ALAC Report to the
ICANN Board Structural Improvements Committee
on Processes to be used by the At-Large Community
to select an ICANN Director

Preliminary Draft

The *White Paper on the Selection of an At-Large Board Member* Was drafted in December 2009 by the At-Large Board Selection Drafting Team (ABSdt – https://st.icann.org/absdt/index.cgi?at_large_board_selection_design_team_2010), posted for comment from January to March, and discussed extensively in various At-Large forums. Based on the inputs received, the ALAC recommends the following procedures to be used to select its first voting ICANN Director.

Recommendation 1 - Term of Appointment

The At-Large Board member should be appointed to terms equal to those of the Supporting Organization members and should be seated at the same time as those members. As a transition provision, the initial term should be adjusted based on the actual starting date, but in no case should it be markedly less than three years (or whatever the first term length is at the time) to allow the At-Large Board member to properly be integrated into the Board. The number of consecutive terms allowed should be the same as for other Board members.

Recommendation 2 - Director Criteria

The criteria for At-Large Director candidates should include those mandated by the ICANN Bylaws, those promulgated by the NomCom for its Director candidates, and the additional At-Large criteria:

- An understanding of the structural, communications and decision-making processes of ICANN At-Large

- An understanding of the potential impact of ICANN decisions on the global Internet-using community and the Internet end-user community in particular.

- A track record of working to build consensus with a diverse set of interests working together on complex policy issues.

- Independence from the ICANN stakeholders whose financial situation is significantly impacted by ICANN decisions.

Recommendation 3 - Creation of List of Candidates

The selection of candidates to comprise the election slate should be made by an At-Large Board Candidate Evaluation Committee (BCEC). The BCEC should be composed of two representatives from each ICANN region and a Chair. The Chair should be selected by the ALAC. At the discretion of the ALAC, the Chair may have a vote (the BCEC Chair for 2010 shall not have a vote by decision of the ALAC). All BCEC members will need to confirm their willingness and ability to dedicate significant time to the process.

Except as explicitly specified, all documents and deliberations of the BCEC shall confidential and this confidentiality shall continue past the existence of any particular BCEC.

Any person can submit a SOI on their own behalf. A person who has not submitted a SOI within pre-determined deadlines may not be considered by the BCEC.

To the extent practical, the BCEC should include some past or present ICANN NomCom members.

Petition candidates can be added to the BCEC slate. Such petition candidates need to have gone through the BCEC process and may be added to the slate proposed by BCEC by a formal request of RALOs. A petition will require the support of at least three of the five RALOs.

As part of the review of these processes (to be conducted after the first At-Large Director is selected), consideration should be given to future election processes allowing ALAC and/or RALOs to indicate support for the incumbent At-Large Director in advance of the BCEC collection of SoIs, as a matter of courtesy and fair notice to potential new candidates.

BCEC Operating Procedures can be found at https://st.icann.org/absdt/index.cgi?draft_bcec_operating_principles. The Statement of Interest form and Confidential Reference Questionnaire can be found at https://st.icann.org/absdt/index.cgi?draft_statement_of_interest and https://st.icann.org/absdt/index.cgi?draft_confidential_applicant_reference_form respectively.

Recommendation 4 - Electorate

The Board seat should be selected by the fifteen ALAC members plus the five RALO Chairs (all with equally weighted votes). The RALO-appointed ALAC members and the RALO Chairs may be directed by their ALSes if the RALO desires (and in accordance with their respective Rules of Procedure). This methodology gives ALSes large control over who is selected, without the complexity of two-level vote weighting and centralized ALS elector verification. The vote should be by secret ballot.

Recommendation 5 - Voting Process

The first round is a vote conducted with Single-Transferable-Vote (STV) ballots. If more than 50% of first-choice votes select the same candidate, that person is declared winner. If there is no winner, the standard STV mechanism identifies the top three candidates. A Plurality vote is then held to select the winner, or to narrow the field to the top two candidates. If no winner was declared, the candidate with the fewest votes is dropped and a third and final round is held to select the winner.

ABSdt Membership

AFRALO	Dave Kissoondoyal
AFRALO	Tijani Ben Jemaa
APRALO	Cheryl Langdon-Orr
APRALO	Hong Xue
EURALO	Patrick Vande Walle
EURALO	Olivier Crepin-Leblond
LACRALO	Carlton Samuels
LACRALO	Vanda Scartezini
NARALO	Alan Greenberg
NARALO	Evan Leibovitch

BCEC Membership

AFRALO	Yaovi Atohoun
AFRALO	Baudouin Schombe
APRALO	Hong Xue
APRALO	Raj Singh
EURALO	Veronica Cretu
EURALO	Christopher Wilkinson
LACRALO	Jacqueline Morris
LACRALO	James Corbin
NARALO	Myles Braithwaite
NARALO	Annalisa Roger

At-Large Comments and Decisions

The following discussions includes comments made on the At-Large Wiki as well as those made during a number of face-to-face meetings and teleconferences.

The White paper and the Wiki comments can be found at https://st.icann.org/alac-docs/index.cgi?director_white_paper.

In the White Paper, reference is made to the At-Large Board Selection Committee (ABSC), the group that will receive Statements of Interest and decide which applicants will be on the slate in the election. Since that time, the group has been renamed the At-Large Board Candidate Evaluation Committee (BCEC) and that is the name that will be used in the remainder of this document.

In a few cases, an issue not raised in the public forums was discussed, primarily by the At-Large Board Selection design team (ABSdt) or the ALAC, and a decision was made to alter the original recommendations.

Comments attached to overall document:

Comment: The White Paper and indeed At-Large and ICANN suffer from an overuse of acronyms, with the result that ideas and processes are nearly incomprehensible by the novice reader.

Response: The impression is correct, but it is unclear what the solution is in this specific case, as the suggested At-Large process to select an ICANN Director has been driven by the At-Large Community.

Comment: The proposed process restricts who can stand for election by having those who put their name forward reviewed and possibly removed by a committee of eleven people – the BCEC (described as being controlled by a tiny group of ALAC insiders). It restricts those who will vote to 20 "ALAC insiders". As a result, "only people well-known and well-liked by the insiders who already comprise ALAC will ever have a chance to get on the Board".

The comment continued: "Why can't every member of an ALS have a vote? Why can't anyone in the world who is an Internet user be eligible to run? Why shouldn't those who want to be on the Board be required to build real support for themselves among the entire At Large community, rather than the small group of 5 or 6 full-timers who dominate the ALAC?:

Response: The process being recommended was developed in a bottom up process. The concepts raised by the commenter were all discussed during the development process, and were outright rejected by the vast majority of those involved in the process (which included far more than just the ALAC or RALO leaders). Moreover, the recommended process is in line with the Board resolution that the Board member be selected by the "At-Large Community", a term defined in the ICANN Bylaws as being comprised of the

ALAC, RALOs and ALSs, who have a responsibility to represent "the interests of individual Internet users".

Addressing the specific issue of "ALAC insiders", the committee which will create the election slate is largely (10 of the 11 members) made up of people selected by the RALOs. This year's committee includes no current ALAC members and includes a number of people who could not in any way be considered ALAC insiders.

Lastly, the concept of every ALS member or anyone in the world voting has been the subject to much discussion, and has been strongly questioned due to the difficulty of authenticating the electorate.

Comments attached to Section 1 - Term of appointment

Comment: The Director selected by At-Large should be eligible for no more than two terms of three years each. (This followed earlier comments that the term should be for a smaller number of years and perhaps only a single term – all of which were later withdrawn.)

Response: The comment to reduce term limits from those that other ICANN Directors are subject to was submitted by one RALO and was not supported by any others. The general intent was to maximize the possibility that the Director selected by At Large attains an influential position on the Board by aligning term lengths with those possible for other Directors.

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Comments attached to Section 2 - Director qualifications

Comment: Comments were made that candidates should preferably not be Registrar or an employee in a significant capacity of a Registrar / ISP or any other business related to Internet Service or Internet Infrastructure.

Response: Following much discussion, an additional criterion was added – specifically: *Independence from the ICANN stakeholders whose financial situation is significantly impacted by ICANN decisions*.

Comment: Comments were also made that candidates must be an ALS member.

Response: It was decided that such a qualification could be considered by the BCEC, but that no specific rule would be formulated.

Additional Issue: During the January to March period, there was significant discussion on the time commitment required by a Director, and the relatively large possible range of that commitment. It was consciously decided that At-Large would emphasize the higher end of that range, to help ensure that the Director selected by At Large would be willing to make a very significant time commitment to the position.

Decision: The title of this section was changed from Qualifications to Criteria to better reflect the section contents.

Comments attached to Section 3 - Creation of list of candidates

Comment: Perhaps the "petition process" (by which several RALO's can add a person not named by the BCEC to the final slate) be replaced by allowing RALOs to endorse candidates during the BCEC evaluation process.

Response: This idea was not pursued as it was felt that the Petition process should be a step apart from the BCEC deliberations.

Comment: (1) The BCEC will consist of ALAC insiders only (compared to the ICANN Nominating Committee which is composed in a very diverse way). (2) Why does a petition candidate needs the support of a RALO instead of an ALS. (3) The selection criteria look very restrictive and not very democratic.

Response: (1) The BCEC membership is selected in exactly the same way as the ALAC delegates to the Nominating Committee, except that in the latter case, ratification by the ALAC is required and such ratification is not required for the BCEC members. (2) The decision to require petition support from several RALOs was driven by the concept that if support from RALOs could not be gathered, it was highly unlikely that the person would later be elected by votes largely emanating from those same RALOs (support in a petition would not necessarily imply a later vote). (3) The selection criteria were developed based on a very active debate with input from all regions.

Comment: The slate selected by the BCEC should have at least one person from each region on it.

Response: This was debated at length and the position of most regions was that the BCEC must select what they consider the best candidates. Unlike Supporting Organizations, At-Large will have only one voting Director, so all efforts should focus on picking the best candidates. Regional diversity could certainly be considered, but the BCEC should be given the opportunity to name what they consider as the best possible slate.

ALAC Decision: The original recommendation called for the BCEC to consist of two people per region plus a voting Chair to be selected by the ALAC. The Chair was given a vote to ensure that there be an odd number of votes in case the BCEC could not make all decisions by consensus. For this year, the ALAC decided to appoint its Chair as the BCEC Chair, and that the role would be non-voting.

Comments attached to Section 4 - Electorate

Comment: "This recommendation does not follow from the discussion, but instead takes a very far removed 'representation' in place of a true At-Large. Why not include individuals or ALSs? My counter-recommendation: Option 6. All individuals who

express interest as individual Internet users cast votes. This is equivalent to the 2000 vote for At-Large Directors."

Response: This suggestion was discussed by the RALOs and ALAC, and was rejected. The recommendation was the preferred solution of all RALOs.

Comment: A question was raised on how a vote on behalf of a RALO which is "directed" by that RALO can be audited if the overall process uses a secret ballot. Also, there was a concern that a directed vote, if publicly known, could influence other votes.

Response: The issue of an audited secret ballot could be addressed (if the community felt it necessary) by a ballot being publicly secret, but auditable by a trusted staff member. If a community was worried that their directed ballot might improperly influence other voters, it would be up to them to keep is sufficiently secret.

Comment: The question of the electorate being reasonably vetted and authenticated was raised by an ICANN Board member.

Response: The recommended electorate consists ALAC members (selected by the Nominating Committee and by RALOs) and by RALO Chairs. According to individual RALO processes, the votes of the RALO-selected ALAC members and/or the RALO Chairs could be directed by the RALO, presumably through some process involving its ALSs.

Hopefully, no one is questioning the legitimacy of the process by which Nominating Committee ALAC members are selected. Each RALO operates under a formally signed Memorandum of Understanding between ICANN and the RALO (ratified/approved by the ICANN Board). ALSs are approved based on ALAC procedures also approved by the ICANN Board. Overall, the process of authenticating the electorate and the RALO/ALS selection processes is at least as rigorous as those used for GNSO Constituencies and Stakeholder Groups and their members.

Comments attached to Section 5 – Voting process

Comment: There is the potential for ties in the voting process. What mechanism would be used to settle such ties?

Response: The ABSdt, which will oversee the voting process is responsible for the detailed voting processes. Discussions to date have favoured using a random selection method to address ties.

Public Comments

Only one comment was received during the 05 February 2010 to 06 March 2010Public Comment period. The comments can be found at http://icann.org/en/public-comment/#at-large-director. The Staff Analysis is appended to this section.

The comment had nothing substantive to say regarding the specific of the recommendations being discussed herein, but did make three comments directed at the ICANN Board regarding the concept of a Director selected by the At-Large Community.

These comments deserve further discussion.

1. *As Ray Plzak has already asked, should ALAC's status as an advisory committee change? This is the first time that any ICANN advisory committee has been empowered to choose (or to have a predominant role in choosing) a voting member of the ICANN 2 Board. Should this set a precedent for other advisory committees in existence, or those that may be created in the future?*

   ALAC Comment: There seem to be two questions being asked: Should the change from selecting a non-voting Liaison on the Board to selecting a voting Board member trigger a change from an Advisory Committee (AC) to some other form, presumably a Supporting Organization (SO)? Should the ALAC change act as a precedent for other ACs to be similarly changed?

   Regarding the change from an AC to an SO, this does not seem to be obvious. Supporting organizations have very targeted responsibilities over critical, well defined resources, specifically the Generic TLD namespace, the Country-Code TLD name space, and the IP addressing space. Advisories Committees have an overall responsibility with typically quite wide scope, but do not directly control policy over Internet resources. So a change from an AC to an SO is not an intuitive change. Perhaps some new type of entity needs to be created, but ICANN seems to be sufficiently complicated without adding such a new type of entity. But clearly this could be the subject of a Board discussion.

   Regarding whether the change for At-Large should act as a precedent for other ACs, clearly this is a matter for future Board discussion.

2. *How should the new Board seat affect the composition of the Nominating Committee and its role in selecting Board members? Up to now, that role has overlapped to a considerable degree with the stated purpose of the new Board seat, which is to reflect the views and perspectives of the At-Large community. This, we must assume, is the justification for giving the ALAC such a disproportionate role in the composition of the Nominating Committee. Under Article VII, section 2 of the ICANN By-laws, ALAC selects five voting delegates to the Nominating Committee, far more than any other entity within the ICANN structure. No other Advisory Committee selects any voting members of the Nominating Committee. Now that the decision has been made ("in principle") to*

allow ALAC to have the predominant role in selecting a voting member of the ICANN Board on its own, ALAC's role in the Nominating Committee should be re-examined, along with that committee's power to select a majority of the ICANN Board.

ALAC Comment: The relationship between the number of voting and Liaison Board seats and the current number of Nominating Committee voting/non-voting delegates is not an intuitively obvious one.

Organization	Board Presence	NomCom Presence
GNSO	2 Voting	7 Voting
ccNSO	2 Voting	1 Voting
ASO	2 Voting	1 Voting
SSAC	1 Liaison	1 Non-voting
RSSAC	1 Liaison	1 Non-voting
ALAC	1 Liaison	5 Voting
GAC	1 Liaison	1 Non-voting
TLG	1 Liaison	1 Voting
IETF	1 Liaison	1 Voting
Academia	-	1 Voting

Presumably this overall balance is being looked at as part of the Nominating Committee Review.

Since the comment came from a GNSO Constituency, a comparison between the ALAC and the GNSO has some merit. The At-Large will have one voting Board member and has one NomCom delegate per ICANN region, for a total of five. The GNSO has two voting Board members and GNSO Constituencies (a remnant of the previous GNSO structure which was not changed) have 1 NomCom delegate each, except the Business Constituency which has two for a total of seven delegates.

It should also be noted that the ALAC is the only ICANN body that has its membership divided by region. If the number of NomCom delegates were changed so as not to equal the number of regions, this would create a regional imbalance which could cause a host of political problems.

3. *ALAC plays a role in many other ICANN structures. To give just one example, its liaison to the GNSO council participates actively in the work of that council and enjoys all the privileges of council membership other than a vote. The integration of ALAC into the activities of this and other ICANN structures is predicated on the recognition that the perspective of the At-Large community is valuable and important, and that this perspective risked being omitted from the ultimate decision-making role of the ICANN Board, since voting representation of the At-Large community on the Board was eliminated several years ago in the so-called*

ALAC Comment: The ALAC representation on the GNSO is driven by two Bylaws:

> *X-3.1 There may also be liaisons to the GNSO Council from other ICANN Supporting Organizations and/or Advisory Committees, from time to time. The appointing organization shall designate, revoke, or change its liaison on the GNSO Council by providing written notice to the Chair of the GNSO Council and to the ICANN Secretary.*
>
> *XI-2.4f […] the At-Large Advisory Committee may designate non-voting liaisons to each of the ccNSO Council and the GNSO Council.*

Certainly these provisions could be changed. However, it would seem that this should be done if the sender or receiver of the Liaison feels that there is no longer any merit in the relationship. In a bottom-up organization, where a Liaison implies no formal voting power, a decision to stop cooperation should be made by the organizations involved and not by the Board. Moreover, the overall tenor of the organization is to encourage more cooperation and interaction between ICANN entities, and not less. In fact, the GNSO and the ccNSO have recently instituted cross-liaisons. From the point of view of the ALAC, having a Liaison on the GNSO has been beneficial to At-Large, and we believe to the GNSO.

Summary and analysis of public comments for Call for Community Comment on the Proposed Process for the 2010 Selection of an ICANN At-Large Board Member

Comment period ended: 06 March 2010

Summary published: 31 March 2010

Prepared by: Heidi Ullrich, Director for At-Large

I. BACKGROUND

On 27 August 2009, the ICANN Board of Directors passed a resolution approving in principle the implementation of the Board Review WG recommendation "to add one voting director appointed from the At-Large Community to the ICANN Board of Directors, and removing the present ALAC Liaison to the Board (…)."

In preparation for this new appointment, the ALAC, in consultation with the At-Large Community, has prepared a White Paper [PDF, 240K] entitled "Call for Community Comment on the Proposed Process for the 2010 Selection of an ICANN At-Large Board Member" that was the posted for public comment between 5 February 2010 and 6 March 2010.

Included in this document is a review of community discussions to date, inclusive of debate points and rationale for any recommendations made, a draft process timeline, specific issues and recommendations for community review and feedback.

This White Paper had already been subject to At-Large Community review beginning 11 January 2010.

On 26 January 2010, the Board Review WG released its final report [PDF, 116K]. Regarding the issue of the voting director to be appointed by the At-Large Community, the report stipulates in part:

- The acknowledgement that the Board already approved in principle its recommendation for one At-Large voting Director replacing the ALAC Liaison
- The conclusion that ALAC and At-Large should develop a mechanism for the selection of their voting Board Director. "The selection process must ensure that the appointment has the approval of ALAC and the approval of the At-Large Community more broadly."

The public consultation on this White Paper allowed all members of the ICANN community and the public to review the ALAC and At-Large Community White Paper on the Proposed Process for the 2010 Selection of an ICANN Board Member.

This public consultation was organized pending any Board decision on the formalization of the in-principle decision adopted in August 2009 on the possibility for the ALAC/At-

Large Community to select a voting Board Director in replacement of the present non-voting ALAC Liaison to the Board.

II. GENERAL COMMENTS – The Summary and Analysis

Summary and Analysis:

The IPC states that it did not express a view on whether the new Board seat to be selected by the At-Large community should be created, since the Board has already made that decision. The IPC also states that it does not have any objections to the procedure that the At-Large Advisory Committee (ALAC) and the At-Large Community have set out in the White Paper on the Proposed Process for the 2010 Selection of an ICANN At-Large Board Member.

However, the IPC set out their view that the Board's 'in-principle' decision to add one voting director appointed from the At-Large Community to the ICANN Board should be accompanied by an outline of steps for addressing the remaining key issues, including:
1) The current status of the ALAC as an advisory committee – Will this status change with the seating of the new Board Director? Does this set a precedent for other advisory committees of ICANN?
2) Composition of the Nominating Committee – How should the new Board Director impact the current composition of the Nominating Committee?
3) Role of ALAC in ICANN Structures – What impact will the new Board Director have on the integration of the ALAC into other ICANN structures.

III. NEXT STEPS

Members of the At-Large Advisory Committee (ALAC) and the At-Large Board Selection Design Team (ABSdt) will review in detail the comment received. Based on this comment as well as the many comments received from members of the At-Large community previously, some recommendations within the document may be revised prior to being submitted to the Structural Improvements Committee (SIC) for its consideration.

IV. CONTRIBUTORS

One (1) comment was made to the public comment forum in response to the ALAC White Paper:

Intellectual Property Constituency (IPC) [see: http://forum.icann.org/lists/at-large-director/msg00001.html]