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BEIJING – GAC Meeting with ATRT2

Sunday, April 07, 2013 – 09:00 to 11:00

ICANN – Beijing, People’s Republic of China

CHAIR DRYDEN:

Good morning, everyone. If you can be seated, we will begin.

For the GAC, as you know, we are spending this first session to meet in particular with members of the Accountability and Transparency Review Team that are representing governments on the review team, but I am really pleased to report that we have many members of the ATRT 2 with us this morning, not only the government representatives.

So I can't see all, and I know a few are unable to join in person. However, I would like to thank all of those from the review team that have come to meet with us today, particularly as accountability and transparency issues are so critical for governments when it comes to ICANN and its place more in the bigger picture.

So what we will do this morning is perhaps first is if the ATRT 2 members could perhaps introduce themselves. I can try to indicate where they are but Brian you can try to help me. To my right is Brian Cute who is the chair of this second review team, and Brian will also be introducing us to the review team and the kind of work that has been undertaken so far and what some of the next steps are, as well as identifying where we're looking for governments to comment and provide inputs into the review team's work.

So, Brian, if I can hand over to you to help us out.

Thank you.

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BRIAN CUTE:

Good morning. Thank you, Chair. And thank you, all members of the GAC, for this opportunity to interact with you this morning.

My name is Brian Cute. I am the chair of the Accountability and Transparency Review Team 2, or ATRT 2 as we're referring to it in shorthand.

This morning there are a number of members of the team with me. We do have three vice chairs. Lise Fuhr, who you may know, Avri Doria and Alan Greenberg, and I would also like to note Larry Strickling to my right and Mr. Zhang also to my right. Mr. Zhang I'd like to thank also for welcoming us here and being a wonderful host in Beijing in providing a warm welcome.

There are 16 members total. Excuse me. Jorgen Andersen also to my right. And I apologize for not seeing all of the members of the team. Sorry, Jorgen.

Could the rest of the members of the team just raise their hand wherever you are so folks can see you?

Steve Crocker, the chair of ICANN. And David. Thank you.

So thank you all for being here, and what I would like to do in the next 10 to 15 minutes or so is walk you through a summary of where we are so far in our work.

The ATRT 2's responsibility under the Affirmation of Commitments is to conduct a review of ICANN's implementation of recommendations arising out of three prior review teams.

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The first Accountability and Transparency Review Team, or ATRT 1 as we are referring to it, the Security, Stability and Resiliency Review Team, and the WHOIS Review Team.

In our early efforts to organize our work, we had our first face-to-face meeting in Los Angeles. We met with ICANN senior staff. We interacted with Fadi Chehade, the CEO of ICANN, and to begin an initial dialogue around the scoping and framing of the work streams that we'll be undertaking between now and December 31st of this year when we are scheduled to provide recommendations from ATRT 2 to the ICANN board of directors.

The Los Angeles interaction was very helpful, in particular in interacting with Fadi as the CEO of ICANN. He is new to this process as he is new to the organization, and we had a very good, constructive, open dialogue about the importance of accountability and transparency to ICANN as an organization, and have his full commitment and support as our work goes forward.

In reviewing ICANN's implementation of the three prior review teams, ATRT 2 also will be doing a global review and assessment of the review processes. So there will be, in fact, a fourth work stream. Each review team, the prior three, and then a fourth global review of ICANN's overall review processes in managing accountability and transparency throughout the organization.

Here in Beijing, we had another face-to-face meeting for a couple of days and have further defined our work streams. We also put out for public comment some questions, initial questions of ATRT 2. They were published just prior to the Beijing meeting. We are very aware, the

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review team, that publishing a request for comments prior to an ICANN meeting is not optimal as people are on planes and people are occupied with the meeting.

For that reason, those requests for public comments will remain open 21 days after the Beijing meeting.

I want to underscore the request for public comments to all the members of the GAC. This is a very important initial opportunity to get inputs from you, from your governments, to give us some feedback, looking at ICANN's implementation of the prior recommendations.

The early phases of data gathering for us are very critical. The ATRT 2 will come back to you in Durban. We will have a structured interaction with the GAC and all of the ACs and SOs of ICANN and the Board. We'll provide some additional follow-on questions to you as we continue to gather data, gather input, and reflections on implementation of accountability recommendations, but we urge you all to provide responses to the request for public comments, as fulsome as you can. We will factor all of the public comments into our assessments and deliberations.

If you saw the recommendations from the first ATRT 1, we did go through all of the comments received, all of the inputs, and noted those in our report. It's very important that we, like ICANN in being transparent, reflect the inputs that we receive in our work product in a clear way so that members of the community can see that their inputs are heard and being factored into this very important work.

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So with that, I would like to hand it back to the chair and open it up for further discussion.

CHAIR DRYDEN:

Thank you, Brian, for introducing us to the work.

One note for GAC members, that you do have the hard copy of the questions that the review team have posted for public comment. It was circulated on Thursday morning. But if you need a hard copy, more are available. So you might want to have that on hand so that you can use that to guide some of your initial inputs today in this session that we have.

I think it's worth noting as well the work that took place with the first Accountability and Transparency Review Team because there were a number of recommendations that came out of that that are specifically related to this committee. And a working group was formed in order to implement those. So I think we need to acknowledge that ongoing work. And, as well, recognize Egypt's contributions in the earlier review team because I think we have benefited enormously from having a designate from the GAC in that first round of review team efforts.

So can I ask Egypt, please, if you could take us through some of the earlier and ongoing work from the first review team.

EGYPT:

Yes, sure. Thank you, Chair.

As you may know, the GAC-related recommendations of ATRT 1 were six recommendations. One had to do with agreeing on what constitutes

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a GAC advice, and this has been agreed upon between the GAC and the Board and has been posted online, what exactly is meant by the GAC advice.

Also, some changes have been done on the operating principles, the GAC operating principles, to clarify what we mean by consensus.

Also, we've tried to work on restructuring the GAC communique in a trial to be more clear with our advice to the Board, making sure that the Board would not miss any of the GAC advice. And also trying to put this structure in a way that is easier for the ICANN staff also to have this entered into an online register.

Again, one of the recommendations of ATRT 1 was having an online register for GAC advice to the Board. This also has taken place. We've agreed on how this register should look like, what would be entered into this register. We've populated this register with the past GAC advice, and this is, again, online, up and running, and is being used as an institutional memory for the GAC, if I may say, and also a follow-up platform on any pending GAC advice.

We also had the formal documentation of the GAC/Board -- the Board advice to the GAC. The process itself has been documented.

What's being discussed right now is what if the Board decided not to follow a GAC advice. So this is just a missing bit of work that we are working on. We should be going through this on this today, next session. And again, everyone is welcome to attend. It's an open session.

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Once this is done, we're going to post the whole cycle flowchart of the whole process, starting GAC advice, all the way through the register and how things are acknowledged and hand-shaked at the end.

We also have increased our formal face-to-face meetings. We had topic-specific meetings. And also on the early engagement, the GAC early engagement, retried a pilot for GAC early engagement based on the monthly public-policy circular that's being circulated monthly. It's being formatted in a brief way for GAC members to try to figure out any early engagement opportunities.

This has been in effect starting the Toronto meeting, and, again, is going to be assessed for any further improvements here in Beijing.

Also, on the -- on outreaching to governments again, and of course Heather can help me here, we have new members every meeting. So this outreach thing is being done.

We also have been having interpretation in the six U.N. languages plus Portuguese, and I think this is great achievement specifically for nonnative speakers. And we also have increased the funding for members from developing countries. And last but never the least is the high-level meeting that has been held in Toronto also. This has been one of the recommendations, that we have a high-level meeting to higher the ICANN or the GAC agenda nationally. So this has also taken place.

Another thing that's going to be discussed next session is how the GAC could be engaged earlier within the GNSO PDP process. So again, this is something that yet to be discussed next session.

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I hope I didn't forget anything, and would I appreciate help from my colleagues if I have.

Thank you.

CHAIR DRYDEN:

Thank you very much for that, Egypt.

So we've had a bit of an overview of what the current review team is planning to do and looking for as well as a bit of background about what were the recommendations of particular relevance to the GAC and what is the status of those with some work still ongoing specifically in relation to early engagement of GAC in the policy development process.

So at this point, are there any comments that review team members would like to make as openers around their participation in the review team and how they see the role of governments and inputs from governments coming forward?

Okay. All right. So we're now as a review team in listening mode, I think.

Okay. So a couple of things that would be useful for the review team to hear about. Whether there are any views on ICANN's implementation of any of the recommendations from the first review team. So not only those that are specifically related to the GAC.

And then secondly, what do you think should be the focus of the second review team?

So who wants to get us started with some thoughts on that?



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Australia. Thank you.

AUSTRALIA:

Thank you, Chair, and thank you to all the review team members who have come along today. It's great to be engaged so early in the process.

I had the pleasure of representing the GAC chair in the first WHOIS Review Team, and I understand that there may be some time made later in this week's meetings to discuss that.

I have reached out and I know that the WHOIS Review Team alumni, as I think they are being called, are in discussion in preparation for that.

Certainly in my role in having -- you know, GAC representative to that review team, I would be interested to hear from GAC members in advance of those discussions which may happen later this week. So any inputs, I'm hoping I'll be available, as schedule will allow me, to be in two places at once.

The other thing, certainly from discussions we've had today within the GAC and the BGRI, it's fair to say that one of the more challenging recommendations from ATRT 1, I believe it's recommendation 12, the one to do with early engagement of the GAC. And I think while the discussions are still ongoing, I think it's fair to say that engaging early is certainly an important consideration.

I think engaging effectively is a slightly broader consideration, and I think one that we're turning our minds to. You know, at what stages and how best can the GAC be engaged rather than just sort of focusing

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on early, as if that may solve the problem in and of itself. I think it's something that many of us have been turning our minds towards.

No solution as well, I believe. In a couple of previous meetings with the Board we have talked about experimenting with various approaches to try to figure out how our different working methods and procedures may accommodate us becoming more effectively engaged, including early.

LARRY STRICKLING:

Peter, could you give us a sense of some of the specific barriers or issues you're running into as you try to confront or deal with recommendation 12? Why is it as difficult as it's obviously been for the GAC and the Board to work through?

AUSTRALIA:

I can certainly provide my perspective, and other GAC members may have their own.

I think the two that spring first to my mind are our different working methods.

So as you're aware, the GAC obviously operates on the basis of consensus. And there are some good reasons for that. It's very difficult for individual GAC members, until there is consensus, to provide a generic governmental point of view and/or to speak on behalf of the GAC, whereas the GNSO has obviously a very structured policy development process. And in practice, I haven't been directly involved much but I know other GAC members have, but I have seen some of the

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early workings, and it's very rapid, to say the least. It's very into the details.

You know, in terms of providing on the spot, day-by-day governmental inputs, I think it's quite challenging. So just joining various GNSO working groups I think raises a number of challenges for the GAC which are difficult, shall we say.

So that's one. Perhaps I won't hold the microphone, but I did say two had jumped to my mind and the other one has left. Perhaps I'll come back.

CHAIR DRYDEN:

Thank you, Peter. Thank you, Australia.

Okay.

Are there any other thoughts on this or other related issues? Iran, please.

IRAN:

Thank you, Madam Chairman. Good morning to you and all the distinguished delegates.

Madam Chairman, the issue of question to a specific matter or matters has always been helpful to seek views and advice from variety of the people involved on the matter. But the important -- or more important issue is that -- of that is to make analysis of the reply which have been received, and indicate that -- I don't know, perhaps it might be a table somewhere indicating the recommendation, the people that have been

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-- whose views have been sought, number of reply have been received, and evaluation of that reply. And to see that those who have replied are expert or specialist in the area on which the question has been raised.

But more important of that, suppose that the reply says that no, in the views, recommendation A or B have not been implemented. What would be the consequential action of that? Would it be raised at ICANN that this is the views of the public that the recommendation have not been implemented?

And, in fact, there should be reasoning or argument indicating why, in the view of the people answering, it has not been implemented. And then this should be sort of investigations. If the judgment or judgments are valid, there should be consequential actions. That means taking remedial action in order to reply or implement that to the extent that was considered not implement. In fact, we should have a sort of feedback and self-regulations and so on and so forth.

Having only questioners and answerers may not be helpful in the way we want to improve the situation.

So the end result is improving the situation, not a questioning and answering.

So I would like to have some, perhaps, additional explanation if possible to that question, how it is done. In particular, some areas that are very, very sensitive, like security, resiliency and stability, and so on and so forth, which is one of the, let us say, very critical issues today. With experience of 35 years that I have and some years in the following the

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ICANN but not attending the meeting or GAC meeting, this is a very important issue, and the people answering the questions of stability, resiliency and similar question like that, and security, really should be those who are familiar with the matter, with the situations. And the answer will be given should be properly and thoroughly analyzed. And once it is found to be valid, then necessary consequential action to be taken.

These are the small or initial thoughts that I wish to share with our distinguished colleagues.

Thank you.

CHAIR DRYDEN:

Thank you very much for that, Iran. I will turn to Brian Cute. I see colleagues on the review team taking notes. So, Brian, would you like to respond. And then Australia has remembered his second thing. So come back to Australia. Okay. Brian, please.

BRIAN CUTE:

Thank you very much.

And thank you very much to the representative of Iran for your statement and points.

Let me endeavor to try to answer, at least initially, some of them. One question I heard you raise was in the ATRT 2's process how did we reflect the inputs into our output and show that the inputs have been heard and considered and factored into the recommendations ultimately.

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The first ATRT, in its final report with recommendations, provided a significant amount of background information for each of the work streams, provided an overview of the inputs it received. And, with respect to specific inputs that influenced the recommendation or the shape of the recommendation, we endeavored to put clear footnotes as to the author of the input, wherever they came from in the community, whether it was GAC or an AC or an SO or an individual, and to provide the substance of that input to reflect that, indeed, that that point was heard, considered, and helped, ultimately, to shape the recommendation.

The first review team felt that was a very important thing to do because, in fact, we were recommending to the ICANN Board that it needed to do more on that front with respect to its own resolutions.

And one of the recommendations to the Board from the ATRT 1 is that it needed to do a better job effectively at showing the community, the broader community, that its inputs have been heard and that they were explicitly recognized in the text of the resolutions.

So that's what ATRT 1 did itself to try to reflect the inputs explicitly.

There's probably more we can do on this time around on that front but that was the initial effort.

So the notion of reflecting in our recommendations the input from the community is critical, and throughout the course of our work is also critical.

The basics of what we have to do is collect data from the community, from ICANN, from independent sources, look at the recommendations

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that were made, look at ICANN's efforts to implement those recommendations, and make an assessment of whether or not ICANN was effective and fully implemented the recommendations as intended.

So to your second point, what are the consequences if ICANN were deemed or assessed not to have fully implemented, the scope of this review team is to assess and recommend. So our output would be recommendations at the end of this process.

In those recommendations, if the assessment of the review team is that ICANN has not fully implemented a given recommendation, that will be clear, and recommendations may be made as to how to fully implement a former recommendation. That's one potential output.

But ultimately, this is the responsibility of the Board and the staff. And in the context of the Board/GAC recommendations, the GAC itself had a role in implementation.

So ultimately, the responsibility for implementation rests with the Board and the staff and the members of the community.

If anyone from the review team would like to add to that, please do.

CHAIR DRYDEN: Thank you, Brian.

So over to Australia, and then we have Egypt.

AUSTRALIA: Thank you, Chair.

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So my second point is closely linked to the first point, and I was reminded of it from the intervention from my colleague from Iran around process.

The issue is the different working methods, and so on, and the difficulties of governments having a generic government view early.

In addition, there is a structural issue whereby, under ICANN's bylaws, the GAC gives formal advice to the Board, the GNSO gives policy recommendations to the Board. There's no clear guidance on how the two groups can communicate directly.

And while not in surmountable in itself, I think in practice this creates something of a lack of certainty.

So if the GAC did provide something other than advice, let's call it input, how would that be handled? From the GAC side, it would be useful to know what would happen to it. You know, if we provide advice to the Board and the Board doesn't follow it, there's a formal process. If the GNSO doesn't accept or, you know, follow GAC input, do we even get a response? Is there a discussion?

There's no guidance. And I think that creates a little uncertainty from both sides. And from the GNSO side, I guess, getting a written GAC input or some sort of GAC input early in a process will create a similar uncertainty for them. There may be lack of clarity on how to deal with it.

And so I think that's where we came to in our BGRI discussions, why we were thinking of experimenting. So just try to work together and seeing



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how we can learn from here. But I think the structural issues and the lack of certainty it creates is a real issue.

LARRY STRICKLING:

So, Peter, it seems, though, that, like on the top-level domains, this two-part early warning by individual countries followed by the consideration that the GAC's giving this week to creating a consensus GAC objection is the sense that that's worked well in terms of at least getting the issues on the table and does that provide a model for how you might solve the problem on early intervention and PDP? In other words, don't try to make it consensus GAC advice early in the PDP process but provide opportunities where governments can be at least indicating concerns that could provide some level of guidance just the same way the individual country early warnings have provided guidance to TLD applicants.

AUSTRALIA:

Another good question. From the point of view of the Australian government, we certainly think the early warning process has been extremely useful in getting an early dialogue and an early input into the process.

We've had numerous discussions with applicants. Many have welcomed the ability to engage early while thoughts are still being developed and so on.

It has posed some challenges, but I think we've within very comfortable with it and I think it's been a very positive process.

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How that would translate more -- the gTLD program and the engagement with applicants directly is potentially different to engaging with the GNSO in a policy process.

But to the extent it could be translated, I think it's a potentially useful model.

I would be interested to hear from other GAC members, though, perspectives.

Obviously I've been quite closely involved in this one so may have quite a different perspective from other GAC members who may not have issued early warnings or issued a smaller number of early warnings, and so on.

But certainly from our perspective, it's been useful. If there's a way -- a way to translate it, certainly worth looking at.

So I have Egypt and then U.K.

EGYPT:

Okay. Actually, my first point was Australia's second point. But, again, let me shed some more light on what Peter has just said. In a quick comparison between the ccNSO process and the GNSO process in relation to the GAC, we also found out that the ccNSO is required to seek GAC advice. And, if the GAC is not fine with the final report, then the report does not proceed. Whereas, the GNSO is not required to seek GAC advice and is not mandated to take it even into consideration. So -- and, of course, given the different working methods, the different paces, and the different structures, so they -- they don't have anything

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that would make them delay their process, just waiting for the GAC advice.

So this is one thing. But, again, we've been having a constructive discussion online. And we're hoping that we can find a way forward the coming session. And, as Larry mentioned, the early warning thing it worked well. So, basically, if we can just agree on a process, then it should be fine. It's a matter that we just agree on how we want this to work.

My second point has to do with recommendation 14, which is that the high-level engagement of the government. And I would say, despite how successful the high-level meeting was, I think this still doesn't -- shouldn't override the one-to-one outreach. Particularly with governments, I think one-to-one outreach is very important. Otherwise, we would end up again with high-level management that's already aware of ICANN -- highly involved with ICANN would show up. And others who are not would still not be there. So I think outreach and one-to-one would be complementary to a high-level meeting. Thank you.

CHAIR DRYDEN:

Thank you for that, Egypt. So I have U.K. next, please.

UNITED KINGDOM:

Thank you, Chair. And good morning, everybody. Welcome the team. Look forward to contributing our views and proposals for the review of this important process of ICANN in the way forward. We were very supportive of the Affirmation of Commitments and its creation of this

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important process of independent reviews. It's very important for the sustainability of the ICANN model and so on. So appreciate very much the commitment of the members of the ATR2 and wish them well.

I just wanted to pick up the very useful reference to the experience of new gTLDs in preparation of early warnings and formulation of advice.

And the -- you know, the follow-on from that in terms of early engagement in GNSO PDP processes. It is a very interesting experience to draw on.

What I would highlight from that was that it was a very challenging and resource-intensive experience for many administrations. And it highlights the role of individual representatives on the Governmental Advisory Committee. We are very much, in addition to representing our administrations, we are very much the conduits to all of the functions of government and regulation, some of which are independent regulatory authorities. So the preparation of early warnings and review of all the applications and so on was something we are familiar with. But, of course, when we brief our colleagues in other parts of the administration, be it the treasury or company law or whatever, we have to go through an enormous sort of briefing up process, so that's quite time intensive. Then we have to sort of bid for time of colleagues in other parts of the administration to look at and come back to us with their views on particular applications and so on.

So it's a very extensive process. And it highlights how we often can respond quickly to issues. But, in many cases, we have to go back to our capitals, identify who to consult with, initiate a process of consultation within our administration. And, of course, those colleagues in our

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administration, they have got other policy pressures on them. So it's -- you know, it's a matter of come back to us. We'll give you two weeks, whatever. Come back to us. We need your inputs. We're going to go back to the GAC. We've got an intersessional teleconference coming up and so on. So we try to sort of institute that alliance in order to get the policy expertise input into our responses to deliver to the GAC.

So how this is going to translate in terms of early engagement in PDP is going to be interesting. It's going to be, I think, a challenge. And it's -- I don't know. The extent to which we can keep pace with things in policy development in the light of what we have to do back in capital is going to be one of the challenges that Mr. Strickling was inquiring about. I think it's going to be quite a problem for us. And, of course, it also highlights the resource implications of administrations. At this time -- I mean, to take my case, for example, I'm very active in other U.N. institutions. I'm active in the Council of Europe. I've got my own domestic ministerial responsibilities to fulfill. And this is at a time when officials are being loaded more and more as -- for those administrations that are imposing cutbacks on resources to achieve deficit resumption targets, it's building up very intensely.

So the second aspect of my intervention, I think, was just to highlight that our representation here at ICANN is a very important element of our policy dossier, if you like. But it also competes for time with other responsibilities. And, increasingly, that competition is intensifying for us. I speak for the U.K. You know, we've had cutbacks in staffing levels. I've got much less support than I used to have. And I'm sure that's an experience shared by many other colleagues in other administrations, certainly, in Europe. So I think that's the second aspect of the challenge,

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if you like, of ensuring effective contribution to policy development in the GNSO at an early stage. So, firstly, you know, the process we have to undergo through in capitals to tap into policy expertise, not to ensure our inputs are meeting the requirements of the policy development process and advancing that policy development process as quickly as possible.

And, secondly, the fact that we're -- you know, some of us are increasingly loaded up with other responsibilities, that will impact on the time we can dedicate to that important work. Thank you, Chair.

CHAIR DRYDEN:

Thank you, U.K. I would certainly agree with the point that the volume of work can be an obstacle to us in sorting through this and engaging early, even if we sort out a good process. There is a need, I think, to be able to identify what are really the key issues for us and focus what resources and attention we have to that.

So there may need to be an adjustment along those lines.

So, Brian, you wanted to respond to this point.

BRIAN CUTE:

Thank you, representative from the U.K., for your comments.

Just a suggestion, again, coming back to the request for input from GAC members to the ATRT 2.

It's a very good thing that thinking about how GAC and GNSO could interact in an effective and meaningful way and that that's ongoing.

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The role of the review team, of course, is to assess in a backward looking way implementation of recommendations. So what I want to underscore is, first of all, if there are inputs in our assessment that are important to developing this ongoing line of thought, critical inputs that are required and asked for, but we also have a forward-looking potential impact and recommendations that we will issue at the end of December. And in early signals in our discussions across a team is that the PDP process itself may become a unique focus of one of our work streams. So we may make some forward-looking recommendations that we did not make in ATRT 1 on the PDP process itself. So yet a second type of opportunity to provide us with the inputs and critical aspects of working methodologies and the dynamics of interaction. So both a backward-looking assessment and a forward-looking opportunity to shape, perhaps, this important work and how the policy making process could evolve in ICANN. Thank you.

CHAIR DRYDEN: Thank you, Brian. That's really good to hear. Next I have New Zealand, Italy, and Singapore, please.

NEW ZEALAND: Thank you, Heather. Brian, I'm very interested in the point that you made about commenting on the PDP process. Because that is, actually, very much what I was going to be looking at briefly. And that we are hamstrung by different working methods. We're hamstrung, in a sense, by the fact that the GAC works on consensus and other parts of the constituencies don't necessarily do so.

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And, if these are all causing problems, then perhaps we need to look at the very processes you're talking about and how ICANN as a whole is structured and how it works. And I think that the chief executive has shown some indications that he's also thinking about whether the vertical silo'd structures we work with and are constrained by are the best way of getting timely advice to the board. And, obviously, that goes -- flows straight into the early examination of the PDP process.

I think that the early warning system, in fact, the new gTLD process has shown up some very interesting aspects of working outside those silo'd structures as far as we're concerned. For example, I think particularly of the fact that the very good work that, for example, Australia did in terms of issuing a very large number of early warnings, which on the surface seems to be ludicrously large, in fact, led -- sorry -- that, in fact, led to an extremely thoughtful series of contributions which came through in the Toronto communique in terms of concerns that governments shared at an early stage that they could share with the community. So that sort of process where individual governments are encouraged to do work individually to alert not just the GAC but the constituencies right across the ICANN structure to their concerns, I think, has had -- well, it remains to be seen from the advice that comes out of this meeting. But I think that it will prove to have been extremely constructive and useful. So I would commend that thought to you in terms of looking forward at how policy within the ICANN structure is developed.

Thank you.



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CHAIR DRYDEN: Thank you, New Zealand. I have Italy next.

ITALY: Thank you, Chair. I want to make some comparison between the two years. The first ATRT work in 2010 when the new gTLDs program was announced but far from implementation. Then, with the version 2 of ATRT, now we are in the middle of the implementation phase of new gTLDs. And also we can observe that, especially after Dubai meeting and the attention of the outside world of the people involved in the communications and in the Internet towards the ICANN model, the sustainability of ICANN model is much larger than it was three years ago, let's say.

And so this leads, I think, the ATRT to feel more pressure than it was two years ago. And especially concerning the ICANN model sustainability and the internationalization of the management of DNS. And I would like to have some consideration about that. Concerning the GAC, also we are under more pressure. Because, as U.K. explained, we have to face confrontation with different ministries in our governments that are worried about possible consequences of new gTLDs. And so our role also of, let's say, teaching and explaining the ICANN model has increased. And so this is a new environment. And then also, you have to evaluate the result of the implementation of the recommendation of the previous one.

So the situation is really new. And I would like to have some elaboration about these considerations. Thank you.

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BRIAN CUTE:

Thank you very much, representative from Italy, for the question. In our first face-to-face meeting here, there has already been a good discussion and a clear understanding from the review team members' perspective that -- of the environment, of the external environment, of the fact that the new gTLD program is ongoing, as you say, in comparison to the first ATRT 1 when it was still in very initial and quiet phase and also a discussion about WCIT and the external environment in terms of individual government views of ICANN.

Those thoughts are front of mind for us. We've had good discussions. We'll have more discussions.

They do color our view in terms of the environment. At the same time, we have had healthy discussions about what the precise scope of our work is. And the scope of our work is paragraph 9.1A-E of the Affirmation of Commitments. So, in undertaking and structuring our work, we need to stay within scope. But we don't do that operating without a clear understanding of the external environment. And so I would underscore an earlier point that, particularly input from government representatives of GAC and individual governments into this process is going to be extraordinarily helpful on many fronts. Thank you.

CHAIR DRYDEN:

Thank you. Okay. So next I have Singapore and then Switzerland, please.

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SINGAPORE:

Thank you, Chair. I would like to echo the comments made by Egypt a while ago and that is engagement of high-level government representative in ICANN process.

Chairman, as you may recall, we have HLM meetings in Toronto. And thanks to the government of Canada in organizing the HLM. It is a good start. And we participated in the HLM, and we heard many positive responses to the multistakeholder model. And it was, indeed, a very good effort to start off engaging the high-level government representative. But I think the participations may not be sort of sufficient enough for us to engage all the government representatives. And I will support Egypt's comments that perhaps we need to get into one-to-one engagement or, if resource may not permit this, then at least a sub-regional basis. I'm speaking from the point of Asia Pacific region where the companies are very sparsely located. And, going forward, if we were to organize a next future HLM, perhaps we can start off looking into the forming engagement approach. Perhaps a sub-regional or ideally one-to-one engagement may be more effective. And, hopefully, we can get all the governments on board to take part in the ICANN process. Thank you very much.

CHAIR DRYDEN:

Thank you, Singapore. I think what is implicit in what you are saying and what Egypt has been saying is that participation really means participation in the GAC, specifically. And that's what we're trying to work towards, that that's the result that we see if we have successful outreach to governments.

Okay. So next I have Switzerland, please.

SWITZERLAND:

Thank you, Madam Chair. And good morning to everybody.

In addition to strongly supporting the point that has been raised by the U.K., which is not only valid for governments who had severe cutbacks but also for those who have always been rather small and limited in resources, this is really a challenge also for us. I would just refer to this discussion that has arisen within and around ICANN in the past few weeks and months about policy versus implementation, which I think is also something that not only the GAC but the whole of ICANN will be confronted with more and more. And maybe there's room for improvement and more clarity and efficiency there.

As somebody who is working in a public administration, people in the GAC are probably quite used to politicians who have a tendency to be more interested in the policy making than in the implementation of policy. And, when something is not really working, they'd rather develop a new policy instead of once and for all implement the policies that have been developed and would not be so bad if they'd be implemented.

I'm not seeing that detailed into ICANN. But I think also to have a little bit more clarity and structured approach on when are we in a phase of policy making and when it's time to implement and see whether this policy actually works or that needs revision, I think is something that could throughout the organization probably be improved and further developed. And we're part of this discussion, of course. And that might also help us. And we could also help others maybe in being more

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efficient when we know okay, now, we're discussing policy and now we're implementing policy. Thank you very much.

CHAIR DRYDEN: Thank you, Switzerland. I have the Netherlands and then Denmark.

NETHERLANDS: Thank you, Heather. And thank you for the new team for presenting your appearance. I think from the Netherlands point of view, we see the extreme relevance of the external and independent audits, as we've seen now. And I think we're also very glad that we see some new faces, some refreshment, also with the -- also the external, senior, and very good people. Thank you very much.

I would stress only two things, many things, to be honest, I agree.

The first point is about, I think, the whole reason we are here and what we've seen now and coming with the gTLD program. I think what is for - - what is very important is that it's not only, let's say, the advice how it's been taken into account. But it's also the perception to the outside world, how this advice of the governments are being taken into account. And I would urge also the group of ATRT to look also at this aspect. I hope you have the freedom, as an external and independent committee, to look more also at the broader essence of not only improving processes, which is, I think, very important, but also to look at how ICANN, with the needed accountability and transparency can also be helped to improve the legitimacy of ICANN. I think that's one of the most important things for us. I think I'll leave it with this. Thank you very much.

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CHAIR DRYDEN: Thank you, next I have Denmark.

DENMARK: Thank you, Chair. And welcome to the ATRT 2 members. It's very much appreciated you take time to join us here in this meeting. But from the Danes -- as a Danish GAC representative, I think it's very important that the accountability and transparency review not only focus about the interaction within the current ICANN environment and between the stakeholders that are active in that environment, but that we also look outside ICANN not only to governments not participating in ICANN but also organizations and stakeholders in other parts of the Internet community around the world. So internationalization, as has been mentioned by many of my colleagues, is a very important issue.

I think also we should not just look at decision-making processes, policy making processes in general, but also at reporting from ICANN, in general, like the financial reporting. Is this done in a transparent and accountable way? That might be something that could also be important for the legitimacy of ICANN. Thank you.

BRIAN CUTE: Thank you to the representatives of Netherlands and Denmark for your comments. Both the points of legitimacy and internationalization are under discussion at these early phases and is being noted in our deliberations as to the importance of those factors or touchstones as we move forward in our work. So thank you for those inputs. Also it

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occurred to me the representative from U.K.'s comments about work methodologies and dynamics behind that.

In terms of our calendar, let me put a finer point on our work. We intend to issue draft proposed recommendations in full in October. We need to deliver our recommendations by December 31st to ICANN's board. So that really our data collection window is between now and September. So I wanted to point that out to the GAC members just so you understand from a timing perspective when we need to get your inputs. It's a little bit shorter than, you know, December of this year. So we have the request for public comments that are outstanding. We will meet with you again in Durban and endeavor to provide some evolved questions in our process to get your inputs at the Durban meeting and in no way intend to constrain any inputs that you wish to give to us through those questions. This is an open door. Any inputs are welcome. But I want to put that finer point out in terms of our calendar and our process. Thank you.

CHAIR DRYDEN:

Thank you for that. Next I have Iran and then Mexico. Before I give the floor to Iran, I will point out we have Carlos Gutierrez from Costa Rica on the line. He is one of the review team members currently that was unable to be with us in Beijing. But he's listening attentively and thinks things are going very well with the discussions. I agree with him. So hello from Carlos. Okay.

So please, Iran, will you take the floor?

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IRAN:

Thank you, Madam Chairman. This is my continuation of the question we have raised. Yes, we are, from the outside point of view, very grateful that it is assumed that the process in ICANN is open, transparent, liberal, so on and so forth and subject to review and subject to correction, subject to improvement. It's very good. This is a positive side of the coin.

The issue here is that recommendation is made. The first thing is to ensure that recommendation is implemented. Now, the question is that is it a one-step process or two-step process? The first step process would be the one who made the recommendation could evaluate to see whether recommendation that has been made implemented or not and could comment on that. Second, going another step, going to seek the public view, having support or having additional views with respect to the implementation or otherwise of recommendations. So I need to have some clarification on that.

Having said that, I'll come to the main point. Suppose that the review team comes to the conclusion that, either for its own assessment or the assessment of the public views, recommendation has not been implemented. And, bringing back to the attention of ICANN, does the ICANN make a reasoning why the recommendation has not been made even after the second review and give the reasoning for that? And, if that is the case, what would be the next step? Is it a sort of the vetoing that, in spite of the recommendation made and in spite of the views of the public, that recommendation has not been followed and the necessity that should be followed, still ICANN for one or another reason said no, I don't want to either fully implement the recommendation or I don't want to implement the recommendation partly, so on and so



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forth, for these reasons? And then is it something that is a follow-up action a process or stop over there?

Last point that I want to make for our distinguished review team is that much of the questions you raise the public depends on the way the question is formulated. I don't want to give particular name, the particular country. In one European country which is one of the most democratic countries, there are many and many referendum every year. Recently it has been the case that the further judgment of that country said that the question was confusing the public. It was not clear. So cancelled the result of the referendum saying that the question must be quite clear to have a clear answer. And, to reach the destiny, the one who replied to that, that is another question, whether the questioner reached the destiny that expected to reply or whether it goes to other sources. These are the trivial questions but important to have. But my main question is that, if the recommendation after the second appeal through the public process is not yet implemented by ICANN, whether they give a reason or not, and what is the subsequent action? Thank you.

CHAIR DRYDEN:

Thank you, Iran.

Brian would like to respond, and then I have two further from Mexico and Brazil, and then I think we can move to conclude the session.

So if you have a point that you really need to make, now is the time to let us know.

Okay. All right. Brian, please.

BRIAN CUTE:

Thank you very much member representative of Iran.

The question you posed in terms of the work we are doing now, to address your question, we are meeting and have already met with former members of the three prior review teams to solicit their views on how ICANN has implemented the recommendations of their respective review teams. So that is one input that we're taking.

And that goes to the question has a recommendation opinion implemented fully, has it been implemented completely, satisfactorily in a timely sense.

We also are reflecting on the recommendations of ATRT 1 in these respects to your points.

We understood when this were received by ICANN? Were they clearly communicated by ATRT 1? We will examine those aspects of the communication of the recommendations and the perception of them, the understanding as they were taken on board.

It's a critical element in successful implementation. We're also looking at metrics. ATRT 1, other than giving the ICANN Board some deadlines or target dates for implementing certain recommendations, did not develop suggested metrics that ICANN should employ to help evaluate whether or not a recommendation has been implemented fully.

This review team in the early stages recognizes that metrics are critical and will likely, in some form, work on the development of metrics as an output of our work.

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So again, there are critical factors here that speak to successful implementation of a given recommendation.

Also asking and looking at the transparency of the implementation process by ICANN was will the review team be able to clearly follow, looking backwards, how the Board took a recommendation and went through the implementation phases. Was that, itself, transparent to the community?

So this is not a direct response to your ultimate question, but these are factors that we are looking at. This is data that we will collect and assess so that we can provide recommendations that are more clear, more measurable by the community.

And with respect to the review team's role, our role is to assess and recommend. If there is a scenario where a recommendation was not fully implemented by ICANN a first or second time around, we are not an enforcement mechanism, if you will, or something of that nature. Our role is to assess and recommend.

These are some of the factors we're looking at, looking backwards and towards or recommendations, and would welcome any input from the government of Iran, the representatives of the GAC as to how we can more effectively do that piece of our work.

CHAIR DRYDEN:

Thank you, Brian.

So I have Mexico, Brazil, Lebanon, and U.K. And then I think we can conclude.

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So Mexico, please. You are next.

MEXICO:

Thank you, Madam Chair. Good morning to our colleagues. Thank you to the review team to give us this opportunity to exchange these very interesting points.

And if allow me, I will continue in Spanish, considering that it's an improvement made by ICANN.

I have requested the floor to make a comment about Mexico's opinion about implementation of recommendation 11, particularly in those respects related to the Board being in disagreement with the advice given by the GAC and the implications of this specific point in the strengthening or how the stakeholder model be strengthened at ICANN.

We know that the GAC has been created to provide advice based on public interest. We know that there is the possibility that the Board may not follow GAC advice. And in that respect, our opinion, the discussion we had had inside the Mexican government, it is difficult to understand why at such a point in time a Board resolution may be against the public interest, if the public interest is a point that is sought by GAC.

Manal has given us a kind of summary of what is our current work with the Board, but we think that we should continue reviewing all this in the -- by the ATRT 2.

CHAIR DRYDEN:

Thank you, Mexico.

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Brazil, please.

BRAZIL:

Thank you very much, Madam Chair. Good morning, everybody.

I would first like to wholeheartedly agree with our colleague from the U.K. when he comments the challenges that all of us faces in the -- in the domestic level when we have to have a cross-sectorial work in trying together and trying to hear all the sectors involved to bring these positions back into the -- into the GAC and into the ICANN.

And I think this is something that should be always be taken in perspective when we are discussing the early engagement and our capacities to have early engagement in the processes.

I will also continue in Portuguese because, as my colleague from Mexico said, it's an improvement that we had to have in terms of transparency to have the translation. And I would welcome you all to put the headphones.

I would like to make a quick comment about several aspects. As I mentioned before, this part of our job of having consultations inside our administrations, I think that it is facilitated when other countries and at GAC we have more engagement. And I think it's important, then, to hold high-level meetings, as the one we had in our first experience in Toronto.

I think that this process certainly is useful for discussing the aspects that are of interest for GAC and for ICANN. This dynamic should be repeated, should be improved within the GAC.

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Another point that I want to highlight, and I resort to the observations made by my colleagues in the Netherlands and Mexico, is the point of public interest.

This issue penetrates and is found in several documents, in several of the founding documents of ICANN, and is properly included in the Affirmation of Commitments.

We are living in a quite unique and specific time, because ICANN is seeking more transparency, more accountability at the constituency levels. From the point of view of the governments, at this point in time, several areas that are key for governments are somehow being impacted by the new gTLD program.

I understand that the advice that the GAC may give with respect to this new gTLD will be carefully observed, not only by the governments represented at this committee but also by the governments that are not represented at the GAC.

GAC is an open council, and several governments may be represented here. But even when they are not here, they may consider that the voice of ICANN -- the voice of the governments is not properly heard at ICANN.

So we have this positive conjunctionary dance, trying to have more transparency, more accountability, and, at the same time, we are in a process where all the stakeholders at ICANN are quite involved in the new gTLD process. Particularly now that we are here, the GAC, the governments are involved here because the interest of the governments are at stake.

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So I think it is very important that the ATRT pays attention to the synergies in this new gTLD program. The advice to be given by the GAC and the search for more transparency and more accountability by the GAC to the various stakeholders.

Thank you very much.

CHAIR DRYDEN: Thank you very much for that, Brazil.

Okay. I have Lebanon and the U.K.

LEBANON: Thanks, Madam Chair. You know, since we have -- the time of this session has, in my mind, what we allotted for it has ended, Lebanon withdraws its request for the floor.

Thank you.

CHAIR DRYDEN: Thank you, Lebanon.

U.K., did you want to comment further?

UNITED KINGDOM: Yes, thank you, Chair.

Just very briefly. I realize the time is almost up.

I just wanted to say I was very pleased to note the acknowledgment from Brian about the wider environment in which this review is going to

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be conducted, at the backdrop of the review of the implementation of the outputs from the World Summit on the Information Society. This process is already well underway. We've got the Commission of Science and Technology -- of Science and Technology for Development, CSTD Working Group on Enhanced Cooperation, about to set out its work. In fact, the chair is with us at this table. Different Peter; Major.

I just wanted to underscore that this review by the ATRT 2 is being conducted at a time when the whole model of multistakeholder governance is under very intense scrutiny, and ICANN's performance, its accountability, transparency, its international inclusiveness and so on is being reviewed by governments across the world as they contribute to the review of the WSIS outputs processes. And we did this in Paris at the UNESCO review, there's the upcoming WSIS forum in Geneva conducted by the ITU, and there will be other milestone events coming along.

So I just wanted to underscore that. And as I say, I really appreciate the acknowledgment of that. And I hope all stakeholders here at this meeting in Beijing are also cognizant of the importance of ensuring that the reviews are fully reflecting all issues, problems, challenges, opportunities. And this is the time for us to help you with that work.

Thank you.

CHAIR DRYDEN:

Thank you, U.K.

Okay. So a few points just to wrap us up. Be aware our next session is a meeting of the Board/GAC Recommendation Implementation Working



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Group, so if you are available, you are very welcome to sit in on that group.

As well, on Wednesday morning the GAC will be receiving a presentation on global stakeholder engagement. So this is related to this point of discussion about outreach, and that's another open session so we would certainly welcome you joining us and hearing about some of those plans as they relate to governments and IGOs.

So we now have a coffee break as well. So please keep the discussion going over coffee, if you can.

And I understand that the ATRT, from your presentation, intends to come back to us in Durban. And I would remind GAC members that there is now public comment out, and so GAC members may make comment directly to that based on their particular interests. And I'm sure the review team would welcome hearing from any and all of you on that.

So 30 minutes, please. Back at the room -- well, I think it's more like 20 minutes. Back in the room at 11:00, please.

And thank you to the ATRT.

BRIAN CUTE:

Thank you very much. Thank you all.

(Coffee break)