BUENOS AIRES – ALAC Meeting with the ATRT2
Tuesday, November 19, 2013 – 14:30 to 15:30
ICANN – Buenos Aires, Argentina

OLIVIER CRÉPIN-LEBLOND: Okay everyone, let's get going. Could we have the recording on please? Oh, they're gone. Perfect. Good afternoon everyone, this is the ALAC interaction with the ATRT 2 – the Accountability and Transparency Review Team, the second one of its kind. Joining us we have Brian Cute and his full team. I notice Alan Greenberg is also one of the Vice Chairs and I can see Avri Doria on the other side, another Vice Chair and I believe Lise Fuhr is also somewhere in the room?

Welcome everybody. We're going to make this a very interactive session. Effectively the ATRT 2 is here to collect further input based on its final report that was published and it is currently up for public comment. I'm sure Brian will be able to take us through what's going on next. I know that maybe not all of you have been able to read the report in full depth, but there is an ALAC statement currently being built, that is on the Wiki.

If any of you have not actually looked at it yet, I would encourage you to have a look at the Wiki directly and it will raise some of the issues. We certainly have further issues to be able to raise here. That's really an opportunity for this community, the At-Large community, not only the ALAC but everybody in the room, to comment and bring forth their view.

The function of the ATRT 2 team is pretty much in its name. It looks at ICANN's accountability and transparency as bound by the Affirmation of

Commitments that was signed between ICANN and the US Department of Commerce. I'm not sure what to add to this. Brian, I guess you'd like to say a few introductory words? I know there's a little PowerPoint presentation so perhaps we can move over to you?

BRIAN CUTE: Thank you Olivier. If we could just flip to the slide that shows the categories of our recommendations, this session is about hearing from you, not hearing from us. What we're really looking for at this point of our process is which recommendations do you think we've gotten right, and which recommendations do you think are off target for whatever reason? If so, why do you think that they're not proper recommendations? That's really the feedback that we're looking for.

We have a listing of the categories of issues that we've made recommendations for improvements on accountability and transparency. In terms of our process we have this draft report out for comment. The comment period closes tomorrow. A reply comment period will begin the next day and that will close on December 13th. Comments are encouraged. If you have written comments, send them to us no later than December 13th.

We will do our best to take all those inputs, integrate them, modify the report, and we send the report to the ICANN Board on December 31st. That's where we are in our process. Really the floor is yours. We're interested to hear your feedback on our draft recommendations.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Brian. As is custom in this room we have interpretation both in Spanish and in French as well, so when you start speaking please say your name. I guess we can start immediately with Rinalia Abdul Rahim.

RINALIA ABDUL RAHIM: Thank you Olivier. I'd like to share some thoughts on whether or not the recommendations are on or off target. In general I'd like to congratulate the ATRT 2 team because I think you guys did a wonderful job. There's not much to be disagreed upon in terms of the recommendations, so I think that's excellent.

I'll go through the recommendations one by one, if you don't mind. In terms of the first recommendation on developing objective measures for quality of ICANN Board Members, that's on track. No problem with that. On the second one it's a little bit strange. I think it's the bundling of "developing metrics to measure effectiveness of the Board's function," and "publish the materials used for training to gauge levels of improvement."

I think you need to separate that because the linkages between them are unclear. I'll slow down. Thank you. In terms of the recommendation to develop metrics, to measure the effectiveness of the Board's function, I would like to suggest that it be made an explicit extension of that recommendation that there will be a public reporting mechanism associated with those metrics, as long as they don't deal with human resources and other confidential issues.

Then, while the publication of Board training materials is good practice that informs the community, I would like to suggest that you make is a sub-category of the recommendation or mention is separately.

In terms of the third recommendation on conducting studies to determine whether qualification of Board candidate post is improved once compensation was available, in general there is support for this recommendation, but I'd like to suggest that the studies distinguish the effect of the compensation on the various pools of candidates, because you have candidates provided by NomCom and then you have candidates provided by stakeholder groups.

Also, I'd like to suggest that the studies be oriented towards capturing the un-anticipated consequences of compensation. For different stakeholder groups the effect may be different and it will affect the pool of candidates coming up.

On number four, developing complementary mechanisms for consultation SOAC on administrative and executive issues to be addressed at the Board level, there is support for this recommendation because we feel that this will eliminate the possibility of the Board acting in isolation without appropriate input on key issues of cross-community concern.

On number five, on the proper scope of reduction. No issue with this. Number six, on recommendations related to the GAC, again no issues…

OLIVIER CRÉPIN-LEBLOND: Rinalia, if you can slow down a little bit? I can see Brian is frantically typing. I'm sure others are also trying to take notes. I also wanted to give a little pause between each one of the recommendations so as to see if there are any additional points that others in our community would perhaps like to add or suggest.

RINALIA ABDUL RAHIM: Okay, you prompt me when necessary.

OLIVIER CRÉPIN-LEBLOND: Alan Greenberg?

ALAN GREENBERG: A question: you said there's a document on the Wiki. Is that document roughly in line with what you're saying, which might help Brian not have to type everything if you tell us it is?

RINALIA ABDUL RAHIM: It's mostly the same. There's been some changes.

OLIVIER CRÉPIN-LEBLOND: Back to you Rinalia.

RINALIA ABDUL RAHIM: Thank you. Six was on GAC, and I think that we're all okay with that. I do think that the GAC needs extra capacity, in terms of GAC secretariat

support, in order for them to be doing all of those things that you're asking them to do. That's quite important.

On number seven, on mechanisms for public comment, this is very close to our heart and really critical for us. I would expect there would be strong support from the ALAC on this recommendation. We would suggest that each new issue that's posted for consultation be accompanied with awareness raising and capacity building, because what we want is to expand participation and lay the foundation for more informed contribution.

In addition, I think it's really important that you allow for sufficient time for communities like ours to consult, because we have some very rigorous intra-community and cross-regional consultation for whatever input that we make. I think we've mentioned it before and this is a very important point for us.

OLIVIER CRÉPIN-LEBLOND: Rinalia, wearing my ALAC Chair hat I was also going to add language considerations.

RINALIA ABDUL RAHIM: It's coming.

OLIVIER CRÉPIN-LEBLOND: But specifically on the public comment, we are aware it does take more time. Back to you. Oh, Avri Doria's got a question. Avri?

AVRI DORIA: Thank you. Just a quick question: these are personal or these are ALAC-agreed comments? I just wanted to get that tagged correctly, because the way you're reading it makes me think they're ALAC comments and I just wanted to make sure that that's what we're hearing.

RINALIA ABDUL RAHIM: I'm drafting this statement. It's up for comments right now. It will likely become an ALAC position.

AVRI DORIA: Thank you very much. That means you will also be sending it in? Fantastic, thank you.

OLIVIER CRÉPIN-LEBLOND: I see the look of relief on the faces of my colleagues on the ATRT, thinking, "Thank goodness we don't have to take full notes right now, phew!" Back to you Rinalia.

RINALIA ABDUL RAHIM: You did one input, yes, so this is the input. [laughter] Okay, on number eight, on supporting public participation on language services – we strongly support the recommendation to review the Language Service Department's capacity against communities' need for service, and we would suggest that the Language Services Department work with the

community to prioritize whatever documentation or materials for translation. This may defer from constituency to constituency.

OLIVIER CRÉPIN-LEBLOND: You're terrorizing the interpreters at the moment.

RINALIA ABDUL RAHIM: I'm so sorry. I used to be much faster! [laughter] In addition to that, I think there is a strong recommendation that the Communications Department be brought in, because it's not sufficient to have translation when you want something disseminated, and again to bring in enhanced participation globally, that the pieces of information that goes out is understandable to non-experts.

That's actually an added layer. It doesn't end with translation. You have to think about what the communication dimension is of the information. Can I go on? Slower? Okay. Item number nine is extremely important – consideration of decision-making inputs and appeals process. I think there will be very strong support for this set of recommendation.

Recommendation 9.1 on mandate Board responses to AC formal advice. This is critical for us because it ensures that formal advice from ACs, given due consideration by the Board, even though we can see that there is already movement towards it, I think this formalizes it and that's really important. We get feedback and responses from them that's important.

We also believe the recommendation 9.3, on review of the Ombudsman role, to be quite important, because the ALAC Chair and the ALAC have called upon the Ombudsman in the past with positive results, but some of the services that have been provided to us have not been sanctioned by the bylaws. I think that needs to be rectified.

Moving onto item ten: "Improve the effectiveness of cross-community deliberations." There's quite a bit on this one. I think there is very strong support for this set of recommendations because they serve to improve the gNSO PDPs and enable more effective participation, especially for groups that face high participation barriers such as the At-Large community.

I think you got a sense of what those barriers are from the input that had been submitted to the ATRT 2, because that was an itemized listing of what the barriers were for our community. In particular, we view recommendations 10.1 and 10.3 to be extremely important for ensuring global participation in cross-community deliberation.

We believe for success you will need dedicated financial resources for this. I know that in other parts of the recommendation we want ICANN to be very cost-conscious and be very careful about that in moving forward, but this is a significant area of expenditure and that needs to be recognized. The strategic initiative mentioned in recommendation 10.3, I think that this should result in a plan, together with sufficient resources for implementation.

It will facilitate the participation of volunteers from – the listing we really like – "Under-represented geographical areas and regions, non-English

speaking linguistic groups, those with non-western cultural traditions and those with a vital interest in gTLD policy issues, but who lack the financial support usually available to industry players."

In those listings I would like you to consider the nuance of "under-represented geographical regions" because you only said "regions" and you didn't say "area". This came up in one of the plenary discussions yesterday. You can say you cover a region, but in fact it's just participation represented in some countries, but they are an under-represented area, but you've ticked off the region. So please consider inserting the word "area" in there.

In the main body of the report you'd asked for comment on whether or not you should generalize the fourth bullet of 10.3 – to facilitate having such volunteers from these under-represented categories, in all areas and not in just gNSO PDP, to ensure that public interest is properly supported in all ACs and SOs. We will strongly support this.

OLIVIER CRÉPIN-LEBLOND: Any comments or questions at this point? No? You can move on please.

RINALIA ABDUL RAHIM: On point 11, no problem with this. Recommendation 12, also no problem. I will end with two thoughts and one question. I think that there is a tension between recommendations for accelerating the PDP and the consultation time that's required for enabling global participation, because we've identified that that's a challenge and we

need extra effort, but you're saying we need faster PDPs. That's a tension that needs to be grappled with.

Then there was the… It wasn't really an issue but a thought that was conveyed by the people that prepared the study on PDP, the effectiveness of ICANN's PDP, about the interest where a registry with a new gTLD program can also be a registrar, an intellectual property constituency member, a business constituency member and also a ccNSO. The question is, how will this affect transparency and accountability.

Would there be a transparency requirement that they declare this, so that we know what's coming? That's a question in my mind, in terms of how do we grapple with that in moving forward. Finally, looking at the recommendations from point 12 onwards, it seemed like the review process that you undertook was quite challenging. It seemed like the organization was not prepared for it, and I was wondering why that was and how do we fix that moving forward? Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Rinalia. Wow! What a trip this was! Okay, we have the floor open for questions, comments. I see Avri Doria, please go ahead.

AVRI DORIA: That was really wonderful, just one quick question. Are there any missing recommendations? I think that perhaps someone else will possibly get to the answer on, "Were they prepared for us?" They could

be better prepared for us in the future, and that's what we're trying to recommend. But were there any additional recommendations that you felt were missing, or is that… Someone else is going to have that point later? Okay.

OLIVIER CRÉPIN-LEBLOND: Thank you Avri. Carlton?

CARLTON SAMUELS: Thank you Olivier. I don't suppose this is a missing recommendation but I'm just throwing it out. Yesterday in a conversation with the Challenges, we were discussing the challenges for ICANN to globalize. Someone said part of the problem ICANN have in globalizing is that it's not a 3D organization, per se, and so the mechanisms are missing; far and few between, to do that.

Then someone said, "How about globalizing the AOC?" The Affirmation of Commitment. Now it's between one government. Why not make it between all governments? I went, "Hmm, that's a very interesting question," and I'm just throwing it to you because it peaked my interest.

SALA TAMANIKAIWAIMARO: I was just thinking in terms of the SSAC this is something that the ATRT can look into, in terms of there have been discussions, it hasn't happened on the At-Large list, or on the regional lists, but certainly happened within my region. In terms of the perception of "closed doors" that's one. Noting though that security is something where there

are certain instances where it requires confidentiality, but whenever we, as a community, ask for certain things, we're always shown the door. That's one.

The second one added to that is the perception that it's a "clique" group, a closed alliance not open to wider participation from diverse communities. I know there are members, people from Africa, in SSAC, and there are people from other parts of the world other than the US with a perception that it's not global enough. Here you have people challenging things like the AOC, saying that it should be more global and public.

But I say if you want to retain it, even within the halls of ICANN, you really need to start looking internally, introspectively, into these different committees, and engage the community in discussing what some acceptable tradeoffs are. But it certainly needs to be global than it already is.

OLIVIER CRÉPIN-LEBLOND: Thank you Sala. Next we have Holly Raiche and then Evan Leibovitch. Holly?

HOLLY RAICHE: Just a comment on the recommendation in relation to the Ombudsman. I appreciate the expansion of the Ombudsman's jurisdiction, but 80% of the complaints he gets are outside jurisdiction. Now, that must say that there are a lot of disgruntled people. It would be useful to know why. It would be useful to know whether his jurisdiction should be expanded.

Is he uncovering problems that ought to be dealt with, or not? There's a source of information and 80% of the people who go to him walk away unhappy. Maybe they're redirected but I don't know if they're redirected and it would be interested to know that at the least they can be told where to go… I don't mean that badly either!

OLIVIER CRÉPIN-LEBLOND: Thank you Holly. Evan and then Sala.

EVAN LEIBOVITCH: I was just… Conveniently Holly said what she did, and it brought something to mind. We've heard a lot about ICANN wanting to put a button onto the website where anybody can go to submit something. Yet we've also been finding that an awful lot of the complaints to Compliance get rejected, in some cases with no explanation of why they're rejected.

Even if it's a valid reason, or if it's out of scope, the people doing the people doing the complaining at least are owed an explanation of why. If something is beyond ICANN's ability to do something, whether it's a cc issue or it's outside names and numbers, I think it's at least a matter of politeness, let alone transparency, to be able to go back to people with a boiler-plate message and say, "I'm sorry, we can't deal with that." Its' better than just having it drop off the face of the earth.

I am in very broad agreement with the statement Rinalia's been referring to, that covers a lot of your remit. I've had the pleasure of being able to work with it, and there's very little I have to add to it,

except to add a point or two. One of this comes as a personal experience of being through a number of harrowing experiences in gNSO Working Groups.

I would suggest in some cases offer a very intimidating view to somebody from the volunteer community who doesn't have a financial skin in the game, to come in and get involved with people who are fighting for their business, fighting for their trademarks, fighting for their whatever – most recently, Alan and I have been involved in the Olympic and Red Cross Working Group.

It's been very, very difficult to be part of because we're in a group where there's a small number of people representing end users, and there is relentless participation from people who are paid to be there fulltime, and it becomes very difficult to try and put forward an end user or a public interest point of view.

When we get into a point where you had everybody accept the IOC or the actual proponents of what was going on, saying we believe one way, and they were saying, "You then have a divergence of opinion." The entire community that's involved with this day-to-day feels one way, and the people have blown in just on this one issue to come in and say they don't agree.

"Well, then you have community divergence on the issue." It really painted, I think, an inaccurate picture of how the community felt about the issue. It's the most extreme example I can give, but there have been other instances that I can recollect from personal experience in Working Groups that have been simply intimidating.

Now, I'm not a shy person. The other people in know involved are not shy people, and I have a hard time dealing with this. I can think of a number of different personality types and certainly a lot of cultures around the world that are uncomfortable being put in a room full of Alphas and trying to make their point for the public interest. I'd simply say that ends up being a very significant obstacle to participation.

I've seen people come in and go out, just being either exhausted or intimidated, and it hurts our ability to get our point across. We're not there with skin in the game, we're just trying to assert an interest, and it becomes very difficult. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thanks very much Evan. There's the cultural aspect as well, of course, with the different type of interaction that you would find in the different parts of the world. We've got Sala and then Garth.

SALA TAMANIKAIWAIMARO: Thank you Olivier. On the issue of corporate governance mechanisms, – and noting that ICANN is a very complex and unique beast, it's very different from the traditional corporate entity, and noting that you have principles like IOSCO, and those sorts of things, that's globally used in different jurisdictions – I would say that I would like to ask the ATRT to consider… I'm not sure whether it's surfaced in your deliberations… To discuss some sort of mechanism.

It's a very hard thing to do because it actually crosses two layers. It crosses perhaps the constructional layer as well as policy, I'm not sure,

I'll leave it to you, but essentially it's this: what sort of mechanisms can be put in place to guard against capture? Noting that guarding against capture by any one strong voice, or any one strong constituency or interest.

The reason why I say this is, yes, we do have SOs and ACs, but yesterday I had the opportunity of sitting in a room where… It was a policy issue but it actually affects the corporate governance mechanism in terms of this thing I'm trying to put across. But basically what I saw was when they developed that policy the last resort was an auction.

Even though as a community, from the At-Large perspective, we've talked about under-served communities, communities who may not necessarily have the finance in their pockets to object or that sort of things… But at least some kind of mechanism to guard against capture. Yes, you have the Ombudsman, and Holly had mentioned that there is limited jurisdiction and there may be need to revise jurisdiction, but I don't thin in terms of this sort of capture that an Ombudsman's office would cover it.

So I'm not sure how it should look, what it should look like, but I certainly think that that's something worthwhile discussing, and I'm happy to submit something in paper later, much later. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Sala. Next we have Garth Bruen.

GARTH BRUEN: Thank you Mr. Chair. I wanted to continue on a point that Evan had brought up about some complaints and other issues being brought to ICANN not being handled properly. What I've actually been able to thoroughly document is that certain complaints are being artfully rejected. It's not even a case of the issue being dropped off because somebody doesn't handle it. What we're seeing is certain staff people denying complaints when they actually should be processing them.

They are finding ways to use various language to work their way out of having to perform a task. I am observing this as somebody who is heavily involved in the process. I'm not even talking about ordinary Internet users and ordinary registrants who don't understand the process. In this respect ICANN is completely failing them. This discussion here in this room is very important but it's also at an extremely high level; dealing with Board issues and the relationship with the GAC.

We've got to get down to the lower levels. In my capacity and what I do, I represent people who can't be heard or won't be heard. I have more and more people coming to me saying that ICANN won't listen. That's what I'm experiencing. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Garth. If I can dig a little deeper into this, are you then suggesting a modification of the ATRT's mandate? There is a section that looks at how things should be done for the next round; for ATRT 3. Would you be making any suggestions for that?

GARTH BRUEN: Absolutely, and one would be an end-to-end test of all of the public-facing processes of ICANN, and end-to-end test of where the consumer, the registrant, the Internet user interfaces with ICANN and how each department handles various issues, and whether the results meet the expected standards.

OLIVIER CRÉPIN-LEBLOND: Thank you Garth. Evan?

EVAN LEIBOVITCH: Sorry, just a very quick add-on to this – that ties into the conversation that the ALAC had with the Board this morning. One of the topics that I think generated the most interest was the consideration of ICANN's customer service, if you would, and that is taking the CEO's contention that the end user is the ultimate consumer of ICANN's services, the ultimate customer. How is ICANN treating its customer service, how is ICANN treating its interface with end users?

Is it simply a matter of, "Here's the complaint department?" or is this more of a matter of a culture that should pervade what ICANN does, as opposed to just another silo?

OLIVIER CRÉPIN-LEBLOND: Thank you Evan. Holly Raiche.

HOLLY RAICHE: Just to pick up another point that I thought Evan was going to raise, but it was raised this morning again in our discussions with the Board. There's a debate going on about whether something is policy or it's implementation, and a lot of angst between the two and implications if one's policy, there's consultation, if it's implementation, there isn't. Two comments about that: it's more important perhaps to get people involved and less important to define barriers.

But then a point was made that maybe there's a third step in the process of just policy design and implementation, and it's that middle step, the design, where in fact you still need public and expert input, and then leave what's purely implementation up to implementation, but make sure that the policy and the design, regardless of the process, is open for reasonable comment.

OLIVIER CRÉPIN-LEBLOND: Thank you Holly. I think Tijani wanted to… No? Maybe you just stretched. Carlton Samuels then.

CARLTON SAMUELS: Thank you Olivier. I want to follow up on this issue of design by Holly. Again, in conversations several times we've heard that the problem of policy versus implementation, or going from policy to implementation, and the disconnects, is exacerbated by the absence of the design phase. I'm wondering what the ATRT thinks of this. I'd like to hear something on that.

OLIVIER CRÉPIN-LEBLOND: Thank you Carlton. I think I'll let the ATRT members' ears rest for a few minutes. Maybe you'd like to express on this one or any of the points you've heard so far. We're on a roll at the moment. Stay on a roll? Excellent. We have Rinalia. Who else? We'll see where this goes. Rinalia, go ahead.

RINALIA ABDUL RAHIM: Thank you. It's about policy and implementation. I find the debate in ICANN very interesting because I studied public policy and I know about policy theory and I was with the Malaysian Government for three years at the start of my career. I find it really interesting because they talk about disconnect between policy and implementation, and anybody who knows anything about the policy development cycle in policy theory is that you actually start with agenda setting, and then policy formulation, which is the design stage.

You define what the problem is and then you start formulating policy options on how to address the defined problem. Then you get to decision-making and you pick one of the options and then you push off into implementation. In any kind of situation the disconnect between policy design or formulation, or the intended vision of it, with implementation is because nobody that was part of the design or formulation phase is involved in the implementation phase.

That's always been the problem. I'm not talking about the specific ICANN context, but there needs to be a bridge where somebody who understand the vision of it is actually involved in overseeing the implementation part, and then you can ensure that the intention and

spirit of it is actually carried out in the way in which it was intended. Just a thought. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this thought Rinalia. Any more input from At-Large, from anyone in the room really? I see no hands up, so over to your and your team, Brian, for further questions, if you have them?

BRIAN CUTE: One more question, and there are some points we want to come back to. The other thing the Review Team was considering was prioritizing some of these recommendations, and the way we've described it is not a matter of importance, one more important then the other, but as a matter or urgency or, "We really need to get to this one quickly," if you will. Do you have any thoughts on prioritizations or recommendations on which ones to prioritize?

OLIVIER CRÉPIN-LEBLOND: Rinalia?

RINALIA ABDUL RAHIM: My personal thought is the one on global participation is important, and that affects basically the PDP, whether it's gNSO or cross-organization of ICANN, and that also affect language recommendations. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Rinalia. Alan?

ALAN GREENBERG: On the issue on globalization and participation, the recommendation that we're making, at least in the draft, is a relatively mild-mannered one, given that when we talk about the problems no one has a lot of easy answers. The recommendation is we need to initiate a discussion to investigate what the problems are, because it's not clear. For instance, is there lack of participation in the PDP because the people simple aren't around here, or they are around here but choose not to participate?

Then, how you address the problem is of course a second order question. Are you suggesting that the urgency implies we need to kick off those discussions, or we need to be somewhat more aggressive with a target of fixing the problem in the next two years, or something like that?

RINALIA ABDUL RAHIM: More aggressive about fixing the problem and kicking off those initiatives, because you already have the study and it already tells you what the problem is. We need to fix that.

OLIVIER CRÉPIN-LEBLOND: Hang on, that's being a conversation between Alan and Rinalia, and you have the habit of not saying your name, which is very confusing in Spanish and in French. Please say your names, thank you. Alan?

ALAN GREENBERG: I gave you an either/or and you said yes. Okay. The implication that the ATRT… I should preface, the previous Review Teams, all three of them I believe, set targets that were in the end found to be completely unrealistic in terms of saying something should be done by 'n' months from now.   So we're probably going to try to refrain from that. Nevertheless, I have a little bit of a problem in setting a target saying, "Fix the problem," when we really don't know how to fix the problem.

That was the question I was asking. At this phase, do we start of the discussions of understanding the problem and understanding how to fix it, or putting a challenge to someone saying, "Figure it out and fix it," which is somewhat different?   My personal perspective is we need community involvement in discussing the problem first.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. We have Carlton first and then Holly Raiche. Carlton?

CARLTON SAMUELS: Thank you Olivier.   I'm picking up on the issue of what should be prioritized and how you may go about it, so you can have priorities within priorities.   Let me suggest one thing.   We're talking about stakeholder participation and policy development, and that team with Emily Taylor on it produced a report that had a lot of validated data that shows the distribution of participation in PDP.

When I say "process" I mean everything from participating in chartering Working Groups, participating in Working Groups themselves, etc., etc. It seems to me that that is good input that is validated and valid. So let

us see what we can do now in terms of prioritizing response, based on a trajectory that was included in that report, because they identified some of the issues that constrained participation beyond North America and Europe. They did, in that report.

So to my mind, if we adopt the case that global participation is important, if we adopt the case that there's less participation from other areas of the globe, outside of North America and Europe, and we want to fix that, there is a good place for us to start and say, "There are ten things that they identified and two or three things that we can do immediately to get the ball rolling." I think that's supporting Rinalia here and saying if we look at prioritizing inside of the priority, we could find a way.

OLIVIER CRÉPIN-LEBLOND: Thank you Carlton. So effectively you want to identify quick-wins within the broader subjects and the broader recommendations? Alan, you wanted to jump in?

ALAN GREENBERG: I'm just suggesting that if you believe there are specific things that can be done, which are practical and will start addressing the problem, identify them in your comments.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. I've got a queue at the moment. There's Holly, Sala and then Rinalia. Evan, were you in there as well? Okay, and Evan.

HOLLY RAICHE: I think a quick-win might be to actually understand and perhaps empower the Ombudsman to deal with complaints so that instead of getting a 20% deal with 80% knockback, there's a way to say, "This is a front of house thing. How do we actually deal with these complaints? How do we actually help people who, theoretically it's outside his jurisdiction, but nevertheless have a problem and would like that problem addressed?"

OLIVIER CRÉPIN-LEBLOND: Thank you Holly. Next is Sala.

SALA TAMANIKAIWAIMARO: Just very quickly, I know you asked which recommendation to prioritize, but I would just like to add to… This isn't exactly any one recommendation but just a consideration that I think is connected to this, and it would be this: as you're engaging in your deliberations, you're drafting your considerations and recommendations, I'd like to put to you to make a distinction between what is currently happening in ICANN.

As we're in the junction of massive reforms, particularly in the area of PDPs and cross-constituency work and that kind of thing, to also look at how the recommendations you're developing are going to actually affect these futuristic processes, so that there is a seamless jump, instead of them having to call yet another Working Group to review the

mechanisms again. They can just be seamlessly transported, particularly with the area of PDPs end-times.

I say this because when times are normally given to us to solicit comments from our communities, that becomes an issue. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Sala.   Before I continue down the queue, I just wonder whether people in the aisles have any questions or comments at this point? Don't be shy. We've got a roving mic if you wish to comment. I'm also asking people remotely.   I notice we have a few remote participants as well.   Do we have any questions?   Nothing at the moment? I'm not seeing anyone. I'll continue down the queue. We've got Rinalia Abdul Rahim.

RINALIA ABDUL RAHIM: Thank you Olivier. It's actually just a thought – I actually think that in ICANN in general we are very poor at convergence of alignment of disparate initiatives, but may serve the same goal. I think that in terms of addressing the problems of global participation in PDPs, we should perhaps look at the engagement strategies at the regional level as one focus of trying to get that engagement concretized.

Or, to even start the discussion that Alan thinks is more appropriate for addressing a complex issue that may take time to resolve. I actually think that ICANN should be moving towards a devolution to the regional level in terms of issue consultation, and that brings it up to the global

level, which isn't really happening right now. You're not going to have a solution to the time difference.

I don't want to stay up at 3:00 am having conference calls. It really ruins my day and my whole week, but it's just not effective. It's not really just about that, but if you really want meaningful participation this is what it takes – you have to go to where the people are and we have to figure out a mechanism for bringing it all together. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Rinalia. You have indeed been well through the 3:00 am call. We've got to hand it back? I know we still have Evan in the queue. I haven't forgotten you. We'll go over to the back. The microphone isn't ready, so we'll go to Evan whilst the microphone makes its way to you. Thank you.

EVAN LEIBOVITCH: Going back to the point about priorities, I want to take a slightly different tack and suggest that one of the priorities be working better on getting some kind of cross-community activity, whether it's a Working Group or something else. But as the TLD program rolls out there are all sorts of quick fixes coming down the road.

We've seen the PICs, which weren't envisioned when the original Applicant Guidebook came out, there could conceivably be some other quick fixes that are meant to address newer or future GAC comments, newer or future or other things coming from external sources. As the

solutions to those come down I think there really needs to be an explicit way to bring the entire community into that.

It probably is outside the PDP, but ICANN is now in a position where it's finding itself scrambling to deal with all sorts of external stimulus to the Applicant Guidebook. No one wants to change the Applicant Guidebook, so then you have all these things tacked on. This is going to get worse, I think, rather than getting better. So I think in the very short-term, if it's a matter or priorities, there needs to be a way to have the community engage on something like this going forward.

Call it a Cross-Community Working Group, call it whatever, but there has to be a framework that allows not only the gNSO but the other communities to come in as they need, including staff, which also has to implement whatever it is that's being designed. Maybe the problems we saw with the PIC process in the first place, might have been alleviated had we been involved earlier on in the design of it. Maybe then the "PI" part of PIC would actually mean something right now. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you Evan. Building on what you've just said, walking around the corridors and speaking to a few people, I did hear some suggestions that some key ICANN functions might be… Well, there might be oversight of some key ICANN functions through some Cross-Community Panels or… Is this the sort of direction that you're looking at things, rather than having a hierarchical structure?

EVAN LEIBOVITCH: What's needed, I think, in the very short term, is something that can respond reasonably well, reasonably reflective of the community, but obviously in very, very compressed timelines. As it is, when something like the PIC comes down the pipe, having to say, "Okay, we need to give you the time to consult with the RALOs, consult with the ALSes, educate them, make them aware enough of the issue so that they can come back.

"Also, they should give us good policy that reflects what they need at this stage of the game," that probably isn't possible. So we need to come up with something that will allow for this kind of nimble work to be done, that still doesn't exclude the community. Are we going to get full representation? No. Personally, I feel that we are really badly serving the ALSes because they get consulted to rarely on major issues because of the compressed timelines.

That isn't going to be fixed in the short-term while we're still dealing with things to do with this round of TLDs. But like I say, the PIC is probably not the last band aid that's going to have to be applied. I'm thinking going forward there needs to be a way to nimbly reflect the community in trying to deal with these problems as they come up.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Evan. I realize we have actually reached the halftime… Actually, fulltime on this session. There is a break right after this, so the room is not immediately used. Is there any objection to

extending for another five or ten minutes? Is that okay with you? Okay.
We've got several hands. Alan? If you wish to respond directly to this
then you can jump the queue.

ALAN GREENBERG: I'm not so much responding but pointing out that we're going to deliver
a report, which 'n' months later the Board will hopefully accept, largely,
and then spend the next couple of years implementing. So we need to
be careful to make sure that we're not expecting fixes to come out of
this and be implemented almost immediately to fix current problems.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Next is Siva.

SIVA MUTHASAMY: I'm asking this question as an individual. The ATRT has an input process
– a confidential input process and a public input process. There are
people giving inputs to ATRT. Is there a process by which the ATRT
responds to the inputs; in the sense that it provides detailed feedback
on the inputs, apart from routine acknowledgement? Then later, when
ATRT make some kind of report, would it also include a summary of the
input? These are just questions for clarifications, not other…

BRIAN CUTE: The answer is we don't have an auto-reply or a response to every email
or input that we have. We do take comments and inputs actively into
our work. In terms of our final report you'll see that we put citations to

comments received either through formal comments or through the emails. Into footnotes we'll put quotations in there because we have to have fact-based conclusions.

We look at the record, we talk to the community, ICANN, but we will reflect back in that way comments that we've heard. Will we have a quote from every single email or every single input? No. We'll look for some quotes that really support the conclusion and include them in the report, but that's how we're reflecting back the fact that we've heard from the community.

SIVA MUTHASAMY: Does the commenter get a feedback by email from you?

BRIAN CUTE: No. Alan?

ALAN GREENBERG: On the confidential ones, since you can't look at a website and see if it reached us, we have tried and I hope succeeded in sending back an acknowledgment to the sender saying, "Received." We certainly do not give specific feedback on whatever the issue was, but we have tried and perhaps succeeded in making sure that we acknowledge that it was received and not lost.

SIVA MUTHASAMY: Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Alan. Next we have Adam Peake.

ADAM PEAKE: Good afternoon. A very quick question – the ATRT mentions public interest, and I just wondered if you have defined what the public interest is in ICANN, and would you? It seems to be an issue that comes up quite a lot, but it's something that's in the AOC. Have you begun to ask the question, perhaps, of what the public interest in ICANN?

BRIAN CUTE: The answer is we have discussed that issue and the team has… I don't know if it's consensus or agreement or whatever, the team feels that it's not appropriate or best for the ATRT 2 to come up with its definition of what the public interest is. In ATRT 1's report there is some discussion of the public interest and its role, and that's reflected through that report. But for us to come up with a definition of public interest that is somehow operationalized, is something we've declined to do.

OLIVIER CRÉPIN-LEBLOND: Thank you Brian. Any more comments, questions, suggestions? Any comments online? No? Brian?

BRIAN CUTE: I'd just like to go back to two points made earlier. Carlton, your question about policy versus implementation, ATRT 2's report doesn't have any

directives or prescriptions of how that question gets clarified or defined. What the report recognizes is that this continues to be an important issue that is not fully clarified, and recognizing some of the problems that can present to the community.

But the recommendation is there to encourage the continued work across the community, whether it's defining bridges between policy designers and implementers, or other forms, that's to be encouraged to the community work. We're not prescriptive on that particular point. Alan?

ALAN GREENBERG: However, in the PDP recommendation, we do explicitly ask the Board to clarify under what conditions the Board will act on policy issues if the community has not, and under what conditions the Board believes they can override the community on policy decisions that have been adopted by the community.

BRIAN CUTE: Just a follow-on point, Rinalia, I think you brought this up. You made a comment to the effect that as issues are put out, or policy processes are put out, that each new issue should be accompanied with an awareness and capacity building aspect to it. I just want to tie-in one comment we heard for a last meeting about the fact that when staff publishes, staff is constrained to comment on or position the issues. Staff has to just deliver the news, if you will, and refrain from spinning or framing an issue in a particular way.

The debate has to happen at the community level. So the question is back to you – in terms of comments, how might ICANN or the community create these capacity building elements or awareness aspects to policy announcements, announcements of proceedings? If you have suggestions as to what might work, that's something we could incorporate into our report, potentially.

RINALIA ABDUL RAHIM: May I respond to that? Thank you. One thing that has worked, although the participation level is not as well desired, are the webinars. The webinars have been going out on specific topics, and they're very helpful for understanding what the issues are, and it's not necessarily staff that's presenting. They actually find the relevant subject matter on the topic itself.

What would make it capacity building, is that you can put different viewpoints on a particular issue by having a panel that would extend the discussion further. But it could be a two-stage process where you can just introduce the topic, let people mull over it for a while, and then come back with, let's say, what I've used in terms of mechanism, which was a multi-stakeholder roundtable format, in a webinar format.

That could work. Just to deepen people's thoughts on what the opposite views could be. You could do it online, as well as face-to-face whenever you have the opportunity. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Rinalia. Alan Greenberg.

ALAN GREENBERG: That's an interesting idea. The way I interpreted what you just said is perhaps as part of a call for participation or prior to it, we try to do some enlightenment and capacity building, so that people understand what it is we're asking for. Is that sort of what you were saying? Yes? Interesting.

OLIVIER CRÉPIN-LEBLOND: Thank you. For the record, Rinalia was nodding, so that was a yes. Right, I think we've had quite a good discussion here. Any other questions? Brian?

BRIAN CUTE: Excellent input. Thank you very much. Very robust and very helpful. Just a reminder that the reply-comment period closes on the 13th of December. If you haven't filed comments yet, don't worry about the formalities, just file comments and we'll be happy to take those points on board as well.

OLIVIER CRÉPIN-LEBLOND: Thank you very much. You'll all be very glad to hear that this session is now finished and you can have your coffee. Thanks, and thanks to the interpreters for having been able to catch up with us. Bye-bye.

[END OF TRANSCRIPT]