ATRT2 AUG Mtg in LA - DAY 1
Wednesday, 14 August 2013 - 08:30-17:30

BRIAN CUTE: ….in the meantime will be participating remotely. Welcome, everyone to Los Angeles. We've got three days of important work ahead of us. Can I ask, in lieu of a roll call, can we identify are there ATRT-2 members who are not yet present at the meeting?

ALICE JANSEN: Larry is about to join us. He's in another conference call. And we haven't seen Stephen yet or Michael. Demi is delayed at the airport.

BRIAN CUTE: Okay. Larry, Stephen, Michael, and Demi not with us yet. Thank you for noting that. Okay, let's kick off the work. The first item is to – actually, I think we have adopt the agenda. The agenda is up on the screen, the proposed agenda for the three days. I should note that the only recent change to the agenda is that we had time scheduled with Fadi Chehade for tomorrow that we'll have to change. Fadi is going to meet with us either sometime Thursday or Friday, but the scheduled time in the agenda is not working for him right now. Just a matter of rescheduling that, but otherwise with that notation, are there any suggested changes to the agenda before it's adopted for the next three days of work, or questions? Okay, hearing none, we will adopt the agenda as proposed

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and we will schedule time with Fadi tomorrow or Thursday when we hear from him. Can we go back to the – sorry, Alice, hold on a second.

The next item on the agenda is adopting preliminary reports. Do you have reports to throw up on the screen, Alice?

ALICE JANSEN: Yes, report of your meeting held on August the 1st.

BRIAN CUTE: Okay. And this has been circulated to the team?

ALICE JANSEN: Yes, it has.

BRIAN CUTE: Thank you. Does anybody have any suggested edits or corrections to the preliminary report from our meeting of August 1st? Okay, hearing none, the preliminary report will be adopted and posted on the Wiki. And back to the agenda, if you would. One thing missing here is that we need to have an update on anybody's conflict of interest or statement of interest. At this time, does any member of the ATRT-2 have an update regarding statement of interest or conflict of interest? Looking

for hands. Seeing none, we'll move forward to start taking on the draft templates.

We are at quarter to the hour. We're going to be joined by the PDP Working Group Chairs in 15 minutes. We'll take the next 15 minutes to just talk a bit about the templates that we've received and a little bit about organizing our work for the next three days. I went through the list of issues, and if you recall, we had developed a list of issues that the team believed may be issues that develop into recommendations. We had assignments for folks to draft templates corresponding to those issues.

I had done a spot check and I believe this is the following state of affairs. That we have draft templates for all of the issues that were assigned, although I believe we are waiting on templates from Larry on GAC participation in the policy process. That would be an outstanding. And we received a template – a draft template – on the topic of finances that wasn't on the original list of assigned issues but that has been received as well. I'm going to ask ICANN staff, is that an accurate reflection of what we've received to date?

LARISA GURNICK: Brian, it's Larisa. We did receive something from Larry.

BRIAN CUTE: We did? Okay.

LARISA GURNICK: Yes, we did. So just to clarify that. I'm not sure. I need to double-check. I'm not sure we received review process.

BRIAN CUTE: Okay. I thought I had sent that in.

LARISA GURNICK: Apologies. Yes, that one is in. Let us do a quick double-check here and I'll update you.

BRIAN CUTE: If you would, just take your time and do a check just to make sure that we have all the templates that we need to start the work this week. With that being said—

LISE FUHR: Sorry, Brian, it's Lise. I can't find the Adobe website, so I have to do it by the – we have the template from Jorgen on legitimacy also.

BRIAN CUTE: Legitimacy. Yes, yes. That's right. Did that map to one of the issues on the assigned list, or was that like finances, an additional issue?

JORGEN ANDERSEN: This is an additional issue. It goes back to when we established the work streams and it was discussed in Fiona's work stream on Work Stream 4 and it comes out of that.

BRIAN CUTE: Yes, okay. Thank you, Jorgen. Okay, that's right. So we've got legitimacy and finances, and staff just come back if you would and finish this [inaudible] taking here so that we can confirm what we have in hand to begin the next phase of the work. Let me off the following observations, and this ties to what we need to accomplish in the next three days in my view.

                     What we really need as an objective coming out of these three days in Los Angeles I believe is for us to determine which of these issues are going to become recommendations and which ones aren't. It may be that we need to do some more work in these three days – some more reading, some more research, some more interaction with ICANN staff and Board to come to those conclusions. But that's what these three days really are about – walking away knowing which ones are going to be developed into recommendations and which ones are going to be put to the side.

That being said, all of this work has to be fact-based and sound analysis and I thank the Review Team members for putting together the templates as requested. I think a fair read of the templates, and I looked at some of them – not all. Some of them are fairly robust in terms of the data and research and inputs from ICANN and from the community and others are somewhat thin. Really, it's that piece. It's the inputs. It's the research on the ICANN bylaws, the inputs from staff, inputs from the community and it's other analysis that form the foundation of a fact-based conclusion. So I think a fair assessment is that we, still in a number of cases, do not have that foundation in place to draw a conclusion.

So what I envision for the next three days in fact is, on some particular issues, a lot of research, a lot of reading and a lot of discussion about whether or not we believe an issue is [ripe] for recommendation. That being said, staff is here at our disposal for the next three days. Steve is participating with us in terms of a Board perspective. But I believe that's what the next three days have to be about.

The structure of – and we may need to talk about this a bit. The structure of this agenda for the next three days is set up so we're going to have full team interaction, and then break out into specific work

stream interaction. And you'll see that we sequenced that. We're not having Work Stream 1, 2, 3 and 4 break out at the same time. We've sequenced that.

The opportunity there is that at the work stream level where there was focused work on issues and backward implementation of ICANN that we can have very dynamic discussions on focused issues. For those members of the Review Team who are not going to be participating in a particular work stream session because you're not a member of that work stream, to the extent that you have free time during some of these gaps, if you would focus that free time on reading documents, looking at input from the community, looking at inputs from Durban, this is really the time where we have to do our homework in full so that we can reach conclusions.

But we're going to have a dynamic here where we come together as a full team, we break out into specific work stream sessions. Work stream has to have dynamic discussions to drive its conclusions forward, and then we'll come back together as a full team to compare notes and break up again and that's really the flow of this meeting. Happy to talk about how we can best structure that. But before we do that, one more thought. We really have to have informed debates and vigorous debates these three days. And if there are different views, let's surface them,

but this has to be a work session in part and vigorous debate in part so we have a clear road map of where we're heading come Saturday.

So with that being said as observations and reflections, let me open it up for any discussion. Alan?

ALAN GREENBERG: Thank you. Two completely different things. I did send around some very short descriptions of two things that I think need to make their way into recommendations. We do not have the documentation right now, but I certainly would like to see them considered. That's question number one.

Question number two for staff is can we have a list of the people who are not here, when they're going to be coming or a definitive statement saying they're not? I know Michael is late. I don't know when he's due in. I don't see Steve in here at all and I haven't heard whether he's coming. And maybe I've forgotten someone else. Sorry, staff seems to be busy at the moment.

[ALICE JANSEN]: I heard from Demi. His flight was delayed, so he'll be here I'm assuming before lunchtime.

ALAN GREENBERG: Michael?

[ALICE JANSEN]:   Michael I have not heard from and Stephen I have not heard from.

ALAN GREENBERG: Do we know if they booked flights?

UNIDENTIFIED FEMALE: Fiona just said [audio cuts off].

ALAN GREENBERG: Thank you. That's all I had, Brian.

BRIAN CUTE: Thank you, Alan. Any discussion or questions on the structure of the meeting in the next three days and what we need to accomplish as an objective? I'm not seeing any hands.

ALAN GREENBERG: My only comment is I suspect once we start getting into the work, the agenda's going to change and be reformed as we go along. But that's perhaps business as usual.

BRIAN CUTE: I'm open to that possibility, absolutely. Okay. With the last five minutes we have before we're joined by the PDP Chairs, can I do just a quick roundtable? When we do have a chance to sit down with Fadi tomorrow or Friday, can I hear from folks what they think? Now, we originally scheduled an hour and a half. I'm not sure we're going to have that much time with him to be clear. But with the time that we have, could I hear some quick thoughts on what we think the priority issues are to bring to his attention so that we have a focused discussion? Any thoughts on that? I'm looking for hands.

ALAN GREENBERG: Carlos has raised his hand.

CARLOS RAUL GUTIERREZ: I don't know if we are talking about the same meeting and I don't know if that was supposed to be the agenda with Fadi, but last time when we talked based on a comment by Alan that there are many efforts presently in ICANN with the development of their strategic plan that are addressing issues that we have on our list. I suggested that it would be great to have an update on the strategic developments. I don't know if that's exactly what you expect from Fadi or if you expected that from somebody else, but I wanted to remind you about that. Thank you very much, Brian.

BRIAN CUTE: Thank you, Carlos. Yes, that is a topic that we had discussed, to hear from Fadi on. So I'll put that on the list. Lise?

LISE FUHR: Well, I'd like to discuss with Fadi his idea of how this Working Group will work together with the five other groups that he presented at the ICANN meeting because I think we have some issues that might cross each other, our recommendations and their work and I'm a bit confused on this idea of how the groups are going to work together.

BRIAN CUTE: Thank you, Lise. Noting that. Anybody else? Looking for hands. Seeing none. I'll communicate at least those two points to Fadi in advance so he's prepared for a good exchange with us when that's scheduled. Okay. I see on the screen that Alice has posted Alan the two points that you raised with respect to issues that could become recommendations. So those are part of the documents that we'll be working off of the next three days.

Okay, with that being said, the next item on the agenda is to have an hour with PDP Working Group Chairs. I'd like to give you a brief update. I did have my kick-off call with the ICC. Our independent expert will be doing independent work on the PDP for us. The call went very well from my view. We focused mostly on what could we do and ICANN staff do to help them identify individuals for outreach interviews. They have one

piece of their work as doing surveys and interviews of participants and maybe some non-participants.

So we focused a lot on how can we pull together the resources needed so that they can do that very efficiently, understanding that it is the August timeframe. They have a limited timeframe for doing that. And the balance of it being an interaction I thought was very well focused, very consistent with [RSOW] and that group is starting its work in [inaudible]. I did invite them to listen into the discussion with the PDP Chairs this morning. I felt that would be important for them to hear that as they kick off their work. I don't know. I see Emily Taylor's online, so they are definitely represented and listening in. But that piece of work is going, kicked off well I believe, and I will be having weekly touch-base calls with ICC in the next three weeks, if not beyond, as the Review Team asked me to do and make sure that the work is progressing well. So that's an update on that.

With that, I think you also should have seen that there was a very vigorous e-mail discussion between and among PDP Working Group Chairs and some of the ATRT-2 members. Actually, a very interesting discussion about working groups and the PDP and very much appreciated that that discourse happened prior to our meeting.

With that being said, I think it's time to start that part of the agenda. I see Mikey O'Connor. I think he was online. Could I hear from – Mikey, who do we have online? We have Mikey. We have Jeff Neuman. We have Michele Neylon. Who else from the PDP Working Group Chairs group is joining us?

ALAN GREENBERG: How about Alan Greenberg.

CHUCK GOMES: Chuck Gomes is on.

BRIAN CUTE: Alan, Chuck Gomes. Thank you, Chuck.

ALAN GREENBERG: Avri.

BRIAN CUTE: Okay. Avri, Alan. With that, Alan if you want to kick this off and then turn it over to the Chairs, let's take it from there.

ALAN GREENBERG: Okay, thank you. I first apologize. For some reason, I was convinced this meeting was tomorrow even though I know today is Wednesday, so I

did not send out what was supposed to have been the talking points. Having said that, I think it is important in the hour we have to the extent possible focus on issues, not everything that could be done to make PDPs better but focus on issues that are within the scope and bounds of the ATRT to make recommendations. I think it's true, although people can argue with me, I don't think we're in a position to give explicit orders to the GNSO to change its operating procedures or things like that. We can certainly make some suggestions to that extent, but I don't think that's really under our full mandate.

So to the extent possible, things that may be useful to the ATRT in formulating recommendations to the Board would be a good way of trying to constrain what we're talking about. That being said, I think I'm just going to turn it over to perhaps start a roundtable of the people who are here and I'll be quiet for the moment, take off my Chair's hat and just listen and perhaps chime in at the end. I guess let's go in alphabetical order for want of anything better. I think the first person in the list under those terms is Chuck.

CHUCK GOMES: Well, thanks Alan. I think I'd really like to defer to the e-mail discussion that has been going on among the Chairs and former Chairs and leaders in the GNSO rather than try and repeat some of those comments. I personally think there's been some extremely good dialogue, including some of those who are not able to be on this call. I would rather

respond to questions from that online discussion rather than try and repeat that because there's no way we can cover all of that in the short time that we have. I hope that's okay.

ALAN GREENBERG: That's fine. I think we'll do wherever people want to lead us in this hour. The next person is Jeff. Would you have any introductory thoughts you want to share at this point?

JEFF NEUMAN: No. I mean, I think we had a good discussion online, although I admit there were so many e-mails that I couldn't – and I'm sure you guys have so many e-mails. I couldn't really read every one of them. But I'm here to answer questions. We had some dialogue back in Durban and I look forward to the dialogue here.

ALAN GREENBERG: Thank you, Jeff. Michele? Is Michele online?

LARISA GURNICK: He's in the Adobe room. He cannot join the bridge [inaudible].

ALAN GREENBERG: Okay. Michele can't be on the bridge and you don't have audio I gather from the – he says hang on. He's dialing in. I'll give you a moment,

Michele. Okay. Mikey, why don't you step in and we'll go back to Michele?

MIKEY OCONNOR: Okay, it's Mikey. Can you hear me okay?

ALAN GREENBERG: Yes.

MIKEY OCONNOR: I'm with Chuck. I mean, we had a pretty lively time of it on the list. I saw how many e-mails there were, so I tried to write a summary of that and we did cover a lot of ground. Questions feel really like a good approach for me as well. Thanks.

ALAN GREENBERG: Is Michele here yet? Is there anyone else who we've missed that I don't see on Adobe Connect but maybe on the bridge.

LARISA GURNICK: [inaudible] on the bridge.

MICHELE NEYLON: I'm on the bridge now, Alan.

ALAN GREENBERG: Someone's not on mute. Go ahead, Michele.

MICHELE NEYLON: That was me, sorry. Can you hear me okay?

ALAN GREENBERG: Yes.

MICHELE NEYLON: Sorry. I'm having technical difficulties here of course, because this is what happens when I take a holiday. Everything breaks in my absence. I assume you forwarded on that entire thread of e-mails to the rest of the ATRT group.

ALAN GREENBERG: Yes. There may have been one or two at the very end which missed, but I did send out something like 19 or 29 messages.

MICHELE NEYLON: Okay, perfect. I mean, I think [inaudible] a good discussion there. One of the key issues is this kind of balancing act. People talk about how the PDP process is very, very long and very, very drawn out, but the reality is that most people, with a few exceptions, who are involved in PDPs have day jobs. They do stuff on PDPs on these working groups and other

things as an aside to their main job. So they can't work at it 24/7/365 or dedicate the amount of time that some people might be able to do.

By comparison, when let's say the case of the EWG, we've had a number of full-day meetings face-to-face. We were able to get a lot done in a very short period of time because you're going in there, you're there for a day or two days and you're basically locked away in a room. It's one way to focus the mind. But the reality is that's not what happens with most working groups.

And the other thing as well is if you want to move towards doing that kind of thing, somebody's going to have to pay for it. The reality is that you can't expect people to fly halfway around the globe and give up several days of their time completely for free. I mean, somebody has to cover the cost of the travel and somebody has to cover the cost of feeding people, putting them up in hotels and everything else.

So the current system, while it may have its flaws, may be the only system that can really work. The other side to it as well is one could also say that sometimes slow change is actually better because it gives you time to adjust, whereas fast change whilst it might make some people happy can also cause disruptions that you may not really want. Thanks.

ALAN GREENBERG: Thank you, Michele. We have Steve and then I have a comment or two.

STEVE CROCKER: Thank you Michele and everyone. The questions regarding the PDPs in my mind fall into three basic questions. Is the process subject to not reaching a conclusion because of vested interests either won't come together or choose to break it, to stall it and have it just become ineffective?

And a second question, which is in some sense related, is does the process reach what's fundamentally a wrong conclusion because it's been captured or controlled by a special interest that [inaudible] represent a balancing of the multi-stakeholder?

The third question relates to what you were talking about about resources is of a different nature. Is it the case that it could be improved if funds were available for various kinds of support, travel, or staff or whatever? Those to me are the three questions that lurk either explicitly or implicitly in the background there. The fact that it takes a while to reach an answer I agree is perfectly reasonable in a lot of cases. It takes a while to bring the parties together. The issues have to be untangled and it's not something to be done in haste.

So I'm less concerned about the fact that it sort of takes a long time under all circumstances and more concerned with whether it's taking an unduly amount of long time because the process is being undermined or isn't being supported properly.

ALAN GREENBERG: Anyone else with any comments before I step in?

LARISA GURNICK: We have a question from Jeff.

JEFF NEUMAN: I just have a question, because it seems like this happens a lot in the ICANN world that we sort of mix up the terms policy development and PDP. The PDP, as Alan knows, and we've had this discussion so many times when we were doing the PDP Working Group or work team at the time, that there's a misconception or misperception out there that the only way that policy is created is through a formal PDP through the GNSO. That's not the case. The questions that you're asking, Steve, are relevant questions I think not just for formal PDPs, but also for policy development with kind of a lower-case policy didn't in general.

I just want to make sure, Steve, is the scope of the ATRT just on formal capital PDP or is it also on policy development in general in the ICANN environment?

[ALAN GREENBERG]: I'll try to answer that. Then we have Avri in the queue. From my perspective, the ATRT is not limited just to the PDP. The external reviewer that we've contracted with is limited to the PDP. I don't think necessarily that we are. So to the extent that we may want to talk about other processes other than the PDP, that's certainly within our remit. If you focus the concept of other processes have always been around, but until the new PDP rules, they were not really clearly referred to in the bylaws as they are now. The world has changed a little bit from the time the AOC was written until now. But I think we need to be looking at the wider scale to the extent that we have applicable things to say. That's my perspective anyway. Avri?

AVRI DORIA: Thanks. Too bad Steve left the room because part of what I was going to say was in response to his comments. First of all, going back to Jeff's question, there actually is a third thing. I think any of the policies can fit within a policy development process and what we're really talking is a difference between those and the consensus policies. So really, there's probably three things in this confused pile.

I guess I have another issue with the policy development process. Good, Steve came back, so I've delayed actually making a comment until he was back. And that is I think my ears first perked up at the comment that there could be a wrong outcome. Now, I'm not quite sure who has, other than the full Board, in the way the bylaws has defined it to sort of say, yes, they're willing to, by a super majority, say it was wrong and thus it is wrong. I think other than that, I'm not sure what kind of judgment there is that a PDP has come out wrongly, but indeed there is a bylaws defined process whereby if the Board has a super majority saying it was wrong, then it's wrong.

But other than that, it is the process that is determining which is a correct and which is an incorrect policy and not any individual judgment of rightness and wrongness.

In terms of the PDPs, I actually don't see a great problem – and this is historically looking at it – of one party creating an impasse, and therefore the work gets blocked. The only serious blockage we had was in the vertical integration and that one was not because of an idealogical planting of heels. That was a very difficult issue with very many opinions on it.

The problem I tend to see is more that, at a certain point, people give up discussing their positions acquiesce to an ICANN consensus and then later use the going around the back of the process to the powers that be and getting them basically rearguing their cases. So I see much more of a problem with people not standing firm and arguing it until its closed, but rather saying, "Oh, okay, I'm not going to win here, but I can get the GAC to put my view forward, and therefore I'll prevail," "I can get the Board to put through my opinion, and therefore I'll prevail. Why should I bother with this?" I see that the going around the process as the biggest problem in the process. I actually tend to think the process works fairly well. Yeah, lots of things could be tweaked. Lots of things might be more efficient, etc. I think the process works. I think all of the extra process – getting the powers that be to circumvent those decisions as being the real problem with the policy development process. Thanks.

ALAN GREENBERG: Thank you. [inaudible] relatively long queue. Brian, you're next.

BRIAN CUTE: Thanks, Alan. Jeff, to answer your question, the Affirmation of Commitments, our charter under Section 9.1, one element of this Review Team's work is to – we are assessing the policy development process, lower-case letters, to facilitate enhanced cross-community deliberations and effective and timely policy development. That is our charter. That being said, as Alan said, we have engaged an independent

expert to look at the PDP process itself. That's a separate stream of work. They should be talking to all of you at some point in time with that respect.

For today's call, this is a collection of working group Chairs who have worked in the PDP context. Obviously anything you can bring specific to the PDP for these questions is useful, but don't be [limited] if you have comments to the broader policy development process.

What we need to do as a team is deal with facts, and a big part of our work in the next few days is to get to facts. Steve's comments as I heard them were the questions that he's formulated is, with respect to the process, is the process – and let's use PDP for this, but feel free to speak more broadly. The process is not reaching a conclusion perhaps because vested interests are either breaking the process or stalling the process.

So stopping there, in your capacity, have you seen instances where PDPs have been broken – or however you interpret that word – or stalled? Let's deal with observed facts if we can, because then with those facts, we can begin to get to that question and unpack it.

His other question was has it been captured by special interests to an extent that the outcome doesn't represent a balanced multi-stakeholder outcome? Some of your comments on that point may be fact. Some of them may be opinion. But to the extent that you can offer some facts, [we'd] begin unpacking those two questions. That would be welcome from my perspective.

ALAN GREENBERG: Thank you. Michele, I have you next.

MICHELE NEYLON: Thanks, Alan. I think it's quite useful that Steve would ask specific questions or make specific comments to the [inaudible] focus this discussion. One of the things that has come up multiple times – and I think Avri also touched on this as well – this idea of the vested interest, the special interest. The reality here is that you cannot expect somebody who has absolutely zero understanding of any levels, be it technically or operationally, to come up with policy which has a technical and operational impact on some things they don't actually understand how it works.

I find it f disheartening at times when people start talking about just registrars or registries or whoever being – just because we have a vested interest in something doesn't mean that we're going to disrupt a process.

In terms of speaking to facts and everything else, I've been involved either as a Chair, a co-Chair, a vice Chair, whatever on a multitude of different working groups over the last few years. I've never really seen a situation where anyone went out of their way to disrupt the entire process to make it completely unworkable. You'd have to get up extra early to do that to participate in a working group just for the sake of screwing it up.

Now that doesn't mean that external third parties who don't participate within the working groups don't do their damnest to screw things up, try to sidestep the entire process and go directly to the Board or go to the CEO or go whinging and whining to politicians or whatever about something. That's a different thing entirely. But the ones who are actually actively involved within the working groups have been generally, from in my own experience, they all seem to act in good faith. They may get things completely backwards. They may get things wrong. By wrong, I'm not referring to an incorrect outcome. I'm talking about that. I mean they might misunderstand what something is.

Speaking to Avri's point about incorrect outcome, I'd also agree I don't think there is such thing as an incorrect outcome. If you're working on the basis as an incorrect outcome, I'm not suggesting there is a correct

outcome. I'd suggest that you're just going through this entire process just to tick boxes, which I don't think is what people should be doing.

What was the other thing? Oh yes, with respect to the PDP process itself, this idea of balance and everything else, it comes down to a couple things. If you look at the number of PDPs that could be ongoing at any one time and you also look at the number of people who are able to give up their time to get involved, there is a participation issue. There's a lack of participation. There's only a certain number of people. I think Mikey can speak to this in far greater detail. I'm going to have to drop off this call in a second. About the number of people who are actually actively participating on a regular basis within the ICANN policy process, be that lower-case or upper-case or whatever. It's a very, very small number. Unless that pool of people increases, we're always going to have a problem because people will like to play with their acting in the interest of insert group name here. But the reality is that it's very hard for them to actually really justify [inaudible].

ALAN GREENBERG: Thank you, Michele. Jeff, you're next.

JEFF NEUMAN: Thanks, Alan. The reason I asked that question in the beginning about whether this is for the capital PDP or the lower-case PDP is that I think

the answers to Steve's question looking forward as what should be the case actually differs depending on which process it is.

If it's a formal PDP, which involves consensus policy, there will always be a vested interest because there is formal PDPs that result in consensus policy [inaudible] the way the contracted parties have to – what they have to implement and impose real and significant cost. There is no way that we're ever going to get rid of that vested interest.

So I want to offer an opposite view and then I'll point to some examples of why I believe vested interest, and you may be thinking of it in the wrong way. I actually believe that the more people that have a vested interest in the outcome of a PDP or a lower-case policy development process, the faster it actually goes. In fact, I have not seen any cases where those that have vested interest have fought or stalled a PDP. I think just the opposite, where more people feel like they have a vested interest. Things go a lot quicker and things tend to not get blocked. You can see that with a lot of the new gTLD stuff, and it's not a formal PDP, but a lot of those went faster than would ever occur or have dreamed to occur because a lot of groups felt like they had a vested interest.

I know the Vertical Integration Group is often pointed to as a group that kind of "sailed" or got blocked and the people really held their ground. I

want to actually say that I think this is caused not by the group itself, but I believe it was caused by the ICANN Board. I know that may not be popular [inaudible] to say. But the Board pretty much came out with a resolution that said that if you guys do not come to a conclusion or consensus on something, this will be our default. That was, in hindsight, probably the thing that caused those that agreed with the way the Board, the default, to just stick to their guns and not want to at all compromise. They thought, well, if we can delay this, then the Board's going to do exactly what we wanted them to do anyway, so our goal will be to delay it. Of course the Board ended up doing exactly the opposite. I'm not sure if that was the intent, but the Board did what was opposite.

I will say that before the Board did either of those things with the VI Group, there was a compromised proposal. I happened to be one of the authors of those compromised proposals, that we were getting a lot of people on both sides of the [inaudible] to come towards that compromised proposal. And if we had been given maybe a month more, we would've gotten there in my view, but then the Board came back and said, well, if you guys don't finish up, then this is the default and then that caused everybody to go back to their corners.

So I think in that case – and I know the VI Group is often referred to. I would argue that the ultimatum that floats the process rather than the groups digging in their heels. One other group that I noticed that was

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deadlocked or that was really tough to get an outcome out of was a PDP that was done. I think it was called the Registration Abuse PDP. Mikey, you were involved in that group as well. The problem with that one was there was such a low threshold to start the PDP that it only took one or two groups I believe, and it was all within the – I think at the time the Commercial Stakeholder Group that wanted to do the PDP at that time. And because it was such a low threshold, the PDP was actually done.

But none of the other groups – or some of the other groups – didn't want the PDP to happen in the first place and it was really hard for that PDP to operate when a lot of people "didn't want to be there."

And the final thing I would throw out there is that, look, in order to come to a compromise, I think there are two things – and there's probably more – but two things in my mind that has to be present. One is that everybody participating in the group needs to have some incentive to be there. There needs to be something that's driving them to want – sorry, not to be there, but to compromise. There has to be some incentive to not want to just go in there as a lobbyist and stick to a position. And the second thing is there has to be some authority to actually come to a compromise. What I found being the Chair of several PDPs, and also just serving in a bunch of working groups, is that people are paid by their companies or paid as lawyers, just there to take a particular position. But when it comes down to it and when you're

trying to get them to work on issues, they have no authority from their clients or their business to actually come to a compromise. So without the incentive and without the authority, in my mind, it's hard to get to that compromise position. Thanks.

ALAN GREENBERG: Thank you. Carlos next.

CARLOS RAUL GUTIERREZ: Yes. Thank you very much. I don't understand exactly if we can influence or not the PDP process, but in any case, we hired somebody to look at the PDPs for the purpose of the ATRT-2. So in those terms, it was very useful, the mail exchange. It was very good training to be prepared to see what this expert is going to produce. At least it helped me to have a critical position. So thank you very much for the mail exchange which I read very carefully, and it's very useful.

I think from our perspective ATRT-2 is looking maybe not directly to the PDP process itself, but some related issues I want to mention. One of those is one I'm responsible for this week which is to look at Recommendation 23 of ATRT-1, which is to look at the revision processes, and particularly the reconsideration process. After looking at recent reconsideration processes, I was happy to see that most of them were denied as Jeff Neuman said, vehemently in South Africa, but there were also some positive feedbacks out of these denials. There was some

recognition that probably staff wasn't acting very well or so on, so there are at least two cases where there is a consideration of the Board that these issues should be raised in the new PDP process of policy versus implementation. So there I see a direct connection of our work with the PDP process. At least in that case that has been recently announced and we hope it's going to be very interesting.

The second point where I want to call attention is from the perspective of the GAC. How early or how late should the GAC be involved? And there were also very useful comment in terms of how to engage the GAC so that nobody gets the feeling that the GAC has a preferential treatment. GAC has its own problems. We're going to analyze them because they're also in the Affirmation of Commitments and there is a direct relation there, PDPs and GAC.

Personally the last comment I want to make is I thought it was very interesting to hear in the mail exchange, and also today, this problem with participation. In particular, if people are tired about the PDPs or if they have no time, there's also the point that there is now a new generation ready to take over the PDP process, that you need fresh blood. And of course relate that to some comments that Boston Consulting Group did in 2008, that at some point some processes in ICANN will have to be [inaudible] analyzed because of this problem with the voluntary system. And my question to you is could you envision a

professional PDP process interacting with governments? Thank you very much.

ALAN GREENBERG: Thank you. We've got a really long speaker list, so I ask people to try to keep it moderately brief. Chuck, you're next.

CHUCK GOMES: Thanks, Alan, and thanks to everyone who's been contributing. It's hard to be brief after you've heard so many comments because there's been a lot of good ones. I'm going to respond to several comments that have been made. Let me start with what Jeff said about vested interest and I think all of these go back to Steve's questions.

Vested interests are critical in this and it's not only contracted parties that have vested interest, so let's keep that in mind. And thanks, Carlos, for noting that you did read the e-mail exchange that went on. A discussion we had in that e-mail exchange, we talked about silos a little bit. I made the point, and this is related to what Jeff said about vested interest. Silos aren't bad. We need them. We need people with vested interest. We need people who are impacted by things, otherwise they don't have the motivation that we've also talked about.

So the key is to find out the differences that the different interests, the different silos, have and then to work towards a position that most can support. So we shouldn't worry about having silos or about having vested interest. We need those and that's the motivation that we desire. That causes the participation.

Now, an example of where we haven't had very good participation and yet it has worked very well because we had the vested interest involved, is the Internet Registrar Transfer policy PDPs, a series of four or five of them that have been going on for several years, but they're working because we have vested interest. And then those who aren't very interested and didn't participate get a chance to weigh in later, and that has worked very well. So participation sometimes may be limited, but if you have the key players there, that's okay.

Now I want to come back to what Avri said, too. She's right. What she said is very true. Sometimes we get through a PDP and then people who didn't get what they want try to get it in other ways. Now, that's good and bad. Larry and I had a conversation out of one of the sessions we had in Durban with you guys that process, whether it be policy development or implementation, in more complex cases – it may be even in simple cases – going to be iterative. There are going to be things we didn't going to quite right that need a little more work, and that's okay as long as we don't let that really void the work that's been done,

because the people that are volunteering that commit a lot if they find out that their work is voided because somebody has another shot at the apple where it's really not justified, that becomes a problem.

Let me talk about a PDP that's going on right now. In fact, there's a working group call that I'm missing right now on it. That's the IGO-INGO PDP Working Group. It's taken a lot more time than any of us hoped, but we're now getting to a point where we're going to work towards finding out where we can compromise. We know the differences. They're very clear. We're trying to find solutions and the GAC in Durban even showed some movement with regard to acronyms, for example.

So I don't think anybody in that group, even though we have some diverse positions, is blocking anything. We're moving towards. Now, it remains to be seen over the next few weeks when we try to come up with some recommendations that at least have strong support from the group. We're not going to get a full consensus position, but we hopefully can come up with some recommendations that have strong support from the whole group.

The key in all this is behavior, and if there's anything where I would recommend that the ATRT-2 focus on is we need to focus on our behavior, and that includes – I'm from the Registry Stakeholder Group.

That includes our behavior. We need to certainly put forward our positions, but then we need to get to a point where we're willing to try and find compromises that most of us can support and that's not an easy thing to do, but that's really the crux of what's going on. It's not the process. It's not the structure. It's our behavior. Thanks.

ALAN GREENBERG: Thank you very much. David Conrad next.

DAVID CONRAD: So I think this may be just a clarification on the concept of an incorrect outcome of the PDPs. My impression has been that whether or not the outcome of a PDP is correct or incorrect actually sort of drives back to Section 3 of the AOC, which lists the agreement between commerce and ICANN that the efforts of the entire ICANN experiment should be whether or not something serves a public interest, whether it preserves us security, stability, resiliency, promotes competition and facilities international participation.

So if an outcome of a PDP does not meet those criteria, then I would suggest – I would guess that that would mean that the outcome of that PDP was wrong in the context of ICANN and its efforts at promoting the Internet and whatever other things you want to say the AOC is attempting to promote. I just wanted to clarify that. Maybe my

impression is actually wrong and that's not what Section 3 of the AOC was actually intended to do.

ALAN GREENBERG: Thank you. Mikey next.

MIKEY OCONNOR: Hey all, it's Mikey. I feel a little bit like Chuck. There's so much to cover. I'm going to just touch a couple of things. I think we've done a pretty good job on Steve's first question on the stalled one. I think especially in the VI context, there's a much nuance there that we would need to get into. Much too much to do on this call.

I'm going to pass on the wrong conclusions one and sort of zero in on the last question that Steve brought up, which was the resources for PDPs thing. Mostly there's a lot in the e-mail exchange on that. And again, a lot of nuance. So I'm just going to pick off a few things.

One is that we have a massive outreach effort going on in ICANN right now. At least in my view, vast resources being devoted to bringing new people into ICANN. At least on the other end of that it feels like there's a disconnect between the outreach efforts and all of the social media and so on and the destination, which is the policy making core. The suggestion would be to try and knit those more closely together.

Essentially have a dialogue start between the policy and the organization and the outreach end of the organization where we define for outreach a little bit better the destinations that we expect newcomers to arrive at, and also the steps along the way for those newcomers coming in because it's very hard. And also a way to harness the energies of some of the more experienced folks to help with that. So there's a bunch of nuance on that topic. I won't go any further than that.

Another one that I really want to highlight is the idea that surfaced a few times that talks about buttressing the skills and resources available to working group Chairs. Again, there's a bunch of nuance there. But I think we missed some opportunities in some of the working groups. Speaking as a co-Chair in a lot of them and Chair in a lot of them, there are times when I don't have the skills or the knowledge to do everything that needs to be done, even when I can see that it's going off the rails and there's been nowhere to turn for me as an individual to get help. So I'd like to lobby a little bit for that.

A point about the GAC. Clearly there's a huge opportunity here to do something different and better in a way that doesn't disrupt the functioning of the GAC representatives as I understand their commitments to their governments. But if we could figure out a way to

broaden the communications channel between especially the working group layer and the GAC, that would be really cool.

Then finally on the [RAP], I was on that. [Marika] noted in the chat that really wasn't a PDP. It was a pre-PDP working group to essentially frame a whole series of PDPs. And although it was really difficult, it's true that it was launched with [funny] threshold stuff – there's a GNSO debate about that to be had I think. But that working group – that pre-PDP working group – is actually quite productive and spun out of that came a number of PDPs which A) were pretty solidly endorsed when they were launched by the GNSO, and in many cases the results were unanimously approved.

Final note. The PDP itself I don't think is the place to really focus this time around. We've just redone it. It's just now the PDPs are coming to conclusion entirely under that process. It's a little early I think to tinker with it again. There's a lot of incremental improvement going on that I think is really productive.

And finally just a note to commend the staff that support the PDP process. I do it kiddingly a lot, but it's really important for you all in the ATRT to note just how good that staff is and what a huge resource it is

both to working group members and especially to the Chairs. Thanks very much.

ALAN GREENBERG: Thank you, Mikey. I'm next in the queue. I have a lot of ground to cover, but I'll try to summarize very quickly. With regard to your last comment, Mikey, on it's too early to bicker with the PDP process, my sense of it is it's not the process that we're looking at. The process is basically working fine. It's what tools and other things do we need while carrying it out that need to be adjusted in order to make it work in the more difficult cases.

I think Steve was right on in his list of three items. I don't tend to agree with the "got it wrong" expression, but I think the overall concept is deadlock or capture are really serious issues if we don't expect the Board to have to make unilateral decisions. I think capture is perhaps a very negative term. If I look at the PDP that I ran on post-expiration issues, one could say it was captured, but I prefer to look at it from the other point of view. We were looking at making changes to the RAA and it's not particularly surprising that a lot of registrars were on that group and had strong positions.

The problem was there weren't many people on the other side representing users and registrants who were giving the counter position

because it's really hard to get that kind of participation on a consistent level, especially of people who really understand the registrar business which is a relatively complex one. So how do you get the balance in these kind of groups is the real difficult question? I don't know the answer, but certainly I see it as a problem in a good number of areas.

Steve's last point on what do we need to do to improve it. It's funny. We're sitting here, many of us in Los Angeles, the Board has several retreats a year. We have several ICANN meetings a year. The Expert Working Group has had face-to-face meetings. It's quite clear in this community we value face-to-face discussions, and yet we have deemed the PDP must be carried out purely by e-mail and teleconference call unless they fortuitously happen to meet at an ICANN meeting and find some time to do something and I think that's one of the problems.

The other problem is – and whether you call it facilitation or training work group Chairs or whatever – I think the tools we have to solve some of these difficult problems need to be improved because we can't keep doing it purely on an amateur basis essentially and without any funding. I think I covered most of what I wanted to say.

One last comment on the GAC. I think when we've been talking for years and saying the GAC must participate in PDPs, we have been

talking about an implementation instead of a goal. I think the goal is we must get GAC input into the process duly considered and make sure that they are involved in the product, whether that means sitting at the meetings or not or some other tool. It's the concept. We need to get them involved. We need to have their ideas considered and they need to pass judgment on what's coming out of the group. I don't know the mechanism that may work. Thank you. Next we have Paul Diaz.

PAUL DIAZ: Hello, all. Sorry I'm not there with you. In the interest of time, I'm just going to focus on a couple of things instead of going through everything that's been said. A lot of really, really excellent input and I hope it resonates with you all. I would really underscore, implore you all. I know you have a tremendous amount of reading to do all the time anyway, but that e-mail series with the former Chairs is really excellent, excellent reading. It gives you a lot to think about and I strongly encourage you to go through the full string.

The other thing I would ask the group to think about, I know that we're focusing on the PDP with the capital letters, the formal process. However, as we heard at the beginning, policy is developed in many different ways. Increasingly, we're seeing policy or at least guidance that leads to decision-making developed in processes outside of the formal structure and I think this group does need to consider that at

least, even if it's not part of the focus of the external consultant that you guys are hiring.

Let's use an example. Out of ATRT-1, and Carlos made reference to this, on Recommendations 23-25 called for an external consultant to look at review mechanisms and then make recommendations for any potential bylaws change. As you all heard in Durban, Becky Burr made a very eloquent case how that process by most any standard did not go as anybody would've intended. The selection of vendor was questionable. The amount of time and the inputs they received were questionable. The recommendations they came up with were specifically criticized by the Registry Stakeholder Group. Our written comments as far as we can tell were never included in the Board input documents that were provided.

So in Beijing, on the consent agenda, a movement was approved to make bylaws changes that severely limit the ability to bring reconsideration requests before the Board. This had an immediate impact when not a month later the Noncommercial Stakeholder Group tried to get the board to reconsider the decision to do the Trademark Plus 50 process. We have a lot on our plates, it's understood. The PDP formal process staff support, that is working or at least needs more time to fully consider. But these broader mechanisms used to develop policy – and we've got some [inaudible]. The Expert Working Group, it's

recommendations on the next generation WHOIS services. Come on, we all know that's going to be very impactful and drive thinking within ICANN staff about what the next steps are.

This group, ATRT-2, really needs to consider that – all of these – and we do have specific examples that can fall within the remit specific to ATRT-1 recommendations. Let's just be sure that we do this and not pigeonhole ourselves to only look at the formal process, which as we've noted, is relatively new – at least under the current rules. We don't have an example and we don't want to say everything is going swimmingly, when in fact policy development it a broader thing and it's not necessarily always working as well as we would like. Thanks, folks.

ALAN GREENBERG: Thank you, Paul. Brian, next.

BRIAN CUTE: Thanks very much. We have just a few minutes left. I want to thank everyone on the call very much for the active e-mail discussion. [inaudible] inputs today. I press upon you to keep that e-mail thread going after this. With that in mind, I want to leave you with a few thoughts for me.

First of all, Emily Taylor from InterConnect Communications who was selected as the independent expert's work on the PDP is on the call and

listening and has asked me to indicate to the working group Chairs who participated. They very much want to connect with you in terms of their work and interact and get more of your thoughts. If you have any additional participants be they longstanding or new to the PDP processes that you can point them to as they do their interviews and outreach in the coming weeks and couple of months, that would be very welcome. So that's a request from Emily. I'm sure she'll be following up with you.

Secondly, I think it's really critical again for this Review Team to issue recommendations. They have to be fact-based. I'm going to refer back to Steve's questions and they are fine and fair questions. What I'd ask of the working group Chairs is to feel free to elaborate with specifics. Again, broken process, stalled process, captured process. The only way we can come to a conclusion here and make useful recommendations is if we have some facts. So if you can provide after this call specifics about specific PDPs where you've observed any of those elements and any facts that support the reasons why something may have been stalled or gone slowly, it's very critical to us. I encourage you to keep bringing that to the group.

Third, just another observation generally, if you look at the bylaws, mechanisms for triggering an issues report, fairly clear. How the Board disposes of a GNSO Council recommendation, fairly clear. But a lot of

the perception in my view around this topic does emanate from the vertical integration PDP, and clearly two of the critical questions there speak to some of the grey areas that aren't necessarily addressed in the bylaws.

Two of the critical questions – I think, Jeff, you touched on them. What is the effect of the Board intervening? Is that something that can happen or should never happen? If there's additional thoughts on that particular question, that would be helpful. And what to do if there is no outcome of a PDP, a grey area. There's certainly been some opinions offered as to whether [no] outcome is a fine result or it's a problem or a reflection of a problem. Any specific follow-up on those two questions for the Review Team would be very, very welcome. So thank you again everyone from me. And I think there's others in the queue.

ALAN GREENBERG: Okay. I think we're running really short of time. We have Olivier and Steve.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. I think Steve just wanted to respond to something that – I thoroughly enjoyed this interaction this morning. I think we've learned a lot of things here. I've also read the whole e-mail thread that was forwarded over to us. There are a few points which I picked from the discussion. We've spoken a lot about things that didn't work, some

things that did work but I haven't seen any actual solutions being suggested for some of the things which might have not worked. Looking at my notes, we've heard from Chuck that all Board members should participate in at least one working group for the Board to start understanding how working groups work and PDPs.

We've heard from several people, and this is both looking at the e-mails but also at the discussion we had now, that face-to-face can be quite helpful – face-to-face interaction. And of course there is a cost to that, so that's something which I think this group here would have to consider.

I've also read that working group Chairs need to get help when they're needed. I think that was Mikey that said that. It's a feeling that was also echoed by Alan. Facilitation and trading of working group Chairs. That could be a possible recommendation and thoughts. Certainly facilitation and training. It's pretty hard when you're Chairing your first working group and you're just thrown into it, and the PDP is sometimes very intense for newcomers. Also good staff is needed – a very important thing.

But I'd like to hear maybe as a follow-up discussion after this call continuing on e-mail from the working group Chairs what they would

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suggest to improve the process, what improvements they could think would make a real difference. I wouldn't call it a set of quick wins, but just a couple of ideas that they could throw forward in order to help this committee here in making recommendations. Thank you.

STEVE CROCKER: Since I initiated the questions, I have to express a great deal of appreciation for the very thoughtful and strenuous responses. It was perhaps implicit in my questions that there was a hypothesis that the process had been stalled or captured and I can see and hear from the discussion and the responses online quite a bit of pushback on those implied assertions. That's fine. That's good. I'm comfortable with that.

If the outcome of this discussion is basically that the process works in general, that it doesn't get captured, that it doesn't get stalled but that we have a couple of instances – one or two or some small number of instances – where other bad things have happened or inappropriate things going around the process or the Board taking an action that didn't work out properly, I don't have any problem if those are the things that get flagged and focused on, and if that's the outcome of this discussion, that's perfectly fine with me.

BRIAN CUTE: Okay, Alan, I think we're at the session's end, right?

ALAN GREENBERG: I think we are.

BRIAN CUTE: Okay. Thank you. [inaudible] the phone. Very much appreciated your time. Again, let's keep the dialogue going on a fantastic e-mail thread and ICC will probably be coming to you very shortly with some additional requests. If you have more thoughts about policy development process, by all means bring that to the floor as well. Thank you again, everyone.

Okay, with that, we are moving to updates from [inaudible] Chairs and walk through the draft templates. Could you put the agenda back up, Alice? Thanks. Okay, we have 45 minutes scheduled for this session and we are at the hour. Okay. For each of the Work Stream Chairs, that gives you each roughly 10 minutes or so. Having seen the templates that I know some of them have come in somewhat recently, so maybe you haven't had a chance to fully review.

What I'd like to hear from each Work Stream Chair is a status update of your work now. And given the guidance that I provided at the beginning of the call in terms of what we have to accomplish in these two days that is walking away on Friday with a clear view as to which issues are

going to be developed into recommendations and which are not, what needs to take place in your work stream between now and the end of the day Friday to get us to that conclusion.

So with that as guidance and any reflections on templates you received or further research and discussions since Durban, Olivier, would you take it away please and give us a status update on what needs to be done in the next few days?

ALAN GREENBERG: Just a comment first, Brian. One of the questions that came up, certainly in my little world in Work Stream 3, is if we find a recommendation that staff has – and I'll give the extreme case. Staff says it's done. We believe it's not done. Is it sufficient to simply say that in our analysis of the previous implementation or do we need to translate that into a recommendation and say go do it? I think that's a philosophy thing of how do we want to structure our work that we really need to address up front because that governs whether – how we treat some of these cases.

BRIAN CUTE: You're not going to like the answer, but that's an open question in my mind, Alan. We need to have done a full assessment of implementation of prior recommendations which I think is what you're talking about and if we reach conclusions that implementation has not taken place, we

have an opportunity to interact with ICANN staff or the Board, ask questions, get their inputs and reach a conclusion.

The nature of the conclusion may dictate whether or not we feel there's a need for a recommendation or something less, some notation in the report on that topic. I wouldn't prejudge that yet.

ALAN GREENBERG: Larry had a comment.

LARRY STRICKLING: Probably I'm just going to repeat what Brian said. It seems to me it's a case-by-case situation. Obviously we might get into an issue where staff might not agree with our assessment, but it does seem that if in fact you have that situation, I think you start with a presumption that this was important three years ago, it's continuing to be important. I think that presumption can be overcome by new facts, new information. So it doesn't obligate you to repeat that recommendation, but I think we ought to start with a presumption that the recommendation ought to be fully implemented unless there's been a change and facts that suggest it's no longer pertinent.

ALAN GREENBERG: Thank you. My take also is in line with what we discussed at our last meeting is that we are not here to make recommendations on WHOIS,

for instance, but somehow we need a mechanism to ring home that in our view something has not been done properly, whether it's called a recommendation or has some other new title we come up with. Thank you for that little discussion and back to Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Work Stream 1 is looking at the ATRT-1 recommendations and is reviewing them and looking at specifically the Affirmation of Commitments 9.1 A-E and looks at whether the ATRT-1 recommendations were fully implemented.

A core part of this work is actually already done by staff in providing us with a rundown or full summary on how far the recommendation has been implemented with some input from the different people who were in charge also in the community to push this forward.

The sheet which was shared with everyone, the big Excel worksheet, was a little bit difficult to navigate and staff has thankfully cut it into smaller bits. One of the more recent developments is that I've looked at – even narrowed it down further so as to make it a lot more readable, and therefore each one of the recommendations from AOC 9.1 A, B, C and D – and I'm not going to read through the whole list because I think we're all quite aware of those. Each one of these has now got – I can see now on the…thank you for putting it on the screen. Each one of

these is summarized with some colorings, although the colors seem to be coming in slightly differently on the screen at the moment.

That I hope will certainly help our group to be able to focus on those recommendations that appear to not have been pursued all the way to the end, and of course what's on the right-hand side at the moment are just my current suggestions. Green being no recommendation or no further work needed. Yellow or orange or amber, depending on what your screen shows you, being that there might be an interest in doing a follow-up on this. Purple being a case where we as the ATRT-2 are being sent over to a general document, an update document, but with no real focus on what part of the document to look at. So that was a little bit disappointing. We might wish to ask for more information in those boxes. Then red in some cases, and I think if we scroll down, some cases of a red where there's really some importance in absolutely coming up with a follow-up recommendation on this.

These are my suggestions and I invite all the different sub-team members, because we have to remember this Work Stream 1 team is actually cut into smaller sub-teams. I invite sub-team members to look at those and to bring their input forward so that as soon as we get moving later on today I hope, we can immediately focus on what recommendations to come up with and follow on with.

Of course there's other information that is all available for work stream members, including relevant additional issues that were to be treated b this team. There's also a quantity of sources and I hope that everyone by now has read through all of those different sources. If not, as Brian said earlier, we might have a little bit of time to read through a few more documents. And if you haven't read a document, of course since we are face-to-face, maybe that's also the time to ask someone else who is in your sub-stream to give you a quick summary of what's inside there as well.

There are relevant transcripts from the 14th and 15th of March and 2nd and 3rd of May meetings that were face-to-face here that can also be consulted if we're not particularly clear about some specific recommendations. I firmly believe, though, that with the number of – the amount of work there going through the full transcript from A to Z is probably not productive at this stage, but we can certainly, if we are unsure about a specific recommendation and specific follow-up we can refer to the transcript and see what the discussion was about and refresh our minds about the discussion then.

And then some sub-streams also have further information that is available. For example, additional inputs checklist for Recommendation

20 of ATRT-1 is also included on the Wiki. And specifically with regards to the public participation part – so that's AOC 9.1 C – there is a link to the public participation committee session in Prague answering many of the questions and receiving suggestions from participants. I think that some of these suggestions that were made at that meeting might be suggestions that this committee here would wish to actually carry forward, specifically with regards to having different calendars for different types of input into the public comment process. Of course we'll be focusing on this later on this week and later on today.

I would like to open the floor to any of the sub-stream members if they wish to add to my report, and I gather that Larry probably does wish to do so. So, Larry Strickling.

LARRY STRICKLING: Thank you, Olivier. First off, I want to thank Olivier for the leadership he's shown on this work stream. In particular, this document that we're looking at on the screen. Very, very helpful stuff. I think my concern now is that it's August and we're at a point where, as a group, we have to figure out how to take all this information and present it back to the community in a considered fashion that reflects our collective judgment.

In that regard, I think the response from ICANN staff on implementation is a very important input to that, but I don't think it can substitute for it being just an input along with all the other comments and information we've received. So I do think that the challenge for us here the next three days is to work our way through these recommendations and as a group reach a collective consensus judgment that the recommendation has been implemented, hasn't. And then if it hasn't, what the gap is and what we do about it.

We've tried to provide a format for that in the write-up that we did at NTIA on Recommendations 9-14 related to the GAC. And since then, we've gotten supplemental materials or independently prepared materials from Jorgen and [Chang] delivered something this morning that I have not yet had a chance to look at, but I think we need to bring all that together where we can talk about each recommendation, talk about our view as to whether it's been implemented based on the inputs we've received from the community, from ICANN staff and others. And then how do we assess their overall performance in each of these categories?

So this document in terms of what the staff says might be a very appropriate appendix for the report, but I don't think it can substitute as our judgment for whether or not there's been full implementation or not. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Larry. Just to clarify that the document here I see more as a working document for us to be able to work on, and it has the advantage of course that it looks at each one of those recommendations. So what we could do, and this is a suggestion for the group, is when we do start plowing for each one of the recommendations, we can take the document as its first column looking at the recommendation itself, seeing what staff has done and then add our own inputs which I think that we've got quite an extensive knowledge of. Certainly in some cases I've seen a lot of work being done already. Steve Crocker?

STEVE CROCKER: As a way of focusing attention on the people that we're going to be addressing reading this, let me suggest that things will fall into three general buckets – things that staff said were done and that this group agrees with. Things that staff says, "We didn't quite do it," in which this group agrees that that's still work to be done. And then the part that's most interesting is where there's a difference of opinion almost certainly in only one direction where staff says we did it and this group says, "Well, not quite." That's where, just in terms of narrowing focus and making best use of the available attention cycles, we'll want to highlight.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Steve. Any other comments from other sub-stream members? Carlos?

CARLOS RAUL GUTIERREZ: Thank you very much. I fully agree with Larry's proposition to keep this list as [inaudible] because there are some cases where we cannot just say yes or no. I mean, there is a lot of progress in some issues and this progress shows relation to other issues and I hope that the second set of recommendations of the work of these ATRT team makes some connections. When I go to my template, I will try to show that there is a lot of – I see a lot of progress in the reconsideration process and the recommendations are about linkages with the GAC or with other issues. And I think this is the challenge. I haven't read all the templates, but I'm pretty positive that we can produce something different that just along checklist. I would love to have the opportunity when we discuss this further column that you're proposing that I think it makes a lot of sense that we get the possibility to say, okay, I want to link this with this other one or with this template, etc. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Carlos. I think you've got exactly the right idea for this, and certainly there are likely to be two types of recommendations. The ones that will follow directly from what we have in that table that might be just a follow up, basically say, well, continue the work. Only 40% of it has been implemented. This additional work needs to be done specifically related to the ATRT-1 recommendation.

Then of course there are brand new recommendations that this group is going to wish to do to draft, and it might be that – and this is just an open question or open suggestion. It might be that this Work Stream 1 makes an initial draft of that recommendation and then passes it on over to Work Stream 4 which is tasked with coming up with all of the brand new recommendations. This is just a suggestion on this. Any other comments or questions specific to Work Stream 1? Okay, thank you. And I think that, Brian, I can pass the floor back over to you. Thank you.

BRIAN CUTE: Thank you very much, Olivier, for that and we'll move to Work Stream 2. David?

DAVID CONRAD: Hi, David Conrad Chairing up the Work Stream 2 effort. This effort is a little different in that, at least my understanding is that we're not targeted with coming up really recommendations but primarily focused on reviewing the implementation of the SSR Team. The ATRT SSR recommendations that were made had a number of useful discussions in Durban, particularly with staff on a set of follow-up questions to the initial questions that were provided.

Currently still working with staff on finalizing sort of those responses, but I don't foresee any particular problems in meeting the necessary deadlines on providing the documentation on the reviews of the SSR efforts by any reasonable timeframe that we have for the general ATRT-2 stuff.

I have in process a meeting with the Security Team to finalize their responses to the follow-up questions, many of which were discussed in Durban. Hopefully I think the plan is to have that done next week. But other than that, things seem to be progressing reasonably well. If there are any questions anyone has on specific aspects of the SSR review, please let me know. I'll be happy to answer them. And I yield the remainder of my time.

BRIAN CUTE: Thank you for that. Just a note to something else we'll have to discuss this week. Olivier did develop a very useful tool for us to use in terms of measuring implementation on some level. Something we need to think about and we'll get to [inaudible] on Saturday what [inaudible] is. In terms of our overall report, which will integrate four work streams having some uniformity of approach and maybe talking about whether Olivier's tool or some other tool is the best tool for us to reflect across the floor our assessment of implementation of recommendations. So just something to note for all of us. We'll get to that in another session. But thank you, David. Is Michael here? So Work Stream Chair has not

arrived. Alan, are you in a position to speak to the status or would you defer? Okay, if you would.

ALAN GREENBERG: Thank you. You've already seen some of my excuses on the more general ATRT-2 stuff. I've been enormously overloaded for a number of reasons and haven't had the time to focus quite as much as I would have in retrospect. If this meeting had been in September, it would've fit in a lot better with my life, and perhaps given us sufficient time for an October publication, but nevertheless it's here.

On the recommendations of the WHOIS Review Team I've done quite a detailed analysis of what is being done, what is not being done. So far, on about half of the items, it's in a document I sent out to the WHOIS Review Team yesterday and it may be up on one of our slides sometime soon.

The other half is probably the easier half and it should get done within the next day or so. Michael said he may also be working on it on a plane sometime in the next hours. It's going to be problematic. There are certainly issues where the staff answer is, "We have done all of the planning and we are just starting to actually roll it out." I'm starting to wonder what do we set as our cutoff time for our evaluation? Because it's going to be a moving target all the way up to the 31st of December

and no matter when we cut it off, by the time the report is published, it's going to be out of date. I think we need to decide on the logistics of just how to handle that.

For good reasons or bad, it's taken a good year to get some of these off the ground and just as we're formulating our recommendations for publication in October and then finalizing them in December, we're just actually getting into the implementation in some cases. I'm not quite sure how to handle that and I think we need some decision among the group for something that we're almost at the cusp, the fastest rate of change on a lot of these things. So how to handle that, I don't know.

Overall, I have to say there's a fair amount of disappointment in the implementations. There are things that – it's hard to pass judgment when the answer is we've done all the planning. We have a lot of documents but we haven't shown them to anyone yet. How do you judge that? I don't know. Certainly overall it's not a very positive case, although there's an immense amount of work that has been going on. It's very hard to put it in full context of how does it relate to the recommendations. And as I've said in a separate document, there's a very high level of dissatisfaction on exactly how the process was implemented by the Board and I think we're going to have to talk about that in some depth.

BRIAN CUTE: Thank you, Alan. Just to know I think we have to have this conversation in depth. We've talked about implementation in Durban, registering it as complete, not complete and it was suggested an ongoing category. I'm not sure I agree that those are all the right measures, but at least two things we need to be clear on as a team. We have to make a qualitative assessment about implementation and part of that is did you do X, when did you do X, was it done in a timely fashion? Then how did you go about doing that on the qualitative side?

There's a two-dimensional kind of "I did X on this date and issues on that date" but then there's a qualitative which goes more toward – and this is a broader question – what has been the effect of implementation? That's another aspect of it that we need to get to, because that's what it's all about. Has the implementation of these recommendations had a positive effect on accountability and transparency? So it's an important discussion. We have to have it. We'll have it over the course of these three days and come to a common understanding and approach.

With that, Working Group 4. Fiona Asonga.

FIONA ASONGA: Working Group 4. Fiona speaking for the record. We have managed at least to have one conference call in between Durban and this meeting, and during that meeting a number of issues that came up that we agreed we'd discuss as a full group so that we can be able to determine whether or not there are additional issues for recommendations. However, out of the discussion we've had, there's been additional issues and templates that have been prepared on the issue of finances and legitimacy and there is still the issue of volunteer participation that is coming up again. It has come up in the previous discussion with the PDP Chairs. Alan raised it in an e-mail and I had mentioned it had come up in several other discussions with the various ICANN groups in Durban.

Again, it's something we're putting on the table for us to consider as an issue to look into. And as far as the issues being raised are concerned and what ICANN can do to best address volunteer participation moving forward in its activities.

There was a list of questions that we were developing for the other Work Stream Chairs, and it's nice that, Brian, you've touched on that because looking at the issues of implementation of other review processes, there's the question that comes up again this morning. Alan has touched on it on recommendations being well-implemented, being not implemented, and for us, our interest in Work Stream 4 would be

being a sort of sample on the different recommendations which one is very badly implemented. If staff insists that we have implemented it but from where we sit we don't feel that is satisfactory within Work Stream 4 looking out to see which recommendations are not well-implemented and then create recommendations around what can be improved.

The other issue was which ones have been well-implemented, at least being able to recognize that, yes, ICANN staff and Board have done well in 1, 2, 3 areas. The other issue was looking into the question of review fatigue and whether it is necessary for all these reviews to be ongoing.

As Olivier developed the tool with the staff breaking down all the issues, I think that just made it much easier to be able to look into and to analyze and see which aspects of the review processes we need to pay attention to. Again, the question still remains, are all those reviews necessary? Is there something that can be done to improve on the review processes so that there is no review fatigue within the organization? So that then the reviews that are done in the future moving forward could be fewer but very relevant and very [inaudible] approach to strategic development of the institution.

And I think with that, that is what we shall be [inaudible] on from this first meeting moving forward, as well as the work on the templates

which are mostly – not complete, but a work in process. So we will be looking at that. I hope that the time we have in between when the other work streams are meeting, when members of a work stream are not involved in that, they would look at their templates and improve on them. Thank you.

BRIAN CUTE: Any discussion? I think one of the important inputs to your work stream is going to be the views of this entire team on the review process itself. We've not had that discussion yet, and just the nuts and bolts of how does this process work from initiation to interaction with staff, to outreach, to the community, to collecting data, to timing to schedule, to resources, the whole gamut.

So we've got 15 minutes now before the first break. What I'd like to do for Work Stream 4 is go around the table and I'd like to ask you to provide specific observations about this review process itself. From your view, how well does it work? Are there weaknesses? If there are weaknesses, identify them. And if we could take that in turn, why don't I start with my Vice Chair? Lise. Yeah – Olivier?

OLIVIER CRÉPIN-LEBLOND: I'm sorry, Brian, for jumping in. Just before we go through this, I thought I would mention just as a follow-up to all of the work stream's work we have received a lot of templates already that have been submitted. The only thing I have trouble with at the moment is to be able to fill in the puzzle of what templates fit where, and therefore I think maybe if we could ask staff to perhaps fit the puzzle as to what templates fit where,

and at that point maybe by the time we move into our session after our break, we will find out what templates we have not yet developed that we might need to fit in some of the gaps. Thank you.

BRIAN CUTE: Good point. Thank you. I think we had done a mapping - right, Larisa – of which template is homed to which work stream.

LARISA GURNICK: Yes, we have. And the templates that have been received are mostly having to do with new issues. There are a couple of exceptions, I believe, but mostly it's new issues. So I don't think we've seen all the templates yet for the assessment of the prior Review Team recommendations.

BRIAN CUTE: Okay. The first breakout session is Work Stream 1, so before we break, could you identify the templates that are homed to Work Stream 1 so we can take that off into the next session?

LARISA GURNICK: Yes.

BRIAN CUTE: Thank you. Okay, with that – yes, Fiona?

FIONA ASONGA: Just in addition to the issue of templates, I have observed that some of the recommendations may actually cover more areas than just one particular work stream, and therefore you're talk about the report being broken down into work stream. I don't know how that would work, but we need to think about it because we may find that we need to capture all the – we may find ourselves breaking down our recommendation into parts for this work stream and this work stream when we

[inaudible] add more value lumping it together so that it is clear to ICANN what exactly we mean.

BRIAN CUTE: That's a fair point, too. If you have specific examples of that, can you bring that to Larisa's attention as she's sorting and we can make sure that that's clear. With that, let's use the balance of our time. I would like to just go around the table. Any specific views on the review process itself for Work Stream 4 to factor into its thinking now?

The question is, how well does this review process work from a 30,000-foot level as low as you want to go? Work Stream 4 is going to assess the review process itself. And are there improvements that can be made to the review process? So as a participant in this review process, how well does it work? How well is it structured? Are there weaknesses in its structure or process? Can you comment on that? Jorgen?

JORGEN ANDERSEN: Should I be the first in line? Thank you, Brian. I think this is a very good question, and I think it's also very important that this team give some advice for the next reviews. I think we have met an enormous challenge which is reflected in the fact that we have very limited time available for doing our job, meaning that the possibility for having meetings have been very limited.

My personal observation has been that the face-to-face meetings have been very productive and that the conference calls have been very difficult to get the benefit out of, which we all wanted. This is strange because I think the way the meetings have been Chaired, the conference calls have been Chaired, has been excellent. But I think it's

the whole institution having a conference call. This is not a very productive way of working in my view.

But on the other hand, the challenge is that our possibility of having additional face-to-face meetings have been limited. So we have limited time available in total. Which tools do we have for doing our jobs? So I think it's an observation which I want to make.

The next observation I want to mention, you already touched upon it yourself, Brian, in your previous remarks about the review of the implementation of ATRT-1's recommendations where you mentioned – we got a lot of information about things which have been done, but not a lot of information about the effects of what has been done. I completely agree with you in this. I think this is a lesson learned from this process.

In addition to this, I think that we also learned that it is very important that you identify the baseline on each topic where you issue a recommendation. You must know where you stand when you start implementing the recommendation. And as you said, then you must assess the effect when it comes to an end of your efforts. So I think this should be emphasized in our report.

Then – and it relates maybe to the first issue I mentioned, the face-to-face meetings, in addition to the conference calls – I wonder whether we have a dilemma with respect to secretariat. We have got marvelous secretariat support from ICANN staff on all the logistics. It has worked very, very well. But I think that when you carry out an independent

review, you cannot rely on ICANN as being reviewed to support secretariat help to us with respect to [substance].

My conclusion on this is that I think that for the next review, I would propose that monetary means are found to establish sort of an independent secretariat to do real professional secretariat assistance also with respect to [substance] to assist us in our work. That would also help us in the conference call, for example, that we have well-prepared documents to a wider extent that has been the case.

I think taking into account the limited resources available among the team members, I think that we could enjoy that we have an independent secretariat to support the work in the next Review Team.

Then my final observation at this stage is about the budget. I was struck by surprise that there have been no discussion about whether we should be able to employ independent experts and there have been no discussions about how much money would be allocated for independent experts. And I think that it influenced our discussion on that particular issue in a very negative manner when we had our discussions way back in June.

I think we had a number of issues which we wanted to be dealt with by independent experts, but at the end of the day, we only ended up with one independent expert investigation – which was good, but I think we might benefit from having additional independent experts investigations carried out. Thank you.

BRIAN CUTE: Thank you, Jorgen. Larry? Sorry, Alan was in the queue first.

LARRY STRICKLING: I'm happy to defer, but I did want to just punctuate some of Jorgen's points. It does seem that in both of the teams, at least the ATRT teams, had a slow start up. I think that's certainly excused in the case of 2010. But I do think it's incumbent on us to recommend some measures that hopefully will allow the group that today is scheduled to start in 2016 to really get up and running faster. And I do think several of the points Jorgen made are important to emphasize in that regard.

I think knowing on day one what the budget is going to be for the group is important. I think it was incredibly useful to have the staff assessment that was prepared for us, but again I think to get at the level of detail that we now have from the staff that it took us a while to get that, but I think now having gone through it with our experience, we ought to be in a position to evaluate and recommend whether that ought to be something – a deliverable that's available January 1, 2016 so the next team starting out starts with that instead of having to go through the iterations to get it.

Again, no criticism of what staff did this year, but I think now having gone through it and gone through the iteration, we now know how helpful that can be and the idea of having it ready to go on January 1 I think is important. I think having the team ready to go January 1, again, is an important recommendation. Again, there were very valid reasons why that didn't happen this year. It was still better this year than it was in 2010, but again, I think this is an area of additional improvement because everyone is feeling the squeeze here in the middle of August in

terms of how we get done by the end of December. But certainly, if there's an opportunity to use January, February and March productively, that takes a lot of the pressure off of the end of the year deadline. The fact is neither team of the ATRT's had a full year to actually do its work just because of the way the process unfolded, and I think we can certainly take that experience and put it forward as a set of recommendations so that the next group three years from now, or two and a half years from now, can start right in with a lot of information already collected, with the money straightened out, and be able to move with much more dispatch.

BRIAN CUTE: Thank you, Larry. Alan?

ALAN GREENBERG: I'm going to end up echoing a lot of what the previous two people said, perhaps with slightly different twist. It's interesting how budget comes into this discussion. It comes into the discussion on face-to-face meetings, and I know we had the aborted Australia trip. But ignoring the details of that, we have never known how much money we have available for travel, so we couldn't make rational decisions on how many face-to-face meetings we need and then worry about where they're being held. A secretariat is another financial issue. Independent experts is another. So an awful lot focuses around budget, and if we really had numbers, that would be useful.

On top of that, in the interest of transparency, shouldn't the community now what we're costing them? And I don't care if it's divided among constituency travel's budget and policy staff's budget and strategic planning budget. Shouldn't they now what it's costing us? Maybe they'll

say, "Hey, this is ridiculous. Why should we spent $4 million on that review?" or "My God, that's cheap." But we're running completely blind right now. And since we're talking about transparency and accountability, how can we do that? That's part of it.

The amount of time we have to work, I think it's admirable that we say the next group should be selected and ready to go January 1, but in reality I think what we need to say is the next group should have a certain amount of time to work. And if there are unforeseen circumstances as there may well be in three years, the team should not have to be made to suffer because two people couldn't get their act together or the organization couldn't get its act together in time. I think at the very least we need to say the group should have at least a year to work or whatever the right timeframe is.

Lastly, it dawns on me that this group, ATRT-2, is radically different than the others. The others focused on a number of subjects and said, "What do you recommend?" We're asked to do the same thing ATRT-1 did and we're asked to review the other review teams, which is a substantive amount of work and I wonder in the future should we be doing that in the same group and within the same timeframe. I think all of those require substantive discussion and probably some recommendations coming out of it.

BRIAN CUTE: Thank you, Alan. Steve? Sorry, who did I miss? I'm not looking at the screen, I'm sorry. What's the order? Avri, Lise, Steve, Carlos, and David. Okay, Avri?

AVRI DORIA: Thank you. I agree with most all of what has been said lately. One of the things that's really a slightly different topic – one of the things that's really had me somewhat concerned about ATRT-2 is that we seem to be living under a shadow of ATRT-1. We're spending most of our time, or a bulk of our time, reviewing that. Now, I think the recommendations of having a staff report ready on what happens at the beginning is good.

Going further on that, I think in terms of doing an initial analysis of what was done, what wasn't, etc., can actually even be done by outside experts looking in and sort of taking that and having that cone so that most of the time of ATRT-3 gets actually spent on dealing with other issues and perhaps picking up the remainder issues that haven't been dealt with, but not spending so much of their time focused, focused on the first one.

I think the other thing – and it's one that we can actually do still while we've got half a year to complete our work – is in giving criteria for judgment, for metric, for measurement. When we make a recommendation in our report to also say, "And these are some of the indicators that people should look for when going back for this," so that the next group doesn't have to spend all of its time rethinking everything that we and, consequently, ATRT-1 – that needs to be done, but it needs to be done with greater dispatch so you can concentrate on the accountability and transparency issues of the day, not those of three years ago.

BRIAN CUTE: Thank you, Avri. Lise?

LISE FUHR: Well, I agree with all of what has been said until now. But I think it's also important for – what I found was most helpful in our process and that was the interaction with the different groups within ICANN. Because I thought the Durban meeting was very good according to we spoke to a lot of people, we got a lot of input. And some of it would support what we have read ourselves and others would bring up new subjects.

And I think in our work, we've been to – what do you call it? We're not visible enough for the rest of ICANN community. By doing this, we can engage more and get more active evaluations, because I think a lot of our evaluations have been very passive. We've been reading a lot, looking at a lot of procedures and history and I would really like to look forward, too. To look in what can you do to enhance the multi-stakeholder model?

BRIAN CUTE: Thank you, Lise. Steve and Carlos.

STEVE CROCKER: Thanks. I'm in strong agreement with everything here. I want to add a couple of details. I think the staff support's been stellar. That said, I'm empathetic with two aspects of wanting to have other forms of support. One is the appearances issue. I don't believe we have any real substantive bias built in, but I do understand the optics of the situation. And even that, making visible the budget and having those kinds of decisions visible I think would be a big help and there is some tendency to bury that inside of staff decisions. Getting a secretariat in place earlier would be helpful.

I just went back to check one detail on the sequence. There's a lot of stuff that happened at the beginning that caused kind of a slow start. The composition of this group is dependent upon recommendations made by various constituencies, and then the GAC Chair, Heather and myself as Board Chair are tasked with making the specific selections.

As it turned out, Heather and I had a session in this building on January 30th and that was tied to two events. One was the acquisition of all of the recommendations from these different groups and the other was that the Board had a retreat here, so that brought us together and we took some time to go and do that.

UNIDENTIFIED MALE: [inaudible]

STEVE CROCKER: I don't remember the details of that, but that could well be true. The general picture that I want to paint here is that just from a tactics point of view of saying, "This is taking too long," we need to go look at each of the pieces because there is a very natural tendency, which we all know about, is that the beginning of a project looks like you've got a lot of time, so nothing's very urgent. Then towards the end of course everything is in a big hurry.

So it's important to have that sense right from the beginning that a fast start is important. We just had excellent interactions in Durban. Imagine if instead of having those at the second meeting of the calendar year, we had those at the first meeting of the calendar year. We'd be in far better shape.

We'd spend some time getting ourselves organized, choosing what to do, choosing Chairs and Vice Chairs. We could certainly speed all that up. One of the recommendations is Brian is elected as Chair of the next one and we just move smoothly onto that and we get a much faster start. [laughter]

Obviously I'm being facetious, but underneath that is if we want to think about how to make more efficient use of time, we should think about whether we can compress our startup time, our organizational process. If we grab a month or two, that would give us a step up on getting the interactions at the previous ICANN meeting. Then we'll be far ahead of the game.

Also, I don't know where the deadline of the calendar year came from. It never felt to me that that had to be absolutely enforced. It's great to have a deadline. It's great to get it done. It shouldn't go on and on forever.

[ALAN GREENBERG:]:   I'm sorry to interrupt, Steve, but it comes right out of the Affirmation of Commitments that required the first team to conclude its work no later than December 31, 2010. That's where it had come from.

STEVE CROCKER: Fair enough. So that's just on kind of the practical things that came to mind in terms of taking this discussion and thinking about how do we move toward a noticeable change? I think it's a handful of small things that add up over time. I agree, the budget ought to be visible. It's a problem that sort of infects a lot of things around ICANN. When I was Chair of SSAC, I used to rail about the fact that I couldn't even

cooperatively manage a budget because I couldn't get the information. So I'm very empathetic about that.

With respect to how effective we are, what we're doing and so forth, personal observation is that as I watch the implementation of ATRT-1 recommendations, my perception was that there was a very natural tendency to try to declare success. And I always worried that that may have seemed appropriate from the inside, but the criteria that I would prefer that ICANN take is that we asked not whether or not we think we're done, but whether or not we believe that others think that we're done and that we use that as our gold standard as opposed to we understood it, we did what we said and so forth.

There's a serious discrepancy there and a very noticeable discrepancy, because things look different from the inside than they do from the outside. I think that a key part of what we need to do is understand the other person's point of view for broad values of other [persons]. End of speech.

BRIAN CUTE: Than you, Steve. I've got Carlos, David, and Alan. Carlos?

CARLOS RAUL GUTIERREZ: Yes. Thank you. Just a few comments. On the budget, I think it's also important where is it allocated. [inaudible] review teams, it should be allocated at a very high place in terms of the budget, not general expenses. I think it should be clear that it is related to a review of the whole organization, either at the CEO level or at the Board level. I think not only the amount, but where is it dependent from.

About the idea of doing the review regularly instead of every three or four years, I have no other comment here than to say that they have to be strictly coordinated in the future. The ATRT and Security and the WHOIS, and particularly before we get to ATRT-3, I would expect the fourth review to come up and that might change everything for me personally, and particularly related to some discussions with Jorgen, the moment we can prove that this system is under competition and protects the user we will be at a totally different playing level. And that's what we should look for. I strongly believe we're going in that direction and that will change the whole game. At that point, we will have a totally different baseline, and from then, if it's every three years or if it's done every year, I think the four reviews of the Affirmation of Commitments have to be very well coordinated or linked.

The last point, which I happen to hear again and again is what kind of support does the system need? I hear it at the GAC for almost two years about the need of a professional secretariat. I heard it this morning again. Provisional secretariat for the GNSO. And I hear it 60 minutes later for the Review Teams. There is a big question there. And the only thing I missed here, because I think there are people here who are busier than I am and we have wonderful leaders here with Brian and Alan and Olivier, when we think about – and staff has been available 20 hours a day basically. Thank you very much.

What I missed here is some kind of provisional facilitation of the discussions to bridge this big difference between the people who are very technically oriented and really manage the Internet and for us

outsiders, humble observers that come from the policy side. If somebody would ask me what kind of professionals I would like to have in this permanent secretariat, they have to be sophisticated facilitators. Not so much about the knowledge, not so much about the availability and so on, but really to be able to make some bridges and some connections that are not obvious to the silos. Thank you very much.

BRIAN CUTE: Thank you, Carlos. David?

DAVID CONRAD: I don't want to intrude too much on our already shrinking break time. I just wanted to actually – Steve took the major point that I was going to raise was I think the focus that we had and continue to have is largely driven by input that we receive from staff. I'm not saying that's necessarily bad. I think that it needs to be balanced by input from the external communities. And that input is A) hard to get and B) hard to remain sort of focused.

One of the challenges that I had in reviewing a lot of the comments that were [inaudible] externally was that it didn't fit very well into the categorization that we had made in the context of the recommendations. It was difficult for me to find specific references that said this recommendation was done well from an external perspective. I got much more "ICANN is doing well on this sort of generic ambiguous set of things" and then it was left up to me as somebody reviewing this to try to associate those attributes into whether or not the recommendation was, from an external perspective, complete or incomplete. I think a tighter focus somehow would be extremely helpful.

EN

The other point that I wanted to raise is one of the things that I see common in many areas within ICANN is a reliance on volunteers for doing functions that in any sort of rational world would actually be performed by professionals who are dedicated to performing that job. I was blissfully ignorant of the amount of work that was going to result in my participation in ATRT and I would not – if SSAC is to provide a person in subsequent review teams, I would probably have to, just to be honest, explain that that person should assume that they do not have a life any longer in terms of the amount of reading that they'll have to do and the amount of participation they'll have to engage in. That's probably not the right model for something as critical to the core of the organization as a review of the organization relative to its performance to its core agreement. Something probably needs to be a little more formalized than that. Whether or not it's a full-time secretariat or something like that, I haven't thought that far enough ahead. But those are my two points.

BRIAN CUTE: Thank you. Glad we caught you at an ignorant moment.

DAVID CONRAD: Which is constant for me.

BRIAN CUTE: Alan?

ALAN GREENBERG: Thank you. David took part of what I was going to say. It comes back to what I said before of the fact that this Review Team has to review the other Review Teams. Not only ATRT-1, but the other two, which is really a completely separate function. If it should be ATRT-3 that does the next one, it should have two different halves and bifurcated and assigned

differently to different people. It's just an outrageous workload that we've been given. I don't think it's possible to do it all well.

One of the problems of surprising someone with how much work there is is there's an actual tendency of some people, like David, to give up his life. There's an opposite tendency of saying, "I'm just not going to contribute what is really warranted, because there's no way I can give up my life." That again reduces the amount of people actually available.

Hindsight is really, really good. If we were to run this over again and we had some time ahead of time, I would've suggested things like the first day we meet we be presented by staff with the full assessment of all the other reviews. We wouldn't have had an opportunity to set what the questions were, but we know what the general questions are and we should've come into it with those quick assessments and not a spreadsheet with 49 columns, but something that is processable by human beings.

And then we could've turned that around and sent it out to the ACs and SOs of the groups and said, "Do you agree with these assessments?" Because as I'm starting to answer the question of, "What kind of input did you get on this recommendation and how well its been done?" and the answer is none. That comes up time and time again because we didn't explicitly ask those questions. The staff – rather the ACs and SOs we talked to didn't have a clue what the nominal implementation level is, except on the simple ones like you're now paying the Board. There's a couple of simple ones. Everyone knows how it turned out. But the rest

of them were running blind and we're paying a price for all of that. Thank you.

BRIAN CUTE: Okay. I think I have Olivier and Heather. Did I miss anybody? Olivier, Heather, I've got a couple comments, then we'll take our break. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. I just wanted to respond to a note that Steve mentioned a bit earlier about engaging the community and perhaps we should've engaged the community with questions during the first meeting of the year rather than the second meeting of the year. Well, we did engage the community during the first meeting of the year. We might've not had questions for the community that were ready at the time, but the message that we had sent at the time was that we were ready to receive notes and we were ready to receive input.

Now, there is a certain amount of time that the community takes to put that input together and to come back to us and we've seen that all the way until earlier this week or even last week; we have received input. So I think that it is going to be very difficult in the future for ATRT-3 to do something like this and to get input from the community at an earlier stage if it doesn't actually meet face-to-face with the community twice.

I do realize during both of our interactions with the community in the large room, there were more empty seats than filled up seats. But at the same time, the very fact that we were in those locations I realized there was a lot of corridor discussion as well to push people in or our own respective communities to receive input. And sometimes it takes two visits rather than just one. That's all. Thank you.

BRIAN CUTE: Thank you, Olivier. Heather?

HEATHER DRYDEN: Thank you. So I think this has been a really good exchange looking at some of the issues for consideration in the future around how the ATRT-2 works and I think the good news here is that there's a fair bit of conversions over what are the key elements to look at in fact. Some things are clear to me that are improvements that can readily be made or adjustments that can be readily made and I agree with others that have pointed out the challenges associated with not having a clear budget. So I would start there with my comments.

In terms of ensuring that there is support available to the Review Team, of course this is very important for any group to be effective and staff have done a great job of providing us with core secretariat support in our work. So I, like others, want to acknowledge that. I think what's most critical is that the support that the ATRT gets is transparent and accountable fully to the Review Team. In fact, it is the members of the Review Team that need to be driving that work. And provided that's happening, I think that's the most important thing because that allows us to conduct our work, make progress and be effective. A number of us are here representing a particular perspective. Some of us came to the Review Team as an independent expert or such. But as well, we're able to go back to communities or organizations or colleagues that have been generating thoughts and inputs into this Review Team and that also I would think assists the members of the Review Team. That's certainly the case in my case with the Governmental Advisory Committee and the discussions that have happened there. I have them

front of mind when I come to meetings of the Review Team and I'm able to contribute on that basis.

In terms of it taking some time for those times of processes related to the Review Team to unfold, I think that does present some of challenge to us. I would agree with Alan and perhaps others have mentioned this as well, that because this time around we're looking at reviewing other review teams, that's an additional dimension and it's a significant one, so we do need to take that into account. And unavoidably, we're going to be affected by what's happening in the bigger picture and the New gTLD Program and all of the remaining issues that have been the main focus of the work in the ICANN community so far in this calendar year, as well as last year for that matter. It's unavoidable that this is going to impact questions like volunteers coming forward. As well, again, the consultations that have been very beneficial to us with the community in order to get considered thoughts coming from governments that maybe focus on a particular issue related to the New gTLD Program. You could see that there could be competing priorities there.

I would point out that fundamentally this is still a volunteer review team. As Steve mentioned, when making the selections for the composition of the Review Team, of course we look very closely as well at the invitations that go out to ask people to signal that they would have an interest and it's made very clear at that point what the responsibilities would be, that it is a volunteer position and anyone coming forward, apart from being thanked because it's an enormous undertaking and it's important work that they also of course should

understand at that time that they are going to need to put a significant amount of resources to participating in the Review Team. I think that's clear throughout. So it should be an expectation. It should be part of this and we should not forget that as Review Team members, we do have to make our own preparations and it's expected that we go back to our own communities and talk to them and are going to consult, and these are going to form really the main [inaudible] of what we contribute to the work here in the Review Team.

So just really to add, really building on what others have said, I just wanted to provide a little further from my part of the room. Okay, thank you.

BRIAN CUTE: Thank you, Heather. We'll take our coffee break, but a couple of points – and Fiona I think you've got a good amount of input now, additional thinking for the Work Stream 4. But very quickly, to my mind and having participated twice now in ATRT, the tension between being independent and objective and working with staff is clear and understood. First of all, staff does an outstanding job supporting us. There's no question about that. Both times, in my view.

But it goes to that tension of we need to be driving the work as the Review Team and staff needs to be responsive. But the comments that have been made about on day one, ICANN staff presenting to a Review Team full documentation on how implementation has gone, and not just from a check the box, but from a metrics-based, benchmark-based, what effect has this had on the organization, it's an absolute improvement that's needed.

We need to start the process having full inputs from the staff. I think it can be done without compromising the Review Team's independence and objectivity to take that input and then move forward and drive the work. So the comments about [more full] input starting on day one, I fully support.

With that, I think we should take our coffee break. Let's take a 15-minute coffee break. We're going to reconvene with Work Stream 1. For those who are not assigned to Work Stream 1, I would ask you to please sit on this session because it will be a precursor for the work of the other outbreaks of work streams. So everyone please come back for the next session in 15. Thank you.

We're going to start in a minute. Okay, folks, let's get started. This is ATRT-2 Work Stream 1 session. We have the next hour and a half to start focusing in on potential recommendations coming out of Work Stream 1. I'm going to hand the microphone over to Olivier to lead this session. What we want in brief is to – Work Stream 1 has two tasks, effectively. Looking back at implementation of ATRT-1 recommendations, making an assessment on how well those were implemented or not. And secondly, some new issues where there may be new recommendations. So two tasks.

Olivier is going to guide us through the work that's been done to date and look for inputs and focus on next steps. So, Olivier, with that.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. We're going to look at AOC 9.1 subsections A-E. And as discussed in a prior session, I think that a good basis for us

to start working towards each of the recommendations that were done in ATRT-1 is to look at the staff input document as sliced up and collared up more recently. If I could as staff to please put this on the screen. I gather that you've all – do we all have a copy of this? I know that all Work Stream 1 participants have a copy. The first file is the one entitled WS1 9.1 A Summary of Responses – OCL.

I realize we're not going to have time in this hour and a half to go through the whole document, but we also have a session tomorrow that we'll be able to continue in. What I suggest we do is to go through each one of those recommendations. So we have our ATRT-1 Recommendation 1 A-D, Mechanisms for Identifying Collective Board Skillset, Benchmarking Board BGC Skillets, Tailoring and Consulting on Skills, Reviewing on Each NomCom Publishing Outcomes, and Requirements with NomCom's Notice. Are we on this? You might have to shrink that a little bit. Okay. You probably have to scroll across. What I suggest is going through each one of these and then opening the floor.

So basically, we have here the staff input. We have my own feelings about how complete things are. Then whether I believe whether an ATRT-2 recommendation is required or not on each one of these. I would suggest we go through each, and then based on the additional information that we have received from the community on one side, from other documents which I hope we've all been able to read through, from any other information that we have, we will be able to make a decision now as to whether a recommendation from ATRT-2 is

required, whether it may be required or whether we actually are 100% sure that we need an ATRT-2 recommendation on this.

I don't know whether we'll have time to make the suggested recommendation there and then. If we do, great. If we don't, then we'll have to put this aside and revisit this list. But just looking at the sub-parts where we need to make a recommendation on. And I've asked Brian to do the timekeeping because I' pretty terrible at timekeeping.

So the first one is with regards to the Nominating Committee, and there were a number of recommendations that were made by ATRT-1. The columns that we have kept in this are columns F, percentage and portion that is complete; G, does she or he believe that ICANN fully implemented the recommendation? If not, why not? If not, what parts were not implemented and why not?

Then there's also column I, did he or she identify additional opportunities for improvement by virtue of the implementation of these recommendations?

J, what has been the outcome and effect both inside ICANN and external to ICANN as a result of the implementation of the recommendation?

L, how he or she feels that ICANN has improved as a result of the implementation of the recommendation. And N, in view of ATRT-1, what changes in work flows and/or organization were undertaken?

That summarizes effectively the impact that the recommendation of ATRT-1 has had. It also summarizes the percentage of the work that has been done or implemented from the ATRT-1 recommendation. And it also identifies in one of the columns there if there is any further work that the people impacted by this recommendation would suggest having done, because that would of course directly bring us to a new ATRT-2 recommendation.

The first one was with regards to NomCom. What's colored in yellow is effectively sort of highlighting something which was of particular importance. So we have [inaudible] as VS, who mentioned that 100% of that recommendation was done. NomCom has implemented all of the recommendations, and they're of course pointers to further information. But I guess what we need to remember here and take into account is the 100%.

Adam Peake mentioned that initially this was behind schedule. NomCom in 2011 implemented some improvements ahead of schedule and recommendations and it looks as though most of the recommendations were met by the time the 2012 committee began work.

My own assertion of this was that the ATRT-2 did not need to make any further recommendations, but I'll now open the floor for any views or comments on this. I see Carlos and then David. So Carlos.

CARLOS RAUL GUTIERREZ: `It was David first, but you saw me first.

OLIVIER CRÉPIN-LEBLOND: Sorry. Then David first, and then you Carlos.

CARLOS RAUL GUTIERREZ: It was very interesting. Actually, it was the strangest meeting. Very difficult to understand, the meeting with the NomCom. It was really weird. It was like out of place. One thing I remember, which I'm not sure I recall right the re-election. Is the period too short? Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. David?

DAVID CONRAD: So I went through this particular recommendation and it comes in four parts. The first part says benchmarking Board skillsets against similar corporate and other government structures. I was a little confused as to how this could be claimed to be fully complete without seeing what the actual benchmarks are. What corporate – what did they choose to benchmark against? I can't say yes or no whether they did. It's just I think – and in fact, one of the things I mentioned when I provided the templates for the Board communication stuff was that I think that we should probably provide a recommendation that says, okay, we recommend that you document what you're benchmarking against.

The second one was [inaudible] the required skills to suit ICANN's unique structure. That one did appear to be complete, at least from the documentation that was provided that I reviewed.

The 1C, reviewing these requirements [inaudible] delivering formalized starting point for the NomCom each year. So this actually gets into one of my generic questions. A lot of these are saying, "In the future you should do this." It's not obviously complete, because it's going to be an

ongoing thing. So in terms of the categorization that we were making based on the templates, it was complete, incomplete, or ongoing. So I probably said, well, complete and ongoing because they did it for the first one, but there needs to be an explicit statement or something like that that says that this will be a continual effort moving forward, and that actually applies to a whole bunch of other recommendations I think that there needs to be some sort of formalized commitment. Some sort of statement that says we were going to continue doing this moving forward.

And then the same thing with D, from the Nominating Committee. The outcomes and requirements have to be published. I think so far they did this for this NomCom. Moving forward, they just need to make a statement I think. Then I would feel comfortable saying it's complete.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Any other comments? So David and Carlos, would you say at that point we can put this issue to bed? There's also a staff response to this, specifically where ICANN has not identified any material opportunities during implementation of these recommendations. But it does mention that the advice on skillsets from the entities receiving NomCom appointees is often provided late. I would translate this as being something more of a process issue and a communication issue between the NomCom and the respective parts of ICANN that receive NomCom appointees. I'm not quite sure it's something that the ATRT-2 can make a recommendation on, apart from perhaps just support the fact that NomCom appointees skillsets need to be provided in time. But it sounds like pretty much a given. David?

DAVID CONRAD: So I guess I'm sort of comfortable calling this one complete with the exception of the benchmarking thing. I think we probably need to do a follow-on recommendation that says anytime ICANN is claiming to benchmark, they need to document what the benchmarks are.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Any suggestion as to what type of recommendation? Avri?

AVRI DORIA: Didn't you just say it? Basically every time you benchmark something, document it and give the baseline. I thought I heard you say it.

OLIVIER CRÉPIN-LEBLOND: Alan?

ALAN GREENBERG: I have a general question about recommendations regarding the NomCom. How do we treat this given that the bylaws specifically say each NomCom can create its own rules and are not bound by the practices of its predecessor?

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Would you have an answer to that?

ALAN GREENBERG: My job is raising the questions, not answering them.

OLIVIER CRÉPIN-LEBLOND: I'd like to remind everyone we're looking for answers here, not more questions.

ALAN GREENBERG: I suspect we would have difficulty crafting a suggested bylaw which enforces what we want them to do, but doesn't take away the independence that we're trying to give them.

OLIVIER CRÉPIN-LEBLOND: Okay, Larry?

LARRY STRICKLING: Fiona reminds me that we are making recommendations to the Board. So I don't know that we have to answer all of these questions. It may be useful to float that as an issue, but at the end of the day, if this is important and if it's a consensus view of this group that there needs to be this kind of improvement, we don't have to come up with the implementation plan for how you do it. It's a recommendation to the Board that they make this improvement. Then I think as they take it and accept it, I'm sure they would appreciate us pointing out that there might be a bylaw question that they have to evaluate, but maybe they'll find a way to avoid having to confront that. I don't know. But I don't think we have to solve that. I'll stop.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry? Lise, and then David afterwards.

LISE FUHR: Since I came in late for this discussion – I'm sorry. I have [written] that the NomCom reviewed itself given some recommendations that had never been followed up by the Board I reckon. I've [written] that ATRT should look at this in my notes from this meeting. So I don't know if we should look at that, too.

OLIVIER CRÉPIN-LEBLOND: Thank you, Lise. Well, it certainly is the time. But would you be able to put your finger on what recommendations we are talking about, please?

LISE FUHR: Well, I'm not sure because I'm not that much into the NomCom business, but it said there was a review some time ago, and well, they haven't seen any follow up on these recommendations. But we can maybe ask the NomCom to be more specific on that.

OLIVIER CRÉPIN-LEBLOND: Thank you, Lise. It is a bit late, yes. Well, we could, but I'm not quite sure. David?

DAVID CONRAD: This is actually to answer Alan's question. I would simply note that in the ATRT-1 there were apparently recommendations towards how to improve NomCom and those recommendations were obviously accepted and processed. I wouldn't put too much emphasis on the fact that the NomCom is reconstituted every year. I think there is a determined effort to ensure that the past lessons are learned and the mistakes aren't repeated. I think in the context of something like documenting what you're benchmarking against, I actually think the folks on the NomCom would be happy to have a set of benchmarks that they would be able to pass on from year to year.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Brian?

BRIAN CUTE: Just one point on that. I think this is the right discussion and the right level question of whether there's a follow-on recommendations is an appropriate question. With respect to the benchmark issue, though, we may make a recommendation on benchmarks [inaudible] and overarching recommendation too. We could go through each of the recommendations and say they should be benchmarking, they should be benchmarking appropriate comment. But I think metrics and benchmarking we're likely to hit on in [inaudible].

OLIVIER CRÉPIN-LEBLOND: Thank you. David?

DAVID CONRAD: Sorry. Just to clarify, the ATRT recommendation 1A was specifically and explicitly benchmarking Board skillsets against similar corporate and other government structures. And all I was saying as a recommendation is don't care what those are, just need to document them.

OLIVIER CRÉPIN-LEBLOND: Thank you. Brian, you are leading specifically all of the metrics part of ATRT-2 if I recall correctly. Would this be something that your group would be able to recommend?

BRIAN CUTE: Well, I think from a general perspective on metrics across the board, we are waiting to interact with the independent expert or consultant that ICANN is engaging and I think that engagement with that expert – and Larisa, on a timing perspective, can you give us an update as to when we can expect to engage with them?

LARISA GURNICK: Yes, Brian. We are in final contractual talks right now. We expect to have that resolved by end of August and the work to begin in September. So as we discussed in Durban, sometime in September should be a reasonable expectation.

BRIAN CUTE: Okay. That would be great. What I would suggest is that we document each time we hit a metrics point along the way here. We document that and bring it into our interaction with the expert. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. So I think we can document and basically put a flag up for this recommendation that's a metric issue with regards to benchmarking.

I was also told a bit earlier that there are some templates already ready for some of the recommendations respective of the ATRT-1 work. Unfortunately, having not done my homework correctly, I have not put these two together so I will ask upon anyone who has been able to follow what templates relate to what to be able to flag this when we actually go into any of these subsections. Larry?

LARRY STRICKLING: Thank you. I'd actually like to speak to that. I think, David, this is your work, right, on Recommendation 1?

DAVID CONRAD: Yeah. I was tasked with doing – or volunteered, whichever – for doing the Board communication stuff. I basically took the input from staff to which recommendations that corresponded to.

LARRY STRICKLING: So I think I would like to ask, Brian, maybe we take a minute and talk about process from here on out, because we do have to get to a report. I think David's made a tremendous start here in terms of how this might look. But I think we all ought to try to get a shared view of all this. So David's template, and I also can refer people to what we did on Recommendations 9-14 and we'll come back to those a little bit later today.

But David started out with the recommendation and then he summarized ICANN's assessment of the implementation and then he provided an ATRT-2 analysis of the recommendation. I think those are all really key points. And we can talk about stylistically how much it ought to be just in terms of narrative text, how much should be in lists, that sort of thing. But that's stylistic. We don't have to answer that.

But I did want to raise a couple other issues in terms of the overall flow of the document and see if there's a consensus view on this. The one thing that David wasn't able to pull together for this was what has been the community input in terms of the implementation of this recommendation, because it does seem that before we can totally give our assessment in isolation from the rest of the community, we really need to have that commentary both in terms of what was submitted in paper, what we heard in the sit-down meetings summarized as well.

And I think it's also out of that that you need that as something to rely on in terms of then going to reach a conclusion that there's more that needs to be done. I think we need to have the discipline of being able to point back in addition to our own judgment to where in the community we have heard that there's more that needs to be done, whether it's not a complete implementation of the recommendation that they had or that there's been some new issue that has emerged that wasn't in front of ATRT-1 but now it's a matter on which we want to do a recommendation.

Again, it's a question of do people agree that we need that, and then how do we actually get it captured and pulled into these documents? Because it does seem to me that as we go through each of these recommendations we ought to have a standardized format in terms of the types of information we want to make sure are being presented to the community. And it's going to take a certain amount of work to go back and provide citations and all that sort of thing. But I think we ought to have that discipline. That certainly was reflected in ATRT-1's first

report where we were actually quoting from or citing to what we were hearing and I think that if we're going to reflect the work that in fact we've actually done, we need to discuss how do we capture that in this report. What's our plan when we move past Recommendation 1 this morning to make that happen?

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Larry. David?

DAVID CONRAD: First I want to sort of apologize for the state of the templates that I had sent in. I didn't actually have time to complete all of the various inputs. I did read a large amount of that input, but I wasn't able to summarize it in a reasonable way. And I didn't, just for clarity of what I was providing, I didn't want to put too much of my own interpretations on things and it sort of got into a question as after a while I sort of started looking at these as just my particular take on the Board communications because that's what I was focused on – how I thought the recommendations were processed. But it is very explicitly only my personal view and my personal suggestions as to what the recommendations are. I wasn't presuming to actually, despite the fact that it says ATRT recommendations and stuff, I wasn't actually suggesting that that should be the case. It's just my input into the discussions.

One of the challenges that I had in taking the stuff that Brian had initially provided in trying to fill out the templates was just, as I mentioned earlier, the vast amount of information that you then have to look at and try to pull the relevant bits into some sort of coherent form.

If I was able to go back in time and redo this, I would say, "Look, here are the questions that the community needs to answer with regards to the recommendations so that it could actually fit nicely into the template that we can then arrive some sort of analysis out of." But I figure it's going to take another, I don't know, couple weeks to a month to actually fill out all of the template to correspond with the input that's received just because there is so much input to review.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Carlos and then Larry.

CARLOS RAUL GUTIERREZ: I also want to comment on that because, for me, it was either meeting the deadline or doing the research or filling the template. So I met the deadline and I researched everything, but I didn't fill the template so it looks chaotic, but I think I did what you were expecting. I have on my own some conclusions that I just started to draft, but it is chaotic. My paper is chaotic. But I think I follow Olivier's recommendation. I really went through the notes of Durban, went through all written reports. The ones that gave a rating of completion, I also made a nice table. But I was expecting on the conclusion side to work more interactively with the group.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. Larry?

LARRY STRICKLING: Please, I am in no way being critical. The fact is both of you delivered very important work product here. I'm just saying, okay, it's now August the 14th. We've got a commitment to get a draft report out and I just wanted to get everybody focused on what we need to do to fill in the gaps and make sure we have a plan to do it. That's all. I congratulate

both of you on the work that you've done. I think it advances the ball a long ways.

CARLOS RAUL GUTIERREZ: There was another comment I didn't want to make during the phone conversation and I didn't want to make just before about deadlines. When I look at reconsideration, there are two important reconsiderations that have not been finished. I wonder if we're looking at the right – and we see all this progress by the new management, the Board and so on. Do we look at deadlines for publishing our reports or deadlines of the time spent we're analyzing? Because particularly in the case of the reconsideration I have to make a cut somewhere. I kind of just continue to have this open. I have to – and this is not the deadline we worry about here. I mean – thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. Brian?

BRIAN CUTE: Thanks. I agree with David. I think it's going to take about two to four weeks to do a thorough look back at inputs from Durban, public comments received to date and other inputs – e-mails we received and the private e-mails we received – to be able to fully integrate into a draft report those important pieces. So let's recognize that the conclusions we're reaching today are preliminary. They are preliminary conclusions. We should be drawing on the recent interactions in Durban. I think we got a lot of good input and if we were listening closely, we're better informed for that. But I'd see at least two to four weeks to bring that important piece back in. That brings us to the first or second week of September where we then have a draft that incorporates public comment fully. And clearly I think we're going to

	have to have a full team interaction towards the end of September to walk through all of those pieces and make sure that our conclusions are sound. Does that make sense? I'm seeing nodding heads. Okay.
OLIVIER CRÉPIN-LEBLOND:	Thank you, Brian. I'd like to emphasize this is really the first pass that we're doing, going through each one of the recommendations. First pass as in the whole group of us first pass simultaneously. I'm very thankful for Larry to have drawn my attention to the details that David has written with regards to his template. Brian?
BRIAN CUTE:	Thank you, Olivier. Actually, Saturday when the drafters sit down and start outlining the report will be an opportunity to assign to the drafters at first what are the missing pieces of public input that you need to go incorporate and they can take that back to their respective work streams in the following two to four months. So that will be an assignment coming out of LA. Two to four weeks, thank you.
OLIVIER CRÉPIN-LEBLOND:	Thank you very much, Brian. I'd like to draw your attention to the fact that staff – Alice – has very kindly mapped the different work stream templates with the different issues. If you load the Wiki page that I just put on the Adobe Connect, you'll be able to see that it's been updated with a different work stream template. There it is. You can see it. Now we can easily see for WS 1A Reconsideration and Communications with the Board. David has done one thing and Carlos on the other. Let's move on. So just as a summary for 1 A-D, the only sticky point remains the benchmarking.

Let's move on to the next one. Number 2, regularly reinforce and review training and skills building. David?

DAVID CONRAD: Going back to the recommendation – the first recommendation. There were a couple of things that were raised in discussions that I actually wrote up as potential recommendations. One of them I already mentioned was just document what the benchmarking is. Another one that was raised – I've forgotten which discussions – was the outreach and public relations aspect of NomCom needs to be improved, that people aren't getting enough information about what NomCom does, how it does it, why it's doing what it's doing, why it's important, that sort of stuff.

It currently is, as far as I understand, plays to sort of insiders who already know what NomCom is and what its purpose is and it probably needs to go out to a wider audience.

Then the last recommendation that I saw – again, I don't remember where. I'll have to review everything that I reviewed. Currently the benchmarking is applied to the Board members and there was one suggestion or a couple of suggestions that the skill survey and benchmarking should be applied to other aspects of what NomCom does. So NomCom brings in people for GNSO, ccNSO, and ALAC and one of the potential recommendations was that the skill surveys and benchmarking should be expanded to include those other selections as well.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. We have Brian and then Lise. Oh, Lise first. Brian?

BRIAN CUTE: Just a quick note on that last point about benchmarking for other appointments that they make. I think we need to make a reference back to the AOC to see if that would fit within the mandate. Just a footnote there.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. I'm not making notes. I hope staff is able to keep track of this. Lise?

LISE FUHR: I just want to support what David was saying. That was raised at the Durban meeting, too. At least I have it in my notes from the Durban meeting from the NomCom. I think the reviews that they're a bit frustrated that were never followed up. That's a yearly review they have of the NomCom. Don't they have a yearly review of that one?

OLIVIER CRÉPIN-LEBLOND: Not a yearly review, but they certainly do have a yearly improvements process that stemmed from the recommendations that the ATRT-1 did start with. I would hope that these are reflected on the document that we received from them. If in addition to that they believe that they haven't implemented enough of the recommendations, then I just wonder where the discrepancy is, because certainly here it looked from some of the past years that it was done. Alan?

ALAN GREENBERG: I'm trying to remember, but was there actually an implementation out of the external review that was done on the NomCom a couple of years ago? Or is that what they're referring to? I know there was a review. I can't quite remember what changed because of it.

OLIVIER CRÉPIN-LEBLOND: I can't remember.

BRIAN CUTE: Sounds like a reading assignment for someone.

OLIVIER CRÉPIN-LEBLOND: Lise? Excellent. You volunteer. Thank you, Lise. So a reading assignment to try and find that further information, please. Okay. Let's go to Number 2 then. We're finished with this. Regularly reinforce and review training and skills building. That was – again, ICANN has not identified – and I'm reading the yellow box. ICANN has not identified any additional material opportunities during implementation of these recommendations. Regarding the NomCom process, it is observed that advice on skillsets from entities receiving NCAs is often provided late. So it's the same comment as above. Do we believe we can make a recommendation on this or is this really something that the NomCom has to send across? David?

DAVID CONRAD: I'm sure people are going to get tired of hearing me on this. So on this recommendation, it's another one of those complete and ongoing kind of things. It would probably be worthwhile to have some sort of explicit statement that it will be continuing in the future. Obviously metrics are important, but I'm going to skip over that one.

And then the only other recommendation I sort of came up with is that a bunch of materials were made available to the Board members, the training materials. And in the interest of openness and transparency, we might recommendation that those documents be made publicly available. Yeah, [inaudible] whatever reaction might be necessary. I can't imagine that would be necessary. But in terms of openness and transparency so that people see what Board members are being trained to understand.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, David. That's something I would also support. I understand that NomCom has very much taken a long time to look at what material is confidential and what material is not confidential. Their findings are that really the candidate material – in other words, the information that the candidates provide and who the candidates are – is confidential in order to protect the candidates themselves. But as far as I understand, both their processes and all of the other material that they would provide to candidates would be something that can be totally transparent. Maybe this is something which we need to reaffirm perhaps. David?

DAVID CONRAD: A clarification. My on recommendation – we're talking about Recommendation 2, right? Yeah. I thought this was actually focused specifically on the Board, not the NomCom.

BRIAN CUTE: It is. Yeah, this is training and skills building for Board – for directors who sit on the Board. And it's to reinforce. The recommendation was the Board should reinforce and review on a regular basis, but no less than every three years, the training and skills building programs established pursuant to Recommendation Number 1. So there's a tie, but this is training and skills building for directors. I think, Steve, if I'm not mistaken, you reported in in one of our earlier interactions on some of the activities that have been done. And I think one of the overarching questions is this is an area of ongoing improvement where the AOC is looking for ongoing improvement and one of the open questions is, "How do we sufficiently document that in a meaningful way?"

OLIVIER CRÉPIN-LEBLOND: Steve?

STEVE CROCKER: I'm in the difficult position of feeling very strongly about this independent of everything going on in this group and it's been a topic that I'm not yet satisfied with. The good news is that we are right on the cusp of making a substantive change in the level of support for the Board that will provide the bandwidth necessary to tackle this problem and some other related problems. But I've got no appetite for coming and telling you that everything will be fine. In the future I want to be able to report it happened rather—

UNIDENTIFIED MALE: [inaudible]

STEVE CROCKER: Well, we'll have a full-fledged secretary in operation by then. The training – getting all of the training necessary, getting that is a substantial piece of work that will finally get the attention that I want it to get. Completion by October, not a chance. But it will be taken off of the backburner and, as I say, it will be on the list of things that are then moving forward at that time.

[DAVID CONRAD]:   My question was not totally intended to be flip, but will there be action on this in a way that we can capture it in the draft report as a compliance or implementation of the recommendation? That I think would be good if we could.

STEVE CROCKER: I'm very leery about making forward promise. I don't mind making forward promises. I'm very leery about asking you to accept those as if they were more than just that. We will have a secretariat in progress. It will be visible. We will have an agenda for things that are in progress

and that will be visible. Then make a judgment about how much [they] actually want to put in there.

If I switch over to the other side of this, I'd say you could take note of that. We could take note of that and say this is a good sign and then we wait. The progress would be a reasonable statement without going too far.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Is there any barrier to Board skillsets and needs to be opened up and be made transparent? In other words, any reason for it to be kept confidential?

STEVE CROCKER: I have not thought about it and we haven't talked about that exactly. The Board Governance Committee sends to the NomCom specific guidance every year as part of a cycle. I don't want to be formerly committal, but I don't see any obvious reason why we can't share that. There's nothing deeply confidential or sensitive about that.

As a separate matter, the Board does an evaluation of each of the Board members and for the ones whose terms are coming up, we try to send that material to the appointing bodies – NomCom or the SOs or AC, or ALAC rather – in time for them to include that in their process in the event that an existing Board member is one of the candidates for reselection.

A piece of mechanics. There's a lot of stuff that's just not high-level stuff. Went through a process of aligning the Board terms so that now all of the Board terms for the voting members start and end at annual

general meetings. The selection process for the SO and ALAC members continues to be in advance so that those results are known to the NomCom so they can do the geographic balance. But the seating is now aligned.

I'm trying to get a master calendar put together, both a generic one and then instantiated every year, that has all of the interactions in this process. So there's the seating, then there's a retreat that we have and we like the new Board members to be able to come to that. That means they need to be known in advance, so that has an effect on the NomCom process. And the NomCom depends upon the SO selections and all of that requires input from the evaluation processes. I'm trying to get a little [inaudible] chart picture put together. That's another one of the things that just has not made it through the limited resources that we had and that's another piece on this agenda of stuff to do when we get the secretariat in operation shortly.

All of that will be visible. There's no reason for it not to be. It will be a master calendar kind of thing and then everybody can see where they fit into that process. It's simple bureaucracy stuff. Real boring and nuts and bolts.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Steve. So on Recommendation 2 of ATRT-1, is there a suggestion for a follow-up recommendation from ATRT-2? David?

DAVID CONRAD   Yeah, the stuff I mentioned.

OLIVIER CRÉPIN-LEBLOND: All right. We're ready to move to the next one. The next one is Number 3: Increase transparency of NomCom's deliberations and decision-making process as soon as possible, but starting no later than the next NomCom.

So there have been several NomCom's since the input which has been brought in here. It does raise a question mark. The new recommendation we posted in our final report and sent to the BGC and [inaudible] document as the full recommendation for NomCom 2012. Some of them not yet analyzed and/or implemented and could be analyzed now by the ATRT-2. There's a link to a rather important report from the NomCom Final Report, 8th of October 2012. Adam Peake says yes, and it improves to this day. Example of the monthly report cards from the NomCom.

So just to brief you all up, the NomCom is now producing monthly report cards that the different parts – different NomCom attendees – send to their respective communities, or are supposed to send to their respective communities and it certainly introduces a lot more transparency to what the NomCom has been up to during that month. I see David having put his hand up, so David you have the floor, and then Lise afterwards. David?

DAVID CONRAD: Yeah. I actually think the transparency has markedly improved, at least from SSAC's perspective, the SSAC liaison into the NomCom was quite efficient in propagating the information back from NomCom. I think that was actually quite useful.

The one recommendation that I saw someplace was that it would be helpful, particularly in terms of the outreach and PR aspect of improving NomCom, to actually translate the materials. For example, the report cards as far as I'm aware only came out in English and it might be worthwhile to recommend that the NomCom do what's necessary to translate that into the normal sets of languages and such.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, David. I gather the normal set as being the five UN languages.

DAVID CONRAD: I thought it was six, but yeah.

OLIVIER CRÉPIN-LEBLOND: Or six, developing. Lise?

LISE FUHR: Well, I guess at the meeting in Durban there was also this comment about that they didn't have the outreach enough. So you might say that they fulfill some of this, but as long as they don't do the outreach, they [inaudible] regional parts. I guess that could be Africa or South America. They're not included in this NomCom outreach, so they didn't see the transparency that they say is there, but if it's too passive, it's not a real transparency I think.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you Lise. Any other comments on this? Okay, so we have the possible recommendation with regards to having translation of the monthly reports and the other one with regards to outreach, which I think digs in with the first recommendation. Would you recommend a professional outreach company? Because I do know having sat on one NomCom that most of the outreach and the work to find candidates is

really dependent on the actual members of the NomCom. Some NomComs have been making use of a professional company to try and headhunt some people, but it sometimes works better in some parts of the world than in others and some continents are specifically difficult to find the right people.

LISE FUHR: Well, I guess David's point about having translations is the first step for outreach because that helps a lot. But I also think some of these hubs that have been established around the world could have this as a task. So I don't think it should be placed solely on the NomCom but it should be NomCom Committee being helped for doing this outreach.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. I think we can move to the next one and I hope staff is keeping track of this. Thank you, Larisa, because I won't remember any of this five minutes from now. It's the fish brain.

4: Continue to enhance Board performance and work practices. This is specifically Board related. On my sheet, I put in there "discuss with Steve Crocker" although there was a nice green box in the middle. All opportunities to continue to enhance Board performance will be implemented as feasible whether identified in the implementation plans or not. That seems like a commitment that even more will be done than what the recommendations were. I do understand there is a constant Board improvement going on.

First I'll open the floor to any comments or suggestions, and then maybe Steve you could provide us with a little insight. Carlos? And then David afterwards.

CARLOS RAUL GUTIERREZ: Yes. I had a very interesting conversation in the drinking session with the Board. I don't know if it was GAC or ATRT-2 – you know when we went to this balcony there with one of the Board members – on the time they have to spend on Board issues. He had a very structured way to analyze. He explained to me how efficient he thought he was and how much longer people would need.

So in terms of looking for metrics, that was the best example I got from Durban. He would analyze. He would spend about 60 days in Board related work, directly Board meetings and sessions and calls and everything. I would assume that a new Board member would need to work at least twice the time. He was on the 60 days per year and he would analyze at worst case would be 120 days for a Board member, which I think is incredible.

So I don't know who is going to do this work of metrics or so on, but I would like to direct this comment to this specific person. I think it was very, very valuable and the beer was good.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. Just a quick question from Avri.

AVRI DORIA: Is that 60 days in addition to the time they spend at meetings? Including the meetings and everything, 60 days?

CARLOS RAUL GUTIERREZ: [inaudible]

OLIVIER CRÉPIN-LEBLOND: Mic, please.

CARLOS RAUL GUTIERREZ: He thought he had perfected it down to 60 days, but he would assume that a new Board member without his background would need up to 120 days, which is one-third of the year.

OLIVIER CRÉPIN-LEBLOND: That's full-time days. Is it 9-5? Thank you. David?

DAVID CONRAD: So in my review of this, I mean it seems clear that the recommendation is being met ongoing. There's obviously continual improvement kind of stuff. The only recommendation I sort of came up with is the need to be metrics and able to enable folks to actually measure the improvement over time. I think the publication of the Board SOP and those sorts of things were actually useful.

Again, back into the internationalization aspect, it might be useful to provide translations of those. I don't know their frequency of update. If it's not updated very frequently, then it might make sense. If it is updated frequently, then maybe not.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. I was under the impression these were translated. Brian? Steve?

DAVID CONRAD: Is the Board SOP translated or is it only in English? Standard operating procedures of the Board, the document that was published.

STEVE CROCKER: We have a standard operating procedure? [laughter] Two levels of embarrassment here. I apologize that I was distracted and not tracking everything, but we don't have an SOP yet.

DAVID CONRAD: I'll provide you the URL.

STEVE CROCKER: I would like very much for us to have an SOP. If we have one, then I'm surprised. In any case, more to the point, I'm sure that it doesn't cover the level of details that I've been trying to get. Yeah, send me the URL to my SOP.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Brian?

BRIAN CUTE: I think one important question here is how are these implementations communicated out to the community? On the one hand, David, there's a document that's published and that's better transparency in and of itself. Steve, to your earlier comment, you've undertaken to adjust the terms of directors so that within the work process of the Board, there's better synchronization and representation. That's an important process improvement, but maybe not understood by the community as having been taken.

I think the key point here is how have these improvements been communicated? How will that communication be reflected in our report? And sometimes a disconnect in the community is that good things have happened, but they're just not well and clearly understood. Steve?

STEVE CROCKER: On this business of aligning terms, there's a balance here. I have made a point, actually, personally of mentioning it at various things and getting it documented and so forth. On the other hand, it just is not the most exciting, biggest thing in the world. It's not sexy, so I wouldn't want to put it at the top of the list of the major initiatives. This is just ironing out and straightening out things. There's a balance there. One could go over

the top. You make a big thing out of something that is only modest and then it undermines your credibility as to what your focus of attention is. Tastes vary here.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Brian?

BRIAN CUTE: Point well taken. Again, though, the recommendation was continue to enhance Board performance and [work] practices. That small unsexy piece is one of a few things that have been done, and communicating them clearly together without putting the boring stuff at the top is something we can put a value on.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Heather?

HEATHER DRYDEN: Thank you. I just wanted to pick up on this last point. It's suggesting that we put some particular attention to how we communicate more broadly about improvements that have happened, as well as ones that we're contemplating and expecting to be implemented following the work of this Review Team. To say that I really strongly agree that it bears that kind of attention. There have been a number of improvements in the GAC, not all of them related to the Review Team exactly, but some big ones of course. They're all very important for the GAC. But certainly important for governments.

There's very little in the way of fact circulating about the Governmental Advisory Committee and this is tremendously important in relation to issues like Jorgen has been focusing on legitimacy of the organization, and a key component for any government is to understand how the

committee that's there to represent its interest in particular is able to do that and maybe better able to do that as a result of some of these improvements.

I think it also relates to any kind of outreach or stakeholder engagement that goes on, and whether that's ICANN carrying it out or whether it's an SO or an AC like GAC carrying that out. These are the kinds of things that you want to be able to communicate very well. Joking aside about the improvements, some of them are more minor points and can't come across. But if you've catered your communications appropriately, if you've understood what is the nature of the perception or discussion happening elsewhere, then you can cater your communications appropriately based on the audience. That's something that really requires a very deliberate focus on that. It doesn't just happen. You need a plan and you need to identify that as a specific goal and understand who all is involved in carrying it out. Obviously there are going to be various actors that have a role in that. But I fully support this idea of being clear about what we have done already in the community, at ICANN, and then as well once we accomplish more things having a means for communicating further about those things as well. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Heather. Returning to Number 4, continue to enhance Board performance and [work] practices, I note the need for translation of the SOPs. David, did you have another? Looking at your template.

DAVID CONRAD: No, I just had I think metrics for that one.

EN

OLIVIER CRÉPIN-LEBLOND: Thank you.

DAVID CONRAD: And I did find the SOP for Steve's benefit. I'll send it to him.

OLIVIER CRÉPIN-LEBLOND: You did find it? But you mentioned metrics, though. Metrics are necessary in order to measure the extent to which Board's performance and work practices changes over time. So then we can tag this for the metrics group to work on, and perhaps the metrics consultant. Alan?

ALAN GREENBERG: I would defer recommending translating the SOPs until we find out if they are really existence in practice. If they were a document which went into the circular bin, we probably don't need to translate them.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. David?

DAVID CONRAD: I would agree, except that the reference that I found for them was actually in the status update of the ATRT-1 implementation. If ICANN is using that as a pointer to demonstrating that they're meeting the recommendations, then they're fair game.

OLIVIER CRÉPIN-LEBLOND: In search of the elusive SOPs. Carlos?

CARLOS RAUL GUTIERREZ: We have a template on that issue. I don't know when we are going to discuss this, but this is really an open issue that will require more discussion. I think we cannot close it here.

OLIVIER CRÉPIN-LEBLOND: I'm sorry. On the SOPs?

CARLOS RAUL GUTIERREZ: On the languages. We are on the languages, not on the SOPs.

OLIVIER CRÉPIN-LEBLOND: We're on Number 4, but we're saying languages for SOPs, basically. Translation.

CARLOS RAUL GUTIERREZ: This is very much related with the outreach with multilingualism and so on, and when we talk about languages, I think the basic documents, the translation of the basic documents in a language that is understood by the local constituencies is key. We had a big discussion in Durban with Michael who is not here, and when we talk about basic documents – translation of basic documents – we think that they don't have to be perfect translations done in California. They have to be translations that the local people translate to the local lingo. This is crucial. This is a point I'm making in the name of Michael [inaudible]. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Carlos. Can I suggest perhaps that in the same way as we have linked anything related to metrics with the metrics part of the work of this group, we could link anything related to languages to the languages parts, so the translation of the SOPs would fall into that recommendation rather than have repeat recommendations everywhere. Thank you. Avri, you put your hand up.

AVRI DORIA: Thanks. I guess one of the things that came up – and it comes up more often than I think we should be comfortable with – is this particular disconnect between there being something and the person that needs to use it not knowing it and us having checked the box when we're saying, "Yep, it exists."

Humor flagged it a little, but I really want to flag it as I don't know how to capture the fact that not only is it sufficient to do something, but the

people that need it need to know. As I say, the humor said something, but…

OLIVIER CRÉPIN-LEBLOND: Thank you, Avri. David?

DAVID CONRAD: My assumption is the Board members are aware of their standard operating procedures. There is a manual. I have sent the URL for the manual on e-mail. The fact that people may not know that it's published or something like that is indicative of there's a lot of stuff that gets published or doesn't get published.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Avri?

AVRI DORIA: To go back to that, I'm willing to bet you that if you ask the members of the GNSO Council if they knew that they had a procedure, you would get maybe a 50% knowledge. So I think that the issue is still there. I'm sure they know they have procedures, but as I say, you find it even in the GNSO Council. They don't necessarily know that they actually have a manual.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Avri. I see Steve having put his hand up and about to take an important document out of his bag. In the meantime, just to fill in, anybody who is listening to us, the SOPs have been sent over to the ATRT-2 list. Steve?

STEVE CROCKER: Yeah. Now I see what's going on. So I did commission the creation of a Board Procedures Manual and what's posted, to my surprise, but what's posted there is a previous version. We've progressed even beyond what's there, but nonetheless, as far as we've progressed, I'm still not at

all satisfied that we have something that is appropriate to declare as even a first cut working version. So I have not distributed to the Board and I have not agreed that we have something that is meaningful. I'd be happy to go on length about what my thinking is and about [what we have] and so forth.

So my surprise is that that got posted. I suppose it got posted as a matter of form because it got commissioned somewhere, but it doesn't do it for me. It's not what I would accept as a useful document for us yet.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. I've got two hands. Alan and David. I don't know who put his hand first. David?

DAVID CONRAD: That raises a bit of an issue because it gets into the question of staff's representation versus the external – or in this case, internal view – of whether or not a particular recommendation has been completed. Because in the spreadsheet you will see – and within the context of the work plan, the documentation of the work plan completed recommendations – that specific document is called out as a demonstration of partial completion of the recommendation.

If you're saying that you or the Board do not feel that it represents a completion of that task, then that falls into the third bin that you raised earlier.

ALAN GREENBERG: I want to be as constructive and as positive as possible. That represented a serious and strenuous good faith effort to put together a

standard operating procedure. No question about it. It doesn't meet my objectives for how I want that to be, so I'm not willing to sign off on that and say that that's done.

But there was a substantial amount of work put in. it's a base that we're working from and I don't want to make too much of the difference in point of view in terms of the push effort from staff to get that done versus the view that I'm taking on the receiving side and trying to set a particular threshold for what's acceptable from my point of view.

So there's a difference in perception there. I don't think there's a difference in intent. I think it's perfectly appropriate to note that that difference is there, but I wouldn't want it to escalate into anything more serious. I don't think that there was an attempt to dissemble or evade or anything negative in that sense.

DAVID CONRAD: I never attribute to malice what can be otherwise explained for other reasons. I would assume there would have been sort of a disconnect and that's actually the area that I'm more interested in. There is a representation. One can interpret a representation that this particular item was complete, whereas the people who were actually involved would probably say, no, it's not complete.

That raises a question. In the context of the responses from staff, it sort of reflects the issue that I had in trying to go through all of this stuff and say is it really complete, is it in process, is it ongoing, is it not being addressed? It's just an issue that perhaps in the context of future recommendations that we need to have a clear, crisper definition of the

input that we're requesting and are provided both from staff but also from the people who are directly impacted as well as the community.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. There was Alan and then Larry and then Denise.

ALAN GREENBERG: Like David, I'm not going to try to attribute malice in these cases, but I think it's important in the absence of Steve being here, there would've been a perception that if, yes, the document was created and it's been talked about, then it is sort of a done deal. I worry a little bit that there are other similar examples we found. The need to tick off the boxes is compelling and it goes along with this sort of almost standard phenomena within all parts of ICANN that you toss documents over the wall and if someone doesn't toss it back, it's accepted. I think we need to focus on it. I don't know how to do it.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. I do note that the document title says draft, so until there is a document that doesn't have draft in its title, it might be something to look at. Larry?

LARRY STRICKLING: Well I haven't actually looked at the document, so I give that disclaimer to begin with. But the recommendation was to continue to enhance Board performance and work practices. I look at that and say I don't know that there's any one set of outputs that satisfies that. More importantly, I'm actually quite encouraged by the fact that Steve was on a path to constantly look at and evaluate and improve what he is doing. It seems to me that's part of what we're looking for, this continuous improvement.

So I don't know how with a recommendation that's called "Continue to Enhance" you take a snapshot and say, "Well, maybe that doesn't do at all." But it seems to me what the ATRT-1 was trying to do, which was to get this embedded in the DNA and get people to think about this on a day-to-day basis has been quite successful by what Steve's just told us. I would hope we would focus on that aspect of this as opposed to trying to take a snapshot and look at a particular document and say it represents full compliance.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry. Denise?

DENISE MICHEL: Thanks for that lead-in, Larry. With most of the ATRT-1 recommendations and implementation projects, they are not static. What we tried to emphasize in the annual report and also throughout the progress reports on these implementation is, almost across the board, we continue to evolve.

I think one of the particularly useful things for ATRT-1 is that it highlighted a number of areas that needed attention. And while they recommended specific improvements, the ATRT-1 projects were also used as stepping off points for continued improvements evolving in this space.

I think the public comment forum – we can go through all the ATRT-1 recommendations and almost to a letter we are still tweaking and making changes and evolving to various extents. I think with this particular item, staff and the Board Governance Committee and the Chair created it and took it as far as was appropriate for that year, with

the understanding that of course Steve has made a number of additional changes in how the Board is operating this year.

So it's now both an annual action item for the Board Governance Committee and for the Chair to continue to update the Board manual every year as the Board evolves their work practices.

OLIVIER CRÉPIN-LEBLOND: Thank you, Denise. Lise?

LISE FUHR: Well, I agree that it's difficult to say this – it's not difficult. We shouldn't focus on one subject. But what I would find especially giving is if the Board could, as we said before, every year make a report "we think we did this in order to fulfill this recommendation" because that would show us what does the Board find as enhancing their performance, and then it's easier to say, "I don't find that's an enhancement or improvement." Or the other way around, see all the positive things that's happening.

OLIVIER CRÉPIN-LEBLOND: Yeah, Denise?

DENISE MICHEL: Yeah, that's an excellent point. One of the things that Steve has talked to staff about and that we're incorporating in the consultant effort on transparency and accountability metrics are some of these measures for Board improvements. So we'll be coming back to the ATRT-2 team probably in another month or so to give you a status report on the consultant's work in that area.

OLIVIER CRÉPIN-LEBLOND: Thank you, Denise. Okay. Steve Crocker?

STEVE CROCKER: Let me just echo back what I heard from Larry, which has a very positive cast to it. It may come across in a slightly funny way, but I'm purposely casting it this way. The Board should publish in advance what its plan is for improvement for the following year. Then at the end of that, in addition to publishing what it plans to do the next year, publish retrospectively how much of what it set out to do it accomplished.

According to the reading that Larry gives [inaudible], if we don't succeed at everything we set out to do, but we tried, we get full marks. I like that.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Brian?

BRIAN CUTE: Let me take Larry's comments out a step or two further. Agree that engendering this dynamic of ongoing improvement was the goal. Steve's remarks, or Steve clearly acting in that direction that he's set the bar at a certain place in his mind in terms of what he's looking for and we have identified potentially a disconnect between what staff produced and what Steve has in mind.

What's also important is what Larry said about embedding this in the DNA. And if there is a disconnect, small or large, it's important to note that for the organization. And if Steve gets hit by a bus tomorrow, God forbid, or is not there – or wins the lottery, thank you. Wins the lottery.

STEVE CROCKER: I've preserved my DNA.

BRIAN CUTE: It's clearly from an organizational standpoint important that both the Board and the staff be in synch on what the target is for accountability

and transparency. And Fadi, obviously, who we'll speak to shortly understands clearly his role in helping create that culture, but we have to note these disconnects where we are and perhaps bring them to the attention in our report.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. David?

DAVID CONRAD: The thing that I think really needs to be reinforced somehow is the next version of ATRT needs a better way of collecting the input from the community from the folks that are affected. One of the challenges that I keep running into is having a limited amount of information to enable to drive sort of the analysis.

[STEVE CROCKER]: Could that process be started up in advance of or in parallel with the creation of the ATRT? Do we have to formulate this body and go into motion and go out and do the queries, or is there a way to preload that process?

OLIVIER CRÉPIN-LEBLOND: Brian. Larry first. Larry?

LARRY STRICKLING: You'll remember an hour and a half ago we were talking about the idea that at startup if there was a comprehensive staff report, the thing that occurred to me was, well, should that go out for some public comment? ICANN could do that I think without waiting for the ATRT do to that. So that might be one way to kick that off.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Larry. We're digressing a little bit at the moment, but coming back to Recommendation Number 4, continuing to enhance Board performance and [work] practices. I do have another overarching

question which I think we're hitting pretty early on which is whenever an improvement is ongoing and doesn't have an end date or a target as such, does this committee wish to reinforce a recommendation by making an additional recommendation to reinforce the original ongoing recommendation or does it decide to keep this aside and say, well, this is ongoing, we're not going to reinforce it. I open the floor for suggestions on this. We're going to be faced with this on a number of occasions, and certainly enhancing of Board performance is something that is ongoing. We're well aware. Do we need to reinforce that or not. Alan?

ALAN GREENBERG: Just a point of order. We're into lunch and I think Brian just said something about meeting Fadi now. Oh, okay. I thought you said coming up. Just looking for some clarity.

BRIAN CUTE: Let me suggest why. Olivier in his work stream really needs to get through all of the recommendations. We need to do that together. And he needs to touch on his new issues. Work Stream 1 has another session tomorrow for an hour and a half. We've had a lot of useful and necessary conversation in this first stage. We got to Number 4. Hopefully we can become more efficient, but we need to maximize Work Stream 1's time as best we can.

ALAN GREENBERG: The background work on Work Stream 3 has not been done. Michael is not here. Why don't we take the Work Stream 3 time this afternoon and give it to Work Stream 1 and swap?

BRIAN CUTE: You're ready to horse trade just over going 15 minutes before we break for lunch?

ALAN GREENBERG: I don't think it's related to whether we break now for lunch or not. I'm just suggesting.

DAVID CONRAD: Work Stream 2, actually an hour is not – I'm happy to, as the work stream Chair, I'm happy to donate the entirety of the time of Work Stream 2 because there really isn't anything to talk about as far as I'm aware.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, David. The Chair of Work Stream 1 is very thankful and hopes that this is a donation and not a trade. I'm not quite sure whether we have that 15 minutes or not.

BRIAN CUTE: Let's tie off Number 4 and then we'll break for lunch and go from there.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. The question remains here does this committee believe that we need to reaffirm ongoing recommendations or leave them and say, well, these are ongoing, we don't need to add to it? David?

DAVID CONRAD: I actually think it would be useful just to put the line in the sand. Here are the recommendations that have ongoing work. As one recommendation, please continue the ongoing work associated with the recommendation, blah, blah, blah.

OLIVIER CRÉPIN-LEBLOND: Thank you. Avri and then Alan.

AVRI DORIA: I was going to say exactly what he just said.

OLIVIER CRÉPIN-LEBLOND: Alan?

ALAN GREENBERG: I was just going to ask, are there any cases that we need to worry about where the staff position is closed, finished, and we believe it's ongoing? In that case, do we need a mechanism to reopen?

OLIVIER CRÉPIN-LEBLOND: David?

DAVID CONRAD: So one of the reasons I sort of keyed off on 4 was the actual terminology that was used in the staff response that sort of implied – they use a past tense, addressed, as opposed to is addressing. I think that was one of the issues that caused the short circuit in my brain. I think just clarifying the language might be sufficient.

OLIVIER CRÉPIN-LEBLOND: Thank you. Any other thoughts? So listening to our discussions just now, there appears to be some significant confusion as to the progress of ongoing work. Some believe it's finished, some believe it's not. I was going to make a recommendation that there would be some kind of visual aid to be able to track the progress of ongoing work, and certainly on the case of the Board, performance and work practices and improvements that they are doing in line with what Larry has said earlier to have some kind of system in the DNA that would be able to not only track, but display, for transparency's purposes, the progress of ongoing work.

                           Visual progress is usually – or visual aids – are usually quite good and being able to show the different processes that the Board is going through with regards to its improvements and showing this graphically

by having little bars that go between 0% and 100% might be something that is helpful for the community to be able to look at every few months and see if the bars are advancing are not, and for some of those recommendations to not be dropped on the way. And if a bar does not advance from month on month, then that immediately flags the issue as being something that might be stalled. Just a suggestion here. Brian?

BRIAN CUTE: Than you, Olivier. Denise's staff have provided a tracking tool in terms of implementation and former recommendations and in fact modified the tracking tools, so we've had that at our disposal. To my mind, I think what's important is it goes back to how do we communicate implementation more broadly in a clear way? I think it's our responsibility to look at the progress that's been reported by staff, to look underneath it, to convince ourselves that things that are noted and completed are in fact completed or not and raise those questions.

What's also important is that whatever reporting tools staff puts forward also reflect the impact of the implementation. That's a conversation we've been having. It goes to metrics. It benchmarks, etc. And I think we should have a back and forth with staff about the tools for communicating separate and apart from what we're doing now.

OLIVIER CRÉPIN-LEBLOND: Thank you. Lise and then Larry.

LISE FUHR: Well, this recommendation is a recommendation that should be ongoing forever for ICANN Board. So you'd have some ongoing work that's just not finished. So we'd draw the line as that's not finished yet, but it's ongoing and we're comfortable with it. Then you would have a

recommendation like this that should be ongoing all the time in my opinion because of course you should always try to enhance and improve your work practice.

So here it could be easier to make a recommendation. How can you show that you try to improve yourself all the time? So for me, it's a distinction between ongoing work on a recommendation that's finished and this is a done deal, and ongoing work on something that should be continuously.

OLIVIER CRÉPIN-LEBLOND: Thank you, Lise. Larry?

LARRY STRICKLING: So there are a number of different threads that I want to try to pull together here with a suggestion which is that this issue of certain other recommendations – presumably this is across all three of the reports, although I can't give you a specific from WHOIS or Security & Stability. But maybe this is one of these summary recommendations, Brian, when we were looking about Work Stream 4. I'm reminded of Steve's comment a few minutes ago about [inaudible] institutionalizing of constant process improvements is this idea that there be a plan at the beginning of the year. At the end of the year, the Board evaluates how much it did on that plan and then sets the plan for the following year. What might be a visual representation of progress being made. And Fiona developed one for us that we can show you guys. It's like a speedometer that shows where you are in terms of being on track or not.

But maybe this is a way to provide some summary as part of these Work Stream 4 recommendations and say, "From these three reports, here's a list of those things that seemed to have a continuing feature to them," and provide some recommendation perhaps along the lines of what Steve just suggested as a way that ICANN could go forward so that when the ATRT comes back and looks at this in 2016, that they actually have something to actually go back and take a look at and evaluate the extent to which this aspect of embedding in the DNA was actually captured based on whatever we might come forward with.

OLIVIER CRÉPIN-LEBLOND: Thank you. I think we can close off Number 4. We've got plenty of [inaudible] behind it. Number 5, implement compensations…

BRIAN CUTE: It's lunchtime. We're going to close off 4 then.

OLIVIER CRÉPIN-LEBLOND: I'm ready to plow. I wanted to finish the whole sheet just now. We've got six minutes.

BRIAN CUTE: Before we do break for lunch, though, it's important that we finish [inaudible]. We may have to rejigger this agenda. That's clear already. But not just Work Stream 1, but Work Stream 2, and Work Stream 3 and Work Stream 4. And whether the homework formatting for those work streams is done or not, we're going to have to talk offline and figure out how we can structure an interaction where we get through this process for each of the work streams while we're here.

So with that point being made, you'll have an hour and a half tomorrow for sure. If you need more time, we'll make sure you get it. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. In view that we've taken an hour and a half, or just over nearly an hour and a half, to do four recommendations and we've got many more, I just wanted to ask everyone to think maybe during the lunch break and so on of any way that we could actually enhance our productivity on this. I do realize we do need to discuss each one of these in turn. David has put his hand up. David?

DAVID CONRAD: Fortunately, I only did a limited number of these recommendations, so you won't hear from me most of the time.

OLIVIER CRÉPIN-LEBLOND: David, that's not at all what I was meaning. I'm absolutely very thankful of the fact that you have done your work and you've put a lot of input. I think it's good actually that we have a discussion. I would've hated if we had gone, "Number 1, any thoughts? No? Okay." "Number 2, no? Okay." "Number 3?" That's just terrible. It's good that we have the debate and discussion, then we're actually dealing with things. Is there any way that we can optimize our time here in addition to what we're doing here? We don't need an answer right away, but think about it and maybe speak to me after lunch or Brian. Thank you.

BRIAN CUTE: I'm going to suggest that we modify the schedule and reconvene at 1:30, that we continue with Work Stream 1. That will give David time before tomorrow when we reschedule his first session to structure that one a little bit. We may in fact do the same for Work Stream 3. Let's hold that thought.

I do think we've had some important overarching issue conversations in the last 45 minutes that hopefully we now come to some consensus and

put to the side and get back to the simple nuts and bolts of, as you said, here's the recommendation. What do we think – there, not there? What's your basis? Conclusion, move on. Hopefully we get more efficient in the afternoon sessions.

UNIDENTIFIED MALE: May I suggest 1:45?

BRIAN CUTE: A 1:45 reconvene? What time is it right now? Okay, 1:45 reconvene. For those online, we'll reconvene at 1:45. Thank you.

All right, let's recommence ATRT-2 Los Angeles, afternoon session. We're going to continue on with Work Stream 1's overview of implementation and recommendations by ICANN. Olivier, take it away.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. Welcome, everyone to this afternoon session and I believe we're now moving to Recommendation Number 5, which is to implement compensation scheme for voting Board directors. I believe that this one – one of the things that got done pretty fast, 100% done – I did put a question at the end of this line which was, is this compensation detailed anywhere in the financial reports?

Just to give you little background to the compensation is not just a flat fee that Board directors get. It's more complicated scheme where depending on how many working groups and different troubles they perform, they get more or less – and I'm not quite sure. Here's Steve coming in thankfully. The spotlight.

We're looking at compensation for Board directors and the question that I asked…that was not the question I asked. The question I asked was whether this was documented anywhere, whether it was documented in the financial reports of ICANN and so on, because I understand that the level of compensation is not the same for all Board members, etc. It's just an open question.

STEVE CROCKER: I think it's completely, fully documented. The current system is very simple enough to describe. It was a base of $35,000 for every director, $40,000, an additional five. That is if you're – for anybody who Chairs one or more committees. It doesn't go up if you Chair more committees. The Chair of the Board – that's me – gets $75K.

OLIVIER CRÉPIN-LEBLOND: Is that per month?

UNIDENTIFIED MALE: It's per e-mail actually.

STEVE CROCKER: One of the – I must be careful how much I say. Consideration about how many committees we should have. One of the little side things is if we limit the number of committees which might be the right thing to do for efficiency sake, what does that do to compensation and so forth?

And speaking personally, I'm prepared to suggest we should just raise the level to be $40K for everybody and not have a distinction between those who Chair and those who don't Chair. But it's just me. I've said it before. It's not a new thought. That thought is working its way slowly through whatever processes we have and that's where we stand. The compensations are all documented in bylaws and in various resolutions

and I think reported on the Form 990. So it is visible as we know how to make it. It's not any instance of trying to hold back or...

UNIDENTIFIED FEMALE: There's a separate webpage that lists every report. So if you just go to the ICANN home page and drop "Board compensation" into the search screen, you'll get it.

STEVE CROCKER: Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Steve. Brian?

BRIAN CUTE: If I recall it correctly, this is one of those recommendations from ATRT-1 that seemed to take longer than one might assume it would take. But there were some legal issues that came up with respect to payment. I think to the conversation we have to have still about implementability and what are the aspects of a recommendation that's implementable. I'm speaking with Denise now. This one might serve as one small example of things a Review Team needs to consider in crafting a recommendation and if we're putting deadlines in place for whatever reason. Correct? Is that a fair recollection?

STEVE CROCKER: The half that was chosen was to first put compensation for the Chair in place because that can be done by the rest of the Board with the Chair not participating. And then for the compensation for everybody else, the question was, were there enough people who would choose not to take compensation that they could be viewed as independent and unaffected? And there weren't enough.

So the alternative was to seek outside independent recommendations on what the level of compensation, should there be compensation, what the level of compensation and so forth, and limit what the Board voted on to accepting or not accepting but not to fiddle with the content of that. That was a very, very careful attempt to operate as much as arm's length despite the fact that ultimately we came back to affect current Board members. So that process took a while. But it was all driven by an attempt to be squeaky clean about not being self-serving. Nonetheless, it got done. I mean, I would say one could check that off. It's all done.

UNIDENTIFIED MALE: Excellent.

STEVE CROCKER: It's yesterday's news.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Steve. Any questions or comments on this? I think we can pretty much put this one as being done and move on to the next recommendation. No follow up. I appreciate what you mentioned, Steve, and I think there will probably be no follow up on this for the time being.

Number 6, clarify distinction between PDP and executive function issues. There has been a lot of input when we were over in Durban about this and had a discussion on that. I see Avri having put her hand up. Avri, you have the floor.

AVRI DORIA: Yeah. This is one where I question your green square at the end of the row saying that this is a "done" issue. I think this issue is a continuing

open wound and certainly nothing has been resolved on it. Even the documentation that came out, I guess there was twice documentation. The first time it basically defined things of, well, if the Board does it, it's one thing. And if the rest of you do it's another thing. Then it got a little bit more sophisticated and later and actually opened up the question for further discussion. But I don't think there's anything that's closed about this issue.

Perhaps also we do have a chance given some of the discussions that had been going on until we cast the issue and say – perhaps one of the reasons it wasn't solved is because they were asking the wrong question at the time. The question that hid in the middle of that is when does the community stop being consulted?

Then as soon as we draw a line and we can say community on this side and just staff on the other side, we have a problem no matter how many of those lines we draw. So I think that this one that I don't see any way we can call it closed. We can say it was problematic in the way it was raised. It needs to be looked at differently. There's now an opening and continuing dialogue to figure out what this whole issue is. But certainly I would not give this one any shade of green.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Avri. The green doesn't signify an issue is closed. It just signifies that there might be no further recommendation on this. If you believe there's another color, of course that would mean that we would need to make recommendations – additional recommendations – on this. So I'd certainly be very open to being able to discuss possible recommendations if you have some in mind. Anyone else? Alan, sorry.

ALAN GREENBERG: How quickly they forget. I guess I can agree with what Avri said and I'll go a little bit further. I think phrasing the debate – the current debate that's going on in policy versus implementation I think is a misnomer and leading us in a bad direction. In the Board Governance Committee reconsideration – the second reconsideration answer, whatever – made it clear that the community needs to be consulted and involved in certain aspects of implementation. The four years of Applicant Guidebook reiteration, iterations were all implementation and clearly a lot of community involvement. What is not clear is at what point do we close this off and who makes the decisions and how, and that's clearly completely unchartered water right now because the answer is different in each instance. For that kind of reason, I think that question is still very, very open.

At some point, staff action and/or executive action rules and the question is how is that decision made? When is that decision made? Who makes that decision and what kind of community ratification does it need or does it get? So I think it may have been closed in what we thought it meant two years ago. It ain't closed now.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Anyone else? Carlos.

CARLOS RAUL GUTIERREZ: We stick to some fact. It took three years to start a PDP process on policy and implementation. That's a fact of life. They are calling it right now. They're a working group, not a PDP. But there is [inaudible] on page one.

Of course, there are different optics to see it and I agree. It's more than open, but I think we can bring it down to some more specific question. What does this imply for the community or for the GAC because the GAC is also part of this process? I think this should be involved so we can go through the different subjects and restate some questions related to this.

OLIVIER CRÉPIN-LEBLOND: Thank you. We got Alan and then Larry.

ALAN GREENBERG: To show the depth of the divides here, Carlos is right – [inaudible] GNSO Working Group on Policy and Implementation right now. There are people in my community who feel that is the biggest mistake that has been made, that it should not be a GNSO activity deciding on what is within their territory and what is not, but it should be a community action involving other parts of the community come up with single [inaudible].

CARLOS RAUL GUTIERREZ: I fully agree. I got it through the GAC Secretariat. The GAC Secretariat had sent a note today that there is a call for voluntary people for this process. It was today in my mail as a GAC member.

ALAN GREENBERG: Excuse me. But it's still a GNSO activity with other participants and ultimately decided by the GNSO. As I said, I may or may not be – I'm hiding my own allegiance but there are certainly people who say this was a big mistake. The board should've chartered a cross-community working group to look at the issue, not ask the GNSO to do it.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Next is Larry.

LARRY STRICKLING: I think this discussion shows that this issue is not closed. I don't know how we get our arms around it. After the Durban meeting, I thought that there was a certain – that we are kind of misdirected, that people who have been talking about this are a little misdirected on the issue because at the front end the question of what's policy versus what's implementation. You don't really need to have a rule at the front end that says "you shall not cross this line." It seems like whoever is invoking the policy process, primarily GNSO, can put whatever it want in the scope of whatever it undertakes.

So you don't even get to this question. It only comes up because there were probably in any given activity there are issues they didn't think of. Then they emerged later on and then somebody says – maybe they don't emerge until after the process is completed, then somebody then wants to characterize it as implementation.

So that's really I think the issue because if whoever is starting the process – GNSO or whoever else might be starting the process – defined their original remit to be as broad as possible there wouldn't be this question, right? So, it is the issue should we be focusing on that? In other words, why are we worrying about the line drawing coming out the back end when it's totally within the control of whoever initiates the process if they're thinking broadly enough when they get started?

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry. Alan?

ALAN GREENBERG: That's why I said it was a red herring because in my mind the policy transits to implementation at the point where the PDP or other GNSO

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policy process stops and the board adopts it, and after that it becomes implementation. Now, some PDPs work in excruciating detail and there isn't much left to the implementation other than the actual technical implementation, other things, and of course the New gTLD process is the best example where there was huge holes in it.

OLIVIER CRÉPIN-LEBLOND: Thank you. I know Brian is in the queue at some point. I haven't forgotten you, but back to Larry.

LARRY STRICKLING: Is the answer then to get out of this, to simply say that what you just said that since the parties undertaking the process can define it at the front end and include whatever issue they want to that as soon as they've done and they hand it over, they can't be heard to complain about this anymore?

ALAN GREENBERG: If what you're worried about is policy versus implementation, yes. That's the right answer. But the problem is the implementation phase may include lots of community involvement. That's the difficult part because we don't have any set of rules for it.

LARRY STRICKLING: I'm saying that that's not a question of distinguishing between policy and implementation. You're not just asking what level of community involvement does there need to be an implementation?

ALAN GREENBERG: Correct. I think that's the question.

LARRY STRICKLING: That's the new issue. Okay.

OLIVIER CRÉPIN-LEBLOND: I got Brian, Lise, and Avri in the queue. Brian?

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BRIAN CUTE: Thank you. I just want to read Recommendation 6. It was: "The board should clarify as soon as possible but no later than June 2011 the distinction between issues that are properly subject to ICANN's policy development processes and those matters that are properly within the executive functions performed by ICANN staff and Board and as soon as practicable development complementary mechanisms for consultation in appropriate circumstances with the relevant SOs and ACs on administrative and executive issues that will be addressed at the Board level." It's a complex issue. That much is clear, it's not settled.

For us to assess ICANN's implementation of that recommendation, a couple of things stand out. The first part, clarify as soon as possible – no later than June 2011 – the distinction between issues. We should assess that. We can also factor in whether that was a reasonable target date of ATRT-1 for a complex issue but we should assess that.

Secondly, setting up complementary mechanisms for consultation. They're a public reply comment period. Just close if I'm not mistaken Denise, on the policy versus implementation question. Or is it still open?

There was a public comment process that is just about finishing, if not finishing. The paper was issued in October of last year. Is that right for thereabouts? So on October of 2012 a paper was issued to the community to tee up this discussion and debate. So I think in assessing the implementation, we need to focus on the recommendation first. It's a complex issue, but that's what we need to focus on.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Lise, next.

LISE FUHR: I just have a question for you, Larry, because if I understand what you said before correctly, do you mean then that the distinction between issues that are probably subject to policy [inaudible] matters to executive function can't be made or obsolete to be made because you can always define your [remit] as broadly as possible?

LARRY STRICKLING: Yeah. That was my suggestion which was is there really any reason to be – or let me back up. What is the reason to be concerned about this distinction given the fact that the party or the group of people originating the process can include whatever issues they want within the scope of what they developed a "policy" on. Nobody is there. There's no policeman there saying, "Nope. You can't talk about that because that's implementation." They have the ability to put whatever they want into their original scope of work. This I think only becomes an issue for those things that weren't dealt with but emerged at some point later on into the process and then at that point there's a question of, "Wait a second." That should be referred back to this group to take on and people say, "No, it doesn't because it's implementation."

So the dialogue Alan and I had said, can we get past the existential questions and just say it's much simpler. It's you put whatever you want to put into your process but at the point of which you're done and you hand it over and say, "We now have a consensus process," you aren't going to be heard to complain about whatever new issues emerge at that point in time because you had every opportunity to deal with them at the time you scoped out your original work.

Then Alan says, "But wait. But what if an issue arises after that point that you are begging the questions to whether there should be community involvement and community consultation on that as a subordinate issue?" But I was just exploring the extent to which we could make the definitional problem go away just through the practical effect of the fact that the group starting out can define its scope however it wants to.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry. Response from Lise and then Avri and Carlos.

LISE FUHR: Okay. Because I just write it differently. I write that the executive function should not do policy. And by making this distinction, they should do implementation off the policy made by the groups. And I see we put it the other way around. So in my opinion it's a very important thing to say the policy belongs to the groups and shouldn't be done by the ICANN staff.

OLIVIER CRÉPIN-LEBLOND: Thank you, Lise. Avri and then Carlos.

AVRI DORIA: Thanks. I think if we try to – first of all, I don't think that we have the ability in the GNSO to define what its mandate is. The mandate is a policy mandate. It's not an implementation mandate. I would argue that while the amount of policy making you do is front loaded even at the end of implementation – or other words that people use, execution – there are always policy concerns. But what happens is as soon as you define a line there then you can basically say – and it has been said, "Oh no, no. You're doing policy." Even the implementation details that you put into a PDP, we can ignore. That very much happened with the New

gTLD PDP. There were lots of things that were implementation guidelines. But since they were implementation guidelines, they allegedly did not have the weight of policy.

The other problem that you're going to get in this – if you do have a notion of put everything in, absolutely everything in or you've got no right to complain later – as you've said, take three years to project every possible circumstance and every possible or probable path that you might meet in implementation so that you can have it covered. Of course, they won't be able to do that because obviously implementation always has new issues that reflect on the interpretation of the policy and its intentions.

So I think that that's why I go back to saying it's a problematic casting of the issue in terms of making policy for doing something is the policy never stops. So you have to find a formula that says you've got implementation and policy from day one, very little implementation at the beginning, and you've got implementation and policy at the end, very little policy. But to try and say we can draw a bright line between the two brings up several problems and one of them being – the worst one that we always encounter at ICANN – is as soon as you draw a line you can point to people and say, "And you don't have any business on that side of the line."

OLIVIER CRÉPIN-LEBLOND: Thank you, Avri. Next is Carlos.

CARLOS RAUL GUTIERREZ: I think we can go to some ideas how we can set the question again. And I have a few that I think have been mentioned already from different

constituencies and so on, following your recommendation always that I keep in my head to be fact-based where does this recommendation come.

The first one is the definition of the process. We have had comments on the need of a clear charter and we have had comments of processes that have started with a very low threshold mentioned in the mail exchange. That's one issue charter and low threshold to initiate this.

The second one is the feedback loops. Of course, there are feedback loops and we have from the analysis of the board reconsiderations, at least two cases where the board says, "Go back." And in one case, the board says, "Go back to the policy versus implementation debate." I mean that's the case of the Trademark plus 50. There was very difficult – there was a revised recommendation by the Board and they say, "Listen, this is an open debate. So at this time there is the second one. At this time we have no solution at this level. Go back to the process." So we have to recognize that some of these processes never end. They will be open again and I have two examples of this.

The third issue is the big P against the small P. We keep hearing that. Of course, there are very technical issues that nobody comments on that have to be solved because they're technical and they're capital P issues. This is one thing that has to be defined. Until there is evidence that this is not a capital P, we should consider it like that. The big policy issue against technically small P. So this has been over and over again and it is in the paper actually. It is the paper by staff that proposes the

difference between capital P, big P and small PDP. Then the question that Lise already raised is separate from what executive functions.

I heard of very interesting development in Fadi's speech in Durban that he is separating and creating a whole new division for operative issues of gTLD separate from the compliance issue because he cannot delegate that. I think that it is enlightening for me to see how the new CEO is analyzing executive functions and clearly differentiating operative issues from compliance issues. Those are all subtitles that we can bring to this discussion to try to redefine it with very specific cases. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. Next is Alan.

ALAN GREENBERG: Thank you. Just regarding what Carlos said, I don't really recall ever having a capital P versus lower P policy discussion. There's a capital PDP versus lower case PDP, which process do you use, but not capital versus lowercase P.

The other discussion is [inaudible]which process do we use and what rules apply in the bylaws associated with it which is a different issue. I don't think we're ever going to be able to recognize – do a litmus test that something turns blue if it's policy and orange or red if it's implementation. I can readily define things – when a substantive decision has to be made which is going to impact users, impact participants, then there should be community multi-stakeholder involvement in it. But whether that's a policy or implementation question, I'm not sure we're going to be able to define carefully nor am I sure I want to because I surely don't want to have to go back in the

middle of implementing something and start off a three-year process to come to closure on it. We need some fast paths to do that kind of thing. I think it's easy to put some lines between things. But I don't think it's going to help us make some of the hard decisions.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Larry Strickling?

LARRY STRICKLING: I don't want to belabor this too much, but I think in my mind it still comes back to understanding when does this question become important? Avri mentioned that maybe one of the first places – and again, you start with the premise that the policy process that's undertaken there's nobody sitting there and policing it at the front end that's telling the GNSO or anybody else, "This issue was off-limits."

Now what I did hear Avri say is that, okay, but in some cases maybe the GNSO makes recommendations and then you have somebody exercising some after the fact power to say, "These aren't important because they have now strayed into this realm of implementation. They're not policy any longer, so they're not really valid." So we could deal with that. You could come back and say, "Well, wait a second. If it came out of the process then it needs to be taken as the policy that was developed – the consensus policy." So you could answer that one.

Then the second question is that once the group finishes its work and hands it over, you could say, okay, you had every opportunity to include whatever issue you wanted to and you've made your choices, and now everything beyond here is no longer subject to the community engagement because you have every opportunity.

Alan, you were reacting. You said, "Wait, that's not fair because you don't know what might emerge." There could be something that everybody missed and you can't really blame the original group for not having been able to predict that. So you can still come up with some rule as to what happens in that situation that doesn't – which could be based simply on the fact that there's a desire for community engagement without having to get into this definitional game because there is no clear dividing line to Avri's point between what's policy and what's implementation. I'm just trying to change the debate to where we're getting practical and setting some understandings in terms of when do you get community involvement and when don't you, and is there a way to come up with a set of behavioral rules here that solve this problem without having to get into the existential questions.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry. Brian Cute next.

BRIAN CUTE: Thanks, Olivier. Just a few points. I'll come back to our job is to assess ICANN's implementation of that recommendation and we need to do that and come back to that wording and the process and how well is it implemented or not. The discussion reflects this is clearly a complex question. ATRT-1 I believe to my recommendation felt it was important because without clarity on it in some form, it created confusion which continues to be reflected. It created discord in the community which I believe played itself out in the New gTLD round, post ATRT-1. Whether it was Trademark plus 50, whether it was the – what was the shooting the arrows at the target to see [inaudible] online? There were certain implementations – thank you – digital archery.

There were certain implementations that came up with this argument flared, and so it's confusion and discord. So it's an important question. I appreciate Larry's approach. Is there another approach we can recommend that puts the defining exercise to the side that provides substantive community input? You're willing to confess, yes. But at the same time, this one to my ears is clearly ripe for a new recommendation from this group. And if that's the case, I think we need to have a bit more discussion on whether we recommend that you carry on with the very difficult task of definitions or whether you take a different approach. The question to me is, is it a difficult distinction where you can draw some lines and there's some gray and there's plenty of policy frameworks that work in that type of a context? Or is it really an impossible definitional exercise? We should ask ourselves those two questions. I'm a bit of a masochist. I don't mind diving into tough definitions, but clearly there's more to be done here. We have to have deeper conversations before we can make a recommendation.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Fiona Alexander next. Then we'll have Alan and then Avri.

FIONA ALEXANDER: I think maybe just – my recollection of this is really we're looking at the recommendation and isolation versus reading the ATRT-1 entire description of this with the findings and how they got to the recommendations. Maybe revisit that.

But my recollection of this is one of the main examples we were looking at was the vertical integration decision. So it wasn't – this policy versus implementation has become the community versus staff. This

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recommendation was actually focused on board stepping in, not staff. And it could be poor wording in the way that it's worded in the confusion of the group in doing it. But to Brian's point, there's two parts to this recommendation – not just one. So I think the implementation of the recommendation has assumed a certain context and taken to certain path and I'm not sure that's really was the intent of ATRT-1. So perhaps revisiting that finding section can be helpful.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Fiona. Next is Alan.

ALAN GREENBERG: I think Fiona pointed out part of what I was going to say that this recommendation had a particular focus. The ground has shifted since then. What is worrying us now was not that. That may still worry us if the Board were to do that again. But what we're worried about right now is something different and we're trying to use the definitions that were applicable three-plus years ago in a way that's not so – to the extent that we understand why that recommendation was done, we should assess whether it was implemented but I don't think we should try to morph it into the problem we're having today because I really think it was a different issue and we don't want to agonize of seeing how today's problem was addressed by staff in implementing last year's recommendation. The world is changing as we speak right now and this is a good example.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Avri?

AVRI DORIA: Thank you. I guess two things are – I actually like the behavioral/describing a situation approach much better than I think I

can live with drawing a line. I think just the notion of drawing lines at ICANN pretty much never works because a line is just a new opportunity to circumvent the line, and so I would counsel us against that.

I think in terms of it being a staff versus a Board consideration, I tend to think in terms of the word "Board staff." I don't think of the staff as doing things that the Board either actually or tacitly doesn't agree with.

So I'm certainly not trying to make any distinction to say that the staff was doing things that were against the Board's will because I don't believe that that actually ever happens. I think that what we have is that there's the community that is giving recommendations to the board and the staff, and then there's the Board and staff that are responsible for operationalizing or whatever word you want to use that. So I like the idea of describing circumstance and behaviors. I think anytime we try to draw a line, we're just asking for moving the problem to the other side of the line and I don't think that helps much.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Avri. I see this discussion actually not converging, not diverging either but just expanding. Certainly one of the responses – in fact I think it was David that wrote in there in the sense of that implementation of recommendation six has resulted an ongoing discussion or challenging debate within the community. It may be seen as being effective. David Conrad. I'm not sure whether it's actually effective because we are also starting to have a whole debate about this. Brian, would we have more time for this at some point or maybe we could have this as a dinner conversation or something? I don't know.

BRIAN CUTE: I think we need more conversation before we can – the question is recommendation on pursuing the definitional distinction approach or recommendation on the behavioral approach. At least we focused on that. I think we have to talk a bit more on that. Maybe there's a third avenue we haven't thought of, but yes, we need a little more time in my view.

OLIVIER CRÉPIN-LEBLOND: Okay. Thank you. I do have concerns as well as seeing the debate go on about some people taking this as being between the community and staff or the community in Board because there's also the executive function of the Board with regards to the community, does the board just rubber stamp policy development from the community or does it do top-down work as well? It's a highly complex issue and it's not just a single track. It looks to me like three or more tracks that are interlinked together. Fiona Alexander?

FIONA ALEXANDER: Just to point out – so we're looking at the ATRT-1 Report. This was packaged with two other recommendations. There were three recommendations to get at this issue and they're all Board-focused. So I think what you just ended with, that's what the issue was about. It wasn't about staff and what that was doing. It was about the Board under previous leadership stepping in specifically repeatedly.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Fiona. Of course, we've had recent stepping in with the Expert Working Groups which is just another dimension to it all, which is maybe Board-led, maybe staff-led, maybe – well, let's just put this to the side. I think we can move to the next recommendation. Keep this on the side as something we have to have more discussion on.

I don't know when we'll find the time but, Brian, I'm sure you can make some magic. Let's go over to 7.1 – as long as I don't have to perform the magic, that's fine.

Let's go to 7.1. Promptly publish all appropriate board materials related to decision-making processes. On this the – my evaluation of it was a green box. Although I put in there that from time to time the ball gets dropped and the information is not updated on the website and so on. I mean that could be just occasional circumstances when there's a lot of staff overload and so on. But I open the floor to discussions on this. The publication of board materials related to decision-making processes. Brian?

BRIAN CUTE: Thank you. What I've heard – and this is one of those areas where I don't have facts so let me be clear. I've heard people say that with respect to – first of all, good improvement with respect to the publication and transparency of these materials, much improvement from prior ATRT-1. But with respect to the reduction, I have heard people say there's an awful lot of stuff redacted. You read 7.1, it says at the end "The reduction of materials should be kept to a minimum, limited to discussion of existing or threat to litigation and staff issues such as appointments." Kept to a minimum, I think – I hope the ATRT-1 wasn't being prescriptive with respect to just litigation or appointments and certainly the General Counsel's Office of ICANN may have some foundation for other redactions. But that is something I have heard more than once. Because it's redacted material it's hard to tell what's underneath it and whether it's broader than it needs to be. But I'm just

offering that as really the unique input that I've heard without any confirming basis.

UNIDENTIFIED MALE: [inaudible]

BRIAN CUTE: Yeah. I don't think so. I'll check.

OLIVIER CRÉPIN-LEBLOND: The question from Larry. Do we have anything on the record?

BRIAN CUTE: I don't think so, but I'll check.

OLIVIER CRÉPIN-LEBLOND: Thank you. Any other comments on this? Carlos?

CARLOS RAUL GUTIERREZ: Thank you to Larisa. I read a few of the new Board Rationales on the reconsideration. It's wonderful, the page. It's very well-separated between the request and then the Board Governance Committee, and then the final decision. If I listened right to Steve today, if this work of the rationale is going to be redeveloped in the future by a separate dedicated staff to the Board, that can only improve it. It's looks very interesting. And at least in the case of the reconciliations, the webpage is very transparent. Vry interesting. Very good.

BRIAN CUTE: Thank you, Carlos. Steve?

STEVE CROCKER: I didn't mean to say that the rationale should be developed by a separate staff. We're still working out the precise details of how that's going to be done, but some combination of the right people will develop the rationales. I will say that I've personally been pushing very hard to make the rationales meet the condition that they should explanatory

and sensible to outside people, and not just sort of pro forma tick-the-box kind of statements that are generated to fill the space.

CARLOS RAUL GUTIERREZ: I think it's very interesting because at least in one of these cases, I guess the staff or the Board has used to the opportunity to make some clarifications of staff responsibility which I think are not appropriate to be in the rationale. Actually, it's a little bit dangerous. There's [only one] case. If that happens, more often than we should be very careful with analyzing what does the support people do on your rationale as opposed to the staff, because there might be some grey areas there. Thank you.

OLIVIER CRÉPIN-LEBLOND:: Thank you, Carlos. I see Steve shaking his head.

STEVE CROCKER: I didn't understand the comment, actually.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. Any other comments? David Conrad?

DAVID CONRAD: And I'm not sure this is the right context to raise this, but one of the thoughts that I had with regards to the rationales that are provided in the context of decision that are made is whether or not it would be appropriate to try to tie that back into the criterion Section 3 of the AOC – sort of the four criteria that are defined within that section; how the decision meets the public interest, how the decision impacts or doesn't impact SSR, etc., for a criterion in that section. I didn't actually write up that as a proposed recommendation. It's just a thought that I had and I thought I'd sort of throw it out there.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Alan? Well, first we have Fiona Alexander – sorry – and then Alan.

FIONA ALEXANDER: I just have one question. I remember in our first meeting here in May or whenever it was – I can't remember – when we talked about this, and the staff gave the readout about what was happening. Steve was explaining how he was evolving the board calls and making them more efficient. A lot of the pre-discussion was shifting to these information calls that you were doing and none of that is public, as far as I know. So I'm just wondering if the spirit of the recommendation would then include making some public disclosures about those information calls in some ways, as well. That doesn't happen yet. But you sort of shifted how the Board calls work a little bit. Everyone looks a little bit puzzled. But that was my recollection of this conversation in May, or whenever it was.

BRIAN CUTE: Steve?

STEVE CROCKER: The thing that I've been pushing on is the following. When we bring the Board together for a Board meeting – I'm always to tempted to say "formal Board meeting," and [Ray] keeps telling that if it's a Board meeting, it's formal, and there's no such thing as an informal Board meeting – that one patterns that I've been trying to deal with is, in the past, and I've had the benefit of looking at this over a very long period of time, sometimes board meetings get into the mode of spending a lot of time – hours – on a very small point, and you have 20-odd people spread all over the globe, some at very awkward times of the day or night, and it's inefficient, and hazardous, and painful.

So the standard that I've tried to set is that, when we come together for a Board meeting, we should be prepared. That's not the time for fresh discussion of issues and not the time for somebody to begin thinking about things. So that means that that has to be moved somewhere else. Ideally, people read papers. If it's being developed within a committee beforehand, and it's taken up in the committee meetings and so forth, and we also have this mechanism of having information calls for getting briefed, or for having discussion as necessary. That moves to the point that you're making about, "Well, isn't there a delicate balance between the real stuff happening in camera, if you will, versus everything happens out in public?"

I don't know if there's a perfect solution for that. There has to be a way for the individuals on the Board to come up to speed on things and have a discussion that isn't necessarily on stage, because if you do that, then you got to prepare to be on stage, and then you have to go to it somewhere else. So one way or another. It's just like you try to get a perfect solution for transparency and you say, "Everything has to be on the record in congress," and so it all takes place somewhere else.

I'm empathetic. There's no attempt to hide anything, but it's also an attempt just to be practical about getting people prepared. But the driver in this case is that a Board meeting should be prepared, efficient, business-like, and it serves no purpose at all – not the public's purpose, not the Board's purpose, nobody's purpose. If people come to the board meeting and they're ill-prepared, and we begin getting into fresh discussion, or new thoughts, or somebody has never thought about it

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before and says, "Oh, this is important. I got to [inaudible]," and 20 people are waiting around for that person to come up to speed. That's just a lack of discipline in my view.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Next is Alan Greenberg.

ALAN GREENBERG: I have a question and maybe a comment. What is the deemed staff response on this in terms of completeness?

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. It basically says, "Board materials are now posted along with approved minutes for each meeting of the Board, and the new gTLD program committee as a standard operating procedure." So this is seen as done.

ALAN GREENBERG: Are we not also talking about 7.2 rationales?

OLIVIER CRÉPIN-LEBLOND::   7.2 comes afterwards. I guess they're not – well, they're somehow linked, but I thought we'd take them one at a time.

ALAN GREENBERG: We're not talking about 7.2 yet.

OLIVIER CRÉPIN-LEBLOND::   Not yet. That's correct.

ALAN GREENBERG: Okay, so we did wander into rationales in this discussion. Okay, then I will defer any question until then.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. There is a question though that does stem from this, which is that, yes, the board material is posted in advance, but the board of course now has many working groups, as we know, which is the reason why the board is able to function better. Are the working

groups also publishing their material in advance – the material by which they actually perform work?

STEVE CROCKER: The board doesn't actually have working groups.

OLIVIER CRÉPIN-LEBLOND: Sorry, committees.

STEVE CROCKER: So the Board has a number of committees. The committees are, for the most part, standing committees that have been charted at the beginning of each year, and so forth. And yes, they publish their formal minutes, formal meetings, and publish everything, except for the handful of cases where there's a reason for confidentiality.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. I've got David and Brian – okay, just a quick comment from Alan, and then David, and then Brian.

ALAN GREENBERG: I just found it very recently. I always thought you find minutes for committees and things by going into the overall Board calendar and they're posted there, and when I was complaining to someone that some minutes weren't posted, I suddenly realized that if you go into the committee pages where you got all the pretty pictures and then scroll down more, they have all sorts of stuff posted that I never – I never scrolled past the pictures.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. David Conrad?

DAVID CONRAD: So I think this is one of the complete but ongoing recommendations. This is never something that will be complete. I sort of marked it as complete in the sense that the specific recommendation of commencing

immediately I thought had been met, but it's something that obviously will continue on in sort of perpetuity as long as there are materials that need to be posted, and that sort of thing. At least from my perspective, I thought this is one I would say was done-ish.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Brian? Okay, Brian passes. I think we can actually indeed, yes, go ahead and say, "Well, that's been pretty much passed and it's ongoing." We've got a related recommendation – 7.2 – which was to publish rationale for board decisions, and for accepting or rejecting public and community input. I realize now we should have probably taken the two together, but I guess if we've agreed on the first one, do we have any further to add regarding the 7.2 recommendation? Alan Greenberg – oh, David – sorry. You're in my blind angle. I should have a microphone on this side as well. David Conrad?

DAVID CONRAD: Yeah. So this is the previous comment that I made about whether the rationale should be tied into the Section 3 of the AOC somehow – how it addresses public interest, and SSR, and competition, and internationalization in the sense of facility in international participation. Whether that would be appropriate in this context is perhaps an enhanced recommendation for ATRT-2, because the Board clearly has been providing rationale in reaction to this recommendation, and I think they should be applauded for the work that they're doing there. It's whether or not it should be expanded to include references back to how it's helping the public interest, etc.

The other aspect that I had in my reading of some of the materials that were provided or that I researched was that there are a number of

recommendations and input that have been provided by SOs and ACs in the past that have impact on policy decisions that are being made today, and whether not the rationales that the Board could – a recommendation could be made to ask the Board to provide the rationales for the decisions that have resulted in those policy movements that are occurring now.

That was entirely unclear. Let me try to clarify by providing a concrete example. In the case of SSAC, there have been a number of recommendations that SSAC have been made that there are members of SSAC believe the ICANN Board has not responded to, in any substantive way, that have impacted, for example, new gTLD policy decisions. The question is whether or not a recommendation should be made that the Board should, in the context of those policy decisions, reflect the decisions that were made back relating to that input that was provided by SOs and ACs – if that helped any in clarifying what I was saying.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, David. Next is Jorgen Abild Andersen.

JORGEN ANDERSEN: Thank you. I don't know whether I understood David's intervention correctly, but maybe what I wanted to say touches upon some of the elements he mentioned in his remarks. When you look at the recommendation, it says, "Publish rationale for Board decisions and for accepting or rejecting public and community input." But when you look at the column to the left of the green column, it says, "Rationales are now posted for every substantive decision of the Board and the new gTLD program committee as a standard operating procedure." It doesn't

say anything about publishing rationale for accepting or rejecting public and community input. I don't know whether that's covered by your consideration, Olivier. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you. Alan Greenberg?

ALAN GREENBERG: Yes. For the record, when I yielded to Mr. Conrad, I didn't mean I gave up my position all together. I think the differences from a few years ago to now is day and night. The rationales in many cases are exceedingly illuminating. They're also very thin at times, specifically when they're rejecting advice from formal parts of ICANN as implied. Occasionally, they're completely missing it all together.

I'll give one example, just because Brian likes examples. When the GAC made the recommendation to not delegate two particular new TLDs without any rationale given in the GAC advice, the Board accepted that without any rationale for why they were doing it either, or the Board New gTLD Committee, which I guess is completely in keeping. But nevertheless, for those of us who were actually wondering why, we still don't know. There seems to be a divide where, every once in a while, things are just so simple or short that no rationale is needed. I think we still have a little way to go, but much better than before.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Larry Strickling?

LARRY STRICKLING: I don't want to belabor this, but for consensus objections by the GAC on strings, they don't have to give a reason. The fact is it was a consensus

objection. That's all that matters. We can take this offline and explain why that's how you should want it, but…

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Larry. Just for the record, I realized that Stephen Conroy has joined us since the beginning of this session – the afternoon sessions – and Demi Getschko has just stepped into the room, so we're at nearly full-house.

Okay, any further comments regarding this? I think from the discussion here we're pretty much in the green. I see – Jorgen? Some further comments?

JORGEN ABILD ANDERSEN: Yes, just for clarification. Was the conclusion that we need a recommendation to – well, Alan said that it was bad before; now it has become better. But are we where we want to be? I remember this particular issue was one of the first issues raised at our meeting here in this room in March. Are we satisfied with respect to where we are, or do we want to go even further? I think this is a question about a recommendation or not.

OLIVIER CRÉPIN-LEBLOND: Thank you, Jorgen. We got Avri, Steve, and Alan.

AVRI DORIA: I think this is one of the ones that falls into that category of, yes, it was done, but it is an ongoing process that should continue to be an ongoing process. We had talked about having in that kind of recommendation that was a multiple one of sort of saying, "These are all things that were completed. Good stuff, but they were all things that have a continuing effort required." I don't know whether that would be sufficient, but it

feels like to me is, "Yup, good stuff. It's better." Now it needs to be even better. I think there's going to be a bunch of those. As we've gone through, I think this is the second one already that that will be the correct recommendation, and probably can be done in a single recommendation. And who knows? Maybe we can even come up with metrics for measuring the baseline now and how it improves over time.

OLIVIER CRÉPIN-LEBLOND: Thank you, Avri. Steve Crocker?

STEVE CROCKER: Normally I'd try to stand back a little bit, but with respect to the rationales, let me offer the following. We've put a lot of energy into improving the rationales, and I think that's evidenced and I'm pleased about that. That said, I think that we're not yet at the level of it comes out right almost all the time, and that everybody is well-oiled, and there's a kind of a consistency to it. So I think it's a bit uneven.

Let me pose for consideration the following recommendation that might come from this group, which is in the spirit of acknowledging the progress and also acknowledging that there may be more to do, to suggest that a small study be done taking the last handful or large clump or rationales and looking at them in terms of the degree of information, or the quantity of information, the quality of information, or the consistency and, even if you like, style and format and so forth and taking look at that and feeding that back as attempting to raise the standard, raise the consistency on the rationale.

Having said that, if we don't recommend it, I'll probably take it on anyway, so it's a free shot here for you to. You can take credit for

suggesting, because I think that would be a reasonable thing for us to do.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this suggestion, Steve. And perhaps would the metrics group be working on this, perhaps? I've got still Alan Greenberg, and then Brian Cute in the queue, so Alan Greenberg next.

ALAN GREENBERG: Thank you. From the point of view of what Steve just said, yes, maybe a recommendation is warranted on that particular new task, to review just how well we've done. In terms of consistency with the other review teams, though, I think this is a recommendation where we say, "No, we don't believe it's quite done. You're doing real great. Let's make it better."

                          I wouldn't want to see a recommendation saying, "Keep doing the same work," because we've already decided that we don't think that's appropriate for the other review teams, but we want to be able to highlight recommendations that we think still require more work, even though the two or three years has elapsed, and I think we should be treating all three reviews the same way. So I don't think a recommendation is warranted on that recommendation. Maybe a new one as a follow-on is appropriate, but I think we need to be careful and not give short shrift to the other two reviews, because we don't have the ability of reopening of the substantive recommendation itself.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Brian Cute is next.

BRIAN CUTE: Actually, to Jorgen's question about what's the assessment here, I myself can see the significant improvement. I think the board's done a good job. I think Steve's suggestion about undertaking a sample is an excellent idea, whether we make a recommendation or not on that. To my ears, a new recommendation might be – and it's not an endorsement – but David raised the question about should an ICANN Board decision speak to the elements found in AOC, paragraph three. I don't know, but that is something that looks to me like a potential new recommendation. You see what's in there, in terms of the four elements. I think of some decisions that speak to impact on small business.

For example, if you look at it through that lens, there's some interesting though there – not an endorsement, again, but that's one potential area we could look at as a new recommendation for improvement on the improvements that have already been done and recognized.

OLIVIER CRÉPIN-LEBLOND: Thank you. Larry Strickling?

LARRY STRICKLING: A couple of reactions. One is the language in paragraph three is so broad. I don't think we intended it at the time to be something that had to be a checkbox on every decision of ICANN. It was clearly aspirational. It clearly was to set a focus on what was important, but I don't know how well it works as a checklist for decisions.

Secondly, I haven't read enough ICANN decisions over the next three years to have a view as to how fulsomely they have adopted our recommendation. I don't know if anybody in this room has. I think

before we come back and say, "They haven't met the mark, though," since we haven't done this review that Steve talked about, and since I haven't had anybody present to this group a fact that says, "Here are five decisions that don't meet the mark," I'm a little nervous about all of us just nodding our heads and saying, "Yeah, they don't make the mark." I don't know because I just haven't done that, and if those of you have, I welcome to hear the factual basis for that statement.

I think, though, the third thing is that the idea of actually looking at a sample of the documents – shame on us. We should have been doing this since March. I thank you, Steve, for proposing it now as maybe a recommendation, but I, quite honestly, would be a little embarrassed about something that was so obvious that we should have done it ourselves and been putting it back to you and saying, "It's a recommendation from us to ICANN to go to what we should have done."

I'm just wondering, is it out of the question of us doing this kind of review in the time we have? We could volunteer an intern at NCIA to kind of do a first look at some of this. In a lot of respects, it is an intern product. It isn't that hard, because what you're trying to see is is there a rationale, and was ICANN responsive to the public comment it got? It's a fairly objective review that has to be done, and again, I very much thank you for offering to take it as work to do by ICANN, but I really kind of think it's something we should have done.

STEVE CROCKER: Thank you very much for noting that we don't have the data in which to make the recommendation. I was really coming from my more intuitive

position of having watched these rationales go by, and my sense of things is that there's an unevenness there. But I haven't gone back and taken an organized look at it either, so I think that's a very fair position to take. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. Next is David Conrad.

DAVID CONRAD: I guess I'm a little confused how one could judge the quality of a rationale without having sort of a background in what the rationale is trying to explain. While I definitely appreciate the offer that an intern could review, I'm just not sure how that would actually – you could say, yes, there is a rationale there, but whether or not it actually fits in with rationality is a different question.

LARRY STRICKLING: Well I guess if it's not clear enough to an intern, maybe it doesn't make the standard.

OLIVIER CRÉPIN-LEBLOND: Thank you. Steve and then Brian.

STEVE CROCKER: David, let me attempt a quick and what I hope is a straightforward kind of response. There may not be a well-enough published statement as to what the criterions for rationale, but I would expect the following, based on everything that's [inaudible]. One is very simple. Is it clear on its face? Can you read it and understand what it's saying, or is it just too terse, or vague, or convoluted that you can't make any sense out of it? Does it pass the test of being readable by the average citizen? So that's one.

Another is does it attempt to actually explain and connect what the resolution is to any kind of background? So that would be another thing where you could evaluate it on its face.

The next deeper substantive thing is, and is that connected to any sort of facts? So looking at the public comments or other record that might be associated with that would then be the next level of this.

The last thing that comes quickly to mind is are the same ideas – same general criteria – being applied across all of the success of rationales? That's what I was referring to when I said "consistency." Some rationales may speak voluminously about some stuff, and others may be very terse and only say something. And taken by itself, that may seem okay, but when you take it in the context of a string of rationales, you say, "Well, why do I get a lot of information here, and it speaks to these issues, but this one, it doesn't speak to that."

So those are the immediate things that would come to mind that I think would be very sensible to look at. There may be yet deeper things, but if you can't sort of dispose of those, then I think we've got an indication that we've got some work to do.

OLIVIER CRÉPIN-LEBLOND: David, your response?

DAVID CONRAD: I didn't mean to suggest that I didn't think it was a great idea. I think it's a wonderful idea. I guess the question I really had was more along the line of the resources that would be necessary to do a good job in doing the analysis. It was actually a question. I don't know.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Brian Cute?

BRIAN CUTE: Actually, there are some specific things we can look for that tie back to ATRT-1 recommendations, and specific points were the Board, in explaining its rationale, reflecting back what it heard from the community – the black box problem. So that when community members give inputs that the Board is identifying those inputs, where it supported the input, and reach its conclusion; and when rejecting an alternative view, providing some explanation as to why it's objecting an alternative view.

We can look for that, and I think we should take that task on ourselves. That doesn't necessarily get to the quality of the decision. Those are important mechanics that were important for the community to have felt they were heard, so actually I think we can take it on without delving into was this a quality decision or not, if you will. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Next is Avri.

AVRI DORIA: I actually think it may be a good idea because one of the issues I've had is that, for example, on one decision where those – and this is the NCSG Reconsideration request where we got a rationale, and then people basically argues that that rationale was inadequate. We then didn't get a decision. We just, "Oh! You don't like that rationale. Here's another one." And that was essentially the way that went.

Until that time, I never questioned the rationales. I read them and I said, "Oh okay, that's why I did it." Since that, I've sort of wondered if

rationales really are box ticking, and so having someone actually look into the consistency of thought, and process, and concept in rationales actually could be useful, because having seen the "you don't like that rationale? Let me give you another one" – type display has raised questions.

OLIVIER CRÉPIN-LEBLOND: Thank you, Avri,. Jorgen Abild Andersen?

JORGEN ABILD ANDERSEN: Thank you, Olivier. Not to prolong the discussion on this, I just wanted to echo what Brian said in his attempt to come to a conclusion on this. I think he phrased it very well, and if his summary could be combined with Larry's proposal to let an intern in NCIA do the job, I would strongly support that. I think that would be great. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, and there's a Danish intern who would be welcome. I'm a little concerned about the time we're spending on this, and we're kind of killing the subject at the moment, although I think we got a consensus on this. It's to close the discussion on this one and move to the next recommendation. Yes, please, Brian – summarize.

BRIAN CUTE: If I may, just looking at the agenda, I think it'd be important that we just keep plowing through. We have other work streams that we're supposed to start this afternoon, but I think this is good work. We need to be efficient with our time, but let's keep plowing. I think what we do today will help us be more efficient tomorrow, if everyone is okay with that.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. I see everyone around the table agreeing, or at least not nodding negatively. Let's move on. With regard to 7.2, it looks to me as though we've got this consensus that should be an intern looking at this. If I could perhaps ask – well, there is. There was no one saying against it.

BRIAN CUTE: I reserve the notion that a small group of us might be able to tackle this task in the next three days, so let's hold that thought.

OLIVIER CRÉPIN-LEBLOND: I was going to suggest that, but knowing that there is only 24 hours in a day, I was going to ask you, as the Grand Wizard, to add the hours somehow to find this small group to work on it and just –

BRIAN CUTE: Well I'll wait to until the end of this day when people are fatigued and confused and get some volunteers. How's that?

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. I'm taking this seriously, so by the end of those three days, we will have a solution for this.

BRIAN CUTE: I think it's identifying a sample of Board decisions on issues that should have reflected the elements in ATRT-1's recommendation, and then having a small group of folks read through. Resolutions are long. This can be done fairly quickly and come back to the group with some read as to how well that's been done or not.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you for clarity on this. So we've got Number 8 now – published redaction conditions. This is marked as green, but there are cases when things haven't been consistent. I unfortunately cannot

quote when, because it's just been the offhand. The floor is open for comments. David?

DAVID CONRAD: So when I actually was doing the review stuff, I didn't see any sort of negative comments to this, so my interpretation at the time was that this was basically complete and ongoing. Yeah, and any future redaction policy would need to be documented, but my impression was that it was sort of complete. However, in discussions today, Alan had raised a point that many people – some people, that I didn't see, but I didn't see everything, obviously – had felt that too much was being redacted. Oh Brian, sorry. Well, you look sort of the same.

So whether or not there's something that needs to be clarified there with regards to the redaction policy, I don't know. I suspect this is one of those things there will always be people who feel that too much is being redacted, because the information that they're particularly looking for is not available.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Next is Brian.

BRIAN CUTE: So the guidelines were posted on March 21, 2011. It's a fairly clear, comprehensive document. So to the extent that the recommendation was "publish these guidelines so people have clarity around it," I think they certainly hit that mark. The question of, "Is too much being redacted or not?" I view as a separate question. Again, I don't have data underneath that assertion, but that's what I see.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Any other thoughts? Clearly this subject doesn't seem to be as open as the previous one. I think we can move forward on this one. It's hard to find out how much is being redacted, because when it's redacted, you don't see it, so obviously, one finds it very difficult. Yeah, I think we can just move on. That's a green.

ALAN GREENBERG: Presuming someone doesn't come up with some of the interesting examples in the next couple of days. Personally, I seem to recall something recently, but I have no clue where it was or why it was. I'm not going to push the claim because of a vague memory I have. If we have any substantive examples it may merit discussion.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. So now we have number 19, which is to publish translated Board material within 21 days. I have put a number box next to this, because some of the material has been published in other languages within 21 days, and some has not. It's inconsistent, and sometimes, depending on the amount of workload the translation department has. I'm not quite sure whether there needs to be very much discussion on this and what we can say or do about this. Ultimately, I think the recommendation is there, and after our discussions we had with the translations department – or languages department, as it's called now – there is definitely a lot of improvement going on, and it's an ongoing improvement, but I open the floor for questions. Larisa?

LARISA GURNICK: Thank you, Olivier. Not a question, just a clarification that Language Services Group is working on an updated report based on the discussion in Durban, which will talk about some of the general improvements and

changes that they're making that might be useful for this item, as well as general items that have to do with multi-lingual issues.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larisa. That would be very welcome. Steve Crocker?

STEVE CROCKER: Are they addressing whether the 21 days is too tight under certain circumstances? It would be interesting, for example, to know if there is basically no issue with getting it done, or is there some issue with whether or not it can always be done within 21 days versus, say, it would make a qualitative difference if it were 28 days. That's just one element of what to look at.

OLIVIER CRÉPIN-LEBLOND: Larisa?

LARISA GURNICK: I'll make a note of it. I don't know.

STEVE CROCKER: Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you. I think we can move on if this report is coming up. So Number 20, ensure or certify that inputs in policy-making processes are considered by the Board. I sense this is going to be another discussion. The floor is open for input on this. Effectively, the rationale given that the end result given by staff was that decisional checklists have been developed and are used when policy recommendations arising out of the supporting organizations and are now part of the standard materials required.

That said, we often hear that the input processes are redacted, as we know, and the quality of the redaction might affect the input that the

Board gets, or any bias the redaction does affect the input that the work that the board gets. I see Avri Doria.

AVRI DORIA:
This one is sort of difficult, because to ensure and certify, you can certainly ensure and certify that someone has looked at something, and that is indeed the checklist. When you start then getting into what is measurable, how do you – I don't know whether there's any way to measure the instances that a preliminary decision changed because of input. I don't even know if the Board knows when it's had preliminary decisions versus changed decisions.

But without something like that, where there's a way of measuring – so yes, the anecdotal evidence you get is that you can't find anyone, other than perhaps GAC, but you can't find anyone who sort of says, "We gave advice, and they listened." But that's purely anecdotal, and I don't know of any way to measure it that sort of said, "We saw they were going one way. We gave advice. They went another." I don't know that there's a way to ensure anything other than they looked at it.

OLIVIER CRÉPIN-LEBLOND:
Thank you, Avri. Brian Cute?

BRIAN CUTE:
Yeah, I'm looking back at the original recommendation, and it's my recollection only, which could be flawed. But I think this is one of those instances where "check the box" was something we were asking for, and we're okay with "just check the box." That is a mechanism.

Again, getting at the black box problem, there were a number of different recommendations, so the modification of public comments

process, the articulation or rationale and Board decisions, and a simple mechanism to make sure they were checking a box to ensure that they were in fact receiving the input from the relevant stakeholders, my recollection was that it actually was that kind of narrow recommendation, but part and parcel of a broader set to break down that barrier. So whether this mechanism reflected qualitative treatment of an input, I don't think that was at the center of this recommendation. If I'm off-base on that, please correct me.

OLIVIER CRÉPIN-LEBLOND: Thank you very much. Fiona Alexander – I'm sorry to mumble my words.

FIONA ALEXANDER: That's okay, I have a new name. Now I think just to agree, I think that was the purpose of this, but I did have a question, though, because I have never seen these decisional checklists and I don't know if they're posted anywhere, and I don't know where they've been posted. But David's assessment says they don't cover advisory committees – just SOs. So I haven't actually seen this checklist, though, so I think maybe David could explain where we've missed it and why he proposed a new recommendation. But it could be maybe these checklists need to be published along with the rationale or something like that. But I haven't seen them.

OLIVIER CRÉPIN-LEBLOND: Thank you, Fiona. David Conrad?

DAVID CONRAD: Sorry, I had to step out. I'm just catching up with where the discussion is.

OLIVIER CRÉPIN-LEBLOND: Recommendation 28.

DAVID CONRAD:
Right. I'm trying to recall where I discovered that information. It might have been within the context of the spreadsheets that were provided by staff. Let me get back to you in just a second.

OLIVIER CRÉPIN-LEBLOND:
Could it be the case that, when staff produces summaries and the input, all input is considered on a par level, whether it comes from an SO, an AC or a member of the community. Could that be the source of your suggestion? Okay, we'll give you some time. Fiona Alexander?

FIONA ALEXANDER:
So even in your chart, which has Column I, it says the explanation that it's been done for SOs. That could be where it comes from. "Decisional checklists have been developed and used in policy recommendations arising out of SOs are now part…" So again, I've never seen the template, so actually looking at a template could maybe answer the question.

OLIVIER CRÉPIN-LEBLOND:
Thank you, Fiona. Would it be possible actually to get hold of one of these templates? I think that might be helpful for this committee. Okay, so for the record, Larisa is looking for one. Mindful of the time, perhaps we can move forward, and then if we do have to come back to this afterwards – but let's just make sure we don't forget 20 is still an open issue. Larisa?

LARISA GURNICK:
I think it's on the Work Stream 1 page – it's other information. So, Olivier, it's the page that you created to contain all the information. There's a link to other information. If you click on that, I think that's the checklist, if I understand you correctly.

OLIVIER CRÉPIN-LEBLOND: Right. Thank you very much, Larisa. Yes, other information – Work Stream 1 AOC 9.1 A, "During the meeting in LA on the 2nd and 3rd of May, staff referenced decisional input checklist in connection with Recommendation 20 of ATRT-1. Here's a link to this checklist." And we have a link to it. Thank you. Input tracking checklist, yeah, and that's being actually published under ATRT-1, I believe. So Input Tracking – GNSO PDP Recommendations, and that has tracking of GNSO or stakeholder inputs. For each GNSO stakeholder group, constituency, or advisory committee, identify if any input was received, and so on and so forth. And we have here GNSO Council, Registrar Stakeholder Group, Registrar Stakeholder Group, Registry, New gTLD Applicant –

ALAN GREENBERG: Olivier, can you wait until we actually get it on the screen so we can see what you're looking at?

OLIVIER CRÉPIN-LEBLOND: Oh, sorry. I'm plowing through things – sorry. It's the coffee kicking in.

ALAN GREENBERG: I know, but if has staff has trouble finding it, we have another problem.

OLIVIER CRÉPIN-LEBLOND: So you click on this, it takes you over to the ICANN page, and then Input Tracking Checklist – Document 48K. It's right there. ICANN is posting an input tracking checklist. It's interesting, if you have ideas for improvements for the input checklist, you can e-mail an e-mail address. So the next page –

FIONA ALEXANDER: Just to point out, this is GNSO PDP [inaudible]

OLIVIER CRÉPIN-LEBLOND: Correct, yup. It's GNSO PDP. Lise Fuhr?

LISE FUHR: I just have a question. Is it used, because I was – we were all asking about it, so does the board actually use this checklist?

OLIVIER CRÉPIN-LEBLOND: I believe that's staff that fills this checklist. Larisa, Denise – I'm not sure who would answer This.

LARISA GURNICK: I believe it was Sam Eisner that talked about it, if I remember correctly, and she's the one who provided them links, so I'd be happy to arrange a follow-up with her.

OLIVIER CRÉPIN-LEBLOND: Denise?

DENISE MICHEL: My understanding is that this is incorporated in Board briefing papers that are prepared when the board is addressing a policy issue that comes up clearly from the GNSO, but we need some more information from Samantha.

OLIVIER CRÉPIN-LEBLOND: Thank you, Denise. I note that the table is one line per SO, or AC, or SG. Is this effectively expanded when it fills up? Two questions, really. The first one being, does this table then grow when you've got the full summary of each one of the SO/AC/SG input? And the second thing is, is this actually, when it's brought up as board briefing material, is this published?

DENISE MICHEL: Yes to both of those questions.

OLIVIER CRÉPIN-LEBLOND: Thank you. I think part of the question in regards to the Board briefing material is that the community is able to briefing material that the Board members get, so that certainly brings some extent of

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transparency, and certainly accountability, to the input that is there, and the feedback that the community can provide if any briefing material is not as the community intended the material to be. I know that you've pushed on this, Steve, for this to happen. Do we need any further information on this now that we have it in front of our eyes? Lise?

LISE FUHR: Well, I would like to know how many times it has been used for the Board, because it says in the recommendation that [inaudible] what input has been received, and I include it for consideration by the Board. I don't know how many policy processes there has been the last three years and I don't know when this checklist, if it's from October 12th, it's not that many meetings, but…

OLIVIER CRÉPIN-LEBLOND: Thank you, Lise. I see Brian, and Larisa – did you have any knowledge of this?

LARISA GURNICK: No. I'm just going to take the questions down and coordinate the answers with staff.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larisa. Brian Cute?

BRIAN CUTE: Yeah, and examples of it, having been filled out and used by the board, include in the package the checklist being published as well. Whether that's the case or not, I think that would be useful information for the team.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. Steve, may I just ask you, as the recipient of this information, have you seen those checklists received by the Board when receiving briefing material?

STEVE CROCKER: The truth is that, in asking me on the spot in the moment, I'm looking at this and do not recall having looked at this. That doesn't mean that I didn't look at it and see it and process it at the time. It just doesn't resonate at the moment. The other comment which went by here is that we don't have a lot of these things. It's not an everyday occurrence, but a lot of resolution come by, kind of every month, and this is not sort of high-frequency kind of thing. So I would actually have to go look at one of the worked examples to refresh my memory.

Let me be a little bit more forthcoming about this. I'm exposing a lot of – it's not dirty laundry, exactly, but it's sort of the wrestling with the facts of how things are. We get a ton of material prepared for the Board, and it's broken into more or less two layers. It's sort of a thinnish top layer and then a really fat lower layer. My feeling is that the thinnish top layer should be sufficient to be able to do our work. The other material, which legal staff provides, is there as a reference and it's published. But I think there's a very substantive question about you can provide so much information and say, "It's all there. Therefore, we're transparent." In fact, it's all there and you can't sort out what it is you have to look at, and therefore it doesn't have any positive effect in terms of the way decisions are made.

I had been wrestling with how to get that right balance. We want more members informed. We want their decisions to be informed. And at the

same time, we don't need for Board members to redo all the work that everybody else has done. That really is the wrong role for Board members, which reminds me that, at some point, I'm going to comment about having board members engage and become members of working groups, which has got its own set of discussion to have.

So my guess is this will wind up in that secondary pile, and whether or not that actually is seen and processed by everybody is probably debatable, and equally debatable is whether or not that's a necessity. I don't know where that [inaudible]. But I have been pushing back on having the top layer so thin that you can't make any sense out of it, and I've been pushing back on having a deep layer that you're supposed to know everything about and trying to find that happy medium. I don't know if that's helpful, but…

OLIVIER CRÉPIN-LEBLOND: Yeah, thank you, Steve. That is helpful. Alan Greenberg?

ALAN GREENBERG: I'm making assumption, and tell me if I'm wrong, that, when you're getting a briefing document, you're also likely getting a recommendation from staff. Is that a valid statement much of the time, or not?

STEVE CROCKER: I have a feeling that there may be a place you're taking me to that I don't want to go.

ALAN GREENBERG: No, it wasn't a trick question. The issue is, if indeed you're getting and analysis and a recommendation from staff, the really important part is not this long laundry list, but who disagreed.

STEVE CROCKER: Yes.

ALAN GREENBERG: Which is a much shorter list – maybe zero.

STEVE CROCKER: Yeah.

ALAN GREENBERG: And if indeed that the staff briefing is coming with a recommendation, then what you really want to know is who's disagreeing with it and why.

STEVE CROCKER: Yeah, that's a good point. Without question, the Board does not want to be in a position of having made a decision and then get caught later with the understanding, "Didn't you know this was all this controversy about it?" We would not feel well-served in that case.

                        I don't know exactly well we do there. I don't think we do poorly. We probably also don't do perfectly. Then we're in some area of grey. But it is a level of concern that is part of what – actually, it's one of the things, and I probably didn't cover it properly in my short list of the quality of the rationales – but that definitely has to be part of what's in the rationale that, if there were disagreements, that it was covered in what was covered there, and then that would be tied to whether or not it's mentioned in the briefing papers.

ALAN GREENBERG: Follow on? I'm working on the assumption that the Board definitely doesn't like repeats of whether it was Toronto or whenever, where you approved the new VeriSign contract, and people then stood up at the open forum and explained why they had objected to it that had been ignored. Clearly, that's the kind of thing, if you're going to conscious

	decision like that, you want to make it knowing that that's a very conscious decision.
STEVE CROCKER:	Yes, there were multiple things there. The other one was that they didn't like that we made it in private and we fixed that.
OLIVIER CRÉPIN-LEBLOND:	Thank you very much. Denise Michel?
DENISE MICHEL:	So Samantha, last time you were in LA, showed you this tracking checklist and indicated that it was incorporated in the template for board briefing material, and the intention of the template was – and it is used any time the Board considers a policy that's been developed by the GNSO. That's the intention of the checklist. Or is it all SS?
STEVE CROCKER:	When's the last time we actually had a PDP that came from the GNSO?
DENISE MICHEL:	And so, we have GNSO members here, so this was instituted around October of last year. Have there been any GNSO PDPs since then in six months?
ALAN GREENBERG:	There was. There was IRTP-C or something, which you just approved weeks ago. But it's not the kind of controversial thing –
UNIDENTIFIED SPEAKER:	Still, that would have been a form.
ALAN GREENBERG:	Well yeah, but if what the form says is, "This is what they said. This is what they said," but isn't highlighted in bright red or yellow as to who says this is a stupid thing, it's a lot of words to process.
OLIVIER CRÉPIN-LEBLOND:	Thank you, Alan.

DENISE MICHEL: [inaudible]

OLIVIER CRÉPIN-LEBLOND: Okay, thank you, Denise. Next, David Conrad.

DAVID CONRAD: So my interpretation of Recommendation 20 and the form was that it is not doing any sort of evaluation of the discussions. It's simply saying whether the Board has requested and received input, and what the board did with that input. The discussion of if there's controversy or anything like that is outside – yes, the GNSO might say there's controversy here in their input, but that's not what this recommendation and this form is trying to do.

Just my interpretation of what this recommendation was saying is, "Look, you need a checklist just to make sure everyone is being touched for input." I went back to my notes, and the reason I wrote the Recommendation 28 that I did was because, in the staff response, it was actually explicit that they talked to supporting organizations. There's no mention of ACs. I just wanted to make sure that, if – and they might have just been the short hand that was used within the spreadsheet; it might not actually be real, particularly when you look at the form itself, and it does actually talk about ACs at the very bottom, which I might have missed. But the point of this recommendation, which is why I said I felt it was completed, was because it simply is just the checklist.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Lise?

LISE FUHR:	Sorry. Well and it's also concerning all policy making, and not only the GNSO, right? So I think the title of this document is a bit – what do you call it? Not showing the actual use of the document.
OLIVIER CRÉPIN-LEBLOND:	Thank you, Lise. Actually, I do have a question about one of the boxes in there in which I think maybe Sam could answer. The questions we'll ask her is to see the nNw gTLD Applicant Interest Group. And I'm not quite sure what that is. New gTLD Applicant Internet Group –[endtag], which is part of the GNSO?
AVRI DORIA:	It's part of the Registry Stakeholder Group.
OLIVIER CRÉPIN-LEBLOND:	All right, thanks. I think we can move on, because we really are spending so much time on this. Brian?
BRIAN CUTE:	Very quickly, my recollection is consistent with David Conrad's description of this document. It's a checklist. Finding out whether it is published I don't think goes to how the Board qualitatively addressed any constituency's input or not – or group. But if it is published, at least it is confirmation in a two-dimensional way that my stuff was received by the Board and their packet. I think there's some value there, too. So that's all.
OLIVIER CRÉPIN-LEBLOND:	Thank you very much, David. We have four more boxes in this document. I don't know whether we have time before we take a break. Shall we just push forward?

23: Get input from community of independent experts on restructuring review mechanisms. This one I colored red because I couldn't see any answer to this question, and I'm not quite sure where we are.

DENISE MICHEL: [inaudible]

OLIVIER CRÉPIN-LEBLOND: Yes, Denise. So we're on Recommendation 23, which is, "Get input from committee of independent experts on restricting review mechanisms." On this sheet, I didn't see any answers. So I wasn't quite sure – I might have missed something.

DENISE MICHEL: Yes, that was done and posted. At one of the ICANN meetings, some of the members were there to present their recommendations and have a public discussion. Staff can get you links for that.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you, Denise. Yeah, I think I must have maybe missed a meeting or something. Well, at least it wasn't on the document I had. Carlos?

CARLOS RAUL GUTIERREZ: Yes, we have a mixed bag of reactions to the initial question there on this issue that I don't know if we want to have coffee, or you want me to report when I talk about the template.

UNIDENTIFIED MALE: How many of these recommendations did you cover in your template?

CARLOS RAUL GUTIERREZ: I concentrated on 23, but these related to 25 and 26, and I have six – no, 24. I don't know why the sequence is – 24 is not exactly related to the revision, but that's what my draft template analyzes.

OLIVIER CRÉPIN-LEBLOND:	Right. Thank you, Carlos. What I was going to suggest then, since you are working on – you've got a template that deals with it –23, 25, and 26. Shall we first address 24, and then we can close off this section with your template, and then have coffee after your template? We're okay with that? Okay, so you'll be the one to kill for being late for being late for the coffees.
	24, Assess ombudsman's relationship and confirm frame work is consistent with international standards. Of course, we had the ombudsman and we spoke to the ombudsman in Durban. The question I had on this was whether the ombudsman was protected or insured against litigation for various issues, including some of the questions that we asked him. The answer was inconclusive. I'm not quite sure. But I see Avri Doria with her hand up, so Avri, you have the floor.
AVRI DORIA:	Thank you. On this one, I have no idea about the insurance. I do think we need to note the ombudsman's I think indication when we were talking to him that, ten years after the original – I forget – is it charter? Description of his duties was made – it was something that needed re-review. I don't know how that fits into this, but I just wanted to bring that up as something that is sort of a pending issue that came out of our discussion with him, and that seems to relate, in terms of the consistency with international statements, the scope of his work, the scope of his task, so I wanted to throw this into that bucket.
OLIVIER CRÉPIN-LEBLOND:	Thank you, Avri. Alan Greenberg?

ALAN GREENBERG: I guess a question for Steve, is this the kind of thing the Board is interested in doing anyway, or do we need an ATRT recommendation? One of the examples when we talked to the ombudsman was that he and his predecessor felt that mediation is one of the kind of things that they can be useful at and is trained at, and yet that is not part of the formal scope. I personally, in another interaction, had been advised by ICANN legal that we're not allowed to mention mediation as one of the things the ICANN ombudsman can do because it's not part of the bylaws. Is this the kind of thing that's going to be [inaudible] or does the ATRT have to make a recommendation to get motion?

OLIVIER CRÉPIN-LEBLOND: Steve?

STEVE CROCKER: Yeah. So if you addressed it to me, I'll try to respond. I don't know the answer to the question that you're asking. I don't have any objection if you raise it and put it in there. It'll get some attention. I can tell you that we've had some discussion about the role of the ombudsman as part of a broader set of appeal mechanisms in general. In the context of reconsideration motions, for example, we watched particular examples where we said, well, this was not the right way for that particular issue to get raised, but why didn't they go to the ombudsman? And the answer was they probably didn't realize that the ombudsman has the power to do something or could step in. That actually then enlarged to a spectrum of four or five different options that somebody with complaint could explore.

I think what will come out of this – but again, just speaking as an observer from a privileged position, but nonetheless just as an

individual observer – that we will eventually have some sort of discussion both with the ombudsman and with the community in general that there are ways to use the ombudsman that are broader than what we've seen. But I wouldn't have any negative reaction if this group wanted to take that up and highlight the role of the ombudsman in various ways. I don't know if that's helpful. It's a kind of rambling response.

STEVE CROCKER: It's certainly helpful to me. It also fits in in my mind with the discussions we've had on Whistleblower programs and things like that. It could be a more general recommendation that ICANN needs remediation methods for a whole bunch of things that are not there right now.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Thank you, Steve. Any further comments on this? Avri Doria?

AVRI DORIA: So that would mean that this would not necessarily be a green, but it would be further work to come up with a recommendation that goes in here. Is that where we're at on it? No? I like that place [inaudible]

ALAN GREENBERG: I read this one as essentially what they asked was complete, or presumably was completed and we're talking about something much wider that may include the word ombudsman in it.

AVRI DORIA: So in other words, if I'm understanding, this would be a four, not a one. We call this issue closed on Work Stream 1. I deleted the words "work stream." Apologies. But this was Work Stream 1 was completed, but it

was a Work Stream 4 item to do something else. I'm just trying to understand. That's all.

OLIVIER CRÉPIN-LEBLOND: Yes. Thank you, Avri. Brian?

BRIAN CUTE: And I think that's a fair assessment from everything I can see in terms of did they hit the mark on the recommendation from ATRT-1. I was just perusing the Durban page looking for interaction with the ombudsman and I didn't see it. Maybe I missed it. But in that interaction, we had a number of specific issues and topics that were brought up in part by us, in part by him, as representing those types of areas where the ombudsman could, within the normal course and within international standards, do more. And I think we should go back to Durban, look at that transcript and come back on some of those comments and push it farther – potentially a [four] new recommendation.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian. I believe we do have clarity here. So Work Stream 1 has finished on this and passes it on over to Work Stream 4 to consider the information that was collected in Durban and follow on with that. Denise, did you want to say? No? Okay. So we're done with 24 and now we're going to look at 23, 25, and 26.

23 is get input from the Committee of Independent Experts on restructuring review mechanisms. 25 is clarify standard for reconsideration requests, and 26 is adopt standard timeline and format for reconsideration requests. Is that correct?

ALAN GREENBERG: Could we scroll this so we can see 26?

OLIVIER CRÉPIN-LEBLOND: We have the three, yeah. Carlos, is that correct? 23, 25, and 26. All three of them. Carlos, you have the floor since you've put together the template for this.

CARLOS RAUL GUTIERREZ: It's just what Brian described. If you wait until 6:00pm, then you get volunteers for the [inaudible]. I don't remember to have volunteered for this. And I don't know why they put my name since I'm not a lawyer.

I look at the responses of the community and there is – when we send out our questions, the first round of questions we weren't very specific. But I think three questions. The first three questions of our initial questionnaire related to that and we had six people ranking the progress in these issues. And the average is about five, is the progress of about 50% on that.

Then we have three people that didn't rank the responses, but they made very specific comments to these issues and those were the Registry Stakeholder Group, the NCSG [in a] request of consideration and [inaudible] and they were very vehemently against any progress [audio skips] delays in the expert panel and delays in the implementation of the expert panel's recommendation. The expert panel was called [ASEP] I think. Is it right?

UNIDENTIFIED FEMALE: I'll send the link to the [inaudible]

OLIVIER CRÉPIN-LEBLOND: For the record, this document is linked to the overall table of all of the templates that we have.

CARLOS RAUL GUTIERREZ: So having said that and having looked at the comments, I went back to the new – well, the appeal mechanism, they have three different channels. One is too narrow, as we said. That's the ombudsman. The other one is too expensive. That's the review panel. There is only one example. Then in the middle there is the reconsideration of Board's decisions and the page was very, very well-structured and six reconsiderations have been finished and two are still open, and it is true that all denied reconsideration process but it was worthwhile to look why they denied them. And we have seen some examples today. Some went back. Some were not at the right time because there was no policy development process like the IGO, INGO. That was a response of reconsideration that the Board did to the Olympics Committee. Now there is a Board working on that as we heard today.

What calls my attention here about this reconsideration process is that we have to take it again and look at the implications to other issues. I think it's weird that the reconsideration process is not only about Board's decisions, it's also about staff action and inaction. I don't know if that was intended. I think it goes too far.

Yes, this is a big package for ATRT-2 to make a very succinct summary and I have only proposed some hypothesis for discussion. I have not developed what ATRT-2 should do here.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Carlos. Just to ask if staff could please unlock the document that's on screen so you can unlock the scroll so you can scroll it up and people can scroll it at their leisure, because at the moment it's

locked in so it's impossible to – oh no, it's not because it's a screen thing. Okay, forget it.

Carlos, you did mention one thing. You said the ombudsman was too narrow and the other request was too expensive. No. One has a narrow mandate, one is an expensive way but one cannot say it's too narrow or too expensive. There's a difference. But yeah, correct. Any questions or comments on this significant piece of work? And thank you for this, Carlos.

One of the things which I think we've heard a number of times was that there's somehow some misnaming of what a reconsideration request is and what a reconsideration is. The community appears to think that this means that the Board is going to look again at a decision they've made and start discussing – opening the discussion and discussing it again and perhaps reach a different answer, when really the reconsideration is slightly different and it really just looks at the actual process by which the Board made its decision. And if the process is not flawed, then the matter will not be reconsidered. We notice a lot of denied reconsiderations and that's because the process was followed the first time around and the Board made its decision and that was it.

The other concern was if you do have a strong reconsideration request or a different matter by which people could ask for reconsideration or an independent panel to do reconsideration, then at that point of course that completely opens the door to having some of capture or even a different type of top-down decisions because decisions can then be overturned by appealing at this high level. Complex questions. I'm

reiterating this since this was part of the discussions that we had in the past and so on. I see Alan and then Brian.

ALAN GREENBERG: Thank you. I think we're in danger of trying to address too many questions in parallel, that we're going to flip from one to the other and not have a coherent discussion. In terms of the ATRT-1 recommendations, I still think we need to do the assessment of were these implemented properly, were these implemented at all, to what extent?

And certainly in terms of the reconsideration one, there have been some very strong comments that the process followed was not reasonable, the Board did not take into account input which goes back to our previous discussion where we couldn't think of examples and now we have one.

What resulted was not based on the intent of the ATRT-1 recommendation at all. We're now also opening it up – I think we need to address that in the context of ATRT-1 recommendation.

In terms of where do we go forward, should we have a substantive review of decision as opposed to whether the process and rules were followed is certainly I think a discussion we need to have. In our meeting with the Board, we clearly heard different opinions, some of whom were vehement that if we opened the door to this, it's an opportunity for anyone who didn't get their way to come to the Board and say, "Please, daddy, change the answer."

On the other hand, we also heard comments saying, "But if a stupid decision was made, there's got to be a way to fix it." So I think these are two different discussions, though. We may want to separate them a little bit, otherwise we're going to be waffling back and forth.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Brian Cute?

BRIAN CUTE: With respect to the reconsideration request, the recommendation from ATRT-1 reads, "As soon as possible but no later than October 2011, the standard for reconsideration requests should be clarified with respect to how it is applied and whether the standard covers all appropriate grounds for using the reconsideration mechanism."

What we've heard from parts of the community is there was significant delay in initiating this – or implementation. While there was a process and there was a Board decision, that the process did not adequately consider inputs from the community, two particular stakeholder groups, and that the decision was put on the consent agenda of the Board and that this type of a decision perhaps should not have been part of a consent agenda given its import. Those are specific things that we've heard.

And lastly that the standard that was recommended by the Expert Group significantly minimized the basis upon which a reconsideration process could be initiated – or "gutted the standard" is the phrase that's been used.

EN

These are things that we've heard. We have some inputs. I think they're all very important inputs. We need to look carefully at them and reach conclusion on those inputs. But this is one where I think we need to put some serious work and thought to it before we reach any preliminary conclusions.

OLIVIER CRÉPIN-LEBLOND: Thank you, Brian. Alan Greenberg?

ALAN GREENBERG: Given that any Board member can request that something be taken off the consent agenda, it brings into question how this was presented to all the Board members if they were asked to approved something where there was substantive disagreement from some nontrivial parts of the community. The fact that no Board members noted that and thought that maybe worthy of additional discussion I find troubling.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. David Conrad first and then Lise Fuhr. David?

DAVID CONRAD: So I definitely agree with the comment that there needs to be some separation of discussion here, because I think in the context of the existing processes, I think – I actually had considered this sort of a completed item because within the context of the way the reconsideration process is defined, I think because it's so simplified it's probably tractable.

The issue that I think we're running into much more frequently, particularly in the discussions in Durban with various stakeholder groups and actually even within the context of the Board discussion if I remember correctly was what is the role of the Board with regards to

decisions that are made and how that impacts whether a reconsideration is undertaken. You had Board members who say that the whole role of the Board is to simply ensure that the process has been followed, in which case a simplified reconsideration process makes sense. But then you have others who say the role is actually much more detailed. The Board has to make some value judgments in which case reconsideration is simplified, it's probably not appropriate.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Lise Fuhr? No? Alan Greenberg?

ALAN GREENBERG: I think some of these questions are very nuance. If you were to ask me should the Board be allowed to reconsider the output of a GNSO PDP and change it completely as a part of reconsideration, I would say no. Should the Board be able to reconsider a decision that was unilaterally made by staff and perhaps just done or enacted by the Board, if there was a ratification, I would say yes. There's not one simple answer.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Carlos?

CARLOS RAUL GUTIERREZ: But this is exactly one derivative of the recommendations of these experts that I don't agree. I think reconsideration should be limited to Board decisions, not to staff actions. Staff follows directions either from the Board or the CEO and there are other ways. The way I read Recommendation 23 is really just the Board decisions, the highest decision and of the highest issues, not the administrative issues. And when I read the reconsideration, they're a mixed bag. I mean, their reconsideration process shouldn't go that high. I mean, it's [inaudible] they killed them and they denied them immediately because they are

not relevant. They're not related to Board decisions. When I read the bylaws, it says the Board has to offer ways to reconsideration of Board's decision, not staff [inaudible]. That's really mixing up things. That's what creates noise in the community, to mix things at very different levels and the people don't understand it.

ALAN GREENBERG: For clarity, I thought we were separating them. I wasn't talking about number 23. I was talking about the great new reconsideration process in the sky when I'm king.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Avri and then David Conrad. Avri Doria first.

AVRI DORIA   The idea of Alan being king is difficult. I think what we do have is the problem that most of us have overloaded the reconsideration because there is no appeals process for a staff decision. So we have to go to the Board for accountability on that.

So again I think we find ourselves in a question where probably the action of redefining reconsideration to just be reconsideration of a Board is probably a completed Work Stream 1 issue, but there is a Work Stream 4 issue of appeal. I guess I should've stopped because your face all of a sudden went from agreeable to "oh no!"

OLIVIER CRÉPIN-LEBLOND: David, just before, I know that Steve wanted to respond directly quickly.

STEVE CROCKER: Thank you. There is, aside from what's written about reconsiderations [inaudible] some very basic structural truth about an organization like ours. The Board is able to speak to the CEO at any time about almost

anything. The CEO reports to the Board; the Board can speak to the CEO.

If there's a staff action that is somehow inappropriate and the Board has some thought about it, the natural and usually proper path would be for the Board to have a word with the CEO and for the CEO to take some action related to that. If that's not satisfactory and becomes a big issue, well then the Board has a different discussion with the CEO. So that's just basic. You don't have to write down reconsiderations. You don't have to write down anything.

The other unwritten rule is that anybody can appeal to the Board to do anything at any time and the Board can decision whether or not to listen to them. It's rare. It doesn't happen very much. And most of the time when somebody approaches the Board and says, "We think the following is wrong. You should just…" we say, "We have processes for that. Why don't you go talk to the appropriate staff person?" But that door is structurally there. If somebody came to us with something that said, "This is a very big deal and I'm not getting any satisfaction," [inaudible] might get some attention.

So there are some underlying mechanisms that are escape processes that are built in no matter what. You don't want to see them get exercised very often obviously.

OLIVIER CRÉPIN-LEBLOND: Thank you, Steve. I didn't think it was going to come to that, but Avri just wanted to very quickly respond. David has been waiting very carefully and then we've got Carlos. Back to Carlos afterwards. Avri?

AVRI DORIA: Yeah. Thank you. From what you just said, therefore, the reconsideration process might indeed have been the accurate process if the Board had talked to the CEO and the Board had said, "Yeah, it's fine." At that point, there is a decision of the Board to reconsider. It actually puts it back in the realm where it might be reasonable. I didn't know there was an appeals process other than complaining to the Board.

OLIVIER CRÉPIN-LEBLOND: Thank you, Avri. David Conrad?

DAVID CONRAD: So at the risk of having people throw things at me, it sounds to me that part of the issue here is there is a concern that falls all the way back to issue six. The question of policy versus implementation discussion. It sounded like one of the things that people want to get reconsidered is how staff has gone about and implemented a particular policy, not necessarily that the Board made a bad decision about the policy, but that the decisions that were made by staff in the implementation of the policy were not what the particular complaints were concerned about.

Until we can get some sort of clarity on issue six, I'd be really hesitant to suck that discussion into whether or not number 23 or 25 – whichever one we're on, I've gotten lost already – whether that is actually completed to the point where we're saying that that recommendation has been done by ICANN in terms of ATRT-1 and whether or not a second recommendation needs to be made with regards to that particular aspect.

OLIVIER CRÉPIN-LEBLOND: Thank you, David. Certainly looking at Work Stream 1, it looks as though the clarification has been made for 25. And regarding 26, the standard timeline and format for reconsideration request is somehow on its way. But I yield back to Carlos Raul Gutierrez to let us now.

CARLOS RAUL GUTIERREZ: Yes, thank you. Steve, I think you have shown what [inaudible] is. Those are the two extreme cases, but in the middle is this legal definition of review of Board's decisions and the reconsideration of Board's decision. The very legalistic in the middle one of Board's decision, this is I think very important and this is the one I focus because this is the one on the written papers, bylaws or whatever, and this is from my experience the one for which Board members are liable for the decision.

So this is a very strict – I tend to concentrate on the strict legal responsibility of the Board of taking decisions and not having a higher appeal, which is fine with me. I think they're doing a great job, and at some point, the buck has to stop somewhere. And particularly for these strict definitions, the standards have to be very high of course, because of that reason, because it's a final decision. And from what I read, the Board has been clear in relevant things that maybe the form is not right. That's why they have come up with innovative solutions. They have said, "Okay, here in the case of the Olympic Committee, we don't have a policy yet. It has to be produced." In the case of the Plus 50 Trademarks, they have put the ball on the other side of the court again and have said, "Okay, we have to revise this policy versus implementation, etc."

One thing is to say there is no room for the legal reconsideration, but yes there is an issue and we have to bring it back to the right level. And I

agree with you. Your day-to-day is to cover all of them, but I think in the case of the ATRT-2 we should concentrate on the strict legal [inaudible]. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Carlos. I still have Alan in the queue. I do realize we're starting to have people fading around the room. Alan?

ALAN GREENBERG: I'll be quick. Two points. Steve, in your description of what someone could do if they're not happy with the staff decision, the only troubling part of what you said is the Board may look at it. I think people were looking for something that would compel the Board to look at it. You may not change your mind or may not change, overrule, staff decision. But there's more than a subtle difference in it.

The other issue I'll raise – and again it's looking forward and what should we be doing – you've raised the issue several times that you may not want to follow a Review Team recommendation because review teams, like any other group, are subject to group think. The Board is also potentially subject to group think.

UNIDENTIFIED MALE: Oh no.

ALAN GREENBERG: No? Oh, there's a guarantee. Okay.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you very much. I'm still at odds with regards to 25 and 26. I think that they're pretty much closed recommendations in that they have been pushed through, but there certainly is an opportunity for opening a new one under Work Stream 4. I sense from the debate here that there's still a number of unresolved issues, and I hope that the

discussion we're having here will serve Work Stream 4 in being able to not have to address them again from scratch. Carlos?

CARLOS RAUL GUTIERREZ: 26, yes there is a timeline and there is a formula form and so on; I just don't agree with it.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. We'll keep 26—

UNIDENTIFIED MALE: Did you wish the file for reconsideration?

OLIVIER CRÉPIN-LEBLOND: We'll keep 26 as green. 25, Clarify standard for reconsideration requests. I seem to understand that there definitely is a problem with regards to understanding from the community of what a reconsideration request is. Maybe some material is required for this and that might be a future recommendation that this committee might do. Brian?

BRIAN CUTE: Just so I'm clear, I agree that this is possibly fodder for a recommendation coming out of Work Stream 4, but I also think the questions raised by some on the community about how this was implemented could result in something with respect to backward-looking implementation.

OLIVIER CRÉPIN-LEBLOND: Regarding 25 or 26, specifically?

BRIAN CUTE: Well, the reconsideration in particular. So that's 23 in particular. Pardon me, 25, Clarify standard for reconsideration requests.

OLIVIER CRÉPIN-LEBLOND: Right. Okay. That's what I thought. I think we're getting a bit tired and confused at the moment. So 25 will need further recommendation. 26 can be closed.

BRIAN CUTE: I think – what I mean to say, so based on the input we receive from the community, they are specifically challenging the manner in which the implementation of 25 took place and raising what, on their face, seemed to be serious questions. We have to assess that and may come to a conclusion that in fact the implementation was poor and it may need to come back with another recommendation – may, may, may.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Brian, for clarifying this. And you will be glad to hear this is the last item on this worksheet, and I therefore hand the floor back to you, Brian, because I think a break might be required.

BRIAN CUTE: Coffee? Hold on. Steve?

STEVE CROCKER: I'd like to take the opportunity to introduce [Kareem Percet]. She will be heading up the Board secretariat that I referred to earlier. [Kareem] is in transition. She and her family moved from Paris and she starts officially two weeks from today. So it prevailed on her to drop in. I had thought maybe that we were going to hit the window of talking about the portion of the recommendations related to Board activities, so I thought if that was the case that she might see the sausage-making in progress before she has to take delivery of it. But in any case, the opportunity to introduce her and for her to meet a few of you and see the operation of this August body here.

BRIAN CUTE:

Thank you. Welcome on behalf of the Review Team. Glad that you could sit in for a little while. We want to welcome you on board but not frighten you quite yet. So thanks for joining us and happy to talk offline as well.

STEVE CROCKER:

John Jeffrey did brief me that she's not yet on board and I should be just a little careful.

BRIAN CUTE:

Okay, absolutely. Welcome again. And before we break for coffee, Olivier, thank you very much for setting us off down the road here. Very good work, very good structured work. Very helpful. And tomorrow and Friday we'll be more efficient because of it. Thank you very much. Let's break for coffee. 15 minutes.

Okay, folks, we're going to recommence. Are we live streaming? We are, okay. ATRT-2. Michael Yakushev, welcome. Thank you for coming. ATRT-2, Wednesday, August 14. We're back after a coffee break. We're going to finish up today continuing the discussion on Work Stream 1 review of ICANN's implementation of recommendations from ATRT-1. I see that Olivier's chair is empty which does not bode well for the next few minutes. Do we have any music we can play? Okay. We've got a volunteer to start on the GAC portion of Work Stream 1. So, Larry, if you're ready – or when you're ready – feel free to take it away.

LARRY STRICKLING:

So we had sent out two documents I think last Friday. One is the assessment of the recommendations and the other one was a companion piece that gets into the potential new recommendations. I guess we can take those up together. I think internally we're still

working through the documents. They're still a little rough and I think eventually we'll bring all of it together in terms of the draft section of the report. But I guess the way we had started down the road on the templates, to do them separately, you've got two separate pieces. But I think they really better fit together.

But anyway, let's go through the recommendations regarding the GAC in terms of the level of implementation of those recommendations. We're talk about Recommendations 9-14. Again, we're hoping for the document to get up. She can't get it to scroll. We'll just keep going.

Recommendation 9 was a recommendation that the Board acting through the GAC Board Joint Working Group should clarify what constitutes GAC public policy advice under the bylaws. In response to that, through the work done at the GAC to develop a definition of GAC public policy advice, my understanding is that's been accepted by the Board GAC Working Group and you've implemented into your operating principles, too, right Heather?

So we viewed this – our assessment of this is that this particular aspect, this particular recommendation, has been satisfactorily addressed by the GAC and by ICANN. I think our actual note said something about there's been a bylaw change to reflect that. I don't think that's true, but we'll double check that unless you know for sure. I don't think there were any bylaw changes made as a result of that, though, right Heather? Right. Okay.

Number 10, having established what constitutes advice, the Board acting through the GAC Board Joint Working Group should establish by March 2011 a more formal documented process by which it notifies the GAC of matters that affect public policy concerns to request GAC advice. And as a key element of this process, Board should be proactive in requesting GAC advice in writing. In establishing a more formal process, ICANN should develop an online tool or database in which each request to the GAC and advice received from the GAC is documented along with the Board's consideration of and response to each advice.

So on that one, there has been the development of the GAC Register of Advice. That is posted publicly on the GAC website. My understanding is, however, that we have not actually gotten – or the GAC has not actually gotten – the formal documented process by which the Board requests GAC advice, unless Heather can tell me that in fact that's happened. I think that's still lacking, right? [inaudible] No, but 10 was when the Board notifies the GAC of matters that reflect public policy and concerns. The other one is when the GAC comes back to the Board. So I think that one we [audio cuts out] even though our draft says it's complete and the issue is satisfactorily addressed, I think that's only true for the register part of it and we should probably have a discussion. I'd be very interested in Heather's views and views of other government representatives here in terms of the first part of that, the need for coming back and insisting on the completion of that particular recommendation. Okay, we now have it up on the screen.

So Recommendation 11 was that the Board and the GAC should work together to have GAC advice provided and considered on a more timely basis and that the Board should with [audio cuts out] working through GAC Board Working Group should establish a formal documented process, and then you can read the rest of it.

So on this I think there's been a ton of progress in the last three years, largely through the real-life exercise of dealing with the gTLD expansion. There is now, as I understand it, a draft document that now reflects the process that was put in place. Our note here is that it hasn't actually yet been adopted by the Board, though. Is that correct, Heather? Or I guess Steve's not here. Yeah. But there is a piece of paper. I think one concern on this is the fact that they were building this airplane while they were flying it during the gTLD process. But I do think there is an issue that is not reflected in the current draft report but we might want to reflect, depending on the consensus view of the committee, that did seem to take an unduly long amount of time to get the documentation of it prepared. And I think the fact that the Board hasn't yet adopted it is a matter of some concern, so something we would probably want to reflect. Or something to consider reflecting in our report.

So maybe I should stop after going through these first three and just ask if there are any other reactions. I particularly want to invite other government representatives – Carlos, Jorgen, [Zhang] – to give any observations or comments they want to add. I'm sorry, and I forgot our senator from Australia, Stephen, here. Well, you're still an elected official.

EN

I will say that [audio cuts out] we put this together largely just within our office in Washington. Separately, Jorgen and Zhang submitted their papers. In doing a quick look at them, I think they are very similar to what we've had and I think one of our tasks will be to take all of that, and along with any input that any of the rest of you have, try to reflect that in a next draft of the document. But I didn't see anything at odds in those other papers with what we had proposed. But rather than my assuming that, you folks are here and can speak up and address that directly. I don't know.

On Recommendations 9, 10 and 11, do any of the rest of you have anything you want to add? We're rolling. We got three done in five minutes here.

Okay. Recommendation 12, if we can scroll down so people can see that. This is that the Board acting through the GAC Board Joint Working Group should develop and implement a process to engage the GAC earlier in the policy development process.

A lot of discussion about this. I really think it's, in some respects, overtaken by the larger discussion about the policy development process. Clearly GAC advice into that is an element of it, but we have a couple paragraphs capturing some of the debate about particular issues involving – that make it difficult for the GAC to get involved earlier. Certainly this has not been resolved. I guess I should've started with that. But I'm wondering whether as we look at where we take this issue whether we keep it as an independent GAC issue to talk about separately from the larger PDP issue as we address that.

One of the particular issues with [audio cuts out] respect to this as it relates to the GAC is the fact that the bylaws direct the GAC to provide its advice to the Board. It's public policy advice to the Board. There's nothing in the bylaws that prohibit it from providing advice elsewhere, but when you get to the actual legally operative delivery of advice, there is a process that kicks in once they deliver it to the Board. I don't view that as a barrier to engaging the GAC earlier, but it is a unique feature of GAC participation that I think has to be addressed as we look at the larger question. Alan?

ALAN GREENBERG: I think the word "advice" is a loaded one. The ALAC is an advisory committee, but the ALAC participates in – I don't think we want to use it as the word "advice" if we can avoid it because that sets up an immediate reaction of "What if they don't take our advice?" I think we want to talk more about having the concerns of government and the GAC considered as opposed to giving advice.

LARRY STRICKLING: You're speaking of earlier in the process.

ALAN GREENBERG: Yes, yes, yes.

LARRY STRICKLING: I think once we get to the Board level, then we have—

ALAN GREENBERG: No, no. I'm talking about earlier in the policy process, and yes I think we're talking about not just – I don't think it's just a PDP issue because the GNSO seems serious about using other processes as appropriate, if a full-blown PDP is not warranted and GAC input is going to be just as important into those. So I think we want to separate it from the PDP.

AVRI DORIA: Thanks. In fact, I think the way it's worded here is actually "engage the GAC earlier." It's not saying get their advice earlier. It's saying engage the GAC earlier. I'm wondering whether there's any – and I don't know how it would relate to this recommendation or one elsewhere – in terms of we're always talking about the GAC and not the governments that make up the GAC. When we're talking about ALAC, we're also very careful to always talk about At-Large and getting At-Large involvement early in the process.

I'm just wondering if there's any solution space that sort of includes the notion of getting some of the governments and their experts and their whatevers engaged earlier in the processes. If we sort of take this that it's not really the GAC, per se, that we're all trying to get involved in the process. It's the people from the governments who know what it is governments need from the policies and can convey that.

I don't know if it fits in this or some other recommendation to say don't always look at it as the GAC. It's the GAC and the governments that make up that.

So I don't know if there's any space in that, but I know when I stop thinking about "I want the GAC in my working groups" to saying, "I want a government knowledgeable person that can tell me this is what they need." That becomes something very useful. And I don't know if there's any space in there.

LARRY STRICKLING: Heather, do you want to respond to that?

HEATHER DRYDEN: This is an interesting distinction. My quick reaction flows from a kind of sensitivity about what really happens if you have individual governments that have a particular view using a channel outside the GAC to advance their particular – their view on something.

So one of the things that I've been trying to accomplish, and it's been mainly as part of the stakeholder engagement plans of ICANN – so ICANN staff engaging – is to actually reinforce the notion that the Governmental Advisory Committee should be the main channel for governments and for IGOs to come and have their collective views advanced and representative because it's beneficial to my mind to have a consensus process like that to have, one would hope, a considered exchange within that committee and then what comes out at the end is really a great product for ICANN to make use of.

So that's not necessarily in any way in conflict with what you're proposing. But perhaps it's useful for me to just explain that there is that kind of sensitivity on the other side about what happens when you try to focus too much on the individual members on topics that are under discussion within the GAC and going to be, or are, part of that consensus process to deliver public policy advice or comments – GAC comments – to other parts of the community.

So this is interesting. I'm happy to think about the way that this plays out. I think quite frequently [inaudible] a discussion about GAC liaisons and how to make use of them. And there does seem to be a mixture of expectations about what a liaison or what an individual GAC member

representative can and cannot do in a working group structure, and I don't think we've quite got hold of that issue yet. Thanks.

AVRI DORIA: I'm sure that I didn't have necessarily the right words that answer the sensitivity as well. I was sort of – but the getting that input in whether it's the liaison that brings the concerns of not quite comments yet, but concerns of however [inaudible], I know that from the working group perspective, it's critical to get it in at that early point when everybody is discussing what is it we're trying to solve here. Because if we don't get those concerns in at the point of what are we trying to solve here, and those discussions are often very nitty-gritty and it takes several days of going back and forth several hour meetings before we actually understand what each other is even saying in a lot of these. When you listen to "we need a this." Well, what is "a this"? So it takes a long time for that to develop, and having people in at that point, however we figure out how to work it out and whatever we call it, is I think one of the things I'd like to see us coming out of here with some recommendation for so that we don't keep ending up at these end-game impasses that just don't do any of us any good.

HEATHER DRYDEN: So it may be useful to say a governmental perspective. So they're talking about the kinds of things or questions that could be raised for a government in relation to work you're contemplating and trying to keep it focused on that rather than, "What is your view on this issue?" kind of thing. Thanks.

OLIVIER CRÉPIN-LEBLOND: Two things. First, there are other fora out there where government members and people working in specific government positions take part

in multi-stakeholder processes at an early stage and take part in discussions, not as a representative of a constituent body or even a representative of the government itself coming out with the official word from the government, but certainly bringing in a certain perspective which is their perspective based on their government position. I hope I didn't confuse you too much on this one.

But certainly in various IGF fora, etc., there is a full early involvement of people that come from the government side of things. So if one benchmarks this of what happens elsewhere in other fora, this might be something that – and I think that's where it comes from – something that government members and ICANN might be interested in taking part in.

I cringe on the use of the word "liaison" because it's a loaded word. It implies some official capacity. Sorry? [inaudible]. The liaison assumes a certain official position of [relaying] an official position from the GAC, and at the same time would also be an official position in taking whatever information is happening in that forum or in that working group and bringing it back over to the GAC in an official capacity. And I understand that this might introduce problems. If your liaison does its job properly, then it's no problem. But if your liaison certainly has a specific agenda, then at that point, the liaison has the power to be able to control that relationship.

On the other hand, I think that perhaps the use of observers might be a good idea. And certainly having GAC observers – sorry, not GAC observers. Observers that are from the GAC in working groups and that

are able to actually bring a perspective of what their point of view is as a government member, not as a member of the GAC. And at the same time, being able to inform the GAC informally as to what's going on in that working group as an early – I wouldn't call it early warning, but certainly an early messenger of, "Oh, this is what this working group is talking about," is possibly something to consider.

Because I have found on several occasions that the GAC itself as a body is uninformed about the actual work of specific working groups in the GNSO and then it all lands on your table a few months afterwards when the whole work has been completed, and that's when the friction starts because the GAC starts work on something which has happened. The train has already left six months ago and the rest of the community then things, well, the GAC is always late and then overrules us afterwards, after the whole policy development process has taken place. That's probably one of the possibilities in order for the GAC to have, I wouldn't say an early engagement, but certainly be more aware of what's going on. Thank you.

LARRY STRICKLING: Part of that I think comes down to having clear expectations, because I think there's an issue that to extend a government acting individually wants to participate in whatever status you call it – observer or just a participant in a working group – I think there's a real concern that the other members of that working group can't assume that that particular individual is speaking for any government other than his or her own. Then I think that maybe deals with half of it.

I think that doesn't necessarily solve the other half of the issue, which is what is the expectation back in the GAC when an individual government participates in a working group, because then I think you have the concern that perhaps a government is trying to – or the possibility that a particular government is trying to – work around and outside of the GAC process by getting more directly involved.

But it seems to me both of these issues could potentially be handled by setting very clear expectations as to what it means. I know Alan made the point to me – or I think it was Alan earlier today – that having some of the technical experts from governments can actually advance the process. Or Avri said it. I'm sorry, it was Avri who made that comment. Again, I don't know that anybody should want to discourage that behavior, but it needs to be clearly understood what it means to participate.

I'm lost now. Stephen, you have an immediate rebuttal or repoint. Let Heather answer. She has special status since we're talking about the GAC. Then we have Alan, Stephen, and Avri.

HEATHER DRYDEN: Thank you for letting me speak again. So I think you're quite right that managing expectations is really a key point in all this. I'm trying to think of a diplomatic way to put it. For a GAC representative for a government official that has a particular viewpoint to advance, they're trained in order to do that, to accomplish that and will use what means are available to them to do it. So you do need to have clear expectations and a robust enough process or approach that it can deal with some of that. I think that can be accomplished by putting some thought to it.

To Olivier's point about the timing around the formation of a working group, there has been discussion about this in the Joint Board GAC Recommendation Implementation Working Group, which is still underway. As a reminder, this is a working group where there are some Board members and the full GAC notionally. Obviously some are more active than others. At looking at implementing the recommendations from the first Accountability and Transparency Review Team.

So in terms of this timing and the issue of sharing information has been discussed. I think the most salient point coming out of that based on how the GNSO works and the role of the GNSO Council in deciding to set up a working group and embark on work is there's always an issues paper that kicks off that process. So it's before there's a working group.

It seems to me that just logically that seems like a better moment in time to begin trying to engage and talk to the GAC because it may be that the GAC has a view about what would be the scope of the working group and have useful inputs about that. So that would be a better timing. But I just wanted to note that this has been thought about.

OLIVIER CRÉPIN-LEBLOND: Sorry for jumping the queue. Any view from you regarding an observer status? Because that is a specific status where that person is not—

HEATHER DRYDEN: I think whether it's a liaison or an observer, these could mean different things or the same thing. I wouldn't want us to get caught up on that. I'm getting the impression it has significance for others, significant meaning. But anyway. Okay.

[LARRY STRICKLING]:	A number of points. I'll be quick. With regard to Heather's last intervention on whether we call it a liaison or an observer, I don't think we need to micromanage [inaudible] at this point. We're setting some end targets. I had a comment on Avri's original suggestion to replace GAC with governments. It's already being resolved, but I'll put it more colloquially. I think changing GAC to government was just changing one hot potato to another.
	It strikes me that in the ATRT, Carlos is here talking and never does anyone assume he's talking on behalf of the GAC or talking on behalf of Costa Rica. Somehow we have to get that kind of dynamic going.
UNIDENTIFIED MALE:	What's he doing here then?
[LARRY STRICKLING]:	I don't know. I think it's important to remember that for most of the PDP and policy things that the GNSO does, the vast majority, perhaps all of the GAC members and the GAC have no interest. Okay. All sorts of PDPs have gone through and they've gone through the Board and you didn't tell the Board stop. They weren't really of any interest. So it's only the occasional one.
HEATHER DRYDEN:	I think the reality, and it has been this way for some time, is that the GAC is overwhelmed with the amount of work. So inattention to something probably means it's a lower priority. But you can't assume that the GAC is actually putting forward a view that they don't have anything to say. It could just be that there was an opportunity realistically to look at it.

[LARRY STRICKLING]: I didn't put forward a view the GAC had nothing to say. I said there is likely to be very little interest in having sat on a bunch of these PDPs. We can discuss them later. But there probably is very little interest. All that's serving to say is we're not looking at the whole sum total of PDPs. We're looking at the ones where there is high interest, which is a subset. That's the only point I was trying to make there.

Yes, the issue report time, especially the preliminary issue report, even when there's still an opportunity to change the scope, is a good time to start getting involved. There is the potential for a GAC member who chooses to participate in whatever words we us to push their personal interests. But if indeed everyone's worried about that, then good, have three of them or have a little working group of your own to guide whoever it is that's doing the work. There's going to be plenty of opportunities if there's a will to address the problem. It sounds like we're getting to that point now and I'm very happy.

STEPHEN CONROY: I wanted to support Alan and the others who said we shouldn't try and separate government from GAC. I speak from the unique experience of trying to make sure that the government's view was reflected by our representatives in GAC. So I put a practical problem that even for a country as well off as Australia, we've got two guys. In my department or my former department, we have two people and that's in. If we were to decide, look, we'd like you to go along to more meetings overseas to liaise, observe, whatever, we just could not let them out of the country any more than they already are and participating in a way that they do. And our guys spent a lot of time working on this, so we'd be challenged

on a pure resource level, and I suspect a lot of what happens is lack of resources by the governments to their GAC advisors. That's not to be critical of the advisors. I'm sure they could participate a lot more if they had a lot more support. So what we're all wanting is the governments to take more notice of what's going on.

We even in this room had a discussion on who do we send the letter to, and we weren't sure who to send the letter to. So on the one, I do agree with Alan's point about not everyone is going to want to end up all the way at the top of the tree in terms of a government's interest. I think – and we're all in the early stages of getting used to the multi-stakeholder model. What we need is at a local level, in home countries. You need the multi-stakeholder groups to play a role back in their own countries as well to raise it with the government. Because it's only when it starts [inaudible] a cynic might say the squeaky wheel is the one that ultimately the politicians at the top of those trees pay attention to.

So if there is a contentious one that people are aware of from all the early warnings, it's important that all of the stakeholder groups play a role in raising it with their governments in the country because then it will start to draw the more senior political attention above the GAC advisors.

So we're all learning as we go along, but it would be good to have a more proactive discussion. Take WCIT. WCIT was a really big threshold key issue. That made newspapers. It got coverage in Australia. We were engaged at the most senior levels. I had to have discussions with my foreign minister about what we'd do about the treaty or not the treaty.

That reached the level where governments were paying attention. I was on the phone [inaudible] 2:00 in the morning with officials in Dubai. You're not going to get that for the majority. I agree with you absolutely, Alan, but for the ones that the community [inaudible] this is really important to know that governments are engaged.

We've got not just go, "Right, okay, well we raised something at a meeting a few months ago and then we never said another word about it." I would encourage all the multi-stakeholder process to also be active in local countries as well. Thanks.

AVRI DORIA: I just wanted to actually bring up a couple of the facts about the working group process that I think might help. One is no one in a working group is a representative. None of us. Yes, we have statement of interests that indicate our affinities. Mine indicates that I'll be a member of any group. I don't care.

We all have those. And many of the people are indeed hybrid. I think part of this is, certainly from my experience, it hasn't happened in ICANN much, but within IETF working groups – and I know that's technology, not policy – I'm used to there being a couple government types around. They're usually military types not in uniform or security types not in uniform, but government types participating as working group members is a normal thing in many ways. So that's one.

Most of the work of working groups does not involve travel. Yes, when there are meetings, some of the members of working groups will come to the meeting. By and large, it's an hour on the phone every week or

two. So the workload and as in terms of looking at the workload, it's not asking someone to give up a week and travel somewhere at great response. Obviously, with Australia, it means getting up at 3:00 in the morning to be on the phone. The workload threshold on that is not as high.

I think the issue report is good. Another part of the new PDP that went in says as opposed to getting an issues report at the end and having to live with it, we actually get them now in draft form and we have a chance to – part of this came out of people like us [inaudible]. But you always forget to put the human rights stuff in, so we want to see it early so we can stick the human rights stuff in. But for any concern, that's one of the reasons why there is the pause now in the issues report to get people to sort of say, "You forgot to consider. Have you considered?" And the policy development process always also has what could almost be called a GAC-like mechanism, although we've applied it to all advisory groups. It says if they send you a comment, you've got to respond to it.

So the notion has actually been built in there to deal with those parts. And I didn't really mean that we should change the word to "government." What I was really looking for is a way to – because we don't speak of At-Large all the time. We speak of ALAC. But really looking more to get some of the experts sometimes on the phone, on the mailing list even. Within all of the working groups, there are people that almost never make the meetings. They just respond to the e-mail.

So there's a lot of different ways to get involved early and get engaged early without seeing it as a high threshold, and that's the kind – and perhaps all I'm looking for is something that says we have to convey this. Perhaps if more of the government specialists around the world – and I don't know whether it's done by local. Because we're limited, too. There's one or two of us that participate in everything and report back because there aren't that many civil society people necessarily wandering around wanting to do this stuff.

I think part of it may just be having a recommendation for getting the word out that this is not a high threshold participation unless you want it to be. Yes, there are people in working groups that volunteer to be Chairs and then their life is gone. But by and large, it's not a high-energy requirement.

BRIAN CUTE: A couple of points, and then I'm going to get back to the recommendation. And I think we're pretty much in consensus on this. But the other thought that occurred to me, if you talked about individual government participation in any form is that not just from the GAC side of how does that work, but look, constituent members with their own interests could go forum shopping for a government that has a policy position that promotes their interest and you could get that – or part of a government. I think there's real danger there, so I'm just concurring with what's come before.

I'm also concurring with the notion of focusing on the chartering part of the timeframe, chartering of a PDP, chartering of a working group as

absolutely the right time to get the GAC observer, liaison, whatever involved.

That being said, back to the recommendation here. The recommendation is for the Board, through the Board-GAC Joint Working Group to develop this plan for earlier engagement. We've engaged an independent expert to look at the PDP. Should we be providing that independent expert with more specific guidance on this question, or is…? It's [inaudible], okay. I just wanted to make sure we were checking that off so we didn't have any disconnect between their output and the work that's being done in this joint working group. Thank you.

[LARRY STRICKLING]:   I think the question before us is whether we want to, in our report, continue to say, okay, this didn't happen in the three years. I think everybody agrees with that. The question is do we modify this in some fashion and keep it as a standalone, follow on out of our report or do we, in effect, want to take a step back and say let's come back at this in the larger context of PDP more generally? I don't have a strong view one way or the other, but I think we ought to decide that in the next couple of days just so we know what work we need to go back and do in response to carrying this recommendation forward. That's all on that.

BRIAN CUTE: Quick follow-up. Just to note that this restricts the work to the Board and the GAC. I'm saying that in neutral sense, not a negative sense. But there's a clear interest from other parts of the community to try to address this problem. You're hearing it reflected here. In going forward – and there's a need, and if the GAC and the Board coo something and present it as a solution and the rest of the community threw up on it,

we wouldn't be any farther down the road. I think the notion of bringing in the broader discussion from other parts of the community in some form would be really useful.

CARLOS RAUL GUTIERREZ: I'm tempted to answer, Steve, what I'm doing here but I will leave it for tonight. I think we have a great advantage that the GAC is not equal to governments. I will refer that to [inaudible] and I hope we can keep it like that. I think this is very valuable and we should defend that and we should concentrate on GAC and not get involved with government for the time being.

On the liaisons and observer status, I think observer is very interesting for a governmental official, not a government representative like myself. For a full-time government person, observer status might be the right thing, but I don't think it's so important. I think the important thing is to have a permanent channel of communication with the policy development process, not just during the public meetings. We have only one government official thanks to the government of Canada that [can't] dedicate 100% to ICANN and she's busy at the Board. It would be great if we had at least two. If not a government official, maybe that's a role for the independent secretariat of GAC to have a professional, knowledgeable person in permanent contact with the GNSO policy development process. I think it's very important. If that person is from the secretariat, then there is no conflict because it's not representing a particular government. I think it's valuable.

Heather mentioned it. I think it's not so much earlier engagement, but timely engagement. And I fully agree with what Brian added to that.

There are some points that are vital to have a connection like when the charter is defined, particularly if that's an important PDP or when discussions take place about the public interest. That's a perfect, perfect match for that.

Also in the discussion, I don't know, I get a feeling everybody is focused in ICANN. What is the GAC going to say to the Board? I think the expectations of the government are totally the other way around. I mean, governments are worried that nothing happens in ICANN that takes away sovereignty from governments. Like Stephen just explained, when we had WCIT, we had calls from Dubai and five people together on the phone and it's the Foreign Minister who decides and the Communication Minister reports from Dubai and you have to be really tricky there to try to influence the position of the government. And that's why I praise GAC, because GAC is not subject to this thing. That's why we should keep it away from this political thing.

I think what governments want, they want to sleep safe. That ICANN, like in any other treaty, trade, treaty or climate change treaty and so on, few governments can step out and say, "No, I don't like that treaty." We had it in the climate change and they didn't sign [inaudible]. Okay. Or they went to WCIT and we didn't sign. A few countries didn't sign. I hope – and I do want to mention that, but as long as we keep GAC different from governments, we're in ICANN. The moment we set them equal, we're in another place. I don't want to mention the name, but [inaudible] Geneva. Thank you.

LARRY STRICKLING: Heather's comment about being overwhelmed about the GAC being overwhelmed resonates. I was listening to Avri about working groups. Size matters. Working groups typically don't have 100-plus people, all of whom are trying to stay up on everything. They're typically smaller. And even when they're smaller, not everybody who counts themselves as in the working group feels obliged to be active and driving everything.

It feels to me that the GAC is structurally different. Whatever the ultimate solution for how to be most effective, it is only some of the lessons from how working groups operate will apply directly to the GAC. I'm not going to propose a particular solution to the ongoing problem of how the GAC is organized and how it becomes effective and so forth. But it's not a template match exactly with a typical working group structure that does work in the IETF and does work even for us and in other places. That's my comment.

HEATHER DRYDEN: One of the things that I thought of when you were speaking, Avri, was some recent examples of where GAC representatives have tried to participate in some working groups, and not only the GNSO. So this isn't aimed at a particular part of the organization.

But the result has been that those representatives have pretty much just had to stop trying to engage. The reason for that is that there are these differences about how governments work and others may contribute if they're there – you had mentioned that there isn't really a representation kind of concept, at least for some parts of the community or in your case. But if you're acting as an individual, you may in fact feel free to be quite prolific or be e-mailing and have kind of back

and forth exchanges whereas governments tend to be more sparing and then more in-depth when they communicate something.

If that's not given due consideration or if comments aren't weighted in a way that reflects the degree of work that's gone into developing a particular view that's communicated within a working group, then you may actually see that.

This particular problem may be something that gets addressed again when you talk about expectations and it may just be a matter of acknowledging that there are different cultures. But this has proven to be a considerable disincentive for GAC representatives to participate and it's not that there's a right way to work or a wrong way to work, but there are these differences. So I think it's in our interest to find a way to deal with that.

AVRI DORIA: I understand and we've talked about the cultures before. I also just have had the experience of within the IETF context working with people from governments that behave like all the rest of us. And there wasn't a cultural difference. So I know that there is a cultural difference at some point at some starting gate, but I also know that it is quite possible to work with people from government from many different countries in an environment of equal footing, peers working on an issue. I understand, as I say, but I've seen the other.

HEATHER DRYDEN: I do think there are differences between those two contexts and that may help to explain as well why you have had different experiences in those different settings. But the fact that the GAC, for example, needs

to be focused on developing DNS public policy based advice within the organization – in other words, allocation policies – it's making decisions about its views on those allocation policies and communicating them to the Board and to the rest of the community that that is much closer to the operations of an implementation side of things than perhaps in other places. At the ITF – in the case of the Canadian government, I don't know what a Canadian representative would be doing contributing to the development of a standard if we believe that's really a private sector-led function. So I can just see it – colored somewhat by my Canadian experience, I can see there are differences in those two roles.

But there's another point I wanted to make, just touching upon what Carlos had talked about. It's something that I've been doing a lot of thinking about in my time chairing the GAC is exactly what kinds of support the GAC needs and what kinds of support as well the leadership needs in order to carry out their work.

As far as trying to make some of those inner workings on the ICANN side of the fence work a bit more smoothly, we now have as you know a GAC liaison appointed who is full-time and is formerly accountable to the GAC and has a job description in place so that it's very clear what that role is, and part of what they're there to do is connect up some of the gaps because you're quite right. This communication with other parts of the community is really important, because the GAC Chair role is also the liaison to the Board, there's a dual function there. Though the GAC has never really looked at trying to divide that role up, and there are

good reasons for keeping it housed in one person, but if you decide that is the right approach, then you have to make sure that there's the right support going to support those two functions because it's an important means of communicating with the Board and ensuring that the GAC views are presented and advanced to the extent that the GAC is able to accomplish that with the Board and as well with the other Chairs. There's a lot of communication that happens with the other SO, AC Chairs and the GNSO is clearly an important part of that.

One of the challenges there is – well, perhaps not a challenge but it's perceived that way perhaps from the GAC side – is the GNSO Council Chair is representing the Council. They're not representing the GNSO. And in fact, you've got a lot of chairs of the various stakeholder groups, and nevertheless, we still tend to focus on the Council and I don't know that we've fully got our heads around what that really means for trying to sort through what are the priority issues, where are they at, how to work with the GAC or identify liaisons or observers and so on.

But I did want to point out that this is something that, in terms of the appropriate support and where to put them and to do what is something where there hasn't been adequate thought perhaps, and does require significant resources. So the good news here is we are in a position I think to actually address some of these issues and that's underway and should continue as well. Anyway, I hope that's helpful. Thanks.

LARRY STRICKLING: I've got two people on the list, but maybe I should ask Brian for a time check. I don't know what time you were planning to end today. I guess

it's at 5:30 right now. We have two more recommendations to cover and then we had proposed a number of recommendations to be considered by ATRT to include in this report. I don't know how much time you want to spend on this any longer today, but it would be nice at a minimum to finish the implementation of the last two recommendations and maybe, depending on when you want to break, maybe save that other discussion for tomorrow to get into new recommendations.

BRIAN CUTE: Finishing the next two recommendations might be a good target.

LARRY STRICKLING: What time do you want us to finish by?

BRIAN CUTE: I think if we're out by 6:00 that would be good.

LARRY STRICKLING: Okay. All right. So, Alan?

ALAN GREENBERG: Just two quick comments. We seem to be talking here that presuming that the people who would interact with a working group in whatever forum would be GAC members and I don't think that's necessarily the case. Just like it's not necessarily an ALAC member who participates in a working group or a GNSO Council member – very rarely is it. It's someone else who has an interest that may be able to contribute something. So there's less onus there that they're speaking on behalf of the GAC when they're not a GAC member at all.

Your comment to Avri that you can't imagine a Canadian government person participating in the ITF, I can easily manage someone working in the networking area with an interest in security. Just as when I used to

work for a university, we had good technical people who went to IETF and they weren't representing the university. They're good resources within that category. And I think we're looking for similar things here – people who have a knowledge of what are the important issues for governments, not representing the government. It's a tight rope to walk.

HEATHER DRYDEN: Just quickly on that. Yeah, we can take the Canadian discussion offline. But I think it's really important to remember an official really can't take their hat off. If they're a representative of government, then I think there are real limitations on choosing to understand that they're just giving you a personal view.

I take your point about having perhaps technical knowledge or expert knowledge, but you still I think need to treat them as an official from their respective government and not to try and separate the two. And particularly if you're in the business of developing policy, that's the core activity of this organization and the GAC and governments are there to comment on public policy issues. Thanks.

[FIONA ALEXANDER]:   I think maybe just to put this in a little more sharper focus, just in the United States and how we coordinate, we run a monthly DNS Interagency meeting that includes, depending on the issue, 15-45 individuals representing anywhere from 8-20 different parts of the U.S. government. This is because we'd like some intellectual integrity in the positions that we take in this environment.

What you're potentially suggesting is people are going to show up and speak and the people get confused about what is the view of the U.S. government. This is why this becomes so challenging for us and why we're [inaudible] focus things through the GAC as a whole. If we have disparate parts of the U.S. government showing up and doing different things, you don't get an actual coherent position of the U.S. government in the process.

The ITF is a little bit different because U.S. government folks will go in, but it's not the policy people in most cases. It's the engineers from [inaudible] or from DOD who are users or system designers. They're not expressing a U.S. policy view. They're expressing an individual network architecture view of their particular agency or whatever the issue may be. But we also coordinate that as well, just much more informally.

JORGEN ANDERSEN: Thank you, Larry. Firstly, I want to commend the paper. I think it's an excellent paper. I have, in particular, looked at page three, the text starting deliberations regarding the implementation of Recommendation 12. I think this is a very interesting text. I want to recall what Heather has just said about people coming from governments. They cannot take their hat off. I think that is what you have said, Heather. You're not there as a personal individual expert when you are participating in the work of a working group. You're representing the government where you come from.

So what is it that we are talking about here? As I understand it – and correct me if I'm wrong – is that we have a dilemma or potential dilemma that the fact that GAC/governments have not been

participating in the work of the GNSO has led to results where somebody might claim that public policy concerns of governments has not been duly taken into account. That is how I understand it. So how do we manage this?

I understand the challenge we have. Can we establish a process where you make sure that the GNSO process is aware of the public policy concerns whenever they occur? I think – I'm not an expert on this, but I suppose that this is not the case always in GNSO. I think that Alan has said that apart from a few examples, you cannot imagine cases where that occurred. Isn't that correct? I think you said that previously.

ALAN GREENBERG: I said many cases there probably isn't a public interest perspective. For those that there is, it's really important it be considered.

JORGEN ANDERSEN: Yes. That I think is our challenge. How do we manage to establish a process which makes sure that whenever there are public policy concerns of GAC/governments, GNSO is duly aware of this and tries to fix it, tries to include these concerns or address these concerns? I haven't got the answer, but I think this is the task.

We have independent experts looking at the PDP process. And my proposal would be shouldn't we leave this until we have the report from the independent expert? Because I think that might give us a much firmer basis for discussing further. Thank you.

LARRY STRICKLING: Good. Thank you. So let me move ahead to Recommendations 13 and 14. I think hopefully they'll go a little more quickly. But there's been a

lot of progress I think on both of those. Recommendation 13 is up on the screen. It talks about the Board and the GAC jointly developing and implementing actions to ensure the GAC is fully informed as to the policy agenda at ICANN and that ICANN policy staff is aware of and sensitive to GAC concerns.

The rest of it I think deals with staffing support to the GAC and the suggestion that perhaps ICANN can provide some of that support, and then the desire to have more frequent joint meetings between the Board and the GAC.

So again, I think overall there's been a lot of work accomplished in response to Recommendation 13. As we point out in the draft report on page three, there is now – excuse me, I guess it's on page four – that there is now a policy update from ICANN staff to the GAC. The GAC and the Board meet now I guess at every ICANN meeting. On the staffing front, the GAC I think has found its own solution with respect to the bringing in of a secretariat to support them.

At this point, I don't know – and I'd be interested in Heather's view – as to whether or not you think there's anything further that needs to be done in response to implementation of Recommendation 13. But it looks fairly to complete to us. Any view you want to express, or anyone else for that matter? That's a yes, no? Thumbs up from Heather. Okay.

Recommendation 14 I think deals with a challenge that is not going away. It's probably getting more intense each year. Which is the issue of attracting governments who are not part of the GAC process into the

process, making sure that even for governments that are participating that the senior levels of these governments understand what's working here and are supportive and committed to the process, as well as doing things like providing greater multi-lingual access to ICANN meetings and that sort of thing.

And again, thanks to Canada, there was a high-level meeting last year in Toronto. I think it was an excellent first meeting. As of now, we're hoping that the folks in the U.K. will organize one at the London meeting next year. But I do think that there's been good progress on that, but now I think it needs to be institutionalized and when we talk about future recommendations for the future, I think that's one that I think I would like to see ICANN in particular do more if they can to insist that these meetings are taking place on a regular basis. Hopefully at least once every other year, if not once a year.

I think with respect to the issue of attracting more governments into the GAC, I think ICANN staff, and in particular Fadi directly as well as the outreach team he's brought in have done a lot in the last several months to attract new government participation. I think the real test will be will some of these governments come back to the second meeting after they've come to the first one? But I think there's been good progress in that regard. Again, we will tomorrow talk about some things that we think could continue to help keep the momentum going in that regard, but overall I think there's been pretty good progress in that end. And I guess I would open it up to see if other government representatives or anybody else has any comments they want to make

in terms of the Board implementation of Recommendation 14. We'll start with Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Larry. In my sheet, I put in there a question whether we should also be looking at the survey which has been sent over to governments, because what I see from the staff input was that everything is fine and things have improved. And certainly things have improved, which is great. But the increase in support and commitment of governments to the GAC process in my personal view is probably still not as good as it should be. There is definitely room for improvement. That was the main reason for us debating so long about a survey and sending it to governments around the world, and yet I haven't heard any feedback from this so I'm not quite sure where we are on this, whether we received any response, whether there's been a follow-up where the government's concerned and whether we have a process for being able to treat that input.

LARRY STRICKLING: I'll call on Carlos in a second. But Denise or Larissa, do we know? Have we gotten any response to the ministerial letter that was sent out that we can identify as a response to that letter?

[LARISA GURNICK]: I think there was one response that came through a couple of days ago. But now that I think about it, I think that was in response to the Durban interactions and not that. So no, the letters have gone out, and as I understand from [Jeannie], follow up has been done on the GAC's side, but no responses other than the responses to the original survey. There were some governments that responded to the original survey.

LARRY STRICKLING: I can say we were with Minster [inaudible] from Russia last week and they gave us a nice long list of issues orally that we'll transcribe and bring back. But he did not seem to be aware of the letter and we certainly encouraged him to go back and find the letter and send us something in writing. But we got a nice list, nonetheless. Carlos?

CARLOS RAUL GUTIERREZ: Yes, staff. Larissa prepared a very nice table, very interesting how many governments were directly contacted through GAC and how many governments which are not in GAC had to be looked through other ways. I have to say that the Latin-America case is the worst to my account. It's only half of Latin-America is represented in GAC formerly, although we know only a third shows up and the other half of Latin-America is not even on the GAC list of the 30 or so. That was my reading of the table and I think it's very interesting. Other than the reaction of the four governments that wrote a first request of information, yes, we don't have there.

This is, for me, a mixed blessing. If we want to keep the GAC separate and special, then it might be a good thing. On the other side is we have a problem not only of publishing what's happening here and how many improvements the Board is doing and ICANN is doing, governments don't understand this ecosystem and they don't know where to put ICANN related to IETF or IGF or ITU or whatever starts with "I." There is a very high barrier there. It's not going to be solved just by making better advertising. Actually, I don't know if the outreach of ICANN alone can solve this. Thank you.

BRIAN CUTE: I just want to note, speaking for myself, it's difficult for me not being on the Board or on the GAC to really assess fully the progress it's made here because the work is taking place to a large degree between those two parts of the community. The fact that the Toronto meeting took place is a fact that certainly looks like progress. What led up to that, I don't have a lot of visibility into. And how you go from Toronto to institutionalizing it as you speak, which sounds like a good objective, just echoing that that seems like a good objective. But from this standpoint, it's a little bit difficult to gage.

I did ask Denise. We'll be meeting with Fadi sometime tomorrow I think in the late morning to signal to him that outreach efforts will be something we will probably want to talk to him about, as I know this is a priority issue in this context. So let's take advantage of that time tomorrow.

LARRY STRICKLING: Just a quick answer to your points. One is I do think one metric is the number of new countries that are now participating in the process. We can get that information. We can include that in the report. I definitely think that's an important metric, although as I said, the sustainability of their participation is still somewhat up in the air. Not that I'm worried about it, but it just hasn't been demonstrated yet. We'll talk tomorrow about how to possibly institutionalize the high-level meeting, but it certainly could be part of the process by which ICANN selects sites for meetings as they look out. To what extent can they get a commitment from the host government or get whoever the host is to work with the government to get a commitment to host something like that and have

that as part of the selection process as opposed to trying to do it after the fact, once you've picked a city, and then all of a sudden, maybe the government shows no interest in actually doing something like this. Maybe we can put that at the front end of the process in some fashion so they can always look ahead and see that those are going to become part of the regular process every year.

OLIVIER CRÉPIN-LEBLOND: Thank you, Larry. I just wanted to register the fact that if we haven't received any response to our questions, this is of grave concern to me. Recommendation 14 is "increase support and commitment to governments to the GAC process." I'm not satisfied with the position we're in at the moment because of the fact that we haven't got an answer. We haven't even got an acknowledgement that this organization exists. And that's of grave concern. Other "I" organizations might have had more response. I'm not sure. This is all speculation. But I just find it very bizarre that it's been completely out.

And yet, outside these walls, I do receive – informally of course – a lot of criticism, I should say, from government representatives who seem to say things, and at the same time, I don't know, there seems to be a break in the communication or something somewhere.

LARRY STRICKLING: Do any of the other folks – Jorgen, Zhang, Stephen – want to speak to the government issue? Or in particular, since both of you submitted paper in addition to what we've been talking about, if you each want to perhaps summarize some of your points to the extent there's anything over and above what's covered here.

JORGEN ANDERSEN: Thank you, Larry. I just want to echo what Olivier has suggested. I think this is really – well, what's the right word? Catastrophe. Or this is not very encouraging that it took so long time to get this letter out. It seems that the letter has entered into a big black box where nobody picks up on what has been asked for. I think this is really bad. We have discussed on numerous occasions the threat to ICANN and the multi-stakeholder process. We have been discussing what happened in Dubai. I think if we are not able to establish a dialogue – a direct dialogue – with governments at the highest possible level and listen to the criticism, which you mentioned Olivier, I think we are in deep trouble.

So there's all good reasons for continuing to endeavor to increase the level of support and commitment of governments to the GAC process. This is an important element in all this [parliament] which we are finding ourselves. Thank you.

[XINSHENG ZHANG]: From my experiences, ICANN should [inaudible] of people during some activities for ICANN. For example, for some countries send some issues to attend ICANN's meeting, they know what's ICANN's activities and procedures and ICANN's objectives. So [inaudible] to opportunity to attend. If [inaudible] about ICANN maybe, they not [care] is first.

Second is [inaudible] GAC discuss about the gTLD. Also some countries say if [inaudible] on behalf of a government did allow each of other countries use such [inaudible]. I don't know exactly what. But at this situation, how to [inaudible] but it needs government because these are resources in these governments. [inaudible]. For example, Mr. Larry

says [inaudible] for a Joint Working Group. I second it. [inaudible] for government [inaudible] ICANN.

Also the [inaudible] ICANN may be [inaudible] to attend ICANN. Even in China, each year we will hold a meeting in China. [inaudible] was at ICANN by us. So it's very important. So [inaudible] attend ICANN meetings is very important. Thank you.

STEPHEN CONROY: I just wanted to support. I echo Jorgen. It is frustrating and I'd have to confess, I'm not even sure that Australia will reply now that I'm no longer the minister. I suspect a couple of guys who I mentioned earlier will probably send a letter up to the minister to tick off on. But I would encourage that we should continue.

But I think we should also acknowledge that Fadi is doing a fantastic job of going around and drawing people into the process. The first thing to do is get them into the process, then to get the engagement at the more senior levels. I would strongly support the recommendation.

HEATHER DRYDEN: Thank you. And thank you in particular to all my government colleagues that are participating. You've really helped reinforce I think what are some really critical points. From my point of view, as far as looking at future recommendations which I know we will get to a bit later on in our meetings, I think in order to be successful in attracting participation and furthering understanding about how things work, how the GAC works, what the significance is of, what decisions are taken here, the best way to accomplish that and make good use of resources is to have a strategy – one that's for governments and IGOs and maps out

precisely what are the shared objectives of ICANN and the GAC in this area.

If ICANN is going to put significant resources to this activity, then I think they should be mutually reinforcing with the GAC and what is in the interest of the GAC. It's implicit here about the expected result of ICANN staff outreach activities to be that there is participation, there is representation in the GAC. Let's be explicit about that. Let's make sure that that is clearly understood.

So I would say that this is worth developing a particular recommendation on, talking about having a strategy. How are you going to know what you're meant to be doing and whether an activity is falling within your strategy if you don't have one? I would strongly urge that to happen. And again, really thank you to my government colleagues for being so articulate on this and helping reinforce some of these points because I really do think it's very important. Thank you.

LARRY STRICKLING: Any further comments on the implementation of the original recommendations? Okay. Brian, if you want, we could start the discussion tomorrow with [audio cuts out]

[END OF TRANSCRIPTION]