

**ICANN Transcription
Standing Committee on Improvements Implementation Subteam A
Friday 19 February 2016 at 1700 UTC**

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The audio is also available at:

<http://audio.icann.org/gnso/gnso-sci-19feb16-en.mp3>

Attendees:

Angie Graves – BC – Primary
Sara Bockey – RrSG - Primary
Lawrence Olawale-Roberts – BC – Alternate
Wolf-Ulrich Knoben – ISPCP - Primary

Apologies:

Rudi Vansnick – NPOC - Primary

ICANN Staff:

Julie Hedlund
Mary Wong
Michelle DeSmyter

Michelle DeSmyter: Good morning, good afternoon and good evening. Welcome to the SCI Sub Team A call on the 19th of February at 1700 UTC. On the call today we do have Sara Bockey, Lawrence Olawale-Roberts, Angie Graves, Wolf-Ulrich Knoben. We have apologies from Rudi Vansnick. And from ICANN staff we have Mary Wong, Julie Hedlund and myself, Michelle DeSmyter. I'd like to remind you all please state your name before speaking for transcription purposes. Thank you and over to you.

Julie Hedlund: So, Angie or Wolf-Ulrich, this is Julie Hedlund. Would one of you like to take the lead on walking through the agenda?

Wolf-Ulrich Knoben: Angie, if you don't mind I could try. Okay?

Angie Graves: Yeah, okay.

Wolf-Ulrich Knoben: No objection. Thank you. Thank you. So Wolf-Ulrich speaking. Thanks very much. And I do hope that we can walk through the agenda items we have relatively quickly and with your help, Julie. And that is for what I just would like to ask you where are we standing? What is the status and which items are open? Julie please.

Julie Hedlund: Thank you, Wolf-Ulrich. This is Julie Hedlund. So I've placed the notes from the last call on the 12th of February into the Adobe Connect room. And let me just run through them. The first item that was discussed was the question of whether every motion must be seconded. And if this should be expressly stated in the Operating Procedures.

The action that was taken was it was agreed that every motion should be seconded and that it should be clear that there should be a clear provision the motion be discussed prior to being seconded but there cannot be a vote until there's a second. And staff amended steps four and five of the proposed language accordingly. And the - and also revised the flow chart.

And just to show that, if you'd like, let me show the flow chart, if you don't mind, for one minute. Let me pull that up. And it's coming up just converting. Just so that - just to remind everybody of what we agreed on and it's being slow, I apologize. Sorry for the delay here. Still converting. All right, it's coming up, okay. So I'll make this a little bit larger for everybody.

So on Item 4, the current steps, we indicate that the motion can be discussed up to the Council meeting but discussion and voting on the motion at the Council meeting cannot proceed without a second.

Wolf-Ulrich Knoben: Okay.

Julie Hedlund: And then in the flow chart we note if the motion is seconded “yes” we can continue on; if the motion is not seconded then the motion is not considered. Any questions about what was decided there?

Wolf-Ulrich Knoben: No, thank you. No from my side. Wolf-Ulrich speaking. Well...

((Crosstalk))

Wolf-Ulrich Knoben: Okay I think covered all.

Julie Hedlund: Thank you, this is Julie again. I’ll go just to the next item then that was discussed and agreed. It was must the seconder be not just a different councilor but also a councilor from a different stakeholder group or constituency. Okay, after some discussion the various points were raised whether it was not clear that the requirement was necessary. There was a point raised that setting - while this might strengthen the motion to have a seconder from a different stakeholder group or constituency, this requirement could make it more difficult for a motion to go forward.

And also noted that the current system seems to be working well so it’s not clear what problem is being addressed. The action that was agreed last week was not to include a requirement that the seconder should be from a different stakeholder group or constituency and that there would not be a change to the current process.

Wolf-Ulrich Knoben: Fine from my side, yeah.

Julie Hedlund: Anybody have any questions? Then this is Julie again. The next item that was discussed was should there be a deadline for motions to be seconded? The suggestion was that there must be a seconder by the point in time during the Council meeting at which the motion is discussed before being voted on.

And it was agreed that a motion should be seconded prior to discussion and that the process and flow chart should be updated accordingly.

Let me go ahead and show you what we staff did to reflect this in the process. And I'll pull that up now and hopefully that will not take as long as it did before. There we are. So first of all, to look at the process it says - so the four - okay I think - wait a minute. I am - I just pulled up the wrong one. Pardon me. Pardon me. There.

Okay to go back. It says, in Number 4, "The motion can be discussed up to the Council meeting. The discussion and voting on the motion at the Council meeting cannot proceed without a second." And it - we didn't alter the flow chart and that the flow chart still makes it clear, however, that if the motion isn't seconded the motion is not considered. I don't know if there needs to be further clarification there.

Wolf-Ulrich Knoben: No, thank you from my side, okay.

Julie Hedlund: Anybody have any question? Then back to the notes, and going down then to the final item for discussion. And that is should there be a time limit/deadline for submitting amendments to allow each SG - stakeholder group and constituency - adequate time to discuss them rather than have the Council deal with what could potentially be substantively new subject matter on the fly during a Council meeting. When should a motion be deferred in circumstances, e.g. competing amendments.

Several points were discussed last week. One question was if the amendment is unfriendly or friendly must it be made prior to the Council meeting and if so how long before would it - would the 10-day deadline apply. If the amendment was not placed in time, could the motion then be deferred. Another point was how would a requirement for amendments be submitted prior to the Council meeting affect discussion during the meeting, i.e. by restricting the option to amend a motion during the meeting.

And then we noted that an unfriendly amendment could come back as a resubmitted motion if the first motion failed. And the action from last week was to continue discussion on these points. Over to you, Wolf-Ulrich.

Wolf-Ulrich Knoben: Thanks very much, Julie, for that clarification. And I think the very last one seems to be the more complicated one. If, I would say, if we mix up questions like deferral of motions and submitting amendments, if you mix it up then it might be very complicated because I - I think we had this discussion about deferral of motions for long lasting period always and then there is a process for deferral of motions already and it should not - if possible we should not touch on this process.

That is the first statement from my side. But if that might be necessary well we should discuss that. But otherwise (unintelligible) it could be (unintelligible). Nonetheless, to bring up all the questions related to that what is going to happen and how they solve those questions (unintelligible) about and I think it would help us, well, to differentiate between the different steps as well.

So I could see you discussed already the question then where there might be a distinction between the question in case an amendment is unfriendly or friendly. So there must be - it could also touch on the process and then in both cases should be looked on so what is going to happen there.

So I would say - I would like to ask, well, also into our small round here, does any of you have any experience with those kind of procedures, amendment. So in other circumstances than the Council here - the GNSO Council - related meetings so where we could learn from how they are dealing with that or is that the only one as to my experience as well the Council is the only institution I have experience from how we are dealing with that. Is there any other experience available which could be talked about?

Now I see nobody raising hand so may be the only one here. So we should think about that. The first question is for me really do we have also - and I'm looking from Mary any direction, Mary, as well, do we have from earlier times do we have big problems - did we have big problems with the question of the time deadline for an amendment bringing in or is it a more philosophical question here. Mary, do you have any thoughts about that? Mary, please.

Mary Wong: Hello, Wolf-Ulrich. And everyone. This is Mary. I don't recall that we had, you know, one particular problem. What I do recall is that the Council seems to make good use of the ability to offer amendments so but there was a point raised in - during actually yesterday's meeting, if you recall you were on the meeting yesterday that there was discussion of amending a motion during the meeting. And at least one Council expressed the hope that people would offer amendments at least in terms of language to the motion before the meeting starts.

So my recollection is that there's been a few minor concerns and issues, nothing that was particularly of the same type, that was very major. But most recently yesterday there was some dissatisfaction over having to amend a motion on the fly during the meeting. I don't know if this helps.

Wolf-Ulrich Knobon: Yes, thank you very much. Wolf-Ulrich speaking. Thank you, Mary. This helps a lot. I think we should also express that, first, you know, from our group - that's my opinion on that. If you put that to the notes and to our report to the SCI the experience is not in that way that we have experience of bigger problems or bigger issues with the question of timing of the amendments. But that - the issue may be or may come up if an amendment is put on the fly here.

So the question is then about what shall we do with that. I would say from my experience I would also welcome, if I have at the table all the amendments reached before we are going to at least before we are going to vote on that. But even if we are going to discuss that at the Council meeting it would be

helpful to have an amendment on the table before that. But I could also imagine that it happens during the discussion that somebody is - that it comes out, you know, that such the experience, you know, you try to understand the motion in advance before you go to the meeting, you have your own opinion on that.

When it comes to the discussion then it may raise some thoughts - there is a point in the motion especially if a motion is very extensively a big one, a larger motion, then there might be an opinion, okay, this or that is not in - are not in line, this is all of that. And there may be helpful to amend it. In most cases I would say that would be friendly amendments rather than unfriendly because the unfriendly are more obvious before they - before the meeting.

So having that - this I would appreciate to have that before but to be flexible as well to provide time during a meeting as well where the motion is discussed but amendments could be brought in. Maybe we should discuss whether it should just be only friendly amendments, well, friendly amendment is one where the other - the other party is going to affirm that amendment. So that's my opinion. And I would be happy to hear from the others.

So I saw Julie as well and you have put the deferral of motions on to the screen. Julie, please.

Julie Hedlund: Hi, Wolf-Ulrich. This is Julie Hedlund. I just wanted to - you had mentioned earlier asking about deferral of motions and Mary and I did look back in the SCI's actions on this. It was actually in 2012 where the Council had asked the SCI to look into deferral of motions. The SCI discussed the practice and whether there was a need to create a procedure to formalize what was at the time an informal practice whereby a party can request deferral of a motion to a later date.

After much debate the SCI concluded that the current practice of allowing for the deferral of motions was done as a matter of courtesy at the discretion of

the chair. And that there was no need to create a formal procedure at this time. But the SCI felt it was necessary to explicitly state that there is no rule that the chair must always exercise his or her discretion in the affirmative or the negative.

And given that the current informal practice is at the discretion of the chair, the chair can exercise the same discretion in considering whether to grant or deny the request and how to handle a specific situation that may occur. So I just put that up there if that would help inform this discussion.

Wolf-Ulrich Knoben: Yes, thank you Julie. That would be helpful. And I think we can come back to that when it comes to the question a - whether during the discussion of a motion and a discussion of amendment of a motion when it could come up or may come up, the question for deferral of motion, whether that is interference, which could be accepted or not.

So coming back to what I have said before, so a question I've said is should we go for that and say okay, an amendment of the motions could be - could be accepted until the motion is - before the motion is going to be voted that would mean also during the discussion where the motion is discussed. And should we go for that way and say but that should only apply to friendly amendments.

Does it make sense, well, to ask that question in that way? I'm just asking. So what would be the consequence of that? Mary please.

Mary Wong: Thanks, Wolf-Ulrich. I'm just trying to think this through so maybe I got it wrong and this is not relevant. But one issue that's more general than this is that when an amendment is offered, you know, we won't know whether it's friendly or unfriendly until after it's offered.

So and then when it is offered and it's considered unfriendly its first voted on before the main motion. I know that you and the others all know this but I'm

trying to figure out chronologically how this would work by specifying, for example, it only apply to friendly amendments are we then, you know, recommending a different course for an unfriendly amendment, or would that get confusing for instance? So just curious about that.

Angie Graves: Hi, Mary. Hi, everyone. This is Angie Graves. I'm about to post - I've been reading Roberts Rules of Order. And just have a URL to offer that - regarding friendly amendments that I think might be useful. I've heard the word "friendly" - and this is just an observation, I'm not maybe helping too much. But when we're drawing a distinction of a friendly amendment versus non-friendly amendment, there is a lot of precedent with respect to that.

And my understanding is that there are actually - I don't know the word "unfriendly amendment" I know the word "hostile amendment" which is designed to defeat the original motion. But the friendly is intended to improve on the original motion. So I am taking some guidance, this link that I just sent, with respect to the ordering of procedure with respect to friendly amendments. Thank you.

Wolf-Ulrich Knoen: Thank you, Angie. I think that is - that's helpful. And I was also wondering I think so I was a little bit confused I think because of the question we have set in the notes from last time that we came up with the notion of unfriendly amendments. I think - so to my understanding there is no unfriendly amendment. All amendments, which are requested for have the target to be friendly and to be accepted.

So however, I understand if they are not accepted then they are deemed to be unfriendly. So that's how I understand that. And then this case we have some rules at the - for the Council discussion how to deal with that so we are dealing in the order at first with the amendment which were both put on the table to vote on that. And depending on the outcome of that we are going to continue with the motion itself.

So I - having said that I would say it's - may not help us to talk about friendly or unfriendly amendments rather than to talk about amendments and the question we are talking about the timing where - when to put it to the table to ask questions should we admit to amendments during the discussion or should we say should we see that as a preference to have a motion or an amendment before the motion is going to be passed at the table. So we can talk about all these ways.

In the chat, well, just to (unintelligible) for Mary before (unintelligible) process that provides clarity so inclusion in the Operating Procedures but that allow the Council the time for discussion (unintelligible) if it needs without bogging down the Council into last minute adopting due to late suggestions. Yeah. Yes, that's correct.

So any other suggestions, well, to do so? So I only see at the time being the question should we admit amendments during discussion at the Council? Or should we - and if that happens what should be done that? Should we follow then - if that is the case at the meeting should we follow the process we have at the time being just going that way, well, to discuss the amendment? And then in case comes up for several other problems how shall we deal with that?

So I do not have a last opinion on that, I just put some ideas to the table and would like - would be happy, well, to hear something. I think it's up to us, well, to come up with any suggestion, and as Mary says, it should then be put - or we should put to the table as a suggestion also, how to include it in our process, our Operating Procedures. Any idea? Mary, please.

Mary Wong: Hello again. It's Mary from staff. So following on from that, Wolf-Ulrich, I suppose one question that could apply to any of these issues that we're talking about is is there a problem with the current process that needs fixing? And if so, you know, what is that problem? And in this particular sub topic one potential problem, and something that I think you and I both noted, and I think

that everyone has touched on in various discussions the question of, you know, last minute amendments drafting on the fly and so forth.

So I wonder if it would be helpful to maybe see if that or anything else is a problem that this sub team believes should be addressed. And if not then I suppose we could just stay with the current process.

Wolf-Ulrich Knoben: Thanks, Mary. From my perspective, well, this is the issue. So that's the only one. So if it occurs during a running meeting that somebody comes up with an amendment and the process is going to be, well, yeah, to be stopped or interfered with that heavily so then that is the issue. So I understand you say if that is the issue so then the current procedures may apply sufficiently. Is that what I understood from you?

Mary Wong: Hi, Wolf-Ulrich and everyone, it's Mary again. Basically yes. If the current procedures are overall satisfactory then we probably don't need to recommend any changes. So the real question is are they satisfactory or perhaps are they satisfactory enough because no procedure is perfect. But what are the problems that have occurred, if any? And are these sufficiently major that we believe we want to recommend a change.

Wolf-Ulrich Knoben: Okay, thank you, Mary. So and well there is also no, I think no problems when we are discussing the motion, well, to also not defer that but, you know, it's in the chair's hand, you know, to guide the discussion. And as you have seen the very last Council meetings as well we discussed the question of the - of the RPM charter and the working group. And there was during I think two or three meeting we discussed that. And the motion was already on the table.

So and we did not have the problem with the chair well to say, okay, not at this stage so we have some open items, well, to do though until the next time and it was done in between on the list. So it may - so I don't think there is a problem then with the existing process, well, to deal with this.

It may only in very few cases, if we have to vote on a - on a motion at this meeting because of external circumstances, well, maybe board deadlines or whatever, but this is - this is - can't be - we cannot do it in other way since it may be then external pressure on us, well, to do so. And we have to vote anyway otherwise or we go back to the board or to whomever, you know, who put the pressure on us in this case. That is the only thing where I think where we may have a situation. But then we have to find a solution at this time.

So is there are any other opinion to that? So well, Mary, please.

Mary Wong: Thank you, Wolf-Ulrich. And I almost hesitated to put my hand up because this might introduce more complexity. But what you were saying led me to think about different types of scenarios where an amendment is offered. One is when it is offered say just before a meeting or during a meeting, without any discussion and when perhaps some might feel that it could have been offered prior to that point.

And as you know, one of the problems that something like this creates is that some councilors would feel that they therefore don't have time now to go back and get instructions from their constituencies or stakeholder groups. Whereas if the proposed amendment had been offered even the day before there would have been some possibility. So that's one possible situation that I think some councilors have raised before.

The other situation, which I think is somewhat different, is when during the discussion at the meeting so separate from say an email discussion that may have been raging on for weeks, but when the Council comes to this agenda item in the meeting it talks about it and something is uncovered because someone makes a point and everybody goes oh, yeah, we didn't think about that, for example.

And the Council or several councilors then say, well, in that case we need to amend the motion because it doesn't say what we think it should say. That creates a different problem if you see what I mean. And I don't know that either situation or both situations need us to address any changes but I thought I would raise them especially given that we have some new members on this sub team, to see if that's something that is worth discussing or not. Thanks.

Wolf-Ulrich Knoben: Thank you very much, Mary. It's very clear what you say. And I think well so this is just from the experience here which you and I have from the Council meetings so that in this case and just come back to the example I've talked about before, over the last three meetings that is - there was not a formal amendment to that but it was the feeling was that, well, that we have to look at the - and some councilors were not satisfied with how the motion looked like.

So it was then amended in between or it was then updated or what else and it was done over three or four meetings. And that's the way how we are doing that. So and that - and then it was voted about. So I think from that point of view I would say in this case there is no need to modify the procedures in that case.

The other case could you - well which was the other case please? Could you just comment again with that please, Mary?

Mary Wong: The second case that I talked about you mean?

Wolf-Ulrich Knoben: Yes please.

Mary Wong: That would be when the Council is having its discussion and in the course of that discussion something is raised or, you know, the Council - or parts of the Council realizes that maybe they didn't think about this as a possible

consequence. In other words, something comes up that causes the Council to think maybe the motion should be broader or it should be more specific.

And so it's not a question of someone had the time to suggest an amendment and didn't do it, it's simply something that in the course of discussions and those discussions happened to be during the meeting, that it came up and enough councilors feel that the motion should be amended. So on this particular second situation it seems that this is where the argument for flexibility would be the strongest. But beyond that I'm not sure that it warrants any change anyway. So it may end up that for both situations this team doesn't recommend a change but I just thought I'd raise it for consideration.

Wolf-Ulrich Knochen: Yes, thank you, Mary. If I got that right, I was thinking about whether it is - it might be, you know, the same case as I was talking about, you know, if you compare, you know, the discussion we have had about the RPM Working Group so it was clear there was a motion at the table, a draft motion at the table. But it was clear that some people were not satisfied with that. So and then it was discussed and it was amended, you may call it that way or it was updated according to the discussion we had.

And there was no requirement for any process alteration or what else so it was clear okay then let's - if you can't come to the end of the discussion at this meeting so we should postpone it and continue the next one. In - I don't see a very big difference in that.

And from that perspective my personal view would be I wouldn't - I would also leave that as flexible as possible and not to - and coming back to the question so of timing of the amendments, then not to just bear people well from the beginning of the meeting, well, to come up with amendments and tell them, okay, you know, during that meeting when we are discussing the motion amendments are not welcome. That would be a very hard cut to do so.

I would leave that open. And it's, well, it is in the hand of the chair more or less if - to find a way how to deal with that. So that is my opinion on that, the first. So if there are other opinions please raise your hand and we could discuss that. And then we should think about, well, how to put that together. Julie, I see your hand.

Julie Hedlund: Hi, Wolf-Ulrich. This is Julie Hedlund. So Mary and I were just chatting. And I think the point that you have just made is an important one that it may not be necessary to change the process that really it's more at the discretion of the chair to steer the - steer the process forward by allowing, you know, encouraging discussion on amendments that, you know, looks like there's consensus that they're, you know, improving the motion, steering the discussion away from perhaps possible delays.

It's more of a nuance I would say, than, you know, that rests with the chair as opposed to instituting a hard process requirement around an amendment. So it's not clear to us that there's a need to - that there's, you know, strong need to change the process. Just wanted to raise that point and concur with the point that you just made.

Wolf-Ulrich Knobon: Thanks, Julie. Any other opinion? No, then I would say in our report to the SCI we put that into the report. Just as we see it, and would suggest, well, not to modify the procedures in this regard. So it could be, well, anyway it will be discussed at the SCI and then we will see. So we should really then make a point here.

If there - oh yeah, Julie please.

Julie Hedlund: So Wolf-Ulrich, I did capture that action and I'll - staff will go ahead and send around the notes. As near as we can tell just to look back at the notes from the last call, this team - sub team has addressed all of the open issues and has come to agreement on how they should be addressed with today's discussion. So my suggestion perhaps since we do not have everybody in

this sub team on this call, Rudi was unable to join, perhaps I should - you know, send the determinations on each of these and just, you know, ensure that Rudi agrees also and if so we could go ahead and prepare the report to the full SCI.

Wolf-Ulrich Knoben: Thanks, Julie. Well that's a concrete way, well, to do that. And I agree fully. And that will mean that this team has then done its work and it's - it would, you know, it would stay - it would stay still as a team but then could be released after that is accepted and by the SCI as well. Is that way how we're dealing with that, Julie?

Julie Hedlund: This is Julie Hedlund. Yes, and I'll note that - and perhaps this is also a good way forward and Mary has noted this as well, the SCI is meeting in Marrakesh on Saturday morning from 8:00 to 9:00. We'll send a notice around to the full SCI. But that will be an opportunity for the sub teams, A and B, to report to the full SCI. So, you know, we obviously can send the report ahead of time, that will be very helpful for the discussion but that, you know, would give an opportunity for the sub team to provide any further context with respect to the recommendations it's making.

Wolf-Ulrich Knoben: Okay great. That sounds great. So you do as you described, well, and please and send it around and to Rudi. And we ask for confirmation from all. And then we do that and prepare the report, that would be great, yeah? And you are going to draft a report then afterwards and send it around and we can do the work on the list. And if we like to have an additional meeting well to coordinate for that it - we could also do that.

Julie Hedlund: Yeah, thanks, Wolf-Ulrich. Definitely staff will prepare the report. We're not anticipating that there would need to be a separate meeting but of course if the sub team wishes to have one we can have one, although I think, you know, the substance will be the same as what we've been reporting in the notes. Thank you.

Wolf-Ulrich Knoblen: Okay thank you. I do hope - thank you and thank you to the others as well, participants. I do hope and I can see so that we have also available the report for the B team as well. So I would encourage other and try well also to myself, well, to come up with some comments on the present status of that and the open questions we have so that we can really maybe we can come to a result by next time as well to have time also to prepare for the report.

So thank you very much. And with regard to that so we leave it open. We do not have another meeting in our team. I see we have made very good progress here. And I thank everybody very much and see you later. Thank you.

Julie Hedlund: Thank you, everyone. Have a wonderful weekend. And we'll look forward to seeing those of you who will be in Marrakesh.

Wolf-Ulrich Knoblen: Thanks. Bye-bye.

Julie Hedlund: Thanks, bye-bye.

((Crosstalk))

Lawrence Olawale-Roberts: Thank you all, until the next meeting then.

Michelle DeSmyter: Thank you. The meeting has been adjourned. Operator, please stop the recordings and remember to disconnect all the remaining lines. Thank you.

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