

Organizing Next Steps

COPENHAGEN – Accountability and Transparency Review Team 3: Discussing Community Views and Organizing Next Steps

Monday, March 13, 2017 – 15:15 to 16:45 CET

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UNIDENTIFIED MALE: It is Monday, March 13th, 2017 in Hall C14. GNSO for the Accountability and Transparency Review Team 3: Discussing Community Views and Organizing Next Steps, 15:50-16:45.

LARISA GURNICK: We're going to get started in just a few minutes.

Good afternoon. Welcome to the session on accountability and transparency review with the third review team. We're here to discuss next steps towards starting the review and particularly a conversation around the scope.

My name is Larisa Gurnick. I work as part of the ICANN organization on the MSSSI team. We're the team that supports the various reviews. I'd like to welcome you and thank you for coming.

Okay. Here we go. The reason that we thought it would be useful to have this session is because back in the summer – I think it was August – a topic was raised by the Co-Chairs of Work Stream

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2 in relation to what they observed as a potential overlap of the topics of the accountability and transparency review team with work that was being done by Work Stream 2.

At this point, I'll turn it over to Thomas. I'd like to welcome our panelists, first of all. Maybe each one of you could just introduce yourselves real quickly. Then, Thomas, I'll turn it over to you to provide a bit of context as to the ideas that were raised by Work Stream 2. Thank you.

STEVE DELBIANCO: So introductions first, Larisa?

LARISA GURNICK: Yes.

STEVE DELBIANCO: Steve DelBianco with the Business Constituency and one of the rapporteurs on the Cross-Community Working Group for Accountability.

THOMAS RICKERT: Thomas Rickert, CCWG Accountability Co-Chair.

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JOHN CURRAN: John Curran, Chairman, NRO, which serves as the ASO within ICANN.

BRAD VERD: Brad Verd, Co-Chair of RSSAC.

PATRIK FALTSTROM: I'm sorry. Patrik Faltstrom, Chair of SSAC.

MANAL ISMAIL: Manal Ismail, Egypt. GAC representative and incoming Vice-Chair for the GAC. Thank you.

CHERYL LANGDON-ORR: Cheryl Langdon-Orr, one of the other co-rapporteurs for SO/AC accountability from Work Stream 2.

KATRINA SATAKI: Katrina Sataki, the Chair of the ccNSO.

ALICE JANSEN: Alice Jansen, ICANN organization, supporting the ATRT3 exercise.

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LARS HOFFMAN: Lars Hoffman, the same as Alice.

THOMAS RICKERT: Thanks very much, and hello, everyone. During the work of the CCWG Accountability, as you will recall we have Work Stream 1 and Work Stream 2 topics. Six out of the nine Work Stream 2 topics are potentially overlapping with ATRT, which is why we wrote to the ICANN Board, way back in August 2016, to consider various options for how to deal with the relationship between ATRT3 and Work Stream 2. We spelled out a couple of options that could be taken from “do everything as it is” to sequencing the efforts or actually having a limited scope for ATRT3 in order to avoid duplicate work and, even worse, contradictory outcomes or recommendations.

We then got a response from Steve Crocker, and I quote, “It’s not up to the Board to dictate the scope of this important community review. While we share the concern raised of avoiding duplication of resources, it is essential that the broader ICANN community have a voice in determining how the ATRT3 should be scoped in alignment with the bylaws. The Board and the ICANN organization stand ready to support the community’s direction.”

We then went on and reached out to the SOs and ACs, asking them on their views about this proposal of having a limited scope for ATRT3. Four out of five of the organizations that make up the Empowered Community responded to our request. Let me just scroll through the document. I'm going to show you in a moment what I'm reading from.

We had SSAC responding that they're okay with the limited scope. We had the ccNSO that took a resolution agreeing to a limited scope. We had responses from the GNSO and ALAC, who said, "Well, it's not for us to limit the scope, but we would not stand in the way. However, we don't want this to be a precedent for limiting the scope of these important ATRT exercises that we do on a periodic basis."

The only organization that, so far, we did not get a response from is the GAC, but what we can summarize from this is that the four organizations that have responded – some of them are represented here, and they will surely speak more to that – would not have an issue with the ATRT limiting its scope.

We then basically concluded our part of this conversation by responding to Steve Crocker with a letter that we dispatched this morning. That has all the information in it that I'm actually quoting from, so you might want to take a look at that once it's published, to say, "Okay. This is what we could do because for

obvious reasons we can determine what the remit of Work Stream 2 is, but we don't have any authority to determine what the scope of ATRT3 is. That's not for the CCWG Accountability to do."

With regard to the substance and other points that I will surely have missed, I have asked Steve DelBianco to join me on this panel. He is the expert when it comes to all the technicalities and the language in the bylaws. He has been instrumental in getting this done for the new ICANN post-transition world. I will let him speak, but I see that Alan is waving his hand. Even though I'm not chairing this, would it be okay for me to just allow Alan to make an intervention, please?

ALAN GREENBERG: Thank you. Unless I misheard, you said the ALAC said, "We are willing to let the group limit its scope." I believe what the ALAC said is, "We are happy with the limited scope." So I hope the message to Steve Crocker said that.

THOMAS RICKERT: Thanks very much. Let's now hear Steve.

STEVE DELBIANCO: Partly to answer Alan’s question, please understand that what happened on the timeline that is most significant is that, right in the middle of this process, we switched from the Affirmation of Commitments governing the reviews to letting the bylaws govern the reviews. Since we in the CCWG were working and drafting the new bylaws, as we brought the reviews into the bylaws, we were aware of how the reviews would be different once the new bylaws were adopted in the transition.

But this all began a year ago at the Morocco meeting, when we had pretty much concluded the CCWG’s final report and had not yet had the community adopt it, and the bylaws hadn’t been, of course, fleshed out yet. We had a meeting in Morocco on the Friday before the meeting and, sure enough, staff put up a slide that terrified us. It was a slide that showed all the overlapping reviews that were coming up, under the Affirmation of Commitments and others.

Under the Affirmation of Commitments and its three-year interval between ATRTs, it looked as if the ATRT3 was going to start, well, now – January of 2017. That certainly focused the minds of everyone in that room, which included most of the people that participated on ATRT2 and ATRT1.

The community itself – forget the commerce department or ICANN; this is all about the community – knew that, with the

collision of topics – because we were there in Morocco to plan Work Stream 2; we knew that there was a significant collision of topics where six of the nine Work Stream 2 threads touched Accountability. The only ones that didn't were Diversity, Human Rights, and Ombudsman. But everything else touched Accountability. So that gave a few of us the notion of: "Let's see what we can come up with as a plan."

What we first proposed then when we met in Helsinki is that, "Look, the community just approved in Morocco the CCWG transition. If the bylaws reflect what our report said, the affirmation is not going to govern the review anymore." So the first proposal we laid on the table in Helsinki was that, under the new bylaws, there's not a three-year interval between ATRTs; there's a five-year interval. Under a five-year interval, ATRT3 wouldn't have had to begin until February of next year.

So we're here because there was a reaction from the community present at CCWG – a few hundred people, all of whom had participated – who said, "You know, technically it's true. We could wait until 2018. But there are a number of items that ATRT2 recommended that haven't been implemented yet – maybe even some from ATRT1 – and leaders from the community who participated in ATRT said, "Don't delay the ATRT3. Go ahead and start it in early 2017."

But acknowledging the collision of topics and volunteer fatigue, we concluded that we would recommend to the community that it limit the scope of ATRT3. The experts in the room said, “ATRT3 in a limited scope world – what would that look like? It would look like looking hard at all of the ATRT1 and 2 recommendations and the status of whether they’ve been completed.”

Now, along the way there, we adopted the new bylaws. The new bylaws handle things differently. The new bylaws enable the community – not ICANN, not the GAC and the Board Chair – to designate the members of a review team. There’s 21 review team members. We got that number because there’s seven ACs and SOs and we said, “Let’s go up to three from each” – it doesn’t have to be 21; it can be any number less than that – “so that each AC and SO is designated [in] the community members who go to a review team.”

Also along the way – Cheryl and Alan were part of the group that brought the AoC review into the bylaws with me – we changed the nature of the charter to the ATRT because the Affirmation of Commitments, which is now gone, was much more prescriptive of these topics that ATRT would look at.

We brought those topics over but we changed the introductory sentence. Instead of saying what it will do, it says that “The

issues that the ATRT team may assess include but are not limited to the following...” And there’s a list of the same topics that were in the affirmation. So it doesn’t say they will do this and only this. It says they may assess these six things but they’re not limited to that.

So this makes it clear that not only do we the community pick the members of the review teams from now on, but the review team members we pick from the community, after they convene, will decide what of those issues, if any, they decide to put in there. So the entire scope of aATR3 is up to the review team when it comes together.

I think that the letters that have been coming in that Thomas quoted are really useful because, if the community ACs and SOs have said they agreed that there ought to be a limited scope, well, then we’re electing our own members to go to the review team. One would hope that we’d remind them on the way to the review team that we all believe they ought to have a limited scope, for purposes of avoiding overlap and collision of topics and for the purpose of avoiding too much volunteer stretching.

So this was driven by the best of intentions. It had a number of options that could have been done. We could have delayed until 2018, but the conclusion of the community was: “Let’s get it going in 2017 but limit the scope.”

I know there's a series of seven questions in these slides, and I'll wait for those questions to come up to address the rest of those. But I hope that helps supplement Thomas' background with a little bit more.

LARISA GURNICK:

Thank you very much. With this really helpful context, we do have a series of questions that we have provided the panelists with ahead of time. Our objective would be to go through each question, have the people on the panel offer their views, and then have everybody that's participating provide your views and ideas on these topics that are in the questions.

With that, the first question is, "Should the scope be reduced as per suggestion by the Co-Chairs of the cross-community working group on enhancing ICANN accountability?"

Panelists?

STEVE DELBIANCO:

The ACs and SOs, to the extent they've answered, have said, well, yes, they think that's a good idea. But we in this room can't bind anybody to it. I know that Thomas sent the letter to Steve Crocker because that's the way the correspondence change started under the affirmation regime. When it would have been

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Steve Crocker and Larry Strickling that might have decided whether to modify what the affirmation said, but that's gone now.

So it's a courtesy note to Steve Crocker. In fact, it's we the community that determines what the scope should be. The review team that we pick will make that decision. I think the answer to one has been evidenced by the letter that Thomas read. The community, to the extent they've spoken so far, said the answer to number one was yes.

LARISA GURNICK: Anybody else that would like to add anything?

No?

UNIDENTIFIED FEMALE: [inaudible]

LARISA GURNICK: Please.

JOHN CURRAN: John Curran, ASO. The ASO Executive Committee hasn't had a chance to answer this question definitely. We'll be meeting later

this week and we'll talk about it. At a high level, I'll observe just that.

We are also in the middle of our own accountability review, which covers many of the same topics that a full scope would do. As such, we don't see necessarily a need for a full-scope review. I would imagine it will be favorably looked upon. I can't say definitively because we haven't met.

It's also true that the past scopes we've observed in our community are very large. The work output is very large. By the time it's done, it's very hard to handle those results. It might be good to focus on results for a while, rather than more findings.

MANAL ISMAIL:

Thank you. Now, the reason you did not hear from the GAC yet is because the GAC has not concluded on this yet. As you may guess, GAC members have different views on this, and for obvious reasons. Those who are in favor to limit the scope obviously would like to avoid redundancy in doing the work again. Those who are in favor of leaving things as is of course also have their very good reasons respecting the bylaws and respecting what's been in the bylaws.

Having said that, allow me to be participating in this discussion in my personal capacity because the GAC has no consensus view

yet, so I'm sharing this as a GAC representative of Egypt and maybe also as a participant and Vice-Chair of ATRT1, if this is still relevant. It seems to be ages [ago].

Again, let me iterate three points. It only makes sense that we avoid redundancy in the work and also respect the bylaws and finally have all views considered, including that of ATRT3 also as a team.

Having said that, I'm not sure if this exercise has been done, but I think, to help and inform the decision, maybe we should map the Work Stream 2 activities with the ATRT3 scope and mandate and break down everything to maybe things that are exclusive to each party – those can proceed unconditionally on things that are overlapping, and those should be coordinated closely before being finalized – and, finally, things that fully overlap or are redundant, basically. I think those should be finalized by the CCWG, and ultimately they should feed into ATRT3.

Again, for obvious reasons, this needs close coordination in terms of the timeline and the timeframe of both. So maybe activities that are redundant or overlapping should be prioritized in the CCWG and maybe delayed for the ATRT3 so that things can ultimately link up together.

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I think we have already had some similar coordination. It might not be the best analogy, but during the IANA transition, we also had the ICG and the accountability track. We tried to work things. It seemed to be very challenging at the beginning, but it worked at the end. We've got to know also that the PDP on subsequent procedures is also pending other activities in other working groups as well.

So it only makes sense that we try to coordinate things mutually and have an ultimate output at the end. Thank you.

LARISA GURNICK:

Alan, please?

ALAN GREENBERG:

Thank you. I'm speaking both as Chair of ALAC and a past member of ATRT2. I think it is absolutely essential that, within the five-year timeframe – I don't much care whether we delay to early 2018 or start now – we review the recommendations of ATRT2 and measure to what extent they have actually been implemented, not to the staff's definition, but to our definition – the community's.

I personally know of some that have green ticks in the dashboard, and I'd make them blatantly red. So I think it's a really essential process that we look at this.

The ALAC made a very strong statement that we recommend limiting it. To answer question 2, which you haven't asked yet – do we really have the right to do that? – if we're picking our members, we can instruct them – and there are representatives – what to do. If they want to all defy us, it'll be an interesting situation. But I believe we have the right to remove endorsements halfway through the term, also, should we choose. So there's a bit of a threat there.

So I think it's really important. At this point, yes, we have one of the seven groups saying, "No, we shouldn't limit it. Leave it up the review team." But I believe we have the right to do it, and I believe we should do it. Thank you.

LARISA GURNICK: Thank you, Alan. Steve?

STEVE DELBIANCO: Agree completely, Alan. Manal, I wanted to respond to a little bit of what you've laid out. The GAC could potentially invite you to avoid having this being a conflict between those who think we

should reduce the scope and those who think we should follow the bylaws. That's the way you put it. This does follow the bylaws – the new bylaws, not the old affirmation or the old bylaws. In the new bylaws, which are the only bylaws that matter, the review team that we pick gets to define the scope. It was different under the affirmation. So there isn't any conflict between following the bylaws.

The question is, what guidance would we give the review team that we pick to select these topics? Now, I mentioned earlier that there are six things listed in the bylaws that they may assess but are not limited to. Some of them don't overlap with the six projects. Some of them don't, but all the other aspects of accountability do overlap with the six of the nine projects. So I don't think it's necessary to do a mapping on that.

In fact, when the team meets, as Alan said, the recommendation here that most of the ACs and SOs have endorsed is that ATRT3 should focus on the implementation of the things that ATRT2 did. That's the first focus. I guess if they run out of things to do before they run out of time, the door is wide open.

In the bylaws that we now have, that team is invited to consider, for instance: assessing and improving Board governance and evaluating Board performance and the Board selection process – all of us in the CCWG know that there's no Work Stream 2

project about that; that's fine if they wanted to dive into that – assessing the role effectiveness of the GAC's interaction with the Board. They could do with that. They could look at assessing and improving processes by which ICANN receives public input. That's not a Work Stream 2 project. They can see the extent to which ICANN's decisions are supported and accepted by the Internet community. That's not a Work Stream 2 project.

So they can look at some things that are in the list of suggestions, not mandates, and they would be able to do that. There is no conflict between this suggestion and what's in the bylaws. Thank you.

LARISA GURNICK:

Okay. I have Donna, Alan, Manal, and Thomas.

DONNA AUSTIN:

Thanks, Larisa. Donna Austin standing in for James Bladel for the GNSO Council. We discussed this issue at the last council meeting, and the short answer to this question is that we actually think it's within the purview of the ATRT3 to decide what should be within scope. So it's their decision to make. But we qualify that with: they really actually should understand where there are areas of duplication with other work that's going on. But ultimately it's the decision of the ATRT3 to decide

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what is within their scope and what they will deal with and how they will manage any duplication that's happening elsewhere.

STEVE DELBIANCO:

Larisa, if I could just give one tiny follow-up, when we wrote the original letter in Morocco and Helsinki, we were operating under the Affirmation of Commitments, in which case the scope could only be effected by ICANN and NTIA. So a lot of this began when the scope was something that ICANN and NTIA controlled. But you're right. As I've said many times, the project itself of ATRT – that team determines its scope.

LARISA GURNICK:

Alan, please.

ALAN GREENBERG:

Thank you. The current bylaws say “may include but not limited to.” I was the author of those words, and they were picked really carefully. The ATRT1 and 2 had to look at all of those items and could not look at anything more. It was a strong belief in ATRT2, and I believe it's one of the recommendations out of ATRT2, that we should be able to omit some time to make sure that we focus properly on – and there were also accountability and

transparency issues that those who wisely wrote the AoC didn't think about.

So the scope is really, really large, but as I said, I think for this one we need to do our homework and figure out what was done with ATRT2. I disagree with Steve; I believe we should instruct the ATRT3 to do just that, and if they finish in six months, they get time off.

We don't need more accountability and transparency things to implement this year. Let's give it a rest for a little while and get these working. Thank you.

LARISA GURNICK:

Manal, please?

MANAL ISMAIL:

Thank you. I just don't want to be misunderstood because I had the feeling that, Steve, you were stressing things that ATRT3 can do. I didn't say they cannot. So I'm just making this clear.

Another question: if we go for the limited scope, would, for example, ATRT3 be able to look into the timeline of everything? They have the holistic view, and they can suggest, for example, that any other processes that are interdependent or related to ATRT3 they have to finish before a new ATRT begins.

I think they – no? Because there is some text in the bylaws that says that the Accountability and Transparency Review Team can suggest new reviews or remove reviews. I think they can also provide some guidance regarding the timeline. So this is a question. Thank you.

STEVE DELBIANCO:

Thank you, Manal. Yeah, the bylaws do indicate that the ATRT is the team that can recommend the sunset or creation of new reviews. But there's nothing in the new bylaws that say that the ATRT can recommend the change of timing. The timing on all the reviews is set in the bylaws now, and it's no less frequently than once every five years. There's a lot of flexibility there. That means it could happen in four years, in three, in two. And that's not up to the ATRT3 team to recommend. That's the community. When we decide it's time to convene, the bylaws say we can't wait for more than five years between reviews, but the bylaws allow us as a community to start a review sooner than that.

So they're all governed on the five-year timeline, and the ATRT doesn't have the ability to tweak the timeline. It would do that through a recommendation. The recommendation would have to survive public comment, and then it would become a bylaws change – not a fundamental bylaw, but a regular change if we added a new review in addition to the four that are in there now.

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MANAL ISMAIL: Just very quickly, yeah, I understand that there is some fixed maximum timing between each and every review. But I was thinking that, still, the review team can suggest that other reviews be finished before a new ATRT because there is flexibility in the timeline – no?

STEVE DELBIANCO: They could make that recommendation, but it's up to the community at that point in time to decide whether to start. The bylaws require it no less frequently than five. So even if ATRT3 recommended that the WHOIS review should be extended to seven years, that would violate the bylaws.

MANAL ISMAIL: Anyway, I don't want to distract us from the other questions on the main slides.

ALAN GREENBERG: Just for the record, the ATRT3 could recommend that ATRT4 convene in two years. It may not be honored, but it could make that recommendation.

LARISA GURNICK: Thomas, please?

THOMAS RICKERT: Thanks very much. I was just trying to put myself into the position of somebody who is not very familiar with ATRT. I'm not very familiar with it, and this discussion sounds like we're arguing to agree that the scope is determined by the team. But I think that, at least for me, it's important to emphasize – this is why this discussion is so valuable – why we are doing it and at what time we are doing things and what this is all about.

We have ATRT, and certainly we can have the community instruct the people in the ATRT to do and not do certain things. Nonetheless, there might be topics that you are very passionate about, that you want to get done. And you say, “Well, there’s a risk in not looking at a specific topic.”

Therefore, I think what you should understand is that Work Stream 2 will take care of these issues. If you want to contribute to results or if you want to impact how ICANN is doing certain things, come join these sub-teams. There’s some beauty to it because we are not yet done. It’s not yet carved in stone. What we are recommending even has more weight than what ATRT is recommending. So if you really want to make a change with your contributions, Work Stream 2 is a better place to go than

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ATRT. I guess that's something that we should bear in mind. This is so complex with the new bylaws and stuff, and I don't blame anyone for not knowing all the details. To be quite honest, I also took these details from the briefing documents.

LARISA GURNICK: Please, go ahead, Steve. After that we'll move to the next several questions, please.

STEVE DELBIANCO: I wanted to elaborate on what Thomas said about having more weight. Let me explain – and we had this in our original letter over a year ago. The bylaws that we've adopted in Work Stream 2 reflect these nine Work Stream 2 projects. They say that, if the Board were to reject recommendations coming out of Work Stream 2, the Board would need a two-thirds vote to reject. If they did, they'd have to go into a consultation with these community-approved Work Stream 2 recommendations.

Again, it would take a second vote of two-thirds for the Board to reject. The criteria for rejection would be that it was against the global public interest. So there's a very high bar for the Board of ICANN to reject what Work Stream 2 comes up with as recommendations once the community has approved the

recommendation, which won't happen until very late 2017 and probably into the middle of 2018.

Now, what does it take for the Board to reject a finding of an ATRT? Anybody know? It's simple majority. So eight of the 15 Board members could vote to say, "Nah. We're not going to take ATRT3 Recommendation 7." So Thomas is right. There is more weight given to the Work Stream 2 accountability projects. So that's the place to devote your activity if you really care about an accountability topic that's covered by Work Stream 2. The Work Stream 2 scope is limited because it was defined by the bylaws. We are already well underway on the projects, whereas the ATRT3 scope is much more upon.

LARISA GURNICK:

Margie?

MARGIE MILAM:

Hi. This is Margie Milam with staff. I have a question, Steve, about the interpretation you have of the review team being the one that sets the scope of its mission because I was looking through the bylaws and I'd like to see the language that refers to that. I know that's been the practice in the past under the Affirmation of Commitments, I believe, but I was wondering if that was something that could be included, for example, in the

operating standards that are being developed that relate to how reviews are to be conducted.

The second question I have is – and one of the things we worry about – what if the scope of a review team actually touches on subjects that are actually outside what is specified in the bylaws? Is there some way to take a look at it and to test it against the mission of ICANN? That’s the other question I have.

STEVE DELBIANCO:

Margie, it’s Steve DelBianco. I’ll try to answer the first question. I’m referring to the section of the bylaws that’s already adopted: 4.6B[ii]. “The issues that the review team for ATRT may assess include but are not limited to the following...” Those words are in the bylaws, and since they’re in there, as Alan drafted them, they are suggestive but not limiting, and they don’t prescribe those particular six topics that we ported over from the Affirmation of Commitments. Under the AoC, it was prescriptive and limiting. As Alan made that point earlier, it was one of the reasons we changed the language: so that a community-drive, community-picked review team could define its scope.

Your second question is a little bit different. I realize that there are policies and procedures. I’ve heard a lot more about them than I’ve seen, so I think they’re under development. It’s a staff-

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driven project to develop some policies and procedures for review teams. If there's a session on that this week, I'll go to that session. I promise you. But –

MARGIE MILAM: We just had it.

STEVE DELBIANCO: You just had it. Okay. Well, those policies and procedures could include potential answers to your question: should ICANN Legal do a quick review once the scope of the review team is set? If they wanted to do a review to assure that the team is staying within ICANN's mission and scope, that might be a good idea, but I haven't seen those procedures.

MARGIE MILAM: Yeah, we had a session I believe an hour ago. There's an ongoing process. We can provide you information on that. Thank you.

LARISA GURNICK: Go ahead, Manal.

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MANAL ISMAIL: Just another follow-up question. Do we already know how the review team may decide on what is in or out of scope? Is it voting consensus? Majority voting? How would this be agreed upon?

STEVE DELBIANCO: In the bylaws, Manal, right above the section I quoted – 4.6A – it says, “Review team decision-making practices will be specified in the operating standards,” which is exactly what Margie just talked about, “with the expectation that the review team shall try to operate on a consensus basis. In the event a consensus cannot be found among the members of the review team, the majority vote of the members may be taken.” So that’s the vote the review team would make on what it thinks its scope should be.

The second part of your question was: “What do the bylaws say about a process to review whether their scope is in or outside the bylaws?” That’s not specified here. In general, you use an IRP for actions that are inside or outside the bylaws, but that doesn’t seem appropriate here. The operating standards may well need, as I just suggested to Margie, the opportunity for Legal to check the scope once the review team comes up with it to be sure that it doesn’t exceed ICANN’s mission, core values, or the bylaws.

LARISA GURNICK: Thank you, Steve. Just to clear up one comment you made, Steve – that the operating standards are a staff-driven project – it’s actually a community project. We’ve had a number of sessions looking for input, particularly on areas that are new, such as the ones that are coming to light here. I think it’s becoming very obvious that there is some practical and interpretational issues that we don’t know answers to yet that need to be worked out. Particularly in the areas that are new in the bylaws, where we don’t have best practices from our experience in prior reviews because these events haven’t happened yet, we’re really looking for community guidance on how to formulate these operating standards.

There are many other aspects of reviews that would not be impacted by the new bylaws, where we are developing a strawman, if you will, that documents and catalogues in one place information that is already readily available in multiple, not-easy-to-use places. I just wanted to clarify that.

Okay. Moving on to – Yvette, can you help me out? Let’s move to Question 2, although I do believe we’ve already covered it. I just want to make sure that there isn’t anybody here that wants to talk about that.

Moving on to Question 3: “What precedent would either of these options set for the future? Can a future review team always

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reduce or expand its scope as it sees fit, or should the SOs/ACs always provide guidance prior to the launch of a review? If so, how?”

I believe we’ve answered this question as well, but again, are there – Katrina, please.

KATRINA SATAKI: Thank you very much. Katrina Sataki, ccNSO. I was trying to restrain myself from commenting, but apparently I failed.

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: Yeah. Personally, I see that there’s a slight contradiction because when we say that it’s up to the community to decide on the scope, that’s one thing. When they say it’s up to the review team to decide, it’s something different. Personally, if I was on the ATRT review team, I would limit the scope to the extent that you would never recognize it. But at the same time, yes, they can extend it enormously as well.

I remember some time ago that it was Alan who made the point – and I agree with it; it wasn’t today, but I think on the call – that,

when people submit their names to participate in a review team for that, they commit their time and their knowledge and their expertise to the work of the this team. If the scope is really big, they may not apply because they understand how time consuming this process is going to be. If they know that the scope is limited in advance, then we could have more volunteers on board just because they understand that they can participate in the process.

Personally, I would be in favor of having the scope before we have a call for volunteers because it could help us to get more professionals on board. Thank you.

LARISA GURNICK:

Alan and then I'd like to follow up on Katrina's point.

ALAN GREENBERG:

Thank you very much. To answer the question – what precedent would this set for the future? – none. We are making a decision this time around. Some future ACs and SOs perhaps five years from now, when I won't be here around the table, will have to make that decision for themselves.

Can a future review team reduce or expand its scope for the ATRT review team? It's explicitly written in the bylaws that it can.

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The other review teams I believe don't have that – no, it doesn't, Steve. It says –

STEVE DELBIANCO: You're right. They're much tighter.

ALAN GREENBERG: Pardon me?

STEVE DELBIANCO: The other three review teams are much tighter. I was agreeing with you.

ALAN GREENBERG: Oh, okay. You shook your head no but you were agreeing with me. The ATRT can expand or reduce its scope. The others cannot at this point.

Okay. Should the ACs and SOs provide guidance for future review teams? Again, it's up to future ACs and SOs.

LARISA GURNICK: Katrina, I just wanted to do a follow-up question on your comment. I believe you said that you would suggest that the scope be determined before the review team convenes. Under

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the current interpretation, there is not really a practical way to do that. Is there?

KATRINA SATAKI:

Well, I think it should be operating standards, for example. I don't know how to practically implement that. I just think, from the pragmatic point of view, when you sign up for a job, it would be nice to know what you're signing up to.

LARISA GURNICK:

Gentleman?

OWEN DELONG:

Owen DeLong, Akamai, speaking as an individual. It seems to me that there's no precedent, as has been said, that the bylaws already say that the ATRT already has the ability to essentially set its own agenda, for lack of a better way to express it. I think, given that the ATRT is made up of representatives from each of the stakeholder groups and advisory councils, that that's okay.

I think, in terms of knowing what you're getting into before you sign up for it, well, you're getting into a 21-member group that's going to set its own agenda. You're going to get your shot at putting your contribution into setting that agenda. That's about all you're going to know going in. You're going to know roughly

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what other groups have done before. Then your group is going to have to decide for itself what they're going to do for that particular review.

So I personally think we ought to get on with it.

LARISA GURNICK: Thank you. Alan?

ALAN GREENBERG: I just wanted to point out that we do have a mechanism for restricting what the review does, should we choose to exercise it. We are appointing people with the knowledge that it will be done, and we could remove them if they want to go rogue. So we do have a mechanism. I'm not proposing it'll be necessary to use it.

To be very specific – I'll go back to what Katrina said; I think she said what I said – I was on ATRT 2. In theory, if the scope of this one is just to be restricted to evaluation of ATRT2 implementation, I may choose to apply. I'll give full notice: I'm not going to. But I might choose to apply, whereas, if this was a commitment to do a wide-ranging review, I probably would not even consider it.

So that's a conscious decision one may make when applying, and I think it's fair to tell people ahead of time what they're getting themselves into.

LARISA GURNICK: Steve, please?

STEVE DELBIANCO: Thank you. I agree that there is no danger of precedent. With respect to the two things, can a future review team always reduce or expand its scope as it sees fit? The answer is no. It's not as it sees fit. It may reduce or expand its scope to the extent the bylaws allow it.

As Alan has indicated, the language used is different. For the review of the new round, it's a lot of "shall"s. For the review of the WHOIS, it's a lot of "shall"s in the bylaws, right underneath the same section. They're much more prescriptive. For SRT, there's a "may," but for accountability and transparency – in other words, the ATRT – the first charge for the ATRT is: "The Board shall cause a period review of ICANN's execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community." That is

the first sentence, taken right from the Affirmation of Commitments. That is the overall charge to the ATRTs.

The next clause says, “The issues that the team may assess include but are not limited to...” So that’s the suggestive list of topics that we went through earlier. So “as it sees fit” is not a precedent. It’s really not allowed in the bylaws. It’s much more constrained with respect to what I just read.

Should the ACs always provide guidance? Well, no, they shouldn’t always. They may provide guidance prior to the launch of the review. Or they may not. When they do, those who apply would want to have some confidence, to Katrina’s point, that that limited scope that was recommended by all the ACs and SOs would be honored by the people that all the ACs and SOs appointed.

So I fully ascribe to Alan’s notion that the team is not 21 people who run amok the minute they’re appointed. They are there to represent their particular ACs and SOs. I guess I’m always confused when I see people worried about precedent. It even showed up, I think, in some of the early GNSO decisions. And yet I’m close to what these bylaws say, and we were part of the team that drafted it. So we didn’t see any concern there, but I can see why people have that question.

Good news: don't worry about precedent.

LARISA GURNICK:

Thank you. Let's move onto Question #4, please: "How does the work of ATRT3 factor into other important activities undertaken by the ICANN community that may affect the volunteer bandwidth and possibly have interdependencies with the work of ATRT3?"

Work Stream 2 is one example, but there might be other circumstances.

Steve, please, go ahead.

STEVE DELBIANCO:

I think we covered this earlier. This was the precise rationale for why we suggested potentially delaying it until 2018, which isn't a delay at all. It managed expectations, but the bylaws say every five years. But Alan and others have felt strongly: "No, no. Don't delay. Hurry up and do a limited scope review as soon as we can to see the implementation of 2," and that was the will of the community. It has been supported by most ACs and SOs.

So, yes, it will factor into other important activities, and there's a terrible volunteer fatigue problem – a volunteer bandwidth

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problem. We're not going to solve that with a limited scope, but you give a little bit of relief. That's really all we can do.

LARISA GURNICK:

Are there any other comments on this particular question? Everybody is getting tired.

Okay. Let's move on to the next question, please: "Regarding the selection process, keeping in mind the recent selection of the SSR2, what improvements, if any, would you propose to make to the future selection processes, including the ATRT3?"

Obviously, this is not specifically scope-related, but since we have your undivided attention, feedback on this point would be most welcome.

Steve?

STEVE DELBIANCO:

It's a fair question. I think it's too early to make firm recommendations. We should probably assess, with staff's assistance, how it went for SSR. Did we learn some lessons from SSR? I remember Patrik in the SSAC saying that they weren't going to pick all three of their three entitled, guaranteed slots. They were going to hold back to take a look at other candidates

that showed up with an opportunity and maybe they might pick one of them.

We're figuring this out, and in particular in the GNSO, where I live, in two days from now the GNSO will hopefully approve a new standing committee in the GNSO with an appointments procedure. There's a resolution on the doc for Wednesday, and it's a nice little two-page procedure that this new standing committee in GNSO would use when it comes to nominating or picking the review team members for all the reviews, not just the ATRT and the other three that are baked into the bylaws.

So I think that each AC and SO will figure this out as we go along, and it strikes me that maybe it's a little early to do a call for what improvements you would make. We're going to have to go along. We've only done it once with SSR2. We're about to do it for the second WHOIS review and the third ATRT. Thank you.

LARISA GURNICK:

And you touched on the reason for asking the question, even though it's premature. We certainly want to take onboard any early feedback because we don't have the luxury of a whole lot of time before we go through this process again. So I completely understand that it's a little too early to assess. The team is just having their first face-to-face meeting Wednesday, but yet the

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timing is such that the upcoming processes will kick off very shortly.

As staff, we will certainly follow up and see if we can gather any input outside of this meeting and see if we can at least get some early indications of ways that the process could be improved.

Donna, please.

DONNA AUSTIN:

Thanks, Larisa. I think, from the GNSO Council perspective, we had a lot of confusion about how it was identified where a candidate came from and the fact that SSAC actually supported somebody that we thought was sitting within the GNSO bucket. That ended up being helpful for us because it assisted with some other selections. But we found that really confusing.

So to the extent that we can sort that out before we go into the next process, I think it would be really helpful. I don't know whether the candidates identify what constituency they sit within or whether it's something that staff makes an assessment on based on an SOI that they have, but that's something that we really need to clear up and get clear on because if the GNSO appoints so many representatives or recommends so many candidates and the ALAC is doing the same, if there's overlap or some ambiguity about where somebody sits, then that really

complicates the issue. So to the extent that we can sort that out, that out, that would be great.

LARISA GURNICK:

If I may, just a follow-up point. I know Margie will correct me if I am getting this wrong. I believe that the identification was done by the applicants. They self-identified. Is that correct?

Okay. Thank you. Do you have any ideas for how to sort this out? There's a couple of different mechanisms that could accomplish this. As a matter of fact, under the AoCs, there was a mechanism where applicants had to be endorsed – I believe that was the right term – first by the group that they wanted to represent. Then there was a place for those that didn't choose to follow that process or were unaffiliated. Those were independent experts that basically endorsed themselves, and they were in a different category. When the selectors made final decisions, they pulled from both the list of those who were endorsed by the SOs and ACs and the list of this other group that weren't necessarily endorsed and got to represent themselves. But once they were selected to a review team, they all had equal standing. They all had full rights.

Any thoughts in terms of how we address this concern?

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DONNA AUSTIN: I think having an endorsement would be helpful, but you just raised something else that I think is relevant to this: if somebody doesn't have a home, then what's the consequence for them? How do they get selected to the review team? So that's another complication.

I'm interested about Patrik as to why they decided to select from outside the SSAC. As I said, it became a good problem for us, but we were surprised when we saw that.

PATRIK FALSTROM: Patrik Faltstrom, SSAC. For us, the important thing is that the review team actually ends up getting a composition as a whole to be able to do a good review. That doesn't mean that, for example, we appoint people that happen to be SSAC members. We could appoint anyone or we would vouch for anyone.

I think this is a [generic appointment] process that is problematic. We have it for the ICANN Board and other organizations as well. I think one of the things we talked about – correct me if I'm wrong, Steve – is that, if each one of us constituencies appoint a certain number of seats, however we do that, who has the responsibility to ensure that the review team as a whole has the competence that we believe is needed?

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LARISA GURNICK: Alan?

ALAN GREENBERG: Thank you very much. A couple of things. To answer that particular question, I think we lost that ability to have a well-balanced and perhaps limited-size team when we went to the three times seven and the Chairs doing the selection. We also lost the ability to have experts. We lost the ability to have experts appointed at that time. There are experts that can be appointed by the review team, and implied compensated experts, which is a very different concept than what we had before.

So we made those changes. I personally believe we made some wrong changes, and perhaps we need to go back and revise the bylaws one day. But we're stuck with the bylaws we have today until we can reach consensus on how to change them.

From that perspective, we are where we are. In terms of endorsement, ALAC still uses the term "endorsement." It may not show up in the call for volunteers, but it's still a concept that we use. I think, effectively, the other groups are using it, too. You don't have to be an ALAC member to be endorsed by ALAC or an At-Large member, although if we've never heard of you before

and you have questionable credentials, we might not endorse you. So all of those things factors into it.

Sorry, I'm trying to look at what the original question was.

What we can do in the future – I think some of us have said this before, rather strongly – is, number one, not have a call for volunteers until we actually decide what the group is doing. Number two, the call for volunteers should be passed by the Chairs of the ACs and SOs to make sure that it does match our process and that we don't end up in a situation where we're implying things to the applicants which are not true. I suspect some of the ACs/SOs – I know ALAC does – have some specific extra questions which we ask once we get the names. Perhaps the process could incorporate that into the original call.

But I think we need to discuss the process from before the call is done, not just ask, "How do we handle this random set of applicants after the fact?" Thank you.

LARISA GURNICK:

Margie?

MARGIE MILAM:

Thank you. I'm Vice-President in the department that oversees the reviews, so some of these issues we're talking about now

really impacts the team that works on it at ICANN. I wanted to follow up on what Patrik had mentioned about how you balance a review team for skill and also diversity. That's one of the struggles we've been having in forming the call for volunteers for the ones that are currently open because it's unclear when you're looking in a silo with all the SOs and ACs, if they're only nominating three, if they're looking at the three for expertise and for diversity. I don't know the answer to that.

The other thing is, what happens when you bring in new faces? As ICANN, we're always trying to encourage new faces, people who have expertise and the skill to be able to serve on the review team. But if they're not affiliated with a particular SO or AC, are they getting a meaningful consideration? I actually like what SSAC did with respect to nominating someone who wasn't actually an SSAC member because it showed that they took a look at the expertise and it brought a new dimension to the review team.

So that's something I'd like to pose for you: to see how the processes could be revised or developed so that you try to ensure that there's geographic diversity and all the other kinds of diversity that we strive for in ICANN and skill and the ability for outsiders to become part of review teams.

LARISA GURNICK: Steve, then the gentleman at the mic, and then Manal, please.

STEVE DELBIANCO: Thanks. What the bylaws say about this is that the review teams are subject to the Chairs of the ACs and SOs to select from among the nominees. It never says “endorse.” It just says “nominees,” and a nominee is not required to be a member of the community that nominated them. They can be a nominee from outside or from another community.

Of the nominees that each AC and SO comes up with, they can come up with as many as seven. This was done to encourage diversity because it says in the very first line: “The Chairs of the ACs and SOs participating in the review shall select a group of up to 21 members from among the prospective members who were nominated by the ACs and SOs, balanced for diversity and skill,” which is the same charter that was in the AoC when the AoC governed these reviews.

So instead of letting the Chair of the GAC and the Chair of the Board decide upon skill and diversity – what a surprise – we let the Chairs of the ACs and SOs or the community make the selection for balance of diversity and skill. So that’s all still there. We didn’t take any of it out. We just changed who does it. Who

does it is the Chairs of the ACs and SOs, and they have supposedly a pool of up to 49 nominees to pick from.

Now, when they do that, we did want to ensure that if any AC or SO had three nominees, it could say, “These nominees get on regardless.” So it’s possible we wouldn’t have diversity. If each of the ACs and SOs pick their three nominees, there’s no selection to be done. Seven times three is 21, and you’re done. That could lose some of the diversity of skill and diversity of other characteristics. Alan is right about that.

But our experience is one – we didn’t have each of the ACs and SOs designating three people. There were some available slots that could be picked by the Chairs of the ACs and SOs to satisfy diversity and skill. The next sentence says that specific guidance on the selection process would be provided by these operating standards.

So we are looking forward to what we talked about earlier and looking forward to getting some specific guidance on that as we go along and learn. That doesn’t require a bylaws change. It just requires us to update the operating standards and make them available to the Chairs of the ACs and SOs as they go through the process. So it’s nominate, not endorse, and there’s no requirement that your nominees be part of your community. Thank you.

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LARISA GURNICK: Manal? Manal, please?

MANAL ISMAIL: Thank you. Just to echo the challenges that were mentioned regarding working in silos and the selection, we have also struggled with some selections because sometimes people are equally competent but come from different regions. If you see the holistic view, then you can try to satisfy the geographic diversity, especially if people are equally competent. So this was one of the challenges.

We had to select, I think, three and then have someone as a backup in case the discussion did not satisfy the necessary geographic diversity. It was a bit challenging.

I think there was also some change in the independent experts that came on the fly. Again, we had to revisit the selections accordingly.

So one thing is the holistic view, and the other thing is also being very clear with those criteria, even for the applicants, prior to the selection procedure itself so that applicants can know how the selection would go. Thank you.

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OWEN DELONG: I hear a requiring theme of “We should determine the scope before we put out the call for volunteers,” but I’m also hearing that the bylaws call for the team, comprised of these volunteers that we’re calling for, to set that scope. So I don’t understand how you set the scope before you call for the volunteers who are, by the bylaws, supposed to set the scope.

LARISA GURNICK: Sebastien?

SEBASTIEN BACHOLLET: You set the scope, and somebody will set again the scope. I see in this discussion – an interesting one – some topics we didn’t take into account in creating all these new ways of appropriating the review team. Yes, we got in the middle of the selection for the Security and Stability Review Team, that experts disappeared. How do we deal with them?

I see a difficulty for the Chair of any SO or AC in defending that they need some seat for their own constituency and at the same time needing to take into account the diversity of the full group.

As Steve said, “Guess what?” Yes, guess what? When you are somebody outside of those groups who provide the candidates or the nominees to set up the full picture from among a larger

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group, it's sometimes easier than to ask to the ones who are defending their group to have a holistic view.

Thank you to SSAC to have done what they have done because I think it was at least a very good way to start this. But if we end up having three nominees by SOs and ACs, we will never get the diversity we are claiming we want to have in any new group set up within the bylaws.

We have to really think about having a pool of enough candidates. Now it's currently the Chairs of SOs and ACs who will decide to commit to this diversity prior to committing to defend their own population. Thank you.

LARISA GURNICK: Thomas, please?

THOMAS RICKERT: Just in response to the last comment. Certainly, in the call you can't prescribe what the review team is going to work on, but I think what we are discussing here is a clear expectation that the scope will be limited. Since the chartering organizations can also have an impact on who they appoint and who they withdraw, you can frame it accurately. But you are right: technically, you

can't a priori say you can only do that because the bylaws say differently that the team will determine what they're doing.

I guess the way to go in the call for volunteers is to say what the view of the chartering organizations is and that they wish that the scope be limited as follows. Then I guess people will come that have the required expertise in the areas that are mentioned.

LARISA GURNICK: Alan, please?

ALAN GREENBERG: Thank you. In terms of how we can prescribe what it's doing before the review team is picked, which the rules say it can decide, I think we talked about that earlier in the session.

The ACs and SOs pick the people. We can instruct them on what they will do. If they go rogue, we can remove them, should it ever get that bad. That is within our right. So that's number one. I'm not suggesting we're going to do that, but that is within our rights.

Number two, just for the record, for SSR, the ALAC selected two people who are only very marginally known, very diverse. So that's part of our standard practice at this point. Thank you.

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LARISA GURNICK: Please, go ahead.

OWEN DELONG: Just to clarify, I'm not talking about people going rogue. I'm talking about how you have seven different stakeholder groups and ACs and whatever that are contributing people to this process. Each of them may have a different view on what the scope should be. They may send three people with those different views on what the scope should be. Somehow that's got to get sorted out, and it's not necessarily going to go the way any one particular group wanted it to go.

ALAN GREENBERG: I think that's what we did at the beginning of this meeting. We sorted it out for the ATRT3, or at least most of us who have made decisions already made that decision and [have] done it pretty uniformly.

LARISA GURNICK: Sebastien, please, and then Donna.

SEBASTIEN BACHOLLET: Thank you. The goal is to select people with some knowledge. Each one can come and the Chair of the SO/AC may have decided that it will be this scope. But when they will get together, the group interaction can change things and allows these people with good brains, with good intelligence, who we put together, to decide something different. They will not go rogue. They will be in line with the bylaws. If we want people who'll obey everything, then maybe we will have trouble getting them doing the real work.

I think, having listened three or four times, that if they become rogue, they are not Board members. That's first. Second, we need intelligent people.

LARISA GURNICK: Donna, please?

DONNA AUSTIN: Thanks, Larisa. I'm obviously not an AC/SO Chair, so I wasn't involved in the process that they engaged in to do their selection, but is there any visibility into how they made those selection? Were they required to accept the three that were endorsed by – I know the Council endorsed three candidates and supported a further four. What process does the SO and AC

Chairs go through to actually make the selection to cover after the diversity question?

LARISA GURNICK:

Katrina, would you like to respond to that?

KATRINA SATAKI:

Yes. Thank you very much. I can explain the process of how we in the ccNSO see it. According to the bylaws, we can appoint three candidates. Our assumption was that, when we select these three candidates, they will be appointed. Our internal process – oh, now I probably have to explain our position on this.

We have three Councilors per region, plus three NomCom-appointed Councilors. So this a truly diverse group of people. Each Councilor went through the list of those candidates who wanted to be endorsed by the ccNSO, and they selected their top three candidates. Combining all the results, they came up three names that were endorsed by this diverse group.

Our belief is – we went through this when we were thinking about diversity on the CSC (Customer Standing Committee) – that, if a diverse group of people select three people – well, theoretically, you can have diversity over diversity. But we believe that, in this case, expertise – this is not a beauty pageant.

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We're selecting people who are going to do the work. If a diverse group of Councilors select people – good professionals – to be on the team, so be it. That's the process, and we have a guideline which is publicly available.

LARISA GURNICK: Would anybody else – Patrik, would you be interested in reflecting on your process?

PATRIK FALTSTROM: The process we have within SSAC when we are deciding to appoint people is that we ask the SSAC members for suggestions. So it's regardless of whether the people are SSAC members or not, as long as the individuals live up to whatever criteria there might be.

After that, if there are more people proposed than there are seats, in that case we are doing a vote. That's how we do the selection.

LARISA GURNICK: Thank you. Donna?

DONNA AUSTIN: Sorry, Larisa. I think I'm being misunderstood. I understand that the GNSO selected three and we put forward three preferred

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candidates plus four and the ccNSO put theirs forward and the ALAC put theirs forward, but who actually made the selection of the slate? Who actually selected the final candidates?

LARISA GURNICK: Margie, do you want to – or Alan? Thank you.

STEVE DELBIANCO: I can tell you that the bylaws say that it's the Chairs of the ACs and SOs.

ALAN GREENBERG: I can address that if you'd like.

LARISA GURNICK: Oh, yeah. It's fine.

ALAN GREENBERG: First of all, it was mentioned before that each of the groups can select three. The bylaws don't say those three automatically get selected. The bylaws say three get selected, but not necessarily the defined three. The Chairs have decided at this point that, at this point, we will take the three as preferred and put them in first if there are three.

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In terms of the process, the Chairs met, looked at the entire list of endorsed people, and came to the conclusion – I’m talking about for the SSR review – that we would pick the three. We would not include the rest that were the ancillary ones that I think only the GNSO and one other group supplied. In our case, we did not have a person from each region. We discussed that extensively and decided to let it stand and that the review team itself could bring in an expert or someone from the other region if it chose. So it was a very conscious, very active discussion of the Chairs to decide what the composition of the review was.

LARISA GURNICK: Thank you, Alan. Steve, please?

STEVE DELBIANCO: I’ll note that staff – Charla – posted into the SSR Review Team page that – this was just updated just a couple of weeks ago – gender and regional diversity shown on pie charts. It was 83% male and 17% female. There’s a pretty wide diversification of regions – 28% North America, 13% Europe, 11% Latina America, 23% Asia-Pacific, and Africa at 25%. So we seem to have achieved significant regional diversity. As far as gender diversity, I don’t know how that 83/17 compared to the pool of nominees

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since there was not much flexibility if the pool ended up looking something like 80/20.

LARISA GURNICK:

That’s a good point, Steve. We’ll see if we can add some of those statistics to our future disclosures.

Okay. Moving on to Question 6. I know we’re practically out of time, but Question 6 is really our last substantive question: “Would it be useful to have a member of the Cross-Community Working Group on Work Stream 2, essentially, be a part of ATRT 3? If so, what status should they have, and how should they be selected?”

STEVE DELBIANCO:

That’s completely up to the ACs and SOs. Coincidentally, that may well be the case. I don’t know where you were getting at with this question. Is it something that you wanted to prescribe that the ACs and SOs do or recommend?

LARISA GURNICK:

The question was something that struck us that it might be useful because one way to address the overlap and potential redundancies could be through a mechanism such as this. That’s really where we were coming from.

Thomas, please.

THOMAS RICKERT:

Just to shed some light on how we did things in the CCWG in order to avoid friction with ATRT, we actually had Avri Doria as the ATRT expert whom we asked for her view for consistency of the whole of CCWG activities with respect to ATRT. So I think it is not entirely unlikely that we might have somebody from the CCWG who will be on the review team, in which case that would possibly be sufficient to avoid friction. But I think it would definitely make sense to at least raise awareness amongst the ATRT3 team that they can call upon us and maybe also have a liaison or a CCWG expert for that matter to help them with what they're doing.

LARISA GURNICK:

Just to clarify, liaison as opposed to a review team member. But if the review team member happens to happen, leave it open and let's let the process work itself out, essentially. Or a liaison, right? Alan?

ALAN GREENBERG:

If we were doing the call for volunteers over again, saying participation in CCWG might be an interesting asset, I would

certainly include that. I would be rather surprised if we had no selected, endorsed applicants who were part of the CCWG. The ATRT3 can always call upon someone and ask them to join as an expert. So there's all sorts of options going forward. I don't think we need to worry about it.

But I would include it in a follow-on call if we do an extension.

LARISA GURNICK:

Thank you, Alan. Steve, I'll get you in one second. I just wanted to respond that part of the reason for having this session – I think we've collected some really useful feedback – is that the call of volunteers is open until the end of April. So there's still ample time to provide clarification and any additional guidance or anything that might be useful so that the ATRT3 applicants have the benefit of all this information and all these useful suggestions.

Steve, please?

STEVE DELBIANCO:

Thanks. Just a quick follow-up. If you did pick a member of the CCWG who was active on Work Stream 2, there's no way they would actually understand all six of the Work Stream projects that touch accountability anyway. No one person is able to

absorb all that. So it's not actually going to solve the concern of overlap – to pick somebody from CCWG. We should pick the best people we can to work on ATRT3.

If there's questions about what the Work Stream 2 projects are up to, please contact the Chairs of Work Stream 2 and CCWG. They'll quickly tap you into Sebastien on diversity or Cheryl and I on SO/AC accountability. We'll quickly respond with what the current status of our publicly-available draft report is and recommendations. Then it would become very clear how to avoid a collision. That will all have to be done, led by staff – thank you – but you have a place to go with respect to the Chairs, who can quickly get you the answers you need.

LARISA GURNICK: Please go ahead.

CHRISTOPHER WILKINSON: Thank you. I was just about to say something very similar to what Steve has just said. Look, the Work Stream 2 work is ongoing, and it's extremely well-documented. No individual, or indeed very few – certainly not me – have got a comprehensive view of the whole of Work Stream 2 at the present state. So I think the ATRT review team has to inform themselves in some

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detail – all of them – as to what Work Stream 2 is doing. Don't put the burden for the liaison on one individual. Thank you.

LARISA GURNICK:

Thank you. John?

JOHN CURRAN:

I guess I'd like to concur with what's been said, but I also want to put a note of caution, which is that a review team is supposed to define how the organization has been doing according to its existing practices. There's a lot of great ideas in Work Stream 2, but you don't want to accidentally review the organization against something that's being developed. So to some extent, yes, it would be a wonderful optimization to try to simultaneously solve both equations, but it actually might be better to evaluate the organization against the existing procedures and existing rules in Team 3 and recognize that deficiencies found, if they're relevant to Work Stream 2 topics, I'm sure will make it through the organization to their prospective Work Stream 2 teams.

LARISA GURNICK:

Thank you. And the final question, please. Which I promise will be easy. It'll be really easy: "Is there anything else that you think

would be useful that we haven't covered yet?" I really appreciate – oh, I'm sorry.

FILIZ YILMAZ:

Filiz Yilmaz, Address Support Organization/AC Chair. So I work with John a lot. One thing I want to mention is that this is all good. We have several moving parts. There are various reviews and there has been so much focus on these reviews for improving the community, for improving the legal side of things.

But what I also observed once in a while – this is coming from my experience, both being on the ICANN staff side and now moving further on more of the community side – is that things take time. A review team makes certain recommendations. They get sealed. They get into the bylaws. They get stamped in a way that ICANN must implement them or that we must implement them in a certain way.

But that happens two years later. The reality is that it's two years further on, and sometimes they don't fit. So whatever these review teams come up with, we need to acknowledge that flexibility. Things take time. While we get to that end point for implementation, those recommendations – some of them – may lose their original intention. Or sometimes they were expressed

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in a certain way and now they're understood in a completely different way.

So we need some kind of check mechanism or understanding to cope with that reality at the time of the implementation for whatever the recommendations come up with. Thank you.

LARISA GURNICK: Thank you very much. John?

JOHN CURRAN: I was actually going to address something that Steve said earlier, but Filiz gives me the same opportunity. I think we have less to worry about going forward with the ATRT process because it is true that, for ATRT3 under the new bylaws, the threshold to not implement a recommendation is a normal Board action. It's a majority action, as opposed to the two-thirds that it used to be.

UNIDENTIFIED MALE: [No, no.]

JOHN CURRAN: Sorry, you're right. It's the other way around. But it's a majority going forward. Right.

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STEVE DELBIANCO: The ATRT, in the Affirmation of Commitments, was simply the Board rejecting or accepting, and that's a majority. We haven't changed any of that.

JOHN CURRAN: Right.

STEVE DELBIANCO: Work Stream 2 –

JOHN CURRAN: 2. That's what I was saying.

STEVE DELBIANCO: Is two-thirds to reject.

JOHN CURRAN: What I'm saying is that we don't have to worry about the simple majority because, even though it's the same as before and it's not something that's coming out of the Accountability activities, it is being done in a world where they do have to say why they don't follow a recommendation. It's a world where a capricious

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failure to follow an accountability finding is probably something that wouldn't be well-received by an empowered community.

LARISA GURNICK:

Any other comments before we close this session?

Well, I'd like to thank the panelists and the participants for a very useful discussion. We will take your suggestions and feedback on board. Thank you very much.

[END OF TRANSCRIPTION]