DURBAN – ATRT 2 Meeting with Board
Friday, July 12, 2013 – 14:45 to 16:15
ICANN – Durban, South Africa

STEVE CROCKER: Good afternoon everybody. I feel conflicted. Yes, maybe so. Maybe I should leave. I'm a Member of the Board and also a Member of ATRT 2 and so I was a little… [laughter] Yeah, so it was suggested that maybe since I'm conflicted I should step out. I like that solution actually.

This is our time to talk to you and you can take that either way. But let me turn things over to Brian, actually. This is really the time for the Review Team to talk to the Board and I'll apologize for having too many Board duties. I haven't been able to spend much time with the Review Team but my heart really is with both groups. Take it away Brian.

BRIAN CUTE: Hello. Is that better? Thank you very much Stephen and to the Board, thanks for meeting with us. I just want to give you a little bit of an overview of where the ATRT 2 is in the course of its work, frame up for you what the focus of our work is and provide you with our timetable for our deliverables.

Really the purpose of this exchange, as with our interaction with all the ACs and SOs this week is for us to listen. We'll frame up for you what we're doing and what we focus on but then sit back and listen; and we're really looking forward to your inputs. The ATRT 2, as you know, is

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chartered under Paragraph 9.1 under the Affirmation of Commitments. In terms of organizing our work it falls roughly into these categories:

We are undertaking an assessment of ICANN's implementation of the recommendations of the prior three Review Teams: ATRT 1, the Security, Stability and Resiliency Working Team and the WHOIS Review Team. This Review Team will assess how well ICANN implemented the recommendations of each of those Review Teams.

As this is an Accountability and Transparency Review Team, with respect to ATRT 1, not only will we assess how the implementation went, but we may in fact generate follow-on recommendations with respect to accountability and transparency. Also, in our early discussions, we've opened up to, are there new issues that were not addressed by the prior Review Teams?

And we have in fact addressed some new issues§ that we believe we need to assess, analyze and determine whether or not a new recommendation on a new issue is warranted. So that's the organization of our work. The timetable for us right now is we will be meeting toward the end of August in Los Angeles...

Let me step back. We are still in the data gathering stage of our work – taking public comments, taking inputs from the Board, ACs and SOs at this meeting, but in mid to late August we will transition to beginning to draft recommendations on the report.

We will be issuing proposed final recommendations in the mid-October timeframe; those will be put out for public comment, and we will issue our report and recommendations to the Board by December 31st of this

year. One other piece of our work that you should be aware of before I open the floor for discussion is that we are engaging an independent expert and we're in the middle of that process.

This person will focus on the PDP process in particular. We had some discussion and felt that that was an important piece of work, and as this Review Team is a collection of volunteers from the community the benefit of having an independent expert provide an assessment analysis on an issue like the PDP made sense to us. We're pursuing that and that should be stood up shortly.

So with that framing we're really… Oh, we've put some questions in front of you. Of the list, the first six are questions that have come to the top of mind, if you will, for us in our discussions at this juncture of our work. The balance of the questions; 7 and on, are questions that arose after we had reviewed public comment received to-date.

These are really questions that we've read comments and formulated either follow-on questions or questions that want toe explore more deeply the comments that have been received. Feel free to use any of these questions or to speak to any of these questions if you have view you want to share, but don't be constrained. This is an open exchange. We're looking forward to hearing your inputs and before we go I just remember there is one more output of this group and it's very important.

We will be making recommendations on the review process itself. We're going to be assessing this process. There have been three prior Review Teams and making recommendations about the process and

how it may be reviewed. So with that I think I've captured everything. At this point I'd like to turn it back to you Stephen and open up for discussion.

STEVE CROCKER: There are 15 questions here. How much time do we have?

BRIAN CUTE: About an hour and twenty minutes at this point.

STEVE CROCKER: Scanning these questions, which I've done before, I'm not sure I know where I'd like to begin and I think I will punt and ask other Board Members if they want to comment on any of these or open up a discussion in some… Yeah?

SPEAKER: I have a question to ATRT 2. Are you seeking for both comments or for Board Members' comments?

BRIAN CUTE: Thank you. This issue came up in our interaction with the gNSO. We don't assume that the Board has formulated a Board position on the questions we've put in front of you. We're listening to Directors in their individual capacity. And again, this is looking for views.

We have to take all the inputs we get, review documentation and make a fact-based assessment on all of the inputs. But we'll take Directors' inputs in their individual capacity to the extent you're willing to share.

BRUCE TONKIN: I'll just pick a question at random because it's something we've been spending a bit of time on lately and that's the reconsideration process. As you're probably aware, pretty much every New gTLD applicant that's been rejected has asked for a reconsideration.

My comment on that firstly is that we actually undertook a pretty extensive external review of reconsideration processes after the last ATRT 1 and had expert advice and implemented that advice. So our view was that it wasn't for us to say that we get the independent expert advice and we went through the whole public comment process around that, and that's where the current system comes from.

So we'll leave that as an opening remark. We haven't, as a Board, tried to interfere with that at all. We've got expert advice and that's where it's ended up. Having said that, the reconsideration process that we use in the bylaws is really quite limited. It's basically looking to see, did the Staff or the Board follow the process? And in the majority of cases the Staff or the Board, depending on the question, is found to have followed the process.

I suspect that's not really what people are asking for though. They're actually asking for you to think again, which is not what the reconsideration process is designed to do – it's basically saying we

disagree with your opinion, have another go. Maybe we need to articulate that or have some mechanism for dealing with that.

But it's almost like you're looking for a second opinion on the substance, which is not the same as what the bylaws do. The terminology of "reconsideration" isn't really a reconsideration of the original opinion. So I just want to put the clarity there. I think that question in isolation is too isolated.

It's really, what is the overall process when you disagree with an opinion and you want a second opinion – effectively an appeal – how should that be implemented?

STEVE CROCKER: Thanks Bruce. Alan?

ALAN GREENBERG: I think we worded the question incorrectly then. We are really looking at it in its widest possible scope of not, should the reconsideration process be changed? – although we've had some opinions already that that indeed needs to be changed again because of the last change – but we're looking at a wider scale of, does there need to be a process of a way to re-evaluate decisions? That's the question we're asking. What the answer will be we'll see.

STEVE CROCKER: Sebastian had his hand up and then Chris. I just want to insert… Oh, I'm sorry.

SPEAKER: Hi. I have perhaps a question wrapped up in a comment, which is on number one. Isn't importing an independent expert to assess the gNSO's policy development process [affect on it actually? 00:15:43]] the review of the gNSO, and isn't that something that should be being done as a gNSO review rather than by the ATRT?

I'm slightly concerned that you seem to be suggesting that… I don't think you can review the PDP without actually reviewing the gNSO, because that's an integral part of the gNSO. And that ties back down to question four, which is, do you believe that ICANN's organization of ACs and SOs and their respective internal organizations are effective?

And again, the internal organizations of ACs and SOs is a matter for them and the review that happen of them. Maybe I'm not supposed to ask questions but I'm curious as to why you think that this is something that the ATRT should be doing rather than having it done in the review processes that already exist for those things.

STEVE CROCKER: Thanks for the question. The 9.1 (e) in the Affirmation of Commitments says that the ATRT 2 should assess the PDP to facilitate and enhance cross-community deliberations and effective and timely policy developments. So there is an explicit element to address that in the Charter of AOC.

The second question… If you could state that again?

SPEAKER: It's kind of related – it's looking at the effectiveness of the internal organizations of the SOs and the ACs. So maybe my point is that this goes to your review of reviews, I think, rather than actually criticizing the ATRT it's like: "So you're going to be doing this and then there's a gNSO review and then there's a ccNSO review for the ccNSO and so on."

And it seems to me that what we have here is just constant reviewing of various different guises and that's something that I would encourage you to look at very carefully when you're looking at the whole review system. I think I mentioned this the last time we spoke in Beijing so we will review ourselves to death here unless we are very careful.

STEVE CROCKER: Thank you. I need to review the queue. Sebastian, you're next?

SEBASTIAN BACHOLLET: Thank you. I wanted to talk about question two and question three. Question two – because I think that the organization of the people who have no financial interest at stake here, they are represented by very few. In the Board there are the non-contracted out representatives elected by us and then the [inaudible 00:18:43].

The question of the involvement I will answer, depending on which level it means; level of participation, level of producing policy or producing advice and the level of participating to the final decision. And it's very different.

I think ICANN could do a good job in involving more and more participants from these types of stakeholders and then the question

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could have been a little different and asked how could we have done it more effectively. It's not black and white. We are in the situation where there are good things going on and of course we can always improve all that.

If I take back the review of At-Large, the proposal by the reviewer to change the bylaw where it was different, that was Board-adopted, it could be interesting for the ATRT 2 to come back to that and to see why and how it was done. Just to take an example, it's one or two Board Members from At-Large review, say, two, and the Board decide one.

It's was rational, it was a long time ago, but it was rational and it is rational still. So the second short point I wanted to make about the public comment was that we, as the Board Committee in charge of taking care of that, it was a Public Participation Committee and now it's a Public Stakeholder Engagement Committee that I now Chair.

We work hard on that. The problem we face is not that we didn't want to do what the ATRT 1 tell us, but we had limitations at the technology level. We are still, with Staff, struggling to find the best way and I hope that what Staff is doing now will allow us to implement something more open with more ability to participate for everybody in the comment period.

SPEAKER: Thank you very much. Let me comment on that, having listening to the remarks so far. One of the issues that we discussed at the outset, starting with our first face-to-face meeting in LA, looking back at implementation of prior recommendations is a discussion of

implementability. And implementability has a number of dimensions to it.

Certainly, having participated in the first Review Team, but with the benefit of a few years now, looking back at some of the recommendations, you see them in a different light. But that is a question that we are going to address; the implementability of recommendations.

We will endeavor to give an objective, clear assessment of how well the Board and Staff did but also identify where implementation may have been particularly difficult for specific reasons. We don't want follow on Review Teams like ourselves to be making recommendations that are very difficult to implement for one reason or another. So I just want to mention that this is something that will be a focus of our work as well.

STEVE CROCKER: Thank you. I have Cherine, Fadi and Ray.

CHERINE CHALABY: I want to go back to question 14 about the reconsideration request. Personally I'm very happy with the current process but I do acknowledge that there is an issue there that people want to have a second opinion on the merit of the case. The way it's structured at the moment, it actually fits the role of the Board, which is an oversight role that the process has been done in a fair and equitable manner.

What the Board should not do is substitute itself in the place of the experts and become an expert Board that gives opinion about subject matters. So there has to be an appeal process but it's not an appeal that

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asks the Board to become the expert; it has to go somewhere else for an appeal so someone has a second opinion.

And then it comes to the Board. But the Board should only look at an oversight of the process itself. And as it says at the moment, it says: "Has Staff contradicted a policy and has the Board ignored material in making certain decisions?" So it's a [inaudible 00:23:54] – if we open it up for something else there'll be an avalanche of reconsiderations, endlessly, and the Board will never be able to cope with it.

So I am sympathetic to the issue but I do like the process as it stands now, but there's something missing in the system that needs to be addressed.

BRIAN CUTE: Steve? I just want to emphasize that we have been hearing from different parts of the community that there should be substantive review of decisions. So you're reflecting that back to us. B: yes, there's a reconsideration process but it's been used and no one's ever prevailed or had a reconsideration go in their favor, so is that really working? [phone ringing]

SPEAKER: The key though is that what you're saying is that you're looking for a substantive re-evaluation of the decision and we don't have a process for that at the moment. I think that's the key.

| STEVE CROCKER: | We've been hearing this from different parts of the community and it opens the question of, should there be a substantive appeal? ATRT 1 carefully considered that question and then deferred on it – they didn't think they should walk through how we could build an appeals process on a substantive question. |

So there is a body of work there from ATRT 1 we're going to review again but this is to confirm that we are hearing this from a number of parts of the community. Larry?

| LAWRENCE STRICKLING: | I tend to agree with the formulation Cherine provided which is that if all the Board is supposed to do is confirm that there's a consensus it should win every reconsideration because nothing should come before it that isn't presented to them as consensus. |

What I think the specific issue we heard today was: "Well, but what happens when you get into this situation where the Board is being asked to do something that where the debate was that this policy as an implementation, there's no process by which that gets evaluated, because that's emerging out of a Staff work and the community feels perhaps they didn't have the chance to provide opinion for that and you then have the Board agreeing with Staff, "This is the implementation," you have the community saying, "No, no, no, this is policy."

How do you resolve that? And what's the recourse for that kind of decision. So I don't know if Cherine or Bruce wants to comment on that more specifically.

SPEAKER: Let me suggest that perhaps if that's really what's driving this, then the idea of having a second opinion on the same set of facts, or bringing new facts in or doing a re-evaluation, if the main focus of that is because there is a disagreement of where the line is between policy and implementation, then perhaps that ought to be where the focus of attention is rather than the more general issue of should there be an appeals process.

Because if you do set up an appeals process then you get a whole series of other things that you have to figure out. What is the basis for appeals and what happens if that appeal isn't satisfactory and on and on…? All which could probably be dealt with but it may not actually be responsive to what's really driving all of this. I've inserted myself here. A quick response?

SPEAKER: I agree with Larry's point but I'm particularly referring that for example we are going through a round of TLD applications. Some get rejected and then a reconsideration request comes through, please, on the merit of the case.

Now, we are not in a position to go against the experts who decided on the merit of the case but what we can do is make sure that the experts have gone through the right process, that it's been fair to… But we cannot just go against the experts in that case. So that was the point. But the implementation versus policy is another big issue which I think we need to address definitely.

STEVE CROCKER: Thank you. So I have Ram, Ray and George. Ram?

RAM MOHAN: Thank you.   I wanted to address two questions.   First, question eight.
                         Actually a little bit of clarity would be helpful. I was trying to understand
                         this and so the question says: "Has the community identified any specific
                         issues that are outside of DNS in terms of SSR?" Is that correct? Is that
                         what you're asking?

                         Okay. If that's the case, here are my thoughts. Outside of DNS specific
                         issues, I've seen questions about global accessibility, about take-downs,
                         but also about objectionable web content that is related to the DNS but
                         is really in a different realm, if you will.

                         And it's specifically outside of the remit of ICANN. The other area that
                         I've also heard concerns about are about ICANN as an organization –
                         whether the organization has an adequate plan or an adequate method
                         to address enterprise risk and that's specifically not just DNS, not just
                         security, but really about enterprise risk across multiple dimensions. So
                         I've heard that.

                         I've also heard concerns about the effect and impact on end users and
                         enterprises. But in that area, most of what I've heard is still related to
                         the DNS and to the expansion of the name space and things like that. So
                         those are my thoughts on question eight.

                         The second question that I wanted to address is question three. It has to
                         do with the public comment process.   From my perspective, the

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mechanics of receiving comments seems to be working adequately. There is a process, there are dates, there are things like that. There is a public announcement and things like that.

But I have two concerns. One, my perception is that once comments are made they often fall into a black hole. In other words, what happens to a comment once that comment is made is still, in my opinion, relatively opaque. I don't believe that those whom make comments have clarity as to what happens to their comments and how those comments are specifically addressed by the Board or the Staff.

I believe it would be more responsive to say explicitly to the commenter and to the community whether a judgment has been made that the comment that has come through has merit or does not have merit. But I don't think we go all the way to doing that and we could do that. Of course, if we go down that path then that well-meaning idea falls prey to astroturfing. So there is a little bit of a balance that we have to find a way to get there.

The second is whether the public comment process itself is sufficient. With many decisions, especially with controversial or sensitive topics, what I've observed is that the commenters seem to feel that they have to do more than just raise their comments. Board Members get approached, addressed in various levels of robustness, depending on the sensitivity of the topics.

And that can be quite uncomfortable because we really cannot speak individually for the Board unless the Board has made a decision and even then it falls to the Chair or the CEO to speak on behalf of the

organization. So I don't believe that we should move all comments only to a public comment mechanism in the electronic that we do today.

We should allow normal social interactions to occur, but it feels to me that we need a better system or methodology that brings accountability on both the commenters and the Board and the Staff.

STEVE CROCKER: Thank you. Ray?

RAYMOND A. PIZAK: Thank you Steve. I have a number of things. Starting off with the second opinion. The first question is, what is the nature of the thing you're trying to get the second opinion of? And this goes to where Cherine was saying and what Larry has said. And this also gets echoed in question number 12 and it also goes to the role of the Board and what is appropriate work for the Board.

Now, in the case of a policy, the Board is adapting a policy. The consensus for the policy should have occurred within the policy forum; one of the three supporting organizations. It should be presented to the Board as: "This is the consensus of this community as to what should be policy. Please adopt it."

And the Board adopts it but then by going through some oversight functions it has to carefully look at from the standpoint of its fiduciary and liability responsibilities. It also has to look at it from the standpoint of did that organization use its processes where its processes are transparent? Etc., etc. Those are all oversight activities.

And lastly, it has a responsibility to examine it in terms of, is this really a policy that is appropriate for this organization? In other words, the Board shouldn't be presented with… I'll use a real gross example, with a policy that says we should paint that wall white. It's not within the Charter of the organization.

And if that's the case when you're wanting a second opinion of that, the only place that a second opinion can occur is to go back through the policy process. Now, if you're looking for a second opinion of something that has been done by the Executive with regards to the implementation of a policy, then the guy you should go and talk to is the Executive.

And the Executive should have mechanisms in place – and I believe he has or will have – to get to the appropriate feedback, to explore those things. And it's only when you really get to an issue of, "You're doing it wrong," and, "No, I'm not doing it wrong." And sometimes it gets back to, "What is the interpretation of the policy?"

Again, if it's an interpretation of the policy, the policy is – for lack of a better term – broken then it needs to be fixed. Therefore it's the PDP that does it. So when you… And that's the spirit in which this whole reconsideration of process was put together, was from an oversight. And yes, hopefully every reconsideration in that system is going to be denied because the processes were in place and were followed.

Now, the ability to change the policy development process exists inside of each of the policy forums and they should be able to make fixes to there as well. So I would hope that when you're looking at the PDP of the gNSO, for example, as you have to do in Paragraph (e) that you look

at where the appeal mechanisms are inside that process as it moves forward.

Because there are going to be decision points along that path of that policy as it moves forward and therefore there should be reconsideration or appeal points as it goes forwards, because that is what's going to allow these stronger developments of consensus policy. And the added bonus is that the earlier in that process that it happens, the less loud people have to yell about something.

I think that I would invite you to put that into your criteria for the review of that. With regard to the question on review structure, in looking at the five things that are there that are supposed to be done and also in looking at the other areas; the WHOIS and so forth, I think there needs to be something done that allows those reviews to be changed a little bit or other subject matter be added.

For example the one that's going to start soon would be the review of the impact of the first round of the gTLDs. Okay, well, I assume we're only going to do it once – I hope we're not going to do it every three years. You know? And at some point in time we're going to review WHOIS to death and it doesn't make sense to review WHOIS every three years.

And does it make sense to review Security and Stability in that same manner? Are there no other mechanisms that could do it? Now, I really liked the existence of this structure to do this and I think there needs to be an amalgamation of the reviews that are conducted through the AOC along with a different look that takes place inside the examination of the

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organizational processes, which is something that would be done by ICANN itself.

And also, the outputs from these things need to also go into the other review mechanism that exist, that doesn't get exercised correctly, which is the strategic planning process. The front-end of that process is always an examination of things like your strengths, your weaknesses, your opportunities and your threats.

And if that isn't another expression of a review I don't know what is. The amalgamation of those three things and the output for example of this review into the strategic planning process is important, because one thing that it will do is that you get it into a strategic planning process, it gets into an operational plan, it gets into a budget and it is really implemented and it really becomes institutionalized.

Lastly, I'm looking at question number ten and I don't understand it. It says: "Does the community embrace decisions made in regards to IP addresses and AS numbers?" I mean, are we supposed to go out and find a block of IP addresses and hug them? I don't understand that. Is there a criticism intended here about important decisions being embraced too? I don't know if I need to be embraced every time I vote on something.

But the point is that what is really meant by this… Acceptance of policies… Okay, some people are not going to accept it because consensus was not in their favor, if you will. They'll never accept it and they shall continue to try to do things that can change it. If, on the other hand, the consensus went their way I would assume they accepted it.

So I really would like to have an explanation of what is meant by this term "embracing decisions". Thank you.

BRIAN CUTE: The term "embrace" comes from the AOC and that's something that in some way we have to find a way to measure that. And I'm not suggesting that's an easy thing to measure as a metric at all. What happened earlier in the stages of our deliberations was we began to frame out what we should be looking at.

There were from parts of the team a strong sense that this was an important review. The last Review Teams did reviews that were focused on names and there had been no attention to numbers – numbers is an important thing, an aspect of what ICANN does. And this question is born of the simply confluence of these discussions that we have to, in some way as a Review Team under the AOC, assess how ICANN's decisions are embraced by the community.

Difficult task. I give you that. And numbers is an important part of what ICANN does, if you will. It had not been treated in prior reviews an that's where we came from.

RAYMOND A. PIZAK: Okay. A point of clarification. There has only been, I believe, four or five policies that have been adopted by the ICANN Board with regards to numbers. There have been hundreds if not somewhat over thousands of policies that have been adopted in the various regions and going across

looking at the regions you'll see that a lot of those policies are similar in nature; they address similar problems.

But they do it on a regional structure and to a certain extend they're global in nature in that a globally recognized problem, if you will, is being solved in a regional manner without recourse to the ICANN Board making it a global policy that is uniformly enforced across the Board. So I'm wondering where you're going to take this thing in terms of policies because the policies that are acted on by the ICANN Board really are policies that govern the way the IANA function is conducted with regards to regional registries.

So I'd be interested in… Well, I don't need to get into a discussion today about that with how the mechanics are or how you're really going to look at that. Thanks.

BRIAN CUTE: Thank you. I'm going to read the whole queue here. George, Bruce, Judith, Erika, Bill, Bertrand and Kuo-Wei. If there's anybody I've left out raise your hand again. And Larry. George?

GEORGE SADOWSKY: I want to address a question because I think it's an important one. First, my impression is that there have been really [sub center? 00:43:15] of improvements in the way in which we've handled accountability and transparency, but that's not really the important thing to say. It's perfectly possible to have "embraced" – to use an AOC word – the letter

of recommendation without necessarily embracing the spirit in the way in which it was presented; either consciously or unconsciously.

The more important thing is that the public comments – you note that the public comments appear to indicate this concern. I've not read the public comments but I would not expect them to be an unbiased source of opinion or evidence for this because people who write public comments have something to complain about or something to say, whereas if you're really satisfied with the situation you don't say anything.

And I think the ratio in retail, which we're not, is 10-1 of people who don't complain and people who do. So the question is, to what extent can your work identify concerns about lack of transparency and accountability? Either new concerns or concerns looking at the level of accountability and transparency before ATRT 1 relative to now.

And I would argue that to the extent that you could base your analysis, your recommendations, your text on various specific instances and fact-based evidence, you will be able to not only help the organization in terms of increasing accountability and transparency but in helping the Board understand what the perceptions are of lack of those things that exist in the community.

STEVE CROCKER: Thank you. We're reflecting back on what we've heard. As I said in the last session to the gNSO after one input we have to make fact-based analysis as a Review Team. So that's clearly understood; we have to be as independent and subjective as we can be as a collection of volunteers

from the community. But fact-based is critical so whenever we get inputs we very often say: "Can you provide us some specific examples so we can assess that." Thank you.

BRIAN CUTE: Bruce, then Judith and Erika. Judith?

JUDITH DUAVIT VASQUEZ: I would like to address question number 12. Is it clear to you that the Board has a dual role? The good news is the NomCom recognizes that the Board has a dual role. We talk about the Board as having two roles – there is the governance component and there is in the question the [last stop? 00:46:14] policy [organ? 00:46:17]. I was brought into the Board because of my corporate experience in a publicly traded corporation. And we are truly moving towards developing ICANN's corporation into a world-class organization that is capable of making the demands of the multi-stakeholder model.

It takes operational skill and financial capability to deliver and this consciousness was very much in the CEO Selection Committee and the reason why of all the candidates it is Fadi. We are working towards it. Unfortunately, there is so much we are doing on the SO side of things but we are not able to share the gains of ICANN, the organization, the professional build-up that Fadi is doing.

And I don't want to preempt him but I can assure you we are confident that we do have the dual role so you will be very proud of ICANN moving forward. Thank you.

BRIAN CUTE: Thank you Judith. Erika?

ERIKA MANN: Let me comment on something primarily on question four: do we believe that ICANN's organizational advisory committees and supporting organizations and their respective internal organizations are effective in achieving ICANN's multi-stakeholder model and if not, how should things be changed.

And then when you are connected, as in my little piece that I did here on this paper, actually was 11, 12 and even two –because I think what is interesting is the… One feels the frustration behind the way the multi-stakeholder model works, how the policy process works and I think part of it reflects some of the experience over the last month.

So I was wondering if maybe one should not add something that I, pretty much as a newcomer to this organization, feel sometimes is missing. The way the process works and the way the forms work and the community works… Although there is a lot of communication it's more of less silo oriented.

You have these communities which meet, which discuss, which have their own agenda and then when the process all works well at the end it goes to the Board and then the Board has to take a decision. The clash accuses and then the clash is more or less then between the GAC and between the Board. And there I think there is a piece missing.

So I wonder, even reading all these questions and the questions asked in this paper, if not one should think under certain conditions, specifically maybe to have some kind of quick, ad-hoc committees which come from across the community and which try to… Not solve the problem but never [endow? 00:49:45] operational and manageable terms so that then it goes back to the community but it's pretty much prepared in a way that the path is clearer on how a decision can be taken.

Because I think the multi-stakeholder process – and I've worked in many international fora – I think it works pretty well. But this little piece, which I think is somewhat missing, and that's why the process becomes so long, and because it becomes very long I feel like suddenly… And I think suddenly – and this is something we should avoid – like Astroturfing is evolving. Because then the communities and individuals and interest groups suddenly feel like an issue is slipping away and they don't know how to bring it back quickly enough to the existing processes.

So maybe one has to look and introduce a method that works in this model, which evolved in the ICANN history so that it's not foreign and not artificial but still something that can close this gap.

STEVE CROCKER: Thank you. Bill and then Bertrand. You want to respond? Go ahead.

BRIAN CUTE: Just a very quick response. The AOC uses the expression "enhanced cross-community deliberation". We don't actually do an awful lot of

that. If anyone has any ideas as to how we can actually make that work, please tell us.

STEVE CROCKER: Okay. Bill?

BILL GRAHAM: Thanks for the opportunity to comment on these. I'd like to very briefly support what Ray had to say about the reconsideration review and substandard reviews. I would really be cautious about that because it has the potential to move the Board away from being an oversight Board to being an adjudicator of disputes, as people would naturally try to game the system and you'd be in an endless circle of sub-standard reviews. So that must be handled really carefully.

But the main thing I wanted to comment on is question five, about the implementation of recommendations. Based largely on my having had the experience of co-chairing the Board/GAC Implementation Recommendation Working Group and the main point there is that implementation needs to be understood quite broadly, I think.

In trying to work with the GAC to implement the recommendations made to them last time, the way they were phrased and initially treated was as though we would eventually get to an end state where we could say we'd implemented the recommendation. And that proved to be very difficult.

This was partly because of working methods where it was very close to impossible to get work done between face-to-face meetings, a function

of how the GAC tends to prefer working and partly because we were feeling our way. There was a lot of comfort building that went on in the early phases and we're still– with regards to a couple of the recommendations – working through a step-wise series of drafts and improvements.

So despite the fact we claim we have implemented all the recommendations, we haven't – what we've done is we've launched iterative processes that are really working. I'm satisfied with the results but it was very difficult ticking the boxes, so to speak, which was what the reporting mechanism seemed to require.

A similar common area on a similar topic with regards the WHOIS review, I've heard a fair bit of dissatisfaction expressed about whether the recommendations were implanted or ignored and yet take look at the expert group on new directory services. I think it quite clearly is a case where the spirit of the discovery and the discussions that took place in the review was taken very much apart and the Board has decided to look at going well beyond implementing the recommendations.

So there again I think looking too narrowly at the meaning of the word "implementation" can be a problem. Thanks.

STEVE CROCKER: If I may, thank you for that Bill. A couple of thoughts in response. In assessing the implementation of recommendations of prior Review Teams, those points are very well taken. A couple of thoughts that we have and how we assess that are, number one: implementation of these

recommendations should improve accountability and transparency in the organization in an organic way.

"Check the box" results will be informational but don't necessarily reflect improvements so that's an area that we're going to be looking for; what effect did the implementation of this recommendation have on the working, the processes, the cross-organizational functionality and ultimately the DNA of the employees. We're looking for that type of effect.

I know that's a lot but in response to your comments, those points are very well taken. We can't look at implementation in too narrow of a way. I'm very aware that the review process – speaking for myself at this point –, hearing the "let's not review to death" and "let's become effective in how we're using recommendations to improve accountability and transparency".

This time around it's got to be more than just "check the box". We have to see evidence that the culture of the organization is changing, that implementation is happening across the organization involving groups of individuals. A test that's been articulated is that if we walk through the halls of ICANN and tap an employee on the shoulder and say: "How does your job tie accountability and transparency? What are you specifically doing to make sure that's happening?"

There should be a response in most cases, or at least an understanding. That's what we're looking to gauge in this and certainly make recommendations about how future reviews can be better shaped.

BILL GRAHAM:
I want to drill down into this very last point. At the end of the ATRT 1 I remember pretty clearly Larry pushing on the question of if we walk through the hall a year from now – and I think the formulation of the question was slightly different from yours – would somebody be able to say what they're doing differently now to before. Your formulation is would they be able to tie it to the accountability and transparency requirement.

My reaction in response to Larry's was I hate to tie things to a transitional and passing phenomenon of a year later – is it built deeply into the DNA so that it's just part of how things are done and not distinguishable that you're doing it because of an ATRT review; it's the way things are done.

I have a feeling we're all trying to cover some aspect of the same thing – permanence and having it baked in there. And maybe as part of this review, you'll come back and visit that again and see if you want to tweak it or polish it and put the criteria in. I tried. There was a transition where before Fadi came I tried to drive the implantation process, oversee it.

I insisted that the last step in each of the recommendation implementation processes that there be defined steps for each of the recommendations and that the last of those be the embedding of the change in the processes, in the manuals, in the training, so that it was absolutely part of what we do. I don't think we got there but at least we tried to make that part of the spec. Just [inaudible 00:58:06] that because I 100% agree with that.

The queue… Bertrand, Kuo, Larry, Gonzalo, Cherine.

DAVID CONRAD: Thank you. Just on question 12 the answer is clearly yes, we are aware that there is a dual role both as a governance structure and as a policy related or substantive related structure. What the consequences of this are and should be is still an open question because it is a strange beast to have those two functions together. The expression that is used here is the last stop on the policy trail. I would like to highlight that basically the way I view the Board's function in that regard is a validation role in a triptych, whereby you have the policy development on the one hand and the policy execution on the other hand, which is the executive function.

And in both cases, either the end of the policy process or the end of a decision making process in the execution may require validation at one point. It's the case for instance in the IANA function whereby it comes to the Board. And in both cases it is very much a process validation. The goal is to say yes, the procedure has been followed, the consensus has been achieved and in the IANA process the process has been followed.

But this is a role that can however extend in certain cases when there is a tension or when there is something that's unresolved and the decision has to be made because of external factors. So it is mainly a validation layer, fundamentally, but it can go further.   The second point is regarding question 14 and reconsideration.

If you look at this triptych and if you put in the middle all the consultation processes, the open forums and so on, which is the active information gathering party, the fourth leg, which is the redress system,

the accountability system, is in my view largely under dimensioned given the importance of the decisions that this organization is taking.

I do not personally believe that the reconciliation process and the IRP are sufficient. In particular because they do not provide substantive redress for individuals or entities that have been potentially affected by a concrete decision. And I don't think that this should be the responsibility of the Board because the notion that there is a reconsideration process whereby the Board is basically self-reviewing its own decision is wrong. It's wrong in terms of higher principles, because you're not supposed to be the appeal on your own decisions and it's wrong also for the reasons that have been mentioned before.

Because if we're just validating that the process has been followed then the reconsiderations should not be about the decision of the Board itself but about the fact that the process was not followed, which is a very strange thing. And therefore one of the challenges is when you look at the substantive redress, which is a fundamental principle of law, you either have recourse to the IRP, which is a very heavy procedure, a very, very heavy procedure – it's almost an [unclear? 01:01:55] option – or you go to national courts.

And I do not believe that it's in the interest of ICANN as a system to force people to go to national courts to seek redress on its own decisions because it then brings the whole accountability mechanism outside of the organization. And I think in that regard the accountability mechanism regarding review of individual redress needs to be addressed.

EN

I know it's a slippery slope, I know it's difficult. It certainly is not the responsibility of the Board to do this but developing this fourth leg is, I believe, an important element. And finally, on the issue of policy and implementation, we will have a whole discussion about this in the community. I would really like to introduce this notion that we discussed earlier of execution.

There is not just a simple line between policy and implementation. In putting in place and managing the process of the applicants in the New gTLD Program, it's fundamentally different from the exercise that represented the development of the Applicant Guidebook. The Applicant Guidebook was maybe the implementation framework.

I don't know what the appropriate word is but there clearly was not in my mind a very clear-cut distinction between the decision that the gNSO had done in 2007, which was very high-level principles and the whole development of the Applicant Guidebook, which involved a lot of consultations in the community. So it was not just a simple split where you had policy that involved consultation, and PDPs.

Then after 2007 and 2008 it suddenly became fully implemented because it was not the case. It was a process that remained a multi-stakeholder development. That being said, now that we are after the decision in Singapore the actual execution of the program is something that really is the responsibility of Staff.

But in-between, when there is a tension – as I said in the interaction with the gNSO Council – when there is a discrepancy between the evaluation of the gNSO in that case and the Staff on whether something

is policy or implementation, it cannot be the decision of one of the parties that solves the issue. It cannot be the Staff, for instance, that says: "We believe it's implementation, they believe it's policy. Therefore, it's implementation."

It needs to go up to the Board for decision, resending the issue to the gNSO etc. I could talk also about the GAC involvement but that's too long. Thank you.

BRIAN CUTE: Thank you. I have Bertrand, Kuo… I'm sorry. We'll send it off for reconsideration. [laughter] Kuo, Larry, Gonzalo, Cherine, Ray and then I want to close off and turn things over to Fadi for some material that needs to be shared here.

DAVID CONRAD: I'd like to make a comment about question ten and also on question two. The first one is raised asking what that means. And I look at question ten and actually what I'm thinking about first of all… Actually, for the IP address and the AS number, they already have a process that we all know; from the regional and also in the ICANN… The ASO have a report in every ICANN meeting and we also have public forums.

Even in the WSIS or the IGF we have a lot of praise of the process. You keep asking about IP number or AS number allocation stuff. For question ten I really don't understand it. [inaudible 01:06:25] process broken or [inaudible 01:06:30] questions, because if you just read this

statement I don't see any reason why you can tell me that the process has a problem or what the problem of the process is.

If you cannot point out the problem of the current process then to be honest I don't see how we can answer these questions. What I would recommend is that we get more detail about what is really the problem that you want to find out in the current process. So that's regarding question ten.

Back to question two, I'd really like to see that… I might like to modify your questions. You say: "Those who do not have a financial interest." I'd like to take the "financial" off because I think in the current ICANN process we actually agree that it's open, right? If you have any interest in this process you can always participate and you can come to adjoin in this community, even in the current [inaudible 01:07:50] number in the IR, it's an open process.

That means you don't necessarily have a financial interest. If you have an interest you can always participate. So I think for question two I think it's more important that it's not just a financial interest. It should be anybody with an interest in this ICANN process of the IR process. Do they have an effective way to present their view, their opinion or their comment? I think that is the point.

And if the people have no interest at all in the whole process I think it's very difficult to grab those people without them having any interest. But if they have an interest we must make sure that ICANN or AR or any… We have a channel or a process that allows them to come in to make

their question or to make their comment. So that is my comment for question two and question ten. Thanks.

STEVE CROCKER: Thank you. Larry?

LAWRENCE STRICKLING: I got on the list to make sure we talked about a topic that we haven't really addressed yet, because you folks were the only source of information that we need on that and that's question five. It really deals with the mechanics of you've now had three Review Teams come to you. What has been the process you followed that you think now you have a standard process to deal with these reports when they came in, or did you handle them differently for different reasons?

We need to understand that. And are there any changes you'd like to see? Things that Teams could do to help the Board in terms of how you actually handle these reports when they come to you? We've talked about implementability so we don't need to cover that one again, but I know there has been an issue raised in the fact that since these Teams disband once they turn their report in, is that an issue or a problem for the Board?

Would the Board like to see the Team remain available for some level of consultation early on in the process as you take these recommendations and implement them?

STEVE CROCKER: Let me give some thought to these set of questions. Certainly, as you said, implementability is one of the key things and one of the processes that we've tried to institute – that I've tried to institute and that have been done by Staff is then we get a report and it actually applies not only to AOC reports but probably to expert opinion reports – to subject the recommendations to the question of implementability.

And implementability is both whether it's implementable physically and also the question of costs, time and resources and who would do it, and so forth. And that in my view is an essential step prior to making a decision about which of the recommendations to accept and how to proceed past that point. So that's one thing which I think is consistent with what you've said but I wanted to embellish it just a bit.

There is another phenomenon that I've gotten sensitized to over the several years that I've been involved with ICANN and maybe it's time for me to rotate away and stop being sensitive about. But I've watched expert groups, very earnest, solid people – and I've known many of them separately over a long period of time – develop a sense of entitlement about they've thought about something, they've made a decision, they've made a recommendation and therefore it must be solved.

And that in my view – I'm speaking very personally – embodies two classes of errors that I've seen over time. One is a groupthink of setting on a course and arriving at possibly an imperfect decision because they convince themselves of a certain set of facts that may not be so or looking at things in a certain way. And the other is this entitlement of: "You asked us the question and therefore we're telling you the answer," and, "We own it," is the mindset that I perceive oftentimes.

And then they want to hold us accountable to why we didn't implement their recommendation. And that, in my mind, crosses a line and is a lack of discipline in the relationships. Because ultimately we, the Board in one respect and ICANN as a whole, have the ultimate responsibility for the consequences of these implementations. So there is certainly an enormous bias in favor of accepting the recommendations but I don't think it can be absolute and I think it is an essential part of the process, that there has to be a thoughtful acceptance and a sense of responsibility about that.

And it should work reasonably well. If it goes astray in either direction, if we just wholesale reject things or wholesale accept things, things will go wrong. So that's my take on these things. In specifics, what you have seen is the ATRT 1, the basic answer, quibble over details but basically suggest all the recommendations. With respect to the WHOIS something more subtle but qualitatively different happened there.

We said yes to the recommendations. We said we understand the earnestness and the depth of the work that was done but there was – in our opinion, to be quite straightforward about it – a flaw in the framework in the original AOC terminology that persisted the brokenness that was in WHOIS. And so we said the way we're going to deal with that is we're going to say yes to this Review Team and we have to do that.

And that is the right thing to do for the immediate and the foreseeable future. And at the same time we're going to finally rise to the challenge and kick-off a strategic examination of WHOIS and we're going to do that on a distinctive separate track with separate resources, try to give it

different terminology. So that is an unexpected response and I would consider that to be an unusual response; not an ordinary response but nonetheless well within the scope of the proper dynamic.

On the Security, Stability and Resiliency, I think of more as the normal: we accept the recommendations and we go ahead with them. So I hope that's helpful to you. One, it's a bit of work but definitely a lot of fun. Does anybody else want to…? Brian?

BRIAN CUTE: I'd like to pick up on one of your points on implementability and I [inaudible 01:15:36].   What I heard you suggest, which would be perfectly appropriate in terms of processes, recommendations are received and the first filter they get put through is implementability – are they?

Speaking for myself, I think that an improvement on this process could be that there is an engagement between the Review Team and the Board before the recommendations are issued and that we have an understanding as a Review Team of what implementability challenges, a proposed recommendation, might trigger. And if we have that exchange before it's issued then we're issuing recommendations that are more implementable.

STEVE CROCKER: I had forgotten to say and then remembered to turn things over to you. One of the key things about the SSR review is exactly what you've said. Those guys realized that it would be helpful to get a feasibility sanity

check before they finished drafting their recommendations. So in that process they did exactly that – they didn't engage the Board, they engaged Staff and got the right responses – and that was a big help. You're pointing at David? Mike and then Bruce on this.

MICHAEL YAKUSHEV: Thanks. I think some of what I'm hearing is what I understand is referred to as continuous improvement. We're now looking at iterative processes. I think the ATRT 1 saw some of the big changes identified in some of the main areas. I think that one suggestion to you is that I think that the need for the second ATRT Committee to actually delve into implementation issues and say, "You must do this," is maybe not as great as there was with the first one.

But I think that more time could be spent in identifying problems and suggesting approaches, rather than specific practical steps that must be implemented. I think that that would be incredibly useful for people to take a broad view, a slightly external view of what we're doing instead of [inaudible 01:18:05] in the process and say: "We're observing some issues, you need to take steps to affect this," and maybe even some practical suggestions.

But as has been mentioned we've had some situations where specific implementation has presented some challenges, while the general principle has been accepted and understood and we need to work around how to implement because we all understand what we're aiming at. I think that Fadi and his team have shown a commitment to continuous improvement and part of it is at a Staff level.

I think some of it is understanding better how we can iterate these processes so that each time round there is more improvement. And I think to me one of the biggest disappointments has been the comment-reply-comment cycle. It has not had the desired impact. And what we need to do is instead of beating it and trying to do it again and again is to say: "This was what was intended, this is how we iterate to try and get to that desired effect." And Sebastian and others are trying to take that forward.

But with the ATRT as it goes through; being a sanity check, being a big picture approach to this, not necessarily being an entity that needs to get down into the real detail of what and how but rather which approaches are working, which aren't, where do we need to put a bit more effort?

BRUCE TONKIN: Yeah, I think Mike's put very much forward some of the concepts I was going to say. I think one of the things to do is in the way reports are structured. I see a big difference between the way the ATRT 1 report was written versus the WHOIS report. And picking up on what Mike's saying, what's useful is to have a clear requirement or recommendation and then have some implementation options for consideration.

But there are always lots of different ways to solve a particular requirement and I think we need to accept that we've got a professional Staff and organization that will look at the different options and come up with the solutions. One of our struggles with the WHOIS report is it blended this high level stuff with very specific… It would be a bit like

saying the requirement for this room, for this meeting, is to have a sound system where we can all clearly be heard. That's the requirement.

Now, you might say one way of implementing that would be to put microphones on the desk and a speaker in the middle. But the speakers could be over there or up there, it doesn't really matter. So I'd encourage, when Review Teams are writing reports to really separate the core recommendation, which hopefully can be summarized in one or two sentences from some options for implementation. But don't try and lock in the Board or the Staff, particularly, into that.

And the gNSO policy on New gTLDs very clearly identifies that actually. There is a separate section. One section is the recommendations, which are generally one-sentence recommendations. There is another section of the New gTLD policy report, which is implementation guidelines. And in many cases the Staff will actually use those implementation guidelines but in some cases they've used a different implementation.

So we just need to separate the requirement, the high level recommendation from some guidelines for implementation – but not try and lock the Board or particularly the Staff into a particular implementation.

STEVE CROCKER: Thank you. Gonzalo?

GONZALO NAVARRO:	Thank you. Yeah, I agree with Bruce and Mike over this issue. I think we need to find some principles and then see how we can implement it. In that regard I have a brief comment about questions two and three. As I read them I cannot see a clear differentiation on the purpose of the questions. Both of them are pointing to participation. As I read question two it's [assumed? 01:22:14] in question three.
	So perhaps it's my reading but I think it will be more interesting to know exactly what the difference is in the participation that you are pointing out in question three, and how you can differentiate it from the process to participate, which is implied in question three. That's my comment.
	Sorry, one more thing: I think it's redundant; that phrase: "Including those who don't have financial interest at stake." As Kuo-Wei pointed out before this is a process where it's meant to be open to everyone with an interest to participate. So I don't see why there is a reason to have that kind of differentiation to that question. Thank you.
STEVE CROCKER:	Thank you very much. Cherine, Ray and then we'll turn the floor over to Fadi.
CHERINE CHALABY:	I'd like to go back to question…
STEVE CROCKER:	Do you want to respond to…?
CHERINE CHALABY:	Alan, do you want to respond?

ALAN GREENBERG: Two things. Yes, the two are somewhat related but number three was specifically talking about the public comment process and was saying does it work and is it listened to. That was really focused. Number two is yes, we understand that anyone can participate but the question was asking: "Do we really get substantive involvement from those without financial investment?"

In other words, we know a registry and a registrant or a registrar is going to participate in a policy discussion that involve them. Will we get involvement from people who maybe are impacted by the results but have no financial stake, have no financial backing for the time, the travel or anything else? And that's really the question that we're asking there. So a different question – not only are they allowed to be involved but does it really work?

KUO-WEI WU: Basically, from my understanding… We understand that the Internet is very important for almost every person on the earth so how you can sacrifice the, "Here is the financial interest," "Here is a non-financial interest," color line and say: "He can come in," and, "He cannot." So I think in general, no matter the progress, we keep talking about how we can make a progress more effective. But we cannot say, "You have no financial interest, you cannot join in."

ALAN GREENBERG: Let's follow up offline.

EN

STEVE CROCKER: Let me move on here. Cherine?

CHERINE CHALABY: I'd like to make two brief comments; one on question twelve and the other one on question seven. On question twelve is seems to imply that the Board has dual role and I'd like to really kill this notion. The reason I want to kill this notion is, as Ray said earlier, we don't have a role in governance and a role in policy. That is wrong. We only have a role in governance and part of that is an oversight of the policy process.

The Board doesn't have a policy role. We do not create policy. All we do is adopt or not adopt a consensus policy that's come to us. So in my view it would be very dangerous to start giving the Board a dual role of a policy and a governance role. That's one point on number twelve. On number seven I want to reiterate the points that George has made on transparency.

At the time of ATRT 1 the Board did not publish a rationale for its decision and resolution. Now, diligently, it publishes rationale and diligently is publishes resolution 48 hours after the resolution has been taken. Also, all the minutes are published. So in my personal view I do not know there has been a substantial improvement in transparency and accountability. So I do not know where the comment is coming from.

Maybe the quality of the rationale is not as good as people want it to be. Maybe the minutes are published a little bit later than they should be. But I think there has been a substantial improvement. So we'd like to know specifically what is meant by this comment. Thank you.

STEVE CROCKER: Sebastian, you've been raising your hand. Do you want to respond on these points or…? Okay.

SEBASTIAN BACHOLLET: I didn't know that vertical integration was an implementation decision. When you say we don't do policy it's not true. The past shows that the Board has to do some policy because we are the only body where we can get the input from all the stakeholders at once and that's the place where sometimes we have to take some policy decision.

STEVE CROCKER: All right. Chris and then we'll pop up on this and finish with Ray.

CHRIS DISSPAIN: I just wanted to say that the conversation that has just taken place between Sebastian and Cherine illustrates the problem; some people think it's policy, some people think it's implementation. Whichever side of the fence you happen to be on, you can say whichever suits you best. Sebastian is adamant that it was policy and others are adamant that it was implementation. This is the crux of the problem.

STEVE CROCKER: Ray?

RAYMOND A. PIZAK: Thank you Steve. First of all, the first question I want to deal with is question twelve and I want to join Cherine with really taking the wooden stake and putting it through the heart of this notion. The Board has got one role and it's of governance. When the Board goes upon itself to make a policy the Board is wrong.

In the case that Sebastian describes, where the Board did make a policy, it's clear to me that the next step for the Board would have been to send this thing back to the gNSO and say, "We need a policy." And we didn't do that. So Cherine, you can get the biggest hammer and I'll get the biggest wooden stake and that's it. With regards to accountability and appeal mechanisms, the Board is ultimately accountable to the community. Period.

And various organs of the community put Members of the Board onto the Board. So we are accountable. We have to make sure that any outside appeal mechanism that we engage is something that's going to do two things: one, enhance that accountability to the community and the second thing is to enhance the process for which that appeal process is being attached to.

So the Board in an oversight role actually has an appeal authority to a certain extent on certain matters. But on the other hand…

STEVE CROCKER: Let me break in here with an implementation detail, which is that we are…

RAYMOND A. PIZAK: Okay, I'll stop on that one and I want to touch briefly on five. Well, I was going to give you a plus one Steve, but forget it. [laughter]

STEVE CROCKER: Thank you. [laughter] Fadi wants to share some information with the Review Team that is important to share.

FADI CHEHADÉ: My apologies but I am late for another meeting so I'll just be brief if I could.   I didn't want some of this information to just be shared tomorrow with the public without having a moment to share it with you. First, you've seen the announcements in the last few weeks that we have created a separate unit within ICANN called the Generic Domains Unit. This is a very, very important change in the way we are structured.

It resulted from us being accused of being a bit Janus-faced, because on one side of ICANN everything has to be bottom-up, slow, multi-stakeholder to the 'T' – more of a marathon rather than a sprint. And on the other side of ICANN, which is the side where we're managing our contract parties and we need to implement things people expect us to be efficient and to get the job done.

And when a contracted party does not perform to actually stand up and say, "You're not performing."   So one CEO of a ccTLD wrote a blog saying, "You're Janus-faced."   Of course I met him immediately and spent a bit of time with him and he actually turned out to be very, very helpful. As a result, we are splitting the Janus-face within ICANN and we

will now have a division. Akram Atallah was promoted to head this group.

This will be the group responsible for managing our contracted parties. This will be the group that will focus its activities on ensuring that the registrants, who are the ultimate user they are responsible for, are receiving the value and the service they should be receiving from the licensees that are getting licenses from us to operate certain gTLDs and the registrars who are accredited by us to perform these.

That's a change in our posture and it's very important and it will strengthen our compliance regime, which will remain reporting to me and will have way up to the Audit Committee, if it needs to, independent of me. So we're putting some things in place that frankly are learnings that will improve immensely the posture and the quality of the work we do on one side.

On the other side it will give me the oxygen and the focus to continue nurturing and supporting the multi-stakeholder process that is so vital to our ability to tell the world, "You can come to ICANN and it is a multi-stakeholder transnational organization that knows how it gets its work done. So this is one important thing I wanted to share with you.

The second thing I wanted to share with you is that clearly you know that ICANN is now engaged in a strategic planning process. This is very critical because we have not taken that step back in-depth as a community and done that now for a while. So the process started in Beijing, the conversation is ongoing, we are going to deepen the

conversation again here in Durban and there is a whole set of processes that are in place to inform that process.

That process will end at the end of this year and will result in a strategic plan that just, for form, will not exceed five pages. So this is a high level strategic plan, not an operating plan. On the heels of that we plan to build a three-year operating plan, which will then inform our yearly budgeting and planning processes. Normal operating procedure happens in any organization. That's what we're going towards.

Now, what I will announce tomorrow is as we are getting feedback, since Beijing, on the strategic plan, there are four or five areas that we're feeling are nutty or complex enough that we need to strengthen the process of getting input about these areas by building some adjacent process or informing process to this strategic planning process.

We looked at the past of ICANN and it turns out that ICANN in the past needed things like that and they used a vehicle called the President's Strategy Committee. I don't like the name but it's a name that's been used before and it's a process that was used before. I'd much rather call these a community strategy group or committee but we're going to stick with the model that existed.

We will have five of these shared and announced with the community tomorrow. The first one will focus on public responsibility in order for us to create a true framework for what is the public responsibility framework that ICANN's community should work in to ensure we don't go out of our remit, or we don't argue what our public responsibilities

are. We should have a framework for that. Nii Quaynor will Chair that Committee.

Second, we're going to have a Committee that will focus on the role of ICANN in the Internet organization eco-system, and that is the eco system that includes ISOC, IETF, the RIRs, the regional TLDs, etc. All these organizations that exist today to serve the internet; what we sometimes refer to as the ISTART system. What is exactly the evolving role of ICANN in that system? Vint Cerf has agreed to Chair that Committee.

Third Committee – we're going to have a Committee that defines the technology roadmap of ICANN and becomes a bridge to all the technical communities, especially the IETF. ICANN has lacked a true CTO function, frankly almost since [postal? 01:36:29]. We do not think we need to hire a CTO because a CTO means that ICANN is making technology decisions and that's not for ICANN Staff to do, this is a community framework.

So we want to create a Committee that starts looking at these things and builds bridges to the other community and starts answering things like: "What is the future of the DNS from a technological standpoint?" So again, to lead a Committee like that we wanted someone who the community will appreciate. So we went to the inventor of the DNS, so Paul Mockapetris will be leading this Committee.

The fourth Committee is a Committee that you should frankly be pleased with – I hope you'll be pleased with all of them but this one is particularly important to what you do –: we believe that it is time for us to step away from everything going on and how we make policy and

how we're structured to make policy. And this Committee will look at it from the outside in and say: "Is this working and how will it scale as we grow?"

So when we embrace the world and bring the world to ICANN and people are starting to come to ICANN, are we really prepared to engage them in our structures, in our policy-making processes effectively? So we're going to look at this Committee, which is going to be called the Multi-Stakeholder Innovation Committee, to think out of the box about how we can evolve this model.

This Committee will be led by Professor Beth Simone Novak. Beth Simone Novak was the Deputy CTO of the White House. She is an Advisor to Cameron. She's the Head of the Governance Lab; the most important lab in the world now that's looking at how to evolve governance. And I think we should be very pleased because she had six projects as options to focus on.

McArthur and Knight Foundations are funding her with many universities and she picked ICANN because she felt ICANN is probably one of the most fascinating and interesting models of transnational governance and consensus-built governance, and she wanted to help us reinvent that together with the community. Again, these will all be community-led, but we just needed people to lead these Committees.

And the last Committee is one that will focus on our place in the Internet governance eco-system and so this is not just the organizations such as ISOC and our colleagues in that space – this is about how we deal with governance, how we deal with international government organizations,

what our place is. I'm frankly tired of being defensive. I'm tired of going to defend us in various fora. It is time for us to frame our model and go and tell the world what a great model we have.

And it is indeed a great model. There are very, very few models that work like ours today. This particular Committee is the only one I can't share with you who will chair it. We will be talking to multiple potential chairs and it will be a very high-level Committee. It will be multi-stakeholder even though it's focused on governance.

It will be multi-stakeholder and we're looking at people like the last CEO of Citigroup and people of very senior level that will come in and actually bring various views into how we should evolve our governance place in the world. So I just wanted to share these with you because they are substantive. These Committees will be dissolved in a year.

They will have less than seven people. They will be fully transparent. No Board Members or Staff Members will sit on them. So these are very, very open and very community-oriented groups that will inform the strategic planning process. The outcome of these groups is not coming to me, it's coming to all of us.

That's why I didn't like the name "President's" – this is for all of us to take that input and then maybe we'll translate it into recommendations, maybe we'll translate it into policy, maybe we'll translate it into something else. But it won't be imposed on our community. Okay? So this is my sharing of an update with you.

I do have some other things I wanted to share but we've ran out of time. I do have a solution for how we avoid recommendations going into… I'm

not going to use the word "oblivion" but into some place in Staff in a black box and then we have to do a review to figure out what happened. There is a way to solve that. Other organizations have solved it.

Bell Labs, after 50 years of building massive technologies and so on and so forth figured that out. There are very specific groups called systems engineering that solved this issue between implementers and people who come up with specs. We need to address this head on and there are ways to do that. This is not very difficult. We are just missing – as you've said, Alan, before – we're missing something in the middle – and also as Bertrand said. We'll come back to that.

My question that I wanted to ask you, you asked us 15 so I wanted to ask one: my son plays the piano and I always tell him, "You've got to play better," "You've got to get better," and he says: "Dad, against what standard do I need to get better?" And I said: "Our neighbor's son, look at Chris, how he plays! He gets up at 5:00 am to play the piano, you don't get up at 5:00 am."

I feel like we are constantly pushing ourselves to be more transparent and to be more accountable. What is the standard? Who are comparing ourselves to? Because I don't see anybody who's much better than us. Maybe we should at least get to [sighs], "We're doing good!" And what is the standard we're going after? Because it's not clear to me. It just seems like: "We did what we can but now we need to do more." Well, do we need to do more and what is the standard we need to live against?

I think it would be fantastic if you could help us with that, if you could tell us: "Look, this is the standard of transparency; this is someone you can look to and you have a long way to go to get better than them." But if we can't find anybody who's better than us in transparency then maybe we should stop beating ourselves too hard.

STEVE CROCKER: Thank you Fadi. Brian?

BRIAN CUTE: Yeah. Thank you very much for that Fadi, much appreciated. I think we're getting close on our time because we have an interaction with the GAC as well so I think this is the right time to close, unless there's something else? Thank you all very much for your thoughts. We'll be coming back to you before our process is over. Thank you very, very much.

[END OF TRANSCRIPT]