
ICANN85 Mumbai | CF – ccNSO: ccTLD Consultation on Review of Reviews
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CLAUDIA RUIZ

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Thank you. And with that, I will now hand the floor over to Chris Disspain, moderator for this session. Thank you.

CHRIS DISSPAIN

Thank you very much. That “please speak at a reasonable pace” is aimed squarely at me because I always need to remember to do that. Hey, everyone. Last session of the day. Let’s see if we can manage to keep the energy relatively high. I’ll do my best. We’re here to talk about the Review of Reviews. Could we have the table up on the screen? That is a table, not a table. The slide that has a table on it. Thank you. Any chance we could maybe make that a bit bigger?

I’m not going to bore you with all the background detail, you all know how we got here, Review of Reviews. We’re looking at starting with a blank sheet of paper. What should ICANN’s reviews be? We’re currently looking at, effectively, five sets of reviews. Annaliese is the other member of the team, and she’s here with me to be helpful, providing lots of information, but mostly to actually make sure that I stay on track and I am not assuming a standard of knowledge of everybody simply because I happen to know something.

So, we are looking at the moment at five buckets. Accountability and Transparency, CIP Assessment, Structural Review, Review of Reviews, and Ad Hoc or other, as we’re now going to call them On-Demand Reviews. I’m going to concentrate on, A, which is Accountability and Transparency, and C, which is Structural, and then E, which is On-Demand, and then sweep up, hopefully, at the

end with the other ones. But there are a number of questions and things for this community to think about, and the key is to get you to think about these things. I'm not necessarily expecting any answers today. Comments, questions, and answers, if you have them, would be great.

So let's start with a with the first one, which is the Accountability and Transparency Review. And I'm going to go across each one of them with a focus. The focus of the Accountability and Transparency Review is ICANN's execution of its commitments in its Articles, Bylaw, Strategic Plan, Financial and Operational Plan. What we're saying is that the baseline documents for deciding what an Accountability and Transparency Review should be about. Are the things contained? Are the commitments contained in the documents that we all agree? Although we don't agree the Articles, they're a legal requirement, the Bylaws, we agree, everything else we agree, the Strategic Plan, and so on and so forth.

So what's the methodology for that review? And this is a key, key point. The methodology is to evaluate the extent to which ICANN is delivering on its mission, commitments, and core values by, A, examining specifically scoped community-prioritized existing procedures and processes and the outcomes and progress achieved in respect to goals set out in the planning documentation. Planning documentation is the documentation mentioned in the first box. And B, recommending improvements where necessary,

and C, identifying key development areas that may strengthen effectiveness in support of the mission.

Now, in essence, the current Accountability and Transparency Review works this way. You form a Review Team, and the Review Team goes away and decides what it wants to review for accountability and transparency, and the Bylaw lists a number of things that it is suggested it should consider reviewing, but it can basically review whatever it wants. We're suggesting that that is probably not the most useful way of structuring it. A better way of structuring it is to make sure that the review itself is specifically scoped and prioritized by the community.

So, in other words, what you do is you look at the Strategic Plan, all the stuff, and the community—and I'll talk about what the community is in a minute—says, "For this Accountability and Transparency Review due to start in, let's say, six months' time, whatever," we say, "you should review these three things." That's the Scoping Team that says, "You should review these three things." What that means is that when the Review Team is put together, the ccNSO, the ASO, and all the other organizations can specifically choose people with experience of the areas that the Accountability and Transparency Review is looking at.

For example, one of the areas that the Scoping Group says that there should be the subject of an ATR is the way that ICANN implements its policies. So, for example, Implementation Review Teams, all the sort of stuff that goes along with that, you would

obviously probably not put engineers into that Review Team. You would probably put ICANN Policy people into that Review Team. But if it was reviewing something that had a sort of engineering bent, you might consider putting your engineers in.

The fundamental difference between this proposal and what has happened in the past is the Review Team itself doesn't get to sit in a room and decide what gets reviewed. Why does that matter? Well, it matters, one, because of the experience thing, but secondly, because the way that the Review Teams are put together, you've got a weird set of numbers with all sorts of At-Large—I can't remember the number of seats—but eight seats, GNSO seven seats, CCs one, possibly two. That sort of thing leads to challenges around the way that topics get chosen. So we think that you take all of that out of the game and you say the community decides. How does the community decide?

Well, our current proposal is that the leaders who are elected by each SO and AC, so the chairs and vice chairs of the SOs and ACs, would form a Scoping Group. And that Scoping Group would be—they would go to each of their communities and they would say, "What do you think the next ATR should be on?" Each of the SOs and ACs would say, "We think it should be on that," and you put the leaders together and say, "You decide what you think the scope should be based on the feedback and input you're getting from your communities." So that means that the people who are elected by each SO and AC to lead them are given the responsibility of deciding what the scope of the review should be, rather than a

bunch of people who are simply picked to be a member of a Review Team and stuck in a room.

Once it's clear what this review is going to be about—and again, you've got a huge raft of things to pick from, right? It could be anything. The key being, to use an expression that Ale said earlier today, it's not everything all at once. We think this one or two or three things is a priority.

The other advantage is that you can make the assessment of what the ATR should be about, not just on what is the priority, what have we picked out of the grab a bag of things that are there, but also on the basis of what else is going on. In other words, we don't think we should have three topics for this next ATR Review because its new gTLDs are about to start. So we don't want there to be a heavy review. We think it should just be one topic. So you have all the flexibility built in to ensure that the reviews can be scoped in a way, that the prioritized is scoped in a way, that tightly scoped in a way the community is comfortable with. And the flexibility in being able to say, we think we need to be very careful at the moment because the workload is so high, etc. I'm going to talk about cadence later, but fundamentally, that's the proposal for how you deal with the Accountability and Transparency Reviews.

Questions, comments? Jordan?

JORDAN CARTER

I realized I'm talking about this afternoon. This is a this is Jordan Carter, .au, but this is very much a personal view. The only thing in what you said that initially caught me was the idea of the SO/AC chairs and vice chairs scoping the review. Because the SO/ACs, it isn't an institution in ICANN, it's the created community body.

CHRIS DISSPAIN

Correct.

JORDAN CARTER

But if in the rules of the review, it simply specifies the people who hold those roles coming together to scope it, so it isn't giving the SO/AC chairs form a job, but it is engaging the SO/AC chairs in a particular phase of this review, and I think that could be manageable.

CHRIS DISSPAIN

I completely agree with you. And I think you would obviously need to build a system for doing it, and it would need to have transparency and accountability mechanisms to make sure that it's not just—I mean, the leaders meet as it is. They meet already, right? There's a kind of unofficial thing of the SO/AC leaders. It started back in Beckstrom's day when he decided that the chairs should have dinner with him on the first evening of an ICANN meeting, which an opportunity for him to hand out his book and offer to autograph it. But it's moved into something else. But I think the key point of this is these are the people that each SO and AC trusts to

do the leadership roles, and trusts to communicate properly and talk to them, and so on and so forth.

So put them in a room. It's not that they're acting as representatives of their SO and AC. But I completely take your point, Jordan, it needs to be carefully done, but it can be done. And I think it's the best that we can come up with, because otherwise, all you're doing is you're creating another team and having a bunch of volunteers, which you might as well just do in the review. And the whole point about this is it's supposed to be not done by the Review Team, very specifically, not done by the Review Team. Ale?

ALEJANDRA REYNOSO

Thank you, Chris. This is Alejandra Reynoso from ccNSO Council, but speaking on my personal capacity. I want to understand the process. Right now we don't have this. This will be an extra step, right?

CHRIS DISSPAIN

You mean the scoping step? No, we don't.

ALEJANDRA REYNOSO

Because, let's say, currently, or as the Bylaw says, the Review Team is the one that decides what it would review, and this is an extra step. I'm trying to test the proposal so don't take it as a negative or anything. It's just for me to understand. Will there be any mechanism to ensure that things are not skipped for eternity, not to be reviewed? I'm trying to play a little bit of devil's advocate

here. There's a list of things in the Transparency and Accountability. Let's say there are 10, but the scopes always go for the first five and the other five are never touched. I don't know. Will there be any description on how nothing should be left out eventually, or will it always be in the hands of the chairs to check on that?

CHRIS DISSPAIN

To be clear, there isn't any requirement now. It just says, do what you like, but consider doing these things. Becky?

BECKY BURR

So there was, at one point, a list that we looked at, and the thing was, it was both underinclusive and overinclusive. It included things that weren't written down anywhere. It's the extra step of having the community figure out what the scope is and what's going to be looked at. That's the backstop to make sure that important things aren't overlooked. So right now, it's literally whatever they want, whatever the group that's been assigned to be the ATRT Review Team thinks up in their head with no input from the community. So the backstop here is everything that's in the mission, and all of the behaviors and our commitments and core values are in scope, and the community has a role in figuring out what we're going to look at. So I think this is better than having a list that is it may be underinclusive, it may not include things that

we really want to look at, or may require us to look at, but as Chris said, it doesn't really require us to look at anything.

CHRIS DISSPAIN

I said it, I was at the ASO this morning. I had a really good session with the ASO this morning, and I finished up saying to them, "Look, we have to build this based on the fact that we trust the people that we give the power to. We can't build this to cover every possibility and every single person has to have a say. We just can't. We can only build it on the basis that there are mechanisms in place, and edge cases can always be found. But I think we need to accept and acknowledge that if we're going to put people in leadership positions, and they should have some, we should trust them, and they should be able to do that."

The feedback coming from the community that says, "We think you should review the color of the wools," and the Scoping Team comes back and says, "We're not reviewing the color of the wools." There are consequences that flow from that. Annaliese?

ANNALIESE WILLIAMS

I was just going to add to the point was raised in one of the other sessions, GAC had similar concerns about the chairs, and vice chairs are already busy, and certainly in the GAC they don't represent everybody. And it isn't the intention to just pass responsibility off to the SOs and ACs, but rather that they would facilitate discussions in their own constituent groups, hear the

feedback from their constituent groups, and have an understanding about what each group wants. It is an extra step, but I think it streamlines the entire process by thinking things through a bit more at the outset, rather than saying we should have a review about something, here are some people just sort of scope it at the outset, and then appoint the people who are best placed to take the next step.

CHRIS DISSPAIN

Exactly. Okay. Irina?

IRINA DANELIA

Thank you, Chris. Actually, I like the proposal, and if some items are never reviewed, it just means that they are not important for the community and nobody pushes them to be reviewed.

CHRIS DISSPAIN

Okay. So this all hangs together as one thing. So it's important that you look at it. We don't look at it in isolation. But that is a kind of suggestion for how you deal with what is currently the Accountability and Transparency Review. We spent a lot of time trying to come up with another name. We decided, in the end, that Accountability and Transparency was probably the right name. So we've stuck with it. Okay. I'm going to skip over the second one for a minute, and I'm going to go to the third one because there's a really key question in this one, right?

So the third one is the Structural Review. What's a Structural Review? Well, it does three things. First thing it does is it looks at the structure of ICANN, the overall structure of ICANN, and it says, "Is it working? Is it fit for purpose?" So that would be things like the Board. There have been suggestions in the panel. I'm not suggesting these are necessarily the good ideas. But just to say there have been suggestions in the past, for example, to split the Board and have a Policy Board and a Corporate Board, so that you have your Policy people doing the Policy Board work, and you have independent non-executive directors with finance experience, doing the other work, and so on. I'm not suggesting it's a good idea, but this would be a mechanism where that sort of discussion could take place.

So it looks at the overall structure of ICANN. It also looks outside of ICANN and says, "What is ICANN not doing that maybe it should be doing that would affect its structure?" For example, if you talk to Steve Crocker, he will say, "I believe that the DNS resolvers should have a home in ICANN." That was the case. If we thought that was a good idea, that would mean you'd have to restructure ICANN, because you bring in an SO or an AC, and there needs to be structural changes to deal with that. So it does those two things.

It looks at the overall structure and components of ICANN and of the SOs, ACs, and NomCom to confirm whether they're fit for purpose. Here's where we run into trouble. Here's what we need to consider what options.

The first option is that methodology is it's focused on the structure of ICANN's multistakeholder model as a system to recommend changes as needed to improve effectiveness or address a specific gap or need, for example, the need for a new structure. It does not cover internal structures of existing SOs and ACs, unless specifically requested. So it discusses structural issues at the request of an SO and AC and where the SO and AC leaders determine the issue meets the threshold. So what does that mean? That means that the Structural Review does not look at the structure of the ccNSO unless the ccNSO asks it to.

So that is the sort of the key thing that there is an option on. Because Option 2—if we could scroll that up a bit, we could move the table up slightly or down slightly, depending on which way you look at it. I need to see more of Option 2. There we go. Option 2 is a mandatory review examining structures in terms of dynamics, placement, composition, and representation, plus overall structural coherence and whatever else it says. And effectiveness, and includes associated Board composition, etc. Well, they both do.

So the difference is very simple. Option 2 says a Structural Review must look at the structures of the SOs and ACs. Option 1 says you only look at the structures of the SOs and the ACs if they ask you to. Now, why does that matter? It matters because some of the community believe that the only way to fix issues in an SO or an AC is to have the community do a review of that SO and AC. Other members of the community believe that no one should be

reviewing their structure unless they want it to be reviewed, except for themselves, obviously, and that's what the CIP work is about.

This particular aspect of the Structural Review, and it's only this particular aspect that is the challenge, the rest of it is fine. Everyone, I think, accepts that you need to do a Structural Review every sort of 10 years or so. You need to look at the outside world. What's new, what should be coming in? Is the Board structure right? Do the SOs and ACs get on with each other properly? All that sort of stuff. But the key problem is what do you do about the structures? And the GNSO—sorry, no. I'll rephrase that. Some parts of the GNSO believe that they need this to be a mandated review because it's the only way they can fix what they perceive to be a problem in the GNSO. So I'm not making that right or wrong. It's just that's just the way it is.

So I think it would be fair to say that I know that the SSAC and the ASO believe that if they have an issue themselves, they would try and fix it, and if they can't fix it, they would come to the community and say, "Can you help us fix it?" But even if it's only every decade, even if it's only every 12 years or every 15 years, having the community mandated to review their structure is not something that they think is right. So it's for the ccNSO to come to its own conclusions about this and what it thinks in respect to the ccNSO. But it's an important point because it has to fit into the Structural Review. We have to answer this question. Am I being clear? Annaliese, have I been clear?

ANNALIESE WILLIAMS

I think so.

CHRIS DISSPAIN

Okay. Did you want to say something, Bruce?

BRUCE TONKIN

Yes. I can certainly see the issue with GNSO and ccNSO are not really comparable here, because everybody in the ccNSO has equal rights, basically. Those managers that have more votes than other managers, etc. The GNSO, for various historical reasons, broke up into a set of groups, and those groups have voting rights. And so I think what you might want there is maybe there's a low threshold for groups within the GNSO to request a review.

So, for example, you might find that you will never get a super majority because majority of people are happy with the power they have.

CHRIS DISSPAIN

Correct.

BRUCE TONKIN

But you might want a scenario where, I don't know, 25% of the GNSO Council can request something like that. I think you have to have a low enough threshold.

CHRIS DISSPAIN

I think that makes sense. I think the fundamental principle is we cannot create a review system just to solve the GNSO problem. We have to create a review system that works for all of the SOs and ACs. I think everybody accepts that. So then the question becomes, well, then if you acknowledge that there is a problem, can a review system solve it? And the answer is it may be able to subject to things like you've just said, which is if you had a fairly low threshold, then maybe you could. But even then, you'd have to have a position, presumably, where the GNSO was comfortable with what would, in essence, be a community-wide review of the GNSOs as opposed to just forcing the GNSO to do its own review, which is a different thing. So it's quite challenging, but I take your point, and you're right, we need to think about that. But it may be that we actually simply can't solve that problem, and that we just have to kind of build what we need to build for reviews without that.

Any other comments or questions on the Structural Review piece?
Irina? Irina, go ahead.

IRINA DANELIA

Thank you. If, for example, ccNSO or any other SO/AC believes they should have more places in ICANN Board, am I right understanding that only Option 2 provides opportunity for this?

CHRIS DISSPAIN

No. Option 1 provides that too because you review the structure. So you're reviewing ICANN as a whole. So you could say as part of your Structural Review that the size of the Board should change. It should be bigger, it should be smaller. You could say that there's SOs and ACs should go to one Board member, three Board members, whatever it might be. So Option 1 does not prevent that from happening.

The other point to make is it's also important to remember, of course, that if you bring in anything new, that involves a change in the structure as well. The example I've been using at the moment is that—I presume everybody knows this—but the RSSAC, it's going through its whole kind of development as an organization. And one of the things they considered was whether they should actually be an SO. Now they decided that they should remain an Advisory Committee. But if you think about it for a second, if they had said as a result of all the work they've done, we should be an SO, there are some fairly significant, consequential flow-ons from that in respect to the Board, in respect to a whole heap of other things. So that's the sort of thing that you'd expect a Structural Review to cover. But it certainly wouldn't prevent the ccNSO from saying we think we should have three seats or whatever. Okay?

IRINA DANELIA

That's okay from your explanation, but that was not 100% clear for me.

CHRIS DISSPAIN I appreciate that, and that's why we're having this session to get very clear. Thank you.

DAVID HUBERMAN It's David here from CIRA, but this is in my personal capacity. I'm kind of wondering, as Bruce was touching on, what would be... Because effectively, here we're talking about a scenario where review of an SO or an AC would be happening against the will of a majority within that SO or SC. What would be the process for initiating that? I think, Bruce, you mentioned maybe a 25% threshold within that SO.

CHRIS DISSPAIN Can I ask you to park that question? And we will come back to it when I get to another part of the chart. Is that all right?

DAVID HUBERMAN Okay. Sure.

CHRIS DISSPAIN Don't let me forget. So when I get to E, we'll get back to it.

DAVID HUBERMAN Gotcha.

CHRIS DISSPAIN

Okay. Cool. Pablo?

PABLO RODRIGUEZ

This is Pablo Rodriguez, ccNSO Council, but speaking on my behalf. Irina's question remind me of a similar situation with the ccNSO representation in NomCom. And I was wondering if that would be an opportunity as well, where we could explore either increasing the number of the ccNSO members in the NomCom or lowering the number of members in a different AC, for example?

CHRIS DISSPAIN

Yes, there are two streams in which a Nominating Committee Review could happen. The first is as part of a Structural Review, and the Nominating Committee would not be included in the SO and AC list of having to ask for because it isn't an SO and AC. So it would be reviewed as part of a review, as part of the ICANN structure.

And the second possibility is a separate review under the On-Demand Reviews, which I'm going to get to in a little while, which comes back to David's point about the GNSO when we'll get to that in a minute. Okay?

Anyone else? Jordan?

JORDAN CARTER

Jordan Carter, personal view. The answer between those two alternatives might help to be answered by a more clear statement of the purpose of the review. You can make the case that the

purpose of a Structural Review is to assess the overall functioning of the ICANN system, and then if that is the purpose, you can argue either way for either those options, because you can say it's just a system level looking at the interaction of the bodies, and you could say, well, actually the subgroups are relevant. So it does have to be able to dig into what's happening within an SO and AC. If one of the purposes of the Structural Review is to be able to resolve any challenges that the structure of a group is creating for its performance, then it definitely has to be option B. So I think connecting the way you're stating that option with very clear statements of the purpose of the Structural Review might help a little because it talks about the focus.

CHRIS DISSPAIN

Could we go back up to the first page again, please? Yeah, there you go. Overall structure and components of ICANN and of SOs and ACs. And then if you look at Option 1, John, it says focused on structure of the ICANN multistakeholder model as a system to recommend changes. But I'm happy to take any input on wording to make it clearer.

JORDAN CARTER

But generally speaking, all parts of a system affect a system. Otherwise, there aren't parts of it. So that language doesn't actually help you either. While you've got the overall header statement there about the purpose of reviews is to assess blah, blah, blah, and so that's like the purpose of this group of reviews is

to do that. It might just also help to say the purpose of each specific review. Because it's one of those hidden areas where people won't know they're disagreeing until it shows up later.

CHRIS DISSPAIN

Could I ask you to send a note? Would that be all right?

JORDAN CARTER

Saying what I just said?

ANNALIESE WILLIAMS

I've made you a note.

CHRIS DISSPAIN

In that case, I don't need you to send a note. Annaliese, thank you very much.

JORDAN CARTER

Thanks.

CHRIS DISSPAIN

Anyone else? Okay. So just go back down to the other page for a second. So just to be very clear, cadence on the Structural Review is absolute minimum 10 years, maybe more, but certainly not less than 10 years. This is a major exercise, and not something that you'd want to undertake or be undertaking on a more regular basis than that.

On the Accountability and Transparency Review, we're trying to build in some flexibility. So we're looking at probably five years, but allowing the Scoping Team to say either make this a very narrow, small review because we were snowed under with other stuff or maybe even delay it for a year. You'd have to put a backstop on that, only for a year. And the reason why you would delay or reduce might help in some ways to answer one of the other key problems, which is the reviews bumping into each other.

So what we haven't got to yet, and your thoughts on this at some point will be very valuable, is what's your timeframe? Every five years but every five years from when? You start today, you have an ATR. Is it five years from when it finishes? Is it five years from when its recommendations have been implemented? What is it? And how do you build in some flexibility to allow for the fact that—never mind about the other reviews, just talk about the one bumping into itself all the time. That's a key issue.

The stuff about initiation process is basically with the ATR as a community analyzes implementation of prior review outputs, the effectiveness of solutions, considers whether the timeline is meaningful and so on, evaluates the bandwidth, drafts the scope accordingly, and determines the associated prioritization. Resource requirements are confirmed. So you confirm that the Scoping Team wants to do a review of seven items. And the Budget Team says, "Well, we don't have a budget for that. We could put a

budget for you to do three.” I’m not quite sure why they would say that, but you understand what I’m saying.

And then there’s a formal Board resolution to convene. And then Structural Review, the same kind of thing, really. Consultation on the need to convene the review. We are thinking that with a Structural Review, it might be sensible to feed in the possibility of saying even though one is due, let’s say it’s 10 years, even though a review is due in year 10, the community doesn’t think it’s necessary. We’re trying to think about whether that would be a flexible thing to put in there or not. So again, your thoughts on that would be appreciated.

Okay. I’m going to move on to the last one, which is the last column, which is where we’re going to deal with the issues that Pablo and David raised, which is the On-Demand Reviews. Now, we were originally calling these Ad Hoc Reviews. We thought we were really clever. We thought we’d come up with the perfect name for them, Ad Hoc Reviews. And then everybody went, “Well, that doesn’t make any sense.” Not entirely sure it even fit for purpose. And I’m delighted to say that we’ve now decided to call them On-Demand Reviews. And not only have we decided to call them On-Demand Reviews for now at least, but the ASO has been looking for a different name for its ad hoc audits, and this morning, they’ve now decided to call them on-demand audit simply because we’ve decided to call this On-Demand.

So what's the basis of an On-Demand Review? The basis is simply this. There must be a system in which stuff that needs to be dealt with, that should be dealt with by review, can be dealt with. So what fits into an On-Demand Review? Well, for example, if you look at the ATRT3 recommendations, they recommended that the SSR, Security and Stability Review, the WHOIS Review, and various other reviews should be suspended, and that the next ATR should consider whether or not they should even continue. We're saying, well, you can solve that problem by this way. You can say you could have an SSR Review, if the community wanted to have one, using the On-Demand Review mechanism. You can have a review of anything if you want to using the On-Demand Review mechanism. Why does that help you with your question? Well, the GNSO could say, "We'd like a GNSO Review," and they could use the on-demand system to make that happen.

Now, we haven't got to thresholds yet. How many SOs and ACs have to say yes and all of that stuff. Obviously, there's work to do on that, but this is all about the principles. So if we accept that the principle of an On-Demand Review makes sense, then pretty much, as long as it is something that is reviewable, we could do obviously not policy, because policy is dealt within policy development processes, right?

So if you go to the top of the first page for me, please. An emerging topic that meets the criteria for a review, specifically one that does not involve policy considerations and cannot be adequately addressed through other discussion forums address a narrowly

scoped topic that qualifies for review based on established criteria. So it's entirely possible that a review could happen along those lines, and that answers your question as well, I think, doesn't it? Yeah. Go ahead, Pablo.

PABLO RODRIGUEZ

If we are to look at this from the NomCom perspective, it's okay. But we could also look at it from the review of an AC, for example, and say, "Why does this AC has this many members and this SO doesn't?" Would that be possible, or is it better—

CHRIS DISSPAIN

Yes, I guess so. Let's say that the ccNSO decided that it was concerned about the way that—I just want to be clear, I'm making this up, right? ccNSO is concerned about the way that SSAC is operating. Then if the ccNSO wanted to go to the rest of the community and say, "We think there's a problem here, we should review SSAC," then is it possible that that could happen? Yes, it's possible.

Equally, if you think about the Nominating Committee, if you think about the fact that the ccNSO has, in the relatively recent past, expressed some concerns about the Nominating Committee, and others have done the same, there would now be a process for saying, "We think there is a problem. We need to solve this problem." But it is, again, entirely dependent on there being sufficient support in the community for having such a review.

Alejandra, you look as if you have a question forming in your mind.

ALEJANDRA REYNOSO

Yes. This is Alejandra, my personal capacity. I was getting a little bit confused on the On-Demand Review and the Structural Review. An On-Demand Review can trigger a Structural Review, or because you were saying that if we see that there's a problem with other group, we can just—

CHRIS DISSPAIN

An On-Demand Review could be a review of a structure, but the Structural Review is reviewing the whole of ICANN structure. So the difference is that you could use the On-Demand Review process if you wanted to as an SO to say, "We'd like a review of SOs," which to some extent solves the... The Structural Review is a big review. You wouldn't do a Structural Review just looking at the GNSO or At-Large or ccNSO. You're doing a Structural Review is looking at the whole of ICANN, how it all fits together, how the pieces of the jigsaw fit, etc., etc. But you could do an On-Demand Review that just looked at the structure of the ccNSO.

If you think about it, it's kind of the same thing as the Expert Reviews that used to happen that were SO and AC-specific, and we're looking at each of the SOs and ACs. But instead of being mandated to happen by a bunch of experts who are found by ICANN and may or may not know what they're talking about, and may or

may not stick to the agenda that they are given, this is an opportunity for the community itself to decide. Okay?

So that's the sort of third major leg, if you like, those three fit together to create what is, in essence, a culture of reviews. So, Accountability and Transparency—looking at the mission, the Bylaws, is ICANN performing properly? Is it doing what it should be doing? How's it doing on implementation? All that sort of stuff. The Structural Review—very occasionally, how's the structure? Is it operating properly? Is it fit for purpose? Should we have new things? Do we need new SOs or ACs? Is everything okay, etc.? And then the flexibility of being able to say we have a discrete, specific problem that needs its own review, we will run that review. So those are the three key legs to the review system.

Now, the fourth one, which is the Review of Reviews, we did, at one point, think that obviously reviews should be reviewed, in the sense that in 10 years' time or 12 years' time, we might want to look at the reviews system again and say, "Should it be changed? Is it fit for purpose? Should we add another review? Should we take one away?" I think we've decided, in the sense, that I think the community and all the feedback we've had so far thinks that that could easily fit into the On-Demand Reviews. It doesn't need to be its own review bucket. It has the advantage of reducing the number of buckets and means that it fits into the On-Demand Review, and so therefore it can be held on demand. So it'll be another one of

those that will be listed in the On-Demand Reviews, SSR, Review of Reviews, so on, anything else.

That brings me to the final piece, which is the CIP Assessment. The CIP is a pilot program. It itself obviously needs to be reviewed. But what is also clear is that output from each of the SO and AC's CIP processes also needs to be looked at. So I'm going to explain what we think the CIP assessment is, and then going to talk about whether we need to do it now or not. So the CIP assessment is results of the Supporting Organization's, Advisory Committee's Continuous Improvement Program as they relate to each SO and AC and to each other. And I'll give you some examples in a minute.

So it's a lightweight effort to confirm that CIPs were completed in adherence to the framework, to test the CIP outputs to ensure that the conclusions of each SO and AC's Continuous Improvement Program are supported by the facts, compare CIP outputs to identify good practices that may be beneficial, and then ensure that actions are followed through on as intended.

So, imagine that the ccNSO produces its three-year CIP report, and the GAC produces one, and GNSO produces one, etc. And the ccNSO report says, "We're the best SO in the world, and everything is fantastic. We talk to the whole of ICANN all the time. Everyone loves us and our ccTLD managers are all very happy." An assessment might look at that and say, "Well, that all looks great." Then it might go to the GAC Review, the GAC CIP report, and the GAC CIP report might say, "One of the problems we have is

communicating with people. ccNSO never comes to talk to us.” So you’ve got an issue there where the ccNSO says they’re the best communicators on the planet, and the GAC says they never talk to each other. “They never talk to us.” So there’s a thing there.

Also, the assessment might do a survey of ccTLD, ccNSO members and say, “This is the ccNSO report of CRP, everybody happy.” And you get back and a report that says, “Well, all the IDN ccTLD managers are not happy at all.” They think that they should have more seats or whatever, whatever. Obviously, I’m making this up. So that again would throw up something from the assessment.

So then what would the assessment do? The assessment would make some recommendations, and it would recommend to the ccNSO that perhaps they should think about their communication and that maybe they should also consider whether they’re checking to make sure that the results that they deliver are actually true. But clearly you need to communicate with a GAC.

It might also deliver a recommendation that says you have a problem with your IDN ccTLD managers. You might want to consider looking at your structure. So that might be a recommendation. Now, can it force you to look at your structure? No. But it can say you should look at your structure. Yes, Annaliese?

ANNALIESE WILLIAMS

Thanks, Chris. I just wanted to read out a question.

CHRIS DISSPAIN

Yes, go ahead.

ANNALIESE WILLIAMS

It says, “I am so confused. Can the internal structures of an SO be reviewed even if the leadership of that SO doesn’t request it? And would the findings of such a review be mandatorily imposed?”

CHRIS DISSPAIN

No. The answer to the second question is no. The answer to the first question is maybe. It is conceivable that we might end up in a situation where there is a mechanism by which the community could make an SO or an AC have a Structural Review, but that’s up to the community. That’s up to you guys to decide. If you think that that should be possible, then we can build it so that it is possible. It’s kind of Bruce’s point about mechanisms available. Well, it’s a different point. But it’s where’s your threshold, etc. Exactly.

So the answer is no, it wouldn’t be. It shouldn’t be. It can’t be imposed. But yes, maybe we end up in a situation. But I’ll be honest and say, I think, almost. I think it’d be fair to say that pretty much most of the community that I’ve talked to in the last week would say no, only if we say so. I don’t know if that answers the question, but hopefully it does answer the question.

ANNALIESE WILLIAMS

It wasn’t my question.

CHRIS DISSPAIN

No, I appreciate that.

ANNALIESE WILLIAMS

I hope it answers, and if it didn't, let us know.

CHRIS DISSPAIN

So to go back to the CIP for a second, the question for us to think about is this. Given that it's a pilot, should we—and given that one of the recommendations we will make is that the CIP itself, the program, not the outputs, the program, should be reviewed because it's a pilot, so it has to be reviewed, right? And let's assume that that review is in three years' time, just say. Should we recommend that this stuff about the assessment or should we actually say not worry about that, just say there should be a review, and say in our recommendations that that review should decide how the ongoing work of the CIP is, in fact, assessed? Because that review may very well make changes to the structure of the CIP, which would make our current suggestions for assessment not workable. So we need to think about that, right?

There's two. We can go ahead... There's going to be a CIP review. There has to be. One, to make sure that it's fit for purpose. The question is do we go ahead and make this recommendation for the CIP assessment, or do we sit on it and say, "No, we're not going to do that." When the CIP review is put together in three years' time, one of its scoping things will be looking at how you assess the

results of the CIP work. So don't know the answer to that, but that's a live question for us right now.

Comments, questions from anybody? It is very hot in here.
Comments, questions from anybody? David?

DAVID HUBERMAN

Just personal view again. In a situation—and I think it was raised earlier by my Australian colleague over there—and this may be just an edge case that's hypothetical, but where you have an entrenched majority that's kind of happy with the status quo or disgruntled minority that isn't, the minority would be able to initiate a review process, potentially, depending on the thresholds and the community, but then the outcome wouldn't necessarily be imposed upon the majority. This could be just a wild edge case that maybe is beyond—

CHRIS DISSPAIN

It's a great question. Let's take stock of where we are right now. Where we are right now is that if you go back to where it used to be, what would happen is every five years, seven years, I can't remember how often, there would be an independent review of an SO and an AC. So the ccNSO has been through two. GNSO has, I think, been through two or three. That independent review was run on the basis that ICANN went out and got a bunch of management consultants, to whom they paid a fortune, who were hopefully properly briefed by the SO or AC about how they worked, and

hopefully properly managed by the SO and AC about the way that they worked, and hopefully operated collegially with that SO and AC, and looked at it and came back with a bunch of recommendations. Those recommendations were always able to be refused by the SO and AC.

Now, technically speaking, could the Board say, “We don’t care that you’ve said no. You will restructure.” The answer that is yes. Of course, they could. They can say anything, really, if they want to. But fundamentally, would they? I think it’s highly unlikely. And up until now, the At-Large has had a series of recommendations that it wasn’t comfortable with. I think the CCs had a couple of recommendations, not the whole report, but a couple of recommendations that we weren’t comfortable with. GNSO the same. So it wasn’t working, and that’s why ATRT3 said, amongst other things, they should get rid of them, and they should work on CIP. And then there should be the holistic review, which we’re calling a Structural Review, but in our view, amounts to pretty much the same thing.

So where does that leave us? It leaves us with the with the possibility of looking at a structure. Well, no, sorry. The question before us is should a Structural Review have to look at the structures? That’s the Option 1, Option 2. Option 1 says no. Option 2 says yes. If they do have to, or if they’re asked to in Option 1 by that SO, what’s the status of their recommendations? And again, the question is exactly that. If they decide that their recommendations are X, what is the status of those

recommendations? Do they go to the Board and the Board says yes or no? Do they go to the SO and the SO says yes or no? Whichever way around you spin it, you are left with a circumstance where the SO, unless you say it's up to the Board, you're left with the SO itself being required to accept the recommendations.

Now, it's not impossible for the Board. As I said, the Board will be in a position where they have to say, "You've got to change." I don't know what that would look like, but what would have to happen for that to happen, but it's fairly major. The reason why the GNSO is structured the way that it's structured is because—I can't remember what year it was, 2007, 2008—they were trying to restructure. They couldn't get together. They couldn't work it out. And what ICANN did was ICANN the Board said, "We're going to lock you in a room for seven days." I'm exaggerating slightly. I don't think they were locked in a room. "We're going to lock you in a room for seven days for you to fix this. And if you can't fix it, this will be your structure on a temporary basis." And that's how we've ended up, effectively, where we've ended up, because I think they ended up coming up with this proposal themselves. But it's not really fixed it because half of them hate it. So it's a real challenge for the GNSO, and I get it. But then equally, you could argue that actually it still works. I mean, stuff gets done. It might be slow, but it gets done. Does that kind of—

DAVID HUBERMAN

Oh yes, much clearer now. Thank you.

CHRIS DISSPAIN

Good. Thank you. Anyone else? Anyone else want to make any comments, any thoughts, any input? While you're thinking about that, I'm hopeful that next week...

We've got a whole bunch of feedback from this week, right? We've met with every SO and AC. We've got the big session tomorrow. I have no idea how many people will be there. Lots of people are leaving tonight. I'm hopeful that some of you will at least be there so that I'm not on my own in a room with 2500 seats. But we're going to run through this again for the whole of the community, and then I'm hopeful that early next week, we will write to the leadership of each SO and AC and the members of the CCG for each SO and AC and say, "We would really, really appreciate your feedback and comments on what's happened this week. What are your thoughts? We've done sessions for all of you. We've done the plenary session. What are your thoughts? Tell us. Anything you want to tell us." Because the next step for us is to redraft this based on what you think, and then get down into the weeds of cadence, thresholds, all of that stuff.

Now, I know, for example, that the GAC is going to say that they think we need to pay—I'm paraphrasing here—but in essence, pay due attention to the reviews that are currently in the Bylaws. In other words, they need to be persuaded that it's good enough to take SSR out as a mandated review and put it into the On-Demand Review. I understand that that's—when I say the GAC is going to say

that, I'm not sure it'll be advice, but it'll be part of their input. We're watching what you're doing, etc. And that's only a view of some GAC members, to be clear, but it is, nonetheless, a view. But I want the ccNSO to come back to us with some really clear feedback. It doesn't matter—good, bad, indifferent, really, really important. Especially on options, on the Structural Review stuff, Options 1 and 2, and on the wording for the ATR.

Annaliese, have I missed anything, do you think?

ANNALIESE WILLIAMS

I don't think so. But on that Options 1 and 2, there's probably pros and cons of each option, if perhaps we might want to explore what those might be.

CHRIS DISSPAIN

Sure. I think Jordan's done a fairly good job of actually kind of defining it to some extent. I mean, the question is, if it's mandated that a Structural Review looks at all of the structures, first of all, that adds to the workload of the review, which I'm not saying that's bad thing, it just does. And if the answer to the question is that whatever recommendations they make go to the SO itself, and it's up to the SO whether or not it accepts them or not, then what harm does it do? Except, of course, that it is about sucking up time and effort and money, and maybe not necessarily for any decent reason, possibly.

One option is to come back on the mandatory one is to come back and say, “We’d be okay with that, provided that it’s very clear that there are any recommendations on the structure of our SO come to us, and it’s up to us what we do about it.” If that’s the case, that would actually work from a mandatory point of view. But it does mean that the Structural Review would be more substantial than it might otherwise be because it’s going to have to look at the individual structures.

Now, as I’ve said, that’s only going to be once a decade. My gut feeling is if it’s going to be mandatory, probably want to do it once every 15 years, rather than once every day. But I’m just saying. Does that give some pros and cons? Yeah. In my view, it all comes down to the status of the recommendations, because at the end of the day, unless you’re going to force the SO and AC to change, then it may be that it’s perfectly valid to say it does no harm to have the whole community look at the SO and AC and see whether it’s fit for purpose or not.

But then you also have to ask the question, how far down do you go? So, with the Cs, you can only go down to the ccNSO because you can’t go down any further, right? But with At-Large, for example, do you go down to the ALS level? I’m not suggesting you should. I’m just saying those levels exist. And so the question needs to be asked, how deep do you go? I mean, Sebastien may have a view on that. I’m not sure. Actually, I’ll rephrase that. I know Sebastien has a view on that. The question is whether he wants to

say it or not. But yeah, that question needs to be answered as well.
How deep do you dive into the SO? Bruce?

BRUCE TONKIN

That really comes down to materiality, doesn't it?

CHRIS DISSPAIN

Yes, it probably does.

BRUCE TONKIN

I think if you did make it mandatory, the thing would be that you do a, basically, just a straightforward survey, right? And if the survey of the whole community thinks it's doing a great job, then—

CHRIS DISSPAIN

You just leave it at that.

BRUCE TONKIN

Leave it at that. But if the survey finds a level of satisfaction that's like 40%, then then kick off. This needs, to me, some sort of threshold, whether it's from within the SO or without, but you do a quick check, maybe through a survey, and then if survey comes out great, probably don't need to do it anymore. But if it doesn't, then you need to go into it. And then the decision as to how deep you go depends on the materiality of the issue, like if it's the underlying structures that's the problem, then sure.

CHRIS DISSPAIN I think that's right. And did you want to say something, Seb?

SÉBASTIEN BACHOLLET Just to say that it's included in the CIP.

CHRIS DISSPAIN Yes.

SÉBASTIEN BACHOLLET So the survey.

CHRIS DISSPAIN Yes, the survey. Thank you. You're correct. I think that's right. I'll try to make the one final point, which is that if you're going to review an SO and an AC, we're talking about the way it's structured. We're not talking about how many Board seats it gets. That is a separate thing. That's an ICANN Structural Review. But there are consequences to reviewing an SO and AC. For example, if the GNSO got split into two Supporting Organization being the Business, the Contracted Parties, and something else, Advisory Committees being the rest, you've got structural issues from the Board point of view that flow from that, obviously. But nonetheless, I think we're probably about up to time, Claudia? Thank you.

So thank you, everybody. There is a huge amount of work still to be done, but we are on track, and we are so far on time. We do need

your feedback. We will ask you for it, and I look forward to perhaps seeing some of you tomorrow morning. Thank you very much.

[END OF TRANSCRIPTION]