



AL-ALAC-ST-0914-01-00-EN

ORIGINAL: English

DATE: 12 September 2014

STATUS: Final

## AT-LARGE ADVISORY COMMITTEE

### ALAC Statement on the Proposed Bylaws Changes Regarding Consideration of GAC Advice

#### Introduction

Leon Sanchez and Fatima Cambronero, ALAC members from the Latin American and Caribbean Islands Regional At-Large Organization (LACRALO), composed an initial draft of this Statement after discussion of the topic within At-Large and on the Mailing Lists.

On 22 August 2014, this Statement was posted on the [At-Large Proposed Bylaws Changes Regarding Consideration of GAC Advice Workspace](#).

On 23 August 2014, Olivier Crépin-Leblond, Chair of the ALAC, requested ICANN Policy Staff in support of the ALAC to send a Call for Comments on the Recommendations to all At-Large members via the [ALAC-Announce Mailing List](#).

On 04 September 2014, a version incorporating the comments received was posted on the aforementioned workspace and the Chair requested that Staff open an ALAC ratification vote on the proposed Statement.

On 12 September 2014, Staff confirmed that the online vote resulted in the ALAC endorsing the Statement with 15 votes in favor, 0 votes against, and 0 abstentions. You may review the result independently under: <https://www.bigpulse.com/pollresults?code=4198ASsNFbGtr6NSrY92TTAA>.

#### Summary

1. The ALAC salutes the Board's continued effort on the implementation of the ATRT1 and ATRT2 recommendations, specifically recommendation 11 of the ATRT1 and 6.5 of the ATRT2.
2. Notwithstanding, the ALAC is concerned that the proposed Bylaws changes regarding consideration of GAC advice by the Board may derive in an unbalanced weight to the GAC's advice compared to that of the other ACs or the policies proposed by each of the SOs.
3. Moreover, the ALAC observes a trend in the Internet Governance ecosystem that tends to push towards giving increased power to governments. The proposed Bylaws changes regarding consideration of GAC advice would add to this trend that we consider undesirable.
4. Considering that the BGRI has already designed a "Process for consultations between the [Board] and the [GAC]," the ALAC calls the Board to reconsider the proposed bylaws changes and continue to foster equal footing among all participants of the ICANN community.
5. If the Board is to implement this Bylaw change, the ALAC advises the Board to fully implement recommendation 9.1 of ATRT2 in the same round of Bylaw changes. This would preserve the delicate balance of advice coming from the ALAC, SSAC and RSSAC alongside the GAC.
6. The ALAC is confident that the Board will continue to implement the recommendations of the ATRT1 and ATRT2 in a way that safeguards the principles of the multi-stakeholder model, more specifically those that help bring balance among participants.

The original version of this document is the English text available at <http://www.atlarge.icann.org/correspondence>. Where a difference of interpretation exists or is perceived to exist between a non-English edition of this document and the original text, the original shall prevail.

# ALAC Statement on the Proposed Bylaws Changes Regarding Consideration of GAC Advice

The At-Large Advisory Committee (ALAC) welcomes the opportunity to comment on the proposed Bylaws changes regarding consideration of Governmental Advisory Committee (GAC) advice, and hereby submits the following as a formal statement to the Board:

1. The ALAC salutes the Board's continued effort on the implementation of the ATRT1 and ATRT2 recommendations, specifically recommendation 11 of the ATRT1 and 6.5 of the ATRT2, which read as follows:

## **ATRT1 Recommendation 11**

The Board and the GAC should work together to have the GAC advice provided and considered on a more timely basis. The Board, acting through the GAC-Board joint working group, should establish by March 2011 a formal, documented process by which the Board responds to GAC advice. This process should set forth how and when the Board will inform the GAC, on a timely basis, whether it agrees or disagrees with the advice and will specify what details the Board will provide to the GAC in circumstances where it disagrees with the advice. This process should also set forth the procedures by which the GAC and the Board will then "try in good faith and in a timely efficient manner to find a mutually acceptable solution." This process must take into account the fact that the GAC meets face-to-face only three times a year and should consider establishing other mechanisms by which the Board and the GAC can satisfy the Bylaw provisions relating to GAC advice.

## **ATRT2 Recommendation 6.5**

The Board should propose and vote on appropriate bylaw changes to formally implement the documented process for Board-GAC bylaws consultation as developed by the Board-GAC Recommendation Implementation ("BGRI") working group as soon as practicable (see ATRT1 Recommendation 11).

2. Notwithstanding the aforementioned positive sign of the Board's commitment with the ICANN community, the ALAC is concerned that the proposed Bylaws changes regarding consideration of GAC advice by the Board may pose a threat to equal footing between the different groups that conform the ICANN community and derive in an unbalanced weight to the GAC's advice compared to that of the other ACs or the policies proposed by each of the SOs.
3. Moreover, the ALAC observes a trend in the Internet Governance ecosystem that tends to push towards giving increased power to governments. This would not only go against the multi-stakeholder model but wouldn't comply with what the NTIA has stated as principles for the transition of the stewardship of the IANA functions. The proposed Bylaws changes regarding consideration of GAC advice would add to this trend that we consider undesirable.
4. Considering that the BGRI has already designed a "Process for consultations between the ICANN Board of Directors ("Board") and the Governmental Advisory Committee ("GAC"), including those required pursuant to Article XI, Section 2.1.j, of the ICANN Bylaws" and said process establishes a transparent, efficient and expedite method to either clarify the GAC advice to the Board; oblige the Board to provide reasonable detail on why it would take action not consistent with GAC advice; reverse the intended Board action or take mitigating action, the ALAC calls the Board to reconsider the proposed bylaws changes regarding consideration of GAC advice and continue to foster equal footing among all participants of the ICANN community.

5. The ALAC supports an improved role for all Advisory committees. In support of this principle, if the Board is to implement this Bylaw change, the ALAC advises the Board to fully implement recommendation 9.1 of ATRT2 in the same round of Bylaw changes. It reads:

**ATR2 Recommendation 9.1**

ICANN Bylaws Article XI should be amended to include the following language to mandate Board Response to Advisory Committee Formal Advice:

The ICANN Board will respond in a timely manner to formal advice from all Advisory Committees, explaining what action it took and the rationale for doing so.

This would preserve the delicate balance of advice coming from the ALAC, SSAC and RSSAC alongside the GAC. The ALAC is confident that the Board will continue to implement the recommendations of the ATRT1 and ATRT2 in a way that safeguards the principles of the multi-stakeholder model, more specifically those that help bring balance among participants.