
DURBAN – GAC Meeting with ATRT 2
Sunday, July 14, 2013 – 14:45 to 16:15
ICANN – Durban, South Africa

CHAIR DRYDEN:

Hello, everyone. If you could take your seats.

So first a welcome to members of the Accountability and Transparency Review Team, the second version of the review team. And thank you for coming to meet with us today to update us on where you are in the work of the review team, and as well, to continue discussing issues of importance and relevance to the GAC and to ICANN.

For the GAC, you have a hard copy in front of you with some questions following the public comment period that the ATRT issued. So you may wish to refer to that. And as well, several of the GAC members here did provide submissions to the accountability review team. So I will, in all likelihood, invite those GAC members to perhaps provide for us a summary of some of the key points that they had made in those submissions just to raise awareness among colleagues here about what those issues are. And, as well, there is a paper, discussion paper, that the EU Commission has been working on. And this is something not something that the GAC has yet discussed, but at their request, this is something that they see as being relevant to the work of the Accountability and Transparency Review Team. So we also have that as a document to refer to from the GAC side.

So with that, I will hand over to the chair of the review team, Brian Cute, just to give us a bit of an update on where we are. Thank you.

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BRIAN CUTE:

Thank you very much, Heather. My name is Brian Cute. I am the chair of the Accountability and Transparency Review Team 2. Thank you very much for this opportunity to interact.

To give you a synopsis of where we are in our work, we continue to be in our data-gathering phase. We put out requests for public comment, and thank you to the governments who submitted comments. We're taking those on board and meeting with the entire community here in Durban.

With respect to our timeline, so you're aware, in mid to late August, we will begin drafting the report and the proposed recommendations coming out of this work. We will publish for comment in mid-October proposed final recommendations and a draft report. I look very much forward to comments in response to that document. And as I mentioned in our last meeting, we have to submit our final report by December 31st of this year.

That's where we are in our timeline.

For today's interaction, I want to allude to two activities and then talk about the questions on the screen. First, as part of our work, we are in the process of engaging an independent expert who will be asked to provide an analysis of the GNSO policy development process. That will factor into our work report and recommendations, potentially.

Also, we're in the process of sending out letters to government officials alerting them to the ATRT 2 activities and inviting them to comment on that. I believe and hope that you all have received that letter from us. We are taking a broad-based approach to getting that letter out to

governments. We're in the process of identifying, in some cases, the appropriate minister or addressee, if you will. And that's an ongoing activity. Heather and GAC staff have been very helpful in getting that activity going, and we'll drive that toward completion.

Again, an opportunity for governments to provide inputs to this process, which is very much welcome.

Those are two activities of import.

With respect to the questions that are in your hand and on the screen, the first six questions are questions we've developed recently that represent issues that are coming to top of mind for us at this stage. The rest of the questions are questions we developed, having read comments. They're developed as perhaps follow-ons or requests for additional thinking.

The questions are here as a guide. Please feel free to refer to them and provide your views on the questions. But also, two things. They're just questions. They are not assumptions of this review team. They are not preliminary conclusions. They're questions, as part of data gathering.

And lastly, please don't be constrained by these questions. If there's an issue you feel we need to be thinking about that doesn't show up on this list of questions, please provide that as well.

CHAIR DRYDEN:

All right. Thank you very much for that update. Just a point on the letter that you referred to. That also is something that we have included in our materials in the GAC's agenda for this session. And the

letter can be provided to the senior official responsible for ICANN matters. And in order to send those letters, please do provide the specific name and contact for those officials, and we will pass along that information to the support team, to the review team, in order to issue letters that are specifically addressed to them.

I know the review team is very keen to get inputs from governments. We know from various meetings, not just meetings at ICANN, that this model is of great interest to governments. And it is only fitting and -- well, not to mention useful, for the review team to receive inputs from governments in relation to the work being carried out by the review team about the accountability and transparency of ICANN's processes and the improvements to the GAC and things that are really of interest to governments on an ongoing basis. So this is one of the ways the team has identified to have that outreach occur. And of course we want to reinforce representation in the GAC and make use of those that are present here in order to raise awareness of the work of the review team. And this is one of the ways that you can assist in having this happen.

So again, a request to please identify the relevant senior official to -- so that this letter can be circulated to them. And hopefully we can increase the number of responses coming from governments.

So we currently have four inputs to the public comment period that was just concluded. So we have Denmark, Norway, Spain, and U.K. So perhaps one of those GAC members would like to provide us with some key points.

Otherwise, the floor is open for other GAC members as well, if you have any questions or issues that you think are important to discuss or bring to the attention of the review team.

Okay. Shall I start calling out those that have made submissions?

Denmark, you're first, so would you, please.

NORWAY: I think he wanted me to go first.

Is that okay?

CHAIR DRYDEN: Absolutely, yes.

NORWAY: Denmark is so involved in this process.

CHAIR DRYDEN: Lucky. Okay.

NORWAY: I can just make a general comment that we would like to state that we are very glad to have the opportunity to give our comments to the ATRT review team 2. This is a work of utmost importance for the future of ICANN, and we think that the team has done a great job in asking all the questions and getting the questionnaire out for the community.

We are giving our comments on a more -- let's say we have prioritized to give comments on the topic we think is important for government rather than a detailed answer to all the questions. It's also a question about the timing we had. We didn't have enough time, actually, to go through and give substantial advice on all the questions asked. But we still hope that our advice will be taken into account and that it is useful for the committee.

I would like to ask a question later on regarding the resources that have been given, if it is sufficient enough and so on.

But for now, I would just like to thank you for the opportunity to give our comments.

Thank you.

CHAIR DRYDEN:

Thank you, Norway.

Okay. Denmark.

DENMARK:

Thank you very much, Madam Chair. I just had to find the Danish answer that's why I was a little reluctant to take the word first.

Thank you very much. It has been a very substantial questionnaire that we have been faced with, and, therefore, we have singled out some points that we find is worth highlighting. And we think the work of the accountability and transparency review is very important and I think it's

an ongoing process to make sure that ICANN is functioning as well as possible.

And one of the concerns that we have is even though we have substantial numbers of governments being member of the GAC that we should also ensure that we have active participating both in the meeting of ICANN but also when we have conferences, teleconferences and so on.

So I think it's very important to look into how we can facilitate the participation of government in order to make sure that we have an outreach and make sure that we really do actually have the multistakeholder model in place.

Secondly, we also think that when we look at the gTLD process, it's important to make sure that we work in a sense that is perceived that ICANN is actively serving the whole of the global environment and that everybody sees a benefit in participating in ICANN work.

And lastly, one of those issues that we have put an emphasis in is that the financial accountability of ICANN is becoming increasingly important because with growing fortune of ICANN, it's also important to have oversight of the financial situation.

Thank you very much, Madam Chairman.

CHAIR DRYDEN:

Thank you very much for that, Denmark.

So, Norway, you wanted to add a point?

NORWAY: No; just to make a comment that we have our advice in written, so I didn't go through it. But of course the committee has seen it, so that's why I didn't mention our main point.

Thank you.

CHAIR DRYDEN: Thank you.

Okay.

So Spain also made a submission. Would you like to raise any points?

SPAIN: Just a quick summary of what we said in our contribution.

We touched upon two issues. The first one, public input into ICANN policies. We noted that ICANN is more and more adopting policies that impact more stakeholders than the registries and the registrars. Examples for this are the new gTLD program as well as WHOIS policies.

And ICANN should take into account the interest and views of those affected by these policies, which are not only registrars and registries. And we see that in the current ICANN structure, there is no constituency clearly built to reflect those views, so we recommend the ATRT 2 to look for the gaps, the possible gaps in the ICANN structure and try to fill them with appropriate spaces for these other stakeholders to be present also in the ICANN structure and that they have the possibility to let their voice be heard.

And the second point is the ICANN financial accountability and transparency. And we noticed that the Board has knowledge or at least it has been acknowledged that the Board has received more than \$355 million from the fees that were required to participate in the new gTLD program. And so far, we have only been informed that this money has been invested and they are getting reasonable return on that money, but we don't know yet what purposes are they going to put this money for. And we would like this money to revert to the community or to be used for goals that are beneficial for the whole community.

And so we would like the ATRT 2 team to look at this issue and recommend ICANN to clarify which is the final destiny of this revenue.

Thank you.

CHAIR DRYDEN:

Thank you very much for that summary, Spain.

Okay.

So U.K.

UNITED KINGDOM:

Yes, thank you, Chair. And thank you for the opportunity just to pick out some key elements from the U.K. response to the ATRT 2 questionnaire.

First of all, just to reiterate that this process of independent reviews is a vital one. It's critical to the sustainability of the ICANN multistakeholder model at time when multistakeholderism is coming under scrutiny with

the WSIS+10 review. This is the review of the outcomes of the World Summit on the Information Society of 2005, which is provided for a ten-year review. And of course multistakeholderism and the effectiveness of governments' interaction with stakeholders in the key fora, including ICANN, with regard to the Domain Name System is important to enhance and ensure as effective as possible.

So we saw the second review as being an important opportunity to see how we -- what stage we've got to in the ICANN context. And a lot of the questions in that questionnaire were very resonant and hit upon some key issues.

With regard to the progress with implementation of the recommendations for the first accountability and transparency review, the U.K. felt there was a very good record of progress, of diligent and timely implementation of recommendations across the board. So very positive in our comments about the progress in that score.

And I also would like to say that with regard to the GAC's role and effectiveness and interaction with the ICANN Board, the work on that has been very positive and very -- and very good in ensuring that the processes of submitting advice, the documentation and so on, and the mechanics, if you like, of GAC inputs into the ICANN decision-making processes is tightened up and clarified so that there's no doubt about the status of advice and so on.

So very good progress in that regard.

I would say that we do have concerns about the level of consistent involvement of governments in the ICANN model through the GAC. We felt that this needed to be looked at.

The membership is up to now 128. We've got four new members at this meeting. That's very welcome news. There are governments who are not participating in the GAC, so not being members. And I think there's also an issue about increasing the level of involvement of representatives from developing and least-developed countries. I don't think that level of involvement is strong enough at this time, and it's always an issue that we like to promote. The international agenda of ICANN needs to develop in such a way that there's full involvement of administrations from all regions of the world, including developed -- developing and least-developed and small island states economies.

So that's a point that we wanted to underline in our response to the questionnaire.

With regard to public input and policy development processes, again, I think our key point there is ensuring that the modalities for soliciting input from developing and least-developed countries and their stakeholders -- not just governments, but from or stakeholders -- should be evaluated by the ATRT 2 in the course of the second review. And perhaps some new approach to metrics and determining the barriers to stakeholders from countries to submitting their inputs should be looked at by the review team. So we underline that point.

Corporate governance, we continue to think that this is an important area for the review to look at in terms of implementation of the recommendations from the first review. But generally, the standard of

corporate governance needs to be monitored very closely by the current review team. That's -- That extends to not only the functional operations of the Board but also recruitment of members of the Board and participation, so that the Board is truly international, diverse, reflecting all cultural situations so that the Board can claim true 100% accountability to the global community. So we underline that point in our response.

I think those are the main areas of concern and expectations for the second review.

The new gTLDs program I think highlighted some of the problems that are encountered in terms of outreach to many countries. The low level of applications from this continent and other parts of the world I think is a significant issue that the review can -- need to look at, because it's a kind of -- establishes a kind of standard of performance, if you like, in terms of engagement and opportunity for stakeholders in developing countries.

Thank you.

CHAIR DRYDEN:

Thank you very much, U.K. So would the ATRT2 members have any questions or anything to raise at this point?

LARRY STRICKLING:

Excuse me. This is Larry Strickling. Some of the other comments we've received from other people in the process have suggested that the GAC isn't as accountable and transparent and other parts of ICANN. And

some of the specifics that have been given are things like a lack of a code of conduct for members, the fact that many meetings are held privately, not open to everyone to listen to, an issue of whether or not the GAC is providing adequate explanation for the advice it's given. I just would be interested in putting that question to everyone and just getting your reaction to that -- those level of comments that we've been getting from other people.

CHAIR DRYDEN:

Thank you, Larry. Okay. So we have a few issues here regarding the fact that the GAC does not have a code of conduct. So I wonder do GAC members have thoughts on what we do have. How do we deal with issues that are covered in other places by codes of conduct? How is it that we establish guidelines or practices in that area? What about the fact that some in the community are saying that we have meetings in private? I might comment on that myself if no one else picks up the point.

And, also, regarding the level of explanation that we provide. Some are commenting that this is not adequate. So does anyone want to take up any of these points. Okay.

So U.K.?

UNITED KINGDOM:

Yes. Thank you, Chair. I mean, on that, well, I think I can comment on two points. The openness of meetings. I think it's generally regarded by the GAC that the default is that we have open meetings. We've moved to that significantly in the time that I've been on the GAC since 2008. At

that time most of our meetings were in closed session and we had very little opportunity afforded to other stakeholders to observe us in action. But I think now we're in a different situation. The default is to have open meetings.

There are, I think, occasions when we need to hold exchanges in closed session in order to prepare for a wider dialogue. That enables us to, in my view, usefully test the water with colleagues on particular issues without causing alarm, if you like, or setting hairs running within the wider community. I hope the stakeholders will appreciate the necessity of that. It's a very rare sort of requirement for us to have discussions in closed session.

We had a lot of closed sessions in Beijing. And I know that did cause a lot of concern. It was a tough call. We -- I supported much of that discussion where we were trying to sort of gravitate to a consensus position on a lot of tricky and complicated issues necessitated us sort of bouncing ideas across and then going public, if you like. As long as we, as the GAC, make clear why there is that necessity and then explain the process that has led to a public position, I think that might allay some of those concerns. But, as I say, the default is to have open sessions. I'm pretty sure the colleagues here support that.

With regard to our ability to explain positions and so on, we did comment in our responses -- I didn't mention it earlier. But we did comment in our responses about the desirability to improve what we described as a communication strategy. We do sympathize with those concerns of stakeholders that we didn't -- from time to time, we don't explain ourselves fully enough in order to help stakeholders understand

where governments are coming from. So that does have some resonance for us in the U.K. Thank you.

CHAIR DRYDEN:

Thank you very much, U.K. I think one of the downsides when we have had closed meetings is that it's not immediately apparent how we arrived at our result. And it can make it difficult for us to explain after the fact. So, if there isn't insight into those exchanges and, I think to use a recent example, when we had additional meetings to discuss things in a closed session, we were having really, I think, good exchanges. And the community did not have the ability to see that exchange happening. And that is, I think, a significant downside to when we close meetings of that nature.

But you're right that the default is and should be that our meetings are open. And as part of a model like this where openness is a fundamental value, baked into the model, then it's only appropriate that that be the case.

Okay. Iran, please.

IRAN:

Thank you, Madam Chair. My colleague from Switzerland requested for the floor before I did.

CHAIR DRYDEN:

Switzerland, did you need to go ahead?

SWITZERLAND:

Yes, thank you. And thank you also to the ATRT team to have this dialogue meeting. We think this is also -- we also think that this is a very important issue and think the U.K. is right mentioning other processes in the U.N. and elsewhere that are watching how ICANN is performing also in terms of accountability and transparency. And I think we should all take this very seriously.

I wanted to say two things. First of all, our -- we did not write a written comment on the -- on the questions, but we fully concur with our European colleagues with the points that they brought up. In particular, the question of financial accountability and transparency is something that is crucial also to taking into account the fact that a lot of resources are spent by applicants, by governments, by other stakeholders to participate in this process. And I think it's good for the process if people know how this money is being used and how ICANN tries to be as efficient, as cost efficient as possible in reaching its goals. So we think this is a key element.

Also, the -- an analysis of the new gTLD program, especially as U.K. has mentioned, with regard to its not really convincing, to put it diplomatically, effects for the developing countries. If you look at the number of applicants and the number of TLDs that are actually targeting. Africa, for example, this is not really a result that we would have wished to come. And we think it would absolutely be necessary to make an analysis also of the joint applicant support program and to see how we can do better in a second round. Because we have to do better in a second round with regard to involving and creating opportunities for developing country stakeholders in a way that they are actually able to use -- to benefit from these opportunities.

These are just two points. But all the others that have been raised by my European colleagues, we fully support them. And we are looking forward to the ATRT's work on these points.

And then also just to give a quick answer to the points raised with regard to the GAC, I would also concur with the U.K. that we should do better in terms of communicating. We are aware of this. But sometimes there's also a resource problem. When you're trying to work on a communique until midnight, then there's not much space for communicating left. But I would also encourage people to address GAC members on a personal level to ask them for explanations if there's no time to do public communications. I think most or all of us are also available personally for contacts for explanations. And approach us. Ask us questions. Tell us your comments. I think this is something that is appreciated by all GAC members.

With regards to openness of the sessions, I won't repeat that the default is that a session should be open. And I think any of you have ever participated in diplomatic negotiations not just among governments but also in between governments, for instance, if ministers try to agree and balance policies and issues, if you do that publicly and normally you don't get any result because nobody can afford to deviate from its default position with which it goes into a negotiation. And sometimes it's necessary to discuss in private. Because only then you can try and find out where the middle ground would be where everybody could see then and compromise.

And so in the last -- in the Beijing meetings we had so many issues to discuss that were crucial to many governments so that we were forced

to be more in closed sessions than in open sessions. But we assume this meeting will already be different, and it will be different in the future. Thank you.

CHAIR DRYDEN:

Thank you for that intervention, Switzerland.

So we've been going back and forth a little bit with some new questions. And as well there have been requests to speak before we were invited to comment on these last three points. So here's how I will handle the speaking order. We have a request from Iran. And then I think we need to go back to the EU Commission who requested to speak earlier. And then I have Italy following that. And then I see Peru asking to speak. Sri Lanka, yes, you did have your hand up. Okay. So Sri Lanka. Netherlands. Okay. I can see a hand. I can't see whose it is.

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Japan.

CHAIR DRYDEN:

Thank you. Thank you, Japan. Okay.

All right. And Avri. Okay.

And I think it's helpful to us if the review team that wants to respond to a particular point, that you seek the floor so that we can have more of a back and forth.

And Norway.

So that's how I think we can best handle the exchanges.

So just a couple of points that I'll make while I'm on the microphone. We did have a high-level meeting last year that identified some of the points that have been made. And two that come to mind are on the point about financial accountability. And regarding developing countries and the extent to which they accessed the gTLD program.

So we have provided that outcome document, that summary from those meetings to the ATRT2. And I think that also reinforces further the points that some colleagues have already made today.

In terms of the point about the code of conduct, there's one particular area where perhaps I can comment usefully. It's in light of the gTLD program and a lot of the lobbying and interest with applicants and others to communicate not only with GAC members but with the chair of the GAC. And so I've been updating GAC members and making it clear to them, in my case, that I've been declining meetings. I've had a lot of requests to meet. And I think it's been important for the chair to maintain neutrality in those kinds of matters.

So that's an example of a way in which we have or I have placed some sort of measure in order to help address what became a -- I think a difficult or challenging environment in light of all the pressures on the GAC.

And I would note as well that, because we were given this particular operational role regarding new gTLDs, which is the early warning portion and then GAC advice on sensitive and controversial top-level

domains, that this is also meant increased interest in making inroads or influencing GAC members as well as the leadership of the GAC.

So just a point there. Okay.

So to come back to the speaking order, I have Iran next, please.

IRAN:

Thank you, Madam Chairman. Thanks the ATRT for their attendance at this meeting.

I personally attach a lot of importance to this dialogue. And I hope that we have a good exchange of information.

Chairman, the issue of the ICANN and its accountability and the rest is one of the main topics that we need to properly address next year when we have, as our distinguished British colleague referred to, WSIS+10 review.

And also we have another organization's meetings, top-level meetings, plenipotentiary ITU 2014 in Busan, Republic of Korea, which undoubtedly refer to resolutions 101, 102, 130, 181, and others, resolutions relating in one way or another to the Internet.

First of all, with respect to the mention and reference to accountability, we need to consider whether the statement of Democratic, open, transparent, and inclusive in a multistakeholder model is practically achieved or whether there are areas that we need to further work to ascertain that in practice this is achieved.

Just as a little example, inclusiveness that involve everybody which could consider whether everybody has the opportunity and possibility to be included or whether there are obstacles one way or the other, whether financial, whether traveling, where participating in one way or another remotely or physically still does not allow the implementation of that. This is a point number one.

So we need that ATRT look at this matter to see to what extent these have been achieved and what are the shortcomings and what are the points that we need to further look at.

Second, the relation between ICANN and at least one community, which is the ICT community of the intergovernmental organizations of ITU, was not so clear until 2010. And, thanks to the 2010 plenipotentiary conference, we established that relation in a proper manner. And we established the way that we should have this trust, mutual trust to be further fostered. We have to look at that to see whether the part of that objective which is in the resolves of three resolutions of the ITU -- 101, 102, and 130 -- mutual collaboration has been achieved or not.

Thirdly, the ICANN CEO and president were invited to two important events of the ITU. One was the WCIT in 2012, which happened after 24 years. The last one was in Australia in 1988 in Melbourne. And these distinguished colleagues which were very mostly welcome, they made statements. And I invite, if possible, that the ATRT look at the statement to see to what extent this statement has been or have been realized and actualized and implemented and whether there are still ways and means to implement that. There have been concerns reached about how ICANN operates, functions. Some of these concerns may be

may be due to the lack of clarity, maybe due to the lack of communication, maybe due to unfamiliarity of some people they look at this issue. We have to see whether that ground of concerns still exists or not because next year we will look, based on the decision of the United Nations General Assembly, on the WSIS+ 10 review to decide on major important issues. One of them would be Internet governance Internet governance, to see whether we continue with the same modality and procedure that we have, including the IGF or whether we have different things, and several other issues which has been -- these are the things that we expect that this entity look at the issue, look at the matter and provide comments on that which would help us to better understand each other and which would help us to remove any degree of misunderstanding and to work together as it was mentioned by the CEO of ICANN, no single entity or authority could be able to do this job, and he said that we need to work together.

So the question to the ATRT is that are we really working together? And if we're working together, there is a qualification, working together on what footing? Equal footing? On what degree of participation and role and what are the roles that we need to look at that one. And most important issue is the matter is referred at these meetings and the Internet public policy issues and which at least has been referred to in the WSIS but in a way that as many other meeting they put a lot of paragraphs together and the totality of these paragraphs are agreed. But when you want to implement that you have difficulty because some of them are contradicting each others. Real contradictions. And are difficult to implement that. And that is why we are struggling ourselves. Many of these entities that currently aim to help us, instead of

converging they're more -- I'm not say diverse but opened, so we do not see really the sense of that we're getting some results that we've expected. We don't say that we have not got any results. We got something, but there's still far below that what we have expected. And what we are expecting. So these are the things that I know maybe our distinguished colleagues from ATRT expect that no, these are not our term of reference, these are not in our mandate, these are not in our remit but this is the expectations at least if not all governments, of some governments and I would say developing countries, that they have listened to them, talked to them since many, many years, from let us say 1988 when the first time in Minneapolis the issue of the WSIS was started by the distinguished minister of Tunisia presented the resolutions and so on and so forth. And hard discussion that we have in 2003, 2005, and a lot of good work done by our Swiss colleagues and then by Tunisia and others and we get together and we have that and we don't know really whether -- I mean, how we could further improve that and further satisfy the country. But still there is a degree of concerns, Madam Chairman, with respect to the how the system and how the process functions. And we have to make sure that we are in good track and we have to make sure that we are removing difficulties, obstacles, misunderstanding, and so on. I don't refer to non-sufficient of trust but I would say establishing more trust and fostering the trust because that is very, very important issue and I would say that at least for one community, and that is ICT intergovernmental organizations, dealing with this matter very profoundly next year in two areas -- in three areas. One area is the Internet governance and so on and so forth, and the other area is the WSIS+10 review and third area is how frequently we should look at the matter and to see to what extent the

mechanism and the objectives that we have put working together in a positive and proper manner. Thank you, Madam Chairman.

CHAIR DRYDEN: Thank you for those remarks, Iran.

Okay. So next I have EU Commission, please.

EUROPEAN COMMISSION: Thank you, Chair. It will be a short intervention. The European Commission wanted to thank you for your introductory remarks on the ATRT 2 and for highlighting the importance that it has for ICANN and also for your intention to further outreach other GAC members to contribute to this very relevant exercise. The European Commission, as you may know for previous interventions in all the GAC meetings, we attach a lot of importance to transparency and accountability review team work because we believe that they can strengthen the sustainability of the ICANN model and we believe that the ICANN framework is where -- this is pertaining to Internet management or matters to be discussed.

We remain also at your disposal to engage other members besides these four European member states who have contributed to this exercise. Thank you.

CHAIR DRYDEN: Thank you very much for that. Okay. Next I have Italy.

ITALY:

Okay. Thank you. So I -- I want to note that in the ATRT 2 times are changed from ATRT 1 because we had a lot of -- an increase of international discussions about Internet governance, we had -- we are in a phase the past week waiting for the next ITU plenipotentiary, as our colleague from Iran just recalled to us. And then we are in a phase where the implementation of new gTLDs just started and so the attention of the community has increased quite significantly, also comparing with 2010 when the other committee finished.

So concerning the GAC, simply a simple observation that the GAC, of course, if we look back to Beijing, made a tremendous work. And so -- and it was obliged to have a number of closed sessions. But this was an exception because naturally we have a more open sessions. But then the board decided to put, for the first time in the history of ICANN, the GAC advice on public consultation. And then in the public consultation we verified that the positions of the work of the GAC has been gained later, like say and not during the meeting. So this is a very important improvement, in the cooperation of the main constituencies of ICANN.

I want to recall that the ATRT had a predecessor that was a President's Strategy Committee that was launched at Paul Twomey times, and I have here an inquiry made by this committee -- it is important to mention this -- and this inquiry, question 3 was, is the organization ability to scale internationally affected by its legal personality based on specific jurisdiction and then at the time there was a study of -- looking at to eventually a way to gain an international status of the organization. And my question is, if the ATRT 2 is also considering something like that or is it outside of the mandate. But I think that some movement in this direction should at least be considered

something to be studied or something like that because I find that in the discussions internationally there is a need at least to study contentious cases, especially in cases of new gTLDs and if there is a possibility to avoid -- to this limitation of having for any legal suit to rely on California law. Thank you.

CHAIR DRYDEN: Thank you for that, Italy. Okay. Next I have Peru, please.

PERU: Gracias, Chair.

The discussion we are having, we think it's extremely important in terms of the governance of ICANN and of the Internet. So the commitment of Peru to be engaged in this process, even though we have not submitted our question to the questioner we will do it soon in a more detailed way and not just what I'm going to describe here.

First of all, I would like to endorse what our colleagues has said before my intervention. And I want to highlight three or four aspects that we consider key. We agree that we have to open more to democratize the decision-making process at ICANN. We also agree that we have to promote a larger engagement in GAC for developing countries and less-developed countries. And additionally, we think that we have to increase all accountability mechanisms related to financial topics. These three topics are considered key by us. I'm not going to consider that is of less importance what the representative of Italy has said because as a lawyer I consider it extremely important that it's related to ICANN's international legal status and the accountability and liability for the

actions taken by the organization. This is a key issue that should be further discussed in the future.

Apart from this issues, because of their significance, I want to point out a last one. That we think it's implicit in the questionnaire that anywhere we think there is a need to make it explicit and it's related to the procedures. The procedures to file the applications, to submit applications, and to challenge those applications. In the Peruvian experience we have recently evaluated the possibility of formally submitting a participation in the application submission procedure of ICANN, particularly when objecting to domain names and it has not been easy for us because of the asymmetry of information that we have found. In our experience, once we became aware that there was financial support for developing countries for the submission of applications to ICANN, unfortunately there was no information available about the procedure, who to request that support and what -- what were the deadlines. So when we finally gather all the information after hard work, the deadlines for the formal procedures were due, were almost due. So this made our participation impossible. Lawyers will call it a barrier to access to the corporate equity of ICANN or justice of ICANN. So this situation should not arise again.

A key element for governance for any organization is access to information and access to the procedures. So we have to work on that field. And we want to make a positive contribution to improve these conditions.

In this respect, I would just like to conclude by saying that there is a need to put all the procedures available but not only the Applicant

Guidebook, the whole procedure, the detailed procedure should be available. We need to improve the access to the evaluation criteria of applications submitted as well as the objections that may be raised to those applications. So as to -- to let the countries analyze the viability of their participation in these processes. So I want to echo what has been said by the representative of Iran with respect to accountability, and we would also add to that point a need -- for (indiscernible) justice in ICANN.

With these comments I conclude that we will keep on working, we will keep on contributing to the work of the committee, giving a detailed answer to all the questions.

CHAIR DRYDEN:

Many thanks, Peru.

Next on my list I have Sri Lanka, the Netherlands, Japan, Avri Doria from the review team, Norway, Ghana, and Pakistan, and we are running out of time today. So -- and Australia, okay. So I will move to close the list. I see Australia, Turkey. Ah, Uganda, did I have perhaps the wrong country? I apologize. Uganda and Turkey. Okay. So next, Sri Lanka.

SRI LANKA:

Thank you. Firstly, I think I would also like to join the others by thanking the ATRT review team for its work. And of course, we observe that there have been only four comments coming in from four countries and the opportunity to submit for the comments will come so that even from smaller countries like us it could submit comments, provided there's a clear time frame indicated to do so. But based on our Chair's

request to keep our observations short within the time frame, I think I will briefly say the following. Number one, there has been a significant improvement, in our opinion, with regard to the way ICANN works since the ATRT 1. And we believe the ICANN's operations has improved substantially, and this is a unique multistakeholder model that we can use as an effective precedent, a model that has survived over the years and improved substantially in our opinion.

But as some countries noted today, there is also room for further improvement, and in that context, the review of its governance and operations model is welcome. But on the role of the GAC and the question 14 that is given to us on its transparency and the GAC working methodology and operations, I just have a couple of brief observations.

Firstly, the role of the GAC has improved a lot in recent times, and thanks to the travel support given and also due to the simultaneous translation in all six U.N. languages, plus Portuguese, we can now see many interventions happening in multiple languages, which was not available and which was not seen two or three years back. So I can see that as a significant improvement in the way GAC is working.

And secondly, with regard to the openness and the closeness, it has a lot to do with the comforting factor available to various diverse GAC members to contribute to certain critical discussions we need to have. So a blend between open and closed meetings has to be maintained. And of course given the fact that we have simultaneous interpretation, it is more comfortable for people to make their interventions, but still, of course, those of us who are not native speakers still find it difficult. Of course this is a practicing ground for us to improve our English.

Finally, with regard to outreach, I think a little bit more has to be done by ICANN to work towards greater participation. We have observed that in recent times there is more, the GAC membership has increased, but the regular participation has not increased to more than 60 to 65 at any given meeting, or maybe not gone beyond 70. And continuous participation needs to be encouraged.

On the Code of Conduct, I think one of the ATRT review members asked what the Code of Conduct. We would like to know in what context this was raised and a model that we can look at, because this is useful, and it's a very good suggestion given the fact that there is a lot of lobbying taking place with the new gTLD program. So I think a Code of Conduct is welcome. And one of the suggestions I may like to put on the table for discussion is whether we might like to have it as an addendum or an appendix to the already available operating principles which has improved a lot and has been an effective tool for us to contribute to this excellent multistakeholder model that we are part of.

Thank you.

CHAIR DRYDEN:

Thank you very much, Sri Lanka.

Netherlands, you are next, please.

NETHERLANDS:

Thank you, Heather.

I have heard very less which I could not agree with. So in general, I think I agree with most remarks.

I just wanted to pick on the point of accountability and transparency of the GAC itself. And I heard, of course, and saw the comment of the Code of Conduct which Larry introduced.

I think in general, we have to, as GAC, be very aware that we are governments and that we really should give the example concerning accountability and transparency, meaning that all the things we require -- for example, from the Board, Code of Conduct, conflict-of-interest policy, et cetera -- should also apply, of course, in another magnitude to us.

So it's very valid to have a kind of increased sense of accountability and transparency.

What I personally think is that we have many tools to realize this. And I think of course we are very eager to hear from the independent review team if they have suggestions to really enhance the accountability and transparency of the GAC. But before we can get to this, I think it's very important to have much more reinforced GAC operations. I think it was also said in the high level of the Toronto as one of the main points; that the GAC really needs reinforced operations itself.

So what I think is that it's on both sides. It's on ethics and transparency and accountability, but also you can only realize this if you have a very solid foundation of decision-making, meaning that I think, first of all, I think the operating principles are outdated. We already have concluded this, so we need to adapt them to the current challenges.

Secondly, we have also, let's say, we have an initiative of adapting and making better working methods in the GAC, which I think is one of the priorities also.

And of course we will have much more enhanced support from new GAC secretariat, from Australia.

So I think there are many instruments in which we should work in parallel to enhance our own functioning and also accountability and transparency.

Thank you.

CHAIR DRYDEN:

Thank you, Netherlands.

I have Japan next, please.

JAPAN:

Yes, thank you, Madam.

First, Japan would like to thank for the opportunity to have comment on the ATRT 2 activity here, and also very much appreciate ATRT 1 excellent efforts so far.

And due to the ATRT 1 excellent activities, ICANN has improved activities in its interaction and the communication with ICANN community. So we expect that ATRT 2 also continue to improve such ICANN activities.

And, for example, we hope that ICANN should consider more proactive way, in addition to, for the participation in the ICANN meeting and public comment in order to facilitate and foster the participation of the global Internet and diverse community. Because, for example, applications from Asian Pacific region for new gTLD program were only 303, which were also one of the lower application rates regions.

In particular, when we will review the new gTLD program in the near future, it could be very important for ICANN to reflect the opinion and the comments from broader range of Internet users to the new gTLD program, and to realize financial transparency and to increase accountability. So we, Japan, expect ATRT could also contribute such issues.

Thank you.

CHAIR DRYDEN:

Thank you, Japan.

Next I have Avri Doria, a member of the review team.

AVRI DORIA:

Thank you. Avri Doria speaking.

First of all, I want to indicate how grateful I am to the comments, both written and spoken, that we're getting. They are truly what drive what it is we're supposed to be doing.

The comment that I wanted to make had to do with the work that's going to be done on the PDP investigation and on the sort of driving

work that needs to be done on the cross-community issues. Many of you have mentioned them.

And so what I wanted to point out is that work is very much going to be driven by comments from this community as well as other stakeholders.

We understand that you're working with the GNSO to try and understand how to perhaps bring the cultures of the groups together or more closely aligned so that it does become more possible. And one of the requirements that we're putting on the outside folks that will be doing this work for us is to talk to people and we'll actually be asking you all, insofar as you're willing to contribute your thoughts as to how you can get more involved in the earlier working of the policy development process, that will help us a lot in trying to sort of understand what the barriers are and what the opportunities are.

Thank you again.

CHAIR DRYDEN:

Thank you for those comments, Avri.

Okay. So next I have Norway, please.

NORWAY:

Thank you. I'll be short.

I with also just like to comment shortly on the openness and transparency of the GAC and the communication we have with the community, as mentioned by Larry. And I would just like to say that we really welcome those comments. And we see no reason why the review

team should not be very direct and clear in their advice to the GAC on how we can improve.

We have serious work ahead of us, going through our own working principle. Let's say modernizing, maybe changing some of them, looking at them. So go ahead and give us advice on this. We should be open for that.

Thank you.

CHAIR DRYDEN:

Thank you for that, Norway. Next I have Uganda. Please.

UGANDA:

Thank you very much, Chair. For a change. For a change, people have been short. I'll try to be long.

My name is Simon Bugaba. I come from Uganda. I work for the regulator and the communications commission. And I represent Uganda to the GAC.

I have a couple of -- first, let me thank ATRT2 for this exercise, which I think is very beneficial. Because, frankly, it's been confusing and we think this is an opportunity to improve this great body. I'll try to just speak out the issues so that I can keep it brief. Benefits going to be long.

One, I would wish that ATRT2 looks at the genuine engagement of the people in the community from the developing countries. It goes clearly that they're really not engaged. They're not with us here. Consider

numbers. Whatever efforts have been made, we're thankful. But surely I think they're not working that well. After a couple of years, we are still a handful here. That goes without saying.

Secondly, the engagement of the developing country governments. Efforts have been there, fellowships have been there. And we're thankful for those. But still they're not working. I guess we need to rethink that strategies. And that we agree on that. Third point, we are seriously confused about the gTLDs. You just had the statistics that very few applications came in from developing countries. We have the issue of the right amount of money that we think was levied. We don't understand whether that's going to change or not. But that shows that we do not understand the whole process. And, despite our not understanding, it is going on. And some of the processes have closed. So we are still confused. So we're disengaged.

Lastly, I was in this meeting today. And my colleague from U.K. spoke my mind. The language that is used by the ICANN board is seriously confusing to some of us, especially since we know we are representing governments. The accept and reject of advice that is given, I think, is not a language that promotes multistakeholder dialogue. I frequently hear the advice from GAC was accepted, then advice from GAC was rejected. And I wonder what do we do? Do we go back to the governments and tell them that, you know, the input you gave was rejected? And we don't know what to do with it.

I'll stop there for now. I'm available. I know I've been very brief. I'll stay here until the end if colleagues want to engage me on this. And I'm available to discuss each and every point that I've raised. Thank you.

CHAIR DRYDEN:

Thank you very much for those comments, Uganda. It's always useful for us to hear from newer members and to get their perspectives. So I really do appreciate your taking the opportunity to make some remarks.

Next we have Pakistan, then Australia and Turkey. And then I think we can close the session. So Pakistan, please.

PAKISTAN:

I have a suggestion as two points. One is ATRT2 independent expert group and second is ICANN public comments. The representation of governments in ATRT2 as independent experts, group is important to us whether the GNSO, PDP process is effective for developing gTLD policies within an ICANN multistakeholder environment.

I suggest that ATRT2 involve government representative, especially from developing countries in the ATRT expert working groups. Regarding the second point, ICANN public comments, global community awareness about ATRT2 what are working and ICANN policy matter is important in order to obtain valuable input from that.

So it is suggested that ATRT2 may include such initiatives in its strategy. Moreover, it is also suggested that ATRT2 may look for other ways to get global community input other than the existing approach, such as addition of seminar workshop in the countries, especially developing countries to bring transparency, openness, and accountability into ICANN matters including GNSO policy development process.

And the last I hope that ATRT2 would make efforts for smooth functioning of the ICANN. Thank you.

CHAIR DRYDEN: Thank you, Pakistan. Okay. Australia, please.

AUSTRALIA: Thank you, Chair. And thank you to the ATRT for coming along today.

It has been an extremely valuable discussion, I think -- I'm in the fortunate position of coming quite late in the piece. So I'll be short and just agree with a lot of the comments which have been made before me. I was going go through each of Larry's questions and comments, which I think were really useful. I think you'll have already got the sense from GAC members that the GAC actually really welcomes this kind of feedback.

It's really useful to hear from outside areas where people think that the GAC could improve.

So, certainly, in terms of the code of conduct, we've already heard from Sri Lanka and Netherlands that this is an area we can look at with this, obviously, very particular context for the GAC. And we're here representing governments and so on. But I think it can be a very useful thing to hear and certainly for us to look at.

In terms of closed meetings, you'll have already gathered that, you know, heard many people say that we are trying to have as many meetings open as possible, Beijing being an exception. And I think that wasn't an easy decision. And at the time there was certainly some discussion between members about whether that was the correct approach. It's, obviously, very difficult to judge that. But, as a result, we find ourselves -- as the result of having so many closed sessions, we're in a discussion this morning with the new gTLD program

committee explaining our advice and hearing that they didn't understand it. And so now we are looking at potentially our process going forward to explain that advice. So I think we're -- hearing this kind of feedback is extremely useful.

And, certainly, I hope we can have more of these discussions as your work continues as we certainly echo the comments from Norway that, if you do come up with some recommendations for improvements, we'd certainly love to hear them, but in the interim as well. If you hear comments from the community or have ideas yourselves, I think it's great that we can have this kind of open dialogue about ways that the GAC can improve its processes. So thank you very much. I think this has been a really useful session.

CHAIR DRYDEN:

Thank you for that, Australia. Okay. Turkey, you're next, please.

TURKEY:

Thank you, Madam Chair. I'd like to thank the team, ATRT team, for doing an incredible amount of job. And I think it's very useful for a very fine how effective and decent work ICANN is providing to Internet community and multistakeholder model. I'm sure it will help to increase the validity about the whole processes. I'd like to just -- we'll respond in writing to the requests sent to governments in detail. But, just in short, I would like to mention about one issue, which is a higher -- need for a higher participation, higher level participation from the governments. I think it would also help -- first, I'd like to start with thanking all the colleagues representing governments. And now we have 128

governments. And they're really doing an incredible job and very useful contributions that we have seen. But we also need the awareness to pass along the whole government circles within each government.

And the only way to achieve that, probably going to require a higher level of participation. At least once in a year, in one meeting, then they can get together ministers or regulators and discuss some very general high-level topics, issues, and then working groups or members can sit down and work on the details. But this kind of participation from the political decision-makers or policy developers, public-policy developers, could be crucial for countries to have a uniform approach towards -- towards Internet governance issues in support of ICANN.

Thank you.

CHAIR DRYDEN:

Thank you very much, Turkey.

So at this point, I'll make one last plea to GAC members to provide to the GAC secretariat e-mail details on the relevant senior official, whether it's a minister, vice minister, or the head of a regulator, and so on, that has responsibility for ICANN so that letters for the purposes of outreach and trying to increase engagement at senior levels in the ICANN process and, in particular, contributing to the Accountability and Transparency Review Team work would be really appreciated. And the review team will send out those letters and keep the representatives here informed about that communication so that we can perhaps increase the contributions.

But I think we've heard some really excellent comments today, and I can see the review team has been listening and taking very careful note of our comments today. And they will have access to the transcripts from today's meetings as well so that they can refer back to that.

So thank you all for commenting, and certainly thank you to the Accountability and Transparency Review Team members for coming today and for spending this time. We do appreciate it.

BRIAN CUTE:

Thank you for having us.

And just a reminder that we'll be issuing draft proposed final recommendations in the mid-October time frame, prior to Buenos Aires, and certainly we'll have opportunity to hear from you with respect to those final recommendations before we issue our final report.

Thank you very much for your inputs today.

CHAIR DRYDEN:

Good evening, everyone.

[END OF AUDIO]