

How to resolve the pending issues?

Three categories of input:

- ★ Issues for discussion
- ★ “uncontested” comments
- ★ Questions from our group

Issues for discussion

Q1/Additional Q#13: “in the root zone”

Follow up clarification requested by lawyers :

- Do we need to define “root zone” ?

Q29/Additional Q#22: “Removing NomCom Board members”

Lawyers have clarified the question :

29a : Lawyers recommend to confirm that NomCom Board member removal is beyond the scope of the “GAC carve-out” (since removal of a single director does not constitute a challenge to the Board’s implementation of GAC consensus advice)

29b : Lawyers recommend that all Decisional Participants in the EC participate in any EC decision to remove a NomCom-nominated director. (without reference to excluding Decisional Participants who do not hold the right to appoint voting delegates to the NomCom)

Q7: Interim Board consultation process

Follow up clarification requested by legal team.

Lawyers recommend that Interim Board consultation with SO/AC leaders and/or Community Forum would follow the same procedures as a rejection action.

Relevant report section :

the Interim Board will consult with the community through the SO and AC leaderships before making major decisions. Where relevant, the Interim Board will also consult through the ICANN Community Forum

AddQ#7: EC Chairs Council

During drafting, the concept of the EC Chairs Council was introduced. This construct was needed to allow the Bylaws to be clearly drafted.

Section 6.3 of draft bylaws

[...] All communications and notices provided under these Bylaws by a Decisional Participant shall be provided by the Decisional Participant's representative on the EC Chairs Council, who shall act solely as directed by the Decisional Participant in accordance with processes developed by such Decisional Participant in accordance with Section 6.1(g) of these Bylaws. [...]

Lawyers shall ensure:

- ★ That the role of the EC Chairs Council remain as ministerial as possible

AddQ#14: Mission 1.1(d)

1.1(d) is apparently the section that got added in order to deal with the CCWG worry that the various agreements already in place might not be in conformance with the clarified Mission.

- Is it ok to have the references to external agreements in the Mission?
- some of the documents to which it refers aren't finished or else aren't yet written.
- The section seems quite a lot broader than the CCWG proposal Annex 5 (at line 48) contemplated in its instructions. I am particularly worried that the strategic plan and operating plan are both explicitly included here.

Lawyers shall ensure:

- ★ That section 1.1(d) be reviewed to align strictly with the CCWG Recommendations (Annex 5 at line 48)
- ★ To provide clear recommendations if any extra inclusion was necessary for unforeseen legal reasons

Q33/AddQ#5: “Mediation and Community IRP”

Questions from redrafted lawyers Q.

Escalation to lead to Mediation automatically?

Lawyers shall ensure:

★ ...

★ ...

Questions from our group

Additional Q #12: Mission & Regulation

Malcolm had identified a discrepancy between the report and the bylaws. Lawyers have been asked to review a middle ground proposal by Becky.

Conclusion from Apr 11 meeting :

- BBurr has suggested alternate options to lawyers for consideration.

Additional Q #16: Global Internet Community

Term should be defined, but how?

Jordan Carter suggestion :

the "global Internet community that chooses to participate in ICANN structures or provides input through ICANN public participation mechanisms" or similar.

Andrew Sullivan detailed analysis and proposals could be forwarded to lawyers as a starting point.