ICANN | GAC
Governmental Advisory Committee

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Governmental Advisory Committee Comments Regarding Pilot Holistic Review Draft Terms of Reference

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Introduction

The ICANN Governmental Advisory Committee (GAC) welcomes the opportunity to provide comments on the Draft Terms of Reference for the Pilot Holistic Review shared with the ICANN community for public comment on 30 August 2022 (see https://www.icann.org/en/public-comment/proceeding/pilot-holistic-review-draft-terms-of-reference-30-08-2022.

These comments address general aspects of the Draft Terms of Reference for Holistic Review Pilot document (see https://itp.cdn.icann.org/en/files/specific-reviews/draft-terms-reference-holistic-review-pilot-30-08-2022-en.pdf) (hereinafter Draft ToR document) as well as other specific questions posed by the ICANN Board to help fashion the upcoming pilot review effort.

I. Comments Regarding Specific Board Questions "Designed to Aid Responders in Formulating Their Views"

The GAC recognizes that this proceeding is focused on the Draft ToR document as presented and is not intended to address larger strategic issues regarding ICANN community prioritization and review efforts. Consequently, the GAC has made an effort to focus its comments on those procedural aspects of this current inquiry by primarily addressing the four question areas presented in the Public Comment announcement "designed to aid responders in formulating their views on whether the Draft ToRs seem fit for purpose and whether the ToR document is tailored to the community's expectations based upon the ATRT3 recommendation 3.5." The GAC has formulated responses to address each of the questions presented by the Board.

1. Do you support the Pilot Holistic Review Terms of Reference as Drafted?

The GAC appreciates the collective work of the Pilot Holistic Review Terms of Reference (ToR) Team (hereinafter ToR Drafting Team) and is encouraged to see this effort progressing – including the May 2022 decision by the community prioritization team to assign the Pilot Holistic Review the highest priority level. The GAC supports this progress and has several suggestions for specific edits or modifications to the Draft ToR document that are reflected in Section II of these comments.

The GAC agrees with other commenters that the overall mission of the pilot holistic review would be improved by an expansion of the scope to consider if there are any interests not currently represented within the current ICANN structures (e.g., DNS operators, security practitioners or other identified groups of interested stakeholders) and if these interests can be accommodated

within existing SO/ACs, or if new structures need to be introduced. This concept could be incorporated into the third bullet point of the mission.

It is notable that the Draft ToR document identifies a fundamental question that would appear to raise concerns regarding the scope of the pilot effort and future holistic reviews. Specifically, the Draft ToR document "Background" section explains that community members have expressed different interpretations of the intended scope and purpose of the Holistic Review. The text of the Draft ToR document notes, "specifically, there were many questions and different views about whether the Holistic Review was only evaluating how the SO/ACs interact, communicate and coordinate their work, or whether the Holistic Review was meant to examine the ICANN structures themselves" (see Draft ToR document at page 4).

The GAC would support the interpretation that a "holistic" review should prioritize review of community interaction capabilities and implementations but also acknowledges that the ATRT3 Final Report specifically noted that the "holistic" review would need to serve the Section 4.4 ICANN Bylaws requirements for "periodic" and "independent" reviews of community structures (see https://www.icann.org/en/system/files/files/atrt3-report-29may20-en.pdf at page 68). This matter should be clarified in the Draft ToR document "Mission" section to avoid unnecessary community debates about the purpose and scope of the pilot review specifically or future holistic reviews generally.[1]

2. Does the Holistic Review Program outlined in Section II of the Draft Terms of Reference provide a clear approach to accomplishing the ATRT3's objectives, as set out in the same section, while addressing the information gaps identified by the ICANN Board set out below?

Section II of the Draft ToR document does a good job outlining the objectives and deliverables of the pilot effort and addressing specific information gaps identified by the Board.

The Draft ToR document also appears to recognize the timing challenges associated with this pilot effort. The GAC does not have a collective opinion about the specific length of time that the pilot effort should take to implement, but there is acknowledgement of the view of other commenters that since future reviews are stipulated to be completed within 18 months, it seems unlikely that this Pilot Holistic Review could be completed within that same timeframe when accounting for the additional tasks of developing and documenting procedures that must be undertaken in the future.

The draft ToR document accounts for this challenge by assigning the Pilot Review Team to initially produce a work plan that will achieve that 18-month timetable (see page 10), but the Draft ToR document should provide some flexibility for the Pilot Review Team to petition the Board to extend the period if it appears necessary.

Given the foundational aspect of this pilot effort, an endeavor that could ultimately result in the creation of new ICANN Bylaws, it is important that the work be done correctly and that the Pilot Review Team be given sufficient time and sufficient ICANN staff support to assure thoroughness

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[1] It should be noted that such acknowledgement could impact the timetable expected to be demanded of any future holistic review efforts – as individual SO-AC reviews may then be expected to be incorporated as part of each holistic review effort. Perhaps such a timing challenge could be addressed through a more streamlined review process of individual community groups. This is something the Pilot Review Team could contemplate.

and thoughtfulness. Perhaps mechanisms for seeking extensions of time from the Board should be added to the timetable in the Draft ToR document.

3. Do the steps and the deliverables associated with each ATRT3 recommendation 3.5 objective, as described in Section II of the Terms of Reference, clearly outline the scope of work for the Pilot Holistic Review?

The objectives and deliverables identified in the Draft ToR document (see pages 5-9 of the document) effectively track the relevant and applicable ATRT3 recommendations regarding a new holistic review. They reflect sweeping and ambitious expectations that will require dedicated, diligent and focused efforts by the Pilot Review Team. The Draft ToR document provides a comprehensive list of information gaps that the Board looks to fill as well as an overall program outline and self-assessment protocol that will be of value to the Pilot Review Team. What the document fails to do, perhaps understandably given the unique nature of this new community process, is provide a detailed roadmap for how to achieve the program goals and expectations.

To ensure the success of the overall effort, select Board members and members of the ToR Drafting Team will need to make themselves available on a regular basis at the beginning of and throughout the service of the Pilot Review Team to offer guidance and interpretation of various expectations that perhaps could not be reasonably specified prior to the beginning of the work. This consultation availability will be an important resource for the Pilot Review Team.

4. Do the steps and the deliverables associated with each ATRT3 Recommendation 3.5 objective, as described in Section II of the Terms of Reference, explain clearly how Supporting Organizations, Advisory Committees, Nominating Committee, as well as their constituent parts will participate in the process of establishing a Holistic Review Program?

The Draft ToR document sets out an effective list of pilot objectives culled from the ATRT3 effort but does not offer clarity with respect to specific methodologies for how Supporting Organizations, Advisory Committees, the Nominating Committee, and their constituent parts will cooperate in helping to achieve those objectives. In several areas of the Draft ToR document, the phrase "in cooperation with SOs and ACs" is used [2] but the specific nature of that "cooperation" is not articulated. It is important to alert the ICANN community structures to how their cooperation will be sought and incorporated into the pilot effort. Such clarity is important for the communities as they conduct their annual FY23 work planning and will be a vital factor in managing timetable expectations for the overall pilot effort.

The Draft ToR document could also more clearly articulate the methodologies (e.g., public comments, direct community consultations or other alternatives) for how this community "cooperation" is expected to be achieved. If there is a common expectation for how collaboration between the community groups and the Pilot Review Team should be achieved, then that expectation should be added to the document – either explained in connection within each objective (as appropriate) or by a more general expectation set forth in the "Definitions and Acronyms" portion of the document.

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[2] The phrase "in cooperation with SOs/ACs" can be found in several section of Part II – *Objectives, Deliverables & Timeframes* of the Draft ToR document – in particular with respect to objectives A.(b)(at page 5); B.(b)(at page 6); C.(a)(at page 7); and D.(c)(at page 8).

II. Comments Regarding Other Particular Aspects of the TOR Notable to the GAC

In addition to the comments above, the GAC has identified a number of specific components of the Draft ToR document that could improve the guidance and work processes of the Pilot Review Team. Those thoughts and other comments are expressed in bullet-form below:

ICANN Structures Defined

- Other commenters have pointed out the various uses of the terms "SO-ACs" or "all ICANN. structures" throughout the Draft ToR document. The GAC supports the addition of the term "structures" to the "Definitions and Acronyms" section of the Draft ToR document and a thorough re-review of the draft to assure the consistent use of that terminology.

Decision-making and Methodology

- The GAC supports the general use and application of the existing ICANN Operating Standards for Specific Reviews in the context of this pilot effort. Those standards will provide a useful foundational guide for the Pilot Review Team and will ensure a measure of institutional consistency between this effort and previous ICANN review endeavors.

Outreach

- The GAC supports the framework of the Outreach Plan identified in the draft document. Regular updates to the community will ensure that the pilot effort maintains a constant momentum.

Additional Information to Consider

- The GAC supports the addition of other information to the Draft ToR document including:
  - The expected composition of the Pilot Review Team (by number and representation)
  - Specific commitments from ICANN org regarding the expected staff resources that will be devoted to this pilot effort. To come close to meeting the ambitious objectives and timetable of this effort, adequate staff support in document drafting, document production and comprehensive project management services will be critical.
  - The circumstances and degree to which suitably qualified consultants could be secured by ICANN org to undertake work for the Pilot Review Team (similar to the way in which consultants were engaged to undertake Organizational Reviews).

III. Conclusion

The GAC appreciates the substantial time and attention that has been devoted to this initiative and looks forward to viewing further progress as the pilot effort moves forward.