
SINGAPORE – Affirmation of Commitments Reviews Process

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ICANN – Singapore, Singapore

STEVE CROCKER:

Good morning, everybody. This is a session on the Affirmation of Commitments review process. I'm, frankly, shocked that the room doesn't have hundreds if not thousands of people in it. I don't know of anything that's more exciting and absorbing than these details. Well, that's my attempt at humor this morning.

The overall topic is on the Affirmation of Commitments and the reviews associated with them. I want to focus partly on the general aspect and partly on the second accountability and transparency review that was conducted last year. And the recommendations are being examined and responded to now and start off with that. And then we can have an open-ended discussion on broader set of issues.

Does this work? Next slide.

So the agenda is straightforward. Overview of the recommendations. Look at the process. And then current status and discussion. Next slide.

The review team did a fantastic job, worked hard all last year and met the deadline of turning in a report December 31st last year. And the structure of the report was 12 recommendations. In light of previous experience, both with ATRT1 and the other reviews, they steered toward having a smaller number of recommendations rather than a larger number compared with, say, 27, I think, if I recall correctly, for ATRT1.

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But, equally, as we experienced in prior reviews and in this review, each of these recommendations, almost all of them, had multiple pieces to them. And the word that we're using for the moment is "components." So, in looking at the 12 recommendations and slicing them in to the finer portions that we're using to analyze and take action, we come up with a total of 51 components. These are grouped -- these 12 recommendations are grouped into eight areas. So that's a slightly broader grouping. And they're listed there on the left side of the slide -- board performance work practices, recommendations 1-3; policy versus implementation versus executive function, recommendation 4; decision making transparency and appeals, recommendations 5, 7, and 9; governmental Advisory Committee operations and interaction, recommendation 6; multilingualism, recommendation 8; cross-community deliberation, recommendation 10; affirmation of commitment review process effectiveness was focused on and there's a recommendation 11; and, finally, recommendation 12 covering financial accountability and transparency.

And the number of components in those is listed in the third column. And, very important, the last column is the board group that is examining these. I'm going to skip over that for a minute, show you what our process is, and then come back to this slide.

Next slide.

So the general expectation, I believe, is that the review team does its work, writes a recommendation, and sends them to the board. And the board says, "Fine, we'll do this." And then magic happens, and all of



them get implemented. Unfortunately, we lost our ability to do magic. So we have to do real work.

And we spent a lot of time trying to bring to the surface the details of what that process is after the recommendations are turned in.

So sketched out here at the top it says the review team provided 12 recommendations with a total of 51 components. And then we go through a process of, first, staff review, which has four parts to it.

The first question that gets asked -- and this gets asked of each and every one of the 51 components -- is: Do we actually understand what's being said? So this is the handshake or the handover from the people who write things to the people who read things. And, in principle, there should be no question there. And, if there is, then what has to be done is to go back and seek clarification. There's no pushback on the content. There's no decision process. It's just a question of do we actually understand what we're being told.

And then the second is an assessment of feasibility. Suppose we say, yes. Is it actually doable? Is there any fundamental flaw in the structure of what was being asked for such that it's impossible to do? Both of those are intended to be very easy, relatively quick checks but necessary as a matter of form.

The third step is more substantial. And, that is, suppose we do say yes. What will it take to actually carry that out? So that's an assessment of the resources and time and where the responsibility would be lodged. Who would be doing that? It's not a complete plan, and it's definitely not a commitment. It's prior to commitment. But it's an assessment of



what the magnitude would be of the commitment we'd be making, if we say yes, and some rough idea of how to go about it.

And then, finally, the fourth step in the staff review process are recommendations from the staff. These are not binding on anybody. But it's input to the board so that we understand what the view of the staff is. And it's pretty helpful.

I'm going to also break the sequence here for a second and jump to the next slide, and then we'll jump back to this one.

The notion of what the staff recommendation is and also what the board's final decisions are, we've adopted this nomenclature. I think it arose from some Board/GAC negotiations and consultations several years ago. 1a, adopt without modification; 1b, adopt the recommendation in principle and mostly in whole but perhaps with some modifications. Both of those are forms of yes. And 2 is reject the recommendation with, of course, necessary obligation to explain in detail why. And so that's the "no" side of that. Can you bounce back to the previous slide?

So, once staff work is done, we now move it to the board. And the board process itself is in big steps. We break our work out in the board and farm it out to the appropriate committees that have time and expertise to focus on things.

And so we will manage the process of these 51 components being moved to various committees. And the committees will study them and then recommend to the board what to do. And then, in step 6, the board will formally usually adopt but, in any case, act on those



resolutions. We're committed to accomplish all of the steps up through step 6 by 30 June, a six-month period.

And, of course, if there's any way to implement things within that time, that's so much the better. But the formal requirement that we're adhering to is to make those decisions. And then implementation progresses. The implementation is not intended to be open-ended. It's not intended to be opaque. Or, to put it in positive terms, it's intended to be a managed and visible process. So part of what we have instituted is that, associated with each of the components during its implementation phase, is a small set of high-level milestones. Small set 2, 3, 4, 5 milestones, but not a large number. And then reporting against the completion of those milestones with an expectation as to when they're going to be done and when they are done. And, finally, a last step of a -- some form of audit. We don't have a specific process. And it isn't clear that a single mechanism would fit all of the different recommendations. But an explicit check to see that all of that's been done, and we close the loop.

All right. Let me now bounce back to the previous one. No, backwards one more. Thank you.

So that's step 5 where we have different board groups involved is what is listed over in the far right column.

And we've listed here which groups within the board are going to be looking at which of the recommendations.

So we have the board governance committee looking at the first three groupings. We have the Board/GAC recommendations implementation



-- is that right? -- working group working with the GAC on the one -- the recommendation that applies to the GAC. That single recommendation number 6 has 12 components, so it's a heavy-duty thing.

The multilingualism -- we've asked Sebastien to take a look at that and gather whatever help he needs. But it should go relatively smoothly, I think.

And then, again, the board governance committee and BGRI looking at cross-community deliberation issues embodied in recommendation 10, which has 7 components.

Our structural improvements commit that Ray Plzak chairs will be looking at recommendation 11.

And our finance committee chaired by Cherine Chalaby is already, I know, looking at financial accountability and transparency recommendation which itself has five components. Now I've finally knitted together all the back and forth. And slide after that.

So here's where we are. We still have four components that have -- are -- have not yet made it past step one. I have to confess I don't know why, but I'm sure that we'll move those along quickly -- and five more that have not yet passed our formal check for feasibility. Nine are being assessed for what the resources are. And 33 are -- have come out of the staff recommendation process. And those recommendations are broken out into 26 accept without modification and 7 accept with modification and none that we are saying you guys got it wrong, we're not going to do that.

As you can see, we are at the beginning stage of steps 5 and 6.



In round numbers, that's two-thirds of the components are through step 4. And, assuming that the board committees that are working on this find that the information that they've been given is complete and satisfactory, their work should go along pretty smoothly.

We're nearing the end of March, which is the halfway through the six-month period. It's real easy, I know, to lose pace and get behind. But we're intending to drive this firmly. The board will be meeting in a regularly scheduled retreat toward the end of April. And, of course, the board will have a formal meeting as part of the next ICANN meeting in London toward the end of June. And this is a priority project and getting managed as such. Jamie Hedlund here is overseeing it. We're working out regular reporting and not only between us but to share with the community so that you can see what the state of affairs is for everything. And I plan to hand out gold stars for early completion of each of the committee chairs.

Next slide.

So that's the summary of the detailed process that we're engaged in. And I am conscious that it's all been process that I've talked about. We haven't talked about the substance of any of these recommendations. But, speaking as somebody who is both on the receiving end of the recommendations and who have participated in the committee, it's all quite reasonable. And I'm -- I have a high expectation that we'll be able to fold it in and improve our processes in the expected ways.

So here's the discussion questions, and this is where we open the discussion and invite all of you. And do we have remote participation? No, no remote -- okay. So this is what we have here. This is -- so in the



context of the overall accountability conversation, how should these reviews evolve? For those of you who have been watching the process, we're very interested in hearing your perceptions. What dimensions should be considered -- timing, scope, method, resources? How can we improve the communication around the preview process to achieve greater awareness and greater participation?

So with that, let me invite anybody else who wants to pitch in here. Let me recognize that we have Fiona Asonga hiding back there who is an active member of the review team. I don't know if anybody else from the review team is here. Larisa and Alice were strong staff support. And so those are the ones who are conflicted and biased in this process. Everybody else is neutral, right? All right. Good. So the choices are either a vigorous discussion or an amazing recovery of time that can be repurposed for something else. Ah, never fail. Mr. Gomes.

CHUCK GOMES:

Oh sure. This is Chuck Gomes. Thanks, Steve, for a good summary there and also for the impressive well-planned approach for dealing with the recommendations. I was very impressed with the work of the review team. It was a really good job.

And one thing -- I don't know if I missed it or what. The review team also identified 10 recommendations from ATRT1 that weren't fully completed. How does -- how do those fit into the process that you just described?



STEVE CROCKER: At the risk of falling into a hole for faulty memory, I'll tell you what I think. And then I'm going to call on the people who know.

My recollection is that they're all there. But rather than being called out as a separate recommendation of do it again, what we said to do, they're marbled into the pieces of organized by the areas that they were involved in so that no one would have to cross-check the interiors of each of those 12 recommendations and see that they're derived from the review of the ATRT1. I think it's an excellent question, and I would like to have a chart that shows that relationship more strongly.

Fiona or Larisa, is there more to say than what I've just said on this? Nope? Okay.

PAUL FOODY: Good morning, gentlemen. Paul Foody. Is the U.S. withdrawal from its role of steward of the Internet conditional upon satisfaction of the Affirmation of Commitments?

STEVE CROCKER: So the first thing is the U.S. isn't withdrawal from its role of steward of the Internet. It's withdrawing from its role as steward of the IANA function.

PAUL FOODY: I know. I was at the discussion the other day, and there was a fair amount of confusion even from there. But, from the point of view of Affirmation of Commitments, those are commitments to the U.S., to the U.S. government, yeah? That's correct?



STEVE CROCKER: Yeah. I think the intended understanding is those are commitments to the world, to the global community. The Affirmation of Commitments is written as a document that's signed off by ICANN and by the U.S. government. But the commitment is really to the world. And -- I don't anticipate changing our -- any of our review processes except in the recommendation for what's recommended to change for improving them. But I think this is relatively stable.

Jamie, you're in the middle of all this. You want to add anything?

JAMIE HEDLUND: No. Just to say that there are two separate items, and they're not the -- I don't know of any conditional link between the IANA transition, the proposed IANA transition and the ATRT2 implementation. They've -- those two agreements have always been separate. The AoC has covered everything but IANA, and the IANA functions contract has covered IANA.

PAUL FOODY: If you have made commitments to the U.S. government, actually, on behalf of the interest of the world, you know, which is what I understand you just said, then, if the U.S. government does not see that those commitments have been fulfilled, what sort of precedent does it set for whoever follows in their footsteps?



STEVE CROCKER: Well, first of all, the commitments are being fulfilled. So I'm glad I don't have to deal with that. But, as Jamie said, the linkage isn't there.

PAUL FOODY: Thank you.

STEVE CROCKER: Yeah. Thanks. Sebastien, would you like to add something?

SEBASTIEN BACHOLLET: Yes. I wanted to add that, even if it came from the Affirmation of Commitments, it's becoming a review team to take care of the whole organization. And the people who are members of this review team are coming from all part of ICANN and even outside of ICANN. Then it's more to them who represent the world that we have to commit as a board to deliver what they ask for. And whatever -- who will be signing the affirmation of commitment tomorrow, if we have one, we will have to take care of the evolution of the organization. And it's not because it's the role of the UAG will change. We need to change how we see this organization to evolve.

PAUL FOODY: But, based on the attendance at this meeting this morning, is there, you know, a belief, evidently, that this is not that important an issue any more?



SEBASTIEN BACHOLLET: I don't think it's the case, because we already have a session on this topic on Monday evening. And we are in -- with a lot of meeting in competition. And you can't assume because there are few people in the meeting room that it's not a topic that it's important for the whole community. It's one of the points of the organization of this meeting. It's one of the reasons we will propose some change in how organizing the meeting in the future. But that's another topic.

PAUL FOODY: Thank you.

SEBASTIEN BACHOLLET: Right.

STEVE CROCKER: Mr. Zuck.

JONATHAN ZUCK: Yes, hi. Jonathan Zuck from ACT.

And, Paul, let me assure you that I am still very interested and I have a loud and annoying voice. So continue to bring to bear on this.

I have a couple questions that I suspect there aren't immediate answers to, so they might sort of seem like comments. I don't know. One is -- is there an attention to bake into the ATRT process, as it evolves, the notion of reviewing the recommendations of the previous review team to see if they accomplished what they were put in place to accomplish in the first place so that there's a sort of iterative component to this.



And, if so, there's some implication to lots of things not being implemented by the time a review takes place, right?

And so that leads me to my final question, and I want to ask this in a very non-incendiary way because I feel like a lot of these conversations have gotten hot, but I really enjoyed the -- the explanation of the implementation strategy and the steps for that, including the milestones associated with the implementation of the adopted. What I'm interested is drilling into that just one step further to understand what happens if a milestone is missed? In other words, can we bake into the process that something significant will happen at that point that involves putting more resources into it or assessing why that didn't happen to make sure the next milestone isn't missed or something so that the accountability part is there alongside the transparency side. And I guess that's what I'm trying to get to in this process, is that if I miss a milestone, what are the implications of that?

STEVE CROCKER: We shoot the manager.

JONATHAN ZUCK: Okay, I was going to ask if Jamie loses his job but that felt very personal and I didn't mean that. But no, I guess that's my point is that rather than shooting the manager should the manager get help or should we have something actually built into the structure of implementation strategy that incorporates the notion that a milestone is missed and what happens when that takes place?



STEVE CROCKER: Yeah, we'll -- we'll give you a bit more serious answer to that. Ray, the quintessential manager, wants to answer this.

RAY PLZAK: I'll answer the second question, first, which is, with every one of these things there's going to be probably some sort of -- staff will develop some sort of a project plan, if you will, to get the work done because they have to allocate time and treasure and talent to do that. And inherent in any project plan is always a risk assessment. And so when you have a project plan, you're going to look at what you're trying to do and you're going to assess the risk of being able to complete those things on time, you're going to be already thinking about mitigation measures and so forth. So I think the matter that the course is is to get to a point where you don't have to go out and shoot Jamie. We can do something else, which is move the process through.

The answer to your first question about the -- getting things ready for the next review, I believe if you look at slides -- the slide that Steve had up before of the process, item number 8, I think it was, that talked about the evaluation assessment, at that point what should be happening in the process is that as the -- putting together the implementation report, if you will, it's closing the book on the thing, you will be identifying those things that were done and that is going to be handed off to the next review team. In addition, there are other mechanisms that you can use prior to the start of the next review which is -- if appropriate, some kind of self-assessments and a few other things. So there are some pre-review activities that will take place that



can take care of that. And so if it's -- so that last block has got a lot of meat into it, and I think that will satisfy with what you're asking.

JONATHAN ZUCK:

I think a part of me -- sorry.

STEVE CROCKER:

Let me -- the first part of your question had some multiple pieces to it and some subtlety that I wanted to address because I thought it was a very good question. What I heard was, what do we do about whether they -- there were two interrelated ideas I wanted to tease apart. One is, how do we know whether or not it's been implemented and the more important question, which is harder to get to, is how do we know it had the intended effect. And then there was a third part which had to do with the time it takes to do it and how that feeds into the review process, all of which we've had to experience -- all that resonates very well. So the first part of whether or not it's been implemented is part of what Ray talked about, it's part of what the reason for the -- that step 8 is. And as you heard, there were claims -- statements that we did not implement all of the ATRT1 recommendations, how is that dealt with in this one, and the answer is there's explicit text in there that says you didn't do it.

The bigger question of does this do what it's supposed to do I think is simply dealt with as part of the review process, that's sort of the overhanging question of who are we, are we getting where we want to go. The -- the timing question is also relevant. These things are on three-year cycles and I can tell you that there's a lot of discussion about



whether that's too quick, whether we're tripping over ourselves and sort of in continual review mode. No answer on that, yet, but that's certainly a live question.

JONATHAN ZUCK:

I mean, I guess -- and again, a lot of this sounds good in theory and I just -- I would love to kind of push wherever the buttons are to push to try to implement some of this kind of thinking in a rigorous way this time around. And it could be that reviews shouldn't come as frequently but assessments of implementation value happen along the way, for example, so that changes can be made to strategy along the way. Because presumably changing the comment structure to include replies had a -- a desired outcome and so I'd be very curious whether that outcome occurred as a result of --

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Right.

JONATHAN ZUCK:

That is something that got implemented, right, the reply period thing? And there was a reason it was implemented and yet I don't know why to really memorialize whether or not that had the impact that was desired by --

STEVE CROCKER:

I think you're asking exactly the right question and with respect to replies to comments I already know that it has not played out exactly as



intended. It may play out in a good way, but I know that it -- that the actual result was not exactly what was expected. Ray?

RAY PLZAK:

Yeah, one of the stronger arguments for extending the time between reviews is that if you look at the three-year cycle, one year is spent doing the reviewing which is assessing and coming up with recommendations and findings. A good chunk of the second part of it is involved with implementing those recommendations and taking care of the findings. And then a third part of it is operating with it. Well, there's not been sufficient amount of time to gain operational experience in a lot of cases. And so that in and of itself says that that -- that should be extended out for a period of time, you know.

In reality, that period of operational time after the implementation has occurred, whether it's putting it into plans or immediately implementing it and getting it into a budget process or whatever, you need to have time to operate that because you have to then be able to do what it is that you're asking, which is do the -- the outcome analysis, if you will, you know, and that's the questions that Steve was saying. Did it do what we wanted it to do? Was there unintended consequences of it? Did it actually break something else? But you need operational experience to do that. So that in and of itself would say that you should have a longer time. And so I can tell you that inside the structural improvements committee these are the very factors that we are looking at and intend to implement with -- inside of the organizational reviews.

JONATHAN ZUCK: And I appreciate that. Thank you very much for your time. Again, I think the -- the way we'll know how much operational time is needed to make that kind of assessment is to commit to making them and to start doing that portion of it, because then we'll know more about what that time frame should be. I mean, beyond that, it becomes theoretical. So I'd love the theoretical to become practical as much as possible.

SEBASTIEN BACHOLLET: And I would like to add one point about your question about the comment period. When you extend the beginning of the implementation of the specific recommendation of the ATRT1 that we will not really answer the need of the community with a real comment and reply type of comments embedded. We were obliged, for technical reason, to split the two. And it was not what we wanted to do and what was what was asked. Then it's still working out for technical reason. I hear it will come soon now and we have the review team of the ATRT2 who say again that we need to move on that issue. And I hope that now the two will be here and we will find a solution who better fit with the need of the community.

JONATHAN ZUCK: I share your hope. Thank you.

STEVE CROCKER: Good morning, Marilyn.



MARILYN CADE:

Good morning. My name is Marilyn Cade. I'm going to open my comments by recalling the president's strategy committee which worked for three years which contributed into the Affirmation of Commitments which led to the creation of the review teams and use a couple of analogies about how can the reviews evolve by saying I think we need to reconsider a little bit how to provide -- and I heard Jonathan making a number of relevant comments that I would certainly agree with, but also to think about how to lift a little bit of the burden on the community to be able to make the cost of time participation a little easier. And one thing that has happened between ATRT1 and ATRT2, which the decision may have been made on a logical basis by the two appointing officers, but it had a relatively negative impact on many of us in the community in perhaps an unseen way. In the first ATRT1 each SG was allowed to have a representative on the review team. In ATRT2 we were not.

The house was allowed to have a representative. The answer to us was that that was because of cost or the size of the group would be too large. But the unintended consequence of that is actually an increased burden on the one person from the house -- and I'm using code language, I realize we're being transcribed -- so between a particular part of the GNSO, one person who had to now try to keep a much more diverse group of communities informed while also doing the day job she holds and also doing the job she holds of being active in a particular SG. So the decision -- we were not the only ones that this applied to. But the decision to do that had another unintended consequence and that is it added additional burden to the SG that wasn't represented to try to figure out how to have input. That may not look like a big consequence



to you, but what I am saying to us as a bottom-up consensus-based but also participatory organization, that we need champions who are engaged in the reviews to also be able to champion back into their community and to be able to do it very easily and effectively.

So actually having people appointed into the review team from just a few other places from the community, it will only add four or five more people at the most, is going to give us what I always think about in the -- coming from both the profit world and the nonprofit world in my past, this gives us emissaries and it also gives us touchpoints for understanding more broadly what is going on and what the needs are. So I make that point. I have seen that happening over and over in review teams, and I just question whether that's getting us where we want to go.

The other thing that is happening -- and I'll point this out -- the CCWG that was just created on Internet governance took a very different model. We allowed up to four appointees for SOs and ACs, and most of the ACs took us up on it. Most of the SOs, not all, took us up on it, and we have a very diverse, very rich group of people. And the -- we didn't limit the size by saying oh, you can only have two. So I think we need to think about how can the reviews evolve and think about maybe even needing, you know, two stages of participation in order to deal with what we want to be a much broadened and deepened community.

The other challenge we have is that if we limit the number of participants to the review teams too much, we're going to miss the geographic diversity we have. And now I'm going to make a point about the second bullet and the direct linkage to the initiatives that the



communities have, not ICANN, but the communities of ICANN, to build and strengthen the participation from their community and being able to engage both locally and then actively at the ICANN level. The business constituency has had a leadership develop program which has helped to bring in diversity of leaders that continue to work in their region but they are very active in ICANN and in the business constituency. So we are trying to grow the diversity. Every community at ICANN is doing that. And I think we've got to think about the linkage between the initiatives we had that are building and strengthening the diversity of ICANN and how to created a long-term path so that people can also then become the leaders and active in the review process, bringing enough knowledge and experience to feel that they can make an active contribution and that their community will endorse them.

The communication on the review process is -- and perhaps the new Web site will fix this, but I think most of us would feel that we haven't yet learned to speak in informative terms that are non -- that are easy enough to understand for the diversity of -- the diversity of the audiences who need to read and digest them. When I was at a major corporation we had a number of rules about the number of pages that could go to the executives as we went up the line and the -- I don't think we've quite figured out yet how we get the layer of communication materials that's at that mid to senior management but not at the CEO or the minister level that is really easy to understand and clearly explains.

I think we're making progress, but right now the review process is too -- the implications of the review process, I think, are unlinked to the day-to-day work that we're doing here. I think also, it's difficult for all of us to figure out how we actually -- what we say is incorporated into the



changes of the actions of the organization. And so that's a gap we've got to figure out as well. We say things at the public microphone and we assume that that is providing public comments. But actually in the summaries of the public comments it's often only the written comments. So the burden on the community is to write public comments. If they choose instead to make public comments at the microphone, it's not always clear to us that those are treated as legitimate public comments. For many of us, those public comments are approved statements. This is a difficult gap, but I hope we can try to bridge it.

STEVE CROCKER:

Thank you. Let me comment, Marilyn, on the multiple things that you said. I listened very closely to what you are saying and I grouped my understanding of what you said into three parts and I'll do it in sort of reverse order.

On the last part of how we deal with comments made orally, I suspect that there's indeed some work to do there and I don't have anything deeper to say at the moment, but I think you made an important point and it bears examination.

On the -- the second part is -- that I heard was the clarity of the -- of our communication coming out of the review process, the reporting, I imagine both incrementally as it's going on and also the results and so forth. And I think that that's very, very important. I suspect we're not close to where we need to be at, speaking as one of the people who gets inundated with too much paperwork and hungers for compact,



concise, crisp documentation. It's a work in process. It's been improving, but there's more to do.

The bulk of what you covered at the beginning -- I mean, what you covered at the beginning, which took up the bulk of the time, had to do with effective selection process for the thing. And to the benefit of everybody else, and I know Marilyn is deeply aware of this, the -- the rules that were set up are that the chair of the GAC and the chair of the Board, that is Heather Dryden and myself, were the ones responsible for making the selection of the committee -- forming the committee. The -- and there were two methods -- two pathways for people to apply. One was through the SOs and ACs and the other was as an independent -- I forget the precise term but independent contributor. We were deeply conscious of all of the issues that you've raised, fair representation from the different segments, geographic representation, et cetera, the history of what the prior make-up had been and how that was done, and we were also conscious of what degrees of freedom we had, to what extent the selection process was cast in formal rules that had to be adhered to and to where we had some flexibility.

You emphasized the impact on the people doing the work and you emphasized the impact on the communities that were or were not represented and so forth. Another element that is very important is the dynamics of a -- of a group that has to work together for a year and get stuff done. Changing the numbers from, I think we had 16, if I recall, to 20 to say if we were going to add 4 more, is not a small change. The dynamics of work groups is a well understood and studied activity and the numbers are rather more sensitive than they might look on first glance. So this is a pretty important element and not to be dealt with in



a casual fashion so that if we were -- if we said well, we just have to add more people, it would be at a cost and that cost would be those dynamics. Whether or not we agree I can tell you that that was a strong concern.

The second thing that was in our mind, which was very relevant to, from where you're coming from, is a question of okay, what balance do we need? We believed that, for this review -- and this is -- I'll take personal responsibility for this -- for this review, that the set of things related to the governments and how they were going to be represented and involved and what they cared about needed to be one of the strong focal points for this review process. Now, you can disagree with that or you can say that shouldn't have been a concern. But I will say, straightforwardly, it was a concern. And that was one of the things that shaped, to a certain extent, that choice. So, to the benefit of everybody else so that we're not talking in code here, the issue that I know is of concern is that there were four -- if I recall correctly, four candidates to be on the committee proposed by the GNSO. And we selected two, but not four and that that was a reduction from the prior review. Do I have those numbers correct? Yeah.

And we didn't -- we didn't do it as a matter of prejudice or bias. But we also didn't do it casually. And I can tell you that one of the checkpoints, in terms of thinking through that, was looking at the people that we selected and having an extraordinary sense of their talent, capability, breadth, and depth of knowledge historically and so forth. So we chose people that we considered to be strong candidates from the GNSO to -- and so it was not without at least some thought about the ability of -- or the process of the GNSO issues being properly represented.



I'll close with one more thing. Once selected, my view is that the review team should function as a review team and not as a set of representatives carrying things back and forth to their communities all the time. They may need to do that, but it's not a parliament in that sense. It's a coherent body that has a unified purpose and as opposed to a balancing of vested interests.

So, at the very least, I hope you understand that I listened carefully to what you were saying and that there was a thoughtful process maybe different than what you had in mind or you may disagree with it but not a casual treatment of those ideas.

MARILYN CADE:

Thank you, Steve. It's Marilyn. I take note of one word that is in the first bullet point. And it's called -- that word is "conversation."

And the reason I call this word out is you just actually had a very responsive comment to points that I made. And I want to emphasize how much I appreciate that. Because there hasn't been enough conversation this week on the part of many people. There have been statements made. And I don't feel like that's what you just did. And I want to thank you for that. So I'm going to very quickly respond.

I, too, feel very strongly. But I should disclose that I actually have professional training in organizational development and in group work. I know a lot about group dynamics. I actually run groups in a number of places. Catalyze them and support them.

And one of the things that I see here is I think we're a little wedded to our technical background on some of our assumptions. And we're at a



culp. We're at a very unique place where we have to be able to go very broad now into a very diverse expansion of participation. So this is not a criticism. I'm trying to force us and myself to think about whether the way we have been structuring these groups is actually going to work for a legitimacy purpose. And that's why I made the comment about maybe we have to take a 2-stage, I'm going to call it now, a halo effect. Because you're right, in my view, that, once you're appointed to a review team or once you're elected or appointed to the board, you're there for a broader purpose. But, having someone from your community that you know in that role, brings a kind of credibility when you look at that group. Not that the person is reporting back, but that you have some idea that somebody on that group understands what you're experiencing or where you've come from.

So that was the point I was trying to make more than in any way suggesting that people come back and report back. But that's why that comment is linked to my comment about how our communications materials have to improve. Because right now, there may be a gap there if we don't have good updating communications, easy to understand materials.

STEVE CROCKER:

Thank you. Ray.

RAY PLZAK:

Marilyn, I'd like to speak to your last point, which is what happens with all the public comments and how they proceed down the black hole. You're right. There should be something that's done with them. And so



it would be time consuming to do it. It would be time well worth spent. But I think, in the end, people -- if we're going to go do that, we have to realize the fact there's an expectation it's going to take a little bit longer to get it done.

MARILYN CADE:

Really quickly. I think I have the answer. Let's at least try it. Tell people who make a public comment that the only way they can be sure of getting their public comment included is to give a one- or two-page summary of it to go into the public comment period. Then people don't go to the microphone and assume it's going to be included. Give us the option. If we choose not to submit that, then it's not documented. But then we can see if a different approach can emerge when there are more resources.

RAY PLZAK:

Thank you for completing my intervention.

REMOTE INTERVENTION:

Hi, this is Alice Jensen from the transcript record reading a comment from public comment participation. Carlos Raul says, "I have a question on the progress of the team developing metrics or standards for the competition review and when they think it will be called as this year seems to be overburdened with other meetings and projects. While the previous reviews can be directed to the board, I wonder how the board will carry on with recommendations on competitions down the value chain."

Thank you.

STEVE CROCKER:

Thank you. I don't have a quick answer to that.

SEBASTIEN BACHOLLET:

It's currently one document that is in front of the board for discussion during this week to get a step ahead with the requests from the board or the cross-community work or GNSO and ALAC working group. I don't know how many organizations are a member of this, but at least run by the GNSO. And they ask the board to have some consideration on the -- some metrics to take care of them as soon as possible. And it's something in front of the board. And I hope that it will be done, and then the schedule must be fulfilled to be ready in one year to start the next review about the new gTLD.

Jonathan, you are the chair or co-chair -- I don't know -- of this working group. You may say few words where you are, because you are more important to what we are doing. You are the one doing the work today.

JONATHAN ZUCK:

Well, I don't know if that's a measure of importance or insanity. But, just to answer the question, briefly, from the person -- I don't remember who it was who asked it, but we are in the middle of the implementation phase of the implementation working group that is working on trying to figure out what the practicalities are of capturing the metrics that were recommended to the board by the GNSO and by ALAC originally. So there's a cost/benefit analysis that's taking place.

But what's happened short term and resulted in interim recommendations to the board was an evaluation of data that was expensive to gather and couldn't be gathered after the fact. So that's the initial appraisal that's happening inside of the working group is to determine which of those metrics require the collection of data now so that it's not lost at the point of review.

Many of the metrics can be discovered through historical record and some that could not. We put in a request for the staff to collect the ones that they could do automatically and requested the board to approve the collection of -- one was a survey and another was an economic study -- of data that, if it wasn't collected now, would not be available to us at the time of review. So, once those two things are accomplished, then the process of determining a cost/benefit analysis of the different metrics will take place to create a recommendation for the ultimate review team. But our initial effort is to make sure that the data is in place for them to make the choices at the time the review team is convened.

STEVE CROCKER:

Good. The whole process of kicking off the fourth review for the -- under the Affirmation of Commitments on competition and trust and choice will need a lot of attention and explanation. All the more so in light of Marilyn's comments about communication.

And the preliminary work that you're referring to, which is all important, needs to be understood that its role is, in fact, input to the structuring that process as opposed to it being the process itself.



JONATHAN ZUCK: That's absolutely correct. It's really about making some recommendations and making data available to the review team when it convenes.

STEVE CROCKER: Thanks.

PAUL FOODY: Paul Foody again. Just an observation on that public comment comment you made. Fadi, back in Toronto, promised he would write to everybody and answer every question that was raised at the public comment period or the public forum. So to say that all those observations just disappear into a black hole seems a little odd. Do you recall him saying that?

STEVE CROCKER: Yeah, I do.

PAUL FOODY: Yeah. Thank you.

STEVE CROCKER: Make a note of that.



MARTIN BOYLE:

Good morning. My name is Martin Boyle. I'm with Nominet. And I have a couple points I'd like to bring up. But I'd like to start off with the preface that this whole process is vitally important and is going to become more important as ICANN goes down the path of increased globalization. And, to some extent, I think that means that we've got to think about how useful the process is in showing, not just the transparency to the community and the outside world, but also the accountability to the outside world. And I think there are probably two specific things that the ATRT has to do.

The one is all about improving ICANN's processes to make sure that they're transparent, that they're efficient, and that they are responding to that wider need. But there's also another one, which is really how accountable is ICANN in its dealing with the world? And that's, to some extent for me, seems, firstly, a need to identify what the outside world needs in order to get some metrics into place. And then, secondly, to try to judge whether ICANN is meeting its -- shall we call it service level agreement type operation as it goes along.

And it's because of that second one that I feel a little bit concerned about the suggestion that three years is perhaps too short in between cycles. Because this is the regular or has to be the regular report back from ICANN to the world at large as to what it is doing and how it is doing it.

My second point is really associated with the third question on the slide set. And yeah. I'm sure people are following the process. But it starts to become very much a process.



And it seems to me that, actually, from ATRT1, there was a lot of really good stuff that came out. But what failed to happen -- and I wondered whether it could be put in in a fairly simple way -- was, essentially, the CEO in his report back to the community saying this is where we've got to. So we had our score chart, and these are the things that are in implementation. Have we done it? So that each and every meeting the whole community is reminded of the important or importance of those recommendations and can see how they're being implemented. And then that can also pick up on what the difficulties might have been in making sure that they were implemented and also feeding back as to whether they were achieving what they were intended to achieve.

So that was my sort of two cents' worth.

STEVE CROCKER:

So, on your very last point about whether it's achieving what it's supposed to achieve, that's the all-important big question.

In terms of reporting on what's been done and where we are and so forth, that's why we put so much emphasis on structuring the process after the recommendations were delivered. So the current phase is the absorption and decision process but also quite a bit of emphasis that we put in during ATRT1 in which I will redouble the effort is on the reporting of the progress of the implementation in ways that are clear and easy to understand and available in a public and regular basis.

At the beginning, I listened carefully because there's a subtle issue that you touched on. The letters ATRT are accountability and transparency review team.

Emphasis on accountability and transparency. You slipped in one of my favorite words about whether -- I think it was effective. Maybe it was efficient. It was one of those two Es, because I like both of them.

But the essential element there, which I think is very important, is it's possible to have an organization which is completely open and transparent, you can see everything, and which stands to be held in account and is, nonetheless, ineffective and inefficient. And that does not strike me as a good state to be in, that it's not sufficient to be accountable and transparent. We also have to actually get our job done, and we have to do it effectively with -- we have to do it effectively, and we have to do it with the proper use of resources. And so it's more complex than just accountability and transparency.

That leads to the question of, well, what is the scope of the accountability and transparency review team? Is it just accountability and transparency, or does it also include the effectiveness of the organization?

And there was some debate as to exactly what the scope is and so forth. I think that remains to be fleshed out. There's certainly some attention to whether we are effective at getting our job done, and the ATRT looked at that. But it is not as crisply focused. It is not as directly called for. And so, at least in my mind -- this is kind of a personal statement -- it's one of the things that I, too, care about. And I'm not sure where we're going to go with all of that. To first order, the board is tasked with making sure that the -- that we're doing our job. And one holds the board accountable if the organization isn't responsive, because the board is supposed to be holding the organization accountable. And,



certainly, we oversee the use of resources. And we oversee the completion of commitments and, you know, whether we're being effective.

So I'm not trying to take this to a certain point, but I just wanted to highlight the interplay in those concepts and the -- some of the subtlety plus the importance of that.

MARTIN BOYLE:

Thank you for that very extensive reply. And I agree with you. It's a multidimensional task in front of it.

But I, specifically, referred to trying to identify those things, those measures that would also help us identify whether ICANN was doing, essentially, a good job. In other words, it would be the measure at which, as ICANN becomes more global, as it fulfills its globalization target, that the community can then see -- and the world at large can then see regularly how ICANN is actually performing. And that is where the efficiency and effectiveness of the organization comes into place. But it is also that focus -- is it focusing just on the community itself, or is it actually fulfilling that wider global mandate?

STEVE CROCKER:

So I think there's an opportunity for participation and leadership here. You have the benefit of an extensive government experience plus extensive experience at Nominet and so you can bring at least two very important perspectives to this. And you're not alone. There are many, many qualified and experienced people in the community. Let me invite thoughtfulness and contribution of what are the ways that make sense



to measure whether we're effective and doing what the community needs. Would be happy to see a stimulation of a conversation along that. And it does not have to be limited to the structured mechanisms that we've put in place. Ray.

RAY PLZAK:

Yeah, Steve, I'd like to get into the queue on this topic, if I could. Throw out some food for thought and probably enforce some of the things that you've been saying to Martin. And it goes to the notion of, we've got two review processes. You have those under the Affirmation of Commitment and you've got those under the bylaws. And they both measure different things. And in terms of resources and everything else, they compete with each other. And they compete primarily with time and a few other things. And so one of the things that I think we need to do -- and by the way, what I'm saying here, Brian Cote and I have had several long conversations about this back in Reston and one of the papers that I wrote he shared with the ATRT2 team. But we need to transition to a unified structure, review structure. And in doing so, we want to, of course, ensure accountability and transparency, but we also want to instill public confidence in the viability, reliability, and the accountability of ICANN.

We need to have what amounts to a comprehensive evaluation system. We need to evaluate -- we need to examine the various aspects of ICANN, looking at administration, operations, policy development, and governance. We need to look at not only the status quo, but we need to look at the foreseeable future. Because the review is actually looking -- it's a snapshot in time, but we also need to be able to evaluate the



future. And so -- and we need to focus on accountability, transparency, openness, security, and stability. Functions and services that we need to look at, we need to look at the functions and services of administration operations as they related to the performance of the IANA functions, but we also need to look at the operation that occurs once those resources are being -- in use, so we need to look at things like contracts and compliance areas of contracts. So a lot of these things are being done.

We also need to look at the -- what we do with the transaction information otherwise known as WHOIS or directory services. We need to look at Policy Development Processes. We need to look at the processes that are being used. We need to look at the functions and services that are facilitating the development of them. And in the governance what you have to look at internal, which is how ICANN governs itself, we're talking about the councils and Board and everything else, elections to it, but we also have to look at how we participate externally because remember, governance -- there's a broader role of Internet governance and we are a participant in it. So we need to look at how we do that. Do we do our job well there. And we have to look at that time way we disseminate information and what we do to publish it.

So I think that we break this down into four areas then. You look at the processes, you look at the elements of those processes, you look at the outcomes of those processes, and you look at the structure, in other words, the capacity of the structure to hold and do what it's doing and to evolve to the future that we -- that we can foresee. And then lastly we have to look at what we do with the information we get because the



review has got a couple of pieces to it. The first part is fact-finding. Goes out and collects data, puts it into information. Then we have to do some quantitative analysis, we have to do some qualitative analysis. An example, if we want to look at meetings, we have to look at meeting notice. Okay? Quantitatively we could say that an organization met its notice requirements 57% of the time. Qualitatively, we would want to do something like use a fault tree analysis or something and go back and find a root cause of why that happened and that's what triggers the precise recommendation. We have to publish those results so everybody can read them and actually gain from them, and we have to look at the way we implemented and follow it up.

So I think those are all the kinds of things we need to do to evolve the system and to kind of puts the scope together. The way you go about that and what points in time you look at certain things and how -- how quickly you look at certain things, some things you can look at annually and some things you can look at every three years. A lot of these things could be done unobtrusively by looking at records and reports, the same way an auditor does. So there's a number of different techniques that are there. But we need to put our hats on and move in a direction of this unified system.

STEVE CROCKER:

Thank you very much, Ray. We're very close to the end of our time here, so Jonathan, listening to you and then if there's anybody else who wants to speak who hasn't yet spoken, we'll try to squeeze in, but I'm looking -- we're close on the end of our time here.



JONATHAN ZUCK:

Thank you. It's been a rare treat to be able to cycle through and engage in a back-and-forth on this, I guess. I want to actually just segue from Ray's discussion because I think a lot of these sort of talking meetings are extremely useful to help get the juices flowing, but at some point I think, as Ray suggested, there comes a time where we need to take a more holistic view at this. And that looking at ATRT review functions and communications now in isolation doesn't seem holistic enough, given the new environment that was created by the announcement by NTIA.

So I confess I don't know the formal way to do this, but I would like to recommend somehow that the Board consider a resolution to form a -- a work group chartering group to begin to address the requests of the NTIA and what reforms are needed, et cetera, and to begin to scope out in more specific and concrete terms. And I think the assessment of these reviews, et cetera, will end up being part of that ultimate process. But I think the very first process is a chartering group, just like it is with any other work group, to begin to assess a scope and begin the concrete work that I think needs to start from here after all of the invaluable discussions.

STEVE CROCKER:

Thank you. Well, I'm going to grab the obvious opportunity here. Thank you very much. It's been a quite involved and interactive session, which is exactly what it should be. And with that, I think we bring this session to a close and actually make it possible for each of us to get to our next tightly-scheduled sessions.

[Applause]



[END OF TRANSCRIPTION]

