

On the Accountability & Transparency Review Team 1 (ATRT1)

Question 1 - On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the ATRT1. Please provide specific information as why you believe specific recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?

Scaling:

- 1 comment indicated 1
- 2 comments indicated 4
- 1 comment indicated 6
- 1 comment indicated 7
- 1 comment indicated 8

Comments:

SG: ICANN has fallen short. It did not commission an expert study of Board review mechanisms until September 2012. ASEP did not address the definition of accountability or the creation of an effective appeal from Board decisions; its report makes it more difficult to challenge and reverse Board decisions. *Metrics:* 1) Timing – delayed implementation; 2) Implementation without modification - a gap between reading of recommendation and how it was carried out. An effective appeal is a necessity to prevent the Board from rendering bylaws and other commitments literally unenforceable; e.g. recent attempt to insert language in both the New gTLD Registry Agreement and the Registrar Accreditation Agreement (“RAA”) allowing the Board to modify these agreements unilaterally. The Board remains free to exercise its power over non-contracted parties—even in defiance of bylaws. The ASEP-inspired amendments to the bylaws have removed any realistic prospect of an independent review of adverse decisions not governed by the RAA or registry agreements. Stakeholders should not be left without meaningful recourse. ATRT2 should address: *Should ICANN provide an independent and binding appeal from Board decisions? What body should have that authority? Explore/investigate:* 1) *What does accountability mean for ICANN?*; 2) *What structural arrangements or procedural mechanisms would achieve that standard of accountability?* ATRT2 should look hard at establishing procedural mechanisms capable of holding ICANN to its written commitments. Accountability is not synonymous with other institutional values; public input is no substitute for accountability. Sound policy decisions that attract broad community consensus are no substitute either. Accountability and transparency are independent values. Substituting one for the other will not produce an organization capable of carrying forward the multi-stakeholder model.

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AP: A large part of the recommendations are superfluous and engender great bureaucracy; they should not be pursued any further. *Metrics:* Appropriate metrics would be a tent of the existing.

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MF: Transparency moves have been minimal, legalistic and defensive. *Metrics:* timeliness, and creating policies that make full transparency the default, not something to be hacked at until it is legally sound but meaningless.

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MH: Role of the Board or the relationship between the Board and the GAC is unclear. It is important that recommendations are worded in such a way that they can be measured in the first place.

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Nom.: There is improvement in the availability of Board-related materials. Communication could be further improved to show that the Board has considered the wider implications of its decisions. It needs to be particularly attentive to concerns from those not normally involved in ICANN activities and ensure that they do give a reasoned response to input. Board’s response to substantive consultation input would be useful. ATRT1’s implementation metrics were adequate and the regular updates helped in monitoring progress. Balance is needed between simple updates to follow and sufficient detail for the community to assess the implementation. One should have a full picture of the extent to which the recommendation is embedded into ICANN processes and what the full effects of the implementation are. Implementation progress should feature as part of a Board update at every ICANN meeting. They should be given the highest visibility and priority. It would be useful for an ATRT to define what it sees as a successful outcome. This would allow the ICANN community to understand the reason for recommendations and the expected improvement. This could be supplemented by surveys to see how effectively the objectives are being met, looking at deliverables, rather than process.

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UK: Recommendations have been considered carefully and objectives have been largely achieved with due diligence and mostly on time.

U.S.: Recommendations have been considered carefully and objectives have been largely achieved with due diligence and mostly on time.

	<p>deployment of resources and the skills base in particular. This achievement should be communicated to the wider ICT community of industry leaders and government policymakers. <i>Metrics:</i> 1) Standard risk analysis tools in order to identify relevant risk ownership; mitigation options and remediation steps so that problems can be anticipated and neutralized as early as possible; 2) Risk Impact and probability charts should be published and updated at regular levels so that issues can be shared and views on solutions invited from the wider community fostering a shared sense community engagement.</p> <p>--</p> <p>DT: Improvement but more to be done.</p> <p>--</p> <p>RySG: Commends ICANN for adopting many of the recommendations. At least 16 of the recommendations have been implemented in full with others underway. Approval strides in making the bases for Board decisions clearer and in improving the comment processes.</p> <p>--</p> <p>ISC: The successive mechanism of ATRT will urge ICANN to be more accountable and transparent, which will promote a safer, stable and unified global Internet, and better protect the interests of multi-stakeholders. ATRT 1 work should firstly be implemented and given high priority. ICANN has been trying its best: e.g. multi-language simultaneous translation. Insufficient implementation on GAC improvement efforts. Suggests that a further smooth channel be provided for GAC to engage into policy-making-procedure.</p> <p>--</p> <p>CATR: Improve accountability and transparency of decision-making and execution. Strengthen working mechanism between GAC, Board and SO/ACs and define roles. Implementation is unsatisfactory. Some important recommendations on GAC have not been implemented. ATRT2 should consider New gTLD program and completed the renewal of IANA contract which could be taken as input in terms of case studies.</p> <p>--</p> <p>NCSG: Improvements made with respect to Board decisions, rationale.</p>
<p>Question 2 - On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate to what level the implementation of the ATRT1 recommendations have resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?</p>	
<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 3 • 1 comment indicated 4 • 1 comment indicated 5 • 2 comment indicated 7 	<p><u>Comments:</u></p> <p>AP: Recommendations do not serve the purpose. They branch out into more bureaucratization and miss the point. <i>Metrics:</i> reduction of the recommendations to about a tenth of the work implied would be appropriate metrics.</p> <p>--</p> <p>MF: ICANN is going backwards: closed meetings, refusing to share the names of participants, or discussion/decisionmaking at meetings such as TMCH. Metrics are a managerial excuse for not doing anything substantive (box-ticking instead of addressing the problem). Transparency is sacrificed for expedience every time ICANN has a tough decision to make.</p> <p>--</p> <p>MH: Unsure whether have resulted in improvements. It is important that measures on improvements are directed to the target group. Sometimes metrics are applied to groups that are not relevant.</p> <p>--</p> <p>NPT: ICANN has improved in their communication with the community. Interaction and public input has not increased from outside the community. GAC has discussed ICANN's conflict of interest policy and ethics. Implementation pace has been very slow; the ATRT2 should evaluate the ICANN Board performance in this area.</p> <p>--</p> <p>Nom.: The 29 January 2013 update outlines how the ATRT review and subsequent recommendations have triggered other improvements which are outside the scope of the original ATRT review. More improvements will be seen in the long term which makes it hard to assess the effectiveness at this stage.</p> <p>--</p> <p>DT: Financial transparency has improved.</p>

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<p><i>Affirmation of Commitments, paragraph 9.1(a): ICANN Board of Directors Governance</i></p>	
<p>Question 3 - <i>On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), what is your assessment of how ICANN’s Board is continually assessing and improving its governance as specified in the Affirmation ¶ 9.1 (a)? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving Board governance. What metrics do you believe would be appropriate to measure whether ICANN’s board is continually assessing and improving its governance?</i></p>	
<p>Scaling:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 1 comment indicated 3 • 2 comments indicated 5 	<p>Comments:</p> <p>AP: There are issues related to this provision. ATRT2 should see how they can make ATRT less burdensome and more substantive. <i>Metrics</i>: Appropriate metrics would be annual report from board governance committee.</p> <p>--</p> <p>MF: Investigate external review of the Board. No 'metric' is needed to make it that Fundamental for Board's governance to improve and to submit to external review.</p> <p>--</p> <p>MH: Investigate effectiveness of Board meetings with constituencies. What are the benchmarks for assessment and improvement of high level governance responsibilities?</p> <p>--</p> <p>Nom.: Welcomes the work already done as part of the Conflict of Interest and Ethics Reviews, e.g. clarification around the issue of payments to Board members, and setting a clearer policy for recusal. The Board has established codes of behavior. It would be useful to have a report on the outcome of the reviews and how these have been implemented. The Board has shown ever-increased professionalism and the ATRT-1 must take some credit for this. This should not be review driven: the Board should also monitor and improve accountability and transparency; This should feed in to the reviews and could be a <i>metric</i> for Board performance.</p> <p>--</p> <p>UK: This is an evolving situation with new measures being successively implemented. Such is the importance of achieving 100% competence and accountability in the area of corporate behavior for the sustainability of the ICANN multi-stakeholder model, that UK expects an extensive follow-through to the ATRT 2. This should include not only further rigorous review of governance standards generally, but also analysis of remaining areas for improvement such as Board membership balance and inclusiveness, Member recruitment processes, the Board’s functional operations, attendance records and participation levels by Members, registration and communication/publication of its decisions, and achieving absolute clarity on conflicts of interest and related sanctions. The Board’s ability to undertake fully its responsibilities in serving the global public interest is dependent on absolute adherence to the highest standards of corporate governance. Metrics should be implemented, reviewed and monitored independently.</p> <p>--</p> <p>DT: More information needs to be available as to what methods are being used by the Board to assess its governance.</p> <p>--</p> <p>RySG: Difficult to respond. It requires a longer period to assess. Board needs to take a closer look at the extent to which the spirit of ATRT is</p>

	being followed on a regular basis.
<p>Question 4 - Are you aware of the process through which ICANN Board Members are nominated/elected? On a scale of 1 to 10* (1 meaning "not at all" and 10 meaning "fully"), please indicate how well the Board follows clear rules and proceedings in its operation and decision-making. On a similar scale**, please indicate whether you believe the Board makes decisions in a transparent way. On a scale of 1 to 10*** (1 meaning "no idea" and 10 meaning "full understanding"), please indicate your sense of the Board's rationale for taking decisions and giving advice. What should the ATRT2 ask the Board specifically to change in the way it normally works? Would any metrics allow you to better follow up their work? Do you think Directors should stay for longer/shorter terms? For individual members do you see any source of potential conflict with the rest of the community? If so, on a scale of 1 to 10**** (1 meaning "not at all" and 10 meaning "completely"), please indicate how effective you believe the existing conflict of interest declarations/recusal mechanisms are at preventing actual conflicts.</p>	
<p><u>Scaling*</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 2 • 1 comment indicated 3 • 1 comment indicated 5 • 1 comment indicated 8 <p><u>Scaling**</u>:</p> <ul style="list-style-type: none"> • 2 comments indicated 1 • 1 comment indicated 5 • 2 comments indicated 8 <p><u>Scaling***</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 1 comment indicated 6 • 2 people indicated 8 <p><u>Scaling****</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 2 • 1 comment indicated 5 • 1 comment indicated 6 • 3 comment indicated 7 	<p><u>Comments</u>:</p> <p><u>VD</u>: Unaware of process through which ICANN Board Members are nominated/elected. There is source of potential conflict with the rest of the Community.</p> <p>--</p> <p><u>AP</u>: Aware of process. ATRT2 should begin to get serious about considering separately the dual role of the Board as a governance component inside the organization and the last stop policy organ. There already are too many metrics.</p> <p>--</p> <p><u>MF</u>: Staff advice to the Board should be published. <i>Metrics</i>: timely publication of meaningful meeting records. Duration of Board Members' term is satisfactory. There is potential source of conflict.</p> <p>--</p> <p><u>MH</u>: Aware of process but little understanding of decision-making processes. <i>Metrics</i>: easily accessible summary of Board decisions with brief comment on rationale. Current term duration is satisfactory; some continuity is important. There is source of potential conflict.</p> <p>--</p> <p><u>Nom.</u>: Supports the nomination/election mechanism; it is a good example of a bottom-up mechanism. It is necessary for a significant part of the Board to be from within the communities to ensure the necessary expertise and industry knowledge. To encourage engagement from the wider Community, Nominet welcomes initiatives to encourage recruitment of Board members from outside who bring wider expertise. ICANN is an unusual organization; the Board discusses complex issues. Nominet supports the current length of terms as it allows time for new members to get up to speed. This is important if ICANN increases representation from outside the community: shorter appointments could be a barrier to this and to getting the full benefit from "external" appointees. Improvements coming from the Conflict of interest Review have resulted in a much clearer process for the nomination and election of Board members. The Board operates to a very high professional standard, but it also needs to demonstrate the standards it works to.</p> <p>--</p> <p><u>CW</u>: Duration of Board Members' term is satisfactory. There is source of potential conflict with the rest of the Community.</p> <p>--</p> <p><u>DT</u>: Aware of process; no source of potential conflict with the rest of the Community. Duration of Board Members' term is satisfactory.</p> <p>--</p> <p><u>GC</u>: Aware of process; no source of potential conflict with the rest of the Community. Duration of Board Members' term is satisfactory.</p> <p>--</p> <p><u>RySG</u>: This item needs to be more focused. It is difficult to answer it in any coherent manner.</p>
<p>Question 5 - On a scale of 1 to 10 (1 meaning "none" and 10 meaning "fully sufficient"), please indicate your view of the level in which the Board takes the necessary care and dedicates enough time for discussion relating to GAC advice. What metrics would be appropriate to measure the level of this care and/or dedication of time?</p>	
<p><u>Scaling</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 2 • 1 comment indicated 3 • 1 comment indicated 6 	<p><u>Comments</u>:</p> <p><u>USCIB</u>: While interaction has improved in recent years, could be more improvement.</p> <p>--</p> <p><u>AP</u>: The Board takes too much time considering GAC advice that is too untimely and ill-informed.</p>

<ul style="list-style-type: none"> 3 comments indicated 10 	<p>--</p> <p>MF: It is clear that the Board already devotes significant attention to GAC advice, appearing to privilege it over other inputs.</p> <p>--</p> <p>MH: It is difficult to measure whether the Board has taken enough "care and discussion time" over certain issues.</p> <p>--</p> <p>NPT: While recognizing that having a track record on how the GAC advice is being processed is helpful and essential, it is the actual implementation of GAC advice into policy that is of greatest importance. The ATRT2 should evaluate Board performance in relation to this issue. GAC advice has been moving in the direction of being more detailed and operational. GAC advice in most cases should be kept to the level of principles. E.g. GAC principles regarding gTLDs including the protection of geographic names in paragraph 2: Board did not use this advice when developing the Applicant Guidebook. The GAC then saw the need to provide more detailed advice to provide further guidance on the principles. We must expect a high level of expertise and quality of the Board, to be able to analyze principle advice and implement this into policy. This also relates to Board performance, quality and skills set. ATRT2 to <i>explore</i> this.</p> <p>--</p> <p>DBA: Does not share the view that governments need to be given greater formal influence. But criticism must be tackled. ICANN must communicate to the world that governments' advice is carefully considered and responded to according to Bylaws. <i>Explore/investigate</i>: why a great majority of governments do not share this view.</p> <p>--</p> <p>Nom.: How the Board interacts with the GAC is crucial in ensuring that it understands the public policy concerns and is able to address them. The Board has improved its interactions with the GAC. To continue this, the Board could open earlier discussions with the GAC on upcoming issues to ensure understanding of the public policy principles. <i>Explore/investigate</i>: a more dynamic and interactive exchange in open GAC/ Board meetings.</p> <p>--</p> <p>CW: GAC meetings should be more open. GAC members should assign identifiable delegates to participate in all the other SO/ACs.</p> <p>--</p> <p>RysG: Hard to quantify. <i>Metrics</i>: objective measures such as documents examined, time spent, statements released or actions taken. Disparity between completed recommendations and reality of ICANN behavior are proof. The request for comment on GAC Beijing communiqué is a measure of commitment. How the comments and GAC advice are handled will be the real test. Such requests are needed if Board wants full sense of how to respond to GAC submissions in ways that could have fundamental effects on community work relative to ICANN's mission.</p>
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Affirmation of Commitments, paragraph 9.1(b): GAC's Role, Effectiveness & Interaction with ICANN Board of Directors

Question 6 - On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate your assessment of the role and effectiveness of the GAC and its interaction with the Board as specified in the Affirmation ¶ 9.1 (b). Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the role and effectiveness of the GAC and its interaction with the Board. What metrics do you believe would be appropriate to measure GAC effectiveness?

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> 1 comment indicated 1 1 comment indicated 3 1 comment indicated 5 2 comments indicated 6 1 comment indicated 8 1 comment indicated 10 	<p><u>Comments:</u></p> <p>AP: ATRT2 should emphasize serious accountability for the GAC. <i>Metrics</i>: Third party assessment of the advice, through interviews with the Board, constituency leadership, and community members. Timeliness and clarity of GAC work and advice should be assessed.</p> <p>--</p> <p>MF: <i>Explore/Investigate</i> GAC decision-making, timeliness, transparency and openness. GAC needs to be reasonable, timely and practical in input.</p> <p>--</p> <p>Nom.: See response to question 5. The development of globally applicable principles on public policy issues associated with the coordination and management of critical Internet resources is an important role for government engagement. Earlier engagement with the GAC would allow to identify areas of concern earlier and help the community understand the issues. Good regulation should be predictable, proportionate and consistent. Principles should still apply to GAC advice, yet somehow it often appears to catch the community by surprise.</p>
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	<p>Early engagement would be desirable and beneficial for increased interaction as well as better engagement between the GAC and the Board.</p> <p>--</p> <p><u>UK</u>: GAC's role is a critical in ensuring the wider public interest is taken into account. Its role and performance must be regularly subject to scrutiny by the wider ICANN community. This is also at a time when the role of governments generally in the multi-stakeholder model of Internet governance is being scrutinized. <i>Explore/investigate</i>: is the GAC doing its job effectively taking account of all situations across the globe in differing economies and communities? Are the GAC's contributions to the ICANN policy development processes, its interventions and proposals, and its formal advice to the Board, being arrived at with due process and being respected accordingly by the wider community? Is the balance right of core high level, principles-based work with elements of more exceptional advice that directly impacts ICANN's operations and processes (e.g. specifying safeguards for certain new gTLD registries)? Are GAC representatives sufficiently resourced on an individual basis to undertake more work on early policy development? The performance and responsiveness of the Board needs to be fully considered in this re-defined core ICANN relationship. The ATRT1 identified many aspects of the Board-GAC relationship and the provision of and response to GAC advice, that needed tightening up. The work has progressed well. Welcomes the Board's and the GAC's commitment to implementing substantial improvements and recommends that the ATRT 2 now undertake a stock take of progress. GAC needs to improve the consistency of levels of engagement across its membership, both at meetings and inter-sessionally when the level of involvement from developing and least developed countries are typically extremely low (notably in GAC teleconferences). This is a potentially serious problem given that the committee's level of activity inter-sessionally needs to increase significantly. <i>Explor/investigate</i>: 1) Identify and examine barriers to participation in GAC work, consider if increasing the number of working languages would improve engagement, and the possible value of regional group working inter-sessionally etc; 2) Effectiveness of the GAC's engagement with the full Internet community. Significant improvements are needed; 3) GAC's communications strategy so that its outputs are conveyed as soon as possible and are more easily understood by the wider ICANN community and externally. At the current time the GAC external dialogue seems to be mainly Board-focused and the opportunity to interact with the wider ICANN community seems constrained. GAC should seek to explain its decisions more effectively to the wider community with a full account of the preparatory process for arriving at its conclusions, of the rationales for its consensus-based decisions and its advice to the Board. There is a high risk of the GAC's role in the ICANN model, and its specific decisions and advice to the Board, being widely misunderstood or misinterpreted (Beijing). An effective communications strategy should be in place. Possible solutions might include 1) an open mic panel session following the submission of GAC advice for the purpose of providing rationale and clarification; 2) and feedback via the GAC website for open interaction for further raising the level of interaction with the wider community following a face-face meeting etc.</p> <p>--</p> <p><u>DT</u>: No issues to address.</p> <p>--</p> <p><u>GC</u>: Hard to measure. GAC is implementing metrics and tracking mechanisms of its own that will take time to have any real effect.</p> <p>--</p> <p><u>RySG</u>: Completion of recommendations 9-11 concerning consideration of GAC but not observed constructive interaction. Cannot say where responsibility rests.</p>
<p>Question 7 - <i>Are you aware how the process under which the GAC members are appointed? On a scale* of 1 to 10 (1 meaning "not at all" and 10 meaning "fully") please indicate your view of the transparency of GAC decisions. On a similar scale**, please indicate your understanding of the GAC's rationale for taking decisions and giving advice to the Board. What should the ATRT2 specifically ask the GAC to change in the way they normally work? What metrics would allow you to better follow up the GACs work? For individual GAC members do you see any source of potential conflict with the Board and the rest of the community? If so, on a scale*** of 1 to 10 (1 meaning "not at all" and 10 meaning "completely"), please indicate how effective you believe the existing mechanisms are at preventing actual conflicts.</i></p>	
<p><u>Scaling*</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 2 people indicated 2 • 2 comment indicated 4 	<p><u>Comments</u>:</p> <p><u>USCIB</u>: Process through which GAC members serve is opaque. Community would benefit from greater understanding of: 1) process to serve (currently opaque); 2) GAC leadership (governmental vs. individual capacities); 3) Internet Governance coordination (GAC><ITU><IGF). No open dialogue which leads the Community to lobby GAC members, in contradiction with multistakeholder model. When no consensus, GAC tends to produce composite advice which burdens to Boards in understanding how to implement GAC advice. Tendency to deliberate on</p>

<ul style="list-style-type: none"> • 1 comment indicated 7 <p><u>Scaling**:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 3 • 1 comment indicated 2 • 1 comment indicated 7 • 1 comment indicated 8 • 1 comment indicated 10 <p><u>Scaling***:</u></p> <ul style="list-style-type: none"> • 2 comments indicated 1 • 1 comment indicated 3 	<p>matters relating to particular entity. Entities should be given opportunity to present and answer question to prevent: 1) one-side characterizations; 2) lobbying of individual GAC members.</p> <p>--</p> <p><u>VD:</u> Unaware of process and sees source of potential conflict with the Board and the rest of the community.</p> <p>--</p> <p><u>AP:</u> Aware of process. ATRT 2 should ask the GAC to change almost everything and sees source of potential conflict. Metrics: public rationales for each member's participation; more open sessions.</p> <p>--</p> <p><u>MF:</u> Unaware of process and sees a source of potential conflict. GAC should change: Acknowledgement of issues, timelines for timely responses, commitment and reporting on producing consistent, implementable advice that addresses issues within purview and the legal obligations of its members. Metrics: timelines and workplans that have some bearing on the reality of actual ICANN work.</p> <p>--</p> <p><u>Nom.:</u> This is a decision for national Governments. It would not be appropriate for ICANN or the wider community to seek to establish rules for their appointment. GAC members might wish to consider whether a code of conduct might be appropriate, not least to show the importance that the GAC places on standards of behaviour. GAC members have a responsibility to their citizens and the wider public interest. Early engagement of the GAC is also important to ensuring predictability: improving understanding of the rationale behind decisions will help the wider community understand the advice and recognise how it fits in with the underlying principles.</p> <p>--</p> <p><u>CW:</u> Aware of process and does not see source of potential conflict with the Board and the rest of the community.</p> <p>--</p> <p><u>DT:</u> Unaware of process.</p> <p>--</p> <p><u>GC:</u> Unaware of process. GAC metrics and tracking mechanisms might work.</p> <p>--</p> <p><u>RySG:</u> GAC can be transparent where process requires it (advice on activities that involve multiple parties) but discussions concerning advice are not publicized. Documents with potential far-reaching consequences are published without the ability for public contributions. Rationales often have questionable bases and show a lack of understanding of, or concern for, the business realities of Internet operations. The GAC Communiqué published in Beijing is a recent example of questionable conclusions and apparent lack of public input.</p> <p>--</p> <p><u>CATR:</u> GAC to improve mechanism so that effectively involved in decision-making. ATRT 2 should listen to all governments and take appropriate measures to address concerns and build bridges.</p> <p>--</p> <p><u>NCSG:</u> Concerned about tendencies that threaten multi-stakeholder, bottom-up, consensus-building policy. GAC Communiqué in Beijing showed privileged advantages of the GAC and bypassing of GNSO. Concerned about the broader implications of GAC's actions. ATRT 2 should examine the broader issue of the role of the GAC within the ICANN community, with particular reference to the fate of and need to balance the Multistakeholder model in order to ensure not just its success but continuing trust from the rest of the community.</p>
<p>Question 8 - <i>On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate your view of the level to which the GAC has done a good job in terms of checks and balances on the accountability and transparency of ICANN as a whole. What metrics do you believe would be appropriate to measure GAC's performance in this role?</i></p>	
<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 3 • 2 comments indicated 4 • 1 comment indicated 7 	<p><u>Comments:</u></p> <p><u>AP:</u> Open GAC information and processes will allow to measure this performance. The GAC is barely providing any checks and balances.</p> <p>--</p> <p><u>MF:</u> GAC is unable to lecture the rest of ICANN on either accountability or transparency and not in a position to provide checks and balances.</p> <p>--</p> <p><u>Nom.:</u> There are occasions when the GAC discusses issues in a consensus-developing dialogue. Part of the result of this is that messages from</p>

<ul style="list-style-type: none"> 1 comment indicated 8 	<p>the GAC are often misunderstood or seen as aggressive, and viceversa. This probably has a limiting effect on the GAC's impact. Members of the GAC bring considerable experience. Recent discussions around conflicts of interest and ethical values are a good example. GAC engagement was very important. It was also clear that both sides were frustrated by the discussions, perhaps in part because of misunderstanding in the exchanges. Structure of discussions should allow more frequent exchanges between the Board and the GAC on key topics to ensure a mutual understanding. It is also key to improve communication between the GAC and all the SO/ AC so that positive dialogue can be developed. GAC's workload is heavy and might be a barrier to its ability to provide an effective oversight on ICANN's accountability and transparency.</p> <p>--</p> <p>CW: Not sure that the checks and balances are the role of the GAC, which should directly state the public interest to the community as a whole. Checks and balances are the responsibility of the Board.</p> <p>--</p> <p>RySG: GAC is an advisory committee, not another decision center. No traditional checks and balances role with respect to ICANN, and should not be singled out here apart from other advisory groups.</p>
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Affirmation of Commitments, paragraph 9.1(c): Public Input

Question 9 - *On a scale of 1 to 10 (1 meaning "unacceptable" and 10 meaning "fully sufficient"), what is your assessment of the processes by which ICANN receives public input and whether ICANN is continually assessing and improving these processes as specified in the Affirmation ¶ 9.1 (c)? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the processes by which ICANN receives public input.*

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> 1 comment indicated 1 1 comment indicated 2 1 comment indicated 3 2 comments indicated 4 1 comment indicated 7 1 comment indicated 8 1 comment indicated 9 	<p><u>Comments:</u></p> <p>USCIB: ICANN should do better job of publicizing opening public comment period and outlining deadlines. Staff work varies by topic.</p> <p>--</p> <p>AP: ICANN is providing reasonably, and at great cost, mechanisms for input. Its effectiveness in processing input needs to be investigated.</p> <p>--</p> <p>MF: Astro-turfing in public comments has never been addressed, barely even acknowledged.</p> <p>--</p> <p>MH: Issues should be addressed.</p> <p>--</p> <p>Nom.: Insufficient forward planning for the schedule of consultations and their priority. Number of consultations is very high; bearing in mind the bottom-up nature of ICANN, it can also be a barrier to engagement. Clear summaries, good explanations of the purpose, improved indexing, advanced planning, and spacing out consultations could help. Nominet welcome the steps to increase global participation and to reach out beyond the existing ICANN community. It will be important to monitor progress in promoting wider engagement. It is important that ICANN work with its existing global stakeholders to reach out in their local communities where they are already well established and networked. E.g. ccTLD registries can provide a readymade global network for ICANN to use for outreach. In order to fully support the global outreach and ensure relevant input, ICANN documentation needs to be easier to understand and more accessible.</p> <p>--</p> <p>CW: Board has to date failed to give a clear lead on vertical integration and generic TLDs, among other issues.</p> <p>--</p> <p>UK: <i>Is current guidance on processes for soliciting public input on policy is geared to the levels that a) the ICANN community can sustain; and b) have sufficient outreach beyond the established community to Internet users more generally, including the business sector and the next generation of users. Low response levels indicate that the overall workload being borne at any one time by ICANN stakeholders is too great. GAC representatives generally do not participate in public comment processes which may also mean missed opportunities for their direct input. Explore/investigate: the deployment of innovative consultation tools may help restore the balance in order to achieve meaningful response levels. The effectiveness of the current public input modalities for soliciting inputs from developing and least developed countries should be evaluate. Metrics for regional engagement should be published regularly and some analysis undertaken of the barriers to participation. The opening of the ICANN hubs should be considered as providing an unprecedented opportunity for strengthening regional</i></p>
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	<p>participation in public input processes. Sufficiency and transparency of communication between SO/ACs on public inputs needs to be examined. This is a generally uncoordinated area and the level of GAC interaction is highly vulnerable to timing constraints. Cross constituency activity inter-sessionally is practically non-existent for the GAC. It is a significant deficiency.</p> <p>--</p> <p>GC: Address: problem of public comment length vs. amount of time needed to bring an issue to attention.</p> <p>--</p> <p>RySG: Improvements noted and possible efforts mentioned. Efforts deserve a high-mark. Recent behavior concerning the new gTLD process shows a lack of interest in public input.</p> <p>--</p> <p>CC: Concerned about accountability and transparency of RSEP - http://www.icann.org/en/resources/registries/rsep. No staff to oversee the implementation after the request is board approved and the registry contract amended. This leaves a Registry free to make implementation decisions unilaterally. The amended registry contracts do not impose any specific reporting requirement or transparency requirements in relation to the activity or progress of the RSEP implementation. There is no feedback loop for community to judge future requests. There is a public comment period for RSEP. This includes publication of the draft contract amendment. When the actual signed contract amendment is later published, in all/most cases it is identical to draft. This suggests that the public comments were ignored.</p> <p>--</p> <p>BC: The volunteer selection process has the potential to enhance or impair the effectiveness of public input. ATRT is a good example. Concerned at what appears to be a developing trend for top-down decisions on who can participate in volunteer groups. ATRT process could be tweaked so that does not require final selection by Chairman of GAC and Board (although in AoC). Many volunteer groups where Board or ICANN staff presides over selection. This tends to lead to situations of under-representation.</p>
<p>Question 10 - On a scale of 1 to 10* (1 meaning "unacceptable", 10 meaning "excellent"), please indicate how easy it is to put forward new public inputs to ICANN. How easy is it over the course of a year? When did you last use the public comment mechanism? On a scale of 1 to 10** (1 meaning "unacceptable", 10 meaning "excellent"), how would you rate ICANN staff's work in processing public input transparently and publicizing its possible impact? On a similar scale***, how would you rate ICANN staff in helping the community identify the pros and cons of those inputs in a clear and transparent way? How do you think the overall public input process can be improved?</p>	
<p>Scaling*:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 3 • 1 comment indicated 4 • 1 comment indicated 6 • 1 comment indicated 7 • 1 comment indicated 8 • 2 comments indicated 10 <p>Scaling**:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 2 comments indicated 4 • 4 comments indicated 6 <p>Scaling***:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 2 comments indicated 4 • 1 comment indicated 5 • 2 comments indicated 6 	<p>Comments:</p> <p>VD: Not easy over the course of a year to put forward new public inputs to ICANN. Used comments more than a year ago.</p> <p>--</p> <p>AP: Used comments 0-3 months ago. Improve the process by having Board committees on each subject attending meetings. Restructure time management at meetings so at least half is back and forth discussion among all parties, incl. Board. Progress made lately.</p> <p>--</p> <p>MF: It is very easy. Used comments 3-6 months ago. Staff tries its best to be even-handed, but does not avoid self-dealing and post hoc rationalisation of flawed process decisions. Having an independent agency assess public comments might help.</p> <p>--</p> <p>MH: It is not easy. Used comments 3-6 months ago. The notification process needs to be "fine-tuned". A demand and a link is hardly an attractive invitation. Easily lose track.</p> <p>--</p> <p>Nom.: It is not always clear what happens with consultation responses. Example of responding to consultation input: http://archive.icann.org/en/topics/new-gtlds/summary-analysis-irt-final-report-04oct09-en.pdf. This reports sets what action was taken in response and why. There are a number of barriers: too many consultations running simultaneously, not clearly advertised, material too complex. A number of existing groups within ICANN are a good gateway to specialists but they appear to be under-utilised as a way of raising awareness of consultations. Staff summaries are vital: before it goes to the Board, it should be clear what substantive issues have been raised and what action is proposed in order to address concerns.</p> <p>--</p> <p>CW: It is not easy. Used comments 3-6 months ago. Improve it by taking more notice of it. My input has been ignored. This affects interest in</p>

	<p>continuing to participate effectively in the ICANN process.</p> <p>--</p> <p>DT: Very easy. 9months-1year ago.</p> <p>--</p> <p>GC: Easy. 3-6 months ago.</p> <p>--</p> <p>RySG: Time periods could be longer. Groups that must deliberate, determine levels of support, and edit before submitting remarks. The RySG uses the public comment regularly. Quality of processing varies but ICANN has improved the mechanism via: front information, revised procedures, and clearer discussions of its review of submissions. It generally is clear in its discussions of points made in comments but "helping the community identify" is a misnomer; staff does that in its reviews. Background information is always helpful as availability to find information. While steps taken to increase effectiveness, such as MyICANN and design revisions, the search feature and internal structure still make it difficult to find resources, especially older ones. A review of comment and reply period lengths would be useful, as would improved efforts to avoid deluges of comment requests before ICANN meetings.</p> <p>--</p> <p>BC: ATRT ought to examine the degree to which public input is considered (inaccurately reflected or ignored). A public input mechanism for the Registry Services Evaluation Process (RSEP) sometimes leads to amendments to a registry operator's contract. Public input is not always required for actual amendments to the registry agreement. ATRT should examine the need for a public input mechanism in this area and check the current implementation against PDP "Procedure for use by ICANN in considering requests for consent and related contractual amendments to allow changes in the architecture or operation of a gTLD registry (June 2005).</p>
<p>Question 11 - <i>On a scale of 1 to 10* (1 meaning "unacceptable" and 10 meaning "excellent"), please rate your view of the sufficiency and transparency of communication between the different SO/ACs on public inputs. On a scale of 1 to 10**, how would you rate the chances for discussions between the different SO/AC during the public meetings? Do you think some communities have a larger say than others? If so, which communities? How could the ATRT2 review process improve communication between the different stakeholders groups? How should ICANN improve its outreach to the larger Internet community? To participating and non-participating Governments? To regional organizations?</i></p>	
<p><u>Scaling*</u>:</p> <ul style="list-style-type: none"> • 2 comments indicated 2 • 3 comments indicated 3 • 1 comment indicated 5 • 2 comments indicated 8 <p><u>Scaling**</u>:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 2 comments indicated 6 • 1 comment indicated 7 • 1 comment indicated 8 	<p><u>Comments</u>:</p> <p>USCIB: Sufficiency and transparency of SO/AC communication varies depending on SO/AC.</p> <p>--</p> <p>DBA: ICANN has introduced initiatives to engage and support the larger Internet community including outreach to non-participating governments. <i>Explore/investigate</i>: 1) Aspects that may contribute to raise the level of participation and strengthening the legitimacy of the multistakeholder model. Due to new gTLD program, more and more stakeholders find the need to participate. It is difficult to navigate in the ICANN model: level of information, complex and not self-explanatory. These are barriers as are perceived as an accountability and transparency problem for the very actors; 2) How ICANN can provide simple, focused and high quality information rather than information on an ad hoc basis as well as measures to provide further support to newcomers. The GAC also has a role to play in assuring continuous participation. GAC secretariat support is a prerequisite and recent efforts to establish one is a very positive contribution. ATRT 2 should not refrain from providing recommendations on role of governments in ensuring active participation.</p> <p>--</p> <p>Min: ICANN is adopting policies beyond its traditional scope. This affects communities alien to ICANN and may have repercussions on competition. None of the groups directly targeted are represented in ICANN structure. ALAC gives voice but does not represent those specific Internet users. Public comment periods and letters to the ICANN Board and the GAC give them little weight in comparison to the GNSO or the GAC. The GAC has been criticized as acting as a lobby group to the Board for having urged them to take into account the regulated sectors' interests in the delegation of new gTLDs. The GAC has brought to the ICANN Board the public interest concerns arising from the applications submitted to ICANN. ICANN can no longer operate disconnected from the economic and social spheres it touches with its decisions because that damages its legitimacy. ICANN should open avenues for the participation of stakeholders so that their interests are truly assessed and pondered before making any decision which impacts significantly on them. <i>Explore/investigate</i>: gaps in stakeholders' presence in ICANN and</p>

propose ways to broaden it to encompass all actors affected by prospective decisions.

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Nom.: Prior to the policy development process on new gTLDs, the ICANN meeting agenda included cross-constituency discussions on particular issues or themes. Nominet encourages the re-instatement of these and wonders whether cross-constituency workshops prior to, or early in the process would allow broad understanding of the issues across communities. This approach would also help break down silos within ICANN. The overall scheduling of the constituency meetings will need to be revised in order to enable all SO/ACs to participate.

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RySG: This varies according to individuals and group processes involved. Transparency of communication between the GNSO and ALAC appears to function very well because of the success of the ALAC liaison function. Liaison with the ccNSO and GAC are not nearly so successful.

Affirmation of Commitments, paragraph 9.1(d): ICANN decisions being embraced, supported and accepted by the public and Internet Community

Question 12 - On a scale of 1 to 10 (1 meaning "not at all", 10 meaning "fully"), please indicate your assessment of the extent to which ICANN's decisions are embraced, supported and accepted by the public and the Internet community as specified in the Affirmation ¶ 9.1(d)? Can you provide specific example(s) when ICANN decisions were or were not embraced, supported and accepted by the public and the Internet community? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the acceptance of ICANN decisions by the public and the Internet community.

<p>Scaling:</p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 3 comments indicated 4 • 2 comments indicated 5 • 1 comment indicated 6 	<p>Comments:</p> <p>AP: Decision that reduce chances for domain name speculation or limit mission creep by the RIRs are regularly circumvented with a variety of cheats. It will get worse with present management. ATRT2 should investigate the effect of groupings such as root server operators and RIRs refusing to comply with mission. It affects accountability by asymmetry and double value.</p> <p>--</p> <p>MF: Explore/investigate: Trademark Clearing House proposal/implementation. It is flawed, secretive process external to the bylaws, based on a biased proposal from a self-selected group. Although denounced and no majority, it was implemented.</p> <p>--</p> <p>MH: Decisions are often made and then the ideas are sold to the members e.g. the decisions about where the regional hubs. Decisions should be made without the hype and with more explanation in terms that everyone can understand.</p> <p>--</p> <p>Nom.: By facilitating early engagement, in particular from those not normally engaged in ICANN, and encouraging all relevant community groups to be involved, decisions could be more consensus-based.</p> <p>--</p> <p>CW: Brand TLDs are not embraced, supported and accepted by the public. There is no evidence on the ground of any anticipation of all that. Useful IDN and public service TLDs have been egregiously and unnecessarily delayed by the unsolvable debates over TMCH etc. held in parallel. Address the new gTLD program.</p> <p>--</p> <p>GC: Most of the "public" is unaware. Only decisions that are forced into the limelight are considered. The ".xxx" decision is a case in point. <i>Explore/Investigate:</i> public outreach, communication.</p> <p>--</p> <p>RySG: No measure is achievable in the abstract. ICANN's decisions affect a large number of constituencies and generate a level of varied of embrace. Improving communication, transparency would help as demonstrated by ongoing gTLD program issues. Issue to examine is how to ensure that accountability and transparency are internalized by ICANN and not merely check list exercises.</p> <p>--</p> <p>BC: Support for decisions depends more upon the outcomes than on the process. Controversy over many implementation decisions around the expansion of gTLDs. There is wide divergence in degrees of support and satisfaction.</p>
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Question 13 - As a percentage, please indicate your view of the chances for a revision of Board's decisions since the ATRT1.

<p><u>Percentage:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 0% • 1 comment indicated 4% • 1 comment indicated 20% • 1 comment indicated 30% • 2 comment indicated 50% • 1 comment indicated 60% 	<p><u>Comments:</u></p> <p>Nom.: Recent improvements have led to a documented, transparent process with clearer reasoning behind decisions. Nominet hopes the Board's decisions will be less controversial and more easily defended.</p> <p>--</p> <p>RySG: Ask question after the Board makes final decisions with regard to several key new gTLD issues that are subject to extensive public input.</p>
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Question 14 - *How do you embrace, support or accept the decisions of the ICANN Board, for example, do you embrace the decisions of the Board after an internal review of it in your community and/or working group? Have you asked for a review of Board decision? If yes, which ones?*

<p><u>Comments:</u></p> <p>AP: Mostly accepts decision of the Board. When disagreement, use institutional mechanisms incl. review and response in community or WG. No review of Board decision request.</p> <p>--</p> <p>MF: Does not embrace the decisions of the Board, nor convenes groups of other people to do so. No review of Board decision request.</p> <p>--</p> <p>MH: As ALAC member focus is "what value does this ICANN decision give to my membership? No review of Board decision request.</p> <p>--</p> <p>CW: Time-consuming process, requiring expertise on how to manage information in the relevant ICANN webpages. Strong element of consultation-fatigue due to difficulty and evidence is that ICANN does not listen. No review of Board decision request.</p> <p>--</p> <p>DT: No review of Board decision request.</p> <p>--</p> <p>GC: We can be pretty mean about some decisions. Not review of Board decision request.</p> <p>--</p> <p>RySG: More likely to do formal reviews of staff actions than Board decisions but do not always embrace Board decisions. No review of Board decision request.</p> <p>--</p> <p>NCSG: Reconsideration Request filed by the NCSG regarding the late decision to expand the Trademark Clearinghouse (TMCH) to accommodate 50 variants of previously abused names. The Board's response, or rather, the manner in which it was couched and the rationale which the Board (through its representative sub-committee on the matter) chose to employ, was such as to land yet another blow to the vaunted multistakeholder model. Other members of the ICANN community who may not have agreed with the NCSG's substantive position on the TMCH+50 issue also thought that the Board could have chosen a number of different ways to craft its response, achieving the same substantive result without threatening the multistakeholder process. While NCSG reserves its rights to pursue any other means available to it under ICANN's processes to continue engaging with the ICANN Board, ATRT2 explore/investigate this incident and determine if the response received goes against ICANN's principles of accountability in terms of its effect on the multistakeholder model.</p>
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Affirmation of Commitments, paragraph 9.1(e): Policy Development Process

Question 15 - *On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please provide your assessment of whether the policy development process in ICANN facilitates enhanced cross-community deliberations and effective and timely policy development as specified in the Affirmation ¶ 9.1 (e)? Can you identify a specific example(s) when the policy making process in ICANN did or did not facilitate cross-community deliberations or result in effective and timely policy development? Are there issues related to this provision you believe should be addressed or investigated by the ATRT2? If so, please provide specific information and suggestions for improving the policy development process to facilitate cross-community deliberations and effective and timely policy development.*

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 2 comments indicated 2 • 1 comment indicated 4 	<p><u>Comments:</u></p> <p>USCIB: This may have less to do with process than behavior, e.g. GAC participates too late in process. A Community Working Group should be established to develop a process. When realizing consensus is difficult, ICANN should consider creative approaches incl. professionally mediated or facilitated discussions between key stakeholders. No sufficient guidance concerning what constitutes policy vs. implementation.</p>
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<ul style="list-style-type: none"> • 3 comments indicated 7 • 1 comment indicated 8 	<p>Greater predictability is needed so that stakeholders have a sense of decision subject to PDP.</p> <p>--</p> <p>AP: SSR RT had very poor community participation. When the stewardship approach affects interests the cross community mechanisms are easily abused. <i>Explore/Investigate</i> conflict, competence and accountability of community members. ALAC should be a focus point.</p> <p>--</p> <p>MF: Within GNSO structure, a flawed and failed review has meant the structure actively mitigates against cooperation and rewards only those who wish to delay and obstruct.</p> <p>--</p> <p>MH: The process may need refining, but cross community input is important and ALAC's role is to get the issues out there. Sometimes there is an overload that is not sustainable same contributors. Investigate: How do you get more people from across ICANN participating in the feedback process so that policy is relevant to all stakeholder groups. Otherwise what is the purpose of a multistakeholder model?</p> <p>--</p> <p>DBA: There has been talk about the level of government involvement in ICANN's policy-making process: GAC advice is too prescriptive and forces ICANN beyond scope of work, governments have been given a bigger role at the expense of other stakeholders. ICANN lacks a common understanding of roles which negatively affects transparency and accountability. Explore: institutional relationship between the Board, the GAC and GNSO or provide guidance on how it can be analyzed further. gTLD program has made the policy-making roles more complex and mutually dependent as the GNSO policy-making is no longer strictly technical but affects public policy, business matters and consumer choice. The lack of understanding of the different roles of the Board, the GAC and the GNSO can result in a lack of respect for the input of the various stakeholders. ICANN's active stakeholders cannot be the only ones to judge legitimacy of the policy-making process. There is a larger Internet community and governments that look at ICANN to see if the model is able to provide outcomes that benefits all nations and their citizens. GAC advice plays a special role because the reaction to GAC advice directly affects the legitimacy of ICANN in the larger Internet governance debate.</p> <p>--</p> <p>Nom.: There is still too little interaction between the different ICANN communities. This could be improved, looking to seek more cross-community engagement and consensus.</p> <p>--</p> <p>CW: It did not facilitate new gTLD program, vertical integration, generic TLDs. Investigate the balance of power between the professional full-time lobbies in certain SOs and the voluntary part-time participants in Advisory Committees.</p> <p>--</p> <p>DT: ICANN can only do so much in policy-making. Its up to each community's willingness to work with others.</p> <p>--</p> <p>GC: Not certain it facilitates yet and more interested in an instance where it did, other than involving liaison members. <i>Explore/Investigate:</i> policy development must be done by a cross-community work group; group's members must be encouraged to bring concerns to and from their communities.</p> <p>--</p> <p>RySG: PDP may be more a matter of behavior than process. It facilitates cross community deliberations providing groups an opportunity to discuss issues. Timeliness often depends on leadership strength and member commitment as well as consistent refusal of groups to participate at all or not until late in process. Development of mechanisms would be valuable.</p>
<p>Question 16 - On a scale of 1 to 10* (1 meaning "not at all" and 10 meaning "fully"), please provide your assessment of ICANN staff adherence to the policy decisions of the ICANN policy development process in its operational activities. On a similar scale**, please indicate the level to which ICANN staff has been accountable to the ICANN community in its activities. Can you give examples of where ICANN staff has restricted its decisionmaking to the boundaries set by the Policy Development Processes or gone beyond those boundaries to either make new policy or replace existing policy without Community development process or consultation? Are there specific accountability issues the ATRT2 should explore related to ICANN staff's interactions with the Community policy development process?</p>	
<p>Scaling*:</p>	<p>Comments:</p>

<ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 1 comment indicated 4 • 1 comment indicated 6 • 2 comments indicated 7 • 1 comment indicated 9 <p><u>Scaling**:</u></p> <ul style="list-style-type: none"> • 2 comments indicated 1 • 3 comments indicated 7 • 1 comment indicated 9 	<p>USCIB: ICANN staff adheres to policy decisions especially if not too many implementation issues. Recent examples (e.g. New Registry Agreement) have shown lack of accountability and transparency even when direct questions. Any rule that gives rise to new obligations on stakeholders should be subject of a predictable comment process: 1) clear description of proposed rule; 2) meaningful opportunity to comment; 3) reasoned explanation of decision reached. Board uses staff’s summaries of public comments in deliberations. For purposes of transparency, they should be posted after delivery to the Board.</p> <p>--</p> <p>AP: Investigate weight of litigation-risk assessment.</p> <p>--</p> <p>MF: Example: Trademark Clearing House - staff actively overrode the majority, creating its own extra judicial process to force through a policy supported only by a small number of paid lobbyists. Staff interaction and support of business and intellectual property interests needs to be externally reviewed.</p> <p>--</p> <p>MH: No real knowledge of staff involvement. Investigate: understanding of what the specific roles are of staff and community in this process. Who has ultimate responsibility?</p> <p>--</p> <p>CW: Not possible to answer without detailed knowledge of internal staff processes. Community development process and consultation is heavily biased towards the professional lobbies. It is not clear whether staff have the ability or the mandate to re-balance the situation. <i>Explore/investigate</i>: responsibilities of staff and the Board in the event that the Community policy development process produces inexcusably biased outcomes without reference to the public interest.</p> <p>--</p> <p>DT: ALAC has done an excellent job at providing the community with information as to what existing policy is and the correct ways to implement change when the community desires.</p> <p>--</p> <p>RySG: Difficult to identify where staff activities relate to results as opposed to policies reached by other mechanism. Staff has recently used imaginative definitions of “implementation” as opposed to “policy” to avoid consulting the community.</p> <p>--</p> <p>BC: Support for decisions depends more upon the outcomes than on the process. Controversy over many implementation decisions around the expansion of gTLDs. There is wide divergence in degrees of support and satisfaction. The policy vs. implementation debate can be settled by having a clear definition and guidelines. The debate has been used to obfuscate the real issue and attempt to get the outcome wanted by specific individuals or groups. This short-term view does not do justice to the multistakeholder model. The work of developing policy is crucial to ICANN’s function as technical coordinator. Important to develop policy but also to implement policy. If we do not know when one stops and the other begins, we run the risk of mismanaging the policy development process and of not seeing policies implemented in the way they were designed to be. E.g.: Stawman implementation solutions to illustrate this question but also the question 12. Implementation decisions imposing material new obligations should be considered policy. <i>Explore/investigate</i>: assessment of PDP against the AoC charge “to ensure that the outcomes of its decision-making will reflect the public interest. This work should be done in support of the model.</p>
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On the Security, Stability & Resiliency of the DNS Review Team (SSR RT)

Question 1 - On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the SSRRT. Please provide specific information as to why you believe the recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 2 • 1 comment indicated 6 • 1 comment indicated 7 	<p><u>Comments:</u></p> <p>AP: Board is working too high above ground and too slowly. The consultants hired will take forever and still leave too much work to be done. This is mostly the Board's fault for the way the SOW was constructed, due to risk and work avoidance and lack of sufficient expertise at Board level. Time is of the essence. Implementation time overrules and includes effectiveness, transparency and completeness. Staff organization, structure and results in the SSR area need urgently to be reassessed, esp. as ICANN "goes international".</p> <p>--</p> <p>Nom.: Progress has been made with the high level framework being discussed at ICANN Beijing. However it is still quite high level and there is much to do before Durban. Full implications of these recommendations should be explored.</p> <p>--</p> <p>CW: What is SSRRT?</p> <p>--</p> <p>UK: The GAC has not recently received any implementation update which is a matter of concern. Welcomes ATRT 2 scrutiny of progress of implementation of the SSRRT recommendations.</p> <p>--</p> <p>RySG: An accounting less than a year after release is premature. Progress made on definition of remit and publication of frameworks. Commends security staff for active solicitation of responses to RFCs. Increased efforts to explain staff's security mission and general outreach. Formal documents such as risk management analyses have not been forthcoming. Activities related to recommendation 11 on potential problems with new gTLD program should have not taken that long. Security issues identified by SSAC have been ignored until very recently. A contract to examine the ramifications of issues raised by SSAC was issued at May 18 Board meeting.</p>
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Question 2 - On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate the level to which the implementation of the SSRRT recommendations has resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 3 • 1 comment indicated 5 • 1 comment indicated 7 (on transparency and community) 	<p><u>Comments:</u></p> <p>AP: Only timid and tepid adoption. Risk framework will not be in place maybe for another year. Board largely at fault (see above Q1). Metrics: scale of community-wide understanding, commitment to SSR recommendations; Staff and Board ditto; Large-scale studies of DNS SSR in detailed dimensions, After actions reviews by staff; RSSAC and SSAC coordination.</p> <p>--</p> <p>Nom.: The Board needs to monitor not just the implementation, but also the effect.</p> <p>--</p> <p>RySG: More needs to be done to provide an overall grade.</p>
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WHOIS Policy Review Team (WHOIS)

General Comments:

USCIB: Appreciated ICANN's recent increased focus on WHOIS as well as meaningful strides on compliance (WHOIS Accuracy Program Specification, Registrar Accreditation Agreement). Important for business to pursue bad actors.

Question 1 - *On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully"), please indicate the level to which the ICANN Board and staff have effectively, transparently, and fully implemented the recommendations of the WHOISRT. Please provide specific information as to why you believe the recommendations have or have not been effectively, transparently, and fully implemented. What metrics do you believe would be appropriate to measure effectiveness, transparency, and completeness of recommendation implementation?*

Scaling:

- 1 comment indicated 1
- 1 comment indicated 2
- 1 comment indicated 5
- 1 comment indicated 6
- 2 comments indicated 7

Comments:

MF: ICANN Board and staff have chosen to ignore the findings and reconvene their own, invitation-only group to deliver a different outcome.

Metrics: A simple yes/no to 'was it implemented?' should cover it.

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MH: Effectiveness of changes needs to be measured according to a range of deliverables.

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Nom.: Welcomes the creation of the Expert Working Group and appreciates that the group will consider the WHOIS review team. More information on how these groups relate to each other would be helpful.

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CW: WHOIS is another black box: a suitable policy was available 10 years ago. There is no evidence of any improvement or willingness by ICANN or certain SOs to endorse a policy. *Metrics:* Full respect of Privacy Laws in all jurisdictions.

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UK: The UK Government is working closely with the Serious Organised Crime Agency (SOCA) law enforcement agency on advancing urgently needed reform of WHOIS. Welcome Expert Working Group initiative. There should be no further delay in progressing consistent with the WHOIS RT recommendations. ICANN's credibility was severely damaged by its inability to address this longstanding policy failure. Urges that ATRT 2 monitor progress on WHOIS reform and prepare an early interim independent report on current action and next steps.

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CONAC: Detailed action plan published and actual moves such VP of Online Services to create an information portal for WHOIS inquiries, VP of Compliance reporting to CEO, draft blue print by Expert Working Group, WHOIS a strategic priority. IDNs will greatly impact WHOIS. The structure of potential users may evolve in the future. WHOIS information disclosure should meet the legitimate requirements of applicable laws of legal jurisdictions. CONAC proposes to explore the possibility of making classifications of domain names, domain name registrants and WHOIS data users. Reasonable restrictions should be imposed on WHOIS data access according to the categories. Output of WHOIS information queries, should be displayed in languages consistent with what registrants use. ICANN should conduct priority reviews in its annual Contractual Compliance Audit. CONAC expects to see more productive progress on a uniform WHOIS policy.

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GC: Still at the analysis stage, let alone planning. Too early to make any measure of success. RAA provisions are sign of progress. *Metrics:* with respect to RAA negotiations, it is up to compliance. As to the rest, results of Analysis may tell. There is always the ever-present measure of accuracy.

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RySG: Board has addressed the recommendations given constraints. Applauds EWG creation. While it does not follow the model suggested by the RT, the alternate approach take from SAC 055 seems appropriate. Effectiveness of EWG cannot be gauge until report and public comment. It would be premature to implement recommendations before the EWG report is final and policy development work occurs. Certain policy work cannot happen until IETF WEIRDS group is complete. Delay in forming EWG is disturbing and the selection process lacked transparency. ICANN should have accepted initial volunteers and issues new calls for volunteers with needed skills or backgrounds if gaps perceived.

Question 2 - On a scale of 1 to 10 (1 meaning "not at all" and 10 meaning "fully", please indicate the level to which the implementation of the WHOISRT recommendations has resulted in the desired improvements in ICANN. Please provide specific information as to why you believe the recommendations have or have not resulted in improvements. What metrics do you believe would be appropriate to measure improvements?

Scaling:	Comments:
<ul style="list-style-type: none">• 1 comment indicated 1• 2 comments indicated 3• 1 comment indicated 4• 1 comment indicated 5	<p>AP: Too complex. Stakeholders need to improve and make more open and informative their participation. Principled privacy opponents of open whois need to make clearer arguments. Present work is a step in that direction and needs more attention. The "experts group" can benefit from a shake-up.</p> <p>--</p>
	<p>MF: Recommendations have not been implemented.</p> <p>--</p>
	<p>MH: Metrics: A list of all expected improvements and a rated assessment of achieve improvement based on a range of variables and actual deliverables.</p> <p>--</p>
	<p>GC: RAA negotiations are positive. Need to wait until the various analyses are complete and design and implementation work begins. Metrics: measures of accuracy. Compliance might have other measures to suggest.</p> <p>--</p>
	<p>RySG: Not reasonable to think WHOIS issues can be addressed in a short time. Meaningful considerations cannot begin until the EWG, WEIRDS and PDP efforts have been completed.</p>

Improving Accountability & Transparency

Question 1 - How do you evaluate overall accountability and transparency of the ICANN processes? On a scale of 1 to 10 (1 meaning “none” and 10 meaning “full”), how would you rate the participation of the community in accountability and transparency issues? Are there other issues that should be addressed or investigated by the ATRT2 consistent with its mandate? If so, please provide specific and detailed descriptions of any such issues along with an explanation as to why such issues should be addressed by the ATRT2.

<p><u>Scaling:</u></p> <ul style="list-style-type: none"> • 1 comment indicated 1 • 1 comment indicated 2 • 1 comment indicated 3 • 1 comment indicated 5 • 1 comment indicated 7 • 2 comments indicated 8 • 1 comment indicated 9 	<p><u>Comments:</u></p> <p>AP: Overall accountability and transparency: among the top 3 in the field; comparison is made to the ITU. Explore/investigate: specific ICANN community actors who can shape decisions by sheer persistence should be made to open up their game. This is less about the rules and more about how they are used, abused and twisted.</p> <p>--</p> <p>MF: Ambiguous question.</p> <p>--</p> <p>MH: Communication processes should be meaningful and relevant to ICANN users. MY ICANN is a good model, but the information is not always relevant. This is perhaps a better way of getting info rather than being bombarded in the interests of accountability and transparency.</p> <p>--</p> <p>Nom.: Unaware of any processes to monitor and recommend changes in between other than the general responsibility of the Board mentioned above. The process for implementing the ATRT recommendations was slow because of the need to develop community buy-in. Thought needs to be given to this interaction and how the reviews and the bottom-up policy development processes work together.</p> <p>--</p> <p>CW: There is a major problem with the volume, complexity and accessibility of information, and any evidence of feedback as to the results of consultation. The ICANN system relies on virtual full-time participation. That is paid for by the lobbies.</p> <p>--</p> <p>GC: Generally good.</p> <p>--</p> <p>RySG: Paths exist but broad participation would be valuable. A critical and ongoing problem exists with respect to policy vs. implementation distinctions, and the resulting extent to which essential community input is not solicited (TMCH). When ICANN develops agreements with third parties: there is often no transparency to the community and agreements are not published even after repeated requests; ICANN includes terms to protect ICANN the corporation and the third party vendor but rarely assumes any accountability to protect members of the community.</p> <p>--</p> <p>BC: Leaving the term “public interest” undefined leaves the floor open to conflicting interpretations that serve the interest of ICANN stakeholders. The definition should be derived through a process that is open to the ICANN community and Internet stakeholders, including a prominent role for GAC. ICANN may have launch a project under the CEO’s Affirmation of Purpose owned by Sally Costerton. It is unclear how ICANN management would involve the community and GAC to co-create the definition. <i>Explore/investigate:</i> community-wide process to define public internet.</p>
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Question 2 - Are there other questions we should be asking consistent with the mandate of the ATRT? What are those questions? How would you answer those questions?

Comments:

SG: ATRT2 should address the issue of gTLD profits and formulate recommendations to assist the Board to handle any profits consistently with non-profit status. Determining what counts as excess revenue will require a more careful accounting of the present and future uses of the risk management portion of the application fee. ICANN should disclose how much capital that portion now represents and explain in detail why the amount set aside for risk management cannot be reduced. ATRT 2 should consider recommending that the ICANN Board establish a bifurcated process for consulting the community about the use of gTLD profits. The Board should issue the following resolutions: 1) revenues from the first round of gTLD application spent only for purposes described in the gTLD Guidebook until first round is complete; 2) call for an independent audit of gTLD revenues and costs by internationally reputable accounting firm within 30 days after the last application of the first round; 3) assure community that

any profits identified by the audit will be deposited into a designated account and that no expenditures from that account will be authorized by the Board until the community consultation process is complete. The Guidebook suggests that “a process can be pre-established to enable community consultation,” but the Board has not yet explained what process it intends to follow.

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AP: A Copernican approach should substitute the present Ptolemaic one. Simplicity should cut a lot of coralline efflorescence in the present approach. Answer: Simplicity first. ICANN is complex and ATRT requirements have gone the way of making it far more complex than needed with too little gain for the investment and a huge cost in effectiveness and approachability.

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NPT: It is essential to include how the ICANN Board is fulfilling their overall task to act in the public interest and respect international law, relevant conventions and local law. Respect for national and regional public interest and policy will be critical for the continued trust and support for ICANN and the multi-stakeholder model. ICANN has an international role to serve the global Internet community. This does not mean serving only the ICANN. We therefore welcome the recent initiative for internationalization. The ATRT 2 should focus on how ICANN is further planning.

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DBA: Explore/investigate: ICANN’s financial operations and reporting. Lack of transparency leads to criticism (expenses, remuneration etc). ICANN is a not-for-profit organization mandated to act in the global public interest. ICANN’s financial reporting is an important tool for the community to have insight into ICANN’s prioritizations and whether they are effective and efficient. The ATRT2 should employ independent experts to analyze how to improve the accountability and transparency from the perspective of the special needs of the multistakeholder model.

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Min: ICANN is obtaining revenues through the new gTLD program. It has been acknowledged by the Board that more than 355 million dollars have been already collected from fees. ICANN Board Finance Committee has stated that it is currently getting a “reasonable return” on investment during the period of time this amount of money is invested. It is also stated by ICANN that the Funds Investment Policy is not expected to have any direct effect on the public. ICANN has not announced what it intends to do with this revenue. ICANN should take into account that its legitimacy and the model it represents is at stake. It should continue to be a non-for-profit organization, and accountability on financial issues should be part of the transparency and accountability framework the ATRT is mandated to foster. Action should be taken in order to compel the ICANN Board to promptly clarify the destination and possible return to the community of these funds. ATRT 2 should include the financial transparency and accountability of ICANN, and specifically the destination of the funds coming from the new gTLD programme, in its work.

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RySG: An attempt to craft a definition of public interest would be useful.

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ISC: Concerned about ICANN’s role in management of Internet resources. ICANN could pay more attention to the user and geographical factors, and map out a plan to deploy relevant root server in China. We propose ATRT2 to take ICANN's root server related issues as the key point of this review, and to raise improvements and suggestions. With respect to developing countries, ICANN should take this imbalance situation into consideration when making policies and take effective approaches to improve the active engagement from developing and underdeveloped countries and to promote the regional harmonious development of Internet. E.g. mechanism to support developing and underdeveloped countries’ attending ICANN Meetings.

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CATR: Governments’ and the Internet community’s opinions are not fully reflected in the PDP process, financial operation, personnel arrangements. ATRT 2 should focus on: 1) Review implementation of ATRT1 recommendations; 2) Establish metrics and quantitative assessment model to evaluate improvements; 3) identify the fields the ATRT1 did not cover: a) accountability and transparency regarding procedure, process and results of critical resource operation (root server expansion and IPV6); b) ICANN’s execute of GAC recommendations regarding public policy on DNS technical coordination; c) transparency of finance operation on New gTLD plan and public interest; d) selection of Board members and senior staff.

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NCSG: Explore/investigate: multistakeholder process and model, particularly in relation to its actual operation within the GNSO community, vis-à-vis the GAC and the Board. It is critical that these imbalances and threats be addressed imminently if ICANN is to retain the trust of its many stakeholders and volunteers.

Affirmation of Commitments Reviews

Question 1 - On a scale of 1 to 10 (1 meaning “not at all” and 10 meaning “fully”), please rate the effectiveness and efficiency of the Affirmation of Commitment review team processes. Please provide specific information as to why you believe the Affirmation review team processes have or have not been effective and efficient. What metrics do you believe would be appropriate to measure ATRT effectiveness and/or efficiency?

Scaling:

- 1 comment indicated 1
- 1 comment indicated 3
- 1 comment indicated 7
- 2 comments indicated 9

Comments:

[SG](#): Delayed implementation undermines the Affirmation’s model of voluntary self-correction. Prompt implementation of recommendations is indispensable. Failing to follow through on a high priority recommendation raises the question of whether such reviews can produce needed institutional change. Long delays cause review cycles to bump into each other, making it appear that ICANN is constantly the object of review, while the community is denied genuine progress despite consensus-supported recommendations for change. These circumstances tend to exhaust ICANN’s institutional appetite for critical self-review and the community’s faith that such reviews will produce meaningful reform.

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[AP](#): Not effective due to lack of simplicity. Metrics: reduction of processes in all commitments of the AoC.

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[MF](#): Response to WHOIS RT findings was a shambles.

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[Nom.](#): Welcomes the Board’s decision to accept the recommendations of the ATRT, SSRRT and WHOIS review teams. It is very important for recommendations to be implemented, or at least carefully considered. Reviews are fundamental to ensuring ICANN’s wider accountability and the recommendations have to be taken very seriously at all levels. The quick and timely implementation of recommendations is key. ICANN needs to manage this process and keep the community informed on progress. Board responsibility for overseeing this is important. Not convinced that this process is in place.

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[CW](#): No information on the ALAC mailing lists about the review team processes. I was prepared to be a member of the ATRT. Not prepared to spend the time required to try and influence the process virtually.

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[UK](#): Supports the independent review processes which are an integral part of the modern multi-stakeholder model. All the reviews to date have worked extremely well in advancing reform, in prioritising failures and deficiencies for policy correction and improved modalities, and in achieving greater efficiencies, inclusiveness, and effectiveness in the complex ICANN system. It is vitally important that the net be cast wide for review team participants, especially to developing countries and least developed economies. ICANN should make every effort to ensure inclusivity of opportunity; it would serve to enhance the scope and effectiveness of the reviews. Seek reassurances on review team inclusivity.

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[RySG](#): ATRT 2 was excellent in its identification of issues and the clarity with which it explored them. Issues concerning effectiveness and efficiency relate to implementation. Metrics are an issue. Progress completing a task does not indicate quality. Applauds the ATRT 2 focus on metrics but do not necessarily have the expertise to suggest methods that don’t ultimately become subjective, such as quality of work. Recommends that it be more cognizant of time, money, and personnel resources needed to implement .

Question 2 - Have you/your community had sufficient time to review their recommendations and ICANNs implementation of the recommendations? If not, how much time do you believe is necessary?

Comments:

[VD](#): Not enough time – four weeks or more needed.

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[AP](#): Sufficient time - four weeks or more needed.

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[MF](#): Sufficient time. Metrics: yes/no question on implementation, open to consultation with the community to prevent self-dealing.

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[DBA](#): Essential to ICANN's credibility and legitimacy that accountability and transparency be institutionalized. AoC reviews are at the core of ICANN's governance mechanisms and multistakeholder model. It is from this instrument that ICANN derives its legitimacy to act in the global interest. ICANN leadership should ensure the resulting implementation. Encourage ICANN to improve topic visibility and engagement in AoC reviews.

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[Nom.](#): It should be very easy for the community to keep track of the implementation. Clear and concise updates should be given under the headline of each recommendation with clearly identified timescales. Not convinced that process is in place.

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[CW](#): Not enough time – four weeks or more needed.

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[DT](#): Sufficient time.

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[GC](#): Not enough time – 4 weeks or more.

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[RySG](#): Sufficient time.

General Comments

SG: ATRT2 has made an exemplary start to its important review of ICANN's accountability and transparency by requesting the community for its views on what questions ATRT should address.

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RAR, GB, EL, HR, CS, JJS: ICANN's current gTLD expansion indicates an increase in potential domain names, without a corresponding change in the number of actual Internet destinations. Where does the demand for expansion come from? Did ICANN ever survey a worldwide public? ICANN becomes susceptible to capture by an internal compact. It has become dependent on income supplied by the parties it is supposed to oversee. Its refusal to consider regulator role means there is no public oversight over the DNS. "Multi-stakeholderism" is seen as self-regulation by a compact between domain buyers and domain sellers. Public interest representation is relegated to the edge of policy making. The unconstrained approach to gTLD growth has resulted in afterthought remedies, e.g. "Public Interest Commitment", new-gTLD objection process, applicant support program, Trademark Clearinghouse. Requests for anything deeper elicit a reply that the process is in motion and it is too late changes. The needs of the industry compact are designed into the core of ICANN policy. This betrays a sense of entitlement and insulation from global user needs and stems from a belief that ICANN ought to let the industry determine policy. This is under attack on two fronts: 1) WCIT showed the scale of multilateral opposition by public authority to "business as usual". ICANN's opening of new offices may provide new global awareness, but will not fix problems. The multi stakeholder model is being challenged; 2) Any public demand that ICANN "save the DNS from governments" will become less relevant if ICANN succeeds in scaring ordinary end users and information providers away from domain names. The growing success of search engines and corporate portals on social media sites already indicates movement away from the DNS as a primary source of information retrieval. As consumer and provider trust in ICANN and the DNS diminishes, where the ITU has so far failed, the marketplace may succeed. ICANN is ignoring such threats. When asked to develop metrics to gauge the success of the gTLD program, the GNSO sought to measure the relative metrics of the various TLDs to each other rather than to compare the entire DNS against alternatives such as Software Defined Networks and new search technologies. ICANN now faces a far bigger challenge to its very legitimacy. ICANN's policy initiatives should primarily derive from public interest needs. The multi-stakeholder model needs to be inverted -- that the public interest bodies initiate policy directions and the industry serves in an advisory function. Denial of regulatory function prevents ICANN from sufficiently serving the public interest; In the absence of a regulatory authority, ICANN has been captured by the industry and has become dependent on its growth regardless of public- interest consequences; This situation has isolated ICANN from the public it is supposed to serve, provoking both public authority and the marketplace to actively seek alternatives to an ICANN-managed DNS. ICANN must recognize this deficiency and assume a role analogous to that of a regulator -- refocused on the public interest. This demands redefining the global public interest as the initiator and driver of ICANN policy rather than its current status of reactive advisor.

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NPT: Conducting review is paramount to the legitimacy of ICANN as a multi-stakeholder body working in the global public interest. The mandate of ICANN originated in the Articles of Incorporation and provision in the ICANN Bylaws. This is often lost track of when conducting day-to-day business and policy development in the ICANN Community.

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RySG: The group is asking great questions and is headed in a very useful direction, but the very broad extent of the questions and their critical importance to the review of the ICANN model demand much more time. There are other major, time sensitive activities going on related to the implementation of new gTLDs (e.g., GAC Advice, finalizing registry & registrar agreements, completing requirements for the TMCH, etc.), we need to request more time.

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GB: ICANN is failing in its commitment to accountability and transparency. ICANN contracts with registrars who sponsor domain names. It is the principle reason for its existence. ICANN has failed to effectively enforce its existing contract with certain registrars who have allowed documented abusers unobstructed access to bulk domains registered in bad faith. When presented with these issues ICANN staff effectively closed the discussion. Nearly a year after being first submitted, this information has finally been posted (<http://www.icann.org/en/news/correspondence/bruen-to-chehade-22apr13-en>). However no actual response or meaningful action is seen yet. ICANN continues to accept funds from domain owners who have violated policy. Beyond that the organization will not provide any real policy rationale to the public. Attempts to use ICANN's procedures to address these issue also reveal failure of transparency. In anonymous and unsigned Documentary Disclosure Information Policy responses, the ICANN policy of actual transparency is clear: the relationship between ICANN and the registrars supersedes any obligation to the community; The details of this relationship are secret and no further explanation is required. If this cannot be addressed then ICANN will actually share a significant portion of the blame for spam, malware and DNS abuse. This needs to change in order to retrieve the public trust.

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CNNIC: Given that 70 out of 116 IDN new gTLDs are Chinese and the proven CDNC TC-SC Equivalence solution, ICANN should fast track TC-SC Equivalence for the Chinese new gTLDs. Without causing further delay to the launch of Chinese new gTLDs, we strongly urge ICANN to complete the work on LGR (Label Generation Rules) as well as relevant

delegation process for TC-SC Equivalence (e.g. update to Application Guidebook and Registry Agreement). These should be expedited and worked on in parallel.

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[UL](#): Much spam comes from recognized ISPs, whether as a source of the spam. Many are hosted by USA based ISPs who have no doubt been hacked. ICANN doesn't do anything noticeable, the traffic continues. Since I can detect spam in a second, it seems ridiculous that ISPs can't do the same. Money is involved.

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[JJS](#): Some of the recent more meaningful decisions do not stem from reviews or other formal undertakings. By announcing the opening of hubs, the CEO has given more symbolic value and hope for further internationalization. Hubs will become part of ICANN's plans to reshape the organization to be more global and inclusive. We will have to gauge in the longer term their real contribution to ICANN. To what extent can the ATRT process address some of the more fundamental questions, e.g. - what must be achieved for the organization to become truly international? Will the Department of Commerce be prepared to accept the nomination of a CEO who is not a citizen of the US nor of the ANZUS? - How international is the ICANN Board? Should this be taken into account with regard to the by-law which restricts the number of members from any one region? - It took more than 2 years for the Board to endow itself with a Global Partnerships Committee, following upon a proposal made by one Board member early in 2008. The rationale was to provide the Board with some oversight on an area of activity of growing importance. Can it be said that this Committee has fulfilled its remit by identifying international and institutional challenges? Over the years, ICANN has been required to measure up to high standards of transparency and accountability. Overall, this has been done in a painstaking way, but in several instances, small improvements have left in place some larger ambiguities. There have been many declaratory precautions to justify the presence of a notable proportion of domain name business representatives on the Board, while skirting the more fundamental debate about how to better promote the global public interest. Another example is provided by what seems to be embarrassment when the Board must address the full implications of a multi-stakeholder system, which many in our community now perceive as, simply, a clever tool for self-regulation. There remains a sense that *ICANN is somewhat less demanding with respect to its internal processes*, than it is externally. Areas of internal governance remain obscure or require improvement: e.g., the community is entitled to know in detail, and in writing, - How are the Chairs of some important Board Committees actually appointed? Does the current practice not represent a risk of capture? How are Board Committees actually populated? Why are the Committee Chairs not freely elected by their respective members? Does the current practice not constitute a risk of capture? How are the Board Chair and Vice Chair actually elected? Who discovers the cast ballots, proclaims the result, and has the custody of the ballot papers? Are the ballot papers at the disposal of Board members, or perhaps of the Ombudsman? Is the community satisfied that the current practice such questions would be considered intolerably rude, is consistent with the highest requirements of contemporary accountability, of escape from capture? And if all these precautions are now routinely taken, does the Board have an approved set of Rules of Procedure, setting out these minutiae about voting, populating, nominating for the Board itself? Is it reasonable that the Board should provide to the Nominating Committee the "profile" of the Board Members it claims it requires in the next turnover? How does this ensure that the global public interest will not be subordinated to the ability to read a balance sheet, to calculate the intensity of an electrical signal, or to rattle out by heart all the ways to bypass a piece of fiscal legislation, say for the greater benefit of a large trademark? Concerns that delving into detail now carries a greater risk of missing some of the portent challenges of transparency, multi-stakeholderism, and the global public interest.

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[GB](#): RAA negotiations happened behind closed doors without much community participation. As an example of what can go wrong in this opaque arrangement I offer up the changes to RAA 3.3.6 which deals with bulk access to registrar WHOIS records. The change seems to have entered through a side door and has left no verifiable fingerprints. Various requests of staff to provide more details on the "additional proposed changes which have not yet been negotiated" were met with. The source of the change to 3.3.6 is cited as "ICANN economic advisors", an unknown party to the negotiations. The advisors are not named and the study is not posted. A request was made to produce the document and more details about the economic advisors but there has been no follow up from staff. This is not driven by any consensus policy and was not discussed publicly. As a community we need to look at the fine print and demand that 1) the economic advisors be identified, 2) the economic study be published, 3) all transcripts from the negotiations concerning this change be published, and 4) the full process for generating this change be disclosed, meaning: A) who saw the need and motioned for the study, B) who approved the study, C) who conducted the study, D) how much the study cost, E) who decided the study results were valid, F) what the criteria was used to interpret the results of the study in a way as to make the contract change, and potentially additional questions. The community does not even know if this "negotiation" took place in the same venue or context as the other RAA changes with the full NT membership present. In a strict reading of the change it appears ICANN recommended the change to itself. In short, because this change does not have community review it cannot have community support. So, within the "Big Tent" where negotiations took place there was apparently a smaller tent where "other" changes took place. This type of activity is unacceptable.

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[TL](#): (Response to [RAR](#), [GB](#), [EL](#), [HR](#), [CS](#), [JJS](#)) Consider the points set forth in comment.

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[S](#): Stop spammers and introduce regulations to protect users from abuse and fraud.

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[RySG](#): The group is asking great questions and is headed in a very useful direction, but the very broad extent of the questions and their critical importance to the review of the ICANN model demand much more time. There are other major, time sensitive activities going on related to the implementation of new gTLDs (e.g., GAC Advice, finalizing registry & registrar agreements, completing requirements for the TMCH, etc.). The ATRT2 would benefit greatly from well thought out and detailed responses. In the event of follow-up efforts, suggests breaking the questions down into smaller sets and providing different response times for each set. This process will afford a more directed focus for each area.

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[CATR](#): ICANN is responsible for security and stable operation of the Internet. ICANN should continue to optimize the distribution of the critical resources with consideration about the user and geographical factors. Give serious consideration to countries' doubt and divergences about ICANN's legitimacy. To strengthen the governments' role in Internet-relate public policy is a very important aspect for ICANN to enhance its legitimacy. There should be regulations in place to provide assurance. Adjustments need to be made in ICANN's processes and decision-making. Since ATRT 2's work is based on AoC 9.1, its scope is limited.