Registries Stakeholder Group Statement

Issue: **Third Accountability and Transparency Review Team (ATRT3) Draft Report**

Date statement submitted: **31 January 2020**

Reference url: https://www.icann.org/public-comments/atrt3-draft-report-2019-12-16-en

Background[1]

What?   The Accountability and Transparency Review is mandated by ICANN Bylaws Section 4.6(b) to examine ICANN's execution of its commitments to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community.

- ATRT3 Draft Report : https://www.icann.org/en/system/files/files/draft-report-atrt3-16dec19-en.pdf

- The RySG provided feedback on the ATRT3 online survey (September 2019), RySG feedback at https://docs.wixstatic.com/ugd/ec8e4c_9ee106a735034b6c9091d73767906da2.pdf .

- RySG comment on the ATRT2 draft recommendations (December 2013) https://forum.icann.org/lists/comments-atrt2-recommendations-21oct13/pdfJDOuDEu6Qh.pdf RySG comment on ATRT2 final report and recommendations (February 2014) https://forum.icann.org/lists/comments-atrt2-recommendations-09jan14/pdfLNu8Er70Ge.pdf

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[1] _Background: intended to give a brief context for the comment and to highlight what is most relevant for RO's in the subject document – it is not a summary of the subject document._

<u>Registries Stakeholder Group (RySG) comment:</u>

I. Introduction and Overarching Comments

The RySG appreciates the considerable effort the ATRT3 put into assembling a report of this magnitude in a year. We also appreciate and endorse the RT's suggestions and recommendations related to simplifying documents for public comment, struggles related to tracking work across multiple Review Teams, the availability of necessary metrics, and the need for prioritization. We therefore respectfully suggest that the RT take the following steps in its Final Report to assist in achieving these ambitious goals:

1. For each recommendation that derives from previous ATRT recommendations, indicate the ATRT1→ ATRT2→ ATRT3 path (or ATRT2→ ATRT3 path where relevant) so that readers can follow the progress and quickly ascertain what is missing. This will let readers understand how the new ATRT3 Recommendation is related to the original Recommendation(s). Where there is no direct relationship, we recommend listing the original Recommendation as closed or completed and then creating a new Recommendation. We provide an example in the first Issue, below. Using a clear definition (standardized across reviews) of when an issue is closed would help to better structure the current and future reviews.

2. Where a survey question led to a new Recommendation or Suggestion, please provide some context about how you got from the survey answer to the Recommendation, particularly where it's not immediately clear from the suggestions in the Survey answers. For example, Issue 1 - Board - Survey Question (Section 3.3.6): The survey question simply asked, "Are you satisfied," and -only At-Large and EURALO provided any discussion of why they selected the answer they did. Yet, the ATRT3 came up with 5 recommendations (that it lumped in with Issue 1 (3.3.1)). We would like to know how those recommendations were determined to solve the problem of Board dissatisfaction.

3. We suggest making your recommendations and suggestions easy for the Board to prioritize. The RySG is concerned that making recommendations for "continuous improvement" are not specific, meaningful, achievable, realistic, nor time bound (SMART). Continuous improvement recommendations are well intended, and, in many cases, we support the principles underlying these recommendations. However, we believe that such recommendations are vaguely worded, making them difficult to implement and impossible for the community to measure whether or

not they are met over time. We recommend that ATRT3 revisit these recommendations in the Final Report and attempt to make them more specific and include measurable metrics.

We additionally have a few suggestions that may streamline future reviews.

Our point #1, above, could result in a standard Review Report format, not unlike the direction the GNSO is going with PDP reports. We believe the ATRT2's report was particularly well structured, with each section identifying the previous work, the staff report, community comments, the Review Team's analysis and then a short recommendation section that took into account all of that. If all RTs were able to adopt a similar report structure (customized to their needs) the community will be able to quickly respond and develop public comments, rather than learning a new report format each time.

Similarly, we suggest that the ATRT compile a list of the survey questions that led to the best data so that the community can ask at least some of the same questions during each ATRT review (other specific reviews might adopt this as well). That will allow the community to track community attitudes and progress over time, using a set of standardized questions.

II. Comments on ATRT3 Suggestions and Recommendations

Issue 1 – Board – **ATRT2 Recommendation 2** (ATRT3 report section 3.3.1)	• The Board should establish the same targets it uses for publishing agendas and minutes of Board meetings for the agendas and minutes of all its official committees and publish these in the Accountability Indicators. • The Board should show the date of publication of materials on the Board website instead of only in the materials themselves. • All of these relevant indicators of Board performance should be grouped in a single area of the Accountability Indicators. • Board minutes should indicate how members voted, including in Executive Sessions. • Board minutes should include, in addition to the rationale, summaries of the main discussion points covered prior to taking votes.

RySG Comment:

The RySG supports these recommendations, but for the reasons noted below, do not believe these recommendations belong linked to ATRT2 Recommendation 2. We believe ATRT2 Recommendation 2 is completed.

When we follow the issue back, we note that the recommendations do not address the issues flagged by any of the ATRTs. They do address several survey concerns and definitely apply below, but do not address any of the **issues surrounding metrics related to Board training materials**. We note that the way the ATRT3 structured its report, the RySG had to go back and read and compare the analysis in the ATRT2 report to get a complete picture of the issues presented. We strongly suggest the ATRT3 map recommendations flowing from ATRT1 through ATRT2 to ATRT3 so the community can track the work. We also strongly encourage this and future RTs to close issues where the recommendations are implemented but could be improved with minor adjustments. The minor adjustments could form the basis for new "improvement" recommendations.

> Context:
> Below is how the RySG reconstructed how this issue was addressed by the subsequent ATRTs.
> The RySG is missing such an analysis in the ATRT3 report for every instance where ATRT3 refers to an ATRT2 Recommendation that reviewed ATRT1.
>
> 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 called on the Board to enhance its performance and work practices."

ATRT2: "The Board should develop metrics to measure the effectiveness of the Board's functioning and improvement efforts, and publish the materials used for training to gauge levels of improvement."

ATRT3: "When ICANN org was asked about these metrics, ATRT3 was referred to the Accountability Indicators as the only metrics available."
(p. 40)

Issue 1 – Board – ATRT2 Recommendation 4 (ATRT3 report section 3.3.2)	ATRT3 suggests that similarly to Reviews and the implementation of Review recommendations, ICANN should provide a centralized system to track the development, approval, and implementation of policy by the SOs. Additionally, ICANN should, in a similar fashion to its Action Request Registry for ACs, institute a section on its website to track requests and communications from SOs and associated follow-on actions if any are required.

RySG Comment:

The RySG cautiously supports the first recommendation as we think it will further assist in prioritization. We do believe the scope of this project will be significant and may be costly. We are not sure how the second recommendation would be implemented as we aren't sure what would constitute a "request" from an SO and who would decide what actions are required.

Context:
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 the outcomes were conveyed to stakeholders."

ATRT2: "ATRT2 Recommendation 4: The Board should continue supporting cross community engagement aimed at developing an understanding of the distinction between policy development and policy implementation. Develop complementary mechanisms whereby the Supporting Organizations and Advisory Committees (SO/AC) can consult with the Board on matters, including but not limited to policy, implementation and administrative matters, on which the Board makes decisions."

Because of the work undertaken for [ATRT1] Recommendation 6, ICANN also published a paper on the Community Input and Advice Function, 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 to help frame and move the discussion forward."

ATRT3: "There is no meaningful metric to show any particular improvement of the wider ICANN community understanding the difference between policy development and implementation of policy as was called for by the recommendation" (p. 40).

Issue 1 – Board – **ATRT2 Recommendation 5** (ATRT3 report section 3.3.3)	Given ATRT3 has assessed ATRT2 recommendation 5 as not implemented, ATRT3 strongly suggests that the implementation of a "single unified redaction policy" be completed, as well as the adoption and adherence to effective processes, in support of the requirements of the recommendation.

RySG Comment:

The RySG is unclear on how this recommendation has not been implemented. A redaction register, along with a uniform redaction policy is available here: https://www.icann.org/resources/pages/publication-practices-2016-06-30-en.

Context:
ATRT1: ATRT1 found a lack of transparency in Board decision-making and recommended complete transparency except for a minimum redaction policy (policy to be published).

ATRT2: Board should review redaction standards and review redacted materials to determine if redaction is still warranted.

ATRT3: Not implemented. Complete a single unified policy and adhere to it.

Issue 1 – Board – **ATRT2 Recommendation 9.1** (ATRT3 report section 3.3.2)	ATRT3 suggests that the Board implement a maximum time to provide an initial assessment of recommendations made by SO/ACs which require action.

RySG Comment:

The RySG supports this suggestion, but would note that since the ATRT2 recommendation was for the Board to respond in a timely manner then, unless there is serious concern that this has not been happening, being prescriptive as to the actual time period may not really be necessary.

> Context:
> ATRT1: "ATRT1 reviewed ICANN's policy development and implementation processes and made many recommendations about the inputs and standards used for making and appealing decisions."
>
> ATRT2: "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" (p. 55).
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> "9. Consideration of decision-making inputs and appeals processes 9.1. ICANN Bylaws Article XI should be amended to include the following language to mandate Board Response to Advisory Committee Formal Advice: 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" (p. 58).
>
> ATRT3: "A suggestion for improvement is that ICANN implement a maximum time to provide an initial assessment of recommendations which require action that are made to the Board by the SO/ACs."

Issue 1 – Board – ATRT2 Recommendation 10.5 (ATRT3 report section 3.3.5)	ATRT3 suggest that ICANN continue to support and enhance the following programs (among others): Fellowship, NextGen, ICANN Academy Leadership Programs, and the Community Regional Outreach Program (CROP). ICANN should also continue to improve the options for remote participation, including captioning.

RySG Comment:

The RySG does not support this suggestion as it is vague and not measurable. For example, it is unclear what the ATRT3 means by "enhance". Further, the RySG notes that the Fellowship Program has recently been reviewed and the NextGen Program is currently being reviewed.
We support the specific recommendation to improve captioning.

> Context:
> ATRT1: Not addressed by ATRT1.
>
> ATRT2: "The Board must facilitate the equitable participation in applicable ICANN activities, of those ICANN stakeholders who lack the financial support of industry players"
>
> ATRT 3: "This is obviously a major recommendation which has met with some success. The ATRT3 suggests to keep this objective alive with a continuing enhancement."

Issue 1 – Board – Survey Question: Please indicate your satisfaction with the Board's performance overall (ATRT3 report section 3.3.6)	See the recommendation for Issue 1 – Board - ATRT2 Recommendation 2 (Section 3.3.1).

RySG Comment:

The RySG is unclear on how ATRT3 concluded that the survey responses to the specific question related to the Board's performance were related to ATRT2 recommendation 2, which is about Board member training and skills assessment. The RySG is also concerned about ATRT3 using this particular survey question as a basis for making a suggestion as it does not identify the source of the satisfaction or dissatisfaction with the Board's overall performance.

Context:
ATRT3: "Conclusion: The net of 27% which are satisfied or very satisfied is weak and ATRT3 will be making a suggestion to address this. This, at least in part, is related to ATRT2 Recommendation 2…" (p. 42).

Issue 1 – Board – Survey Question: How does your Structure feel regarding the Board's interaction with your SO/AC? (ATRT3 report section 3.3.7)	ATRT3 suggests that the Board should take concrete steps to ensure that Board members continue to regularly meet with the community at ICANN meetings, including the sub-components of the GNSO and At-Large, but that these interactions be less formal and allow sufficient time for a true dialogue on questions of interest to those community members.

RySG Comment:

The RySG supports this recommendation, but finds that it lacks logical context between the problem and the suggestion. We suggest one way to make that connection below.

Problem statement: There are mixed views from SO/ACs about their current interactions with the Board, where some view the interactions as useful whilst others do not. Whilst the survey question indicates some dissatisfaction, it does not really assist in identifying what that dissatisfaction is – are meetings too formal, not formal enough, is there insufficient access to Board between ICANN meetings, or are there concerns that in the past, when ICANN was smaller and less formal, everyone knew each other and so Board members were more visible? It could be any or all of these things, and likely is not the same for each group depending on their actual form of interaction.

This presents a need to retain the current approach for the structures that find their interaction with the Board useful and develop greater flexibility in how to engage with the Board for the structures do not find the interaction useful. For the purpose of ATRT3, our recommendation is focused on Board and SO/AC interaction at ICANN meetings. If SO/ACs wish to interact with the Board between ICANN meetings, we encourage them to reach out to the Board to explore options for doing so.

Recommendation:
- Individual structures and sub-structures provide the Board with a request for how they wish to engage at the upcoming ICANN meeting along with the topic or topic(s) they wish to discuss. Examples of "how" include: small group discussions, formal Q&A with prepared responses, a presentation to the Board to educate them on a new topic, a request for the Board to present to the structure on a new project.
- This request could be made on the same timeline as the current request for questions from the Board in advance of ICANN meetings. Alternatively, the Board may wish to seek input sooner to allow them additional time to prepare.
- This would be the same process if structures wish to meet with a specific group of Board members (e.g., SO-appointed Board members or a Board committee).
- This is not intended to prevent or deter the Board or Board members from suggesting topics or formats for interactions at ICANN meetings.
- This recommendation is an alteration to current practice and should require minimal resources to implement.
- This should be implemented at the next ICANN meeting following the adoption of the recommendation by the Board.
- To assess whether this change alters the effectiveness of Board and SO/AC interactions, the Board and SO/ACs should make an effort to share with the other, formally or informally, whether they found their engagement useful after an ICANN meeting has concluded.

Issue 1 – Board – Survey Question: **Do you consider the diversity amongst Board members satisfactory?** (ATRT3 report section 3.3.8)	Given the Bylaws specify how voting Board members are selected - SO/ACs nominated and confirmed by the Empowered Community (EC), as well as the Nominating Committee (NomCom) - it would be difficult for ATRT3 to recommend modifying this delicate balance without launching a major process to formally study this. As such, ATRT3 suggests that the SOs and ACs that nominate voting Board members to the ICANN Board voluntarily consider their nominations based on crucial aspects of Board diversity giving particular attention to gender criteria. Additionally, ATRT3 notes that the Empowered Community should consider the Bylaws requirements on diversity when considering the confirmation of Board members.

RySG Comment:

The RySG notes that ATRT3 seems to have limited its focus on diversity to gender diversity, even though survey responses pointed to geographical, gender, stakeholder, and experiential diversity. We would like to see the suggestion broadened to include the types of diversity the community should consider.

Issue 1 – Board – Survey Question: **Rate the mechanisms ensuring the Board's transparency** (ATRT3 report section 3.3.9)	See the recommendation for Issue 1 – Board - ATRT2 Recommendation 2 (Section 3.3.1).

RySG Comment:

The RySG supports this recommendation. We believe the recommendations in 3.3.1 do address the concerns raised in this survey question.

Issue 1 – Board – Survey Question: **Are you satisfied with the Board's decision-taking process?** (ATRT3 report section 3.3.10)	See the recommendation for Issue 1 – Board - ATRT2 Recommendation 2 (Section 3.3.1).

RySG Comment:

The RySG supports this recommendation. We believe the recommendations in 3.3.1 do address the concerns raised in this survey question.

Issue 1 – Board – Survey Question: **Are you aware of the training program for the Board members?** (ATRT3 report section 3.3.11)	ATRT3 strongly suggests that once ATRT3's suggestions related to ATRT2 Recommendation 2 are implemented, the Board undertake a communications exercise to familiarize the community with these new processes and its training program.

RySG Comment:

The RySG supports this recommendation, but again notes no obvious connection between the survey question and the recommendation. We suggest that the Final Report would likely benefit from the inclusion of a problem statement which this recommendation is intended to address, and provide the following example language: "Although Structures seem largely aware of the Board training program, the same does not appear to hold true for individuals."

Issue 1 – Board – Survey Question: **Are you satisfied with the financial information that is provided to the public by ICANN?** (ATRT3 report section 3.3.12)	Regarding communicating budget information to the community, especially for Public Comment proceedings, ATRT3 suggests that the Board and ICANN org.: ● Adhere to the suggestions regarding Public Comments made in this report relative to public consultations. ● Tailor budget information for SO/ACs so that they can easily understand budgeting relative to SO/ACs. ● A clear rationale in simple language explaining key decisions should be included in these materials.

RySG Comment:

The RySG notes that the Survey feedback provided by Structures is that they would like to see more information on how financial decisions are made at ICANN. Given this, the RySG supports the suggestions made by the ATRT3.

Issue 1 – Board – Survey Question: **Do you believe the information ICANN makes available on the icann.org website should be better organized to facilitate searching for specific topics?** (ATRT3 report section 3.3.13)	ATRT3 suggests that the next ATRT (or equivalent review) evaluate the results of the implementation of the Information Transparency Initiative (ITI).

The RySG supports this suggestion. The RySG would suggest that any review or evaluation of the ITI in the future use the Board resolution which established the ITI to assess its effectiveness https://www.icann.org/resources/board-material/resolutions-2017-09-23-en#2.c.

> Context:
> ATRT3 notes that the Information Transparency Initiative (ITI) Update that it was provided presents a good summary of activities to date and notes that: "Soft launch of the new site expected in FY20 Q4 with the full site available by FY21 Q1. More details are available here: https://www.icann.org/news/blog/keeping-youinformed-an-update-on-the-information-transparency-initiative ." Given the launch of the new system is due at about the same date the ATRT3 final report is due, ATRT3 will not be able to comment on the effectiveness of this initiative. As such, ATRT3 will not be making any recommendations or suggestions on this issue. However, ATRT3 suggests that the next ATRT (or equivalent review) evaluate the results of the implementation of the ITI initiative (p. 179).

Issue 2 – GAC – ATRT2 Recommendation 6.1.D (ATRT3 report section 4.3.1)	ATRT3 suggests that the GAC publish a short list of suggested qualities or requirements for liaisons to assist SO/ACs to select the best candidates to be GAC liaisons.

RySG Comment:

The RySG is unclear on how ATRT3 reached the conclusion that the effectiveness of implementation hinges on the quality of liaisons to the GAC. Have concerns about liaison quality been raised? What is the problem or issue being addressed by this suggestion?

> Context:
> ATRT1: "ATRT1 recognized that the existing GAC-Board relationship was dysfunctional and provided six recommendations aimed at improving GAC-Board interactions."
>
> ATRT2: "Overall, ATRT2 finds that ICANN has made a good-faith effort … most of the Recommendations have been addressed. However, there are outstanding implementation details that require further attention… (see table, p 34)". (p33)

ATRT2 new recommendations deal with 3 issues: "perceived lack of transparency", "lack of GAC early involvement", "legitimacy in the eyes of non-GAC member countries".

ATRT2 recommends that the Board work jointly with the GAC, through the BGRI working group, to consider a number of actions to make its deliberations more transparent and better understood to the ICANN community. 6.1(d) is an EXAMPLE. "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 liaisons from other ACs and SOs to the GAC, once that mechanism has been agreed upon and implemented;"

ATRT3: "Overall this recommendation is implemented and effective when considering that it was an unrealistic expectation that GAC conference calls could be open to all given the current number of GAC members. The effectiveness is directly related to the quality of the liaisons that are appointed to the GAC."

Issue 2 – GAC – **ATRT2 Recommendation 6.1.D** (ATRT3 report section 4.3.1)	ATRT3 suggests that the GAC, in conjunction with ICANN, should provide orientation for liaisons to GAC so they understand the environment of the GAC as well as the expectations for liaisons.

RySG Comment:

See comment on row above.

Issue 2 – GAC – **ATRT2 Recommendation 6.1.H** (ATRT3 report section 4.3.2)	ATRT3 suggests that the GAC continue to commit to its improvement efforts focusing on ensuring early engagement with relevant SOs and ACs on matters of importance to the GAC.

RySG Comment:

As the RySG has noted in our overarching comments, we have concerns about ATRT3 making recommendations or suggestions of a "continuous improvement" nature. We recommend that the ATRT3 revisit this suggestion in the Final Report and attempt to make it more specific, meaningful, achievable, realistic, and time bound (SMART).

Issue 2 – GAC – **ATRT2 Recommendation 6.6** (ATRT3 report section 4.3.3)	ATRT3 suggests that the GAC continue with improvements in this area.

RySG Comment:

As the RySG has noted in our overarching comments, we have concerns about recommendations or suggestions of a "continuous improvement" nature. We recommend that the ATRT3 revisit this suggestion in the Final Report and attempt to make it more specific, meaningful, achievable, realistic, and time bound (SMART). Specifically for this suggestion, the RySG questions whether it is really needed for continuous improvement on Board/GAC interaction and accountability of GAC members?

Context:
ATRT1: Increase support and resource commitments of government to the GAC.

ATRT2: Actions taken, but further work is needed given broader geopolitics and the concerns of some governments.

New ATRT2 rec: "ATRT2 recommends that the Board work jointly with the GAC, through the BGRI working group, to 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 BGRI working group should consider how the GAC can improve its procedures to ensure more efficient, transparent and inclusive decision-making. The BGRI working group should develop GAC engagement best practices for its members that could include issues such as: conflict of interest; transparency and accountability; adequate domestic resource commitments; routine consultation with local Domain Name System (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."

ATRT3: "First one should recognize the significant improvements that have been made by the GAC since the ATRT2 recommendations were made. Additionally, it should also be noted that this type of recommendation implies more of a continuous improvement process rather than a single outcome."

Issue 2 – GAC – Survey Question: **Should GAC accountability be improved?** (ATRT3 report section 4.3.4)	ATRT3 suggests that the GAC, in addition to suggestions 4.4.1.1 and 4.4.3, pursue its continuous improvement efforts and focus on making the GAC Communiqué clearer. This would facilitate the community's ability to take in GAC advice and properly consider it in the context of any relevant ongoing work.

RySG Comment:

The RySG questions whether this is an appropriate suggestion, as it appears to largely reflect an ignorance of the nuances involved in drafting the communique in a manner that is acceptable for all GAC members. The drafting of the communique is open for anyone to attend and this should be encouraged. The Board and the GAC also have a follow up dialogue to ensure a common understanding of the intent of the language. The RySG notes that individual GAC members are accountable to their own governments, and ICANN does not have jurisdiction to manage individual government processes. The RySG is unclear how this suggestion is measurable. If ATRT3 does make this suggestion, the RySG requests that the RT avoid overly vague language that will be difficult to implement and impossible for the community to measure whether the suggestion is fulfilled over time. As such, we recommend that if the ATRT3 includes this suggestion in the Final Report they attempt to make it more specific, meaningful, achievable, realistic, and time bound (SMART).

Issue 2 – GAC – Survey Question:	ATRT3 suggests that the GAC and the Board develop joint messaging about the current state of their interactions and the mechanisms which support these.
In your view are you satisfied with the interactions the GAC has with the Board?	
(ATRT3 report section 4.3.5)	

RySG Comment:

The RySG does not object to the Board and GAC developing joint messaging on their interactions and mechanisms which support their interactions. However, the RySG is unclear on why this suggestion is being made and where the problem was raised. The Board and GAC have open public meetings, correspondence between the Board and the GAC is published, and minutes are published of their interactions regarding the GAC communique. It's unclear what the joint messaging would achieve.

Issue 2 – GAC – Survey Question:	ATRT3 suggests that the GAC, considering the success of the current mechanisms that are in place for interacting with the Board, work with the GNSO to implement similar mechanisms to facilitate interactions between the GAC and the GNSO.
In your view are you satisfied with the interactions the GAC has with the SO/ACs?	
(ATRT3 report section 4.3.6)	

<u>RySG Comment:</u>

The RySG identified in <u>our survey responses</u> that we would appreciate more dialogue with the GAC. The RySG would support the ATRT3 suggestion that the GAC work with other ICANN Structures that would like more dialogue with the GAC, considering the mechanisms in place for GAC/Board interaction, to establish regular interactions.

Issue 3 – Public Input – ATRT2 Recommendation 8 (ATRT3 report section 5.3.1)	Given ATRT2 Recommendation 8 was not completely implemented, ATRT3 strongly suggests that ICANN perform and publish some type of quality measurements with respect to its language services. These could include, for example, regular user satisfaction surveys at ICANN meetings for interpretation and obtaining a rating as to the quality of the translation of documents from members of the community who use these translated documents.

<u>RySG Comment:</u>

The RySG believes the implementation of the ATRT2 recommendation is complete. However, it appears that the ATRT 3 has identified a new issue: missing metrics. We have no way to know how translation services are working. ICANN may not be auditing vendors or doing quality surveys. The RySG suggests that ATRT3 draft a new and distinct recommendation related to metrics and quality control over translation services (in all its various forms in the community).

While the provision of documents in multiple languages will be helpful to non-native English speakers, another challenge to meaningful participation is not being able to submit comments in languages other than English. We suggest that this concept be explored further to understand whether offering such a capability will enhance participation in public comment proceedings without overly complicating the process of summarizing and presenting comment responses, and without significantly increasing costs.

Issue 3 – Public Input – Survey Questions: **Please rate how effective the current system of Public Comment consultations is for**	ATRT3 strongly suggests that Public Comments not only seek general input on entire documents but also: ● Clearly identify who the intended audience is general community, technical community, Legal experts etc.). This will allow potential respondents to quickly understand if they wish to invest the time to produce comments. This is not meant to prevent anyone from commenting but is rather meant as clarifying who is best

gathering community input. (ATRT3 report section 5.3.2) **Would your Structure respond more often to Public Comments if the consultation included short and precise questions regarding the subject matter in a Survey Monkey or similar format?** (ATRT3 report section 5.3.3)	suited to comment. ● Each Public Comment proceeding should provide a clear list of precise key questions in plain language that the public consultation is seeking answers to from its intended audience. ● Where appropriate and feasible, translations of a summary and precise key questions should be included in the Public Comment proceeding which could also allow for responses in the official ICANN languages. ● Results of these questions should be included in the staff report on the Public Comment proceeding.

RySG Comment:

The RySG supports this suggestion, but notes the following items for ATRT3 to consider further as part of this suggestion:
- While specific and precise questions are useful for guiding the type of input sought, it is difficult for groups to respond to these types of questions
- Even when specific and precise questions are appropriate, there should be the flexibility for responses to include "none of the above" answers
- There is a risk that summaries may inadvertently leave out important information (this will depend on the perspective of a given reader)
- We are also concerned that some readers may rely too heavily on summaries and not engage with the nuance of the issues presented
- There is a risk that meaning and context will be lost when non-experts translate "back" the comments

Issue 3 – Public Input – Survey Questions: **Public Comments vs. other public input methods** (ATRT3 report section 5.3.4)	ATRT3 strongly suggests that: ● For those topics which do not specifically require a Public Comment process to gather community input ICANN org should develop and publish guidelines to assist in determining when a Public Comment process is required vs. alternate mechanisms for gathering input. ● ICANN org should develop guidelines for how alternative mechanisms for gathering input should operate including producing final reports. ● ICANN org should develop a system similar to, and integrated with, the Public Comment tracking system which would show all uses of alternate mechanisms to gather input including results and analysis of these.

	- ICANN org should publish the complete "Public Comment Guidelines for the ICANN Organization". - ICANN org should explain why its blog posts collect feedback information when the "Public Comment Guidelines for the ICANN Organization" state that they "will not be used as mechanisms for collecting feedback".

RySG Comment:

The RySG appreciates ICANN Org establishing Public Comment Guidelines but would request that these Guidelines are made public so that the Community can fully appreciate how it is determined when public comment should apply. The RySG also notes that the Community Leader Updates sent biweekly are also useful summaries of activities going on and opportunities for input. However, the RySG is particularly supportive of ATRT3's suggestion to "develop a system similar to, and integrated with, the Public Comment tracking system which would show all uses of alternate mechanisms to gather input including results and analysis of these". The RySG has experienced difficulty finding all input opportunities in the past and would support a mechanism which streamlined communication expectations for non-public comment input.

Issue 5 – PDP – **ATRT2 recommendations 10.1, 10.2 and 10.4** (ATRT3 report sections 7.3.1, 7.3.2 and 7.3.3)	ATRT3 recognizes that there are several significant activities being undertaken in parallel by other parts of the ICANN community that will potentially have wide ranging effects on the current generic top-level domain (gTLD) policy development process (PDP). These include the GNSO Council's work on "PDP 3.0", the results of the GNSO's EPDPprocess, and outcomes from the current work on the "Evolution of the ICANN Multistakeholder Model" process. None of these will likely be completed prior to ATRT3 submitting its final report. Therefore, ATRT3 has deemed it as premature to make any specific recommendations or suggestions regarding gTLD PDPs. Regardless of the results of these other processes, ATRT3 strongly suggests that any proposal to change the current gTLD PDPs clearly enhance the processes, not reduce or restrict the open, equitable, and collaborative nature of the ICANN multistakeholder model, or adversely affect the security and stability of the DNS.

RySG Comment:

Support.

Issue 7 – Assessment of Relevant ATRT2 recommendations (ATRT3 report section 9.3)	The Board should ensure that the CCT1, RDS2 and CCWG- Accountability WS2 review teams provide Implementation Shepherds as defined in the Operating Standards for Specific Reviews to avoid any confusion as to the intent of their recommendations during implementation. Implementation of these recommendations should also be tracked using the reviews website.

RySG Comment:

The RySG supports this recommendation.

> Notes: The CCT and RDS2 teams worked under the old Operating Procedures and their work is not subject to the new Procedures. However, to streamline the process for managing review recommendations, it makes sense that CCT and RDS2 have Implementation Shepherds appointed ASAP. The RySG also notes that the CCWG WS2 is not within the scope of the Operating Procedures, but rather accountable to its chartering organisations. Further, the CCWG WS2 has an Implementation Team overseeing the implementation of the recommendations https://community.icann.org/display/WEIA/Members.

Issue 7 – Assessment of Relevant ATRT2 recommendations (ATRT3 report section 9.3)	If the implementation of Specific Review recommendations is transferred to another process, the Board should ensure that any implementation reporting should clearly note the transfer and ensure factual reporting on the progress of the implementation of such transferred recommendations.

RySG Comment:

The RySG supports this recommendation, noting the specific issue raised by ATRT3 in report section 9.3 related to the transfer of certain ATRT2 recommendations to CCWG-Accountability WS2 highlights this problem. We agree that the Board may not always be in the best position to implement

Specific Review recommendations. Where the Board transfers recommendations to a different process or body, the RySG supports documenting this transfer and tracking the implementation by the new body responsible.

Issue 8 – Assessment of Periodic and Organizational Reviews – ATRT2 recommendation 11.4 (ATRT3 report section 10.3.3)	ATRT3 suggests: ● The Board follow through with requesting an Implementation Shepherd (Section 4.5 of the Operating Standards) from ATRT3 for the implementation of its suggestions and recommendations. ● ICANN open a Public Comment proceeding on its implementation of the ATRT3 suggestions and recommendations such that the Implementation Report is available at the launch of the next ATRT-type review (recognizing ATRT3 will be making recommendations with respect to Specific Reviews).

RySG Comment:

The RySG is unclear why ATRT3 is suggesting an Implementation Shepherd for their work given this is set out in the Operating Procedures applicable to their review. The RySG is also unclear why ATRT3 is making a new suggestion instead of suggesting the full implementation of the ATRT2 recommendation.

Context:
ATRT2: Recommendation 11.4, "The Board 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."

Issue 8 – Assessment of Periodic and Organizational Reviews – ATRT2 recommendation 11.5 (ATRT3 report section 10.3.4)	The ATRT3 recognizes and endorses the importance of ATRT2 Recommendation 11.5 and notes that it has generally been implemented. ATRT3 suggests that review teams assess their allocated budget with staff once they have established a work plan. Review teams should be allowed to request reasonable and justified amendments as necessary to ensure they can complete their task. The review team and staff should review the budget at regular intervals during the project and could request to have it amended it under exceptional circumstances.

<u>RySG Comment:</u>

While the RySG supports this common-sense project management suggestion, we are unclear what issue this is intended to address, since the ATRT2's recommendation has been implemented. At a minimum we think this should be a new recommendation, accompanied by its own rationale so future ATRTs can determine completion status.

> Context:
> "ATRT2 Recommendation 11.5 - The ICANN Board should ensure in its budget that sufficient resources are allocated for Review Teams to fulfil 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."

Issue 8 – Assessment of Periodic and Organizational Reviews – ATRT2 recommendation 11.7 (ATRT3 report section 10.3.6)	Given ATRT3's assessment that this recommendation was not implemented ATRT3 suggests that the Board implement this recommendation as it was originally proposed by ATRT2.

<u>RySG Comment:</u>

The RySG supports this suggestion. However, the RySG would encourage ATRT3 to be more specific about what is meant by "time frame". Is this a general "as soon as possible vs low priority", or is it "within 12 months" timeframe?

> Context:
> ATRT2 Recommendation 11.7 - In responding to Review Team recommendations, the Board should provide an expected time frame for implementation, and if that time frame is different from the one given by the Review Team, the rationale should address the difference.

| Issue 8 – Assessment of Periodic and Organizational Reviews – Survey questions:

How would you rate the effectiveness of the Specific Reviews (ATRT, SSR, RDS, etc.) as they are currently structured in the ICANN Bylaws?
(ATRT3 report section 10.3.7)

How would you rate the effectiveness of Organizational Reviews, those reviewing SO/ACs as they are currently structured in the ICANN Bylaws?
(ATRT3 report section 10.3.8) | Although ATRT3 could not come to consensus on a single proposal to address the issues related to Organizational and Specific Reviews, it did narrow the options down to two distinct possibilities for this draft report which are presented below. The ATRT3 is seeking input from community on these proposals to assist it in concluding on this topic for its final report.

Option 1:
● Keep the current set of Specific and Organizational Reviews as they are important Accountability Mechanisms for the community, in combination with a new oversight mechanism to manage reviews and the implementation of their recommendations.
● This new oversight mechanism should be the responsibility of a new Independent Accountability Office (in some ways like the Office of the Ombuds with respect to oversight), that includes responsibility for SO/AC accountability as well as well as the coordination of reviews and the implementation of their recommendations.

Option 2:
● Organizational Reviews: Maintain the current concept of individual Organizational Reviews for each SO/AC, but conduct them as three to five day workshops focused on SO/AC self-inspection in a context of continuous improvement. These reviews would be conducted at least every three years, or more frequently as determined by each SO/AC. The reports of these reviews would then feed into a new holistic review. This new holistic review would focus on the improvements made by all SO/ACs as presented in their Organizational Review reports, as well as on the interactions between SOs and ACs. This new holistic review would be conducted every 7 years for a maximum duration of 12 to 18 months to allow for the implementation and maturing of the recommendations made by the individual Organizational Reviews and those of the previous holistic review.
● Specific Reviews: Specific Reviews include the Accountability and Transparency Review (AT), the Security, Stability, and Resiliency Review (SSR), the Competition, Consumer Trust, and Consumer Choice Review (CCT), and the Registration Directory Service (RDS) Review (formerly WHOIS Review). AT as well as the relevant portions of CCT and RDS would be combined into a single AT review which would be conducted every 7 years for a maximum duration of 12 to 18 months to allow for the implementation and maturing of the previous recommendations by this review. SSR could either be a three to five-day workshop or a more traditional review period depending on topic. |

RySG Comment:

The RySG does not support Option 1 as it does not represent a significant departure from the status quo. In fact, the two options presented here seem like somewhat extreme alternatives, and the RySG believes that there may be other options that offer a middle path, where the system of Organizational and Specific Reviews could be improved without a drastic overhaul. The SSAC comments cited on p. 91 of the Draft Report offer a number of improvements to the current Reviews system that the RySG supports. For example, the RySG is in favor of limiting - or at the very least, providing guidelines on - the duration of all reviews and believes that instituting certain work methods can help enable Review Teams to meet those timeframes. In previous comments on the "Long-Term Options to Adjust the Timeline of Reviews," the RySG expressed strong support for the concept of limiting the duration of Reviews to 12 months. We note, however, that the ability to meet such a deadline will likely require adjustments to the way Review Teams have historically undertaken their work, and we believe the ATRT3 should offer suggestions in this regard.

Russ Housely offers some useful recommendations in his comment on the Draft Report, such as having ICANN Staff provide Review Teams with detailed documentation about the implementation status of prior review recommendations at the outset, and using face-to-face meetings coincidental with ICANN meetings to tackle early work such as establishing Terms of Reference.

While conducting Organizational Reviews in a workshop format may be suitable (and offer improvements) for Organizational Reviews, we are skeptical that such a format would be appropriate for the SSR Review, which generally requires research and analysis.

Issue 9 – Accountability indicators – Survey question: **Has your Structure looked at the ICANN Accountability Indicators?** (ATRT3 report section 11.3.1)	ATRT3 suggests that ICANN undertake a communications effort to make the community aware of the Accountability Indicators. Part of this effort could include a formal presentation of these at an ICANN meeting.

The RySG supports this suggestion.

Issue 9 – Accountability indicators – **Please rate the effectiveness of the Accountability Indicators as they relate to Board performance as found in https://www.icann.org/accountability-indicators 3.3** (ATRT3 report section 11.3.2)	ATRT3 strongly suggests that ICANN rapidly undertake a serious review of its Accountability Indicators to ensure that these: ● Meet the stated objective in each section and subsection. ● Provide data that is useful as an Accountability Indicator. ● Provide data that can inform decision making processes. ● Present data that is up to date.

RySG Comment:

The RySG generally supports this suggestion but is concerned that it lacks specificity. We suspect ICANN would mark at least items 2-4 as complete. We suggest a "SMART" recommendation that ties the recommendations to the problem to be solved so that staff will know when they've hit the target. We additionally observe that any review of the Accountability Indicators be dependent on the outcome of a communications exercise with the community on what the Accountability Indicators are and what purpose they serve. If concerns are raised during the communications exercise across ICANN Structures, then ICANN may wish to consider reviewing the Indicators. Generally, the RySG supports that the data set out in the Accountability Indicators is meaningful and notes that we currently have a group focused on improving the usefulness and quality of the DAAR data.

Issue 10 – Prioritization and Rationalization of Activities, Policies, and	ATRT3 suggests the following guidance for the creation of a community-led entity tasked with developing a prioritization process:

Recommendations – Survey Questions:
 	
Should the ATRT3 make recommendations about prioritization and rationalization of ICANN activities?
(ATRT3 report section 12.3.5)
 	
Should such recommendations include a process to retire recommendations as it becomes apparent that the community will never get to them or they have been overtaken by other events?
(ATRT3 report section 12.3.6)
 	
Should such recommendations aim to provide a general approach for prioritizing and rationalizing work for ICANN?
(ATRT3 report section 12.3.7)
 	
Should the community or representative(s) of the community be involved as a decisional participant in any mechanism which makes recommendations for prioritizing and rationalizing work for ICANN?
	Developing a Prioritization Process:
	● Overall the ATRT3 believes that the Operating Standards for Specific Reviews could serve as a good base for framing the creation and operation of a community-led entity tasked with developing an annual prioritization process. (https://www.icann.org/en/system/files/files/operating-standards-specific-reviews-23jun19-en.pdf).
	● All community members participating in this process must have significant experience in ICANN and have actively participated in a major process in ICANN (CWG, CCWG-Accountability WS1 and 2, EPDP etc.).
	● Members must include representatives from the Board and ICANN org.
	● The community-led entity developing the prioritization process should be given a fixed one-year term to complete its task.
	● The community-led entity could request the services of a professional facilitator to expedite its work.
	
	Requirements for a prioritization process:
	● Overall the ATRT3 believes that the Operating Standards for Specific Reviews could serve as a good base for framing the operation of the annual prioritization process. (https://www.icann.org/en/system/files/files/operating-standards-specific-reviews-23jun19-en.pdf)
	● Must be conducted annually by members of the community with the participation of the Board and the ICANN org.
	● The group actually performing the prioritization should be a standing group which will perform the annual prioritization process but which can also be called upon to deal with exceptional circumstances such as emergency reallocation of funds if a prioritized implementation needs to be cancelled or an emergency approval of a new critical recommendation which is extremely time sensitive.
	● Must be conducted in an open and transparent fashion and each decision should be justified and documented.
	● The prioritization process should apply to all recommendations of CWGs, CCWGs, Organizational Reviews, and Specific Reviews, as well as any other type of community-driven recommendations. The process would also apply to any such recommendations which have been approved but not yet implemented.
	● The prioritization process should only consider the information it is provided with respect to recommendations and should not be required to generate or have generated any additional information for the evaluation of recommendations for prioritization.
	● The prioritization process can fund multiyear implementations but will review these annually to ensure they are still meeting their implementation objectives and the needs of the community.
	● Elements to be considered when prioritizing recommendations should include:
	   ○ Budget availability
	   ○ Cost of implementation

(ATRT3 report section 12.3.8) **Do you think the Empowered Community would be a good mechanism for making recommendations on prioritizing and rationalizing if its role was amended to allow this?** (ATRT3 report section 12.3.9)	o Complexity and time to implement o Prerequisites and dependencies with other recommendations o Value/Impact of implementation o Relevance to ICANN's Mission, Commitments, Core Values and Strategic Objectives

RySG Comment:

The RySG deeply appreciates the work the ATRT3 has done to try to tackle this complex topic. We agree that prioritization is critical to control costs, complete work in a timely manner, avoid volunteer burnout, and ensure projects don't bleed into one another. We think to the extent work is prioritized today it's prioritized by the budget and the various Councils (and, to some extent, the Board). We unfortunately see the formation of yet another standing-type committee of ICANN insiders as another layer of separation from the bottom-up multistakeholder process and are particularly concerned that the committee might be co-opted by long-time industry insiders without the benefit of fresh new perspectives. Additionally, the committee will further slowdown work by requiring a year for prioritization.

Instead the RySG, in line with our suggestions to the Evolving MSM report, suggests stronger controls at the SO/AC level, better recommendations and project scoping (including budgeting), and smaller (and better-managed) projects. We particularly think this ATRT3 has made good suggestions, including having a single community-wide website for projects. The GNSO's PDP 3.0, this ATRT3's recommendations for streamlined reviews, and the RySG's MSM comment to design "ongoing work as a spiral, with small concrete projects that people can participate in as time allows but that overlap so that we aren't making decisions in a vacuum," all will feed into a more natural and streamlined prioritization process. We hope that these various, community-wide, incremental improvements mean we won't need a committee of insiders to tell the community what to work on.

Issue 10 – Prioritization and Rationalization of Activities, Policies, and Recommendations – ATRT2 recommendations 12.1 and 12.4 (ATRT3 report sections 12.3.1 and 12.3.3)	ATRT3 suggests that the budget consultation process be improved to allow for greater community participation by providing a plain language summary of the proposed budget as per the suggestions ATRT3 has made with respect to Public Comment proceedings in Section 5 of this report.

RySG Comment:

The RySG supports the use of plain language in ICANN documents. However, the RySG notes that engaging in the budget consultation does require an interest in engaging and basic financial literacy. Further, the use of plain language should not undermine the nuance and often specialized content of documents.

> Context:
> ATRT2: recommendation 12.1, "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.
>
> ATRT3: As noted, this recommendation has been implemented but as stated in the Effectiveness assessment, there could be improvements to allow for greater participation.
>
> ATRT2: recommendation 12.4, "In order to improve accountability and transparency ICANN's Board should base the yearly budgets on a multi-annual strategic plan and corresponding financial framework (covering e.g. a three-year period). This rolling plan and framework should reflect the planned activities and the corresponding expenses in that multi-annual period. This should include specified budgets for the ACs and SOs. ICANN's (yearly) financial reporting shall ensure that it is possible to track ICANN's activities and the related expenses with particular focus on the implementation of the (yearly) budget. The financial report shall be subject to public consultation."

ATRT3: "This recommendation has been implemented but as stated in the Effectiveness assessment, there could be improvements to allow for greater participation."

Issue 10 – Prioritization and Rationalization of Activities, Policies, and Recommendations – **ATRT2 recommendations 12.3** (ATRT3 report sections 12.3.2)	ATRT3 suggests that the Board implement ATRT2 Recommendation 12.3. ATRT3 understands that ICANN does perform some benchmarking related to salaries however this is only one element of the ATRT2 recommendation. If no comparable organization can be found for performing overall benchmarking then the benchmarking activity should be broken down into component parts for which comparable organizations can be found in a similar fashion to what was done for salaries.

RySG Comment:

The RySG supports this suggestion and appreciates the specific instructions so that Staff can follow through.

Context:
ATRT2: Recommendation 12.3, "Every three years the Board should conduct a benchmark study on relevant parameters, (e.g. size of organization, levels of staff compensation and benefits, cost of living adjustments, etc.) suitable for a non-profit organization. If the result of the benchmark is that ICANN as an organization is not in line with the standards of comparable organizations, the Board should consider aligning the deviation. In cases where the Board chooses not to align, this has to be reasoned in the Board decision and published to the Internet community."

ATRT3: Given that this ATRT2 recommendation was made in December 2013 and that the requested benchmark study has not yet been produced at the time of the writing of this report in 2019, is of great concern to ATRT3.