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| Accountability and Transparency Review Team 2 |
| Report of Draft Recommendations for Public Comment |
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|  |
| October 2013 |

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# THIS IS A DRAFT REPORT. THESE ASSESSEMENTS AND RECOMMENDATIONS ARE PRELIMINARY AND SUBJECT TO CHANGE DEPENDING ON PUBLIC COMMENT AND FURTHER ANALYSIS BY ATRT2. THE FINAL REPORT AND RECOMMENDATIONS OF ATRT2 WILL BE SUBMITTED TO THE ICANN BOARD AND PUBLISHED BY DECEMBER 31, 2013.

# EXECUTIVE SUMMARY

The Affirmation of Commitments (AoC)[[1]](#footnote-1) requires ICANN to conduct recurring reviews of ICANN’s deliberations and operations “to ensure that the outcomes of its decision-making will reflect the public interest and be accountable to all stakeholders.” To date, reviews have been conducted and Recommendations presented to the ICANN Board by the first Accountability and Transparency Review Team (ATRT1),[[2]](#footnote-2) the WHOIS Review Team (WHOIS-RT)[[3]](#footnote-3) and the Security Stability and Resiliency Review Team (SSR-RT).[[4]](#footnote-4)

As mandated by the AoC, a second Accountability and Transparency Review Team (ATRT2) was convened, and hereby presents its report of Draft Recommendations for Public Comment. ATRT2’s three fundamental tasks under the AoC include:

* assess ICANN’s implementation of Recommendations of the three prior AoC Review Teams;
* offer new Recommendations to the ICANN Board to further improve ICANN’s accountability and transparency;[[5]](#footnote-5) and
* offer Recommendations concerning improvements to the Review process itself.

In conducting its review, ATRT2 engaged an Independent Expert, InterConnect Communications (ICC), to provide analysis and recommendations concerning the GNSO Policy Development Process (PDP). ICC’s draft report (attached as Appendix A) helped inform the ATRT2’s understanding of this important aspect of bottom up, multi-stakeholder governance. For clarity, the ICANN Board is only required to act on Recommendations offered by ATRT2.

**I. ATRT2 OBSERVATIONS**

The following questions helped drive ATRT2 assessment of ICANN’s accountability and transparency:

**A. What is the objective of this Review?**

The importance of successfully implementing AoC Review Team Recommendations is ultimately for ICANN to create a “culture of accountability and transparency” throughout the organization. ATRT2 strove to identify the degree to which ICANN employees and Directors have a clear understanding of how their respective roles, responsibilities and daily activities relate directly to accountability and transparency. ATRT2 also examined the effect that implementation has had on the perspective of ICANN’s Board and Staff, and on the work of the Community.

**B. What is the current environment?**

ICANN is an organization in the process of significant growth in terms of resources, global engagement and geographic presence. Such significant growth provides fundamental challenges for any organization. ICANN is also in the process of coordinating the launch of over 1,000 new generic TLDs (gTLDs), and the ICANN Community has been deeply engrossed in related policy and implementation processes.

For ICANN, which is somewhat unique as a bottom-up, multi-stakeholder organization that coordinates a global resource and whose decisions must take into account the public interest, a deepening of accountability and transparency at this time is essential not only to its successful growth but also to its long term viability.

**C. Where does ICANN need to go from here?**

In an increasingly challenging global Internet governance environment, ICANN should strive to establish *itself* as the benchmark of accountability and transparency. The AoC Review Teams themselves are an example of stakeholders working together on equal footing and, as such, they provide ICANN with an opportunity to set a global standard of multi-stakeholder governance.

Going forward, ATRT2 believes that ICANN needs to achieve the following:

* establish clear metrics and benchmarks against which improvements in accountability and transparency can be measured;
* communicate clearly and consistently about its accountability and transparency mechanisms and performance; and
* improve and prioritize its AoC Review processes.

**II. ATRT2 RECOMMENDATIONS**

Based on its work to date, ATRT2 offers the following draft Recommendations for Public Comment. These Recommendations fall into two categories: 1) “New” Recommendations arising from issues addressed by ATRT1; and 2) “New” Recommendations arising from issues not addressed by ATRT1 Recommendations. With respect to WHOIS-RT and SSR-RT Recommendations, ATRT2 provides an assessment of ICANN’s implementation of those Recommendations only (see Appendix B and Appendix C, respectively). A full assessment of the effectiveness of those Recommendations and any "new" Recommendations on the substance of those reviews will be offered by the forthcoming WHOIS-RT2 and SSR-RT2.

All of the following Recommendations focus on issues that should be addressed by the ICANN Board, but are not necessarily presented in a hierarchical order:

**New ATRT2 Recommendations arising from issues addressed by ATRT1**

**1. Develop objective measures for determining the quality of ICANN Board members and the success of Board improvement efforts, and analyze those findings over time.**

(Re: Board improvements (ATRT1-1(a-d), ATRT1-2); Report Section 2.7, p.10)

**2. Develop metrics to measure the effectiveness of the Board’s functioning, and publish the materials used for training to gauge levels of improvement.**

(Re: enhancing Board performance and work practices (ATRT1-4); Report Section 4.7, p.14)

**3. Conduct qualitative/quantitative studies to determine if the qualifications of Board candidate pools improved once compensation was available, and regularly assess Director’s compensation levels.**

(Re: Board compensation (ATRT1-5); Report Section 5.7, p. 16)

**4. Develop complementary mechanisms for SO/AC consultation on administrative and executive issues to be addressed at the Board level.**

(Re: policy vs. implementation vs. executive function distinction (ATRT1-6); Report Section 6.7, p.18)

**5. Determine how the proper scope of redaction could be reasonably confirmed.**

(Re: publication of Board input materials and clearer redaction standards (ATRT1-7.1);

Report Section 7.6, p.20)

**6. Undertake initiatives to enhance understanding and transparency of GAC deliberations, including publication of GAC meeting agendas, transcripts, rationales for decisions, and a formal process for notifying and requesting GAC advice; expanding pubic observation/participation in GAC conference calls, and restructuring meetings to better engage the community; and exploring ways to facilitate GAC early on ICANN’s policy development processes.**

(Re: Board-GAC interactions (ATRT1-9-14); Report Section ??, p. 32-34)

**7. Explore mechanisms to improve public comment through adjusted time allotments, forward planning regarding the number of consultations given anticipated growth in participation, and new tools that facilitate participation.**

(Re: improving public notice and comment processes (ATRT1-16); Report Section 12.7, p.35)

**8. Encourage public participation, improve translation quality and timeliness via benchmarking of procedures used by international organizations.**

(Re: encouraging multi-lingualism (ATRT1-18-19, 22); Report Section 13,7, p. 39-40)

**9. Amend ICANN Bylaws to formalize Board response to AC advice. Consider restructuring the Independent Review and Reconsideration processes, and review the scope of the Ombudsman. Develop and report annual transparency metrics, including open vs. closed decision making; prevalence of redaction of ICANN Board materials; and statistics on a new whistleblower program.**

(Re: consideration decision making inputs and appeals processes (ART1-20, 23, 25-26);

Report Section 14.7, pp. 49-50)

**NEW RECOMMENDATIONS ARISING FROM ISSUES NOT ADDRESSED BY ATRT1 RECOMMENDATIONS**

**10. Improve the effectiveness of cross community deliberations**

**10.1**. To enhance GNSO PDP processes and methodologies to better meet community needs and be more suitable for addressing complex problems, ICANN should:

* Develop funded options for professional facilitators to assist GNSO PDP WGs, and also draft explicit guidelines for when such options may be invoked.
* Provide adequate funding for face-to-face meetings to augment e-mail, wiki and teleconferences for GNSO PDPs. The GNSO must develop guidelines for when such meetings are required and justified.
* Work with the GNSO and the wider ICANN community to develop methodologies and tools to make the GNSO PDP process more time-effective, resulting in quicker policy development as well as increasing the ability to attract busy community participants into the process.

**10.2**. The GAC, in conjunction with the GNSO, must develop methodologies to ensure that GAC and government input is provided to PDP WGs and that the GAC has effective opportunities to provide input and guidance on draft PDP outcomes. Such opportunities could be entirely new mechanisms or utilization of those already used by other stakeholders in the ICANN environment.

**10.3**. The Board and the GNSO should charter a strategic initiative addressing the need of ensuring global participation in GNSO PGP, as well as other GNSO processes.[[6]](#footnote-6) The focus should be on the viability and methodology of having equitable participation from:

* under-represented geographical regions;
* non-English speaking linguistic groups;
* those with non-Western cultural traditions; and
* those with a vital interest in GTLD policy issues but who lack the financial support of industry players.

**10.4**. To improve the transparency and predictability of the PDP process:

* The Board should clearly state the process for setting gTLD policies in the event that the GNSO cannot come to closure on a specific issue in a specified time-frame. This resolution also should note under what conditions the Board believes it may alter PDP Recommendations after formal Board acceptance.
* ICANN should add a step in the PDP Comment Process where those who commented or replied during the Comment Period can request changes to the synthesis reports in cases where they believe the Staff improperly summarized their comment.

**11. Institutionalization of the Review Process**

ICANN should ensure that the ongoing work of the AoC reviews, including implementation, is fed into the work of other ICANN strategic activities wherever appropriate.

**12. Coordination of Reviews**

ICANN should ensure strict coordination of the various review processes so as to have all reviews complete before next ATRT review begins, and with the proper linkage of issues as framed by the AoC.

**13. Appointment of Review Teams**

AoC Review Teams should be appointed in a timely fashion allowing them to complete their work over a minimum one (1) year period that the review is supposed to take place, regardless of the time when the team is established. It is important for ICANN staff to appreciate the cycle of AoC reviews, and that the Review Team selection process should begin at the earliest point in time possible given its mandate.

**14. Complete implementation reports**

ICANN should prepare a complete implementation report to be ready by review kick-off. This report should be submitted for public consultation, and relevant benchmarks and metrics must be incorporated in the report.

**15. Budget transparency and accountability**

The ICANN Board should ensure in its budget that sufficient resources are allocated for Review Teams to fulfill their mandates. This should include, but is not limited to, accommodation of Review Team requests to appoint independent experts/consultants if deemed necessary by the teams. Before a review is commenced, ICANN should publish the budget for the review, together with a rationale for the amount allocated that is based on the experiences of the previous teams, including ensuring a continuous assessment and adjustment of the budget according to the needs of the different reviews.

**16. Board action on Recommendations**

The Board must address all AoC Review Team recommendations in a clear and unambiguous manner, indicating to what extent they are accepting each recommendation.

**17**. **Implementation Timeframes**

In responding to Review Team recommendations, the Board must provide an expected time frame for implementation, and if that time frame is different from one given by the Review Team, the rationale should address the difference.

**18.**  **Financial Accountability and Transparency**

In light of the significant growth in the organization, ICANN should undertake a special scrutiny of its financial governance structure regarding the overall principles, the methods applied and the decision-making procedure including engaging stakeholders. Suggested principles are found in the ATRT2 Report.

In its Final Report, ATRT2 will consider “prioritizing” certain Recommendations based on their respective importance. ATRT2 considers Recommendations relating to the Board, GAC, Metrics and Multilingualism to be priority Recommendations. ATRT2 welcomes feedback on prioritization of proposed Recommendations from the Community.

**I. ATRT2’s ASSESSMENT OF RECOMMENDATION IMPLEMENTATION**

ATRT2 provides the following preliminary assessment of ICANN’s implementation of the Recommendations of ATRT1. ATRT2’s preliminary assessments regarding WHOIS-RT and SSR-RT are found in Appendix B and Appendix C, respectively. In assessing ICANN’s implementation of Recommendations, ATRT2 examined a variety of inputs including replies to requests for public comment and direct interaction with the ICANN community. Taking into account ATRT1 Recommendation 27 that called on the Board to regularly evaluate progress against these recommendations and the accountability and transparency commitments in the AoC, ATRT2 also referred to reports from the ICANN Staff, ICANN Board resolutions and interviews with members of the Staff and Board.

**1.** **Assessment of ATRT 1 Recommendations 1 & 2**

## 

## Findings of ATRT1

In the course of its deliberations, the ATRT1 found that the Nominating Committee (NomCom) had failed to implement previous recommendations; did not have effective operating methods or Board Member selection criteria; and was not serving to increase transparency into the Board member selection process. To address this, ATRT1 offered recommendations related to continually assessing and improving ICANN Board governance, including an ongoing evaluation of Board performance, the Board selection process, and the extent to which the Board’s composition meets ICANN’s present and future needs. These can be considered as a group and called Recommendation 1. Furthermore, ATRT1 Recommendation 2 called for a continual assessment of existing skills and the programs put in place to improve the existing Board skill sets, and to identify the skills needed during the selection of new Board members. The ICANN Board adopted all of these Recommendations in June 2011.

## 

## ATRT1 Recommendation 1[[7]](#footnote-7)

*Recognizing the work of the Board Governance committee on Board training and skills building, pursuant to the advice of both the 2007 Nominating Committee Review and 2008 Board review, the Board should establish (in time to enable the integration of these recommendations into the Nominating Committee process commencing in late 2011) formal mechanisms for identifying the collective skill-set required by the ICANN Board including such skills as public policy, finance, strategic planning, corporate governance, negotiation, and dispute resolution. Emphasis should be placed upon ensuring the Board has the skills and experience to effectively provide oversight of ICANN operations consistent with the global public interest and deliver best practice in corporate governance. This should build upon the initial work undertaken in the independent reviews and involve:*

1. Benchmarking Board skill-sets against similar corporate and other governance structures;
2. Tailoring the required skills to suit ICANN’s unique structure and mission, through an open consultation process, including direct consultation with the leadership of the SOs and ACs;
3. Reviewing these requirements annually, delivering a formalized starting point for the NomCom each year; and
4. From the Nominating Committee process commencing in late 2011, publishing the outcomes and requirements as part of the Nominating Committee’s call-for-nominations.

## ATRT1 Recommendation 2[[8]](#footnote-8)

*The Board should reinforce and review on a regular basis, (but no less than every 3 years) the training and skills building programs established pursuant to Recommendation #1.*

## Summary of ICANN’s assessment of implementation

To implement the core of Recommendation 1, ICANN undertook several actions in cooperation and collaboration with the NomCom. It was generally understood by ICANN staff that these recommendations were meant to not only ensure selection of individuals with the appropriate skills, but also to address “concerns of undue secrecy in the NomCom process and requests for more expansive explanations of NomCom selections.”[[9]](#footnote-9)

To improve the process for selecting ICANN Directors and to address Recommendations on Board composition, the NomCom examined its operating procedures to establish clear and transparent skill sets, qualifications and criteria for Board Member selection; improve transparency; and establish and publish the selection procedures and processes the NomCom employs.[[10]](#footnote-10) The new NomCom guidelines, including internal NomCom procedures and a Code of Conduct, were approved by the Board and put into action.[[11]](#footnote-11) The NomCom now annually consults with the ICANN community and public on skill set requirements to consider when making appointments to leadership positions. The Board also embedded in its standard operating procedures a process to inform the NomCom annually by providing information on the existing Board’s skill sets.[[12]](#footnote-12) Finally, the Board now engages in interim training and orientations. To assess the Board’s performance in the areas addressed by NomCom’s implementation efforts, progress is tracked against skill-set benchmarks, and training and work program results.[[13]](#footnote-13)

## Summary of community input on implementation

There was limited community input on the implementation of this recommendation. In general, the community indicates awareness of the methods and processes for nominating and electing Board members, and general satisfaction with their terms. Some did note, however, that there still exists the potential for conflict of interest with the community.[[14]](#footnote-14)

Some commenters noted that it is important for the Board members to be from existing community groups to ensure the knowledge, understanding of ICANN and technical expertise to serve effectively. One comment suggested that Board service could be used as a mechanism to grow the community by creating initiatives to recruit from a wider community of participants to expand the range of expertise available. This commenter also underscored the importance of clearly demonstrating or articulating the traditionally high professional standard to which the Board works.[[15]](#footnote-15)

In contrast to comments in support of existing Board selection processes, one commenter asked “Is it reasonable that the Board should provide to the Nominating Committee the “profile” of the Board Members it claims it requires in the next turnover?”[[16]](#footnote-16)

Additional public input posed some questions for future work that was not addressed by the ATRT1 recommendation in this area. Specifically, commenters asked about the importance of having an appropriately international Board, as well as one that represents the ICANN community and groups. These comments also delve further into how the Board itself selects Committee Chairs and Board Governance Committee members as important to transparency into Board selection and operations as those committees are the ones that recommend and approve Bylaw changes.[[17]](#footnote-17)

## ATRT2 analysis of recommendation implementation

|  |  |
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| **Recommendation (s)** | **Assessment** |
| 1a Document the methodology used to identify and choose “similar corporate and other governance structures”. | Done |
| 1b Document benchmarks used | Incomplete |
| 1c Improve NomCom outreach/PR | Done |
| 1d Expand the skills survey and benchmarking to include NomCom selections in GNSO, ccNSO, and ALAC | Done |
| 2(a) - Metrics should be defined by which effectiveness of board training programs can be measured. | Incomplete |
| 2(b) - Board training materials should be made public. | Incomplete |

## ATRT2 Assessment of Recommendation Effectiveness

While most of the issues in Recommendation 1 and Recommendation 2 have been addressed, several key concerns remain outstanding:

* To what degree can the changes be said to have improved the quality of Board members?
* To date, there are no objective measure for determining the quality of an ICANN Board of its membership. Evaluations by the ICANN Community have neither been discussed nor implemented, yet they may be among the few statistical measures that could be developed.
* A report on the benchmarks used by the NomCom needs to be documented, and the issue needs to be reviewed after there are more years experience with the Board under the current NomCom conditions.
* Metrics are still needed for evaluating the success of Board improvement efforts.

# 2. Assessment of ATRT 1 Recommendation 3

## Findings of ATRT 1

This issue of Board composition and selection had been the subject of two independent reviews that predated ATRT1. ATRT1 found that the greatest relevance to its review process was the recommendation for ICANN to recruit and select based upon clear skill-set requirements. This included the establishment of a formal procedure by which the Nominating Committee (NomCom) would discover and understand the requirements of each body to which it makes appointments. ATRT1 found that, “[a]s such, codifying the processes for identifying, defining and reviewing these skills requirements, as well as the mechanisms by which stakeholders are consulted, could assist in improving the Board’s overall performance.”

## ATRT1 Recommendation 3

*The Board and Nominating Committee should, subject to the caveat that all deliberations and decisions about candidates must remain confidential, as soon as possible but no later than the Nominating Committee process commencing in late 2011 increase the transparency of the Nominating Committee’s deliberations and decision making process by doing such things as clearly articulating the timeline and skill-set criteria at the earliest stage possible before the process starts and, once the process is complete, explain the choices made.*

## Summary of ICANN’s assessment of implementation

ICANN Staff reported to ATRT2 on implementation efforts undertaken by both the Board and NomCom. It has become standard operating procedure for the Board and NomCom to have consultations and information sharing sessions with respect to the Board skill-set requirements. The Board also implemented transparency guidelines for all NomComs, and compliance with the transparency guidelines is standard operating procedure. The NomCom provides a post selection report where it justifies its selections as standard operating procedure. These implementation measures and background documentation can be found at http://nomcom.icann.org.

## Summary of community input on implementation

ATRT2 did not receive significant comment on implementation of this Recommendation. Nominet stated that it supported the mechanism for nominating and electing ICANN Board members, and it believes that it is a good example of a bottom-up mechanism for community input. Some commenters indicated they were not aware of the mechanisms for nominating and electing Board, while others indicated their awareness and opinion that the term length for Directors was satisfactory.

## Summary of other relevant information

Implementation of this Recommendation involved not only ICANN Board and Staff but also the NomCom itself. Two former NomCom Chairs, Vanda Scartezini (2012 term) and Adam Peake (2011 term), responded to ATRT2’s questionnaire and provided a substantial overview of the efforts undertaken by the NomCom in implementation. Both Chairs recognized the intent of the ATRT1 to bring greater transparency and accountability to the Director nomination process, while at the same time respecting fundamental aspects of the process (e.g. confidentiality of candidates). They also recognized that it was important for the NomCom to maintain an independent role in the selection process.

Adam Peake reported that the ATRT1 Recommendations suggested a general feeling that the NomCom needn't be so obsessed by secrecy and that this was positive. He also noted that some of core ATRT recommendations were already NomCom practice, but the ATRT gave impetus to take improvements seriously. In 2011, NomCom held workshops with the Community that he judged to be quite successful, and that there was an attempt to improve communication throughout the process with the community (e.g. more email to lists, a blog) and with candidates (e.g. more information about the process, some communication to tell them what stage the process was at). Peake notes, however, that in 2011 these communications efforts were mostly not realized (i.e. ideas that were not put into practice). In general, though, he found that the implementation efforts were worthwhile as improvements in 2013 are showing.

Vanda Scartezini noted a number of specific implementation activities that took place during the 2012 term. Among the implementation activities were:

* Published and updated the timeline for NomCom activities during the whole cycle of a NomCom to provide transparency to the Community and to candidates;
* Held formal consultations with all ACs and SOs and its constituencies during the 2011 Annual General Meeting to identify all the profiles needed for the Board and their own leadership positions, and published all of the presentations used;
* Held public meetings about ATRT1 recommendations and other relevant aspects of the NomCom process during ICANN’s Annual General Meeting in 2012;
* Had a formal meeting with ICANN’s Board chair, the CEO and the Board Governance Committee to collect their opinions about Board member skill-sets needed for the next selection;
* Met with ICANN’s General Counsel to ensure that all members inside NomCom understand the requirements regarding privacy of candidate’s information;
* Published the identified profile characteristics for all leadership positions as a guideline for candidate application information;[[18]](#footnote-18)
* Held a session during the first ICANN international meeting of 2012 in San Jose, Costa Rica to recheck with the ACs and SOs and constituencies, and to orient NomCom’s members on the selection process;
* After the selection process, published a final report[[19]](#footnote-19) for the October 2012 Annual General Meeting in Toronto, Canada that included all statistics related to NomCom 2012 (e.g. number of the candidates, gender, and geographic distribution, etc.) as well as a “matching matrix” with the Community’s and Board’s requested candidate skill-sets and the selectee’ profiles; and
* At the October 2012 meeting in Toronto, conducted additional meetings with the ACs, SOs and its constituencies to provide feedback about the NomCom activities and how their requirements for the Board and their own organizations’ positions were addressed.

Both former Chairs believe that there is continued improvement like monthly report cards and having a standard matrix to use during and after the process. Scartezini maintains that within the ICANN Community there is now a clearer vision about the NomCom process, as well as a clearer view of the selection process and requirements for someone interested in becoming a Board member. She also notes a sense of improvement regarding transparency in ICANN’s relationship with the community and the external world. Peake also believes that candidates have a better understanding of what's required, and that there is a better knowledge of what the Board needs in terms of candidate skills and the "gaps" in the Board's collective skillset. He noted that an indirect benefit of these implementation efforts has been that the improved information about desired candidate profiles has helped a professional recruitment company assist the NomCom in identifying potential candidates.

## ATRT2 analysis of recommendation implementation

Implementation of Recommendation 3 appears largely successful. There is improvement in transparency of the NomCom’s processes, and in the adoption of standard operating procedures designed to enhance transparency. Importantly, implementation of Recommendation 3 fostered dialogue across the Community, and had the NomCom interacting with the Board, the Staff and ACs and SOs as it went about the business of implementation. In fact, implementation of this Recommendation was not uniquely the responsibility of the ICANN Board or Staff. Rather, it required the interaction of the NomCom and the Board as well as members of the Community to successfully execute all of these tasks. It appears that both bodies undertook individual tasks and interacted successfully to implement Recommendation 3 as a whole.

## ATRT2 assessment of recommendation effectiveness

Recommendation 3 has been effective in creating a regular and open exchange of information between the Board and the NomCom to identify necessary skill-sets for Directors, and incorporating these desired attributes into the nominating process. Implementation of the Recommendation has also had the effect of creating more transparent NomCom standard operating procedures. For example, the NomCom now regularly holds open sessions at ICANN meetings. Additionally, post selection reporting by the NomCom that provides a rationale for selection is consistent with spirit of the AoC.

# 3. Assessment of ATRT1 Recommendation 4

## Findings of ATRT1

ATRT1 found that, based on its review and two prior independent reviews, there was a clear need to improve both the individual and collective skill of the Board of Directors. While ATRT1 Recommendation 3 focused on the identification of required skill sets and incorporation of those skill sets as part of the Nominating Committee process. Recommendation 4 also called on the Board to enhance its performance and work practices.

## ATRT1 Recommendation 4

*“Building on the work of the Board Governance Committee, the Board should continue to enhance Board performance and work practices.”*

## Summary of ICANN’s assessment of implementation

The Board has undertaken a number of activities to enhance its performance and work practices. Those activities include developing work plans that incorporated Recommendation 4 objectives; conducting two “effectiveness” training sessions in 2012; establishing Director performance evaluations that are provided to the Board “appointing” bodies; synchronizing Directors’ terms for working efficiency; and creation of a Board Procedure Manual. (http://www.icann.org/en/groups/board/documents/draft-procedure-manual-09oct12-en)

## Summary of community input on implementation

Public comments did focus on some aspects of Board work practices. Nominet noted work already done improving Board governance (e.g. Conflict of Interest and Ethics Review) and pointing out that the Board had established codes of behavior.[[20]](#footnote-20) The U.K. government called for metrics for Board performance to be implemented, reviewed and monitored independently.[[21]](#footnote-21) Darlene Thompson of At Large noted that More information needs to be available to the public as to what methods are being used by the Board to assess its governance.[[22]](#footnote-22) .There was general support for the term for Directors.

## Summary of other relevant information

ICANN Board Chair Steve Crocker noted that the ICANN is in the process of adding Secretariat support to the Board. This new resource will be tasked, in part, to address improvement to Board work plans and processes. Crocker noted this is an area of distinct interest to him and that ongoing improvements must be achieved.

## ATRT2 analysis of recommendation implementation

The Board has clearly taken a number of steps to implement Recommendation 4. While some related tasks have been completed, the nature of that implementation is “ongoing.” While there is clear evidence of work undertaken on this front, effectiveness of the work is still difficult to measure.

## ATRT2 assessment of recommendation effectiveness

Based on reporting from the ICANN Board and Staff, there has been progress on a number of areas in terms of the Board’s functioning. However, one challenge to a full assessment of the Recommendation’s effectiveness is the lack of benchmarks/metrics against which the ATRT2 might be able to measure the effectiveness on implementation. While some of the improvements may be difficult to measure, metrics would assist in drawing qualitative and quantitative conclusions going forward. It is the view of ATRT2 that these activities generally should be visible to the Community (unless dealing with Human Resources or other confidential issues). With respect to Board training in particular, ATRT2 has asked whether training materials could be made publicly available as a matter of transparency. The Board Secretariat should be briefed on ATRT1 Recommendations and ATRT2 assessment as a matter of course, and integrate that input into its support.

# 4. Assessment of ATRT1 Recommendation 5

## Findings of ATRT1

ATRT1 found that compensation of directors was an issue closely associated with the theme of developing the ICANN Boards’ experience and collective skill-set. Furthermore, this issue had been the subject of independent review, Board Governance Committee discussion, and ongoing Board consideration. At the time of the ATRT1 review, only compensation for the Board Chair has been decided.

## Recommendation 5

*Recommendation 5: “The Board should expeditiously implement the compensation scheme for voting Directors as recommended by the Boston Consulting Group adjusted as necessary to address international payment issues, if any.”*

## Summary of ICANN’s assessment of implementation

Upon the advice of the ICANN General Counsel, the Board delayed implementation of Recommendation 5 to allow for independent study and review. Beginning in June 2011, a compensation plan was developed and the Board engaged an Independent Valuation Expert. The Expert’s report[[23]](#footnote-23) concluded that compensating the Board was reasonable. As implementation of Director compensation would require revision to the Board Conflict of Interest policy as well as the Bylaws, a Public Comment period on these issues was held in September 2011. Commenters generally supported the Recommendation to compensate Directors, and also offered input on other aspects of ICANN’s Conflicts of Interest policy. On December 8, 2011, the Board voted in favor of implementing compensation to voting Directors. ATRT2 notes that payments were not offered to some Directors until August 2012, a significant delay from the date of approval to implementation, but that there were extenuating circumstances in these cases. Today, voting Board members have the opportunity to elect compensation and the Director’s election to accept or decline compensation is posted on the ICANN website.[[24]](#footnote-24)

## Summary of community input on implementation

ATRT2 did not receive community feedback concerning implementation of Recommendation

**ATRT2 analysis of recommendation implementation**

Implementation of Recommendation 5 is complete.

## 

## ATRT2 assessment of recommendation effectiveness

Gauging the “success” or effectiveness of Recommendation 5 is challenging, but not impossible. One aspect of the Recommendation’s rationale was the assumption that compensation could influence the interest of qualified candidates given the responsibilities and workload of an ICANN Director. Until August 2012, ICANN’s Board consisted of all-volunteer, non-compensated Directors. ATRT2 is unaware of any qualitative or quantitative studies of the Board candidate pools over time or of any feedback that speaks to the effect of implementing the Recommendation. Perhaps that analysis could become input for future Review Teams. ATRT2 would envision regular assessment of the compensation levels in the normal course of time.

# 5. Assessment of ATRT 1 Recommendation 6

## Findings of ATRT1

ATRT1 found significant concern across the Community about the way in which issues were identified for Board consideration, how and why particular decisions were taken, and how these outcomes were conveyed to stakeholders. ATRT1 also found that the Board’s deliberations were infrequently based on codified procedures or requirements, but rather were driven by organizational conventions based merely on precedent. This lack of clarity about the distinction between policy and executive function (or “implementation” or “organizational administrative function”) fed confusion in the Community about whether the Board and Staff were acting in their proper capacity.

## ATRT1 Recommendation 6

*Recommendation 6: The Board should clarify, as soon as possible but no later than June 2011 the distinction between issues that are properly subject to ICANN’s policy development processes and those matters that are properly within the executive functions performed by the ICANN staff and Board and, as soon as practicable, develop complementary mechanisms for consultation in appropriate circumstances with the relevant SOs and ACs on administrative and executive issues that will be addressed at Board level.*

## Summary of ICANN’s assessment of implementation

ICANN Staff recommended that the Board adopt Recommendation 6, but with an implementation date later than the June 2011 target put forward by ATRT1. Staff maintained that it was important to establish a baseline of understanding about this topic with the Community before implementation could be completed.[[25]](#footnote-25) Staff noted that it would immediately undertake a “categorization exercise” using the Resolution wiki. Staff then set out to categorize Board action into policy/executive/administrative and other categories, and then review whether public comment was received on those items.

In its response to the ATRT2, Staff’s reported that,

“ICANN addressed all portions of this recommendation in implementation. Please see 2012 ATRT Implementation Summary[[26]](#footnote-26) and the 2012 Annual Report on ATRT Implementation.[[27]](#footnote-27) Completion of this implementation project inspired further discussion about the distinction between policy and implementation issues that is still ongoing within the community, most recently in a public session in Beijing.

Because of the work undertaken for Recommendation 6, ICANN also published a paper on the Community Input and Advice Function,[[28]](#footnote-28) which has led to an ongoing dialogue in the community. There were sessions in both Toronto and Beijing on this topic, and ICANN staff has since produced a paper for public comment on Policy v. Implementation[[29]](#footnote-29) to help frame and move the discussion forward.

Staff further notes that the “Community now has a defined set of terms to use when discussing and categorizing Board actions. The follow-on work has reinitiated a challenging debate within the community regarding policy vs. implementation roles and how the community provides advice to the Board.” Staff also notes that “[e]very substantive action taken by the Board is now accompanied by an identification of the type of action and the consultation expected or conducted prior to Board decision.”

## Summary of community input on implementation

The comments received and the discussions at the public sessions reflect common sentiments from the Community, including:

* this continues to be an important issue;
* outside of policy issues addressed in the well-defined GNSO, ccNSO and ASO policy processes, there is uncertainty about how advice can be provided from the Community to the Board;
* cross-community working groups should be explored as one mechanism for providing advice to the Board;
* current mechanisms or approaches to provide the Board with advice from the Community on non-“P” policy issues are inadequate; and
* ad hoc groups, experts and fast track processes that have been used in the new gTLD process have not proven to be satisfactory approaches to address this issue.

## 

## ATRT2 analysis of recommendation implementation

Implementation is incomplete and work on the issue is ongoing. ATRT2 views this Recommendation as still important to providing clarity for the Community, and is particularly important in the multi-stakeholder environment. Although ICANN posted a Community Input and Advice Function paper on September 24, 2012 (more than a year after the date when the Board was to take action on Recommendation 6 under the AoC), and public sessions were held during the ICANN meetings in Toronto (October 2012) and Beijing (April 2013), the fact remains that this issue was barely addressed during the two-year timeframe envisioned by ATRT1. In fact, Staff only developed its “framework” paper and posted it for Public Comment on January 21, 2013.

A continuing lack of clarity about “policy v. executive function” or “policy v. implementation” or “policy v. organizational administrative function” causes uncertainty at best and distrust at worst about whether ICANN Board or Staff is acting within its proper scope or whether ICANN is acting in a “top down” as opposed to “bottom up” manner. As in any organization or community, a clear understanding of respective roles, responsibilities and process is foundational to cohesion and successful interaction.

Some maintain that distinguishing between policy and implementation is either too difficult a task or so esoteric that clear lines – and hence clarity for the Community and ICANN – are not achievable. While perfect clarity may not be achievable, failure to develop a workable framework that lends clarity to roles, responsibilities and processes in matters of implementation and policy will only continue to foster questions and unnecessary concerns about the accountability of ICANN’s decision making as well as its genuine commitment to the bottom up, multi-stakeholder process.

## ATRT2 assessment of recommendation effectiveness

The implementation of Recommendation 6 has not been effective in achieving the Recommendation’s stated objective. While efforts have begun to engage the Community in a dialogue concerning the issue, the Community and ICANN appear no closer to clarity on this matter. Implementation has had the effect of spurring focused dialogue that informs Community members’ understanding of the difference between policy and implementation. It may be that additional effort needs to be applied to develop complementary mechanisms for consultation in appropriate circumstances with the relevant SOs and ACs on administrative and executive issues that will be addressed at Board level.

# 6. Assessment of ATRT1 Recommendations 7.1 and 8

## Findings of ATRT 1

The ATRT1 found that ICANN’s Bylaws emphasize the need for transparency in the Board’s processes, stipulating the informed participation of stakeholders, neutrality, objectivity, responsiveness and evidence-based decision making. Likewise, the need for transparency and openness in the way the ICANN Board takes decisions is re-stated prominently in the Affirmation of Commitments. ATRT1 found a need for clear, published guidelines concerning ICANN’s decision-making processes.

## ATRT1 Recommendations 7.1 and 8

Due to the close relationship between the subject matter of ATRT1 Recommendations 7.1 and 8, ATRT2 has combined its assessment of implementation here.

*Recommendation 7.1: “Commencing immediately, the Board should promptly publish all appropriate materials related to decision making processes – including preliminary announcements, briefing materials provided by staff and others, detailed Minutes, and where submitted, individual Directors’ statements relating to significant decisions. The redaction of materials should be kept to a minimum, limited to discussion of existing or threatened litigation, and staff issues such as appointments.”*

*Recommendation 8: As soon as possible but no later than the start of the March 2011 ICANN meeting the Board should have a document produced and published that clearly defines the limited set of circumstances where materials may be redacted and that articulates the risks (if any) associated with publication of materials. These rules should be referred to by the Board, General Counsel and staff when assessing whether material should be redacted and cited when such a decision is taken.*

## ICANN’s assessment of implementation

ICANN Staff reported to ATRT2 that, as a result of implementation, it has become standard operating procedure to post all Board materials, including rationales for resolutions. These and other reference materials are archived at <http://www.icann.org/en/groups/board/meetings>. In response to ATRT1’s recommendation, ICANN developed an implementation plan that noted, in part, the following:

“[a]s of the 25 January 2011 meeting, staff began including proposed rationale statements in Board submissions, addressing the items set forth in the Affirmation of Commitments. If the Board does not propose significant modification to the draft rationale statements, those draft statements will be posted with the Approved Resolutions for each meeting. This practice was instituted on 27 January 2011, with the posting of the 25 January 2011 Approved Resolutions.

The rationale statements will be considered final when posted with the Minutes as approved for each meeting. The rationale statements are to address the sources of data and information, as well as to address community input accepted and rejected.”

With respect to redactions of Board materials, the implementation plan noted that,

“[w]hile these DIDP (Document Information Disclosure Policy[[30]](#footnote-30)) conditions will remain the baseline for redactions, there is great value in producing a document to guide staff and inform the community on the specific issue of redaction of Board materials. As evidenced through the very publication of the Board briefing materials, ICANN has narrowed the previously-applied scope of its application of the conditions for non-disclosure in favor of increased transparency and accountability. The document was posted in March 2011. Of note, beginning with the 12 December 2010 Board meeting materials, the basis for each redaction was set forth on every page where a redaction occurred. A review of how to best cite to the circumstances requiring a redaction will continue.”

In addition to the implementation plan cited above, ICANN Staff created a searchable Board resolution wiki “to provide the public with easy-to-access information on every substantive resolution approved by the Board of Directors.” The wiki can be found at <https://community.icann.org/display/tap/ICANN+Board+Resolutions>

## Summary of community input on implementation

Public Comment recognized improvement in the availability of Board materials. For example, Nominet stated,

“[we] note the improvement in the availability of Board-related materials such as Board briefing documents and the rationale behind board decisions. We welcome this improved communication, but this could be further improved to show that the Board has considered the wider implications of its decisions. In particular, the Board needs to be particularly attentive to concerns from those not normally involved in ICANN activities and ensure that they do give a reasoned response to input.”

Likewise, the Non-Commercial Stakeholder Group noted, “that some improvements have been made… Specifically, there have been timely publications of Board decisions and the rationale and explanations that have accompanied these. We commend ICANN for these efforts.” An individual commenter/former ICANN staffer also called for publication of Staff advice to the Board.

## ATRT2 analysis of recommendation implementation

Overall, ATRT2 finds that ICANN’s implementation of Recommendation 7.1 appears largely successful. Having adopted the recommended practices as standard operating procedure, the Board took a concrete step toward implementation. The Board Briefing Materials, agendas, minutes, resolutions, rationales and other relevant documents are visible and accessible on the ICANN website.

An important aspect of implementation is also the actual practice of making all relevant materials available in a timely fashion. While ATRT2 has heard of instances where materials have not been published in a timely fashion, it appears to a large degree that the standard operating procedure is being respected. A question has been raised about the scope of redactions and whether that practice is respecting the “minimal” approach of Recommendation 7.1. This question is difficult to explore given the nature of redactions. ATRT2 has put this question to ICANN Staff for feedback as to how proper scope of redaction could be reasonably confirmed and is awaiting Staff’s reply.

## ATRT2 assessment of recommendation effectiveness

A measure of effectiveness is feedback from the Community that looks to the publishing of Board materials to understand the Board decision-making process. ATRT1 identified a “black box” problem in the Community with respect to Board decisions. Otherwise said, the Community saw the “inputs” to the Board decision-making process but had little or no visibility into the ICANN Board’s deliberations and rationale for the decisions that were “outputs” of the process. Comments to the ATRT2 note improvement in this area and reflect a greater sense of transparency. Likewise, there was lesser comment to the contrary than encountered by ATRT1.

# 7. Assessment of ATRT1 Recommendation 7.2

**7.1 Findings of ATRT1:** ATRT1 found that, as the peak decision-making entity within ICANN, ultimate responsibility for ensuring the highest possible levels of transparency and accountability necessarily reside with the Board. ATRT1 also observed that the vast majority of the Board’s were deliberations are based upon organizational conventions. Significant policy issues were identified and determined based upon the practices established over time, not according to codified procedures or requirements. ATRT1 also noted that the absence of clear, codified guidelines, procedures or processes relating to Board decisions only serves to escalate stakeholders’ concerns and could lead to disenfranchisement and disengagement.

## 7.2 Recommendation 7.2

*Commencing immediately, the Board should publish “a thorough and reasoned explanation of decisions taken, the rationale thereof and the sources of data and information on which ICANN relied.” ICANN should also articulate that rationale for accepting or rejecting input received from public comments and the ICANN community, including Supporting Organizations and Advisory Committees.*

## 7.3 Summary of ICANN’s assessment of implementation

ICANN Staff reports that it has implemented fully Recommendation 7.2.

ICANN also notes that the development of rationales has, at times, increased the time needed for Board consideration of items. For major Board decisions, there have been significant costs incurred in both money and resources to develop the rationales.

With respect to effectiveness, ICANN notes that people have more information as to the bases for Board decisions. Sometimes the complexity of the resolutions has decreased because background information can now be provided through the rationale.

## 7.4 Summary of community input on implementation

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ATRT2 received little comment on the Board’s explanation of decisions and stated rationale. The Regisstries Stakeholder Group did comment, however, that the Board still ignores comments in its decision-making.

## 7.5 Summary of other relevant information

ATRT2 assessed Board resolutions during the period of 2011-2013with three questions in mind:

* Does the Board provide a clear explanation of its decision? Are there substantive actions to be taken to further improve the ICANN process?
* Does the Board provide a clear and reasonable rationale for its decision?
* Does the Board provide an explanation of how it took into consideration public comments (if any)?

ATRT2 concluded that there’s clear evidence that, to a large degree, Board decisions do satisfy the three questions posed.

## 7.6 ATRT2 analysis of recommendation implementation

Implementation of Recommendation 7.2 appears largely successful. A review of all Board Resolutions from 2011 through 2013 reflect that decisions provide detailed rationale for those decisions. ATRT2’s assessment reflects an improving trend over the three-year period and, while there remain examples that demonstrate room for improvement, implementation of Recommendation 7.2 indicates significant qualitative improvement since 2011.

## 7.7 ATRT2 assessment of recommendation effectiveness

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The baseline for this Recommendation is that prior to January 2011, the Board had not regularly adopted formal rationale statements for its decisions. Both the analysis and public comment reflect significant improvement in this area.

# 8. Assessment of ATRT1 Recommendations 9-14

## 8.1 Findings of ATRT1

The ATRT1 recognized that the existing GAC-Board relationship was dysfunctional and provided six recommendations aimed at improving GAC-Board interactions.

**8.2 ATRT1 Recommendation 9**

*The Board, acting through the GAC-Board joint working group, should clarify by March 2011 what constitutes GAC public policy “advice” under the Bylaws.*

## 8.4 ATRT1 Recommendation 10

*Having established what constitutes “advice,” the Board, acting through the GAC-Board joint working group, should establish by March 2011 a more formal, documented process by which it notifies the GAC of matters that affect public policy concerns to request GAC advice. As a key element of this process, the Board should be proactive in requesting GAC advice in writing. In establishing a more formal process, ICANN should develop an on-line tool or database in which each request to the GAC and advice received from the GAC is documented along with the Board’s consideration of and response to each advice.*

**8.5 ATRT1 Recommendation 11**

*The Board and the GAC should work together to have the GAC advice provided and considered on a more timely basis. The Board, acting through the GAC-Board joint working group, should establish by March 2011 a formal, documented process by which the Board responds to GAC advice. This process should set forth how and when the Board will inform the GAC, on a timely basis, whether it agrees or disagrees with the advice and will specify what details the Board will provide to the GAC in circumstances where it disagrees with the advice. This process should also set forth the procedures by which the GAC and the Board will then “try in good faith and in a timely efficient manner, to find a mutually acceptable solution.” This process must take into account the fact that the GAC meets face-to-face only three times a year and should consider establishing other mechanisms by which the Board and the GAC can satisfy the Bylaw provisions relating to GAC advice.*

**8.6 ATRT1 Recommendation 12**

*The Board, acting through the GAC-Board joint working group, should develop and implement a process to engage the GAC earlier in the policy development process.*

**8.7 ATRT1 Recommendation 13**

*The Board and the GAC should jointly develop and implement actions to ensure that the GAC is fully informed as to the policy agenda at ICANN and that ICANN policy staff is aware of and sensitive to GAC concerns. In doing so, the Board and the GAC may wish to consider creating/revising the role of ICANN staff support, including the appropriate skill sets necessary to provide effective communication with and support to the GAC, and whether the Board and the GAC would benefit from more frequent joint meetings.*

**8.8 ATRT1 Recommendation 14**

*The Board should endeavor to increase the level of support and commitment of governments to the GAC process. First, the Board should encourage member countries and organizations to participate in GAC deliberations and should place a particular focus on engaging nations in the developing world, paying particular attention to the need to provide multilingual access to ICANN records. Second, the Board, working with the GAC, should establish a process to determine when and how ICANN engages senior government officials on public policy issues on a regular and collective basis to complement the existing GAC process.*

**8.9 ICANN’s assessment of implementation**

After adopting the Recommendations,ICANN created the joint Board-GAC Recommendation Implementation Working Group (BGRI working group) to focus on implementation. For certain issues within the competence of the GAC, it undertook its own work efforts to respond to the Recommendations.

As called for by Recommendation 9, the GAC developed a definition of GAC Public Policy “Advice” that was accepted by the BGRI working group and Board, and ultimately was added by the GAC to its Operating Principles. This definition served as a key input for developing GAC procedures for the new gTLD program, most notably in the processes for GAC Early Warning and Advice (Objections).[[31]](#footnote-31)

To address Recommendation 10, the BGRI working group developed and implemented a GAC Register of Advice. The GAC Register of Advice is posted publicly on the GAC website. [[32]](#footnote-32) Evaluation of the effectiveness of the Register as a tool for the Board, GAC and community is ongoing, pending longer-term use of the Register by the GAC and the Board, particularly in terms of “follow up action” and joint agreement that advice has been fully implemented

To implement Recommendation 11, the BGRI working group has worked to codify the methods for the GAC-Board Consultations process as called for in the Bylaws. The GAC has submitted edits to the document and the revised text remains to be reviewed/approved by the Board. The Board then will need to develop Bylaws amendments that would impose a time limit and require a super majority of the Board in order to reject GAC advice.

As the BGRI working group tackled Recommendation 12, several complicating factors emerged, including the complexity and length of the Generic Names Supporting Organization’s (GNSO) policy development process. Additionally, despite the fact that the policy development processes of various SOs and ACs are open to community participation there are different levels of explicit participation avenues for the GAC. For example, the ccNSO process affirmatively includes input from the GAC in particular, while the GNSO process is “open” to all interested stakeholders and does not provide a specific path to participation by the GAC. However, the GAC is structured under the Bylaws to provide public policy advice directly to the ICANN Board. Some see this as an impediment to early engagement. In addition, considerable differences within the ICANN community as to the scope of the terms “policy” and “public policy” exist. The GNSO does not appear to assign any particular or specific weight to “public policy” advice from the GAC in its deliberations. For its part, the GAC is aware that it does not have membership status in the GNSO and cannot influence or determine the outcome of GNSO processes. There is no clear record, for example, of acceptance by the GNSO of GAC input prior to the completion of any specific GNSO policy recommendation; in fact, the reverse is the case (e.g. public order and morality). Recommendation 12 was discussed by the BGRI working group at ICANN Prague, Toronto and Beijing, focusing specifically on the different work methods in the GAC as compared to the other SOs and ACs. The GAC has agreed to develop proposals for new tools/mechanisms for engagement with the GNSO policy development process and discussions are ongoing.

In relation to Recommendation 13, at the request of the BGRI working group ICANN staff has proposed a monthly policy update for the GAC to assist its members in monitoring/tracking pending policy development initiatives. This effort has been welcomed by the GAC and is considered one of several elements that will support meeting the goal of the Recommendation. There may be additional tools identified by the BGRI working group that could facilitate a broader understanding among GAC members of the variety of pending policy initiatives and deliberations in other ICANN stakeholders groups. The GAC has also proposed, via the BGRI working group, the idea of "reverse" liaisons from ACs and SOs, as well as a Board liaison to the GAC, which remains under consideration in terms of specific implementation measures.

Many efforts were taken to implement Recommendation 14. The Canadian Government hosted the first meeting of senior government officials during the 45th ICANN Meeting in Toronto, which was well attended and highlighted considerable support for the role of the GAC within ICANN. At the request of the GAC Chair, ICANN has made strides to increase funding for GAC member travel to be commensurate with other SOs and ACs, and provides interpretation for GAC meetings. This has clearly facilitated broader participation by non-English speaking GAC members in GAC deliberations. In fact, in the last three years the number of GAC members has increased from 100 to 129, and there has been a 77% increase in the level of in-person participation at ICANN meetings since 2010. Finally, the GAC issued an RFP in 2012 to solicit a provider, funded by Brazil, Norway and the Netherlands, to supply additional secretariat support. In the interim, ICANN funded the travel costs of an Australian Continuous Improvements Group (ACIG) staff member to the Durban meeting to provide support to the GAC, under the guidance of the GAC Chair and Vice Chairs. In February 2013, a new ICANN staff member was hired under a temporary contract to provide additional support to the Chair and Vice Chairs of the GAC, and that individual is on track to become a permanent employee.

**8.10 Summary of community input on implementation**

Comments received in response to the ATRT2 call for input generally conclude that the Board, working with the GAC, has made a substantial, good-faith effort to implement this series of Recommendations. Nevertheless, highlighted outstanding issues include the need to develop metrics or measurable criteria with which to monitor implementation; fully implement remaining Recommendations more clearly target future recommendations to aid in implementation; and improve communication to those outside of the immediate ICANN community.

In addition, several comments note that implementation has taken longer than anticipated by ATRT1, and in some cases there was a gap between the wording of the Recommendation and how it was carried out.[[33]](#footnote-33) Some also claimed that the” role of the Board and the relationship between the Board and the GAC is unclear.”[[34]](#footnote-34) In addition, while comments characterize ICANN as making best efforts, the implementation of GAC improvements remains insufficient and that “a further smooth channel be provided for GAC to engage into policy-making procedure.”[[35]](#footnote-35) Further comments consider that ICANN continues to need to improve accountability and transparency in decision-making and execution, “strengthen working mechanisms between GAC, Board and SOs/ACs and define roles.”[[36]](#footnote-36) Some commenters feel that implementation remains unsatisfactory as some key GAC-related Recommendations have not yet been fully implemented.

**8.11 ATRT2 analysis of recommendation implementation**

Overall, the ATRT2 finds that ICANN has made a good faith effort to implement ATRT 1 Recommendations 9-14. While there seem to have been some challenges associated with responsibility for implementation (i.e., the shared nature of both the ICANN Board and GAC) as well as the practicality of priority timing proposed by ATRT1, most of the Recommendations have been addressed. However, there are outstanding implementation details that require further attention (e.g. the functioning of the Register of GAC Advice, whether and how often to hold additional High Level Meetings, etc.). For Recommendation 10, the Board needs to do further work to develop a more formal, documented process for notifying the GAC on matters that affect public policy concerns. Recommendation 12 related to facilitating the early engagement of the GAC in ICANN’s policy development process remains an ongoing work priority for the BGRI working group, which has most recently involved direct consultations with the GNSO. And while there has been some progress on the level of support and commitment of governments to the GAC process, further work is need related to Recommendation 14.

|  |  |
| --- | --- |
| **Recommendation (s)** | **Assessment** |
| 9 | Complete, issue satisfactorily addressed |
| 10 | Incomplete, significant steps have been taken with the GAC Register and the Board responding to GAC input, but further work is needed on the Board seeking GAC input at the outset. |
| 11 | Substance complete, but took longer than ATRT1 suggested deadline. Issue of proposing and adopting related Bylaws changes remains open. |
| 12 | Discussion and implementation of recommendations remain ongoing. Completion involves considerable further work and engagement with other SOs and ACs. [To be reassessed after receiving the expert report] |
| 13 | Complete, issue satisfactorily addressed |
| 14 | Actions taken, but further work is needed given broader geo-politics and the concerns of some governments |

**8.12 ATRT2 Draft new GAC-Related Recommendations**

**8.13 Hypothesis of problem**

Notwithstanding the substantial progress made by ICANN and the GAC in implementing the ATRT1 recommendations, there are a number of issues with respect to the GAC that still need evaluation. There is a perceived lack of transparency of GAC work methods as well as concern about the inherent barriers for participation in ICANN due to the complexity of the ICANN model and the immense level of information. As discussed in the ATRT1 report, there continues to be a lack of GAC early involvement in the various ICANN policy processes. Overall, there is concern whether ICANN is doing everything it can to bolster its legitimacy in the eyes of countries that do not participate in the GAC, especially countries in the developing world.

**8.14 Background research undertaken**

**Summary of relevant public comment responses**

Responses from the community highlighted that while the GAC’s input to policy discussions is important, the process and discussion involved in developing GAC views are often opaque. There were specific calls for community visibility into GAC work methods and processes. Comments show that this lack of insight into GAC discussion and work methods can result in confusion for the stakeholders upon the receipt of GAC Advice. As confirmed by comments from one government official, the “GAC’s role is critical in ensuring the wider public interest is taken into account” in ICANN decision-making so it is important for its role and performance to be regularly subject to scrutiny by the wider ICANN community.”[[37]](#footnote-37) Another commenter suggested that the GAC employ metrics to measure the GAC’s accountability, including “third party assessment of the advice, through interviews with the Board, constituency leadership, and community members.”[[38]](#footnote-38)

The GAC has achieved notable progress in defining and providing greater visibility into the GAC consensus process, resulting in an amendment to Principle 47 of the GAC’s Operating Principles at the October 2011 ICANN meeting in Dakar. Principle 47 states that “consensus is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection.”[[39]](#footnote-39)

Comments show that large portions of the ICANN community do not share a common understanding of the different roles of the Board, the GAC and the GNSO, and that this lack of understanding of the different roles “can result in a lack of respect for the input of the various stakeholders.”[[40]](#footnote-40) Others pointed to the limited visibility into the work methods and deliberations of the GAC, sometimes due to closed-door discussion, results in confusion among the community as to the process of developing GAC Advice, noting that “it often appears to catch the community by surprise.”[[41]](#footnote-41) Comments also suggested greater communication from the GAC during its deliberations and discussions could offer the community better insight into work methods, and processes, and GAC Advice relieving the feeling that “messages from the GAC are often misunderstood or seen as aggressive, and vice versa.” [[42]](#footnote-42) Understanding that various constituencies within the community are interested in different issues and have different operational styles, “communication processes should be meaningful and relevant to ICANN users.”[[43]](#footnote-43) Currently, “GAC external dialogue seems to be mainly Board-­‐focused and the opportunity to interact with the wider ICANN community seems constrained.” [[44]](#footnote-44)

In addition, comments from the Community focus on the need to increase the level and quality of government participation in the GAC. Specific issues raised were increasing the outreach to developing countries, the need for GAC representatives to be supported individually to encourage consistent participation, and to manage how the GAC addresses its work load to ensure it can be addressed in a consistent fashion by GAC representatives. Comments referenced the perceived barriers to participation overall, noting “it is difficult to navigate in the ICANN model.”[[45]](#footnote-45) Continuing in that vein, some commenters questioned whether the GAC is currently “effectively taking account of all situations across the globe in differing economies and communities [and] are GAC representatives sufficiently resourced on an individual basis to undertake more work on early policy development?”[[46]](#footnote-46) Comments also suggested that ICANN should provide simple, focused and high quality information rather than information on an ad hoc basis as well as measures to provide further support to newcomers.

Several commenters also focused on the need to increase engagement and outreach to developing countries as a means to increase membership and gain more varied regional representation of views, noting that the “GAC needs to improve the consistency of levels of engagement across its membership, both at meetings and intersessionally when the level of involvement from developing and least developed countries are typically extremely low (notably in GAC teleconferences). This is a potentially serious problem given that the committee’s level of activity intersessionally needs to increase significantly.”[[47]](#footnote-47) Additionally, commenters feel “it will be important to monitor progress in promoting wider engagement.” It is important that ICANN work with its existing global stakeholders to reach out in their local communities where they are already well established and networked.[[48]](#footnote-48) Commenters note that the ATRT2 should, explore “aspects that may contribute to raise the level of participation and strengthening the legitimacy of the multi-stakeholder model.”[[49]](#footnote-49) Finally, several comments offer solutions and identify current efforts that could contribute to increased government involvement in, and support of, the GAC including the development of a GAC code of conduct.[[50]](#footnote-50) One comment notes “the deployment of innovative consultation tools may help restore the balance in order to achieve meaningful response levels.”[[51]](#footnote-51) In addition, several commenters note that “ICANN’s opening of new offices may provide new global awareness, but will not fix problems.”[[52]](#footnote-52)

Lastly, comments highlighted the need to incorporate the GAC into policy discussions early in the process. Noting that “early engagement of the GAC is also important to ensuring predictability: improving understanding of the rationale behind decisions will help the wider community understand the advice and recognize how it fits in with the underlying principles.”[[53]](#footnote-53) Comments cited the GNSO PDP as an example of where there is weak GAC engagement stating that the “timeliness often depends on leadership strength and member commitment as well as consistent refusal of groups to participate at all or not until late in process.”[[54]](#footnote-54) The Non-Commercial Stakeholder Group submits that they are “concerned about tendencies that threaten multi-­‐stakeholder, bottom-­‐up, consensus-­‐building policy” and offer the drafting and discussion of the GAC Communique in Beijing as an example.[[55]](#footnote-55) In addition, comments highlighted that while all input is valuable, there are often barriers to exchanging information.[[56]](#footnote-56) Comments noted that while GAC-Board interactions and processes have improved, more could be done to include the ATRT2 specifically examining “…a more dynamic and interactive exchange in open GAC/ Board meetings.”[[57]](#footnote-57)

**Input from face-to-face sessions**

Several comments from ATRT2 discussions with the various SOs and ACs, while noting the need to incorporate the GAC early on, also focused on the need for better cross-community communication in general. The ALAC noted that, in general, groups like the ALAC and GAC are not coming into the process early enough. The participants noted several barriers to inserting into various other processes such as 1) silos, associated with issues and SOs and ACs, create information sharing and process issues across the community, 2) cited instances when issues have been “taken” by a particular SO or AC when that issue was cross cutting and should have been addressed by the entire community, or 3) issues with participating in some other SO or AC processes, due to the tendency for SOs and ACs to “shout down” outside input. Finally, the ALAC participants noted that travel, facilities, and the compressed schedule all affect the ability of ALAC to do its work and proposed that better/alternate ways to connect should be explored (e.g. Adobe Connect).[[58]](#footnote-58)

During discussion with the GNSO, some ATRT2 participants noted (in their own observational capacity, not speaking on behalf of the GNSO) that while the GAC does acknowledge a need and desire to participate in the process, it has not been able to identify how to do that effectively, while taking into account the different processes of the GAC and GNSO. The GNSO cited ongoing work and discussions regarding how to incorporate the GAC into their PDP, noting that the ongoing discussion on this issue highlights an important aspect of the multi-stakeholder process. The GNSO also noted that because discussions were already underway, it is important not to duplicate work by approaching the issue from too many angles at the same time. Several GNSO participants suggested the need to examine whether policy processes as a whole were effective. Additional questions were raised regarding the ability for the GNSO policy process allowed for the development of consensus policies in a timely manner.[[59]](#footnote-59)

Community discussions on cross community deliberation continued with the Registry Stakeholder Group (RySG). The RySG shared several opportunities to participate in existing processes for GAC and other SOs and ACs. For example, when a PDP is initiated and a Working Group is formed a request/notice is sent to SOs and ACs inviting participants. Some SOs and ACs are able to provide good and consistent participation in various Working Groups. They also noted other attempts to coordinate that did not prove to work well (e.g. liaison with the GAC) and processes that are still being tried (e.g. IGO WG engagement with the GAC). Some participants noted that the reason liaisons with some communities succeed and others fail rests on the participant’s/SO or AC’s ability to engage and provide consistent feedback.

**ICANN Staff input**

In addition to issuing a questionnaire for public comment, the ATRT2 also asked ICANN Board and Staff a series of questions to gain insight into their understanding of the goals of ATRT1 recommendations and review the process used to review, implement and oversee implementation. The Board and staff responded to several questions from the ATRT2 as part of a Staff Input Document into the ATRT2,[[60]](#footnote-60) including “whether there were additional opportunities for improvement by virtue of the implementation of these recommendations?” (Question I).

In response to that questions in the context of ATRT1 Recommendations 12, ICANN identified several possible additional measures for consideration in the future, including “GAC Chair designates small GAC WG, Reviews Monthly Reports for possible public policy interest**,** Post any comments on website, Submit comments to relevant SO, Specially-tailored Webinar prior to Public Meetings, Specifically designed for the GAC to focus on emerging or significant policy issues under development for discussion at public meetings that may raise public policy issues or concerns, Utilize Monthly Report to engage Supporting Organizations, Identify issues that may have public policy interest, Engage with relevant SOs prior to and during ICANN Public Meeting.”

With respect to ATRT1 Recommendation 13, ICANN suggested “Assisting the GAC to organize/formalize regular consultation at ICANN meetings with the GNSO, ccNSO, ASO, and Advisory Committees on policy issues and matters of concern to the GAC.”[[61]](#footnote-61)

ForATRT1 Recommendation 14, ICANN noted that“more could be done to provide new GAC members with sufficient informational resources. MyICANN was, in part, intended to contribute to this objective and the planned Online Education Platform (working title) also is expected to help address GAC member's information needs.”[[62]](#footnote-62)

In response to early ATRT2 analysis, staff further elaborated that the Global Stakeholder Engagement (GSE) team produces a monthly report for the Chair of the GAC. This document includes a “look back” reporting on the previous month’s activity and projection looking forward at the next month’s planned activity involving GSE staff and government interactions. This report was proposed by staff for circulation to the GAC chair. GSE staff have also developed a global government engagement strategy document that will be presented to the Board Global Relations Committee (BRGC) for informational purposes at the September 2013 committee meeting in Los Angeles. As a best practice, ICANN’s Regional Vice Presidents seek to inform the GAC members in their regions of the related community regional engagement strategy working groups’ activities and outcomes.

Staff also informed ATRT2 that one of the staff projects underway is the creation of a Customer Relationship Management (CRM) system. As part of that process, the current GAC membership information will be integrated into the electronic database along with the other information being developed through the community engagement strategies. A challenge with these types of projects is the need for continuous updating. Previous initiatives involving government outreach will need to be validated and integrated into the CRM as well.

Staff also informed ATRT2 that GSE is currently working on regional approaches to the internationalization of ICANN. This means that community member committees staffed by the regional GSE staff are developing, implementing or exploring developing regional strategies, depending on the needs and priorities of the regions. Strategic Plans for Africa, Latin America and the Middle East have been announced and launched during the Toronto and Beijing meetings and were updated in Durban, respectively. Written updates on the status of the strategies will be provided to the BRGC committee at its September 2013 meeting. Interactive sessions are also held at each ICANN Meeting to provide updates on activity and the process for identifying the initiative.

**Relevant ICANN bylaws**: Article 11, Section 2.1 (issue 1), Article XI, Section 2.1 (issue 2), Article XI, Section 2.1 (issue 3)

**Relevant ICANN published policies**: None

**Relevant ICANN published procedures**: None

**Relevant GAC Operating Principles:** Principle 47, footnote 1, as amended October 2011.

**Findings of ATRT2**

The ATRT2 has identified three major issues that affect the GAC’s ability to effectively interact with the Board and community at large, and that has an impact on the accountability, transparency and perceived global legitimacy of ICANN. The first issue is a lack of clarity into, or understanding of, the GAC work methods, agenda and activities by the broad ICANN community, staff and Board. Complicating that relationship is that the relationship is not well understood between advice provided by the GAC to the ICANN Board and the policy recommendations provided to the ICANN Board through the policy development processes within ICANN’s Supporting Organizations (particularly the GNSO). The advice provided by the GAC is not well understood outside of government circles and the specifics of it are often a surprise to non-GAC members, particularly on those occasions when the GAC deliberations are closed to other interested ICANN stakeholders. A lack of understanding of methods and activities of the GAC can contribute to diminished credibility and trust in the GAC and its outputs, impede interaction with the ICANN community and its constituencies, and lead to process and policy development inefficiencies.

Second, challenges continue with barriers for participation both within the GAC and in ICANN more generally. More effective procedures in the GAC, easier access to information from ICANN, as well as a better explanation of the ICANN model would uphold a continuous and effective level of participation in the GAC.

Finally, GAC participation in the various ICANN policy development processes is limited to non-existent. Without early engagement the GAC is often put in the position of making interventions later into the policy development process often extending the timeline for those issues. Earlier engagement in policy development by all stakeholders would also produce more comprehensive polices that reflect the views and needs of the community.

**ATRT2 Draft New Recommendations**

**Increased transparency of GAC related activities**

1. The Board should request that the GAC consider a number of actions to make its deliberations more transparent and better understood to the ICANN community. Where appropriate, ICANN should provide the necessary resources to facilitate the implementation of specific activities in this regard. Examples of activities that GAC could consider to achieve to improve transparency and understanding include:

* Convening “GAC 101” sessions for the ICANN community, to provide greater insight into how individual GAC members prepare for ICANN meetings in national capitals, how the GAC agenda and work priorities are established, and how GAC members interact intersessionally and during GAC meetings to arrive at consensus GAC positions that ultimately are forwarded to the ICANN Board as advice;
* Publishing agendas for GAC meetings, conference calls, etc. on the GAC website seven days in advance of the meetings, and publishing meeting minutes on the GAC website within seven days after each meeting or conference call.
* Updating and improving the GAC website to more accurately describe GAC activities, including intersessional activities, as well as publishing all relevant GAC transcripts, positions and correspondence;
* Considering whether and how to open GAC conference calls to other stakeholders to observe and participate, as appropriate. This could possibly be accomplished through the participation of a liaisons from other AC’s and SO’s to the GAC, once that mechanism has been agreed and implemented;
* Considering how to structure GAC meetings and work intersessionally so that during the three public ICANN meetings a year the GAC is engaging with the community and not sitting in a room debating itself; and
* Establishing as a routine practice agenda setting calls for the next meeting at the conclusion of the previous meeting.

2. The Board should request that the GAC formally adopt a policy of open meetings to increase transparency into GAC deliberations, and establish and publish clear criteria for closed sessions.

3. The Board should request that the GAC develop and publish rationales for GAC Advice at the time Advice is provided. Such rationales should be recorded in the GAC register. The register should also include a record of how the ICANN Board responded to each item of advice.

4. The Board, working through the BGRI working group, should develop and document a formal process for notifying and requesting GAC advice. (see ATRT1 Recommendation 10)

5. As soon as practicable, the Board should propose and vote on appropriate Bylaw changes to formally implement the documented process for Board-GAC Bylaws consultation as developed by the BGRI working group. (see ATRT1 Recommendation 11)

**Increase support and resource commitments of government to the GAC**

*(see ATRT 1 Recommendation 14)*

6. The Board and the GAC, through the BGRI working group, should identify and implement initiatives that can remove barriers for participation, including language barriers, and improve understanding of the ICANN model and access to relevant ICANN information for GAC members. The Board should request that the GAC analyze how it can improve its procedures to ensure more efficient, transparent and inclusive decision-making. The Board should suggest to the GAC that it develop a code of conduct for its members that could include issues such as: conflict of interest; transparency and accountability; adequate domestic resource commitments; routine consultation with local DNS stakeholder and interest groups; and an expectation that positions taken within the GAC reflect the fully coordinated domestic government position and are consistent with existing relevant national and international laws.

7. The Board should regularize senior officials meetings by asking the GAC to convene a High Level meeting on a regular basis, preferably at least once every two years.

8. The Board should request that GAC work with ICANN’s Global Stakeholder Engagement group (GSE) team to develop guidelines for engaging governments, both current and non-GAC members, to ensure coordination and synergy of efforts.

9. The Board should instruct the GSE to develop, with community input, a baseline and set of measurable goals for stakeholder engagement that addresses the following:

* Relationships with GAC and non-GAC member countries, including the development of a database of contact information for relevant government ministers;
* Tools to summarize and communicate in a more structured manner government involvement in ICANN, via the GAC, as a way to increase the transparency on how ICANN reacts to GAC advice (e.g. by using information in the GAC advice register).
* Making ICANN’s work relevant for stakeholders in those parts of the world with limited participation; and,
* Develop and execute for each region of the world a plan to ensure that local enterprises and entrepreneurs fully and on equal terms can make use of ICANN’s services including new gTLD’s.

**Increase GAC early involvement in the various ICANN policy processes**

*(tied to ATRT 1 Recommendation 12)*

10. [Tentative recommendation to be reexamined after receiving the report of the independent expert.] The Board, through the BGRI working group, should facilitate early engagement of governments, via the GAC, in ICANN’s policy development processes. Issues to consider include, but are not limited to: whether or not the current siloed structured of SO/AC’s is supportive of early GAC engagement; whether there is a systematic way to regularly engage with other stakeholders that facilitates information exchanges and sharing of ideas/opinions, both in face to face meetings and intersessionally; and, whether the Bylaws need to be amended to ensure that GAC advice is considered prior to policy recommendations being sent to the Board.

**Public Comment on Draft Recommendation(s)** - TBC

**Final Recommendations** - TBC

# 9. Assessment of ATRT1 Recommendations 15, 16 and 17

## Findings of ATRT1

ATRT1 found that the timeliness and effectiveness of policy-making was a serious concern among participants in the ICANN process. Key drivers were the sheer volume of open proceedings and lack of prioritization. ATRT1 found it would be important to improve the nature and structure of the public input and policy-making processes. ATRT1 took into account the fact that the volume of open proceedings is affected by the actions of constituent bodies within ICANN and is not uniquely influenced by ICANN Staff or the Board.

## ATRT1 Recommendation 15

*The Board should, as soon as possible but no later than June 2011, direct the adoption of and specify a timeline for the implementation of public notice and comment processes that are distinct with respect to purpose (e.g. Notice of Inquiry, Notice of Policy Making) and prioritized. Prioritization and stratification should be established based on coordinated community input and consultation with staff.*

## ATRT1 Recommendation 16

*Public notice and comment processes should provide for both a distinct ‘Comment’ cycle and a ‘Reply Comment’ cycle that allows community respondents to address and rebut arguments raised in opposing parties’ comments.*

## ATRT1 Recommendation 17

## As part of implementing recommendations 15 and 16, timelines for public notice and comment should be reviewed and adjusted to provide adequate opportunity for meaningful and timely comment. Comment and Reply Comment periods should be of a fixed duration.

## Summary of ICANN’s assessment of implementation

ICANN Staff reports that it has implemented fully Recommendation 16. Staff demonstrated that an implementation plan was developed and put out for Public Comment, and that a Comment and Reply Comment cycle were implemented.[[63]](#footnote-63) Staff also notes that, at the same time, review of the public wiki was undertaken to consider improvements to the public interface aspect of submitting Comments. Staff also noted that stratification categories and prioritization methods were developed and put to the Community for discussion. Based on Community feedback, Staff did not implement a stratification and prioritization of Public Comments.

## Summary of community input on implementation

Community input reflected a range of views. While there was little comment on the Comment and Reply Comment mechanisms themselves, there was recognition that ICANN spends a great deal of time and resources offering the opportunity to provide comments in ICANN processes.[[64]](#footnote-64) With respect to how “easy” it is to provide comments, views ranged markedly from “very easy” to “not easy.” Some commenters recognized the improvements and offered high marks for Staff’s efforts. A number of others pointed to the length of the request for comment and the time period allotted for comments as creating challenges to effective participation. Others noted insufficient planning and the high number of consultations creating barriers to participation.[[65]](#footnote-65)

## Summary of other relevant information

Staff also noted that the Community had not always utilized the “Reply Comment” cycle as ATRT 1 intended it. Some Community members apparently have used the Reply Comment cycle to offer comments (either for the first time or in addition to earlier filed Comments). Staff indicated that education regarding the proper use of the Reply Comment cycle had been offered, but that commenters did not follow the recommended use. Staff also noted that it is considering lengthening the time periods for Comments, having heard complaints from the Community that the current time period allowed was too short for some to draft and approve Comments for submission. Staff also noted that it was developing new tools to allow for Comment through different means (e.g. social media tools) and would consult with the Community before deploying such tools.

## ATRT2 analysis of recommendation implementation

Implementation of Recommendation 16 appears complete but with qualified success. Given the Community’s use of the Reply Comment cycle, it does not appear that those mechanisms are offering the intended benefit. Additionally, ATRT2 notes that implementation o stratification and prioritization of Comments was abandoned based on Community feedback, the challenges with respect to the Comment process continue to be in the area of time allotment for Comments, frequency of consultations, and complexity (for some) of the requests for comments. Staff should develop new tools and techniques for addressing these persistent issues.

## ATRT2 assessment of recommendation effectiveness

The effectiveness of implementation is qualified but, where unsuccessful, is not entirely due to implementation efforts of Staff. Interestingly, the Board has improved in reflecting Public Comment in its resolutions. That is a key element of accountability and transparency. ATRT2’s assessment is that fulsome, broader and more frequent public comment can be facilitated through adjustments to time allotted, forward planning regarding the number of consultations, and new tools that facilitate easier participation in the Comment process.

# 10. Assessment of ATRT1 Recommendations 18, 19, and 22

## Findings of ATRT1

The ATRT1 report focused on language as a potential barrier to the community in the sense that if all documents are in English only, there is a risk that many of the non-native English speakers might have difficulties with comprehending important issues and missing out on important information. Furthermore, it was recommended that the senior staff be multi-lingual too in order to deliver optimal levels of transparency and accountability to the community.

In 2012 ICANN introduced translation services to enable a better service to the larger diverse community. Though the language services are welcome, the quality of the translation in terms of accuracy to the working language of the various communities is important. In addition, the timeliness of the translation in relation to community interaction and participation is necessary. This will ensure effective and clear communication with the community.

## ATRT 1 Recommendation 18

*The Board should ensure that access to and documentation within the policy development processes and the public input processes are, to the maximum extent feasible, provided in multi-lingual manner.*

## ATRT1 Recommendation 19

*Within 21 days of taking a decision, the ICANN Board should publish its translations (including the required rationale as outlined in other ATRT recommendations) in the languages called for in the ICANN Translation Policy.*

**ATRT 1 Recommendation 22**

*The Board should ensure that ICANN’s senior staffing arrangements are appropriately multi-lingual, delivering optimal levels of transparency and accountability to the community.*

## Summary of ICANN’s assessment of implementation

## One of the first accomplishments was the creation and approval by the Board of the Language Services Policy and Procedures document.**[[66]](#footnote-66)** The resolution adopting this initiative was approved on 18 October 2012.**[[67]](#footnote-67)** Significantly, the ATRT1 recommendation to “Enhance Multilingual Strategy” also included improvements such as more interpretation support, transcription support, and teleconference interpretation.

During calls[[68]](#footnote-68) with the ATRT2, Staff explained how the translations services work and the challenges they continue to face. These include, but are not limited to, the need to update and improve glossaries of already used terminologies in the six ICANN languages; budgetary constraints (despite increases from US$2.1M in 2012 to US$3.6M in 2014); and management of the sheer volume of work via staffing levels and how that impacts the timeliness of output.

Staff also shared the process involved as follows:

1. Receive the document for translation
2. Quick estimate of words per page multiply by days it takes to translate; 1 day = 1800-2000 words
3. Document goes through polishing

Delays in getting the materials out at the same time often is a result of the size of the material to be translated and a lean department of two staff.

Regarding Recommendation 22, ICANN’s Director of Human Resources reported that ICANN had 38 individuals in Senior and Executive Management roles in December 2010. Of those, 28 were multi-lingual (73.4%). As of August 2013, there are 51 individuals in Senior and Executive Management roles, of which 39 are multi-lingual (76.5%). Staff reported that on the overall, ICANN staff speaks approximately 45 languages.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Level | On staff as of Dec 2010 | Multi-Lingual | On staff as of Aug 2013 | Multi-Lingual |
| Executive | 8 | 7 | 9 | 8 |
| Senior Mgmt | 30 | 21 | 42 | 31 |

No information was provided on any ongoing training to ICANN staff at any level in enhancing multi-lingual skills.

Staff further noted[[69]](#footnote-69) that

While ICANN does not have a written policy for hiring senior staff with multilingual skills, there are a number of well-established practices and standard operating procedures to address this topic. As ATRT 2 noted, ICANN has been successful in ensuring that senior staff possess multilingual skills by following these practices, and we anticipate that the level of multilingual knowledge will deepen as ICANN continues to implement its global strategy. ICANN will consider other appropriate documentation of the importance of multilingual skills for senior staff on a go forward basis.

Practices and standard operating procedures include:

1. All position descriptions (and job postings) for positions where multilingual skills are appropriate have been written to include multilingual skills as desired, preferred, or required, as applicable.
2. Where appropriate, internal interview survey form asks each interviewer to comment on the multilingual skills of each interviewed candidate – this is a standard operating procedure.
3. The geographic expansion in the locations of ICANN offices is resulting in expansion of multilingual skills, by design.

ICANN provides several resources to employees for expanding their language skills. These resources include access to world-class language training tools, such as Rosetta Stone and busuu.com online language training. Additionally, ICANN provides tuition for local instruction classes as needed; such instruction has been provided for Spanish, Dutch and French, among other languages, for staff in hub office cities.

## Summary of community input on implementation

Criticism of the accuracy of ICANN’s translations is not uncommon. Below is an example of how the translation changes the actual meaning. (The table reflects Russian translations.) It is of great importance that the level of translation accuracy be improved.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Document | Section (Part) | Wording | Actual translation (in Russian) | What it can mean | Correct translation (in Russian) |
| *A Next Generation Registration Directory Service* (2013) | Status of this **document** | **This is an initial report from the Expert Working Group on gTLD Directory Services (EWG) providing draft recommendations for a next generation gTLD Registration Directory Service (the “RDS”) to replace the current WHOIS system** | Настоящий документ ***представляет собой*** отчёт экспертной рабочей группы (ЭРГ) с рекомендациями по замене существующей системы WHOIS на ***службу каталогов регистрации рДВУ («СКР») следующего поколения*** | This is a [*initial* -missing] report of the Expert Working Group on [*draft* - missing] recommendations to replace the existing WHOIS system with *the office (service) of the catalogues of registration* of the *generic* Domains of the Top Level (abbreviation never used in Russian) of the *following* generation | **Настоящий документ является предварительным отчётом Экспертной рабочей группы (ЭРГ) с рекомендациями по замене системы WHOIS справочным сервисом нового поколения («ССНП») по регистрационным данным доменов общего пользования** |
| *WHOIS Policy Review Team Final Report* (2012) | Title | **WHOIS Policy Review Team // Final Report** | Группа ***проверки*** политики WHOIS // Итоговый отчёт | The Team on *Checking* WHOIS Policy // Final Report | **Группа по обзору политики WHOIS // Итоговый отчёт** |
| (*multiple documents*) |  | **Registry** | ***Реестр*** | register (list) | **регистратура** |
| (*multiple documents*) |  | **Registrant** | ***владелец регистрации*** | owner of registration | **администратор домена** |
| (*multiple documents*) |  | **generic domain names** | ***родовые*** домены | ancestral, tribal domains | **домены общего пользования** |

## ATRT2 analysis of recommendation implementation

The implementation of the language policy is deemed unsuccessful because

* The often poor quality of translations undermines public willingness to participate.
* The ability to encourage broader public participation is constrained by the limited availability of a full translation function.
* Community members cannot fully participate in the Public Comments process in their preferred language – including languages that ICANN claims to have established translation services – because they must comment back in English due to the lack of full translations of all comments received.
* Many ICANN language communities are negatively impacted by the timeliness, i.e. common delays, of the current translations policy unequal response times.

On the other hand, it appears ICANN has successfully implemented Recommendation 22 given that with more than 75% is reported as being multilingual. While it is not clear if ICANN has any policies regarding use of other languages than English in email or one-to-one person communication, this has not been raised as a problem by the community. Nevertheless, should some members of the Community have problems communicating with the senior staff in English, it seems likely that their multi-lingual skills will allow them to deliver a high level of transparency and accountability in their interactions.

## ATRT2 assessment of recommendation effectiveness

ICANN should review capacity of the language service department versus Community need for the service, and make relevant adjustments. The Language service is important to what ICANN does and its plans for the future based on the outreach program already in place. Whilst it is recognized that there has been a significant improvement in the Language Services Department, the Translation Services component should evolve to be able to sustain an expected significant increase in activity. This shift from a craft-based ad-hoc supply/demand to a continuous industrial pipeline of documents involves the ability to:

* accurately predict the time to translate a document at any time of the year, based on the knowledge of historical periodic activity (past ICANN meeting cycles, peak periods, holidays, etc.);
* predict peaks of activity proactively, and dynamically modulating capacity to supplement permanent staff using a pool of additional freelance translators on demand to smooth out peak delays;
* enable clients (SOs, ACs, etc.) to automatically track the status of their translation request via use of a CRM system;
* automatically compile metrics on document translation timeliness;
* implement a feedback path from the community to improve Language Services with native speaker input;
* implement best practice documentation management to harmonize translation quality and accuracy between experienced permanent and new or freelance translators; and
* benchmark related procedures with similar international organizations, the most significant being the United Nations Language and Interpretation Services.

Given that the level of multi-lingual staff is commendable, the ATRT2 has no further input on Recommendation 22 at this issue.

# 11. Assessment of ATRT2 Recommendation 20, 23, 25, 26

## Findings of ATRT1

ATRT1 reviewed ICANN’s policy development and implementation processes, and made many recommendations about the inputs and standards used for making decisions and to appeal decisions.[[70]](#footnote-70) Both to ease assessment of implementation and to shed light on the interrelationships between ATRT2’s mandate[[71]](#footnote-71) and the ICANN Board’s decisions on policy and its implementation, a number of these issues have been grouped in this analysis. Importantly, the assessments and recommendations made in this document presume the default condition of transparency as a basis for all ICANN activities. In those instances where the Chatham House Rule[[72]](#footnote-72) is invoked, discussions are closed and/or reports get redacted, the decision to overrule the transparency imperative still should be publicly documented.

## ATRT1 Recommendations 20

*The Board should ensure that all necessary inputs that have been received in policy-making processes are accounted for and included for consideration by the Board. To assist in this, the Board should as soon as possible adopt and make available to the community a mechanism such as a checklist or template to accompany documentation for Board decisions that certifies what inputs have been received and are included for consideration by the Board.*

## ATRT1 Recommendation 23

*As soon as possible, but no later than June 2011, the ICANN Board should implement Recommendation 2.7 of the 2009 Draft Implementation Plan for Improving Institutional Confidence which calls on ICANN to seek input from a committee of independent experts on the restructuring of the three review mechanisms - the Independent Review Panel (IRP), the Reconsideration Process and the Office of the Ombudsman. This should be a broad, comprehensive assessment of the accountability and transparency of the three existing mechanisms and of their inter-relation, if any (i.e., whether the three processes provide for a graduated review process), determining whether reducing costs, issuing timelier decisions, and covering a wider spectrum of issues would improve Board accountability. The committee of independent experts should also look at the mechanisms in Recommendation 2.8 and Recommendation 2.9 of the Draft Implementation Plan. Upon receipt of the final report of the independent experts, the Board should take actions on the recommendations as soon as practicable.*

## ATRT1 Recommendation 25

*As soon as possible, but no later than October 2011, the standard for Reconsideration requests should be clarified with respect to how it is applied and whether the standard covers all appropriate grounds for using the Reconsideration mechanism.*

## ATRT1 Recommendation 26

*As soon as possible, but no later than October 2011 the ICANN Board, to improve transparency, should adopt a standard timeline and format for Reconsideration Requests and Board reconsideration outcomes that clearly identifies the status of deliberations and then, once decisions are made, articulates the rationale used to form those decisions.*

ATRT2, under the terms of its mandate, also determined that the following issues[[73]](#footnote-73) should be addressed in this analysis of accountability and transparency in policy development and implementation processes:

* Publication of yearly statistical reports on transparency
* Enhancement of the employee Hotline that allow relevant information to become transparent (Whistleblower Policy).

## Summary of ICANN’s assessment of implementation

With regard to Board consideration of inputs in policy decision making, Staff undertook an analysis[[74]](#footnote-74) to determine what can be learned based upon actual community usage and participation patterns. The study period was from 1 January 2010 through 31 December 2012, and involved harvesting information from each of 212 archived Public Comments Forums. Ultimately, a checklist was created that is now used with GNSO PDP recommendations to ascertain that all inputs were received. This checklist, now embedded in Standard Operating Procedure, only has been used once to date.

With regard to restructuring review mechanisms, an Accountability Structures Expert Panel (ASEP) was commissioned in September 2012. It included three international experts on issues of corporate governance, accountability and international dispute resolution. The ASEP reported on October 2012 and the Board acted upon its recommendations on 20 December 2012, approving amendments to By-laws Article IV, Section 2[[75]](#footnote-75) (Reconsideration), Section 3[[76]](#footnote-76) (Independent Review), and the corresponding Cooperative Engagement Process for Independent Review.[[77]](#footnote-77)

With regard to the Ombudsman, the Ombudsman undertook a review of his office and function in accordance with ATRT1 Recommendation #23. The Ombudsman recommended to the Board Governance Committee (BGC) that a regular meeting schedule be established, possibly through a committee of the ICANN Board. In turn, the ICANN Board decided (1) that regular meetings would be held by the Executive Committee, and (2) Ombudsman reports that require the full ICANN Board's attention shall be provided to the ICANN Board as a whole, as needed and determined in consultation with the Executive Committee and the Ombudsman.

## Summary of community input on implementation

ATRT2 conducted face-to-face sessions with stakeholders in Beijing and Durban, as well as a community-wide survey to gather their views on ICANN’s progress towards institutionalizing more accountable and transparent policy development and implementation processes. Those relatively few responses to the survey were generally negative (see all of them in the ATRT2 archive at https://community.icann.org/display/ATRT2/Questions+to+the+Community). For example, this graphic summarizes some of the survey responses:

Specific ratings (1-10) to the questions 1-3 on the implementation of ATRT1



Some members of the ICANN community raised explicit Reconsideration process concerns. For example, the Registries Stakeholder Group (RySG) challenged Staff’s implementation of ATRT1 recommendations #23 and #25, claiming that they were fundamentally flawed and in fact ran counter to the concept of accountability.[[78]](#footnote-78) The RySG went on to assert that the Board ignored the public comments. Likewise, the Non-Commercial Stakeholders Group (NCSG), responding to ICANN’s rejection of its Reconsideration #13-3 (regarding the TMCH+50 case), publicly stated its “belief that the Board’s response, or rather, the manner in which it was couched and the rationale which the Board (through its representative sub-committee on the matter) chose to employ, was such as to land yet another blow to the vaunted [Multi-Stakeholder Model].”[[79]](#footnote-79) Other commenters noted that the ATRT2 should address the questions left unresolved by ATRT1, such as: should ICANN provide an independent and binding appeal from Board decisions and, if so, what body should have that authority?

There was limited input on the Ombudsman in the open comments or in the face-to-face discussions with the ICANN community. One report did question the independence of the Ombudsman, noting that the office “appears so restrained and contained.”

## Summary of other relevant information

With regard to Board reconsideration, since December 2010 eight new Reconsideration Request processes were initiated and six of those “resolved.” In the course of its work, ATRT2 found that the general perception throughout the ICANN community is that Reconsideration Requests “all end up in a negative decision.” An analysis of the results bears this out:

* Request 13-5: Booking.com B.V. (Staff action/inaction on non-exact match “hoteis”). BCG recommendation pending.
* Request 13-4: DotConnectAfrica Trust (Board action/inaction on the GACs Beijing communique impact on dotafrica application). **Denied** as per BCG recommendation, Board resolution not finalized
* Request 13-3: Non-Commercial Stakeholders Group (against staff action on TMCH+50). Initially **Denied** by BCG**,** but eventually recommends to adopt **“revised”** recommendation to be brought to the ongoing community discussion on policy versus implementation within ICANN.[[80]](#footnote-80)
* Request 13-2: Nameshop (Board/ Staff inaction *on Applicants Support*). **Denied**.[[81]](#footnote-81)
* Request 13-1: Ummah Digital, Ltd. (against staff action on Applicants Support). **Denied**.
* Request 12-2: GNSO Intellectual Property Constituency (against Board decision on .cat). **Denied.**
* Request 12-1: International Olympic Committee (board decision). **Denied** (“*at this time*”)[[82]](#footnote-82)
* Request 11-1: Michael Gende (staff inaction). **Denied**.

With Regard to the Ombudsman, under the ICANN bylaws[[83]](#footnote-83):

The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. Such annual report should include a description of any trends or common elements of complaints received during the period in question, as well as recommendations for steps that could be taken to minimize future complaints. The annual report shall be posted on the Website.

The Ombudsman maintains its own a set page on the icann.org [website](http://www.icann.org/en/help/ombudsman).[[84]](#footnote-84) Annual reports have been included under this page from 2005 – 2010.[[85]](#footnote-85)

The Ombudsman now reports to the Board on a quarterly basis in addition to publishing an annual report. Furthermore, the Ombudsman has a Facebook page and writes a regular [blog](http://omblog.icann.org) on various topics.

In discussions with the ATRT2[[86]](#footnote-86), the Ombudsman mentioned additional functions that were not include in the explicit Bylaws charter, including:

* “To ensure that there is transparency of the flow of information.”
* “A mandate to assist with keeping peace and harmony within the ICANN community.“
* Involvement in some issue with new gTLD program and Dispute Resolution providers that may have not been anticipated as part of the Ombudsman function by program implementers.

On questions of whether the Ombudsman should have a role in Whistleblower process at ICANN, the current Ombudsman mentioned to the ATRT2 that he, as well as his predecessor, had spoken to ICANN legal staff about this issue, and that he was basically told “no.”[[87]](#footnote-87) He also mentioned that the role had been defined 10 years ago and perhaps that was an issue to be explored.[[88]](#footnote-88)

## ATRT2 analysis of recommendation implementation

With regard to Board consideration of input in policy decision making (ATRT1 Recommendation #20), ATRT2 found this implementation to be **incomplete**. Although the ICANN Board and the GAC have developed a modality that allows the latter’s advice to be received, reviewed, considered, and discussed with decisions explained, and the Supporting Organizations have rich Bylaws text defining processes for consideration of policy advice, the remaining Advisory Committees may offer advice but there is no defined response mechanism. In fact, there isn't even Bylaws obligation on the ICANN Board to respond.

With Regard to restructuring review mechanisms (ATRT1 Recommendation #23), ATR2 also found this to be **incomplete**. Review mechanism is only the last stage of the PDP process, but one where the objectives of AOC 9.1(d) are at risk. Review mechanism should be a “final” guarantee that there is wide support for the decisions. It should not be seen as a way to solve process logjams at this stage alone.

With regard to Board Reconsideration issues, ATRT2 found that Recommendations #25 remains **incomplete**. While steps were taken to clarify the process, the issues described above indicate that it still requires clarification.

Regarding Recommendation #26, though, this item is **complete**. A time line and suggested format for generating a Reconsideration Request can be found at <http://www.icann.org/en/groups/board/governance/reconsideration>.

With Regard to the Ombudsman (ATRT1 Recommendation #24), this item also is **complete**.ATRT2 believes, however, that ICANN needs to reconsider the Ombudsman’s charter and the Office’s role as a symbol of good governance to be further incorporated in transparency processes.

## ATRT2 Draft New Policy Input-Related Recommendations

## Hypothesis of problem

Full transparency requires that employees have an ability to report irregularities in a safe and reliable manner. While ICANN has a hotline that is meant to serve the whistleblowing activities, evidence does not indicate that this program has been used effectively.

## Background research undertaken

While ATRT1 did not make any specific recommendations on a manner in which continual assessment could be done, previous ICANN-contracted reports did include relevant suggestions:

In 2007, **One World Trust** concluded[[89]](#footnote-89) that

ICANN should consider implementing processes that act as deterrents to abuses of power and misconduct which would protect staff who might want to raise such instances. Specifically, ICANN should consider developing a whistleblower policy that enables staff to raise concerns in a confidential manner and without fear of retaliation; and developing appropriate systems to foster compliance.[[90]](#footnote-90)

In 2010, the **Berkman Center for Internet & Society** reiterated[[91]](#footnote-91) One World Trust’s recommendation that ICANN carry out a yearly transparency audit that would be published as part of an annual Transparency Audit.[[92]](#footnote-92)

## Findings of ATRT2

ICANN already issues an annual report on implementation and progress on ATRT1 recommendations. Additionally, while staff does not anticipate any issues with being able to report how the Anonymous Hotline is being used, ICANN’s ability to report publicly on results from Anonymous Hotline may be limited in certain cases due to legal implications. ICANN may be limited to providing a generic disposition due to such legal limitations.

## ATRT2 Draft New Recommendations

**Mandate Board response to Advisory Committee formal advice**

1. ICANN Bylaws Article XI should be amended to include:

The ICANN Board will respond in a timely manner to formal advice from all Advisory Committees explaining what action it took and the rationale for doing so.

**Explore options for restructuring current review mechanisms**

2. The ICANN Board should convene a Special Community Committee to discuss options for improving Board accountability with regard to restructuring of the Independent Review Panel (IRP) and the the Reconsideration Process. The group will use the report of the Experts Group Report (ESEP) on Restructuring as one basis for its discussions.

**Review Ombudsman role**

3. The Ombudsman role as defined in the Bylaws shall be reviewed to determine whether it is still appropriate as defined, or whether it needs to be expanded or otherwise revised to help deal with the issues such as:

* A role in the continued process review and reporting on Board and Staff transparency.
* A role in helping employees deal with issues related to the public policy functions of ICANN
* A role in proper treatment of whistleblowers and the protection of employees who decide there is a need to raise an issue that might be problematic for their continued employment.

**Develop Transparency Metrics and Reporting**

4. As part of its yearly report, ICANN should include

* A report on the broad range on Transparency issues with supporting metrics.
* A discussion of the degree to which ICANN, Staff and Community, are adhering to a standard of default transparency or where decisions to either use Chatham House Rule or redaction is made on a case by case basis and is documented in a transparent manner.
* Statistical reporting on ICANN Board information and report disclosure, to include:
* the usage of the Documentary Information disclosure Policy (DIDP)
* Percentage of Board Book and other information that is released to the general public
* Number and nature of issues that Board determined should be treated at either:
* Under Chatham House Rule
* Completely confidential
* A section on employee whistleblowing activity, to include metrics on:
* Reports submitted
* Reports verified as containing issues requiring action
* Reports that resulted in change to ICANN practices
* An analysis of the continued relevance and usefulness of existing metrics, including
* considerations on whether activities are being geared toward the metrics (aka, teaching to the test) without contributing toward the goal of genuine transparency
* Recommendations for new metrics

**Establish a viable Whistleblower program**

5. Adopt the One World Trust and/or Berkman Center recommendations to establish a viable whistleblower program. The processes for ICANN employee transparency and whistleblowing should be made public. ICANN also should arrange for an annual professional audit of its whistleblower policy to insure that the program meets the global best practices.

## Public Comment on Draft Recommendations (TBC)

## Final Recommendation (TBC)

# 12. Assessment of ATRT2 Recommendation 21

## Findings of ATRT1

ATRT1 found that the timeliness of policy making was a serious concern among participants in the ICANN processes. The numerous changes in projected completion dates for newTLD round preparatory work were a source of concern that led to a specific proposal (i.e. Expression of Interest) from some members in the community. An often-cited concern was the sheer volume of open public comment. The ATRT took into account the fact that the volume of open proceedings is affected by the actions of constituent bodies within ICANN and is not uniquely influenced by ICANN Staff or the Board.

## Recommendation 21

*The Board should request ICANN staff to work on a process for developing an annual work plan that forecasts matters that will require public input so as to facilitate timely and effective public input.*

## Summary of ICANN’s assessment of implementation

Staff reported that all parts of Recommendation 21 were implemented as originally proposed.[[93]](#footnote-93) ATRT2 notes, however, that the annual update process was not completed by the December 2012 deadline. Staff is currently simplifying the process and templates, and expects to launch another formal refresh cycle shortly.

## Summary of community input on implementation

One commenter notes that there’s “Insufficient forward planning for the schedule of consultations and their priority. Number of consultations is very high; bearing in mind the bottom-up nature of ICANN, it can also be a barrier to engagement.”

## ATRT2 analysis of recommendation implementation

Although the forecast was implemented late, a new forecast is now made every trimester so Recommendation 21 is considered **complete**. A resource guide is now published at <http://www.icann.org/en/news/public-comment/upcoming>.

Although there are no formal metrics to gauge the effect or outcome of publishing Upcoming Public Comments topics, anecdotal evidence indicates that some community members perceive value in consulting the Upcoming topics list. Therefore, a formal study should be undertaken approximately six months after the information has been refreshed.

## ATRT2 assessment of recommendation effectiveness

The recommendation seems to have had some effect based on anecdotal evidence, but ICANN should solicit feedback from the Community to determine the effectiveness of forecasting and whether other tools should be used to assist the Community..

# Proposed new Recommendations on Effectiveness of the GNSO PDP WG model

## Hypothesis of problem

Although ICANN continues to conduct its Policy Development Processes (PDP) via Working Groups (WGs) composed of ICANN community volunteers that self-select Chairs presumably capable of bridging opinion differences and arriving at generally acceptable policy recommendations, this model often appears to be lacking – especially when dealing with complex issues compounded by widely disparate points of view and/or strongly held financial interests in particular outcomes.

## Background research undertaken

## Summary of ICANN input

ICANN stakeholders have recognized the structural shortcomings of the existing PDP WG model for some time. Alternative models have been discussed. For example, the use of professional facilitators was raised at the Beijing meeting, and more thoroughly discussed at the Durban meeting.[[94]](#footnote-94) In fact, ICANN brought in professional facilitators to help with a number of activities at the Durban meeting. ICANN staff subsequently drafted a paper, “GNSO Policy Development Process: Opportunities for Streamlining & Improvements,” that discusses a variety of potential improvements, including greater use of face-to-face (F2F) meetings and professional moderation/facilitation.[[95]](#footnote-95)

ICANN meetings themselves are a sign that the Community highly values F2F interactions. The three international meetings per year draw significant – and growing – numbers of attendees, and remain an important opportunity for stakeholders to meet, debate, and decide issues. Likewise, regional meetings of contracted parties and other community members are well-received and attended. ICANN’s Board also holds workshop/retreats several times per year. Even the Review Teams established by the Affirmation of Commitments actively use F2F meetings to augment other methodologies.

**Summary of community input**

A wide-ranging e-mail discussion between several former PDP WG Chairs and others with much experience in GNSO PDPs raised a number of issues that contributed to the recommendations. Among them were the need for face-to-face meetings, professional or trained facilitation/moderation and the involvement of the Board in the process, including the benefits and dangers of deadlines and “threats”.[[96]](#footnote-96)

A number of Public Comments also discussed PDP issues, including:

* The involvement of the GAC in the PDP process.[[97]](#footnote-97)
* The need for wider participation and cross-community interactions.[[98]](#footnote-98)
* The need for participation by groups without a business-related incentives for participation.[[99]](#footnote-99)
* The need for community buy-in into the process and the belief that the decisions of a PDP will not be over-ridden.[[100]](#footnote-100)
* The need for facilitation or other ways of getting closure on contentious issues.[[101]](#footnote-101)
* The need to include non-English speakers in the process.[[102]](#footnote-102)

**Summary of other relevant research**

An expert study on the PDP has been commissioned by the ATRT2. The full InterConnect Communications (ICC) report can be found in Appendix A. Some of ICC’s key observations and conclusions include:

* PDPs are largely developed by North Americans and Europeans with little meaningful input from other regions. Reasons include language, time-zone constraints, inadequate communications infrastructure, and cultural issues.
* Even from the participating regions, most active participants have economic and other support for their ongoing involvement, dominating attendance records.
* The researchers also identified a widespread belief that participation may not be worth the effort since parties dissatisfied with the policy outcomes will find ways to ensure that they are not implemented as prescribed.
* The significant time and effort required for PDP WG participation is too great for too many potential volunteers, exacerbating reliance on a small pool of active participants. Furthermore, many of those polled by ICC reported that much of the PDP WG time is not used effectively.

ICC also addresses concerns about operational practice (time difference, resource availability, support for diverse languages, etc.) as well as the current PDP collaboration and discourse model – which often fails to take into account other cultural approaches to developing and building consensus policies.

## Relevant ICANN Bylaws, other published policies and procedures

The GNSO PDP is governed by Bylaws Annex A[[103]](#footnote-103). This includes the GNSO Operating Procedures[[104]](#footnote-104) and its rules for Working Groups. These annexes also allow work methodologies other than WGs if defined by the GNSO. Furthermore, these procedures do not dictate exact operational aspects of WG meetings.

## Findings of ATRT2

There appears to be a growing sense that professional facilitation of PDPs would contribute to the proper addressing of complicated policy issues. Although such support will incur costs, many stakeholders have expressed doubts that the more difficult and contentious problems will be satisfactorily addressed without such support. That would result in either poor policy, or a situation where the ICANN Board must intervene and set policy itself. Even that, however, would be inadequate in cases where formal Consensus Policy – which can only be developed by the GNSO PDP – is required.

The current PDP WG model also presumes that virtually all of the work can be done via e-mail and conference calls. Experience within ICANN indicates that face-to-face meetings are extremely beneficial. Of course, this too will require increased budget support.

It is unclear how one provides the incentive to negotiate in good faith and make concessions when stakes are high. In the ICANN context, this has at times involved a Board-imposed deadline with the potential for indeterminate Board action if agreement cannot be reached. This has been effective in achieving an outcome at times, but it is less clear the outcomes achieved have been good ones. In some instances, the Board has given instructions regarding timeframes in which a PDP should provide guidance, and then altered that position before the deadline has past, significantly perturbing the PDP process. Such lack of certainty must be avoided. Similarly, the potential for Board action nullifying outcomes of a PDP is one of the issues that impact the viability of the PDP. If such intervention is viewed as possible or even likely, it impacts the need for good-faith negotiations and for participation in general.

As noted by many observers, the time and effort necessary to effectively participate in a PDP often is too great for many potential volunteers. As a result, many PDPs end up relying on the same handful of active participants. Even then, many of these workers believe that their time is not being well spent due to lack of organization, good methodologies, and effective leadership. While some report that this situation is improving due to the development of new processes that will be available to successive PDPs, it seems clear that more needs to be done.

## ATRT2 draft new Recommendations

The specific issues and statistics discussed in InterConnect Communications’ “ATRT2 GNSO PDP Evaluation Study” should be further explored in subsequent ICANN staff implantation efforts. ICC’s findings also should be used as one basis for discussion in approaching the following enhancements.

**Improve the effectiveness of cross community deliberations**

1. To enhance GNSO PDP processes and methodologies to better meet community needs and be more suitable for addressing complex problems, ICANN should:

* Develop funded options for professional facilitators to assist GNSO PDP WGs, and also draft explicit guidelines for when such options may be invoked.
* Provide adequate funding for face-to-face meetings to augment e-mail, wiki and teleconferences for GNSO PDPs. The GNSO must develop guidelines for when such meetings are required and justified.
* Work with the GNSO and the wider ICANN community to develop methodologies and tools to make the GNSO PDP process more time-effective, resulting in quicker policy development as well as increasing the ability to attract busy community participants into the process.

2. The GAC, in conjunction with the GNSO, must develop methodologies to ensure that GAC and government input is provided to PDP WGs and that the GAC has effective opportunities to provide input and guidance on draft PDP outcomes. Such opportunities could be entirely new mechanisms or utilization of those already used by other stakeholders in the ICANN environment.

3. The Board and the GNSO should charter a strategic initiative addressing the need of ensuring global participation in GNSO PGP, as well as other GNSO processes.[[105]](#footnote-105) The focus should be on the viability and methodology of having equitable participation from:

* under-represented geographical regions;
* non-English speaking linguistic groups;
* those with non-Western cultural traditions; and
* those with an vital interest in GTLD policy issues but who lack the financial support of industry players.

**Amend the PDP procedures**

4. To improve the transparency and predictability of the PDP process:

* The Board should clearly state the process for setting gTLD policies in the event that the GNSO cannot come to closure on a specific issue in a specified time-frame. This resolution also should note under what conditions the Board believes it may alter PDP Recommendations after formal Board acceptance.
* ICANN should add a step in the PDP Comment Process where those who commented or replied during the Comment Period can request changes to the synthesis reports in cases where they believe the Staff improperly summarized their comment.

## Public Comment on Draft Recommendations (TBC)

## Final Recommendations (TBC)

# Proposed new Recommendations on Effectiveness of the Review Process

## Hypothesis of problem

The working assumption is that the AoC review processes provide sufficient review and adequate recommendations that facilitate improvement in ICANN’s accountability and transparency. There is concern about the level to which the periodic institutional reviews, as required in the ICANN bylaws, create an aspect of “review fatigue” that undermines stakeholder or organizational effectiveness. Therefore, the availability of alternative approaches to review that should be considered by ICANN.

Furthermore, with 3 other AoC-related reviews to be carried out in a 3-year cycle, there is an implied requirement for each of the review processes to be completed within the year it begins. This should enable all the required reviews to be carried out, recommendations shared, and ICANN staff given time to either implement or consider for implementation some of the Recommendations of the review teams before the next ATRT review. However, if the 3 reviews are not completed and considered within the prescribed cycle, then the subsequent ATRT risks having a deadline for its review when the other reviews have not yet been completed and/or their recommendations not yet fully considered by ICANN Board and Staff.

## Background research undertaken

Prior Review Team reports (ATRT1, WHOIS and SSR) provide some insight into the qualitative aspects of each review process. ATRT1’s Final Report provided both an Overview of the Accountability and Transparency Review Process (Appendix A) and Observations of the Review Process (Appendix B), but the WHOIS Review Team and the SSR Review Team did not provide discreet observations of the review process in their respective reports.

ATRT2 also asked for input from former members of those review teams concerning the review process, and whether they believe improvements could be made.

Furthermore, ATRT2’s review process has provided some insights regarding the effectiveness and efficiency of the review process.

In sum, ATRT2 found that issues that require further discussion include, but are not limited to:

* Time allotted for the review process
* The mechanics of initiating data flow from ICANN staff to the review team
* The mechanics of obtaining community input at an early stage
* Understanding of budget allocations for the Review Team activities
* Dynamics of work stream organization
* Volunteer aspects of the review team process

**Summary of ICANN input**

Staff reported that:

* The AoC does not require the reviews to be completed within one year.  While timely completion of the reviews impacts the effectiveness of the 3-year cycle, staff recommended that ATRT2 address the 3-year cycle mandated by the AoC.
* Staff prepares regular and frequent implementation reports to the Board and Community.  In the case of ATRT2, an Annual Report[[106]](#footnote-106) was provided to the Board and Community.  Additionally, staff has provided several updates[[107]](#footnote-107) to the ATRT2 during the course of its Review, in varied forms.  Given the wide array of opinions within the Review Team regarding format and substance of staff reports on implementation, staff would find guidance from the Review Team very useful.
* ICANN has engaged One World Trust (OWT) to assist with the development of Accountability and Transparency Benchmarks and Metrics.  The final report is expected by 31 December 2013.  Staff will facilitate ATRT2 input and feedback to OWT.  Periodic updates on progress of work will also be shared. The ongoing implementation of Accountability and Transparency Benchmarks and Metrics into ICANN operations will include the incorporation of appropriate benchmarks and metrics into the reporting of implementation progress.
* ICANN's AoC commitments are incorporated into its strategic[[108]](#footnote-108) and operating[[109]](#footnote-109) plans, and improvements related to AoC reviews are integrated into ICANN's standard operating procedures and programs.[[110]](#footnote-110) As the Board, Staff and other organizations implement the recommendations of the review teams, ICANN follows a continuous improvement model, integrating the spirit of the recommendations into ICANN’s operations and strategic initiatives, as appropriate.
* ICANN uses various methods to ensure review coordination, and already has staff whose mandate is to coordinate reviews. AoC review teams are independent and make their own timelines, and AoC language specifies frequency of the reviews.  The Board and staff do not have control over the timing of the reviews such that they are completed with ample implementation time, prior to the next Accountability and Transparency Review.  In order to address this concern, AoC mandate would need to be changed.

**Summary of community input**

Some notable comments include:

* Former ICANN CEO and President Mike Roberts questioned whether insider dynamics captured prior review teams
* Alejandro Pisanty – A large part of the recommendations are superfluous and engender greater bureaucracy. ATRT2 should to try to find a way to make recommendations less burdensome and more substantive.
* Nominet – One should have a full picture of the extent to which the recommendation is embedded into ICANN process and what the full effects of the implementation are. Implementation progress should feature as part of the Board update at every ICANN meeting. They should be given the highest visibility and priority.

**Summary of other relevant research**

ATRT2 members representing various SO/AC provided the following input on the process:

* There was limited time to get the actual work done, and future teams should consider the possibility of limiting certain meetings. Whereas the face-to-face meetings were very productive, the conference calls not as productive.
* A report is provided to the team on things done, but no report is provided on lessons learnt. There is no bench line identified for developing recommendations. This creates a dilemma in relation to interaction with the secretariat.
* There is a clear need for adequate financial resources to support the work of the Review Ream, independent experts/consultants (as need is determined by the Review Team), and the secretariat. There was no discussion on the budget for independent expert and whether or not to engage one, thus limiting the group.
* Measures (e.g. appointees, budget, operational reporting, etc.) for the next Review Team should be in place before the official start in January 2016. This will reduce the pressure to meet the year-end deadline.
* Right from the beginning, Day 1, staff should share reports without compromising ATRT work.
* Some ATRT2 members felt that they were operating under the shadow of ATRT1. What did or did not work from the previous Review could be assessed by an external expert. At the least, provide judgment criteria and indicators to look for when going back for the review process.
* While the Review Team’s interaction with different stakeholders has been very good, with the Durban process very helpful in data collection, visiblity with the rest of ICANN Community needs to be improved due to inherent limitations of the reviews’ historic versus futuristic approach.
* Regularity of Reviews has to be strictly coordinated by having all reviews done before next ATRT reviews, i.e. proper linkage. Future teams may need to consider the possibilities of an independent secretariat or technical facilitator. These resources would reduce the focus being driven by input from staff, and facilitate balanced input from external communities. This would enable the review team members to carry out evaluation on implementation appropriately.
* A reliance on volunteers for doing functions that should be carried out by professionals is not a good model for a review group carrying out such an important task. For example, reviewing the other Review Teams’ output is a lot of work for a cadre of volunteers.
* With each ATRT team expected to have to look at all of the previous Review Teams’ output, Community engagement is likely to be difficult for ATRT3.
* Volunteer involvement with competing priorities for the various communities within ICANN requires that ATRT team members go to our own communities to help gather input for the various processes.
* There seems to be tension between being independent and objective and working with staff. The ATRT team should drive the work and staff gives responses.

**Relevant ICANN Bylaws, other published policies and procedures**

Organizational reviews are overseen by the Board’s Structural Improvements Committee. The methodology of organizational reviews and background materials can be found at <http://www.icann.org/en/groups/reviews>.

## ATRT2 draft new Recommendations

**1. Institutionalization of the Review Process**

ICANN should ensure that the ongoing work of the AoC reviews, including implementation, is fed into the work of other ICANN strategic activities wherever appropriate.

**2. Coordination of Reviews**

ICANN should ensure strict coordination of the various review processes so as to have all reviews complete before next ATRT review begins, and with the proper linkage of issues as framed by the AoC.

**3. Appointment of Review Teams**

AoC Review Teams should be appointed in a timely fashion allowing them to complete their work over a minimum one (1) year period that the review is supposed to take place, regardless of the time when the team is established. It is important for ICANN staff to appreciate the cycle of AoC reviews, and that the Review Team selection process should begin at the earliest point in time possible given its mandate.

**4. Complete implementation reports**

ICANN should prepare a complete implementation report to be ready by review kick-off. This report should be submitted for public consultation, and relevant benchmarks and metrics must be incorporated in the report.

**5. Budget transparency and accountability**

The ICANN Board should ensure in its budget that sufficient resources are allocated for Review Teams to fulfill their mandates. This should include, but is not limited to, accommodation of Review Team requests to appoint independent experts/consultants if deemed necessary by the teams. Before a review is commenced, ICANN should publish the budget for the review, together with a rationale for the amount allocated that is based on the experiences of the previous teams, including ensuring a continuous assessment and adjustment of the budget according to the needs of the different reviews.

**6. Board action on Recommendations**

The Board must address all AoC Review Team recommendations in a clear and unambiguous manner, indicating to what extent they are accepting each recommendation.

**7**. **Implementation Timeframes**

In responding to Review Team recommendations, the Board must provide an expected time frame for implementation, and if that time frame is different from one given by the Review Team, the rationale should address the difference.

**11.4 Public Comment on Draft Recommendations** (TBC)

**11.5 Final recommendation** (TBC)

# Proposed new Recommendation on Finance Accountability and Transparency

**Hypothesis of problem**

ICANN is a non-profit, privately organized institution. The services delivered by ICANN are delivered without any other institutions or bodies competing with ICANN. The political decisions of the ICANN Board and, in the broader context, the multi-stakeholder mechanism will - in the absence of direct competition - be the only factors that determine how ICANN should prioritize its resources, its revenue, and its spending.

The combination of a more complex organization as shown in the ICANN organization chart,[[111]](#footnote-111) increased income and expenses, and the increased complexity of a business going from approximately 20 gTLDs to more than 1,000 gTLDs over the next few years highlights the importance of increased accountability and transparency in ICANN’s financial governance, including decisions related to activities, prices, expenses and investments.

**Background research undertaken**

## Summary of ICANN input

ATRT2 members conferred with ICANN CFO Xavier Calvez in late August 2013.[[112]](#footnote-112) The conversation was very informative, and it is evident that ICANN has improved its level of financial reporting during the last couple of years. Calvez reported that ICANN is considering a benchmark study to compare ICANN to other non-profit organizations, but this has not been definitely decided. Responding to a question about separating the expense and budgets for each AC and SO, he noted that would difficult to do and is not planned or projected yet. When asked for the plans or principles for using any surplus from the New gTLD Program to lower the fees collected by ICANN, Calvez replied that a five year strategy could enable the suggested principles.

At the ATRT2 meeting in Los Angeles in August 2013, ICANN Board Chair Steve Crocker highlighted to appropriateness of improving accountability and transparency of ICANN’s planned activities, implemented activities, and corresponding expenses.[[113]](#footnote-113)

## Summary of community input

**GAC Comments**

On numerous occasions, including the ICANN meetings in Toronto[[114]](#footnote-114), Beijing[[115]](#footnote-115) and Durban[[116]](#footnote-116)), the GAC has recommended that the issue of Accountability and Transparency regarding ICANN’s Finances be further looked into. In fact, the need to analyze improvements to ICANN’s financial accountability mechanisms was specifically emphasized by the participants at the High Level GAC meeting at ICANN Toronto in October 2012.[[117]](#footnote-117)

**Public comments**

Community inputs[[118]](#footnote-118) on the FY14 Draft Operating Plan and Budget reveal numerous concerns about ICANN financial issues, including calls for more clarified reporting and/or a different approach to the organization’s budget setting processes. Based on the Staff summary of the public comments, the key issues included:

* expenses and budgets for AC/SOs (see references # 4, 7,8,26, 75, 78, 79);
* ICANN income and expenses (see references # 2, 6, 73, 76, 77, 105, 106, 107); and
* inadequate time to comment and for ICANN to incorporate those comments (see references # 23, 24)

## Summary of other relevant research

Being a public benefit corporation, ICANN needs to strike a reasonable balance between its revenues and expenses. In a situation with increasing revenue, one option is to increase activities corresponding to this additional income. Another option is to lower the prices paid by ICANN’s consumers and in turn benefit domain name end-users. Of course, the two options can be combined.

In recent years ICANN’s activities and corresponding revenues and expenses have grown significantly. Revenues increased from $18 million in 2005 to $72 million in 2012. Accordingly, expenses increased from $14 million in 2005 to $70 million in 2012[[119]](#footnote-119). During the same period, staff increased from 36 in 2005,[[120]](#footnote-120) (and to 149 in 2012 and up to 220 in 2013), with a planned increase to approximately 284 in 2014.

In the recently approved Fiscal Year 2014 (FY14) budget,[[121]](#footnote-121) ICANN forecast 2013 revenue of more than US$80 million, and expects to end 2013 with net income of nearly US$32 million. If the 2013 balance from the New gTLD Program is added in, the net result jumps to US$92 million. In fact, the New gTLD Program is expected to generate at least US$315 million in revenue. While the FY14 budget forecasts that the Program will generate US$197 million in operating expenses, hat still leaves a net balance of US$118 million.

The following graphic captures these trends:

**FY14 Draft Operating Plan & Budget Headcount Growth**[[122]](#footnote-122)



# Relevant ICANN Bylaws, other published policies and procedures

Within the procedure of the board approval of the budget,[[123]](#footnote-123) the ICANN Board Finance Committee is responsible for:

* Providing oversight on the annual budget process of the Corporation;
* Reviewing and making recommendations on the annual budget submitted by the President (the CEO of ICANN);
* Developing and recommending short and long-range strategic financial objectives for the corporation; and
* Providing strategic oversight on financial matters for the Corporation.

# Findings of ATRT2

Given that ICANN’s present and future financial situation forecasts substantial surpluses, the Community needs to establish a firmer basis for discussing how to continue developing ICANN and prioritize its work to the benefit of participants within the multi-stakeholder model. Such a discussion will entail three key elements:

1. The revenue side. How should the revenue in general develop, and what should the future ICANN fee structure look like? One pressing question is whether ICANN can continue the present fee structure, and annual surpluses of over 1/3 of yearly revenues, given its a non-profit status? Should ICANN in general reduce the annual fees in order to balance revenue and spending?
2. The expenditure side. ICANN has expanded its activities dramatically. For example, ICANN staff will nearly double over a two-year period. Is this a trend that should be continued? When has ICANN reached its mature size and organizational setup?
3. The prioritization of the work of ICANN. ICANN is in the very fortunate situation that its financial prospects are very positive and promising. This should not, however, lead to an insufficient or unclear prioritization of its strategic outlook and the work it undertakes. In all organizations resources are scarce, either because of competition or because of constrains from the granting authority. While this might have negative effects, it should help keep the organization agile and focused on its desired outcomes. Importantly, there must be effective matches between the resources spent and the effects achieved. ICANN should develop new transparent and accountable mechanisms that combine more effective resource allocation and use with the involvement of all the parties within the multi-stakeholder model.

**12.7 ATRT2 draft new Recommendations**

In any organization careful considerations about the strategic financial priorities are crucial for the efficiency of the organization. In a non-profit organization as ICANN it is imperative that the financial governance constituted between the CEO, CFO, and the Board make effective use of the checks and balances represented in the multi-stakeholder model to ensure that the financial priorities truly benefit the global Internet community. To this end, the ATRT2 recommends that, in light of the significant growth in the organization, ICANN undertake a special scrutiny of its financial governance structure regarding its overall principles, methods applied and decision-making procedures, to include engaging stakeholders.

1. The Board should implement new financial procedures in ICANN that can effectively ensure that the ICANN Community, including all SOs and ACs, can participate and assist the ICANN Board in planning and prioritizing the work and development of the organization.

2. As a non-profit organisation operating and delivering services in a non-competitive environment, ICANN should explicitly consider the cost-effectiveness of its operations when preparing its budget for the coming year. This should including how expected increases in the income of ICANN could be reflected in the priority of activities and pricing of services. These considerations should be subject of a separate consultation.

3. As a non-profit organisation, every three years ICANN should conduct a benchmark study on relevant parameters e.g. size of organization, levels of staff compensation and benefits, cost of living adjustments, etc.

4. In order to improve accountability and transparency and facilitate the work of the Review Teams, ICANN’s Board should base the yearly budgets on a multi-annual financial framework [covering e.g. a two- or three-year period] reflecting the planned activities and the corresponding expenses. The following year, a report should be drafted describing the actual implementation of the framework, including activities and the related expenses. This should include specified budgets for the ACs and SOs.

5. In order to ensure that the budget reflects the views of the ICANN community, the ICANN Board shall improve the budget consultation process by i.e. ensuring that sufficient time is given to the community to provide their views on the proposed budget and enough time for the Board to take into account all input before approving the budget. The budget consultation process shall also include time for an open meeting between the ICANN Board and the Supporting Organizations and Advisory Committees to discuss the proposed budget

## Public Comment on Draft Recommendations (TBC)

## Final recommendation (TBC)

**Summary of ATRT2 Assessment of the Implementation of WHOIS Review Team Recommendations**

**Board Adoption of RT Recommendations**

Although a detailed review of the wording of the Board action indicates that they did indeed approve implementation of the bulk of the WHOIS RT recommendations, it is understandable why that was not the impression left on many community members. The wording of the Board motion specifically identified three areas to be addressed (communications, outreach and compliance) but did not explicitly approve the recommendations that fell outside of those areas, and the details of the proposed implementation were embedded in a staff briefing paper. Moreover, the creation of the EWG based on the recommendation of the SSAC, which used terminology such as do the [EWG] work before anything else, and doing this as the first action of the Board before addressing the RT report reinforced this prioritization.

**ATRT Review Timing**

The ATRT2 notes that the review of the WHOIS implementation recommendations is taking place between 6 and 12 months after Board action on the WHOIS report, so it is not unexpected that the work is ongoing and in a few cases just starting.

**Implementability**

To a large extent, the RT recommendations have proven to be implementable. In several cases, the initial staff position was that they either could not readily be implemented, or the problem would need to be addressed using different methodology. However, as work is progressing, it appears that most of the recommendations are being followed reasonably closely, indicating that they were for the most part implementable.

**Progress**

As few aspects of the implementation have been completed, it is not possible to judge the final outcome. It is clear that the time-frame for implementation has far exceeded that proposed by the RT. This can be attributed to a number of different reasons (not in order of relevance):

* The time-frame proposed by the RT was not reasonable given the complexity of the issue and the requirement to put plans and in some cases community working groups in place.
* The timing of the Board action coinciding with the culmination of the Registrar Accreditation Agreement negotiation and implementation put heavy pressures on the small group overseeing both closely related activities.
* Some of the activities were focused on areas of ICANN which were experiencing heavy staff turnover and it took time for the new staff to be able to address the issues.
* Not all parts of the implementation were completely under the control of ICANN staff, and in particular have required GNSO action, which itself has experienced heavy workload in 2013.

Allowing for these delays, there is progress being made. Much of it has not been visible to the community, but in a number of critical cases, work has now progressed to the stage where this progress will soon be visible to the community.

There are three areas that are worthy of particular note.

1. The overall plan for approaching the WHOIS recommendations (Recommendation 15) has not been presented in a clear and understandable way so that the community could track implementation. That is not to say that there is not much information available, but it was not sufficiently well organized and clear as to be useful. In fact, for this reason, the ATRT2 had great difficulty in carrying out this assessment.
2. Although a wider problem than just WHOIS, there is still a lack of faith in the community that Contractual Compliance is being sufficiently well addressed as to meet ICANN’s needs. With regard to WHOIS accuracy, partly because the tools to address it are still in the process of being developed, there is a particular lack of information. The new provisions in the RAA do create some hope.
3. Progress on the handling of WHOIS information for internationalized domain name registrations (that is, for those registration where the information collected is in non-ASCII representations) is problematic. Work has been slow to start, and is not expected to complete for close to two years. That leaves registrars and registries with the requirement to populate WHOIS records, which exist purely in 7-bit ASCII, with no guidelines or rules as to how to do this.

**Conclusion**

Implementation of the WHOIS RT Recommendations is progressing and the expectation is that ultimately most will be reasonably carried out. The Recommendations call for annual reports on implementation and the deadline for the first such report coincides with the publication of this ATRT2 draft report. Hopefully when this annual report is available, the overall implementation plan and its status will be clearly presented so that the community in general can directly assess the progress.

***Further assessment of ICANN’s implementation of WHOIS RT Recommendations can be found in Appendix B.***

**Summary of ATRT2 Assessment of the Implementation of Security Stability and Resiliency (SSR) Review Team Recommendations**

### Actions taken

A majority (27 of 41) of the recommendations (and their sub-tasks) are as yet incomplete, however implementation has at least begun on all recommendations.

## Implementability

In nearly all cases, recommendations appear to be or, in the cases where implementation has completed, have been implementable. In the vast majority of recommendations, staff has indicated they did not anticipate or experience any issues when implementing the recommendations.

It should, however, be kept in mind that the implementation of a large number of recommendations has not been completed and, in some cases, have not even started. It may be that implementation difficulties will be encountered at some future point.

One notable exception to this general implementability is related to recommendation 23 in which ICANN it is recommended that ICANN “must ensure decisions reached by Working Groups and Advisory Committees are reached in an objective manner that is free from external or internal pressure.” While objectivity in reaching decisions is a worthwhile goal, it is difficult to imagine a decision that is “free from external or internal pressure.”

## Effectiveness

For those recommendations that have been implemented, the overall impression has been that they have been reasonably effective in addressing at least the letter of the recommendation. Unfortunately, many of the recommendations used subjective qualifiers and few specified concrete metrics by which effectiveness could be measured. As such, objective measurement of the recommendations effectiveness is challenging.

## Summary of community input on implementation

A total of 3 public comments were received on the final report of the SSR Review team. A summary of those comments can be found at:

[http://www.icann.org/en/news/public-comment/summary-comments-ssr-rt-final- report-30aug12-en.pdf](http://www.icann.org/en/news/public-comment/summary-comments-ssr-rt-final-%20report-30aug12-en.pdf)

***Further assessment of ICANN’s implementation of SSR Review Team Recommendations can be found in Appendix C.***

**Appendix A**

Report of the Independent Expert

**Appendix B**

**Appendix C**

Review and Analysis of the Implementation of the First Security, Stability, and Resiliency Review Team Recommendations

1. **Overall Observations**
2. **Summary of assessment of implementation**

| Rec | Status | Comment |
| --- | --- | --- |
| 1 | Completed |  |
| 2 | Implemented | Has a recurrent component so will never be completed |
| 3 | In process | Will require application to all future materials |
| 4 | In process |  |
| 5 | In process |  |
| 6a | In process |  |
| 6b | In process |  |
| 6c | Completed | Whether resources provided is “appropriate” is subjective |
| 7a | In process |  |
| 7b | Not yet started | Depends on 7a |
| 8 | In process |  |
| 9a | In process | Deferred until the CIO/CTO role has been filled |
| 9b | Not yet started | Depends on 9a |
| 10a | In process | Efforts to step up compliance enforcement continue |
| 10b | Implemented | Whether resources provided is “adequate” is subjective |
| 10c | Completed |  |
| 11 | In process |  |
| 12a | In process |  |
| 12b | In process |  |
| 13 | In process |  |
| 14 | In process | Continuous evolution implies it will never complete |
| 15 | Completed |  |
| 16a | Implemented | As outreach efforts will continue, this will never complete |
| 16b | In process |  |
| 17a | In process |  |
| 17b | In process |  |
| 18 | Completed |  |
| 19 | In process |  |
| 20 | In process |  |
| 21 | In process |  |
| 22 | In process |  |
| 23a | Implemented | Whether the resources provided is “appropriate” is subjective |
| 23b | In process | Unclear whether this is implementable |
| 24a | Completed | Some question whether the approach taken is most effective |
| 24b | Completed |  |
| 24c | Completed |  |
| 25a | In process |  |
| 25b | Completed |  |
| 26 | In process |  |
| 27 | In process |  |
| 28 | Implemented | As engagement will continue, this will never complete |

1. **Recommendation 1**

“ICANN should publish a single, clear and consistent statement of its SSR remit and limited technical mission. ICANN should elicit and gain public feedback in order to reach a consensus-based statement.”

1. **Analysis of Previous Review Team Recommendation**

This recommendation aimed to publicly document ICANN’s role in relation to related to security, stability, and resiliency in a clear and concise way and to obtain consensus within the community regarding that role.

1. **Summary of ICANN’s assessment of implementation**

Completed.

1. **Actions taken**
2. Staff (specifically, the ICANN Security Team) published a draft statement for public comment in May 2012 and conducted extensive outreach with the community to facilitate feedback. A report of the public comments received was published, and a revised draft statement was published for the ICANN meeting in Toronto ([**http://toronto45.icann.org/meetings/toronto2012/presentation-draft-ssr-role-remit-04oct12-en.pdf**](http://toronto45.icann.org/meetings/toronto2012/presentation-draft-ssr-role-remit-04oct12-en.pdf)). Following an open session in Toronto and additional community engagement, a new version of the statement was incorporated into the FY 14 SSR Framework, published for public comment on 6 March 2013. This document was open for public comment through 20 May 2013.
3. **Implementability**

Implemented.

1. **Effectiveness**

Input received on the statement has been very positive. Internal to ICANN the statement has given the new Senior Management Team language for ICANN's role and remit in SSR. Externally, the community participants who have contributed to the review of the text have noticed the improvement in language over time and have been supportive of the text.

1. **Summary of community input on implementation**

ICANN received 20 comments on the draft statement during the public comment period between 17 May and 31 August 2012 (see <http://forum.icann.org/lists/draft-ssr-role-remit/>). A summary of these comments prepared by ICANN is available at <http://forum.icann.org/lists/draft-ssr-role-remit/pdfIijnRXQ1v1.pdf>.

1. **Summary of other relevant information**

None.

1. **ATRT2 analysis of recommendation implementation**

This recommendation can be partitioned into two sub-tasks:

1. ICANN should publish a single, clear and consistent statement of its SSR remit and limited technical mission; and
2. ICANN should elicit and gain public feedback in order to reach a consensus-based statement.

ICANN did publish a statement regarding its SSR remit and limited technical mission. Whether that statement was singular, clear, and consistent is, of course, a matter of opinion, however based on public input, it would seem the statement is viewed by the commenters to be “clear and concise”. As such, this component of the recommendation would appear to have been followed.

With regards to the second component of this recommendation, while staff undertook significant efforts at outreach that appear to have been effective within the Community, it is unclear whether ICANN’s role in the context of SSR is well understood outside of the ICANN community, particularly in the non-security related communities.

1. **ATRT2 assessment of recommendation effectiveness**

Providing a clear statement of ICANN’s SSR role and gaining consensus within at least some portion of the community regarding that role has been effective in helping people within the community understand ICANN’s role and limitations. Continued efforts at outreach and education on ICANN’s role relating to SSR would likely improve the effectiveness of the implementation of this recommendation.

1. **Recommendation 2**

“ICANN’s definition and implementation of its SSR remit and limited technical mission should be reviewed in order to maintain consensus and elicit feedback from the Community. The process should be repeated on a regular basis, perhaps in conjunction with the cycle of future SSR reviews.”

1. **Analysis of Previous Review Team Recommendation**

The SSR-RT thought it important to ensure ICANN's definitions of its SSR remit and limited technical mission and the implementation of that remit and mission were reviewed with input from the Community in a repeatable, regular basis.

1. **Summary of ICANN’s Assessment of Implementation**

Implemented, albeit this recommendation has a recurrent component and thus will never be completed.

1. **Actions Taken**

Staff (specifically, the Security Team) incorporated a tracking page in the Annual SSR Framework showing how the previous year’s activities were implemented.

ICANN published a draft of the FY14 SSR Framework that includes ICANN’s current definition of its SSR remit and limited technical mission on 6 March 2013. The public was able to comment on that Framework until 20 May 2013. The final version of the FY14 SSR Framework was published on .

The next opportunity to review would be in publication of the FY 15 Framework in 2014, and as part of the SSR RT2 kicking off in 2015.

1. **Implementability**

Staff does not believe this recommendation has been or can be fully implemented due to the need to periodically review definitions and implementation. However efforts are underway and they do not foresee any problems during implementation.

1. **Effectiveness**

Based on improvements that were made between the FY12 and FY13 versions of the Framework that are now reflected in the FY14 version, this recommendation was effective.

1. **Summary of Community Input on Implementation**

In total 19 public comments were received during the public comment period associated with the publication of the draft FY 14 SSR Framework document. Summarizing those comments:

* There were multiple expressions of concern regarding resource allocations and potentially overwhelming the Security team as a result of an increased workload if the FY 14 SSR Framework is fully implemented;
* Several comments suggested that intra-ICANN and inter-organization engagement efforts by the Security team should be strengthened;
* Broadening the Framework’s perspective from ICANN the organization to ICANN the Community would be beneficial;
* Activities and initiatives should be organized according to the identified categories;
* Suggestions related to improving the Framework document, e.g., adding text to graphics, providing more detail on roles and responsibilities, etc.

However, the majority of commenters indicated they believed the information provided regarding ICANN’s SSR remit and limited technical mission provided for a “good basis for future developments.”

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be viewed as being comprised of three parts:

1. The definition of ICANN’s SSR remit and limited technical mission, with community review and gaining of consensus;
2. The implementation of that definition; and
3. Repetition of that definition/implementation process.

Taking each of these parts in turn:

1. **Definition, Soliciting Feedback and Gaining Consensus**

The FY14 Framework has been published after a public comment period. Based on public input and subsequent revisions to the FY14 Framework prior to final publication, it would seem consensus (at least as far as ICANN normally measures consensus) was reached.

1. **Implementation**

As noted by Staff, this recommendation is not yet implemented. However, ATRT2 notes that reasonable efforts towards implementation are underway and given the recommended cycle of definition/implementation/review, this recommendation will never be fully implemented.

1. **Definition/Implementation Repetition**

The annual Framework-driven review of SSR remit and limited technical mission definition/implementation seems appropriate albeit this is a matter of opinion.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has been effective in providing a framework in which ICANN’s SSR and limited technical mission can be defined and modified over time.

1. **Recommendation 3**

“Once ICANN issues a consensus-based statement of its SSR remit and limited technical mission, ICANN should utilize consistent terminology and descriptions of this statement in all materials.”

1. **Analysis of Previous Review Team Recommendation**

The definitions of security, stability, and resiliency are often inconsistent and can vary depending on industry, venue, and publication/speaker. This can make clarity in understanding proposals and implementation decisions challenging. In order to minimize the chances of misunderstanding, the SSR-RT recommended ICANN publish and use consistent terminology and descriptions of security, stability, and resiliency within all their materials.

1. **Summary of ICANN’s Assessment of Implementation**

Implemented.

1. **Actions Taken**

On 8 July 2013, Patrick Jones, Senior Director of Security, posted the definitions ICANN uses for the set of terms surrounding the concepts of security, stability, and resiliency and their context at <http://blog.icann.org/2013/07/icanns-security-terminology/>.

1. **Implementability**

Staff does not believe this recommendation has been fully implemented, however efforts are underway and they do not foresee any problems during implementation.

1. **Effectiveness**

Staff believes the implementation of this recommendation will help all parts of the organization have a common understanding of ICANN's SSR role and remit and use consistent terminology in its materials and discussions.

1. **Summary of Community Input on Implementation**

To date, no comments were received on the blog posting.

1. **Summary of Other Relevant Information**

Staff has stated that they plan on performing internal webinars, staff instruction, and publication of the statements prior to the ICANN Buenos Aires meeting in November 2013.

1. **ATRT2 Analysis of Recommendation Implementation**

The definitions ICANN uses for security, stability, and resiliency has been published by the Security Team and efforts are underway to inform the rest of staff of those definitions.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Within the context of the Security Team, the exercise of making a statement about ICANN’s use of the terms “security”, “stability”, and “resiliency” has been effective in providing clarity regarding those concepts.

There has been insufficient time to evaluate the effectiveness of this recommendation on wider ICANN efforts.

1. **Recommendation 4**

“ICANN should document and clearly define the nature of the SSR relationships it has within the ICANN Community in order to provide a single focal point for understanding the interdependencies between organizations.”

1. **Analysis of Previous Review Team Recommendation**

ICANN's SSR relationships take many forms, and other than the ICANN website sections showing its MOUs, agreements and partnerships, there is no central location at ICANN for easily seeing (internally or externally) ICANN's SSR relationships.

The SSR-RT felt it would be helpful for ICANN to document and define the nature of the SSR relationships that exist for the organization (to parties in the community, the Supporting Organizations and Advisory Committees, but also to non-contracted parties and partners), and place this information in a location where ICANN and the community can see the description of the relationships and consider interdependencies.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

Internally, staff has identified four types of SSR-related relationships if has within the ICANN community:

* Collaboration on threat awareness;
* Coordination;
* Technical engagement; and
* Organizational risk management.

From this categorization, which includes relationships either through partnerships, MOUs, or contracts, staff is in the process of documenting the relationships that fit into these categories.

Publicly, the first step has been the development of an infographic depicting the SSR functions at ICANN, showing the organizational risk management function, threat awareness, coordination function and subject matter expertise function. Within each of these areas will be a mapping to show the associated relationships. Version 1.0 of the infographic was included in the FY 14 SSR Framework.

1. **Implementability**

This recommendation is not yet fully implemented.

1. **Effectiveness**

The exercise to develop the functional graphic has helped sharpen the language on ICANN's security related technical engagement and staff has made improvements to their material for the community.

1. **Summary of Community Input on Implementation**

Several commenters during the public comment period of the FY14 SSR Framework document suggested that while the infographics where helpful, “the cartoon graphics do not stand on their own” and that additional text describing the relationships would be helpful.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

While not yet fully implemented, staff has taken concrete steps to implement this recommendation.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As the implementation of this recommendation is not yet complete, its effectiveness cannot be fully assessed.

1. **Recommendation 5**

“ICANN should use the definition of its SSR relationships to maintain effective working arrangements and to demonstrate how these relationships are utilized to achieve each SSR goal.”

1. **Analysis of Previous Review Team Recommendation**

ICANN's SSR relationships are not well documented. Changing this and making it apparent both for the organization and community to see how ICANN has extensive relationships in SSR, should enable effective working arrangements and show how these relationships support ICANN's SSR goals.

Easy to find documentation of SSR functions and relationships so that the organization and community can see the functions and relationships and have an understanding of their connection to ICANN's SSR goals is desirable.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

As described in the assessment of the implementation of recommendation 4, staff is in the process of documenting and categorizing SSR-related relationships, including the identification of existing MOUs, Agreements, contracts, partnerships, and informal relationships.

This recommendation has resulted in better coordination between departments, e.g., regular calls and interaction between the Global Stakeholder Engagement group and Security and regular discussion between Policy and Security.

1. **Implementability**

Once relationships are documented and categorized, staff believes it should be possible to implement this recommendation.

1. **Effectiveness**

As this recommendation has not been implemented, it is not yet possible to fully determine effectiveness. However, this recommendation does highlight areas for better coordination and collaboration internally between departments so that there is recognition of existing relationships and how these contribute to effective working arrangements.

1. **Summary of Community Input on Implementation**

This recommendation has not yet reached a stage in which there would be input on implementation.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

The implementation of this recommendation has not yet reached a stage at which an analysis of implementation can be performed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As the implementation of this recommendation is not yet complete, its effectiveness cannot be fully assessed.

1. **Recommendation 6**

“ICANN should publish a document clearly outlining the roles and responsibilities for both the SSAC and RSSAC in order to clearly delineate the activities of the two groups. ICANN should seek consensus for this across both groups, recognizing the history and circumstances of the formation of each. ICANN should consider appropriate resourcing for both groups, consistent with the demands placed upon them.”

1. **Analysis of Previous Review Team Recommendation**

The ICANN Bylaws contain provisions for SSAC and RSSAC, specifically Article XI section 2.2 and section 2.3 respectively. SSAC has published its Operating Procedures at <http://www.icann.org/en/groups/ssac/operational-procedures-18jan13-en.pdf>, per implementation of the SSAC Review. The ICANN Board recently approved a bylaws change for RSSAC on 11 April 2013.

In order to provide some clarity to the roles and responsibilities of each Advisory Committee and to avoid confusion and conflict, text supported by both committees should be published that describes the respective roles and responsibilities for SSAC and RSSAC.

Further, both Advisory Committees should have appropriate resourcing (staff and budget).

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The roles and responsibilities for SSAC are already defined in its Operating Procedures however there has not yet been an effort to seek consensus from RSSAC on those roles and responsibilities. In November 2012, SSAC members were presented with the proposed implementation path and were supportive of the approach at that time.

The roles and responsibilities for RSSAC are being examined and revised during a reorganization of that Advisory Committee after the Board's adoption of the bylaws change for RSSAC.

1. **Implementability**

There has been a delay while waiting for RSSAC bylaw changes. This is a recommendation that will involve community-staff collaboration to be implemented so implementation is not fully within staff’s control.

1. **Effectiveness**

As this recommendation has yet to be fully implemented, it is not possible to provide an analysis of its effectiveness.

1. **Summary of Community Input on Implementation**

There was no comment period or other mechanism for community input associated with the publication of the SSAC Operating Procedures or the RSSAC reorganization.

This recommendation has not yet reached a stage in which there would be input on implementation.

1. **Summary of Other Relevant Information**

RSSAC is in the process of significant reorganization. Full implementation of this recommendation is impossible until that reorganization is complete.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into 3 separate tasks:

1. Publish a document clearly outlining the roles and responsibilities of SSAC;
2. Publish a document clearly outlining the roles and responsibilities of RSSAC; and
3. Resourcing each Advisory Committee appropriately.

Taking each of these tasks in turn:

1. **Documenting SSAC Roles and Responsibilities**

Within its Operating Procedures, SSAC has self-defined its roles and responsibilities. No efforts have yet been made to gain input or consensus from RSSAC or the larger community as to whether those roles and responsibilities are appropriate.

1. **Documenting RSSAC Roles and Responsibilities**

RSSAC is in the process of reorganizing itself. No efforts have yet been made to gain input from the ICANN community on that reorganization.

1. **Resourcing**

ICANN has established a budget and provided staff resources for both SSAC and RSSAC. Specifically, SSAC has received [XXX – SSAC budget] and is supported by [XXX – SSAC support staff FTEs] and RSSAC has received [XXX – RSSAC budget] and is supported by [XXX – RSSAC support staff FTEs].

1. **ATRT2 Assessment of Recommendation Effectiveness**

As the documentation of SSAC and RSSAC roles and responsibilities is not yet complete, its effectiveness cannot be fully assessed.

Whether the resource allocations for SSAC and RSSAC are sufficient to meet the demands placed on each Advisory Committee is, of course, a subject of opinion.

1. **Recommendation 7**

“ICANN should build on its current SSR Framework by establishing a clear set of objectives and prioritizing its initiatives and activities in accordance with these objectives. This process should be informed by a pragmatic cost-benefit and risk analysis.”

1. **Analysis of Previous Review Team Recommendation**

The SSR-RT felt the SSR-related objectives in the ICANN Strategic Plan were not clearly mapped or prioritized, and this was reflected in the earlier versions of the SSR Framework prior to FY 13's version. In order to address this, the SSR-RT felt ICANN should build from improvements in the FY 13 SSR Framework to establish a clear set of objectives and priorities related to SSR.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

Improvements have been made towards the recommended clarity in the FY12, FY13 and FY14 Frameworks. Further improvement will be made with the mapping of priorities to the Management delivery system and the “At Task” system[[124]](#footnote-124) used internally by staff to keep track of their projects.

Technical engagement is one of the priorities for ICANN’s Security Team.

1. **Implementability**

Implementation of this recommendation was dependent upon completion of the FY 14 operating plan. It also depends on the use of the “At Task” system, the development of next Strategic Plan, and will involve internal discussions with other departments and the Executive team. However staff believes this recommendation to be implementable.

1. **Effectiveness**

Staff believes implementation of this recommendation will lead to general agreement across the organization of the SSR objectives and priorities and will help show a better connection between the published strategic objectives and the SSR initiatives.

However, as this recommendation has not yet been implemented its effectiveness cannot be established.

1. **Summary of Community Input on Implementation**

At the ICANN meeting in Beijing, the ccNSO was supportive of continued priority for technical engagement and training. ICANN executives have recognized SSR as one of the pillars in the regional strategies being developed for Africa, Asia-Pacific, Middle East and Latin America & Caribbean.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into two separate tasks, both informed by cost-benefit and risk analyses. These tasks would be:

1. ICANN should establish a clear set of SSR-related objectives; and
2. ICANN should prioritize its initiatives and activities in accordance with these objectives.

With regards to the first task, a clear set of SSR-related objectives has yet to be established. Despite this, staff has prioritized initiatives and activities that are supported by at least some portion of the community (e.g., the ccNSO).

Since the second task depends on the completion of the first task, the second task has not yet been started.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As this recommendation has yet to be fully implemented, it is not possible to provide an analysis of its effectiveness.

1. **Recommendation 8**

“ICANN should continue to refine its Strategic Plan objectives, particularly the goal of maintaining and driving DNS availability. The Strategic Plan and SSR Framework should reflect consistent priorities and objectives to ensure clear alignment.”

1. **Analysis of Previous Review Team Recommendation**

The Review Team felt the SSR objectives in the 2012-2015 Strategic Plan were not well refined and aligned with the SSR Framework. This recommendation called for improvement of the Strategic Plan objectives related to SSR.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The Security team has been contributing to the Strategic Visioning effort for a new ICANN Strategic Plan, and encouraging the use of materials developed for the FY 14 SSR Framework which describe ICANN's SSR functions into 4 main areas (organizational risk management, technical engagement & thought leadership, coordination, threat awareness).

1. **Implementability**

Completion of this recommendation depends upon development of the next Strategic Plan. While staff did not see additional costs related to implementation, organizational discussions for the next Strategic Plan will be involved, followed by the alignment of the SSR Framework to the Strategic Plan.

1. **Effectiveness**

As this recommendation is not yet fully implemented, its effectiveness cannot be determined.

1. **Summary of Community Input on Implementation**

None.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation strongly depends on the development of Strategic Plan objectives. Staff has been providing input related to SSR for the Strategic Plan.

1. **ATRT2 Assessment of Recommendation Effectiveness**

The implementation of this recommendation has yet to reach a stage at which its effectiveness can be assessed.

1. **Recommendation 9**

“ICANN should assess certification options with commonly accepted international standards (e.g. ITIL, ISO and SAS-70) for its operational responsibilities. ICANN should publish a clear roadmap towards certification.”

1. **Analysis of Previous Review Team Recommendation**

The SSR-RT spent some time discussing international standards and recommended ICANN assess its certification options against commonly accepted international standards for its operational responsibilities, make a determination on whether to pursue certification, and if so, publish a clear roadmap for certification.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

ICANN has achieved SysTrust certification for the DNSSEC Key Signing Key Management infrastructure, and is exploring SysTrust certification for IANA (which would include ICANN’s IT department) and is pursuing EFQM certification.

Assessment is currently underway for certification of other aspects of ICANN’s operational responsibilities.

1. **Implementability**

Staff has not yet found insurmountable issues related to implementation but has noted that assessment can be costly and implementation of all controls necessary for certification (depending on the certification selected) may require additional time and budget.

1. **Effectiveness**

As implementation of this recommendation has not yet been completed, assessment of effectiveness cannot be performed. However, staff believes implementation of this recommendation will show that ICANN carefully considered certification and will have demonstrated operational excellence in its operational responsibilities.

In addition, staff believes implementation of this recommendation will institutionalize the best practices needed to sustain certification (depending on certification or standard chosen) and will demonstrate ICANN's improvement toward operational excellence.

1. **Summary of Community Input on Implementation**

In comments provided during the public comment period associated with the final report of the SSR Review Team, Andrew Sullivan of Dyn, Inc. suggested certification should focus only on areas where the functions ICANN performs are “substantially the same as functions already well- understood.”

1. **Summary of Other Relevant Information**

In-person discussions with the outside consultant brought in for EQFM certification has indicated that the first round of assessments are typically used to identify the areas in which additional work is needed. As such, a poor showing in that assessment should not be taken as a negative.

1. **ATRT2 Analysis of Recommendation Implementation**

While not fully implemented, staff has taken significant steps towards assessing the value of certification for ICANN’s operational responsibilities, including either initiating or completing certification for the most critical of those responsibilities (DNSSEC Key Signing Key Management, IANA, and IT).

More specifically, this recommendation can be partitioned into two tasks:

1. ICANN should assess operational certification options; and
2. ICANN should publish a clear roadmap towards certification.

With regards to the first task, Executive staff has assigned this responsibility to the CIO/CTO role for which it has an open job requirement posted. Further efforts on implementing this part of the recommendation have been deferred until that role is filled.

Initiating the second task associated with this requirement depends on the completion of the first task. As such, the second task has not yet been implemented.

1. **ATRT2 Assessment of Recommendation Effectiveness**

While not a function of ATRT recommendations, the SysTrust certification for DNSSEC Key Signing Key Management has been effective in increasing the level of trust in ICANN’s efforts related to root KSK handling.

Similarly, IANA certification, while also not a function of this ATRT recommendation (it is required by the IANA Functions contract), should provide an increased level of trust throughout that portion of the community that makes use of IANA’s functions.

As certification for other parts of ICANN’s operational responsibilities has not yet been determined much less completed, its effectiveness cannot be assessed.

1. **Recommendation 10**

“ICANN should continue its efforts to step up contract compliance enforcement and provide adequate resources for this function. ICANN also should develop and implement a more structured process for monitoring compliance issues and investigations.”

1. **Analysis of Previous Review Team Recommendation**

When the Review Team had started its work, Compliance was a smaller team and the community strongly felt that ICANN needed to step up efforts in this area, provide adequate resources, and develop and implement a more structured process for monitoring compliance.

The desired outcome was for adequate resourcing of ICANN's contractual compliance enforcement and improvement in ICANN’s ability to enforce contractual compliance.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

Improvements, which continue to be undertaken, were made by and to the Compliance team throughout FY 13. Compliance has grown in size and published a number of tools to enable better contract compliance enforcement.

1. **Implementability**

This recommendation depends strongly on the resources available to the Compliance team. To date, resources have been made available and the recommendation is being implemented.

1. **Effectiveness**

Compliance, while improved, still needs work. This recommendation improved Executive team focus and from that perspective, has been effective.

1. **Summary of Community Input on Implementation**

While comments from individual community members suggest Compliance may have improved in their ability to enforce contracts, some comments suggested that far more is needed. In particular, questions were raised about sufficient staffing and resources being made available today, with concerns expressed about the Compliance department being able to meet the significantly increased demands that will result from implementation of the new Registrar Accreditation Agreements and Registry Agreements.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into three sub-tasks:

1. ICANN should continue its efforts to step up contract compliance enforcement;
2. ICANN should provide adequate resources for this function; and
3. ICANN should develop and implement a more structured process for monitoring compliance issues and investigations.

Each of these sub-tasks will be examined in turn:

1. **Step up enforcement**

Given the wording of this recommendation and data suggesting increased enforcement efforts, it is difficult to argue the recommendation has not been followed.

1. **Provide adequate resources**

Similarly, given the increase in budget and staffing for the Compliance department, it is difficult to argue resources haven’t been provided. Whether those resources are adequate is, of course, a subjective evaluation.

1. **More structured monitoring/investigations**

As with the other two sub-tasks associated with this recommendation, it is difficult to argue a more structured process for monitoring compliance issues and investigations has not been implemented.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As the wording in the section associated with implementation status might suggest, assessment of this recommendation is rather subjective. While data suggest the Compliance department has improved enforcement, has additional resources, and has implemented a more structured monitoring and investigation regime, the effectiveness of these efforts are somewhat in doubt. In particular, concerns have been expressed about whether efforts to date to improve compliance will be sufficient to deal with the increased requirements that arise as a result of the new RAA and RA.

However, as this recommendation has yet to be fully implemented, it is not possible to provide a complete assessment of its effectiveness.

1. **Recommendation 11**

“ICANN should finalize and implement measures of success for new gTLDs and IDN fast track that expressly relate to its SSR-related program objectives, including measurements for the effectiveness of mechanisms to mitigate domain name abuse.”

1. **Analysis of Previous Review Team Recommendation**

The SSR-RT noted that the administration of the new gTLD program and IDN Fast Track were significant SSR issues that should be prioritized and implemented with a more detailed set of objectives and activities. They noted that ICANN should develop and implement measures of effectiveness for these areas.

More specifically, the SSR-RT recommended the development and implementation of specific measurements will help strengthen ICANN's focus and effectiveness, improve the ability of the community to gauge ICANN's progress, and measure success of the new gTLDs and IDN Fast Track programs relating to ICANN's SSR objectives, including measurements of effectiveness of mechanisms to mitigate domain name abuse.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

This recommendation is as yet unimplemented.

1. **Implementability**

This will be a community-staff collaborative recommendation, and will also depend on terms of reference for the Affirmation of Commitments Review on Competition & Consumer Choice.

1. **Effectiveness**

As this recommendation is as yet unimplemented, it is not possible to assess its effectiveness.

1. **Summary of Community Input on Implementation**

This recommendation has yet to reach a point at which the community can provide input.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

As this recommendation is as yet unimplemented, it is not possible to assess its implementation.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As this recommendation is as yet unimplemented, it is not possible to assess its effectiveness.

1. **Recommendation 12**

“ICANN should work with the Community to identify SSR-related best practices and support the implementation of such practices through contracts, agreements and MOUs and other mechanisms.”

1. **Analysis of Previous Review Team Recommendation**

The underlying issue was that there should be clearer identification of SSR-related best practices for the community and encouragement for putting those best practices into contracts, agreements, MOUs and other mechanisms as best as possible.

The desired outcome was for a staff-community dialogue on SSR-related best practices, with the incorporation of best practices into contractual mechanisms as much as practical and possible.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

This recommendation has not yet been fully implemented and will involve community-staff dialogue. Staff believes the Law Enforcement recommendations on the RAA and inputs into the new gTLD registry agreement have brought the implementation of this recommendation closer.

Staff plans on producing a list of SSR-related best practices and identifying where those best practices are incorporated in contracts, MOUs, and other agreements for tracking purposes.

1. **Implementability**

This recommendation will involve community-staff dialogue for full implementation.

1. **Effectiveness**

As this recommendation has yet to be fully implemented, it is not possible to assess its full effectiveness.

1. **Summary of Community Input on Implementation**

In comments received during the public comment period for the final report of the SSR Review Team, the Registries Stakeholder Group questioned whether the implementation of best practices could be “supported through contracts”.

1. **Summary of Other Relevant Information**

While not a direct outcome of this recommendation, the new RAA and RA provide require the implementation of SSR-related best practices.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into two separate tasks, namely:

1. Working with the Community to identify SSR-related best practices; and
2. Supporting the implementation of such practices through contracts, agreements and MoUs, and other mechanisms;

To date, SSR-related best practices have not yet been identified in a formal way either by staff or the Community and as such, this task remains unimplemented.

The addition of SSR-related best practices to the RAA is a concrete step towards implementation of this recommendation, however how well that aspect of this recommendation translates into practice is as yet unknown.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As this recommendation is as yet unimplemented, it is not possible to assess its effectiveness.

1. **Recommendation 13**

“ICANN should encourage all Supporting Organizations to develop and publish SSR-related best practices for their members.”

1. **Analysis of Previous Review Team Recommendation**

Individual participants in ICANN Supporting Organizations may follow best practices, but there has not been an effort to encourage all SOs to develop and publish SSR-related best practices. Some activity is occurring within stakeholder groups in the GNSO and the ccNSO does have a Tech Working Group that is looking at Security practices for ccTLDs, however more comprehensive efforts should be undertaken to encourage all Supporting Organizations to develop and publish SSR-related best practices for their members.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

Staff is in the early stages of this recommendation and implementation is still underway. Initial efforts have involved participating in the ccNSO Tech Working Group, which is looking at publishing a form of guidance for TLD operators (best practices is a sensitive term for ccTLD operators), and reaching out to the stakeholder groups within the GNSO and the ASO.

Staff has contacted the Supporting Organizations, Advisory Committees and Stakeholder Groups, asking for feedback on approaches to implementation. To date, informal feedback has been received from the Registrar Stakeholders Group and an initial response from the ISP Constituency.

1. **Implementability**

This recommendation will involve community-staff dialogue for full implementation.

1. **Effectiveness**

At this early stage, it is not yet possible to evaluate this recommendation’s effectiveness.

1. **Summary of Community Input on Implementation**

In comments received during the public comment period for the final report of the SSR Review Team, the Registries Stakeholder Group questioned whether it was realistic for the GNSO to develop and publish SSR-related best practices due to the diversity of the GNSO.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

As this recommendation is as yet unimplemented, it is not possible to assess its implementation.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As this recommendation is as yet unimplemented, it is not possible to assess its effectiveness.

1. **Recommendation 14**

“ICANN should ensure that its SSR-related outreach activities continuously evolve to remain relevant, timely and appropriate. Feedback from the Community should provide a mechanism to review and increase this relevance.”

1. **Analysis of Previous Review Team Recommendation**

ICANN’s SSR-related outreach has centered on technical training and participation by ICANN staff in community activities (IETF, Network Operator Group meetings, RIR meetings such as RIPE NCC, regional IGFs and at the Internet Governance Forum).

The recommendation was supportive of existing outreach activities and recommended ICANN ensure these activities continuously evolve to remain relevant, timely and appropriate. There should also be a feedback mechanism to review and increase this relevance.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The Security team has increased its targeted approach to receiving feedback from ccTLD community, regional operators, the Business Constituency, registries and registrars, but also to make sure other parts of the community are involved in these discussions (governments & law enforcement, non-commercial stakeholders, academia & civil society, operational security community).

As this recommendation will never be fully completed (due to the need for activities to “continuously evolve”), continued efforts on this recommendation has been addressed in FY 14 budgeting, and staff is now in the process of delivering on requested trainings and engagement.

1. **Implementability**

Staff believes this recommendation has been met with the annual SSR Frameworks and their approach to engaging with TLD operators, law enforcement and community groups. However, this recommendation is very open-ended and will never be "done".

1. **Effectiveness**

Staff has received broad community support for the types of technical engagement performed by ICANN Security and we do think this outreach is evolving to meet the needs of the community.

Staff believes ICANN has improved its support for meeting community SSR-related outreach needs over the last 2 years.

1. **Summary of Community Input on Implementation**

Feedback provided directly to staff has been largely positive of the SSR-related outreach and engagement.

1. **Summary of Other Relevant Information**

There are an increased number of requests from to the Security Team from the Global Stakeholder Engagement team for SSR-related outreach and engagement at Internet Governance events (ITU, WSIS Forum, IGF, OECD, etc) and there has been an increase in speaking requests with the implementation of the Speakers Bureau tool.

1. **ATRT2 Analysis of Recommendation Implementation**

The Security Team has been active in outreach, particularly in the context of DNS-related technologies albeit there is little evidence of outreach activities that address other aspects related to ICANN’s limited SSR remit, e.g., IP address-related SSR concerns.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Based on the increased number of requests for speaking engagement, training, and other outreach-related activities ICANN has been receiving, it would appear this recommendation has been effective.

1. **Recommendation 15**

“ICANN should act as facilitator in the responsible disclosure and dissemination of DNS security threats and mitigation techniques.”

1. **Analysis of Previous Review Team Recommendation**

This recommendation aimed to encourage ICANN facilitate responsible disclosure and dissemination of DNS security threats and mitigation techniques and to provide a standard process for those in the community who may have information of potential DNS security threats to share them in a manner in which they can be acted upon.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

ICANN published responsible disclosure guidelines on 11 March 2013 at <http://www.icann.org/en/about/staff/security/vulnerability-disclosure-11mar13-en.pdf> , a blog post describing those guidelines (at <http://blog.icann.org/2013/03/icann-coordinated-disclosure-guidelines/>), and presented those guidelines at the ICANN meeting in Beijing. An update was published on 5 August 2013 and is available at <https://www.icann.org/en/about/staff/security/vulnerability-disclosure-05aug13-en.pdf>

1. **Implementability**

This recommendation was (and is being) implemented with no unforeseen issues.

1. **Effectiveness**

The implementation of this recommendation has helped streamline ICANN processes and channels for directing information on DNS threats and mitigations.

1. **Summary of Community Input on Implementation**

Anecdotally, some concern was expressed that the disclosure/dissemination processes do not fully account for escalation of issues where impact occurs outside of ICANN and those directly involved, e.g., notifying appropriate bodies when an issue might impact critical national or global infrastructures.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

With the publication of the Coordinated Vulnerability Disclosure guidelines, ICANN has documented a process by which it can facilitate the responsible disclosure and dissemination of DNS security threats and mitigation techniques.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation appears to have been effective in providing the groundwork for ICANN to act in a facilitator role. Whether or not the community makes use of ICANN in that role has yet to be fully established.

1. **Recommendation 16**

“ICANN should continue its outreach efforts to expand Community participation and input into the SSR Framework development process. ICANN also should establish a process for obtaining more systematic input from other ecosystem participants.”

1. **Analysis of Previous Review Team Recommendation**

The recommendation supported the Security team's outreach activities and noted that this work should continue in order to expand community participation in the SSR Framework development.

The underlying issue was to support the continued outreach with the community to encourage review and feedback on the SSR Framework, but that ICANN needed a process for obtaining input from other ecosystem participants.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The Security team conducts regular briefing with SSAC before the completion of the annual SSR Framework to ensure SSAC members have an opportunity to provide feedback on the draft approach. After publication, the Security team conducts targeted outreach to all SOs, ACs, and stakeholder groups. The Security team also reached out broadly to other groups in Civil Society/freedom of expression community, law enforcement, the academic community, standards organizations, and regional organizations to encourage review and feedback.

1. **Implementability**

Outreach is more than one-way and as such, staff sees a need for feedback from stakeholder groups that the interaction to date is in line with community expectations. While private or off the record feedback has been very positive, much of this feedback has not yet translated in significant public comments on the annual SSR Frameworks. This is somewhat reflective of community priorities on competing public comment periods, but staff is aware that the community places a high value on security (from the regional strategies and from discussion of security in other contexts such as at WTPF, WSIS Forum, etc).

As such, staff believes this recommendation has been met with the annual SSR Frameworks and their approach to engaging with TLD operators, law enforcement and community groups. However, this recommendation is very open-ended and will never be "done".

1. **Effectiveness**

This effort has helped identify new groups to engage on outreach, and helped refine the description of ICANN's SSR functions.

Outside of ICANN, the explanation of ICANN's SSR functions and role has helped increase the awareness of ICANN's role and remit and involvement in the support of DNS capability building. This work provides ICANN (and the community) with a key service and substantial goodwill.

1. **Summary of Community Input on Implementation**

No formal community input has been publicly provided, however informal and/or private feedback to staff directly has been positive.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be broken down into two sub-tasks:

1. ICANN should continue its outreach efforts
2. ICANN should establish a process for obtaining more systematic input from other ecosystem participants.

As discussed in the analysis of the implementation of recommendation 14, ICANN’s Security Team has continued its outreach efforts and has expanded Community participation and input into the SSR framework development process. While a recommendation of this nature will never be complete, significant efforts have been made towards implementing this component of the recommendation.

With regards to establishing a process for obtaining more systematic input from other ecosystem participants, this sub-task of this recommendation has not yet been implemented.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Outreach efforts appear to have been effective and are ongoing.

Establishing a process for obtaining more systematic input from other ecosystem participants has not yet been implemented so its effectiveness cannot be assessed.

1. **Recommendation 17**

“ICANN should establish a more structured internal process for showing how activities and initiatives relate to specific strategic goals, objectives and priorities in the SSR Framework. It also should establish metrics and milestones for implementation.”

1. **Analysis of Previous Review Team Recommendation**

ICANN has an internal process for mapping activities and initiatives for Strategic goals, objectives and priorities in the SSR Framework. The process used for showing how activities relate to strategic goals and objectives was not as clear as it could be when the SSR RT began its work. The Review Team thought it important to ensure ICANN had a process for connecting activities and initiatives to specific goals.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The Security team is contributing to the next Strategic Plan development and will also be using the “At Task” system and the Management delivery system to align strategic goals to specific initiatives and activities. As such, this recommendation is being addressed with the development of the next Strategic Plan, and the implementation of the “At Task” system with FY 14.

1. **Implementability**

Discussions are continuing with the development of the next Strategic Plan.

1. **Effectiveness**

Staff believes this effort will help improve the awareness of ICANN's role and remit in Security and how the Strategic goals are aligned with ICANN's SSR functions, however as this recommendation has yet to be implemented, its effectiveness cannot be assessed.

1. **Summary of Community Input on Implementation**

This recommendation has yet to reach a point where community input can be provided.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into two sub-tasks:

1. Establish a more structured internal process for showing how activities and initiatives relate to specific strategic goals, objectives, and priorities in the SSR framework; and
2. Establish metrics and milestones for implementation of the goals, objectives, and priorities in the SSR framework.

To date, neither of these sub-tasks has reached a point where their implementation can be analyzed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has yet to reach a point where its effectiveness can be assessed.

1. **Recommendation 18**

“ICANN should conduct an annual operational review of its progress in implementing the SSR Framework and include this assessment as a component of the following year’s SSR Framework.”

1. **Analysis of Previous Review Team Recommendation**

This recommendation aimed to provide more information to show how the previous year's SSR-related activities as documented in the SSR Framework had been addressed in a clear and transparent manner for the community.

The desired outcome was to include a status report for the previous year's activities as an additional section in the annual SSR Framework in order for readers to be able to easily see the progress in completing the activities that had been projected in the previous Fiscal Year's Framework.

1. **Summary of ICANN’s Assessment of Implementation**

Implemented.

1. **Actions Taken**

In the FY 13 SSR Framework, a status report showing FY 12's activities and results was incorporated, completing this recommendation. In the FY 14 SSR Framework, the status report for FY 13 appears as Appendix B.

1. **Implementability**

There were no unforeseen problems with implementation of this recommendation and it was implemented with the FY 13 SSR Framework and refined with the publication of the FY 14 Framework in March 2013.

1. **Effectiveness**

This work has provided an example for other departments on how to track and report progress on initiatives annually.

1. **Summary of Community Input on Implementation**

In comments received during the public comment period for the final report of the SSR Review Team, the Registries Stakeholder Group strongly supported this recommendation.

Staff received positive comments from the community on the FY 13 Framework for incorporating the status report, and the SSR Review Team noted this was also a positive development in its Final Report.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation has been implemented.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Based on community input, this recommendation appears to have been effective in providing a status report of the previous years progress in implementing the SSR framework.

1. **Recommendation 19**

“ICANN should establish a process that allows the Community to track the implementation of the SSR Framework. Information should be provided with enough clarity that the Community can track ICANN’s execution of its SSR responsibilities, while not harming ICANN’s ability to operate effectively. The dashboard process being used to track implementation of the ATRT recommendations serves as a good model.”

1. **Analysis of Previous Review Team Recommendation**

At the time the SSR RT report was developed, the Review Team thought the Security team could do a better job explaining how activities were being tracked from the previous Framework.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

With the FY 13 to FY 14 Framework, the Security team has made improvements in reporting progress on prior year activities. This will continue to improve as the work the Security team performs becomes tracked in “At Task” system for the community to see.

1. **Implementability**

Staff believes this recommendation will be implementable through the “At Task” system.

1. **Effectiveness**

As this recommendation is in the process of being implemented, its effectiveness has yet to be established.

1. **Summary of Community Input on Implementation**

In comments received during the public comment period for the final report of the SSR Review Team, the Registries Stakeholder Group strongly supported this recommendation.

1. **Summary of Other Relevant Information**

According to staff, the SSR RT did not document progress between the FY 12 and FY 13 Frameworks in their report.

1. **ATRT2 Analysis of Recommendation Implementation**

Staff’s implementation of this recommendation depends on the deployment of the “At Task” system. As that system is yet to be fully deployed, implementation of this recommendation cannot be analyzed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has yet to reach point where its effectiveness can be analyzed.

1. **Recommendation 20**

“ICANN should increase the transparency of information about organization and budget related to implementing the SSR Framework and performing SSR-related functions. Information should be provided with enough clarity that the Community can track ICANN’s execution of its SSR responsibilities, while not impeding ICANN’s ability to operate effectively.”

1. **Analysis of Previous Review Team Recommendation**

The ccNSO and other stakeholders provided comments on the FY 12 SSR Framework that ICANN needed to provide more information and increase transparency of the organization and budget for SSR. The Review Team picked up on this.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

This recommendation is being addressed with the implementation of the FY 14 budget and operating plan and use of the “At Task” system for providing more transparency on the budget sections related to SSR.

1. **Implementability**

Implementation of this recommendation is well underway with the development of the FY 14 budget, pending the adoption of the budget and operating plan and updating of related projects and initiatives in the “At Task” system.

1. **Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Summary of Community Input on Implementation**

In comments received during the public comment period for the final report of the SSR Review Team, the Registries Stakeholder Group strongly supported this recommendation. Andrew Sullivan of Dyn, Inc. felt that the recommendation should be “self-evident” and that “[t]ransparency requires that interested parties can understand the information.”

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation has not yet reached a point where its implementation can be analyzed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Recommendation 21**

“ICANN should establish a more structured internal process for showing how organization and budget decisions relate to the SSR Framework, including the underlying cost-benefit analysis.”

1. **Analysis of Previous Review Team Recommendation**

As with recommendation 20, the ccNSO and other stakeholders provided comments on the FY 12 SSR Framework that ICANN needed to provide more information and increase transparency of the organization and budget for SSR. The Review Team picked up on this.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

This recommendation is being addressed with the implementation of the FY 14 budget and operating plan and use of the “At Task” system for providing more transparency on the budget sections related to SSR.

1. **Implementability**

Implementation of this recommendation is well underway with the development of the FY 14 budget, pending the adoption of the budget and operating plan and updating of related projects and initiatives in the “At Task” system.

1. **Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Summary of Community Input on Implementation**

This recommendation has not yet reached a point where the community can provide input on its implementation.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation has not yet reached a point where its implementation can be analyzed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Recommendation 22**

“ICANN should publish, monitor and update documentation on the organization and budget resources needed to manage SSR issues in conjunction with introduction of new gTLDs.”

1. **Analysis of Previous Review Team Recommendation**

Organization and budget for SSR issues is provided in via the Security team, but also reflected in the new gTLD program (e.g., DNS Stability Panel, EBERO, other process steps, etc). The desired outcome of the implementation of this recommendation was to improve the amount and clarity of information on the organization and budget for implementing the SSR Framework and performing SSR-related functions.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

Implementation of this recommendation is well underway with the development of the FY 14 budget, pending the adoption of the budget and operating plan and updating of related projects and initiatives in the “At Task” system.

1. **Implementability**

The implementation of this recommendation is related to the completion of the FY 14 budget and operating plan process. No implementation issues are anticipated.

1. **Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Summary of Community Input on Implementation**

This recommendation has not yet reached a point where the community can provide input on its implementation.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation has not yet reached a point where its implementation can be analyzed.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has not yet reached a point where its effectiveness can be assessed.

1. **Recommendation 23**

“ICANN must provide appropriate resources for SSR-related Working Groups and Advisory Committees, consistent with the demands placed upon them. ICANN also must ensure decisions reached by Working Groups and Advisory Committees are reached in an objective manner that is free from external or internal pressure.”

1. **Analysis of Previous Review Team Recommendation**

Security-related activities with the Supporting Organizations and Advisory Committees are currently done in a number of working groups (for example, the cross-community DNS Security & Stability Analysis Working Group), but these are not currently tracked across all SO & ACs specifically for SSR. This work is also done through SSAC and RSSAC.

The emphasis of this recommendation from the Review Team was to ensure RSSAC (as well as SSAC, but primarily RSSAC) was sufficiently staffed and resourced to meet the demands placed upon it. In addition, the recommendation grew from an analysis of the root scaling work by SSAC and RSSAC, and SSR-related working groups should be able to do their work free from external and internal pressure.

Per the Review Team's discussions, they stated that input had been received that SSAC felt pressure to deliver an answer to a specific problem within a limited timeframe. As such, SSAC and RSSAC should have sufficient resources to provide high-quality work in a reasonable time frame.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The approach taken to implement this recommendation has been to divide the recommendation into:

1. Conducting an inventory of the existing SSR-related working groups and Advisory Committees;
2. Creating a description or documentation of the budget process for SO/AC input); and
3. Describing the standard operating processes to show how SO/AC/working group decisions are reached in an objective manner.

Implementation of the three sub-tasks of this recommendation is still in progress.

1. **Implementability**

Implementation of this recommendation is still in progress.

1. **Effectiveness**

As this recommendation is not yet fully implemented, its effectiveness cannot be assessed.

1. **Summary of Community Input on Implementation**

Discussion with the chairs of SSAC and RSSAC suggests a common view that ICANN has not declined requests for budget for either Advisory Committee, however staff resources may be spread a bit thin for providing the most effective support.

1. **Summary of Other Relevant Information**

RSSAC is in the process of reorganizing itself. As a result, it is possible that RSSAC resource requirements may change.

The third part of this recommendation, specifically that ICANN “must ensure decisions reached by Working Groups and Advisory Committees are reached in an objective manner that is free from external or internal pressure” is laudable, however while objectivity is a worthwhile goal, it is challenging to imagine any decision that is free from both external and internal pressure.

1. **ATRT2 Analysis of Recommendation Implementation**

Taking a slightly different view of the implementation of this recommendation than staff, this recommendation can be partitioned into two sub-tasks:

1. ICANN must provide appropriate resources; and
2. ICANN also must ensure decisions reached by Working Groups and Advisory Committees are reached in an objective manner that is free from external or internal pressure.

Both RSSAC and SSAC have had budget and staff resources allocated to them so from that perspective this recommendation has been implemented.

[XXX – budget for SSAC and RSSAC]

With regards to ensuring decisions reached objectively and are free from pressure, this component of the recommendation has yet to be implemented.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Whether the budget and staff resources are consistent with the demands placed upon those Advisory Committees is, of course, a matter of opinion.

1. **Recommendation 24**

“ICANN must clearly define the charter, roles and responsibilities of the Chief Security Office[r] Team.”

1. **Analysis of Previous Review Team Recommendation**

While the Security team has maintained a webpage (<https://www.icann.org/security>) and published an annual Security, Stability and Resiliency Framework, since 2009, the Review Team felt greater clarity on the roles and responsibilities of the ICANN Security team vs. other Security-related functions within ICANN and its Supporting Organizations would be helpful.

1. **Summary of ICANN’s Assessment of Implementation**

Implemented.

1. **Actions Taken**

This recommendation was implemented largely with the FY 13 SSR Framework (improved in the FY 14 version) and with the publication of an updated section of the Security team page on the ICANN website.

1. **Implementability**

Staff believes this recommendation has been implemented.

1. **Effectiveness**

The outcome so far has been increased recognition of the role and remit for ICANN in Security and a better understanding of the structure of the Security team.

1. **Summary of Community Input on Implementation**

The feedback so far has been very positive.

Some commenters during the public comment period associated with the publication of the draft FY14 SSR Framework document recommended that in addition to the infographic describing the Security Team’s charter, text should be provided. In addition, some commenters indicated more detail should be provided regarding the roles and responsibilities of staff.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into three sub-tasks:

1. ICANN must clearly define the charter of the Chief Security Officer Team;
2. ICANN must clearly define the roles of the team members; and
3. ICANN must clearly define the responsibilities of the team members.

Despite page 16 and 17 of the FY14 SSR Framework discussing informally how SSR fits into ICANN’s functional areas, it may be argued this does not “clearly define” the Security Office’s principles, functions, and organization. However, taking the view that the charter of the Security team will need to be somewhat dynamic in order to deal with the changing SSR-related environment likely to occur in the future, the informal approach the Security team has taken in documenting their charter is likely appropriate.

The roles and responsibilities of the team members are reasonably well defined on page 17 of the FY 14 SSR Framework.

1. **ATRT2 Assessment of Recommendation Effectiveness**

As the specification of the Security team charter and staff roles and responsibilities has been done, this recommendation has proven to be effective.

1. **Recommendation 25**

“ICANN should put in place mechanisms for identifying both near and longer-term risks and strategic factors in its Risk Management Framework. This process should be informed by insights from research, business partnerships, ICANN Supporting Organizations and other sources. ICANN should publish information about risks, recognizing the sensitive nature of some of these factors.”

1. **Analysis of Previous Review Team Recommendation**

ICANN has had a Board Risk Committee for several years and ICANN staff has conducted enterprise risk assessments over the past few years. The SSR RT Final Report described the need for a more structured process for identifying near and longer-term risks, and that ICANN should publish information about risks, with the understanding that risk-related information may be sensitive.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

ICANN retained Westlake Governance to develop a DNS Risk Management Framework. A draft framework was presented in Beijing and was published for comment for Durban.

Staff is currently working on implementation and will be incorporating the work of the DSSA Working Group into its efforts.

1. **Implementability**

This recommendation is being implemented with no unforeseen issues.

1. **Effectiveness**

The public comments from the open sessions with the DNS RMF have been positive and in support of a stronger risk management function at ICANN.

1. **Summary of Community Input on Implementation**

The publication of the Westlake-authored DNS Risk Framework was followed by a public comment period (still ongoing as of this writing) as documented at <http://www.icann.org/en/news/public-comment/dns-rmf-final-23aug13-en.htm>. Summarizing the comments received to date:

* The Westlake-authored DNS Risks Framework has a number of gaps and does not integrate with other SSR-related activities undertaken by ICANN;
* There is significant disappointment that the work of the DNS Security and Stability Analysis working group was not incorporated more fully into the DNS Risks Framework;
* The choice of framework architecture (ISO31000 over NIST 800-30) may have been sub-optimal;
* The DNS Risks Framework is quite limited and may not incorporate a sufficiently broad focus to address ICANN’s overarching SSR-related responsibilities.

In addition, participants in the DSSA working group expressed displeasure of the DNS Risk Framework effort as it appeared to be discounting/dismissing the efforts undertaken by the DSSA working group.

1. **Summary of Other Relevant Information**

ICANN has had a Board Risk Committee for a number of years. ICANN staff has conducted enterprise risk assessments in 2009 and 2011 and is undergoing a reassessment at the time of this writing.

Staff has indicated to the DNS RMF that the work of the DSSA will be incorporated into the implementation of the Risk Management Framework and not lost. Staff views the DSSA work as having been valuable and believes it has helped jump-start the review of DNS risk areas.

1. **ATRT2 Analysis of Recommendation Implementation**

This recommendation can be partitioned into two sub-tasks:

1. ICANN should put in place mechanisms for identifying both near and longer-term risks and strategic factors in its Risk Management Framework; and
2. ICANN should publish information about risks, being aware of that information’s sensitive nature.

As suggested by the hiring of Westlake Governance to produce a DNS Risks Framework, ICANN is in the process of implementing the first sub-task of this recommendation. The mechanisms in place to date include:

* Regular reporting by staff to the Board Risk Committee;
* Reporting to the CEO and the Executive team on risks as they arise/are identified;
* Providing input into the ICANN Strategic Plan to identify strengths, weaknesses, and risks; and
* The Finance Department associating budget towards risk-related activities (identification, outreach, mitigation, etc).

The publication of the Westlake DNS Risk Management Framework can be viewed as completing the second sub-task associated with this recommendation.

1. **ATRT2 Assessment of Recommendation Effectiveness**

While efforts are underway to create a Risk Management Framework, those efforts are not yet complete and may have been hampered by the Westlake DNS Risk Framework vs. DSSA Working Group controversy. As such, it is not possible to fully assess the effectiveness of this recommendation.

1. **Recommendation 26**

“ICANN should prioritize the timely completion of a Risk-Management Framework. This work should follow high standards of participation and transparency.”

1. **Analysis of Previous Review Team Recommendation**

The SSR RT placed an emphasis on developing a risk management framework as early as possible. The desired outcome is for the completion of a risk management framework developed through community participation and transparency.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

The Board-level DNS Risk Management Framework Working Group is prioritizing the implementation of this recommendation. There has been participation by community members in open public sessions at the ICANN Costa Rica, Prague, Toronto, and Beijing meetings. With the publication of the Westlake Governance DNS Risk Management Framework, a public comment opportunity was made available.

1. **Implementability**

This is being addressed with Westlake Governance, we think the work to date has been open and inclusive, and participation has been welcomed.

1. **Effectiveness**

The feedback from the community during public sessions on the Risk Management Framework has been positive.

1. **Summary of Community Input on Implementation**

As discussed in the summary of Community input on recommendation 25, there is some unhappiness related to the perceived similarity of efforts between Westlake Governance and the DSSA Working group.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

Based on documented efforts to create a DNS Risk Framework, it would appear ICANN has prioritized the completion of that framework. However, implementation may have been hampered by a lack of clarity between the role filled by the Westlake Governance effort and the efforts of the DSSA Working Group.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Completion of the Risk Management Framework has been prioritized and provides for participation and transparency, albeit whether the standards of participation is high or not is a matter of opinion.

1. **Recommendation 27**

“ICANN’s Risk-Management Framework should be comprehensive within the scope of its SSR remit and limited missions.”

1. **Analysis of Previous Review Team Recommendation**

The goal of this recommendation was to constrain ICANN’s Risk-Management Framework to be within ICANN’s SSR remit and limited missions but within those constraints, the Risk-Management Framework was to be comprehensive. However, the lack of objective criteria associated with being “comprehensive” limited the value of this recommendation.

1. **Summary of ICANN’s Assessment of Implementation**

Implementation underway.

1. **Actions Taken**

ICANN hired Westlake Governance to develop the DNS Risk-Management Framework. This Framework was introduced at the ICANN meeting in Beijing and a draft was published at the ICANN meeting in Durban for public comment.

1. **Implementability**

This recommendation is being implemented and staff has not run into any unforeseen problems or issues.

1. **Effectiveness**

The feedback on Westlake's approach has been positive.

1. **Summary of Community Input on Implementation**

Comments provided during the public comment period associated with the publication of the Westlake Governance DNS Risk Framework document suggests some members of the community do not believe the framework to be comprehensive. Some examples of indicative comments:

* “[Westlake’s view that Availability, Consistency, or Integrity of the DNS is outside of the scope of the Risk Management Framework] is a very limited view of risk management focused only on whether the DNS is at risk – not whether everything in the Internet that relies on the DNS is.” – Comment from Verisign (<http://forum.icann.org/lists/comments-dns-rmf-final-23aug13/pdfEXbAYduQ3s.pdf>)
* “The ALAC deplores that at this point in time, the proposed Framework is far from being detailed at a  more granular level” – Comment from ALAC (<http://forum.icann.org/lists/comments-dns-rmf-final-23aug13/pdfEiMIkBXExM.pdf>)

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

As discussed in recommendations 25 and 26, there has been some controversy regarding the implementation of the DNS Risk Framework related to the role of the DSSA Working Group. When looking specifically at the efforts related to Westlake Governance’s preparation and publication of the DNS Risk Framework, some questions exist regarding the comprehensiveness of that framework.

1. **ATRT2 Assessment of Recommendation Effectiveness**

Based on the comments referenced above and similar comments both in other public comments and relayed during the ICANN Durban meeting, there may be some question as to whether the Westlake Governance DNS Risk Framework is “comprehensive within the scope of ICANN’s SSR remit and limited missions” however it must be acknowledged that comprehensiveness is a matter of opinion and those opinions appear to vary significantly.

1. **Recommendation 28**

“ICANN should continue to actively engage in threat detection and mitigation, and participate in efforts to distribute threat and incident information.”

1. **Analysis of Previous Review Team Recommendation**

This recommendation aimed at ensuring ICANN remain active in efforts relating to threat detection and mitigation as well as distributing threat and incident information. Implicit in this recommendation is a focus on threats and incidents related to ICANN’s role in the management of the Internet’s unique identifiers and responsible distribution of information related to those threats and incidents.

1. **Summary of ICANN’s Assessment of Implementation**

ICANN staff believes this recommendation has been met with the understanding that threat/incident detection, mitigation, and information disclosure are an ongoing task that will never be completed as long as ICANN is in the role of coordinating the Internet’s system of unique identifiers.

1. **Actions Taken**

ICANN staff, in particular (but not limited to) the Security Team, participate in a number of security-related conferences and meetings and is involved in activities such as Computer Emergency Response Teams.

In addition, the ICANN Security Team published *“Coordinated Vulnerability Disclosure Reporting at ICANN”* at <http://www.icann.org/en/about/staff/security/vulnerability-disclosure-05aug13-en.pdf> (to facilitate responsible distribution of information related to threats and incidents.

1. **Implementability**

Implemented, albeit with the caveat that threat/incident detection, mitigation, and disclosure are an ongoing area of involvement.

1. **Effectiveness**

ICANN participates in trusted security circles and this will continue.

1. **Summary of Community Input on Implementation**

No community input was received on this recommendation, however anecdotal input from the parts of the security community suggest ICANN efforts in this area are helpful.

1. **Summary of Other Relevant Information**

None.

1. **ATRT2 Analysis of Recommendation Implementation**

The Security Team has been quite engaged in the ongoing implementation of this recommendation.

1. **ATRT2 Assessment of Recommendation Effectiveness**

This recommendation has been reasonably effective in facilitating ICANN’s involvement in venues in which threats and incidents are revealed, mitigations discussed, and disclosures made. Continued and increased involvement will be critical to ensuring ongoing effectiveness.

1. <http://www.icann.org/en/about/agreements/aoc/affirmation-of-commitments-30sep09-en.htm> [↑](#footnote-ref-1)
2. <http://www.icann.org/en/about/aoc-review/atrt/1>, December 2010. [↑](#footnote-ref-2)
3. <http://www.icann.org/en/about/aoc-review/whois>, May 2012. [↑](#footnote-ref-3)
4. <http://www.icann.org/en/about/aoc-review/ssr>, June 2012. [↑](#footnote-ref-4)
5. Specifically, the AoC states that “each of the foregoing reviews shall consider the extent to which the assessments and actions undertaken by ICANN have been successful in ensuring that ICANN is acting transparently, is accountable for its decision-making, and acts in the public interest. Integral to the foregoing reviews will be assessments of the extent to which the Board and staff have implemented the recommendations arising out of the other commitment reviews.” [↑](#footnote-ref-5)
6. The ATRT2 is also considering generalizing the fourth bulleted item of 10.3 to facilitate having such volunteers in all areas and not just the GNSO PDP, ensuring that the public interest is properly supported in all ACs and SOs. Comments on such a recommendation would be appreciated. This is an extension of the concerns listed in the PDP expert's report from the GNSO PDP to the breadth of ICANN's bottom-up activities. [↑](#footnote-ref-6)
7. ATRT Final Report, <http://www.icann.org/en/news/public-comment/atrt-final-31dec10-en.htm>, December 2011. [↑](#footnote-ref-7)
8. ATRT1 Final Report. [↑](#footnote-ref-8)
9. Staff Input Document to the ATRT2, Comments of Amy Stathos; Samantha Eisner; Diane Schroeder,<https://community.icann.org/download/attachments/41880363/Consolidated+Responses+to+ATRT2+Questions-ATRT+1+Recommendations+Implementation+%2830Apr%29+Final.xlsx> [↑](#footnote-ref-9)
10. NomCom Transparency Guidelines, <http://nomcom.icann.org/nomcom-transparency-08oct12-en.pdf> [↑](#footnote-ref-10)
11. NomCom Code of Conduct, <http://nomcom.icann.org/conduct-2013.htm> [↑](#footnote-ref-11)
12. ATRT Implementation Summary Report, <http://www.icann.org/en/news/in-focus/accountability/atrt-implementation-report-29jan13-en.pdf>, January 2013. [↑](#footnote-ref-12)
13. ATRT Implementation Summary Report, <http://www.icann.org/en/news/in-focus/accountability/atrt-implementation-report-29jan13-en.pdf>, January 2013. [↑](#footnote-ref-13)
14. Comments submitted in response to ATRT2 Questions to the Community, Vasily Dolmatov, Alejandro Pisanty, Maria Farell (NCUC), Christopher Wilkinson, Nominet, <http://forum.icann.org/lists/comments-atrt2-02apr13/> [↑](#footnote-ref-14)
15. Comments submitted in response to ATRT2 Questions to the Community, Nominet, <http://forum.icann.org/lists/comments-atrt2-02apr13/> [↑](#footnote-ref-15)
16. Comments submitted in response to ATRT2 Questions to the Community, Jean-Jacques Subrenat (ALAC), <http://forum.icann.org/lists/comments-atrt2-02apr13/> [↑](#footnote-ref-16)
17. Comments submitted in response to ATRT2 Questions to the Community, Jean-Jacques Subrenat (ALAC), <http://forum.icann.org/lists/comments-atrt2-02apr13/> [↑](#footnote-ref-17)
18. <http://nomcom.icann.org/index-2012.htm#archives> [↑](#footnote-ref-18)
19. <http://nomcom.icann.org/nomcom-final-report-08oct12-en.pdf> [↑](#footnote-ref-19)
20. Comments submitted by Nominet: http://forum.icann.org/lists/comments-atrt2-02apr13/msg00010.html [↑](#footnote-ref-20)
21. Comments submitted by Mark Carvell, U.K. government: http://forum.icann.org/lists/comments-atrt2-02apr13/msg00014.html [↑](#footnote-ref-21)
22. Comments submitted by Darlene Thompson: http://forum.icann.org/lists/comments-atrt2-02apr13/pdf9UP7si771p.pdf [↑](#footnote-ref-22)
23. <http://www.icann.org/en/general/report-board-directors-compensation-considerations-13oct11-en.pdf> [↑](#footnote-ref-23)
24. http://www.icann.org/en/groups/board/documents/ce [↑](#footnote-ref-24)
25. <http://www.icann.org/en/news/in-focus/accountability/atrt-recommendations-implementation-plans-22oct11-en> [↑](#footnote-ref-25)
26. <http://www.icann.org/en/news/in-focus/accountability/atrt-project-list-workplans-29jan13-en.pdf> [↑](#footnote-ref-26)
27. <http://www.icann.org/en/news/in-focus/accountability/atrt-implementation-report-29jan13-en.pdf> [↑](#footnote-ref-27)
28. <http://www.icann.org/en/news/in-focus/accountability/input-advice-function-24sep12-en.pdf> [↑](#footnote-ref-28)
29. <http://www.icann.org/en/news/public-comment/policy-implementation-31jan13-en.htm> [↑](#footnote-ref-29)
30. <http://www.icann.org/en/groups/board/documents/briefing-materials-guidelines-21mar11-en.htm> [↑](#footnote-ref-30)
31. <https://gacweb.icann.org/display/GACADV/GAC+Advice>. See also ICANN Bylaws, Article XI Section 2.1 at <http://www.icann.org/en/about/governance/bylaws>, and GAC Operating Principles, **Article XII – Provision of Advice to the ICANN Board at** <https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles> [↑](#footnote-ref-31)
32. <https://gacweb.icann.org/display/GACADV/GAC+Register+of+Advice> [↑](#footnote-ref-32)
33. Shawn Gunnarson, Individual Commenter (see footnote 7) [↑](#footnote-ref-33)
34. Maureen Hilyard, ALAC, (see footnote 7) [↑](#footnote-ref-34)
35. 曹华平, Internet Society of China, (see footnote 7) [↑](#footnote-ref-35)
36. Liu Yue, Chinese Academy of Telecommunications Research, (see footnote 7) [↑](#footnote-ref-36)
37. United Kingdom Government, Mark Carvell [↑](#footnote-ref-37)
38. Alejandro Pisanty [↑](#footnote-ref-38)
39. <https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles> [↑](#footnote-ref-39)
40. Danish Business Authority, Julia Wolman [↑](#footnote-ref-40)
41. Nominet, Laura Hutchison [↑](#footnote-ref-41)
42. Nominet, Laura Hutchison [↑](#footnote-ref-42)
43. Maureen Hilyard, Affiliation, ALAC [↑](#footnote-ref-43)
44. United Kingdom Government, Mark Carvell [↑](#footnote-ref-44)
45. Danish Business Authority, Julia Wolman [↑](#footnote-ref-45)
46. United Kingdom Government, Mark Carvell [↑](#footnote-ref-46)
47. United Kingdom Government, Mark Carvell [↑](#footnote-ref-47)
48. Nominet, Laura Hutchison [↑](#footnote-ref-48)
49. Danish Business Authority, Julia Wolman [↑](#footnote-ref-49)
50. Nominet, Laura Hutchison [↑](#footnote-ref-50)
51. United Kingdom Government, Mark Carvell [↑](#footnote-ref-51)
52. Rinalia Abdul Rahim, Garth Bruen, Evan Leibovitch, Holly Raiche, Carlton Samuels, Jean-Jaques Subrenat, Affiliation ALAC [↑](#footnote-ref-52)
53. Nominet, Laura Hutchison [↑](#footnote-ref-53)
54. Registries Stakeholder Group, Paul Diaz [↑](#footnote-ref-54)
55. Non Commercial Stakeholders Group, Mary Wong [↑](#footnote-ref-55)
56. Nominet, Laura Hutchison [↑](#footnote-ref-56)
57. Nominet, Laura Hutchison [↑](#footnote-ref-57)
58. Characterization of notes (B.Cute) from ALAC session [↑](#footnote-ref-58)
59. Characterization of notes (B.Cute, E.Bacon) from GNSO session [↑](#footnote-ref-59)
60. <https://community.icann.org/download/attachments/41880363/Consolidated+Responses+to+ATRT2+Questions-ATRT+1+Recommendations+Implementation+%2830Apr%29+Final.xlsx> [↑](#footnote-ref-60)
61. <https://community.icann.org/download/attachments/41880363/Consolidated+Responses+to+ATRT2+Questions-ATRT+1+Recommendations+Implementation+%2830Apr%29+Final.xlsx> [↑](#footnote-ref-61)
62. <https://community.icann.org/download/attachments/41880363/Consolidated+Responses+to+ATRT2+Questions-ATRT+1+Recommendations+Implementation+%2830Apr%29+Final.xlsx> – [↑](#footnote-ref-62)
63. <http://www.icann.org/en/resources/policy/update/update-dec11-en.htm#1> [↑](#footnote-ref-63)
64. http://forum.icann.org/lists/comments-atrt2-02apr13/msg00003.html [↑](#footnote-ref-64)
65. <http://forum.icann.org/lists/comments-atrt2-02apr13/msg00010.html> (response to Q. 9). [↑](#footnote-ref-65)
66. <http://www.icann.org/en/about/participate/language-services/policies-procedures-18may12-en.pdf> [↑](#footnote-ref-66)
67. <http://www.icann.org/en/groups/board/documents/resolutions-18oct12-en.htm#1.b> [↑](#footnote-ref-67)
68. See <http://audio.icann.org/atrt2-20130620-en.mp3>; <https://community.icann.org/download/attachments/41890059/20130620_ATRT2_ID795926.pdf?version=1&modificationDate=1372186140000>; <http://icann.adobeconnect.com/p17n8q2y2qq/> and <http://icann.adobeconnect.com/p5fcx7t8u9i/> and <https://community.icann.org/download/attachments/41884187/chat+transcript+-+day+2.pdf?version=1&modificationDate=1376620716000>; and <https://community.icann.org/download/attachments/41884187/DAY2.pdf?version=1&modificationDate=1377345148000> [↑](#footnote-ref-68)
69. <http://mm.icann.org/pipermail/atrt2/2013/000958.html> [↑](#footnote-ref-69)
70. See ATRT1 Final Report. [↑](#footnote-ref-70)
71. See <https://community.icann.org/display/ATRT2/Mandate>, in particular 9.1 (Ensuring accountability, transparency and the interests of global Internet users) subsections (c), (d) and (e). [↑](#footnote-ref-71)
72. See <http://www.chathamhouse.org/about-us/chathamhouserule> “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” [↑](#footnote-ref-72)
73. It should be noted that while not discussed to an extent in the ATRT1 report, the last two issues were documented in both the [2010 Berkman Center for Internet & Society report](http://www.icann.org/en/about/.../review-berkman-final-report-20oct10-en.pdf_) and the [2007 One Work Trust report](http://www.icann.org/en/about/transparency/owt-report-final-2007-en.pdf_) on “ICANN Accountability and Transparency – Structures and Practices.” [↑](#footnote-ref-73)
74. See <https://community.icann.org/pages/viewpage.action?pageId=41885192> [↑](#footnote-ref-74)
75. <http://www.icann.org/en/about/governance/bylaws/proposed-bylaw-revision-reconsideration-26oct12-en.pdf> [↑](#footnote-ref-75)
76. Ibid. [↑](#footnote-ref-76)
77. <http://www.icann.org/en/news/irp/proposed-cep-26oct12-en.pdf> [↑](#footnote-ref-77)
78. <http://forum.icann.org/lists/comments-atrt2-02apr13/msg00025.html> [↑](#footnote-ref-78)
79. <http://forum.icann.org/lists/comments-atrt2-02apr13/msg00029.html> [↑](#footnote-ref-79)
80. The BCG wrote, “*The Request, however, does demonstrate the import of the ongoing work within the ICANN community regarding issues of policy and implementation, and the need to have clear definitions of processes and terms used when seeking community guidance and input. As such, we believe it is advisable for the Board to pay close attention to the policy/implementation debate, and to make sure that the issues raised within this Request be part of that community work. Further, we believe that it is advisable to ask the community to address the issue of how the Board should consider and respond to advice provided by the Supporting Organizations (outside of the PDP) and what types of consultation mechanisms, if any, are appropriate in the event the Board elects not to follow that advice. As ICANN evolves, this is an important question for consideration in upholding the multistakeholder model.”* [↑](#footnote-ref-80)
81. Some interesting case law interpretations appear in the BCG recommendation: “*Reconsideration is not, and has never been, a tool for requestors to come to the Board to seek the reevaluation of staff decisions. This is an essential time to recognize and advise the ICANN community that the Board is not a mechanism for direct, de novo appeal of staff (or panel) decisions with which the requester disagrees. Seeking such relief from the Board is, in fact, in contravention of established processes and policies within ICANN.”* [↑](#footnote-ref-81)
82. This issue still pending on a general policy development process between GAC and GNSO on IGO protection. [↑](#footnote-ref-82)
83. See [http://www.icann.org/en/about/governance/bylaws - V](http://www.icann.org/en/about/governance/bylaws#V) [↑](#footnote-ref-83)
84. See <http://www.icann.org/en/help/ombudsman> [↑](#footnote-ref-84)
85. See <http://www.icann.org/en/help/ombudsman/reports> [↑](#footnote-ref-85)
86. See <http://durban47.icann.org/meetings/durban2013/transcript-atrt2-13jul13-en.pdf> [↑](#footnote-ref-86)
87. The current Ombudsman, Chris LaHatte, noted, “the answer really was, well we have a perfectly good law which deals with that so you don’t need to go there. I can’t comment from a legal perspective on whether that’s a good answer as opposed to the correct answer.” He also indicated that the Ombudsman needs “freedom of information powers, and indeed I have those, because it’s in my Bylaw that if I want to see any documents from within ICANN or in the ICANN community, then they must be provided.” He went on to note, however, “That’s not quite the same of course as whistleblowing, but it is perhaps the first step towards that sort of function. If someone were to come to me and say, ‘I want to make this confidential complaint about something that’s happened.’ And it is effectively a whistleblowing complaint, then I have the ability to investigate.” [↑](#footnote-ref-87)
88. LaHatte noted “And the Bylaw it seems to also be restrictive in its approach in that it says the role is between ICANN staff and the community, but in other areas of the by-law it’s not quite as explicit, and it talks about supporting structures. And it’s perhaps understandable in the context of something which was written in 2003, 2004 when it was a lot smaller, much less complicated, and when the supporting organizations hadn’t reached the degree of sophistication which they have some seven or eight years later.” [↑](#footnote-ref-88)
89. See <http://www.icann.org/en/about/transparency/owt-report-final-2007-en.pdf> [↑](#footnote-ref-89)
90. In fact, One World Trust made many recommendations, including:

    * To ensure compliance with any organisational policy, it is important that there is high level oversight and leadership. Without this, implementation will only ever be piecemeal. To ensure implementation of the information disclosure within ICANN therefore, responsibility for overseeing the policy should be assigned to a senior manager.
    * Supporting this, a set of indicators should be developed to monitor the implementation of the policy, and an annual review should be undertaken which identifies how ICANN is complying with the policy, where there are problems, and the steps that are to going be taken to address these (see recommendation 5.1 in section 8).
    * While ICANN has three mechanisms for investigating complaints from members of the ICANN community, the organisation does not have a policy or system in place that provides staff with channels through which they can raise complaints in confidentiality and without fear of retaliation. Having such a policy (often referred to as a whistleblower policy) is good practice among global organisations. A whistleblower policy that provides such protections serves as an important means of ensuring accountability to staff as well as preventing fraudulent behaviour, misconduct and corruption within an organisation.
    * While the Ombudsman, Reconsideration Committee and the Independent Review Panel provide complaints based approaches to compliance, to generate greater trust among stakeholder, ICANN needs to take a more proactive approach.
    * To address this issue, ICANN should consider a regular independent audit of their compliance with accountability and transparency commitments. Alternatively, it could develop a permanent compliance function to emphasize prevention by identifying shortcomings as they emerge and before they become systemic problems. In either case, a regular report on compliance should be produced and publicly disseminated.

    [↑](#footnote-ref-90)
91. See <http://www.icann.org/en/about/aoc-review/atrt/review-berkman-final-report-20oct10-en.pdf> [↑](#footnote-ref-91)
92. Specifically, 2.4 Transparency Audit

    (a) Issues

    The lack of a comprehensive audit of ICANN’s information activities makes it difficult to assess its practices across active, passive, and participatory transparency.

    (b) Observations

    The 2007 One World Trust review describes an ICANN initiative “to conduct an annual audit of standards of accountability and transparency, including an audit of the commitments made in these Management Operating Principles . . . by an external party” with the results of the audit “published in the Annual Report.”xxxv The last annual report does not contain such an audit.

    (c) Discussion

    ICANN currently lacks an up-to-date, publicly available transparency audit. This makes it difficult to make substantive assessments of ICANN’s practices as they relate to active, passive, and participatory transparency. The lack of empirical material (e.g., on the time delays in the publication of documents) currently forces reviewers to look for conceptual, structural, and procedural deficiencies in order to identify if, where, and how there are inconsistencies between guiding policies and practices. A comprehensive audit, in contrast, would allow for periodic, facts-based, internal and external reviewing and benchmarking; ICANN could greatly benefit from this when further improving its information policies.

    Such a transparency audit needs to be governed by clear policies and processes, which set forth the categories of information pertinent to such an audit, among other things. Following an earlier recommendation by the One World Trust review, the transparency audit should be published in the Annual Report. In addition, the Berkman team suggests that the underlying data be released as part of the Dashboard/ICANN Performance Metrics.xxxvi Accountability and Transparency at ICANN: An Independent Review {99}

    (*d) Recommendation*

    *Create and implement policies and processes for conducting and communicating regular transparency audits.*  [↑](#footnote-ref-92)
93. <http://www.icann.org/en/news/in-focus/accountability/atrt-implementation-report-29jan13-en.pdf> [↑](#footnote-ref-93)
94. <http://durban47.icann.org/meetings/durban2013/presentation-gnso-pdp-13jul13-en.pdf> [↑](#footnote-ref-94)
95. See [gnso.icann.org/en/drafts/pdp-im**pro**vements-22aug13-en.pdf‎](gnso.icann.org/en/drafts/pdp-improvements-22aug13-en.pdf%E2%80%8E) [↑](#footnote-ref-95)
96. See ATRT2 [mailing list archives](http://mm.icann.org/pipermail/atrt2/2013/), in particular the exchange titled “Discussion with ATRT2” that was conducted between 07-10 August 2013 - <http://mm.icann.org/pipermail/atrt2/2013/000682.html> through <http://mm.icann.org/pipermail/atrt2/2013/000705.html>. [↑](#footnote-ref-96)
97. US Council for International Business [↑](#footnote-ref-97)
98. Maureen Hilyard, Nominet, Gordon Chillcot, Registries Stakeholder Group, Rinalia Abdul Rahim with support of Evan Leibovitch and Carlton Samuals [↑](#footnote-ref-98)
99. Rinalia Abdul Rahim with support of Evan Leibovitch and Carlton Samuals [↑](#footnote-ref-99)
100. US Council for International Business, Rinalia Abdul Rahim with support of Evan Leibovitch and Carlton Samuals [↑](#footnote-ref-100)
101. US Council for International Business, Registries Stakeholder Group, Rinalia Abdul Rahim with support of Evan Leibovitch and Carlton Samuals [↑](#footnote-ref-101)
102. Rinalia Abdul Rahim with support of Evan Leibovitch and Carlton Samuals [↑](#footnote-ref-102)
103. See http://www.icann.org/en/about/governance/bylaws#AnnexA. [↑](#footnote-ref-103)
104. See http://gnso.icann.org/en/node/38709. [↑](#footnote-ref-104)
105. The ATRT2 is also considering a recommendation for establishing a sustainable model for relying on volunteers across all Supporting Organizations and Advisory Committees.  This is an extension of the concerns listed in the PDP expert's report from the GNSO PDP to the breadth of ICANN's bottom-up activities. [↑](#footnote-ref-105)
106. <http://www.icann.org/en/news/in-focus/accountability> [↑](#footnote-ref-106)
107. <https://community.icann.org/display/ATRT2/Information+provided+by+ICANN+Staff> [↑](#footnote-ref-107)
108. <http://www.icann.org/en/about/planning/strategic/strategic-plan-2012-2015-18may12-en.pdf> [↑](#footnote-ref-108)
109. <http://www.icann.org/en/about/financials/adopted-opplan-budget-fy14-22aug13-en.pdf> [↑](#footnote-ref-109)
110. <http://beijing46.icann.org/node/37035> [↑](#footnote-ref-110)
111. <https://www.icann.org/en/about/staff/management-org-09sep13-en> [↑](#footnote-ref-111)
112. <https://community.icann.org/download/attachments/40935097/Transcript%20-%20Call%2010.pdf?version=1&modificationDate=1378454662000&api=v2> [↑](#footnote-ref-112)
113. <https://community.icann.org/display/ATRT2/Los+Angeles+-+14-17+August+2013> [↑](#footnote-ref-113)
114. In particular, see page 3, last bullet at <https://gacweb.icann.org/download/attachments/27132072/Summary%20of%20the%20HLM%20Chair%20v%20final.pdf?version=1&modificationDate=1360614203000&api=v2> [↑](#footnote-ref-114)
115. See page 2, Section III.1 at <https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2> [↑](#footnote-ref-115)
116. See page 1, Section II.2 at <https://gacweb.icann.org/download/attachments/27132037/Final_GAC_Communique_Durban_20130718.pdf?version=1&modificationDate=1375787122000&api=v2> [↑](#footnote-ref-116)
117. See Toronto report cited at Footnote 120. [↑](#footnote-ref-117)
118. <http://www.icann.org/en/news/public-comment/summary-comments-op-budget-fy14-30aug13-en.pdf> [↑](#footnote-ref-118)
119. <http://www.icann.org/en/about/annual-report> [↑](#footnote-ref-119)
120. <http://www.icann.org/en/about/financials/fiscal-30jun05-en.htm> - discussion and analysis paper of significant variances between the reported financial statements for FY2004 and FY2005. [↑](#footnote-ref-120)
121. <http://www.icann.org/en/about/financials/adopted-opplan-budget-fy14-22aug13-en.pdf> [↑](#footnote-ref-121)
122. <https://www.icann.org/en/about/financials/proposed-opplan-budget-fy14-16may13-en.pdf> [↑](#footnote-ref-122)
123. <http://www.icann.org/en/groups/board/finance/charter> [↑](#footnote-ref-123)
124. The “At Task” system is a Project Management Reporting tool. The system has been deployed and staff is in the process of refining how much of the information placed into the system is available for public view. [↑](#footnote-ref-124)