

CCWG ACCOUNTABILITY - STRESS TEST 18  
18 November 2015

Reference (before edits) : Denmark proposal

ICANN BYLAWS

Article XI Advisory Committees

[Section 1. GENERAL

The Board may create one or more Advisory Committees in addition to those set forth in this Article. [...] Advisory Committees shall have no legal authority to act for ICANN, but shall report their findings and recommendations to the Board.

**Where the ICANN Board is obliged to pay due deference to advice from Advisory Committees and where that advice, if not followed, requires finding mutually agreed solutions for implementation of that advice, the Advisory Committee will make every effort to ensure that the advice provided is clear and reflects the consensus view of the committee. In this context, each Advisory Committee has the right to determine its particular definition of consensus.” ]**

**[ For purposes of this section, GAC “consensus” does not include reaching a decision based on majority voting whereby disagreements with or objections by a minority of GAC representatives may be overridden. It is also understood that “consensus” does not necessarily mean “unanimity” or a broad measure of agreement that would allow a GAC member or a very small minority of GAC members to block the determination of consensus.]**

**OR**

**[For purposes of this section, GAC “consensus” is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection.]**

**OR**

**[For purposes of this section, GAC “consensus” would match the concept of consensus as currently practiced by the United Nations.]**

Section 2, Item 1, relating only to the GAC

j. The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the ICANN Board determines to take an action that is not consistent with the Governmental Advisory Committee advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice. [DENMARK : **GAC advice approved by a GAC consensus may only be rejected by a vote of at least two-thirds (2/3) of the Board, after which the GAC** and the ICANN Board will then **try**, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.]

**Commentaire [w1]:** Paul R : I could, therefore live with Julia and Finn's footnote, but only if it were clearly understood that the footnote defines the outer bounds of the limitation on the GAC's ability to force the Board to consider its advice – agreed by Jorge

**Commentaire [w2]:** Both alternate proposals introduced by Steve dB

**Commentaire [w3]:** Instead of « seek » as suggested by Paul R.

**[Brett Schaeffer :** Any GAC advice approved by a GAC consensus, defined as the absence of any formal objection, may only be rejected by a vote of more than two-thirds (2/3) of the Board. Any GAC advice approved by a GAC consensus with objection(s) may be rejected by a majority vote of the Board. In both instances, the Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.”]

**Commentaire [w4]:** Alternate proposal.