

Dear all,

We have received the official translations of the motion of no confidence into Spanish and Portuguese.

They have already been sent to the LACRALO list and will be published in the wiki page. We have also received from the ICANN Legal Department the input on this issue. The answer is the following:

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*"We have discussed your questions internally, and we consider that LACRALO leadership has to decide on a course of action. As regards LACRALO's rules, we have found provisions related to regular motions only. We have found no provisions related to special motions, and there are no general rules within ICANN that would apply to this situation. If the leaders determine that this falls within the category of regular motions, then LACRALO must follow the procedure established in its regulations. In general, the ICANN community is based on the accountable and responsive participation of the whole multistakeholder community, and encourages LACRALO members to meet in order to collectively address the issues raised in this motion."*

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We believe that no LACRALO Rule of Procedure (RoP) or Operating Principle supports this motion. However, we also believe that we must listen to your opinion.

Therefore, based on Article 11 of LACRALO RoPs, we propose the following resolution:

**"LACRALO lacks competence to rule on the motion of no confidence presented by Mr. Carlton Samuels because there are no rules regulating this situation, and so the motion cannot be handled."**

Also, in case you consider that LACRALO does have competence to rule on this motion and you reject the proposed resolution, we want to submit to a vote, in a subsidiary manner to the proposed resolution above, an amendment to the operative part of Mr. Samuels' motion. This amendment consists in adding the following phrase to the operative part of the motion of no confidence:

**"Resolved:**

**The General Assembly shall demonstrate its lack of confidence in LACRALO leadership and shall vote on this motion. This motion shall be considered approved by the vote of a two-thirds majority of the ALSes' representatives present and voting."**

The motion of no confidence submitted is known in legal doctrine as "destructive motion of no confidence". This variation seeks to remove the Prime Minister or the President from government without discussing how to replace him/her and fill the power vacuum. In a parliamentary system, a new President or Prime Minister would then have to be elected ([https://es.wikipedia.org/wiki/Moci%C3%B3n\\_de\\_censura](https://es.wikipedia.org/wiki/Moci%C3%B3n_de_censura)).

In institutions or governments where the motion of no confidence is regulated, there are specific requirements both for submission and approval.

We consider that the requirement of a two-thirds majority of the ALSes' representatives present and voting is supported on Rules 83 and 84 of the Rules of Procedure of the General Assembly of the United Nations (UNGA) ([http://www.un.org/es/ga/about/ropga/ropga\\_plenary.shtml](http://www.un.org/es/ga/about/ropga/ropga_plenary.shtml)).

These rules read:

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*Rule 83*

*[Rules 82, 83 and 85 reproducing textually the three paragraphs of Article 18 of the Charter]*

*Decisions of the General Assembly on **important questions** shall be made by a **two-thirds** majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 c of Article 86 of the Charter, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.*

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*Rule 84*

*[see introduction para. 10]*

*Decisions of the General Assembly on amendments to proposals relating to **important questions**, and on parts of such proposals put to the vote separately, shall be made by a **two-thirds majority** of the members present and voting.*

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Rule 18.5 of the RoP establishes that "Important Questions" shall mean "matters of substance" when referring to UNGA rules.

We understand that the removal of the regional leaders is an important question or matter of substance requiring a quorum greater than normally required. Also, it must be taken into account that the outcome of this case will set a precedent for similar situations in LACRALO. That is why we propose the aforementioned two-thirds majority requirement.

In view of the aforesaid, we propose the following voting calendar:

The proposed resolution and amendment will be published in the wiki page within 24 hours. After that, the discussion will be opened until 8 October 2015, 23:00.

## **FIRST**

The voting process regarding the proposed resolution will begin on 9 October 2015, 00:00. And it will close on 16 October 2015, 23:00.

The voting process shall be governed by rules 12, 19 and 20 of LACRALO's RoP.

Concerning the proposed resolution, the following question will be asked:

Do you believe that LACRALO is competent to vote a motion of no confidence?

1. Yes, the motion of no confidence must move forward.

2. No, the motion of no confidence must be ignored.

a.- **If the NO wins**, the proposed resolution shall be considered approved. As a consequence, the proposed amendment and Mr. Samuels' motion of no confidence must be ignored.

## **SECOND**

b. - **If the YES wins**, the proposed resolution shall be considered rejected. In this case, a voting period on the amendment will be opened. The voting process regarding the proposed amendment will begin on 19 October 2015, 00:00. And it will close on 26 October 2015, 23:00.

The voting process shall be governed by rules 12, 19 and 20 of LACRALO's RoP.

The question to be answered will be:

Do you agree with the following amendment to the operative part of Mr. Samuels' motion?

**"Resolved:**

**The General Assembly shall demonstrate its lack of confidence in LACRALO leadership and shall vote on this motion. This motion shall be considered approved by the vote of a two-thirds majority of the ALSes' representatives present and voting."**

1.- YES

2.- NO

c. - **If the YES wins**, the amendment shall be considered approved. In this case, a voting period on the amended motion of no confidence will be opened. In this case, there will be no need to rule on Mr. Samuels' motion.

The voting process on the amended motion of no confidence will begin on 30 October 2015, 00:00, and will finish on 6 November 2015, 23:00.

The voting process shall be governed by rules 12, 19 and 20 of LACRALO's RoP.

Do you agree to approve, by the vote of a two-thirds majority of the ALSes' representatives present and voting, the motion of no confidence in LACRALO leadership?

1.- YES

2.- NO

d.- **If the NO wins**, the amendment shall be considered rejected. In this case, a voting period on Mr. Samuels' motion of no confidence will be opened.

The voting process on Mr. Samuels' motion of no confidence will begin on 30 October 2015, 00:00, and will finish on 6 November 2015, 23:00.

The voting process shall be governed by rules 12, 19 and 20 of LACRALO's RoP.

Do you agree to approve the motion of no confidence in LACRALO leadership?

1.- YES

2.- NO