

**ICANN
Transcription
Standing Committee on Improvements Implementation meeting
Tuesday 03 December 2013 at 20:00 UTC**

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<http://audio.icann.org/gnso/gnso-sci-20131203-en.mp3>

On page: <http://gnso.icann.org/en/calendar/#dec>

Attendees:

Ray Fassett- RySG - Primary
Ronald Andruff – Commercial and Business Users Constituency – Primary – Chair
Angie Graves - Commercial and Business Users Constituency – Alternate
Wolf-Ulrich Knohen – ISPCP – Primary
Mikey O'Connor – ISPCP – Alternate
Avri Doria – Non Commercial SG – Primary – Vice-Chair
Amr Elsadr – NCUC - Alternate
Jennifer Wolfe – NCA - primary
Greg Shatan – IPC – Alternate
Marie Laure Lemineur – NPOC - Primary

Apologies:

Thomas Rickert - NCA

ICANN Staff:

Julie Hedlund
Mary Wong
Julia Charvolen

Coordinator: ...remind all participants this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Julia Charvolen: Thank you, (Kelly). Good morning, good afternoon, good evening everyone and welcome to the SCI meeting on Tuesday, 3 December, 2013. On the call today we have Ray Fassett, Ron Andruff, Angie Graves, Wolf-Ulrich Knohen,

Mikey O'Connor, Avri Doria, Amr Elsadr, Jennifer Wolfe and Marie-Laure Lemineur.

We don't have any apologies so far. And from staff we have Julie Hedlund, Mary Wong and myself, Julia Charvolen.

May I please remind all participants to please state your names before speaking for transcript purposes? Thank you and over to you, Ron.

Ron Andruff: Thank you very much. This is Ron Andruff for the record. And greetings to everyone. I would like to start by saying how pleasant it was to see many of you whom I'd not met before in Buenos Aires. And really appreciate the fact that everyone who could made the effort to get up at the crack of dawn and be brushing our teeth at 6:30 for a 7:00 meeting.

And I think the meeting itself went very well. I think we accomplished a tremendous amount just by virtue of having us all around one table. So I want to just express my gratitude to everyone for having made that effort. And I think we're off to a good start now. I think that sort of reintegrated many of us to sort of pick up the ball and pick up the pace a little bit. So hopefully that's what we're going to start to do now and we'll get into that as we go through the agenda.

So I would start - we've had the roll call. We'll start with the statements of interest and ask if anyone's had any change of their SOI since we've last met? Hearing none we'd move on then to Agenda Item Number 3 and that's the approval of the agenda. You see it below in the four points with any other business at the end. Is there anything that anyone would like to add to the agenda today?

Again, hearing none we'll move along to Item Number 4 and that's a working group self-assessment. I don't see Ken Bour on the call but Ken has been - from staff - doing an extraordinary job - extraordinary work for us as a

committee behind the scenes. And he's shown something to Mikey and I recently in terms of the work and it's a 46-page summary of some of the surveys that he had developed and has been implemented through Mikey's working group.

So I wonder if I might just toss the ball to you, Mikey, to talk a little bit about the self-assessment itself, your experience with the working group and any other thoughts you might add. Please.

Mikey O'Connor: Thanks, Ron. It's Mikey. The - we should probably circulate that report to the list. It's going to be hard to summarize especially this fast. I think the question that's on my mind is at one point we thought to redo that test with the working group now that the working group is done.

One of the things that was bothering Ken was that while we all filled out the - well at least a lot of us filled out the questionnaire only one actually went over and evaluated the questionnaire. That was Tim Ruiz.

And so, you know, Marie-Laure, you and Avri and some of the others, what do you think? Should we re-administer it to the Thick Whois gang and push a little harder for some feedback on the questionnaire itself? Were the two of you - I was pretty comfortable with the questionnaire. That's part of the reason I didn't do anything; I kind of overlooked it too.

So I think - oh and Amr, is there too. Sorry, Amr. So are you agreeing we should redo it or just that it's okay, Amr? Just a...

Amr Elsadr: Yeah, hi Mikey. This is Amr. Yeah, I think it would be a good idea to redo it for the purposes of what we're trying to discover here. I think - well I'm assuming that a lot of folks from the working group have moved on to other working groups or other things.

But we're definitely in a better position now to redo that and hopefully do it with access to the questionnaire will answering the feedback on the questionnaire this time and maybe making that a little clearer than we did last time around. And hopefully we can answer some of the questions that we're trying to get answers to now. Thanks.

Mikey O'Connor: Yeah. Yeah, I think that's right. And I would be keen to do that. The other thing is that something came up during the chartering of the Metrics and Reporting - this is very inside baseball because this is just me and Berry basically coming across this.

One of the things that came out of that chartering process was some metrics on the working group process itself, things like length of time, etcetera, etcetera. And at least tentatively we are going to punt that one over to this group. And it might not be a bad idea to punt that sort of thing into sort of this questionnaire. Not that you've give people those questions but that the sort of summary statistics for the working group could be incorporated into the results of the questionnaire.

So there's sort of a little bit of a fork in the road here. And with Amr's thoughts and any others who want to chime in, Marie-Laure is agreeing with Amr. So I think that's the - you know, I'm conscious of five minutes so I think I'll wrap this up and just say why don't we ping Ken. Maybe, Ron, you and I can ping Ken, have Ken prepare one more email.

We'll send it to the Thick Whois Working Group and ask people to take it over and we'll get the connection between the questionnaire and the feedback on the questionnaire a little bit tighter and see if we can tune up Ken's report a little bit. That's it for me.

Ron Andruff: Thanks, Mikey. Thank you very much. And thanks for weighing in, Amr. I see that, as you said, Marie-Laure has agreed with Amr. And I see that Avri had stepped away. Oh, she's back. She's back. Avri, we've been talking about the

working group self-assessment and the idea of resubmitting it to the - to your working group with the specific request to actually give us feedback on the quality of the self-assessment survey itself. If you have some thoughts to add to that you'd be welcome.

Avri Doria: Yeah, I've been listening to the whole discussion and have nothing to add. Thanks.

Ron Andruff: Thank you very much. All right then that's what we'll do. Indeed I actually sent Ken an email today on that topic, Mikey, so I'm happy to just push him another note just to say let's re-administer this thing with the specific request to ask for comments on the quality of the survey, not just answering the questions.

And I think at the same time, if you don't disagree with me, Mikey, because this is kind of - we're (unintelligible) I would submit that we should send around the report that Ken did just to the SCI so they can see the work that's been done to date and the quantitative and qualitative analysis of that survey.

So let me know, Mikey, do you agree with that that we send that around or would you like to hold it until we do this again and get the final data? Your call.

Mikey O'Connor: Oh I think sending it around - this is Mikey - sending it around is fine. It's a good solid report it's just that I think we, the working group, might be able to give a little bit more feedback on it now. And Amr's point in the Chat is also, I think, germane and that is that the working group did a lot of work between the time we tested the survey and now.

And it may substantively change the results as well. So I don't think we want to publish this report far and wide just yet because I think it - some of the answers may move. But I think seeing it in the group is - in this group is fine.

Ron Andruff: Very good, so that's how we'll progress. We'll proceed forward in that manner and I'll ask Ken to - via Julie, working together to circulate that. I see Mary's put her hand up - Mary Wong, please, Mary.

Mary Wong: Hi, this is Mary Wong. Thanks, Ron. And if that's the approach that you guys want to follow it really I think will be interesting to see the results that come in.

I was just going to point out that given the upcoming holidays whether or not you folks want to set a date for which responses should be received and reviewed by this group because this has been on the agenda for a while and since this is a second round - second time this is going to the working group it might be good to get some sense of the scheduling.

Ron Andruff: Thanks, Mary. Mikey, your sense of that considering we're December 3 right now? Do you think we can get something turned around in two weeks?

Mikey O'Connor: This is Mikey. Yeah, I think so. It's a pretty easy survey to take; it doesn't take long. And, you know, I think people are digging out a little bit right now from returning from BA and also from the holidays but it does seem reasonable to put that kind of a deadline on it.

Ron Andruff: Perfect so that's what we'll do. Let's send that around. And I don't - you know, I think - let's not change any of the questions, let's just see if - or, you know, a material change in the responses; let's keep the questionnaire as it is and see how that goes.

So if I can look to you, Julie, to pick that up with Ken and Mikey directly so that it gets sent out within the next 24-48 hours and request that we get it back perhaps the Monday the 16th or something like that, Tuesday the 17th, that way if we got it it's done and then when we pick it up at the discussion in the New Year we can actually look at it quantitatively but perhaps Ken could have done some work over the holiday period.

Julie Hedlund: Right. This is Julie. The thing I would note though is that in the past Mikey had sent a note - the previous version was that Mikey sent the note, you know, with the survey link to, you know, to the working group list, you know, as opposed to Ken doing it.

I can ask - I can just join on to the message that you and Mikey had, you know, with Ken and just suggest perhaps that Ken could draft a little message with the appropriate links for Mikey to send. Would that be...

((Crosstalk))

Ron Andruff: Sounds perfect, perfect, perfect, idea.

Julie Hedlund: All right thanks, then I'll do that.

Ron Andruff: Thank you very much. All right so we're going to move on then to Agenda Item Number 5, resubmitting of a motion. And I'm glad to see Greg has joined the call. Greg, you've been under the fire a little bit and you turned out a document today that I hope many of the members had a chance to review.

Perhaps Julie can bring it up now. And maybe I can turn to you, Greg, and just talk to the resubmission of a motion and how you came to this document. Please, Greg.

Greg Shatan: Ron, thank you. It's Greg Shatan for the record. On our call on October we had I think a good discussion, although we didn't have a large number of people on the call, I think we had a very fruitful discussion of the issue of how to deal with the resubmission of a motion. There were a number of enhancements and kind of clarifications of the previous language that had - that were discussed.

And I attempted here to codify those changes and to also put the language in, you know, somewhat more of a rulemaking type of form. So the first section is

the rule and the first three points are variations of the previous three proposed criteria for resubmission of a motion.

And, again, the beginning of the rule clarifies that what we're talking about is a motion that has been voted on by the GNSO Council and was not adopted. So this is not about motions that have not been voted upon, which is clarified further down in Section B. But what we're talking about here are motions that have been put up for a vote and were not adopted.

And the three requirements - and we can, you know, obviously discuss each of these, the previous language called for a reasoning to justify the resubmission of the motion. First, that language was a little bit I think unclear as to what it required, whether it required anything in particular and was discussed on the call a couple of months ago.

I think the sense was that an explanation or a reason - I think explanation is a better word than reason - would - should suffice and that there shouldn't be any particular requirement for the explanation to meet any particular criteria other than that it be done in a timely fashion.

The second point is to have - make sure that the motion is appropriately publicized to the Council. You know, here I would look to obviously those who help deal with the - kind of the parliamentary nuances of the Council. If we need to clarify or use slightly different language here but previously it referred to publishing it.

There is no real kind of publication related to the GNSO Council other than the publication of the agenda. And, you know, clearly it would need to be submitted before it goes on the agenda. So that's what I clarified here; the publication would mean being circulated to the Council mailing list and obviously no later than the deadline for submitting the motion. And that both what's being submitted is both the text and the explanation.

I also made it clear up in the section on the explanation that the explanation could be submitted separately from the text of the motion as long as both were submitted in a timely fashion.

So maybe I'll kind of pause there before we get to the limitations and exceptions to see if there are any particular points of clarification before I get to what I think are some clarifying points in B.

Ron Andruff: Thanks, Greg. Anyone have any thoughts or comments they would like to bring to this Section A that he's just reviewed for us? I see Mary's hand is up. Mary, please take the floor.

Mary Wong: Thanks, Ron. And thanks, Greg, for the explanation as well as submitting this. I'm just asking in terms of the text here that in terms of seconding the resubmitted motion since a motion has to be submitted by a councilor I guess my assumption under A3 that the seconding must be by a councilor from the other house? Or can - and that's one question. And the second question is, what about NomComm appointees?

Greg Shatan: My thinking on that was, first, the way it's written it calls for a second by a councilor from each house so it would actually require a total of three councilors; one to submit the motion or make the motion and one from the same house as the submitter and one from the opposite house in order to be successfully put before the Council.

And while I didn't clarify it here I think that the houses include the NomComm appointees.

Ron Andruff: In fact - this is Ron speaking for the record. Some NomComm appointees have a vote and others do not so it's a little bit of a convoluted situation where one does not have a vote and in that case obviously they wouldn't bring their voice to the table on that. But otherwise I would think that that would work in this configuration.

Greg Shatan: Right. And I believe that it's the one without a vote is not assigned to either house, that's Jen Wolfe this past year. And she's kind of in the org chart kind of, you know, sitting up there with - above the houses and that each of the NomComm appointees to the house have a vote since they're required to tie break and other things like that.

Ron Andruff: Indeed, Greg. Thank you very much. Mary, any other thoughts?

Mary Wong: No, it was just for clarification. And I just wanted to get it out there so that the rest of this group could discuss the actual proposal. Thanks, Ron.

Ron Andruff: Thank you, Mary. And thank you, Greg. I see Marie-Laure has put a question in the Chat. I'm just reading it. But is there a limit in terms of number of times it could be resubmitted. I think you address that further on, Greg, but I'm not sure. Perhaps you could advise.

Greg Shatan: Well, actually there is no limit to the number of times it would be resubmitted. The first time it would be resubmitted it would be resubmitted without a - any special secondment or seconding. If it were submitted a third time it would require a second from each house.

It could then be submitted again, presumably, although once something's been up three times it's kind of hard to imagine why, without material changes to the text, that would be, you know, sensible or even, you know, how likely that is to happen. It seems like sort of a black swan.

And also if something is not put up for two months after the - or two meetings after the meeting at which it was not adopted and it's put up again and that kind of third following meeting it's no longer a resubmitted motion, it's a new motion and therefore, you know, it's put up without any kind of baggage.

Ron Andruff: All right, Greg. Let's go into the Section B then please.

Greg Shatan: Okay so the first point was that a motion cannot be resubmitted at the same meeting at which it was voted upon but not adopted. While that may be self-evident nothing is ever truly self-evident, especially to lawyers. And I felt it was important to clarify that.

Also, a lot of my reasoning and background in developing this proposal was coming from Robert's Rules of Order which, you know, at least in the US is the kind of standard parliamentary procedure manual and since it's been around for 150 years, you know, has thought through a lot of things.

And they used the term "renew a motion" to mean when a motion is put up again at the same meeting. And that's almost never allowed under Robert's Rules of Order so I figured - we should clarify that that's not allowed here. A motion once put up at the same meeting cannot be put up again at the same meeting.

Secondly, and this is a rephrasing of a point that was in the prior draft or at least in some of the discussion materials, that if a material change has been made to the text of the motion it's not a resubmitted motion and is instead a new motion. The chair is given the discretion to decide whether the change is material or not.

Third point, and this is one I alluded to in answer to Marie-Laure's question, is that there is a - it's a - it's no longer a resubmitted motion after two meetings past after the meeting at which it was voted upon but not adopted.

And then the next point, Number 4, which I also alluded to earlier, is that a motion that has been submitted to the Council but was not voted on, for instance if it was tabled or withdrawn or possibly sent to a committee, although I don't know that that's necessarily done in the GNSO Council but it's an example in Robert's Rules I believe, it will not be considered a resubmitted motion if it's submitted again to the Council since it's - a

resubmitted motion by definition is on that has been voted on but not adopted and then is being resubmitted.

So a motion that's, you know, withdrawn maybe because in discussion it's seen that the motion needs to be - needs some work would be new the next time it comes up.

And, last, because the Council meets more than once over the course of an ICANN meeting I wanted to clarify that for purposes of kind of counting meetings for Rule Number 3, the - all of the sessions that take place at an ICANN meeting would be considered a single meeting so that there wouldn't be some sort of, you know, odd effect of counting two or three sessions as separate meetings and having a motion be, you know, become new again all in the course of a single ICANN meeting.

And that's...

Ron Andruff: Well thanks...

Greg Shatan: ...basically it.

Ron Andruff: Thank you, Greg. Thank you. This is some really good work you've done here for us and I just want to express on behalf of the committee the gratitude for doing a really good job here in looking at all the various angles that we need to.

So I'd open the floor to the committee members to ask any questions or add any comments to Greg. I see Amr's hand. Please, Amr.

Amr Elsadr: Hi, this is Amr. Thanks, Greg. It is a great job - did drafting all this. My question is on Number 4, motions not voted upon. But by a tabled motion I'm assuming you mean a deferred motion? Am I correct to assume...

Greg Shatan: Yeah, yes that's the - at least the US term the motion is tabled.

Amr Elsadr: Okay.

((Crosstalk))

Greg Shatan: It's not being voted on but it stays - it actually would continue on the agenda from meeting to meeting if it's tabled.

Amr Elsadr: Yeah, well my question here - and not specifically to you but is a deferred motion actually a new motion in the following Council session or is it sort of the same motion just carried over for another meeting.

Just as a point of clarification because then it would - it would be, I guess, categorized differently than a withdrawn motion which is basically whoever made the motion or whoever seconded it sort of withdraws their - withdraws the motion themselves. So I was just wondering if anybody could clarify this to me? Thanks.

Ron Andruff: Greg, seeing as how you're...

Greg Shatan: Yeah.

Ron Andruff: ...presenting this, please.

Greg Shatan: Yeah, Amr, I think that's a very good point and perhaps in my drafting I should not have kind of clumped together tabled motions and withdrawn motions. At least again kind of calling on Robert's Rules of Order, you know, a tabled or deferred motion actually is considered to continue from meeting to meeting and is neither new nor resubmitted but it stays - it's kind of continuing business of a council and this Council.

Again, I haven't, you know, taken a look at the GNSO Council's own kind of existing parliamentary procedures but as a general matter a tabled motion would be kind of neither new nor resubmitted but would just be, you know, taken from one agenda to the next at that time. I don't know if it makes a difference in terms of how the rules here work. But it is a slightly different thing than withdrawn motion.

Amr Elsadr: And, Greg, this is Amr again. Yeah, I think that's probably right. But I guess, yeah, because a deferred motion would neither be a new motion nor would it be a resubmitted motion. I'm guessing - we could maybe clarify this as a separate bullet point but it's not really affected by what we're trying to discuss here because that's sort of - it's kind of a rule of its own I guess; it's not affected by this whole topic of resubmitting a motion. But that's just my pressure.

Greg Shatan: Right.

Amr Elsadr: Thanks.

Greg Shatan: I think that's right. I think from a parliamentary nuance if a board is taking motions in order a deferred or tabled motion takes precedence over any new motions.

So we may want to clarify that a tabled or deferred motion is not a new motion but, you know, for the purposes of parliamentary order, which this rule really doesn't go to, but just in case somebody after us, you know, gets even more, you know, is even more of a parliamentarian wonk than I've become trying to get through this particular task they will come to this and not try to use this as precedent to say that a tabled motion is somehow a new motion and not a continuing motion and therefore it doesn't have precedence that it would normally have as a tabled or deferred motion. So we probably should clarify that.

Ron Andruff: Anyone else have some thoughts? Mary, I see your hand is up, please.

Mary Wong: Yes thank you, Ron. So I'm looking at the Chat as well and Wolf-Ulrich has asked something that's similar to what I was about to say. And, Greg, I am as much of a wonk in this regard. But I'm also speaking as looking at things that have been happening at the Council level in recent times.

Going back to Amr's point that perhaps using the word "deferred" might be less confusing because of the difference in meaning in the word "tabled" in and outside of the US.

And because there have been, as I think everybody knows, a number of deferrals, it may be useful for this group to actually tackle this question. So if, for example - and it seems like what you were saying, Greg, does cover this that there is a motion on the table but it wasn't voted on and it comes up again at the next meeting that's, you know, not a resubmitted motion.

That would cover the deferred motions. So my suggestion would be to change the word "tabled" to "deferred" because here we're just talking about examples as opposed to a comprehensive universe. And perhaps drop the last sentence, which starts, "Instead..." that might make it clearer. Because I would imagine that you will get questions about this from councilors if the language stays the way it is.

Greg Shatan: Mary, I think that's an excellent suggestion. And I think it would work better if we change "tabled" to "deferred" and removed the last sentence. And I see, you know, Wolf-Ulrich asking whether this is necessary. I guess I just - I put it in because I thought there might be some - if not confusion, you know, the need to be, you know, explicit about that - that, you know, for instance a withdrawn motion is submitted again with no material change is it a resubmitted motion. I think it just needs to be clear that it isn't.

I think, you know, based on the definition at the top of A that it's a motion that's been voted upon. It's probably not, you know, truly necessary. One could live without it but then, you know, the question hopefully - hopefully it would be clear without it. But for the sake of completeness, nit-pickiness I put it in here but if people think it's excess, you know, happy to consider that as long as people think that the result of Number 4 is clear without having Number 4 in place.

Ron Andruff: Thank you, Greg. Amr, please.

Amr Elsadr: Yeah, hi. This is Amr. I was just going to suggest - Greg is correct, I think, in his - in saying that just for the purpose of clarity something should be put in so maybe the language could be changed slightly just to indicate that these suggestions on resubmission of a motion and the limitations of the sections maybe just point out that they do not apply in the cases of deferred motions or motions that are withdrawn by those who made them.

Maybe just put that in just to make clear that these two situations or circumstances are not affected by what we are suggesting here. Thanks.

((Crosstalk))

Greg Shatan: My only response to that would be that these are, as Mary noted, non-exhaustive and I don't know if there are any other situations. I haven't, you know, been back to the GNSO rules or to Robert's Rules to see if there are other situations that might result with a motion kind of popping up and then unpoping up without a vote other than a deferral or a withdrawal.

So - but, you know, just in case there is, you know, another scenario I just would want to phrase this as exemplary rather than exhaustive unless, you know, somebody has done the work to make sure that it's exhaustive.

Ron Andruff: Greg, this is Ron for the record. If - as I read Number 4 - and I am inclined to agree with Amr and Marie-Laure who have said both on the Chat and vocally that they would like to see clarity. And we live in a world in ICANN that English as a mother tongue is not half the community perhaps has English as a mother tongue and the other half is not. So I would err on the side of being more liberal with our words.

But I'm looking at Number 4 and thinking if it's at a motion that has been submitted to the Council but not voted upon, e.g. because the motion was tabled or withdrawn, we agree we're going to change that word "tabled" - will not be considered a resubmitted motion, rather a deferred motion if it submitted to Council and then leave in, "...instead such a motion will be considered a new motion."

Would something like that solve our problems?

Greg Shatan: This is Greg. I think it would not in the sense that a withdrawn motion is separate from a deferred motion. It would not be considered deferred. A deferred motion would only be one that kind of remained on the agenda from one meeting to the next through the process of a deferral. A withdrawn motion would be new again the second time.

Ron Andruff: Okay. So let's just put that on the side for a second and pause. And I'd like to look to the committee to give us a thumbs up or thumbs down to the general document apart from this one element that we still need to work with. So could I ask everyone to go up to the little man up on the top of your screen there and raise your hand with an agree or a disagree. Agree meaning I agree to the quality of this text or I disagree and want to add things.

Okay so across the board everyone likes the document. That's very helpful so thank you for that, everyone. So now I guess we should look at this last piece of language. And what I would ask is unless anyone disagrees with this perhaps Greg can go back - and he's done such a fine job - within a 24-hour

turnaround send back a document that has language in it that we can more or less agree upon or that you feel we can agree upon because it's a subjective thing and it's in your hands, Greg.

The reason I'm asking for that is then I would suggest that we as the committee send this out to our constituencies and ask if they can have a look at this thing and tell us within two weeks if they're happy with it or unhappy with - what they're unhappy with.

Because we had gotten to a point, if my memory serves correctly, where we had all of the constituencies that were members of the committee more or less in agreement with the last iteration and then through Anne's good graces we saw there were holes in this thing and we started looking at it more closely.

Now we've come to a point where we have a very solid document in front of us but in case of Angie and myself for the BC we'd need to show this to them I think. And I think others might have that same sense.

So can I have any thoughts from committee members on this proposal? Greg goes back and he wordsmiths that Number 4 - or B4 and to give us some language that takes into account what we've just discussed. Then we send this out immediately as we receive it back. I will ask Julie perhaps to put a little cover note on it saying this is some language that we would like to have approved within the SCI and we're sending it out under the chair's advice.

Then all of us can just forward that to our constituencies, ask if they can give us some feedback within the coming 14 days. And then barring no feedback then we can move it on to Council to review. Anyone disagree with that or have thoughts they'd like to add to that proposal?

Mary, please go ahead.

Mary Wong: Thanks, Ron. I'm sorry to be speaking so much. And it's not about the proposal precisely but it's something to do with just the process. And I apologize, I'm going back to Section A of the document and the last part of (Clause) 3 about the consent agenda.

And I believe this is a carryover from earlier conversations about how this was going to be done. And I guess Greg can clarify that. So the only point I want to make - and it may or may not be important to this group - but you might want to make a note of it in the final draft is that whether an item goes on the consent agenda or not for a Council meeting is actually up to the Council chair's discretion.

Clearly there's no reason why it should not be on the consent agenda but just for procedural purposes you might want to consider putting in a parentheses at that point saying, you know, subject to the chair's discretion or something like that. Like I said it's not a major point; it doesn't change the substance and it certainly shouldn't hinder the process that, Ron, you've just outlined.

Ron Andruff: Thank you, Mary. Just for clarity for everyone; we're talking about Section A and which number specifically? Because I'm scanning this as we speak and want to make sure we're all on the same page.

Greg Shatan: A3...

((Crosstalk))

Mary Wong: Yes. And it is the last phrase in Clause 3.

Ron Andruff: Oh okay, there it is.

((Crosstalk))

Mary Wong: ...perhaps you can better address this..

((Crosstalk))

Ron Andruff: I see it. And, Greg, please go ahead.

Greg Shatan: I guess I would first just say that that language about the consent agenda was a carryover from the prior language and I admit that I did not research the agendas or agenda of the GNSO Council. So I would ask, as a point of clarification, is there an agenda other than the consent agenda of the GNSO Council or is that just the only agenda that there is?

Ron Andruff: Yes there is. And I see Mary has her hand up. Mary, please go ahead.

Mary Wong: Yes, thank you, Ron. And thanks for the question, Greg. Just for the sake of those in the group who may not be as procedurally wonky as I am or who may be fairly new, as Ron mentioned there are two forms of agenda at almost every Council meeting; that's the consent agenda and then the main agenda.

And this was adopted some time ago to follow the ICANN Board's practices. And I can't remember exactly how long ago. But the idea of course is that the consent agenda should be for those items that don't need discussion or debate.

Ron Andruff: So there is a suggestion by Mikey by I see there's some - there's a little back and forth with Julie that - whether we just remove the word "consent" because - is there any reason, Mary, looking to our policy work self-described, if you could - is there any reason why we can't just remove that word completely? Consent?

Mary Wong: I will - Julie, maybe if my memory is wonky, like the rest of me, I believe that the idea here stemming from the original discussions was that this really was a two-part thing that placing something on the consent agenda, like a

resubmitted motion, is just to make sure that councilors don't actually object to having the motion on the agenda at all.

And I don't know that this necessarily carries over into what Greg is suggesting. So it really, you know, doesn't affect, I suppose, if the group feels that really you just put the thing on the agenda, the chair decides whether it should go on the consent agenda because if it has to be voted on it still has to be a motion that's discussed on the - by the rest of the Council. I don't know if that clarifies things but I'm trying to sort of dig back in my memory to the history of this.

Ron Andruff: Thanks, Mary. I see Julie has her hand up and she has a great memory. Julie, please.

Julie Hedlund: Right. Thank you, Ron and for your vote of confidence. Mary, yes you do have that - you do recall correctly. The idea was not that the motion would be voted on off of the consent agenda but that the decision whether or not to consider the motion would be put onto the consent agenda meaning that that, you know, the question of whether or not this motion could be resubmitted would be presented on the consent agenda.

And then if there were no objections - because a consent agenda is a really much more basic process. It doesn't have voting thresholds and that sort of thing not typically it's meant to be for quick and easy decisions.

So you would put it there and if there were no objections to putting the item on the agenda - the regular agenda - then it would then, you know, go through. But anyone could, on the consent agenda, simply object. And then the motion would not go onto the regular agenda.

Ron Andruff: Thank you, Julie.

Julie Hedlund: And I think that is different than what Greg has here. And I think what Greg did is did pick up the language that we had before and the nuance that I've just described is not really reflected in the language that Greg picked up.

Ron Andruff: All right...

Greg Shatan: This is Greg. If I could respond?

((Crosstalk))

Ron Andruff: Please, Greg, go ahead.

Greg Shatan: I guess I'm looking at a document, it looks like it's from 2012 that says that when an item is removed from the consent agenda it is added to the meeting agenda for that meeting unless the Council chair, in consultation with the Council vice chairs, determines differently. So that sounds different than from what Julie mentioned. And...

Julie Hedlund: Yeah, that's actually correct. I'm sorry. You've got the language just right.

Greg Shatan: So, you know, I think that the difference between saying - to place it on the consent agenda at the end of Number 3 and saying to place it on the agenda at the end of Number 3 is actually - would be a substantial difference. In one case we're saying in essence that it would need two seconds to be placed on the consent agenda but that if it met 1 and 2 but not 3 it could still be placed on the general agenda for the meeting but not the consent agenda.

If we took out the word "consent agenda" - the word "consent" before "agenda" then the meaning of Number 3 would be that if there were not two seconds that the agenda - that the motion, rather, would not make it to the agenda at all. So that's rather, you know, a different - quite a different fate based on whether the word "consent" is put in there.

And I guess I would also ask whether - again, I'm sorry, for not knowing all the procedures of the GNSO Council, although I've, you know, sat in on a number of meetings by now but not enough clearly - whether a motion is seconded - or seconded, rather, at the time that it is submitted for the agenda or if it's seconded at the time that it's put up in the meeting room or the virtual meeting room on the phone.

Ron Andruff: Thanks, Greg. I'm going to get the answer to that question. I'm going to give Mikey a chance to speak. We need to move on to one more topic before we close the meeting. So, Mikey, please go ahead.

Mikey O'Connor: It's Mikey. In answer to the questioning about seconds, generally the motions are seconded before the meeting. There's always a flurry where Jonathan says, "I could really use a second on this motion." So they're generally not seconded in the meeting. But I don't think it's impossible for a motion to be seconded in the meeting. It's just sort of a habit or a convention.

Greg Shatan: I just wanted to make sure that we could - that this would work if - if they are seconded in advance then the language here works so that's fine.

Mikey O'Connor: Yeah. And I think that there is a substantive point here. There are actually two. One is the destination being the consent agenda is a safeguard that we may not need anymore. And so we may have to think a bit about this because I think the original thought was let's put it on the consent agenda and make it easy to dislodge down into the main agenda.

Whereas now with this heartier seconding the notion that I had in suggesting taking "consent" out is that it could still be up to the chair's discretion as to whether to put it in the consent agenda if he felt - or she felt that it was something that would get the unanimous support but would leave some flexibility if more discussion was required. So this is a bit substantive. And I need to cogitate a bit about it. Haven't got an answer for you on that.

Ron Andruff: Well that's a perfect segue, Mikey. And we'll bring this discussion to a close on this topic. And let's follow, if everyone - I didn't see any pushback on the idea of having Greg give us some final wording. We'll send that out to our constituencies, get it back within - I would say within two weeks. I'd like to do another meeting in two weeks and be able to call that one and say okay it's done.

So if we can move in that direction that would be very helpful. Thank you, everyone. Thank you, Greg. Excellent work. And I think everyone is very grateful and I certainly want to share that with you on behalf of the committee.

Greg Shatan: Thank you. Thank you.

Ron Andruff: You're most welcome. So now moving on to Number - our next one was Number 6 but Avri had to drop off the call and I got a note in the Chat from Julie that you may have picked up saying that Thomas also sends his - Thomas Rickert sent his apologies. And I think those are the two that were carrying the ball on that one. If there's anyone else that was part of that group would like to speak up we could certainly talk about it.

But if not I would move on then to Number 7, the possible inclusion of the waiver exception. We had - I'm not sure who was heading that group, in fact. Unfortunately I didn't make a note in my - I went back to my notes from our meeting in BA and I didn't note that.

But I think that was Mikey and Marie-Laure perhaps? Mikey, I see your hand up, please go ahead.

Mikey O'Connor: Yeah, Marie-Laure and I did this one together and Marie did all the work so, Marie, if you want to lead us through that that's fine. Otherwise I'll do it. Either way is fine with me. But we haven't...

((Crosstalk))

Ron Andruff: Yeah, I think your answer was there with all those Os behind it, Mikey.

Mikey O'Connor: Great Chat comment, I think that's the Chat comment of the day. Okay so if you could give us all - well no maybe that's - fine, I'll let the maestros drive. So if you roll back up to the top of this, whoever's driving the screen, this is a really nice framing of the issue that Julie did.

And she sent this out to the list. And the - I think that the nub of the question to the group can be found in - if you look at, "Please outline the problems..." there's a big long paragraph there in the middle of the page.

And I walked out of the meeting thinking that the puzzle we were charged with solving was what's the mechanism by which the Council can grant the chair the discretion to waive the rules? And, you know, this was the waiver discussion. We'll get to some conversation about that in a second.

Jonathan I think expanded this in the last sentence where he says, "I personally think that's an area we should look at is the when and under what circumstances formal Council procedure can be bypassed in the event that there's no objections by the Council."

That's a much broader topic. And so Marie caught that; I didn't. And so just to briefly finish introducing you all to this if you could just snap down to the next chunk.

Thomas Rickert came up with an idea. And I think it reflects a similar understanding to mine which is the mechanism for granting the waiver. And his preferred one is, "Ask for the waiver if all councilors are present and record them." That's the best. If there aren't then do an email that says somebody can object. You know, so again Thomas and I focused on the mechanism to grant the chair a waiver, period.

Marie's comments - and then if we roll down just a little bit further - is where she's refining Thomas's proposal a little bit. And I think those are good refinements putting some, you know, clarifications on that.

But again, everything was going fine until you get to that middle chunk that I think is really the key - or no, the bottom paragraph which is the question of whether we're even working on the right question.

And so given we only have a few minute this is just the right amount of time not to go through this in a lot of detail but to focus on other people's understanding of the question we were asked to address by the Council. Are we specifying how the chair can be given a waiver? Or are we supposed to elaborate all of the circumstances under which a chair can be granted a waiver?

And, again, my view was that the chair - in my view a simple approach to this would be to say, okay, the chair asks the Council whether it would be possible to waive the rules and if the proper process is followed the waiver is granted and whatever rule is in the way then gets waived.

And that is my personal preference because I think enumerating all these possible options could lead us into a complete tangle. And I'm hoping that Jonathan was just using a - sort of a riff out of his phrasebook when he said that.

So thoughts from the rest of the group on this? Do you want me to run the call, Ron, on the queue and all this stuff?

Ron Andruff: You know, actually, Mikey, we're only about three minute to go so let's take - let's take Marie-Laure and then Amr. Amr is saying he's a little lost on here in the questions. So I'd just - perhaps let's just take a step back on this and explain that that format that you saw at the top that Julie posted, we've asked for that - now that came out of our charter saying if you phrased a question to

us we need to have some background; we need to have more detail because we never had this type of thing in the past.

And this is a specific question that's come up now from the Council to us and how do we deal with it. And I think Mikey just wrapped it up really well in that presentation because we have to determine within the SCI what is the question that we're dealing with here?

And I'm very grateful for the work that you, Mikey, and Marie-Laure did, also Thomas's work. And I think the idea of taking - we've always suggested, from the time we started the SCI, that we take as light approach as possible. That it's not our job to start trying to develop policy on top of policy. There's bodies for that within ICANN.

Our job is to try to knock rough edges off and - with a light hand. So hopefully that gives you a little more background, Amr, in terms of what we're getting at here.

I see you're asking what brought the question up. It came out - again, it came out the situation where Jonathan did not have any place to go to see - get guidance. And that's often what will happen in the case of the SCI.

I'm not going to let you off the hook, Marie-Laure. I saw your hand was up and you've done a fine job so if you would please bring your thoughts to the table and then anyone else in the committee. Marie-Laure.

Marie-Laure Lemineur: Yes, can you hear me?

Ron Andruff: Yes very clear, thank you.

Marie-Laure Lemineur: Thank you. I'm just going to repeat what Mikey said and summarized in a very good way. I see this as two sides of the same coin. I mean, it would be all two stages to - I mean, when I read Jonathan's question

I have the impression he's asking what would justify bypassing operating procedures?

And the second stage would be actually working on the bypass or the waiver mechanism itself which it's what we've been doing. So I'm not sure, I mean, I'm not sure what's the right way to go. And as Mikey said, we would like to hear your thoughts on that whether, you know, we should work on the two stages or just, you know, stick to the describing the bypass - the waiver mechanism.

Ron Andruff: Thank you, Marie-Laure. I see Mary Wong has added some additional language in the Chat if anyone has not seen that just saying a little bit more about the operating procedures of Council.

I am thinking now - it's coming up to the hour and I know everyone is probably going to jump off this onto another call because that's usually the way it is with all of us who do these working groups.

So I'm going to recommend that we give some thought to this and thank, again, Mikey, for, you know, thinking about this. I know - we've got the wheels turning in your head so on our next call I'm sure that you and Marie-Laure will be bringing some ideas to the table.

But for my part as the chair of this committee I would lean more towards Mikey's recommendation that we take a light approach and give direction as to when the chair would be making his or her decision as to allowing this waiver or not.

I wonder if I might get thumbs up, thumbs down to that idea that we look to a lighter approach to give the chair that direction and then continue thinking about this but just to see what the general direction of the group is. Do we agree with that idea or do we disagree meaning we need much more thought?

Okay, Amr has weighed in. So I see people are slow to respond. But the point is - the question is do we agree that we want to give - look more towards giving the chair discretion or do we want to look more towards digging down deeper into this discussion and really working on whether or not we need some measures and remedies for the chair?

So we've got a number of people who would like to dig deeper, a number of people would like to move in that direction so that's fine; this is exactly what we we're looking for. Get a sense of the group. Thank you all for sharing your thoughts.

So with that as we're passing into the next hour I'm going to recommend that we move this particular topic up into the first item after resubmitting a motion on our next meeting. So we'll - after the approval of the agenda we'll look at the resubmission of a motion because we should have gotten that back from our constituencies. We'll then look to taking this topic up and then voting by email and so forth. So I think that will give us time now to reflect on what we've been discussing.

And thanks, everyone, for this great effort. Good meeting today. Is there any other business that someone would like to bring to the table before I bring the call to a close?

Julie Hedlund: This is Julie Hedlund. Just to confirm we will then schedule a call at this same time in two weeks on the 17th of December?

Ron Andruff: Thank you, Julie. And I would like to do that. If - we talked about this - for those that were not present in BA about the idea of when we get into something that we're really working on to focus our attention we would meet every two weeks to try to really get this thing well thought through and discussed so we don't lose the thread by having monthly meetings.

If everyone is in agreement with that I suggest we do that. Does anyone disagree with having a meeting in two weeks? This will be the last meeting before the end of the year.

I guess I'm looking at the check boxes. If we can show that we agree that we'll meet in two weeks that would be good. We put an agree up or a disagree. I see Mikey is not going to be able to attend unfortunately. And, Greg, perhaps you as well by the look of your X. But okay so we have enough people moving in that direction. So let's do that. So we'll reschedule the next - or not reschedule - schedule the next meeting for two weeks from now and we'll pick these items up that we've discussed.

Thank you all very much for your efforts and for what you've brought to the table today. It's been a pleasure to work with you all again. And thanks, Mary. For those who don't know Mary was actually on this committee before she switched over to staff so that's why she has a good memory of some of the things going on. But thank you all and wish you all the very best in the coming two weeks. Talk to you very soon. Bye for now.

Julie Hedlund: Thanks, everyone. Bye.

Ron Andruff: We'll bring the...

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