful for the Community. Again, I'm very... Board, Staff, GAC oriented [laughs]. I'm not very sure how this is working for the Community itself and this is important feedback to get also.

BRIAN CUTE: Thank you and I think Chris had a follow-up comment, before we go to the next question. Chris?

CHRIS DISSPAIN: Thank you. I just wanted to mention one other thing which follows on from ATRT 1, which is I think that if I could encourage ATRT 2 to pay a little bit more attention to what I call realistic timeframes. If you remember, we sat around as ATRT 1 and said ‘we’d like this done by October’, ‘we’d like this done by February’. And that’s all fine but I think we actually underestimated the amount of time that these things actually, genuinely can take.

Now, I’m not suggesting that means you should not put deadlines in place or timelines in place, but maybe just a little bit more... If you look at what’s reasonably happened with the recommendations from ATRT 1 and work back from there, that would probably be a good approach.

BRIAN CUTE: Thank you. And an observation in our meeting in Los Angeles, with Fadi, the issue of implementability was surfaced by Fadi, that this is an important element. We certainly took note of that and this Team intends to work closely with Staff as our work progresses, to make sure we’re getting feedback from Staff as to whether it’s resource constraints or time issues, the implementability of recommendations clearly is important.

Okay. Next question. What area do you think ATRT 2 should pay specific attention to? Let's just start with that question please Cheryl?

CHERYL LANGDON-ORR: Cheryl for the transcript record. I think you're going to have to split your interests in an effective review of all the Review Teams, because that is a primary purpose and that should not necessarily mean reinventing the wheel but making reasonable observations about how these types of review procedures can be more effectively managed in the future; including the implementability issues and similar.

In terms of – where am I? – the recommendations that were implemented effectively I think I kind of answered that earlier on. It's...

BRIAN CUTE: That's why I left it off. I think it's been touched on. Manal?

MANAL ISMAIL: Again I feel that the past recommendations are good starting points for ATRT 2 to look into and assess how much of the intended objectives were met and what needs to be revisited or done by another way or continued. It would highlight where the gaps are and what ATRT 2 may need to focus more on.

Regarding the implementation, despite the fact that we're late in these six GAC recommendations – but again I'm very satisfied with the implementation of what has been implemented so far. We have a couple of recommendations that are partially... One has a tiny thing

that's missing but the other has a tiny thing that's accomplished so we can say that we have one recommendation that has not been fully implemented yet. [laughter]

But again this has to do with the timeframe that Chris has just highlighted. The Board/GAC Working Group was created in October 2011 whereas some of the deadlines were March 2012 so again it's a timing thing. If interested, at some point in time we can get into exactly what has been implemented and how far they have been accomplished.

BRIAN CUTE:

Thank you. I'm sure we'll get there. We intend to have follow-on interactions. And in your phrase 'intended objective' this is an area that the Team is already focusing on in the sense that one of the questions we've been putting to Staff, as they provide reports to us is 'what was your perception of the recommendation?' 'How did you perceive what was being asked?' So there are a couple of elements there. There's what was the intended objective from the ATRT 1 for recommendation? How did we communicate it? Was it communicated well to Cheryl's point?

And then putting that issue to the side, how did Staff or Board receive and understand it. So this is an important area. Having concrete input from former ATRT 1 Members on the intended objectives is an element we'll be looking for. Chris?

CHRIS DISSPAIN: What areas should you pay specific attention to? From a personal point of view the independent review process. ICANN is reviewing itself to death. Every three years or every two years or every however many years, every structure gets reviewed independently and frankly it doesn't work properly and it's not helpful. I would really... Some recommendations on how to fix that would be brilliant. I'm not saying you shouldn't have reviews, you should definitely have reviews, I just think that the current process doesn't work. That's the only one I have.

BRIAN CUTE: Thanks. Cheryl?

CHERYL LANGDON-ORR: Thanks, Cheryl for the record again. I did mention you'd need to split and I think the GAC analysis that's being discussed is a very important part of what you need to do; in other words what we've already articulated from our intention, how it was interpreted and then what's happened. That's good. But there were specific things that as ATRT 1 assumed ATRT 2 would be attending to. Metrics for example is one of those.

And I would be very, very, very disappointed [laughs] if there wasn't some focus on some of those deliberate and important things that we could not get through, D to E down in the Affirmation of Commitment under 9.1, but they're the ones that we would also like to see your second Review Team at least spending some time on. Or at least I would.

BRIAN CUTE:

Thank you. We've gotten the memo on metrics but do feel free to further articulate any specific areas where there was an assumption or desire for this Team to focus on. Okay, next question. For folks on ATRT 2, for whom this may be their first time or for those who've done it before, what is the most valuable experience you'd like to share with Members of this Team in conducting reviews? Cheryl please?

CHERYL LANGDON-ORR:

Me, me, me! Me sir, me sir! Cheryl, for the transcript record. That's a no-brainer as far as I'm concerned. Oh, settle down dear. [laughs] We're not on video; they can't see what you two are doing at the table. The most valuable experience from my totally biased point of view was the Community outreach. Admittedly it was a within ICANN Community outreach but that experience was so valuable.

The fact that I heard the same thing in 16 different rooms was not a waste of time. It was a very important exercise to take the time to listen to all of the diversity in the ICANN Community view. Their assumptions of what was happening versus their fears about what was happening versus a whole lot of other things. That was an incredibly valuable experience because there was a clear consistency and clear departure, if you looked at different parts of the Community and how they felt their voice was being heard or otherwise. And that was the most valuable experience from my point of view. Thank you. Oh, other than working with you of course Brian. [laughter]

BRIAN CUTE: Thank you Cheryl, the feeling's mutual. Manal?

MANAL ISMAIL: Yes, I would say also the outreach and the questionnaires and talking with the Community about how they see the GAC and how... I mean it was a new exercise, at least for the GAC to hear from the outside how people see the GAC, and how the GAC work and how transparent the GAC is. This was a good experience and a good thing to know; how others see the GAC work so I think it was very useful.

BRIAN CUTE: Thank you. Chris?

CHRIS DISSPAIN: Thank you. I think you may already have done this, but one of the key things for me was reaching a clear Group understanding of what the role of ATRT actually was. And it was getting clarity around that. Because I think almost everybody in this room is – I nearly said old – is fairly experienced ICANN person, nearly everybody. And you come with your own baggage. There's nothing you can do about it, everybody does. And despite your best efforts you will have it.

But having a clear understanding of what the role of this is, why it's here and what it needs to do, which was very, very important from my point of view, and then working together. And as Cheryl said, putting it a slightly different way – listening – the job of this Working Group is to listen first and then to figure out what to do next.

BRIAN CUTE: Thank you Chris. Excellent points well taken. Now, we mentioned the implementability issue that this Team is aware of and will work on. Putting that to the side for the moment, take this question on its face. Do you think that the structure, human or other resources of ICANN are adequate to implement the recommendations of your Review Team. Cheryl?

CHERYL LANGDON-ORR: Clearly not.

BRIAN CUTE: Manal, Could you elaborate? [laughter] No no. It's okay for the moment, we'll come back to her.

CHERYL LANGDON-ORR: Cheryl for the record. You tell me to be short and brief. I was being succinct. If they were then they would have been slightly closer to our timelines and desires. We had far too high a set of aspirations in far too short a time, therefore somewhere in that resource mix it wasn't being met. Now, that's where the implementability issue is now important. There obviously wasn't sufficient human and other resources for ICANN to do all the implementation that we had asked it to do for all of our recommendations.

BRIAN CUTE: And do you say that recognizing that some of our timelines may have been aggressive?

CHERYL LANGDON-ORR: Ambitious, yes I do.

BRIAN CUTE: Okay, and even given that...?

CHERYL LANGDON-ORR: Even given that, because some of them were ambitious for a reason.

BRIAN CUTE: Thank you. Manal?

MANAL ISMAIL: I would say yes. Apart from the timeline that was a bit challenging, frankly speaking I don't see that it was impossible but it was a bit challenging on one hand, and on the other hand we started a bit late. But I think having started things went well in terms of resources and what else? Yeah.

BRIAN CUTE: Chris?

CHRIS DISSPAIN: I guess yes and no, that's the answer. Look, for the future it depends on your recommendations. In respect of what we recommended, yes and

no. One of the resources, apart from human resources, is financial, is money and so you need to look at a combination of well, we made this recommendation on that timeline, that timeline wasn't met. Now, that timeline might not have been met for several reasons. There were a number of recommendations that were not met, simply because the Staff came and said 'this is what it's going to cost, we need to stretch that over a greater period of time in order to not effect the budget'.

Yes, but I need to think that through because I don't want to get that wrong. Timing was also another issue if you look... In hindsight it's very easy to say things could have been done differently. The Independent Review of the Ombudsman and all the other review-y things that we recommended didn't take long when we started it, it just took a long time to start it. And part of the problem there was finding the right people. We actually went through two or three iterations to actually find people.

There was a question whether Graham MacDonald, who's on my Board, was on that Committee. There were questions about whether that was appropriate because I'm on the ICANN Board and we had to go through that. There are all sorts of things that happen in that process that take a lot of time. And Larry I will come back to you with an example of the money to Brian with an email, because I want to make sure I get it right.

But there were certain things where the Board was advised that we were fine to do it but we just had a budgetary issue we needed to sort out.

CHERYL LANGDON-ORR: Cheryl here. Which is why I would have said it's not a yes, those resources were not available; for very good reasons. And this time the ATRT 2 will be being advised and be given information on implementability, which is entirely different to that first cab off the rank. We didn't know, we didn't have access, we may have been too ambitious and to be honest it's a testing of the water. So no they weren't, as this question is framed. That's not to say they cannot be in the future or that the implementations may not be more appropriately designed.

BRIAN CUTE: Chris.

CHRIS DISSPAIN: I agree, but the point I was trying to make, perhaps inelegantly was that if you take that question to mean, was the structure and human resources and otherwise adequate to implement the recommendations of the Review Team? The answer to that question is purely on its face, then you take the whole recommendation including the timeline, the answer is no. But if you allow a stretch on the timeline the answer is yes. So that was the distinction I was trying to make.

BRIAN CUTE: Larry then Manal.

LAWRENCE STRICKLING: Do you know Chris, does ICANN have... Are you aware as a Board Member whether there's been some cost capture of all this? If we were to go back and say how much did it cost to implement the recommendations? Is that information available?

CHRIS DISSPAIN: My answer I think is yes it could be done. Is it available right now? No, but it could be done. I believe that the projects have all been tracked and that it would be possible to work out the costs.

BRIAN CUTE: Thank you. Manal?

MANAL ISMAIL: Actually I have a question more than an answer and excuse my ignorance in relation to the rest of the non-GAC related ATRT recommendations. I was just wondering how those were implemented? Were those just submitted to ICANN Staff for implementation for example, or are there focused Working Groups? Because I really see the joint GAC/Board Working Group, I see it has a pivotal role in...

Because partially we know what was meant by the recommendations. We are following that they are being implemented as we hoped for, so where is this from the rest of the recommendations? How have they been followed up on?

BRIAN CUTE: Chris? Do you want to jump in?

CHRIS DISSPAIN:

I'll try. So the GAC recommendations are an easy example to use of how you implement. We looked at those as a Board and said well clearly these are things that need to be jointly done with the GAC so therefore we have to have some kind of mechanism for doing that and we came up with the joint Working Group. In respect to, for example, the public comment recommendations, the Staff came back to us and said you will need to go out for the public comment on the public comment recommendations. So depending on what the recommendation is depends on the way that it becomes implemented.

To take a simple example there was a recommendation – I'm paraphrasing here – that the Board should provide more detailed advice to the Nominating Committee on the skills gaps on the Board, so that the Nominating Committee could fill, or attempt at least, to fill those gaps. That was a purely Board implementation because it was asking us to do something. So all we did was say right, we'll do that now and there is now a process in place and so I think tomorrow, or at some stage in the next few days, the Board will meet with the Nominating Committee or a subset and do exactly that.

So I think it depends on the recommendation. The information is out there. I acknowledge that – I notice that [Ciaran? 02:59:10] is sitting at the back there and he and I actually had a disagreement about this as a public forum when you said that the information about what the ATRT were doing wasn't up on the website, when in fact it was. Admittedly it is on the website at the very, very back, in a filing cabinet guarded by a tiger, but other than that [laughter] it is actually on the website. So it is

out there, and the way that Denise Michel has put the strategy together to make these things happen is there. It's not necessarily as easy to access and as easy to understand as one would like.

BRIAN CUTE:

And Manal, to your question from this Team's perspective, Staff has presented to us some Reports on implementation of their respective Review Team's recommendations; some in Los Angeles, one here. Those Reports should be up on the website, you could access them there and review those to get an assessment on the broader questions being on the GAC/Board recommendations.

Clearly we're too early in our process to provide a meaningful response to your question, as we need to do more data analysis and assessment. Thank you. We still have a bit of time left so let's keep moving. Oh, sure Larry.

LAWRENCE STRICKLING:

I just want to focus on some of these issues of implementation and we'll follow-up on the cost question, but I guess I had one for Manal on the Board/GAC recommendations. Recommendation 11 talked about documenting this process by which the Board would respond to GAC advice. And my recollection of this is that's largely based on the process that was put into place back in I think 2010, the Brussels meeting, where the Board sat down and went through all of the dozens of specific pieces of advice the GAC had provided related to the expansion of top-level domains.

So we're now three years past that meeting. What, in your view, has been the barrier to getting that process written down on a piece of paper so that we have it in a form to use going forward?

MANAL ISMAIL:

You mean the GAC/Board consultation process? It's already on a piece of paper, it just needs to be posted online and this is one of the things that we're going to discuss tomorrow. The whole... We have like a flowchart for the whole process. There are some concrete recommendations that has to do with this process that may need ICANN by-laws amended. For example it was suggested that shall the Board decide not to follow GAC advice then this has to be supported by two thirds of the Board Members.

So we have a few points to finalize tomorrow, before we have this posted online. With respect to things that might need by-laws amended, this has been agreed to be postponed for a bit, just to have a holistic approach with regards to the by-laws and whether other things that might need to be amended also would come up from the New gTLD's discussions and...

LAWRENCE STRICKLING:

But looking back over the fact it's been three years, what would be the reasons you'd say that it's taken this long? Has it been the issue of now injecting by-laws changes that's slowed things down? Because – and maybe this isn't realistic – one would think having engaged in a process three years ago, that it would be relatively straightforward to put it on a piece of paper and then tweak it, fine tune it and the rest.

I guess I'm trying to understand why three years later that piece of paper isn't out there, fully released. I'm not trying to be critical of it; I'm just trying to understand what were the barriers you all ran into to get from actually having done it to being able to document it?

MANAL ISMAIL:

Actually, I think it might be a delay from our side to have this posted, because this has been ready for quite some time with regards to the process itself. What's being discussed right now is the consultation period mandated by the by-laws, should the Board decide not to follow GAC advice. But regarding the normal process it's there, it has been documented, it has been finalized along with the online register, but probably it has been overlooked to be posted online.

BRIAN CUTE:

Thank you. Okay, next question: what was ATRT 1's interpretation of public interest? Sorry, Manal? They made me do it.

CHRIS DISSPAIN:

Did you put that question on there? Was that you? [laughter]

BRIAN CUTE:

No, seriously, this is a question from the ATRT 2. What was ATRT 1's interpretation of public interest? Manal?

MANAL ISMAIL: I think they were interested. [laughter] You mean in the process or receiving the recommendations or the implementation of the recommendations?

BRIAN CUTE: In conducting its work. There's been some discussion on ATRT 2 about what is the definition of public interest; how might we define public interest for ATRT 2's work, so from that perspective.

MANAL ISMAIL: I think this was considered with the questionnaires and the outreach and that have been done by ATRT 1. I think there was a good deal of concern of public interest from ATRT 1 and there was a good deal of public interest from the Community.

BRIAN CUTE: Thank you. Chris?

CHRIS DISSPAIN: My fairly strong recollection – and Larry will doubtlessly come around and hit me if I'm wrong – was we talked about this for quite a considerable time and ended up without an interpretation of public interest. We felt that putting some kind of a definition on it was almost impossible and that therefore we shouldn't. We all have some kind of an understanding of what it might mean that's very difficult to put it into words.

Most of us could look at a recommendation and say ‘does that look like it’s in the public interest? For which the answer is yes, otherwise it wouldn’t have made the recommendation, but if you actually said here’s a template for public interest, is this recommendation the same shape to fit into the template of what is a definition of public interest, we would still be meeting to discuss what is meant by public interest. So that’s my interpretation of our interpretation of public interest.

CHERYL LANGDON-ORR: Cheryl for the record. Absolutely Chris, we carefully avoided making one. But we all knew we’d know it when we saw it.

BRIAN CUTE: Thank you. Yes please, Olivier?

OLIVIER CRÉPIN-LEBLOND: Is it in the public interest to not define the public interest? [laughter]

CHRIS DISSPAIN: Yes. Yes.

BRIAN CUTE: Manal?

MANAL ISMAIL: The public interest is something that cannot be really defined with a hard definition. It should be dynamic with everything that’s going on and outreaching to the Community would provide every time what is in

the public interest for the Community at a certain point in time. It's not just a hard definition that could be come up with.

BRIAN CUTE:

Thank you. We have 15 minutes left so let's continue. Thank you for the responses so far. Question is to what level was the ATRT 1 able to address public input issues? Could the author of this provide just a little clarity? Fiona, was this your question? Who authored this question? I'd just like a little bit of clarity on the public input aspect. Was it mine? It's very easy that I could have forgotten it in 15 minutes. Was this public comment? Was this...? Fiona?

FIONA ASONGA:

Sorry, Fiona. The question is to what level did ATRT 1 address the issues of 9.1(c) of the Affirmation of Commitments, of continually assessing and improving the processes by which ICANN receives public input?

BRIAN CUTE:

Thank you Fiona. Cheryl?

CHERYL LANGDON-ORR:

Thank you, Cheryl for the record. Gee Brian, how did you know I'd want to speak to this particular point? Far too little and not well enough is the answer on that. It was one of those areas, which, whilst we would like to have been able to put far more into it, the primary focus was on the other pieces of work, particularly the Board/GAC interactions. This is

one of those things I mentioned earlier that I believe ATRT 2 should be putting on their shortlist of high, high importance.

Because it's certainly something that Brian and I, from that Work Group, indicated we'd like to have done a lot more on, but we simply didn't have the bandwidth to do it at the time. But it would be something that I think should be looked at specifically as a high importance issue by your Group. Thank you.

BRIAN CUTE: Cheryl, any specific elements of that that you think we should focus on?

CHERYL LANGDON-ORR: Beyond the reply comment, we did little else. All right, Recommendation 6 does talk around these things, but then again looking at the clarification document and then the outcomes document we've lost all these cross-community opportunities between those two documents. So they're actually comparative pieces of work that you could look at, say what happened in the implementation process on Recommendation 6 and what the outcomes were of Recommendation 6, what was lost there. That's something that could be picked up. We really left the rest; I don't think we attended to anything else.

BRIAN CUTE: Larry?

LAWRENCE STRICKLING: I wasn't on that Working Group but it looks like Recommendations 15 to 22 purport to come out of that Working Group, and it picked up things like translations, the early warning on what the annual work plan for public input was. You mentioned the comment, reply, comment, so I didn't realize that the Work Group felt that they were constrained in what they looked at?

CHERYL LANGDON-ORR: Sure, that's the low-hanging fruit. We grabbed the low-hanging fruit at the time...

LAWRENCE STRICKLING: So what do you think the next level of issues is?

CHERYL LANGDON-ORR: All right, well, for example the effectiveness of outreach. The actual effectiveness of our comment, reply, comment obviously needs another look at. But there was a number of the advisory committees, at least within the At-Large community who felt that whilst their input is not strictly through a PDP process, in the absence of some of these ICANN-wide community discussions happening, there was little opportunity to early input on a number of non-Policy pieces, let alone Policy pieces.

All of that we didn't have the time or bandwidth to deal with, and I think should be dealt with now. It was alluded to and I was quite pleased to see in the definitions document on question six earlier on, I think it came out in September but it's in the records somewhere, where it did go through what the Policy and non-Policy aspects of what the Board

should be seeking information on. And in that first documentation it clearly said there is a place for asking questions of the Community, called ICANN. That needs to be revisited for example, at least in my view.

BRIAN CUTE: Thank you. Chris?

CHRIS DISSPAIN: There are a number of areas, but the main area where I think work needs to be done in the future, based on what we did as ATRT 1 is mechanisms for cross-constituency; working together stuff. That's really critically important. If you look at what's going on right now for example in respect to some of the things that the GAC has looked at, around reservations of particular types of name and so on, there is no current mechanism for the GAC and the gNSO – formal mechanism – for the GAC and the gNSO to talk to each other about stuff like that.

They're trying to put in place an informal mechanism. There's been talk about the possibility of mandating that sort of thing and the by-laws. But certainly this ATRT can do some good work on this to try and make some recommendations as to how this sort of stuff can work. Left to its own devices, each of the SILOs in the Community is going to concentrate on its own work because it has to. And it's only when there's a crisis where they need to cross-communicate with each other that they're going to figure out how to.

This Committee can take a helicopter view of it and just look at the way that it can best work, make recommendations and then they can be implemented.

BRIAN CUTE: Very helpful. Thank you. We've got ten minutes left so this may be it, we'll see. The next question is what were your considerations with respect to legitimacy of ICANN? Do you think that Recommendations 9 to 14 have been implemented appropriately? Do you think the overall legitimacy of ICANN has been enhanced by this implementation? And can we get the read out of 9 to 14? The GAC...

MANAL ISMAIL: Would you like to hear what's missing or what's been accomplished or we go one by one or...?

BRIAN CUTE: Well, let me... Some framing is that legitimacy as a word is a word that this Team is beginning to focus on as potentially a crosscutting theme for it's work, so that's a bit of background from the orientation of this Team, but answer as you wish.

MANAL ISMAIL: Okay, regarding the 9 to 14 Recommendations I'll start with what's missing because probably this would be of more concern to ATRT 2 and then we can go quickly through what has been accomplished. Recommendation 14, for example, which was increasing the interest of

the Governments, their participation. We've had the high-level meeting in Toronto. Again, this was scheduled earlier in this but one of the host countries was not able to host and we had to postpone.

This has not been evaluated in terms of output and impact and should this be what's the frequency of repeating such a meeting again. So this is still work to be done with respect to this high-level meeting. One of the challenges that we met with was how to enforce a certain level of attendance. Some GAC Members thought they were senior enough to attend, I mean you cannot just ask them to bring someone who's more senior.

Others do not really have reach to their senior management... We had this type of thing and then we left it for each and every GAC Member to... So this has to be evaluated, this is one thing. The other thing that we should be accomplishing by tomorrow, hopefully, is the overall flowchart of the GAC/Board advice process.

And one of the things that has delayed this was to inject the online register part with exact timelines and things like that. So we had to put every single piece from crosscutting all the recommendations into one flowchart so this delayed... The normal process is ready and available but with the online register, with the timelines that should be followed, this delayed it a little bit but it should be finalized by tomorrow.

The last thing is the, as Chris mentioned, the gNSO communication with the GAC and how the GAC provide early input to the gNSO in specific, because in comparing GAC communication with the ccNSO versus gNSO, the ccNSO should consult the GAC before a final report is being

submitted. But the gNSO don't have the same obligations so... We have the gNSO PDP, we have some suggestions.

The discussion should start tomorrow for an hour how much would be achieved by the end of tomorrow remains to be seen but this is one aspect of the early engagement of GAC.

BRIAN CUTE:

Thank you. Just to follow on. Focusing on the word legitimacy, a little more background. In our early deliberations here it's clear that in today's environment, coming out of WCIT, from an individual Government perspective, there is a serious concern about how some Governments view the legitimacy of ICANN in this context. This Team is clearly aware of that, we remain focused on our work within the scope of our work, but it's a dynamic environment. So do you have any thoughts with respect to the legitimacy questions of ICANN as ATRT 1 did its work?

MANAL ISMAIL:

Nothing I can think of right now but let me think of it and...

BRIAN CUTE:

Please feel free to come back. Chris?

CHRIS DISSPAIN:

It's a really interesting question. Those of us who've been around ICANN for a very long time know that whilst it's getting better there is still a significant [bunker? 03:20:18] mentality that that exists and comes from

a belief, a deeply held belief, inculcated in Staff from the very beginning, that if we mess up, daddy's going to come and take the car keys away. And ICANN needs to get over that.

I'm not entirely convinced that a Group like this discussing legitimacy is particularly helpful, I think I'd far rather just see ICANN getting on with being an example at doing it's knitting, at bolstering the Multi-Stakeholder model the best way that it can and just leading by example. I'm not certain that having a Committee like this sitting around talking about how can you improve ICANN's legitimacy actually begs the question... I'd argue it's legitimate already – the fact that we do what we do makes it legitimate.

Is it ever going to stop being under attack? It's a bit like the DNS, of course not, we get D-Dossed all the time and it's never going to stop. So I'd rather just get on with it I think. I'm not sure that you really need to be making recommendations that enhance legitimacy.

BRIAN CUTE: Thank you Chris. Cheryl and then we'll close.

CHERYL LANGDON-ORR: Thank you Brian, Cheryl for the record. Chris, I hear and understand where you're coming from on that, but what I wanted to say specifically about this question, our work on 9 to 14 and the legitimacy of ICANN, I think the answer is yes. I think the importance of the GAC/Board interaction and all that is in and still happening in 9 to 14 is hugely important, as is the follow-up that your Review Team needs to do on it.

If it wasn't important, the legitimacy of ICANN, it wouldn't have been in the Affirmation of Commitments. They didn't just throw things in willy-nilly for the hell of it and this is a pivotal point. So you mean you did just throw things in willy-nilly? Sorry, I just... See? I was just making an assumption that... How can we measure that? Just look at what's happened in the intervening years and look at the fact that you've got a senior minister of at least my country sitting in ATRT 2, I mean that doesn't happen if this is an illegitimate Organization.

I think it has made... Come of Stephen, you're not here for the hell of it are you? I think he probably had something to do other than this if this was not a legitimate act, he wouldn't be here. So yeah, I think it's very important but it's – again, like many of these things – a work in progress. The progress is important to continually observe and monitor.

BRIAN CUTE:

Thank you Cheryl. Chris, then we'll close.

CHRIS DISSPAIN:

Cheryl I agree with you, I just want to make a distinction about what you said. If the question is have the previous recommendations, specifically the GAC recommendations contributed to ICANN's legitimacy, the answer is yes. What I thought I heard – and maybe I misheard – but what I thought I heard was Brian saying that there's been talk in this Community of making this legitimacy one of the pillars, if you will, under which you put your recommendations.

It's that that I was addressing by saying that I don't think that's very helpful because – it's a question, I'm not saying it isn't I'm just not sure – I think that puts a magnifying glass over the possibility that we think we're not legitimate. And Stephen, your wooden nails are over there if you'd like to... [laughter]

BRIAN CUTE: Thank you Chris. Actually Olivier has a follow-up question.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Brian. I have a follow-up question on an earlier thing that was said and I wasn't... Well I was listening but I thought we could ask questions afterward. Chris mentioned listening as being one of the most important things that he went through during ATRT 1. How would you approach listening? Would you approach it by this Committee going to see the different parts of ICANN and then asking specific questions? Or would you approach it as coming in the room and saying 'talk to me'.

CHRIS DISSPAIN: Yes. [laughter] Both. I think you have to run... Guidance is very important, so saying we would like to hear about these topics is really important, as is an open session at the end or at the beginning that is just 'chuck anything at us that you want'. So I would do both.

BRIAN CUTE:

Thank you. And with that I'd like to thank the former Members of ATRT 1 for your time and thoughts today. Again, this will be an ongoing process. We'll come back to you looking very much to further inputs and from other former Members. We have the questions; we'll get them to you. Please feel free to come back in any manner in terms of fuller responses to the additional questions, but looking forward to interacting with you again as we move forward in our work. Thank you all and we're going to take a lunch break for one hour.

[Tape change to atrt2-2-06apr13-en.mp3]

[Tape change to atrt2-2-06apr13-en.mp3]

SPEAKER:

Good afternoon. This is part two, the afternoon session of the Accountability and Transparency Review Team 2, Saturday April 6th 2013. We're in Function Room 11 of the International Beijing Hotel. It's approximately 1:38 in the afternoon. Please go ahead and start your session.

BRIAN CUTE:

Thank you. This is Brian Cute, we're recommencing ATRT 2. For the remainder of the Agenda, what I have is as following: We want to have a discussion on the calendar. We've identified a likely need for a fifth

face-to-face meeting, so we'll have a calendar discussion. We also need to... Denise may or may not be back with us today, but Larisa is here. We need to have a discussion on data requests to ICANN Staff and next steps for data collection in this initial phase.

We also have the meeting with the WHOIS Review Team Members coming up this week and we're going to want to have an interaction with the SSR Review Team Members as well, so we'll get those organized and on the Agenda. And then lastly, one last trip through the issues list which has now been mapped to the AOC and close off our discussion on that document.

I think we can get through this fairly expeditiously but let's start with the calendar and the face-to-face meeting. We've discussed and identified the need for a fifth face-to-face meeting. From a timing perspective, given the arc of the work, probably the end of August is a good frame to target, and we did have the offer from Stephen to host the meeting in Australia, if I recall, and there he is. Hello, Cheryl, welcome back.

I think we should take a few minutes to try to button down a couple dates here for this meeting. It's going to happen. It needs to happen. To the extent that we can all find a couple days that work for us, let's do that now. Stephen, again, with respect to your offer for the host, if that is a standing offer?

STEPHEN CONROY: Definitely.

BRIAN CUTE: Okay. Terrific. I think end of August is probably a good time frame, is that...?

STEPHEN CONROY: End of August, first week of September. Wouldn't want to go much later than that. End of August would be perfect.

BRIAN CUTE: Okay. Terrific. Can we pull up just a calendar? August?

STEPHEN CONROY: [Port Douglas? 00:03:05]. [laughter]

BRIAN CUTE: Just a calendar of August, and let's walk through a couple dates. [laughter] We may not be able to get to perfect agreement, and that's understood. But let's just take a whack at this. Okay. We would book two full days of work. Given that folks are coming from far and near, how's the last week of August for everybody? Does that pose an absolute 'no' for anybody around the table? Avri?

Okay. I know we don't have Carlos or Demi in the conversation, unfortunately. Or Heather. Last week of August looking good as a candidate? Conflict, David? Okay. Can you make a portion of the week, or is the whole week a...? Okay. Do you have a conflict as well, Avri? Fiona? Conflict? Okay. How about the week of the 19th of August? Does anybody have a hard conflict if we schedule on the week

of the 19th? I'm not seeing any. Speak now, because we will go forward and schedule.

Okay. I'm not seeing any problems, so we're going to schedule two days on the last week of August and notify the team. Stephen? Excuse me, let me be precise. The week of August 19th. We'll get that out to the team and Stephen, whatever we need to do in terms of coordinating with you. Certainly, I know I can stay off of work in any way. Thank you so much for the gracious offer. Looking forward to seeing you there. Wonderful. Okay. Yes, we've decided... question, Olivier? It's okay, no?

OLIVIER CRÉPIN-LEBLOND: Sorry. We were trading surfing jokes. We missed the date. Apologies.

BRIAN CUTE: It's all right. Okay. The other thing I wanted to put in front of the Team is, we do need to talk to ICANN Staff about specific requests for data and inputs to this team in this initial phase of data gathering. I think in that regard, it's not just the data that we'll request but also the Interaction of Staff. One to one. The ability to ask follow-on questions and, perhaps, for additional data once we've seen their first set of data. My sense is that interaction with ICANN Staff face-to-face would also be very productive in the early phase. My sense is that sometime in the second half of May might be a likely window.

The thought I have or suggestion is, could we schedule a meeting in LA for the purpose of interacting with staff, taking their first inputs, doing some follow up one-to-ones? I would even suggest that, if the entirety

of the team couldn't attend, but everyone could attend, at least, telephonically, I think this is an important meeting to have. I'm not concerned, but we do have a lot of work in front of us.

Effective data gathering in this early phase is going to be critical to getting out good recommendations in December. Is there a sense that that would be a good approach? A May meeting in LA for purpose of interfacing with ICANN Staff? Larry?

LAWRENCE STRICKLING: I just think it should be early May not late May.

BRIAN CUTE: Okay. Thank you. The other thing is, getting out of Beijing, factoring in ICANN meeting, finishing and giving ICANN Staff sufficient time to collect data we ask for, and be prepared to answer questions. That was the other reason I was tilting late May.

LAWRENCE STRICKLING: I'd still say early May.

BRIAN CUTE: Okay. What's the date today?

LAWRENCE STRICKLING: Today is April the 6th.

BRIAN CUTE: Okay. Okay. Alice?

ALICE JANSEN: With regards to the meeting in August? I'd like to consider, as well, the budget as well as the Staff availability. It might be easier to hold the meeting either in LA or in Brussels or where Staff is able to come if you have any implementation questions and so on.

BRIAN CUTE: For the August meeting or for the May meeting?

ALICE JANSEN: For the August, as well. Data collection is easier in LA to meet with Staff. Because it would probably be difficult for us to have Staff available...

BRIAN CUTE: Okay. That's a consideration in terms of ICANN Staff availability. Okay. We'll take that offline. Can we look at the May calendar? Okay. How is the week of May 6th? Is that a nonstarter for anyone? Just let me know if that's a nonstarter.

LAWRENCE STRICKLING: That allows three weeks between people coming back from here at the absolute earliest. The question is, is that enough time for them to have done their homework?

BRIAN CUTE: Good question. Thank you. Yes, there's a sense that that should be sufficient time. I'm not hearing any nonstarters for the week of May 6th. Two days? Okay. Then, we'll take that as a yes, and we'll lock in two dates there and come back to the team. Yes, David? The consideration is ICANN Staff... But The majority of ICANN Staff will be responding to our questions and providing data about how things are implemented in LA. That's the consideration there. [inaudible 00:11:12].

It's not... My assumption is... The concentration is in LA. If that's not the case; if they're in DC or Brussels, that would be an influencing factor. Yeah? Lise? Tuesday in May 7th? That's a no-go. Okay. Let's factor that in as we schedule.

LISE FUHR: I could do it eight, nine, ten.

BRIAN CUTE: Eight, nine, ten? Okay. Could you be there for eight, nine, ten? Or just nine, ten? Okay. Okay, Lise, come back to us if you would. We'll schedule accordingly. Thank you. Let's knock off a couple of easier items here. Emily, take... Alan? Sorry.

ALAN GREENBERG: Are we going to do a Doodle to find out exactly which days of those weeks, or how do we go progressing from here?

BRIAN CUTE: We can do a Doodle. Emily Taylor and some other WHOIS Review Team Members have offered to meet with us on the 10th? Is that Wednesday? Wednesday. I guess the first question is, is the 10th... We don't have our proposed time, but is the 10th a nonstarter for anybody here? Other than your schedules? Yeah. Go ahead, Olivier.

OLIVIER CRÉPIN-LEBLOND: I can do before 7:00 a.m. or after 23:00.

BRIAN CUTE: When are you more lucid? [laughter]

OLIVIER CRÉPIN-LEBLOND: That's a hard question here. Don't know.

BRIAN CUTE: Is everyone comfortable with the possibility that a smaller segment of this Team would meet with the WHOIS Review Team Members and bring the data back to the larger group? Okay. Yes? Hello, Denise, how are you? Thank you. Alan?

ALAN GREENBERG: It would be really nice if the people who volunteered to review the WHOIS Review Team were present for that one. There's a subset of people who organized to try to accommodate.

BRIAN CUTE:

That’s a good point. Thank you, Alan. It’s incumbent on us to get back to Emily and her folks and suggest a time or find out what their availability is. Let’s start there. Let’s find out what their availability is. We’ll come back to the Team; suggest a time and a place. Whoever can make it, please make it. We will provide the list of questions that we just asked the ATRT 1 Members to them in advance. As to Alan’s point, anyone who has volunteered to review the WHOIS Review Team’s work please try to make it a priority to attend that interaction. Okay? Look for an email as to the scheduling of that meeting.

Also, we want to get an interaction with the former Members of the SSR Review Team. My thought on that right now is maybe for our next conference call. Our next scheduled conference call we could invite the SSR Review Team Members to give a presentation... Not presentation but have an interaction based on the questions. Does that seem like a reasonable approach? Okay, I’m seeing nodding heads. We’ll go ahead and make that invitation to them. Okay. Yeah, did you want...?

DENISE MICHEL:

Yeah. I’m sorry. I’m double-booked today. I just wanted to make sure you didn’t need anything from me. I don’t have anything in particular, but I need to leave in about five minutes.

BRIAN CUTE:

Five minutes? Okay, thank you. That’s our calendaring. I think we’re in agreement. We’ll get details out to you shortly. Look for the Doodle polls. Please fill them in. We wanted to talk with Denise and ICANN Staff about data gathering in the short-term. What we’ve just put on

the calendar is on the week of May 6th, having a meeting in Los Angeles for as many of the Team Members as can make it. Others not, can come in telephonically.

For purposes of discussion with you on the first wave of data gathering with respect to implementation of the respective Review Teams. Also, the ability to interact with ICANN Staff who were involved in the implementation. As you suggested, it's a broader team than even the folks who made the presentations. That being said, can I get thoughts from the team in terms of specific requests for data that we might want to put in front of Denise at this moment in time, understanding...? Sorry, Larry?

LAWRENCE STRICKLING: I think she left here, yesterday with a whole set of questions and they were going to ponder how they thought they might want to gather that information. You've just told her we've already been thinking we'll come back out there, but we should hear what recommendations she wants to make.

BRIAN CUTE: Thank you. Yeah, given that, what are your thoughts based on the questions we gave you and...?

DENISE MICHEL: Given the collaborative nature of several of the recommendations and improvement projects, we thought it was a good idea to first schedule a conference call that involves Staff and leading entities involved in

improvements and have a discussion with the ATRT or a subgroup. Then allow the ATRT to consider that and then come back and tell us about what additional data gathering and information is needed. In other words start out with a discussion of all the different elements that you've raised.

And then move to a more informal provision of information. We thought that would probably be the most expeditious thing to do. Given now that you want to meet in May we can put some initial answers in writing as a lead-up to an in-person discussion. It's really up to you. Of course, Staff is in LA, but the Board Members and GAF Members involved in those various implementation projects are in all sorts of places.

BRIAN CUTE:

So, the suggestion is, given the list of questions we've given you, providing some initial written responses to the questions and then, having interactions in terms of discussions; Q&A with staff?

DENISE MICHEL:

Actually, my suggestion was... This was before you guys decided to meet in LA was to have a conference call and discuss the Staff and Board and GAF responses to the range of questions and information that you were seeking and then, the ATRT would determine more precisely what additional information and analysis they require.

BRIAN CUTE: If we're meeting in the second week of May, there's room in the calendar to have that call before we get there. The week of the 6th, right, Larry?

LAWRENCE STRICKLING: I think that's the question. Apart from the fact that we've set aside some dates, when were you thinking that would be the best time to do that first conversation on the phone? Were you looking at this time frame or sooner, later?

DENISE MICHEL: Sooner, I was thinking given all the... That we would start wrangling schedules after Beijing and certainly try and take care of it in April.

BRIAN CUTE: So then a two-step approach where we have that call with you shortly after Beijing to get a finer point on the data requests. And then the meeting face-to-face the week of the 6th?

DENISE MICHEL: Right. Not with me, of course, but the Members of the Board, several different Board Committees... Different Board Members were involved in driving the different ATRT 1 recommendation projects. Get those Board Members and staff Members involved on the phone with ATRT 2 Members and discuss the questions that have been raised. Similarly, do that for the GAF-related improvement efforts and public comment forum improvement efforts.

I think that will be a useful sort of setting of the stage and make the face-to-face more productive. We can do that over the next couple of weeks and that should give staff some time to pull together additional information and allow you to have a more fulsome and in-depth discussion in May. How does that sound?

BRIAN CUTE: Alan?

ALAN GREENBERG: We're not just talking about the ATRT, I thought, though? In May, is our meeting going to be just focusing on ATRT? On ATRT 1, sorry?

BRIAN CUTE: No. The list of questions is crosscutting, right?

ALAN GREENBERG: What I heard Denise talking about was the various parts of ATRT 1 recommendations.

DENISE MICHEL: Yeah. I'm sorry. I was focused on ATRT 1. I think those are the most challenging, because they involve the broadest cross-section of the community and the Staff but similarly, we could do the same thing for the Security Review and the WHOIS Review.

BRIAN CUTE: So, we're going to segment to ATRT 1 and then the others separately or combined? Do all the same time.

DENISE MICHEL: We'll probably have different topics to discuss.

BRIAN CUTE: Yes, that makes perfect sense. Leaving it with you to organize those initial conference calls with the various actors who are involved in the implementation. That will help us refine our interaction the second week in May. That makes very good sense. Is that clearly understood on both sides? Okay, great. You'll use the list of questions we gave you, again, as a guide for now, and that will probably evolve as we continue? Okay. Okay. Thank you, and thanks for coming back. Appreciate it. Okay. All right.

One other item. Just a reminder to please leave your filled-out Declarations with me before the end. There's a signature line for the Affirmation that you've received the policy. The declaration itself, I don't believe the declaration itself has a... It does huh? There should be a Statement affirming that you received a copy of the policy. Yes?

ALAN GREENBERG: Is this a document that we all have received?

BRIAN CUTE: Yes, it's a two-page document that's titled, Declaration of Interest and Affirmation Regarding Conflicts of Interest Policy. That's where you fill

in the data that's requested. On the second page, there's an affirmation. That's what you have to sign. You don't have a copy? They were circulated this morning. Yeah. Our copies went around this morning. Are there extra copies? It's the same thing. It's repeated in the declaration verbatim, right? Or is it different? There's extra questions?

Okay. Yeah. Yes. I tell you what; it may be duplicated or redundant or whatever. Here's the Policy. On the back of the Policy, there's a signature line. Please sign it and turn it back in. We'll get you all a soft copy of the policy, so you have it. You're supposed to have a copy of the policy. Sign the back page of the Policy. The declaration is a two-page document with one signature line. Sign that as well. It's a 'state your name' line. So, state your name on the declarations, second page. Sign that page and turn it in please.

Okay. Yeah, I know. Please sign at the back of the policy, turn the hard copy of the policy back in. We will get you a soft copy of the Policy so you have it. What about the back page? There you go. There's no text from the Policy on that last page? It's just a signature line? Okay, that's the solution. Thank you. Good lord. Okay, revised instructions. On the Policy document, sign the back page, rip it off, hand it in. For the declaration, put your name in the line and sign that page and hand the declaration back in.

Thank you. For a total of three pages. Okay. We apologize for all those online having to bear up through this. For the moment. Okay. If there's no further questions on that...? Yes, Alan?

ALAN GREENBERG: Excuse me, Lise and I have a question. What goes on the line that says 'by'? Ah. So that's the signature. Your name goes under it.

BRIAN CUTE: Oh dear. Okay, I think we are on to our last item on the Agenda. Thank god. The issues list. Again, I'm not looking for us to trigger a deep discussion. We've been over this and these items a number of times. We did promise that we would do some mapping of these issues back to the AOC and also Carlos and Fiona had done their own mapping document of issues that are crosscutting and back to the AOC.

Let's just take a walk-through here. Again, I don't think we have to burn a lot of discussion time. Okay. This is the issues list. Again, we have our work streams identified. We have volunteers for the work streams. Those people are going to engage and start the work of assessment. This is a list of issues that we created in Los Angeles. Just a walk-through of what they are, what types of issues they are, how they map back to a section of the AOC.

We'll leave it to the Team Members, individually, to begin to incorporate them into their work as they see fit. Number one, looking at the recommendations of the three other groups, ICANN's interpretation of Review Team recommendations, ICANN's implementation of the recommendations, asking the question, does it satisfy the standard outlined in the affirmation? That is a crosscutting statement. Larry?

LAWRENCE STRICKLING: Isn't that Work Stream 4?

BRIAN CUTE: Certainly. Is it a question you'd apply to the other three work streams, as well, as a matter of fact? Or is it unique to Work Stream 4, I guess, is my question? It's covering it, anyway.

LAWRENCE STRICKLING: If it's looking at taking all three sets of recommendations and making judgments, I think that's what you wrote down as Work Stream 4 itself.

BRIAN CUTE: It's incorporating. Okay. Number two, metrics or success criteria. How processes can be verified in an accountable and transparent way. That's characterized as a crosscutting issue, across all the work streams? Review methods for continual assessment. I think that arose out of a question...? How do you measure continual assessment, which is a fair question. That's being viewed as a crosscutting issue. Alan?

ALAN GREENBERG: Don't those two really go together? The only way to measure, to track continual improvement, is if we have some levels of metrics. Am I missing something?

BRIAN CUTE: David?

DAVID CONRAD: The metrics is how you measure. The methods for continual assessment is what you're measuring, right? This is how you're making sure the stuff is improving over time, not how you measure that it's being improved over time.

ALAN GREENBERG: But one presumes the other, no?

DAVID CONRAD: One tracks the other.

ALAN GREENBERG: You can't track something that isn't there, therefore, there's a relationship between them.

BRIAN CUTE: There is a relationship. The question is, do two and three need to be merged together, or are they appropriate as standalone? Avri?

AVRI DORIA: Not that I really want to get too far into this one, but, yeah, I see them as standalone. The methods for continual assessment may include metrics, but they may also include other things. They don't overlap as sets.

BRIAN CUTE: Okay. So, we're going to leave them as standalone? Number four, legitimacy. Three sub-bullets on that. Outreach, governments and the larger Internet Community. Really don't have a characterization for this, although there has been some discussion that in terms of high-level themes or touchstones, accountability, transparency and legitimacy, should be three touchstones that are crosscutting for all of our work. Is there a general sense that that's an approach we should take?

Seeing nodding heads. Okay. The next few... Reference financial matters of new gTLDs. I'm not sure what 'below' means there. Communications, internationalization of outreach and risk of capture. These were not identified as priority issues. I'm not quite sure how we're treating these. Does anybody feel strongly or have a specific suggestion? Just keep them there and consider them going forward? Dispose of them? Alan?

ALAN GREENBERG: I would suggest either dispose of them or keep them on a note-sheet. As you're going through your other things, keep an eye out for them but let's not focus on them as such.

BRIAN CUTE: Jørgen?

JØRGEN ANDERSEN: Yes, thank you Brian. I think I raised the point at our LA meeting, and I'm afraid I was misunderstood because I was not referring specifically to the financial issues related to new gTLDs. I was referring to the

possible enhancement of transparency regarding financial matters, as a whole for ICANN. I used the reason that now we enter into a new era with the new gTLDs, the amounts of money going through the ICANN accounts increase dramatically and that enhances the need for further transparency, if possible. That was the background for my proposal.

BRIAN CUTE: Thank you, Jørgen, so it should be transparency with respect to financial matters of new gTLDs or... It's broader?

JØRGEN ANDERSEN: Broader, yes.

BRIAN CUTE: Okay.

JØRGEN ANDERSEN: And I heard what Fadi said in his presentation. A question raised by the French Prime Minister demonstrated there was full transparency but I was told that there might be room for improvement.

BRIAN CUTE: Okay.

JØRGEN ANDERSEN: I wonder whether we could do something in that respect.

BRIAN CUTE: Okay. Thank you for the clarification. We should reflect that in the document. Larry, maybe you can help... I think in the AOC, in terms of 9.1... I'm not sure if there's an explicit home for that. Paragraph 7 does talk about transparency with respect to budgeting matters but, again, we tried to map these issues as either crosscutting or to a specific section. We'll keep it up there, Jørgen, restated as you suggested and consider it as we move forward.

Any other discussion on the Items in white? Number 5, has the Board process used to review, implement and oversee recommendations of Review Team? I'm not sure, what that means. It's poorly captured but does refer to 9.1(a). No?

[speaker 00:35:09]: No. I think that's a Work Stream 4. That's the last sentence of paragraph 9. I think that's what that was intended to capture in terms of how the Board has gone about it's review of the three Teams, which I think is part of Work Stream 4.

BRIAN CUTE: Okay. Work Stream 4, please. In terms of mapping.

[speaker 00:35:32]: I might suggest change 'has' to 'review'.

BRIAN CUTE: Review the Board process... the first word is 'review'. Thank you. Okay, 6, accountability of GAC operations. That maps to 9.1(b). 7, review of

recommendation #6 from ATRT 1. That maps to 9.1(b) and (c). I'm not sure about that. Not 'b'. I think that would be (e). Yeah. I think so. That's PDP, which implicates Policy over implementation. Yeah, that's 'e'... 9.1(e)? Yeah, 'b' is GAC. 'C' is public input. 'E'... One down, one down. Yes, that's 'e'... 9.1(e). Okay.

The next one down that's not enumerated would also be 9.1(e). Okay? Number 8 was efficiency, effectiveness and legitimacy. Crosscutting issues. If the team is looking to accountability transparency and legitimacy as three touchstones throughout it's work, this is a different statement. I think efficiency and effectiveness, personally, are sub-elements of all those three or can inform those three, but that's a crosscutting statement. Any strong feeling?

Number 9, greater emphasis in analysis; specifically with respect to security and stability. That's 9.2 in the AOC. That may be... Is that beyond our scope? Security and stability...SSR, pardon me. That's SSR, right. Okay. 10, transparency as a default condition; that's a crosscutting issue that's now embedded in our definition of transparency. 11, how can we be effective and efficient while improving full Multi-Stakeholder participation accountability and transparency?

I'm assuming that 'we' is ICANN. Right? How can ICANN... Let's make that change. How is that different from 8? I'm not quite sure how that's different. Let's characterize as a Board issue... 9.1(a). That's how it's been mapped. Any strong feeling?

[speaker 00:38:29]: 8 and 11 almost sound the same to me. I would think they'd be treated the same, wouldn't they?

BRIAN CUTE: As crosscutting issues?

[speaker 00:38:37]: Yeah.

BRIAN CUTE: Okay. 11, crosscutting. 12, scalability? Who put this forward...? Do we have the person who recommended this as an item here to provide context? No? Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. It's Olivier for the transcript. I don't remember whether I've come up with that or someone else. Would that be, maybe, scalability of ICANN in view of the number of new registrars and registries, etc. that will be coming? I don't know.

BRIAN CUTE: That's one fair interpretation. I don't know, unless I hear from the author what the intent was. Could be Demi or Carlos so let's hold that there with a question mark, and we'll come back to it. 13, analysis of and transparency around financial matters of new gTLDs. There it is again. But captured by the broader statement that we made earlier, so... Do we leave this, or do we delete this and recognize it's under the umbrella of Jørgen's broader articulation?

OLIVIER CRÉPIN-LEBLOND: Whom is that assigned to or was it crosscutting?

BRIAN CUTE: It was mapped to 9.1(a) as being within the ambit of the Board. Was the other one crosscutting or assigned? Can you go back up, Alice? Jørgen?

JØRGEN ANDERSEN: To my mind, it's a clear topic to be dealt with under 9.1(a). Yeah, I think it's an important point.

BRIAN CUTE: Board of Directors.

JØRGEN ANDERSEN: It's clearly a question of good governments.

BRIAN CUTE: Okay, and that's how it's currently mapped. Avri?

AVRI DORIA: I have a question on this. We talk about financial matters; analysis of and transparency of... But then, we always seem to caveat it with new gTLDs. I'm wondering whether we shouldn't be talking about transparency around *any* ICANN financial matters. Thank you.

BRIAN CUTE: Jørgen?

JØRGEN ANDERSEN: Yes, can I respond to this...

BRIAN CUTE: Of course.

JØRGEN ANDERSEN: I completely agree, Avri, you're right. When I mentioned gTLDs, that was just another explanation why it is even more important now, but I agree with you, that corrected, we should make it a general analysis.

BRIAN CUTE: I thought we were doing that in this one in the white row... Transparency of financial matters of new gTLD. I thought we made that broader. Yes, Jørgen?

JØRGEN ANDERSEN: If you delete off 'New gTLDs below', then we are there. Every line will agree on this, I think.

BRIAN CUTE: Okay. It's still mapped to 9.1(a), responsibility of the Board of Directors. Okay. Just delete, yeah. Then, put 9.1(a). That's properly captured. Then, you can delete row 13. Yeah. You just delete the row. Yeah. 14, Organization and workload priorities and management take into account broader context, again a question mark. Not sure of intent. Is

the author of that in the room? If not, we're just going to hold that question mark and see if we can get clarification. Okay.

15, communication. What is accepted by the larger community? On that, map to 9.1(d). Then internationalization of outreach... 9.1(a). Yes, Jørgen?

JØRGEN ANDERSEN: I wonder whether you should add 9.1(d) on that one, as well.

BRIAN CUTE: On 15?

JØRGEN ANDERSEN: On 16.

BRIAN CUTE: 16. 'D'. Yes. Okay. 17, capture. Are there transparency apparent and accountability actual issues, source of ICANN resources to whom the resources come from decouple, or you get the resources in what community you face? Little rough, there. Sorry, folks, not the best capture. That was a joke, not the best capture. How about that? 9.1(c)... I can hear you out there. [laughs] I can hear you breathing... 9.1(c) is the best guess, unless somebody can provide clarity.

18, skills and training. Look at more closely. Measure associated with that part of ATRT 1 Work Stream. I believe that was the Board training. Specifically, 9.1(a). 19, visibility of GAC registry. Effectiveness, relationship with the Board, formal process for deciding GAC advice as

needed, part of ATRT 1 Work Stream. That is a 9.1(b) Item. Last, IP address Policy development and implementation... 9.1(e). Is that right? Is that correctly mapped? Okay. All right.

We'll come back to the two with question marks and see if we can provide clarity but again this is at our disposal to refer to going forward and think about incorporating specific items into the work streams. I think... where's my notes. Here we go. I actually think we are done. Yes, Avri?

AVRI DORIA: On that capture one, can we also add 'E' to the 'C'? I forget what number it was. It was in the teens, when we talked about capture.

BRIAN CUTE: Yes.

AVRI DORIA: It's still an unclear thing, but 'E' relates to policy development process and that's definitely one of the things that gets abridged by capture.

BRIAN CUTE: Okay.

AVRI DORIA: Or overruled by capture or destroyed by capture.

BRIAN CUTE:

Okay. Enough of that. [laughs] Okay, just a couple of thoughts, too. This is something that... Before we move to close, and I'll ask if there's any other business... In drafting the questions for the ATRT 1 Review Team Members, there was a question I recall that we made an edit to. The suggestion was, 'the form of the question has an assumption built into it'. That something wasn't done well or something to that effect, and we made the correction.

Just as an observation going forward, in all of our work, it's really encumbered on us to approach it with the utmost objectivity. Every one of us comes from some part of this Community. Many of us have long, deep histories with ICANN. Many of us have personal views with respect to some of these Items. In terms of conducting our work, it's really critical for the legitimacy of our output that we do it with objectivity to the highest degree possible.

How we frame questions, how we discuss these issues... This should be the goal. We cannot operate on assumptions. We have to purchase work from a clean sheet of paper. We have to gather data from the Staff, from the Community. We have to analyze it and come up with recommendations that are informed, on that basis, on data, inquiry, analysis and results. That has to be our formula for success. Just a couple of thoughts to leave you with... That we keep focused on catching those little moments where maybe an assumption is built into our work before we've given a fair chance for data collection and analysis.

That being said, any other business or Items before we close? Okay, the vice-chairs and I are going to meet this week to do a stocktaking on the

outstanding work items to make sure that we've got, administratively, everything organized. Avri?

AVRI DORIA: I just wanted to mention one other thing that was on the schedule, and it never came up, so I wanted to make sure that it didn't get lost. The NCSG, and it wasn't at my prompting, had invited this group, the ATRT 2, or however many were around and available to come in, because they wanted to actually come and talk to the Team. It's on the schedule for Tuesday at... I forget what time it was... At 3:00.

BRIAN CUTE: Tuesday at 3:00.

AVRI DORIA: At 3:00.

BRIAN CUTE: NCSG would like to meet...

AVRI DORIA: NCSG had invited and we talked about it, I think, on the phone or at a previous meeting.

BRIAN CUTE: Okay.

AVRI DORIA: I just wanted to remind people that, whoever is available, that would be a good thing.

BRIAN CUTE: Just remind me. We extended an invitation to them or vice...?

AVRI DORIA: No, no, no. They invited... They requested the ATRT 2 to come to them. I presented it to the Group at a previous meeting. There was no objection. It was on Alice's list. It's just it's never been mentioned, so I wanted to mention it so that it wasn't forgotten by whoever was here and available.

BRIAN CUTE: Thank you. Okay, so Tuesday at 3 o'clock, and we have a location?

ALICE JANSEN: You have a calendar invite, I'm sure.

BRIAN CUTE: Okay, so...

ALICE JANSEN: It's Function 9.

BRIAN CUTE: Function Room 9. Okay, so whoever can attend, please attend. I'll endeavor... Yes?

ALICE JANSEN Do you want to use the same slides as the public session slides or...

BRIAN CUTE: Which slides? For the public...?

ALICE JANSEN: For the interaction with the Committee session or...?

AVRI DORIA: I don't even know if you need the slides. They were hoping that you would come and they could talk to you.

BRIAN CUTE: More of an interactive Q&A session?

AVRI DORIA: I would think so.

BRIAN CUTE: Okay. That's fine. Then, we won't need the slides. Everyone who can attend, please attend. Tuesday at 9:00. Is there any other business? Excuse me, Tuesday at 3:00. Sorry. Is there any other business? Fiona?

FIONA ASONGA: Is it possible that Alice can send us the list of who's in which work stream, so that we can begin to consult each other and get to work?

BRIAN CUTE: Absolutely. Great suggestion. Look for the Doodle polls on our calendar Items and fill those out, please, as best you can. Alan?

ALAN GREENBERG: Something I mentioned earlier; if we're going to be completely open and public with everything we either need to have all the work streams sending all of their mail to the single list or have separate work stream mailing lists.

BRIAN CUTE: If we're going to establish separate work stream mailing lists they will be open to the public. That is our default position.

ALAN GREENBERG: Yes, of course. I was just suggesting that maybe we *need* to establish separate mailing lists if we don't want to inundate the main mailing list.

BRIAN CUTE: That was actually for anyone on the Team who's going to set that up. Thank you. Any other Items? Okay, thank you all very much. Good day and a half. Thank you.

[End of Transcript]