

Internet Corporation for Assigned Names and Numbers

Asia Pacific Regional Meetings 2007 – First Meeting

AT-LARGE ASIA PACIFIC REGION MEETING

**Bali International Conference Centre, Surabaya Room
28th February, 09:00 – 18:00**

BACKGROUND ON THE LEGAL SITUATION WITH RESPECT TO ELECTION OF ALAC REPRESENTATIVES WHEN RALOs ARE FORMED

Introductory Note by the Staff

Attached is an email provided by the Office of the General Counsel of ICANN setting forward the legal position with respect to the end of tenure of ICANN Board-appointed members of the Interim At-Large Advisory Committee.

In light of the legal situation, it is submitted that the region should elect two representatives to the At-Large Advisory Committee subsequent to the conclusion of work on Agenda Item 5, and instruct the ICANN staff to communicate to the Office of the General Counsel the names of those so elected, and ask the General Counsel to confirm that the elected representatives will begin their term upon signature by both Parties of the MoU and the acceptance of the ICANN Board of the MoU.

If the region so decides at the meeting on 28th February to conduct an election over a period of time, rather than at the meeting itself, ICANN staff can provide a secure online voting mechanism to facilitate that election.

[End of Introduction]



From: "Nick Ashton-Hart" <nick.ashton-hart@icann.org>
Subject: Question about the process of selecting ALAC members
Date: 15 February 2007 18:58:39 GMT
To: na-discuss@atlarge-lists.icann.org
Cc: "Daniel Halloran" <daniel.halloran@icann.org>, "Sue Jonklaas" <sue.jonklaas@icann.org>
Reply-To: nick.ashton-hart@icann.org

Dear NA ALSes:

Since a query was raised about the possibility of the Nominating Committee having a potential role in the appointment of NA ALAC Reps, I wanted you to see the reply by Dan Halloran in respect of this point. The quotation is my question; his outdented text below is the reply. Please note that the query below that is in reference to when ALAC members must be elected post-RALO formation; I've included this here, as it may be of use:

> If a region wishes to adopt a procedure to require consensus in
> choosing its two regional ALAC members whereby, if consensus cannot
> be reached, the decision is referred to an entity external to At-
> Large, can they do this? The NA region is discussing referring
> deadlocks to the Nominating Committee, instead of simply voting
> based upon a vote.

I think the Bylaws are clear that it is the responsibility of the RALO to select the two ALAC members. The RALO could maybe refer to an external source for guidance or suggestions, but the ultimate responsibility for making the selection rests with the RALO. I do not think it would be appropriate to allow the ICANN Nominating Committee to take over the responsibility for selecting ALAC members from the RALO. The Bylaws specify that the NomCom picks 5 out of 15 ALAC members, and it would not be appropriate to grant the NomCom more selections by ceding them from the RALOs. Also the ALAC is responsible for picking 5 out of 17 members for the NomCom, and we need to avoid any drift towards "circularity" in all these committees. (Perhaps something could be worked out with the NomCom where they would share information about willing and qualified but not-selected candidates? But that's a far stretch from directly allowing the NomCom to appoint the RALO's ALAC members ...)

> Some regions are wondering if they should delay electing their
> ALAC representatives until the ICANN AGM each year. Of course LAC
> didn't choose to do this, and I have advised them that they are
> under no obligation to wait; they can elect new ALAC members (or re-
> elect the same people) to replace the Board appointees upon
> signature of the MoU.

RALOs don't have to wait until the AGM to elect their ALAC members. The terms of the two members coincide with the end of alternating AGMs, but the RALOs can (and probably should) hold their elections for those positions in advance of the actual AGM.

On your further question on point 3, the Bylaws do explicitly provide that new RALO-selected ALAC members will immediately displace the Board-appointed Interim members:

"Upon the entry of each RALO into such a Memorandum of Understanding, that entity shall be entitled to select two persons who are citizens and residents of that Region to be members of the At-Large Advisory Committee established by Article XI, Section 2(4) of the New Bylaws. Upon the entity's written notification to the ICANN Secretary of such selections, those persons shall immediately assume the seats held until that notification by the Interim At-Large Advisory Committee members previously selected by the Board from the RALO's region."
<<http://www.icann.org/general/bylaws.htm#XX-7.5>>