

**Transcription ICANN Buenos Aires Meeting
Standing Committee Implementation Improvement Working Group Meeting
Saturday 16 November 2013**

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Coordinator: Excuse me, this is the coordinator doing an audio check. Can you hear me?
Today's conference is being recorded, if anyone has any objections you may disconnect at this time. Thank you, you may begin.

((Crosstalk))

Ron Andruff: Good morning, everyone. Good morning, everyone. I see it's getting - we're about 7 minutes past so I was going to say if anyone wants to refresh their coffee or their orange juice or whatever this would be the moment to do it. We'll get started in about a minute. Thanks.

((Crosstalk))

Ron Andruff: All right everyone, good morning. I think we should probably get started seeing as how we're running a little bit late. Hopefully everyone has gotten a cup of coffee. The one great thing about Argentina, of course, is the coffee con leche. So welcome.

Julie, are we - we have an open line or are we - staff, yeah.

Coordinator: Yes, you have an open line.

Ron Andruff: And do we have anyone on the line tonight - this morning?

Coordinator: No, just your line. Thank you.

Ron Andruff: All right. I know that I saw Anne Aikman-Scalese in Miami yesterday or the day before and she was flying back to California but hoped to get on the call so she may show up. I'm not aware of any others. Good.

So let's get started then. Good morning to everyone. And this is probably one of the earliest ICANN meetings that's ever been put on the record and we're going to see if we can change that for the future.

((Crosstalk))

Ron Andruff: Oh very good. Very good. So again welcome to everyone. And it's nice to see people were able to get in in good order and able to join the meeting today.

We have a number of things on the agenda. We have a couple of new work items and things we're going to talk about then also want to talk a little bit about - at the end of the meeting about our meeting schedule.

But to get started let's just start at the top of the agenda and if I might look to have a roll call taken please?

Good morning, Glen. Will it be Glen taking the roll? Thanks.

I'm sorry. I didn't hear you, Glen, your mic wasn't on.

Glen de Saint Géry: I think everybody should go around and introduce themselves. So we can start here. I'm Glen de Saint Géry, GNSO Secretariat.

Berry Cobb: Berry Cobb with ICANN staff.

Lars Hoffman: Lars Hoffman with ICANN staff.

Mary Wong: Mary Wong, ICANN staff.

Julie Hedlund: Julie Hedlund, ICANN staff.

Marika Konings: So this is the staff side on the table. Marika Konings, ICANN staff.

Ron Andruff: I didn't know we were at a staff meeting. Ron Andruff, BC.

Angie Graves: Angie Graves, BC.

Mikey O'Connor: Mikey O'Connor, ICANN staff.

Cintra Sooknanan: Cintra Sooknanan, NPOC.

Thomas Rickert: Thomas Rickert, NCA to the GNSO Council.

James Bladel: James Bladel, Registrar.

Man: Oh my God it's hot in here.

Amr Elsadr: Amr Elsadr, NCUC.

Avri Doria: Avri Doria, NCSG.

Marie Laure-Lemineur: Morning. Marie Laure-Lemineur, NPOC.

Ron Andruff: Very good. Nice to see the new faces. Nice to see you, Amr, Marie, others that we have not seen at the table before so it's excellent to have you here, thank you.

Statements of Interest, has anyone made any changes or has any changes occurred to your own situation vis-à-vis your Statements of Interest? If so now would be the moment to bring forward those comments. Amr.

Amr Elsadr: Yeah, just I'll be serving on the GNSO Council representing NCSG at the end of this meeting.

Ron Andruff: Congratulations. Excellent. Thank you. James please.

James Bladel: So, yeah, looking - if there are forward-looking Statements of Interest I will also be seated on the GNSO Council effective Wednesday.

Mikey O'Connor: It's Mikey. Me too.

Ron Andruff: Avri, please.

Avri Doria: Yeah, I guess if everybody's doing the forward-looking, me too.

Ron Andruff: Well congratulations to all of you. Thank you for your efforts in that regard. Much appreciated. All right then, the first item then - the next item is the approval of the agenda. As I mentioned we have a couple of fresh items on the agenda we're going to talk about today and a couple of older items.

And then at the very end of the meeting under any other business I'd like to talk a little bit about our meeting schedule and trying to also see if we can adopt a new way going forward where we have project leads to take on the various issues that we're looking at. But we'll pick that up under AOB.

Moving then on to the working group self assessment, this is an item that we had worked on now for some time. I think we have - through the good offices of Ken Bour we were able to get a very good questionnaire together and it got us two thumbs up from Mikey O'Connor who knows these things well.

We also tried with Mikey's working group to implement part of it. So I wonder if I might turn to you, Mikey, just to update the group as to kind of where that went and where that might go going forward. Thank you.

Mikey O'Connor: Thanks, Ron. It's Mikey. Well as I typically do I kind of got it half-right when we did it. We got a fairly good response from the working group but I didn't do a very good job of describing how much feedback we actually wanted on the questionnaire itself. So as a result we got questionnaires back but we didn't get reactions to the questionnaire back.

And then the working group, which had been nearly - or felt nearly done, then got really busy. And being busy I didn't want to bug people with redoing the questionnaire and doing the feedback so I stepped back from that.

And so now we're at a place where the working group is really done. The working group's final report has gone to the Council, it's been approved by the Council. So one option that we could explore is just to - now I could go back to the working group and say well we're really done now. How's about another run through the questionnaire and, by the way, here's the stuff that I didn't emphasize before. That would be an easy thing to do if that seems appropriate.

We were thinking about a different working group at one point as a target for this. But if you prefer to just run back through the Thick Whois gang that would be fine.

Ron Andruff: That would be good. That would actually be very good. And particularly, as you said, now that you completed the work it's really the appropriate time for

them to do it. If I'm not - well actually let me put something else forward. I wonder if we might circulate a link to the list for the benefit of Amr and Marie and others who are new to the SCI so that they can understand what we're talking about.

Effectively - and Thomas as well. We're talking about a - being able to - from the very beginning of a working group put forward the idea that there's going to be a review of the actual work, how effective it was and so forth, a self assessment of the group. I think - of the working group itself - to try to refine that and improve that as we go forward so that it would actually be an element that would be introduced at the very beginning of a working group just as much as the chartering of the working group would happen.

And then they would be - the working group would be cognizant of it through the whole process. And then at the end we would have an assessment to see how effective was that working group, how effective were the chairs, how effective was the charter and so forth to try to get a much clearer line forward for future working groups.

So Mikey graciously took it upon himself with the - I'm sorry - which working group was it, Mikey, again? The Thick Whois Working Group, which is an ideal one. And so now we'll go back through one more time. But Julie will send you a copy of that so that you can go and look yourselves and see what we're talking about. So that's excellent, thank you, Mikey. Any comments or thoughts with regard to this topic?

Seeing none we will now move down onto the resubmitting of a motion. This is Item Number 5. This is something also that was on our table for quite some time. It came as an anomaly within the GNSO Council. And because it happened and there were no processes to govern this issue it came to the table of the SCI.

We've had it on our desk for some time. And unfortunately there's no one here from the IPC constituency to address it. But that's really where it stands right now to my knowledge that the IPC were going to come back with some specific language.

You can see on the Adobe, for those who are on it, there were three high level criteria we were looking at. And I think that all of the other constituencies and SOs that are part of this committee had agreed to the concept. And we were just waiting for some final language from the IPC. I think that's where it stands if I'm not mistaken, Julie?

So we could have some conversation about that if you would like to. But at this stage I think we're kind of waiting on getting some direction from the IPC on that. So if there's no other thoughts - Marika, please.

Marika Konings: Yeah, this is Marika. This may be an idea to try to set a firm deadline by which that feedback would be - would need to be received. Because I think as said, you know, the issue's already on the table for quite some time so maybe trying to put in some deadline may help in getting that feedback and then for the whole SCI to be able to consider then.

Ron Andruff: I think that's a very good idea actually. So maybe we can put into the notes, into the information that follows this meeting that we have asked for the IPC to come back with specific language prior to the next meeting so that we can make a decision on that. Anyone have any disagreement with that? Oh good, okay very good. So let's follow that action - that course of action.

Now moving on to the new - so we're moving to Item Number 6 and that is the new work items. And there were two that were brought forward. The first (unintelligible) address is voting by email. And in fact we had some specific thoughts with regard to that and rationale for it.

And, Thomas, perhaps you might just share with us how this came to the table and what we're looking for within the SCI to resolve it. The - we're talking about the voting by email and the rationale behind why that happened. I'm just wondering for someone from Council that - oh, Marika.

Marika Konings: This is Marika. You know, I remember the history to that. Basically at the last meeting in Durban there was a vote up for the Council on the locking of a domain name subject to UDRP proceedings. That report and a motion were actually submitted after the deadline and that also raised to the other issue of the waiver.

But basically then the Council needed to have an emergency or new meeting that was called before the next meeting, otherwise I think it was two months before they could vote on it.

And I think the feeling was at least that everyone was - everyone was going to vote in favor so I think it was Jeff Neuman that actually raised the question and can we actually look into the option of voting by email.

So in those cases where we see that it would be a significant delay by waiting until the next meeting but we don't really want to call a special meeting either which requires everyone to show up and make time and come to that call should there be an option to actually be able to vote by email in those instances where I think we agree that it's a issue where everyone agrees, it would only add delay if we actually wait until the next meeting and can we speed it up by having the option of email voting. I think that was the history to that question if I don't remember wrong.

Thomas Rickert: Just to explain I don't know the history to that one because I wasn't in Durban.

Ron Andruff: All right, I know that you know the history to the next one so I'll come back to you on that. I wonder if I might look to Avri, having been chair of the Council and having experience in that, what your thoughts are on this particular topic.

Avri Doria: That was so very long ago and now I'm just a newbie. But still I actually am apprehensive about it simply because of the bylaws that sort of say decisions have to be made in a meeting. And so I think we have to look at that particular element. I have to go back and actually see what the exact wording is if the exact wording is as it always was.

And then we had basically - there had certainly been an understanding that a vote that was done - that finished after it had - first of all that face to face in a meeting could include telephony in a meeting so that barrier had been passed and that a vote could be completed after having started in - but the whole notion of the face to face nature was the only one that struck me that there may be a bylaws issue.

But other than that I don't see a real issue, I just think we need to clear that hurdle where there is - and I haven't gone back - not knowing you were going to ask me specifically the question - to go back and see whether my memory corresponds to current reality which it doesn't always because I haven't paid that close attention for the intervening couple years.

Ron Andruff: Anyone else have some thoughts or comments with this - on this topic?
Please, Amr.

Amr Elsadr: Yeah, this is Amr. I just have a question on what are the advantages of voting by email as opposed to voting by proxy in Council meetings?

Ron Andruff: Marika please.

Marika Konings: I think one of the things that it's possibly easier to get people to vote by email than actually convening a meeting where people have to show up. I think that

may be one reason especially if you're looking for something to do very quickly after another meeting - convening a meeting often then requires sending out a Doodle poll trying to see when people are available.

And it can be more challenging then if you allow email voting people can of course do it at their leisure. It's normally how we do as well, like absentee voting, for example. People get a ballot after a meeting and they have I think 48 hours to complete that. So I think, you know, if you would go down that path it would probably be a similar kind of, okay, the vote is open between now and then and you're expected to submit your vote.

So it's a more convenience thing or a time thing where it may take longer to actually schedule the next meeting to have that vote then being able to do it by email. That would be my guess.

Ron Andruff: Thomas, please.

Thomas Rickert: I guess for me the decisive factor would be whether the Council deliberates on the substance of the motion. So I would not be in favor of allowing email vote from a person that has not heard all the pros and cons of a specific item. I think if it's just the formality of voting - let's say you didn't get to because you ran out of time in a meeting but the Council has fully discussed the item and all views have been heard then I think it might be a mere formality.

But as soon as the Council or individual groups or the audience, whatever, brings up additional items that need to be taken into consideration prior to voting, voting is not an option, then you need to have a proxy.

Ron Andruff: Mikey please.

Mikey O'Connor: This is the first time - this is Mikey. This is the first time I've thought about it. And I'm sort of doing the, well, what would be bad question. And Thomas has sort of put his finger on something for me which is that notion of engagement.

And I think I share that concern that if we move to email voting it would be important to figure out a way to ensure real engagement by the Council in the issue so that we don't get into the situation, you know, where people are overloaded, they've got a big inbox full of email, the ballot comes along, they don't check back with their constituency.

I mean, there are a whole bunch of things that could go bad on that that we would want, I think, to ensure we protect against. I'm not necessarily for it or against it but I do think there are some things that could go wrong.

Ron Andruff: Marika.

Marika Konings: Yeah, this is Marika. One possible starting point for you, maybe, to look at the other organizations within ICANN and see whether they actually allow it and if they allow it what their rules are so that may give some insight indeed if no one else is doing it there may be valid reasons for why they're not doing it.

And if they are doing it maybe they have a good system or rules in place to deal with that. To be honest I'm not aware of anyone doing it but that doesn't mean that they're actually not allowing it.

Ron Andruff: Thank you. I have Avri and Cintra and Mikey.

Avri Doria: Okay first of all I did just go back and quickly look at the bylaws and those clauses were in the whole voting section of clauses in the past but they're no longer there. So the requirement that it be done in a face to face is no longer a bylaws issue.

So now getting to my own personal opinion on it, I have kind of a similar view that, for example, there are mechanisms we would need to deal, the whole my constituency or stakeholder group hasn't had a chance to discuss and we

need to defer, that - how would we create that kind of mechanism in an email vote.

So what kind of event, what kind of set of conditions could we apply to make sure that it met those, there's been adequate discussion, there's been time to consider. And I'm not sure that that can be done easily.

But I could see coming up with sort of a middle rule that is similar to what Mikey or I think somebody was saying that if it was an emergency - if we didn't get to the vote at the end of the meeting that perhaps at that point there could be a decision to take a vote in two weeks' time at a meeting that would say this is important, this needs to get decided by the 15th, we don't meet again until the 19th therefore let's initiate a three-day vote on the 12th.

And so that kind of intermediate thing that says everybody - and that, you know, that's just a majority hands up type of thing. That kind of intermediate solution might solve the problem without creating new ones.

So - but I do see a problem with just somebody calling a vote when there's no way to say we're not ready, there's no way to know that everyone is in town, there's no way to deal with all those equality and equity types of issues.
Thanks.

Ron Andruff: I'm inclined to agree and that comes back to what Thomas said, it's really about the fact that there has been due consideration given and due discussion has taken place before that goes that way. So please, Cintra, please.

Cintra Sooknanan: Thank you. I think Avri has alluded to my point. Email voting is good because it means you have quorum whereas - and everybody doesn't need to be in the same place. But everybody needs to be aware that a vote is about to take place and there's enough time to put in that email vote.

I know the ALAC does have - they do use email votes as well as they use - I guess an online (pass) form that ICANN has to check in votes so you can track who's voted, who hasn't voted. You know, so that makes it procedurally easier.

But, again, you know, there are the administrative issues, do you have the right email? Do they check? Do they know when the deadline is for the vote to go in.

Ron Andruff: Thank you, Cintra. Mikey. Okay. So what I'm hearing is that the general sense is that if we needed to have such a thing it would only be in an exceptional circumstance by the sounds of it.

The first thought that came into my mind was how could this be gamed as opposed to how could this be, you know, overlooked or I haven't given thought to this and okay so I'm going to game it, how would I do that in a vote that's done by email.

But I don't think I can get any better consensus by phoning around or sending emails around to gather votes in my favor in an email vote any more than I could in a hand vote in a face to face meeting. And that was the first thought that kind of went through my mind.

The other part of it is, as Avri pointed out, if we're going to do this how do we create the rules? And one of the things about the SCI - and particularly I'll mention for those who are just joining - we've always tried to take a light approach meaning that it's not our job to create policy.

In fact it's our job just to look at the things that have got rough edges and determine whether or not those rough edges will work themselves out and so we leave it for a year and kind of revisit it in a year to see how it looks. Or do we actually bring some new policy shaping elements to it to try to refine that particular issue.

So this is a real slippery fish because as soon as you start creating one rule for this how we do it then we have to have another rule and another rule to make sure that it's got a good frame around it, that it can't be abused. So that's a - where I'm coming out at is like I'm not sure how we would address this. Mikey.

Mikey O'Connor: I'm not ready to say that we can't. One of the things that we might want to - several things seem to be useful. One would be to come up with some criteria or when it would be useful and appropriate. And another would be to think about - much like some of the other discussions we've had about the discretion of the chair of the Council some mechanism to allow a little bit of flexibility.

There are all kinds of dials we could turn. One dial is how hard is it? We could make it pretty hard so that it doesn't become routine. But at the same time, you know, whoever it was, Jeff Neuman, you know, here they are they're in a tight spot, they really have talked about it but just in this tight spot.

It would be - I think it's worth more thinking and conversation. And I think the thinking and conversation that would be useful is around circumstances that it would be useful and mechanisms to control it from being abused.

Because I can see situations where especially in our new skeezy world the Council may need some flexibility to move fast on occasion. We've run into that in the last year a lot. So I wouldn't want to push it back a year and wait that long. I think we want to dig in a bit before we make that choice.

Ron Andruff: Thomas.

Thomas Rickert: Well certainly as the SCI we are tasked to deal with questions that are brought before us. But I tend to always ask the question what's the purpose of the exercise so what are we trying to protect against - ourselves against?

And, you know, we've had instances in the past - and I hope that my memory doesn't entirely fail me - where let's say a councilor has been kicked out of the telephone bridge and then later submitted its vote by indicating in favor or not in the Adobe Chat, for example.

Or the chair has then, like five minutes later, allowed for the person to come in and say what he or she meant. I guess if we formalize the process of allowing for email vote then we make it easier for people to game the system, just say okay I hang up now because I will get the chance to vote later anyway.

You know, so I'm wondering whether that would open the flood gate for delay tactics and strategic thinking. There might be instances where there's nice to know how all the other councilors voted to then see whether my count would be decisive or not.

So I guess that I would like to keep it, you know, the old KISS rule, keep it short and simple, if we can. And I guess that there is some discretion with the chair, if actually there is a predicament with the council because ultimately you want - will almost never be able to close an agenda item.

And we have this other question on the table like a year back when there was one councilor who asked for a motion to be reopened because he had changed his mind in the matter of half an hour. So why offer the flexibility if there is no need and if there is actually a chair's discretion that could be applied in those instances?

Ron Andruff: There's a key word there of chair's discretion and that's a - I think that's an important part. Marika.

Marika Konings: This is Marika. I think another way to consider this question maybe as well because, you know, I agree with what Thomas is saying I think just adding it

as an option to any kind of vote indeed may create that kind of situation so, yeah, you know, why do we need to bother showing up because I can just send it in by email.

I think where this question came from is more looking at the option that exists in the GNSO operating procedures to call for a special meeting. And I think it's more related to that like in those cases where you call for a special meeting where the sole purpose is only to take a vote on an issue that has been deliberated and has been discussed should in those instances should there also be the option instead of having that special meeting just having an email vote.

I think that may be, you know, more narrow because then indeed you can take the question (unintelligible) I think where the question came from was more in that kind of scenario where you're saying, okay, either we call for a special meeting because we recognize that, you know, we can speed things up by actually doing it earlier because the next meeting is more than two months and we all agree that this issue - we all accept that everyone is in favor of that vote so we can just - we just need the formality of having that vote.

Is there an alternative way of doing it instead of calling a special meeting? And the answer may be no; a special meeting that's it. People need to show up and that may be the answer, look, advocating here that there should be email voting.

But I think the question was - it's probably more in that kind of context in the very limited situation shouldn't there be an option to have email voting instead of, you know, calling a special meeting and having - bring people together just to say yes or no because they have already deliberated on the issue.

Ron Andruff: Thomas.

Thomas Rickert: Yeah, but then I guess we have two factors that we should nail down. You know, even though we don't make the decision on that but we should limit it to those special meeting scenarios and that there shouldn't be any deliberation of substance.

Then you have two limiting factors and maybe we need even more limiting factors but then we have the concrete scenario that we want to address. And then I would tend to be sort of fine with it if need be but I wouldn't recommend to establish a general rule that would allow for email voting.

Ron Andruff: Do we have - in operating procedures right now in this regard that we might be able to look at as a committee to see if there's some language we could shape? Is there something written down these are the operating procedures on this particular issue?

Marika Konings: Well this is Marika. The only thing it talks about indeed is calling the special meeting. So I think it just talks about that if, you know, it doesn't talk about, you know, how it - what is supposed to be considered at that special meeting or whether it shouldn't be only about a vote or there's nothing prescribe that, I mean, we can share the language that's in there.

But again, indeed, if you're - if you would follow that path and there would be support for doing something there I guess that would be the kind of section where you would say, you know, the chair can call for a special meeting because it talks all about the timelines that are necessary.

So I think if you're considering nonpolicy issues you can call a meeting within 7 days but I think if you are considering policy or PDP issues there needs to be a 14-day notification period to call that special meeting.

So again, you know, if you can go down the path of the email vote where indeed in this very limited scenario where it has been deliberated, everyone agrees, it's just to pull in people's vote maybe there's not a timing that we

would consider but that would be if you're looking more the narrow scenario that would probably be the section where you would be looking at if you would want to introduce something like that.

Ron Andruff: Thank you. Cintra.

Cintra Sooknanan: I have a question with regard to the - to what Thomas has mentioned whereas you want to have a confidential vote or, you know, maybe not have everybody see how you voted. Is there that kind of scenario that - and maybe this may be appropriate for that.

Ron Andruff: Marika.

Marika Konings: It is Marika. I was actually just answering to you in the Chat. The only I think secret vote that I'm aware of is the one that's done on the Council chair. And that's a decision by the Council. They - I think the last few votes have actually been public but there is the option to do a secret ballot on the election of the Council chair. But I don't think any of the other votes there is any kind of secret voting.

Cintra Sooknanan: And what is the mechanism that that secret vote is conducted?

Marika Konings: I need to look at Glen but I think the last time we just had basically a piece of paper because it was - the Council vote is typically face to face. You know, I think people had a piece of paper that they filled in and I think Glen collected them - Glen collected them and counted the vote, right?

((Crosstalk))

Ron Andruff: Glen, we can't hear you. Glen, could you use the microphone?

Glen de Saint Géry: Sorry. There were different colored papers, one for the Contracted Party House; one for the Non Contracted Party House. People were given the

piece of paper and they wrote their choice on it and papers handed in and counted. So their name was not on the paper at all.

Ron Andruff: Cintra please.

Cintra Sooknanan: Yes. Sorry. So perhaps this is another mechanism or another way that we could apply this, you know, email voting (unintelligible).

Ron Andruff: So I'm going to suggest that we give this some thought now over the next few weeks and let this percolate a little bit. In the mean time if there's no language in the Operating Procedures per se, we are working with a clean slate. And I think that the general tone I've heard from the members is that we would want to do something or if we do something that it would be in a very narrow or controlled manner. Thomas actually said it better than I did.

To that end I wonder if I might impose upon a former chair of the GNSO in Avri. And...

Avri Doria: I'm just a newbie member.

Ron Andruff: Yes, I know but my former chair, having had the experience, and Thomas because he has a very good idea about how we might move forward that perhaps the two of you might work on kind of a way forward on this one. Thomas, that be okay?

Thomas Rickert: More than happy to do that.

Ron Andruff: Excellent. Thank you. So thank you very much both of you. And I think this is - one of the interesting things of the SCI is we get these things that are really - they need thought and a lot of consideration so it's good to have this kind of dialogue but this is just the beginning of it. Thank you.

With that we'll move on then to our next agenda item which is actually 6b and this was the waiver exception. And in fact Thomas, back to you again. You had responded on the list with a very interesting perspective as to why - and why this would be a value and how we might approach it. I wonder if you might share a few words on that?

Thomas Rickert: Sure. Thanks, Ron. The question was whether we could waive formal requirements for invitations such as notice periods of the motions and documents deadline if need be. And my suggestion was to sort of copy the scenario that is known in other areas such as in corporate law and law associations and stuff whereby you can usually waive all formal requirements if all shareholders in that instance waive that they're invited for the two week period or what have you or inviting.

And my suggestion was to follow that path and just allow for things to be heard whether motion deadline has been missed, where all councilors actually waive invitation period.

The reason for that is that I do think that nobody loses anything. There has been the question whether people could be disadvantaged because they don't have sufficient time to discuss certain items with their respective groups. But those that come unprepared just say they don't waive.

So there is no automatism for any, you know, waiver and there is no scenario in which the system can be gamed so it's only thought or meant to be for situations where a document that has been thoroughly discussed or a motion that has been thoroughly discussed and all councilors come in well informed but unfortunately, you know, you've slipped over the line a little bit in terms of timing that these things can still be discussed and voted upon in the GNSO Council.

And I think there is a value in that. Subsequently on the mailing list we had the discussion whether such exceptions should be phrased as a waiver or

whether people should actually - I think you were - an explicit waiver or no objection.

And my personal view, if I may add this to the history of our discussion, is that we should need an explicit declaration of will - of all councilors that they're fine with this. Because if you have a non objection that would be an automatism that might prove to be disadvantages or negative for some parties because, you know, there might be scenarios where councilors are not present or not represented.

And if you then just ask the room are there any objections and you don't hear any you might proceed while if you explicitly need to check whether everybody has waived you sort of have a safety net to ensure that nobody is being missed out.

Ron Andruff: Julie, could you just scroll that a little higher on our Adobe because we're actually not seeing the waiver. This is - you're looking at submitting a motion. I think we have to go down to get to the waiver discussion.

Julie Hedlund: What I see on my screen is waiver and exceptions.

Ron Andruff: Are you seeing it? Oh...

((Crosstalk))

Ron Andruff: All right so that's possible. Good, as long as everybody else is seeing it, that was the important thing. Marika, please.

Marika Konings: Yeah, this is Marika. Yeah, so what I indeed pointed out on the mailing list because we have had instances indeed where I think we did not a formal waiver but probably an informal waiver as it doesn't formally exist under the Operating Procedures but I think the way it was handled in those cases where I think Jonathan would basically send out an email to the list saying,

"Look, this motion was indeed submitted past the deadline but we still would like to consider it. Does anyone object?"

And indeed allow, you know, a couple of days because I don't think it was normally on the call. But this could give people some time to, you know, send in their objections by email to that consideration and, you know, if someone would object okay then indeed there cannot be the vote, let's discuss it.

But, I mean, again that's I think the informal practice that has happened on a couple of occasions. And I think - and the last meeting in Durban I think some Council members expressed (uncomfortability) with that - without having that formal waiver in there.

So, again, I think indeed the question is if you have a waiver how do you do it indeed if you require everyone to - I mean, I think one of the concerns I would personally have by having everyone saying that they agree that it does require people indeed to respond what do you do if someone just doesn't respond?

You know, they're not saying yes or not but they're just not responsive. Does it then mean that you can go and vote or what is the rule then? I think that's one of the issues where you may want to think about if you really require everyone to affirm whether they agree or not.

Ron Andruff: Thomas.

Thomas Rickert: Sorry, I think I've talked too much this morning, which is unusual for me after only two cups of coffee. But again I guess that - and this might not be good for the (unintelligible) for the SCI but I would prefer leaving this to the discretion of the chair.

Right, so I trust the chair that we elected quite a bit not to take advantage of the flexibility that we're given - or her. But now that we've been asked to look

into this from a formal perspective I think the right way to do is - in order to protect everybody's interest to go through explicit waivers.

Now if we go back to the analogy that I meant - that I alluded to earlier the legal proceeding with that would be if you just take non objections then you might have a formal error in following the formalities. But that would not necessarily mean that a decision made or a vote taken would be void per se.

But under, you know, at least German corporate law you would then be entitled to go to the local court and file an objection. And if you don't file the objection in one month's time then the vote stands, right? So you can, you know, if you wanted to follow this analogy we might keep this a little bit loose and wait for people to come back and complaint.

But that's certainly a little bit dirtier - a way that leads us with a little bit of uncertainty because we do not know if a councilor or a group would seek reconsideration. So I think the safest way would go for explicit waivers but I fully agree that this is a cumbersome approach. But that would be the one that would give you certainty that everything's right.

Ron Andruff: Well actually, Thomas, you started your comment by saying - your first thought was it should be at the discretion of the chair. And I just wanted to come back on that to say that there's no reason why that could not be the solution as well insomuch as these are the kinds of things that we wrestle with at the SCI and say you know what, it probably would fit more in the chair's discretion because the chair is responsible for these types of things. It's on their shoulders to make sure it's done right.

And we've got staff watching to make sure that the bylaws and all of the appropriate guidance mechanisms of ICANN are protecting it. So that's not such a bad idea. I mean, you really have both sides of that.

And I think that my knee jerk reaction to this having read the back and forth that we had on the list is that it's not a bad idea to leave this in the hands of the chair because that is the chair and the vice chair effective it's their decision to make a determination whether or not that waiver makes sense. So that's something that feels kind of right to me. Mikey, please.

Mikey O'Connor: I think the one thing we might want to do is give the chair and the vice chair some help in the form of some guidelines so that when they're using their discretion they're reminded of the choices that they're making. I'm thinking about sort of transmitting knowledge into future generations of leaders. And so I don't think it's a bad idea to sort of lay out some pros and cons.

You know, I like Thomas's description of the circumstance because it makes it easier for me to think about it. And I think the SCI could sort of consider doing something that isn't quite as binding but says the chair might consider the following issues as they're using their discretion.

Ron Andruff: I think that's a - for my part that makes a lot of sense that it's guidance for the chair to go forward. Because what I'm hearing is that - the reason this came to our table was because there was no guidance. And if we were to provide that direction and keep it in the - under the chair's and vice chair's discretion that might be a good way to go forward. Anyone else have some thoughts on this?

All right then so we'll digest this information and give a little more thought to it. I'm tempted to assign some roles and responsibilities to perhaps Mikey seeing as how we want to go in that direction. No good deed goes unpunished here at the SCI.

And perhaps I could actually look to Marie as a newcomer to participate with Mikey in terms of shaping this and giving some thought to it. And the reason I'm doing that, Marie, is only because I think it's important to throw you into

the deep end because you'll get a sense of how we work through things and if you're amenable to that?

Marie Laure-Lemineur: Do I have a choice?

Ron Andruff: Of course, absolutely. I'm Canadian, you know, everyone has a choice here.

Marie Laure-Lemineur: Nice, okay. And so I get to work with Mikey, right?

Ron Andruff: That's correct.

Marie Laure-Lemineur: That's okay. Not a problem.

Ron Andruff: Very good. Excellent. Well thank you for - both for...

Marie Laure-Lemineur: We already shared some wine last night so I'm guessing we can keep working.

Ron Andruff: Very good. Excellent. Thank you - thank you both for that. So what we're looking for is just to shape some language a little bit for the group to kind of look at and - at our next meeting. Any other thoughts or comments on this topic? Hearing none then we'll move on to the next item which is actually any other business.

Before I start to discuss what I would like to discuss I wonder if there's any other thoughts in terms of any other business that any of you would like to put on the table? None.

All right then the - as we saw on the list Julie and Marika had brought forward some ideas about how we might be functioning better going forward as an organization. And the fact is that now having - Council having determined that the SCI will stay on as a standing committee to support Council issues and so forth we can expect that we'll see more work coming our way.

And as such the question is would we be more efficient if we were to accelerate the number of meetings we have rather than having one per month where we forget after two or three months what the basic elements of the discussion was or key parts of it disappear because we've been busy with other things if we were to move back to having meetings more regularly.

Now that's as and when we have more work; that's not to have meetings or meeting's sake but as the work piles up we can start to look at having two meetings per month. That's one element.

And the second element is what we've started a little bit to do today is assign responsibility to various members to take on certain tasks we discuss so that we can crystallize our thinking through the work of those what I'll call subgroups, they're really not subgroups but two or three people to kind of flesh out these topics. And I think that might move things a little further forward in a more cogent way for everybody and discussions that we have today will not be lost three months from now.

So the proposal then really is to look at two elements; one, creating subgroups to actually pick up topics and kind of bring those ideas back to the next meeting and be responsible for that; and the second is whether we move to having meetings twice monthly.

So just like to open the floor for comments from the committee please. Mikey.

Mikey O'Connor: I have sort of an allergic reaction to frequent meetings without need. So if there was some way that we could - I have to cogitate about this because carving out a standing meeting in already busy calendars is really tough. And what happens is when you don't have enough going on in a meeting to warrant having one people get - it kills off participation. So I'm not (agin) it but I'm not enthusiastic either.

Ron Andruff: But you said it right, Mikey. I think the - at this stage of the game we have three items on our agenda. One will - should the IPC should clear this up by the next meeting. We'll have these two items and unless something new comes I don't see we need to have a firm meeting every two weeks.

What I'm recommending is as the work load picks up - and I would assume it will and if it doesn't that's fine - right now we're at monthly meetings but as it picks up that we would all say okay we can shift into every two weeks.

So it's just a - kind of a - I'm looking forward for the future. There's nothing right now that I'm aware of that says we need to have a meeting in two weeks. Our next meeting as it stands right now would be in four weeks.

But at that stage in four weeks we should be able to look at these two work items we have getting feedback from our colleagues and be able to kind of clean those off the list or at least by the next meeting as opposed to having them sit out there for six months or eight months as we've had some topics. So that's really the direction I'm going.

John, please.

John Berard: The frequency of the meetings, I guess, if you wanted to plan would be equal to your view of the dysfunction of the Council, right? So the more dysfunctional the Council gets the more frequent your meetings are going to have to be.

Mikey O'Connor: So in other words I'm trapped in a situation where I'm either meeting more on the Council or I'm meeting more on the SCI, is that what you're telling me John? Yeah, okay thanks. Thanks a million for that.

Ron Andruff: Marika, please.

Marika Konings: Yeah, this is Marika. Something we'll try as well to do to, you know, assist those groups that are forming now is try to work more off the kind of template where we try to keep track as well of the discussions.

Because I think what we've seen as well, indeed, with the lack of meetings or the time in between meetings that sometimes redicuss certain things that were already discussed before and maybe having those main points captured together either in a Word document or on the wiki that we can pull up during a meeting will actually help people refresh their minds.

And again I think, you know, if you look, for example, for the resubmission of a motion I think that item is already on the agenda for quite some time. And I think it's important to note as well that, you know, if the SCI recommends changes to the Operating Procedures those first need to go out as well for public comment.

So publish the public comments, you may get some feedback. It'll need to be re-discussed by the SCI so by indeed pushing things out in the monthly basis, you know, I agree if there's nothing to discuss there's no need to meet more often.

But I think as we now have quite a number of potential items and there seems to be some momentum around those or some clear views where people would like to go we might try and see if, you know, for a couple of meetings to do it every two weeks to get through those items.

And then again when we're low, you know, just go into a hiatus and wait until new issues arise. So I think that's been the proposal. But again from our side we'll try as well to give you some better tools as well to keep up with the conversation and assist that process of trying to move towards, you know, solutions and having some issue owners to try to drive that discussion forward instead of just coming back together every two weeks and just doing the same thing we already did two weeks ago or a month ago basically.

Ron Andruff: Yeah, thank you, Marika, for that. That's very helpful. I forgot about that element. But that - what you said there also makes some sense. I wonder if we should look at having a meeting in two weeks to discuss these issues we've talked about today and then two weeks thereafter to see if in fact within 30-45 days we can move these two topics that we've discussed today about waivers and voting by email off the list.

Marika.

Marika Konings: Yeah, this is Marika. And I haven't even had coffee and I'm still (unintelligible). One thing to note as well that as we need to have public comment if there are proposed changes to the operating procedures of course ideally if, indeed, if you are going to recommend changes you would of course try to group them together so we don't have to have, you know, three public comment forums within a very short timeframe so that's something to think about as well as you, you know, work towards recommendations for these items.

Ron Andruff: Thank you. Mikey.

Mikey O'Connor: So another way to do this would be to clump our work and take that even further and say all right we'll stage two or three topics, we'll meet weekly just like a working group, bang, bang, bang, bang, get done, turn the switch off, let another pile accumulate, two or three months later wake it up again.

I'd be actually more enthusiastic about that because then we wouldn't run - because you're absolutely right, this business of once a month is a little slow and I always have to sort of drag myself back up. But if we were to go pretty frequent, get stuff done, turn the thing off for a couple of months that might be another way to go.

Ron Andruff: Looking down the table anyone have some thoughts or comments to what Mikey's just recommended? So we kind of look at it as a working group - take these tasks on and really gather once a week to chew on them and try to nail them down.

Some things take - obviously take more time and one needs to think more about it and go back to our constituencies and so forth but other things not so much. So thoughts? Avri.

Avri Doria: I'm strongly disinclined to committing to meet every week on - as a working group in this. I would prefer to explore offline methods of working with periodic checkins and such. But the notion of this becoming a forced march like many of Mikey's working groups often become is something that fills me with dread and fear and loathing and angst and so...

Ron Andruff: And desire.

Avri Doria: ...and the absence of desire, yes.

Mikey O'Connor: Let me clarify. This is Mikey again. I do like the adjectives a lot; loathing, angst. No, what I was thinking is, you know, if we look at the SCI, I mean, we've only really in the last year dealt with like three or four issues. And maybe we put those all in a pile and we meet once a week for a month and figure all four of them out and then go to sleep for 11 months until there's another pile of issues.

I wasn't - I certainly wouldn't propose meeting once a week forever. That fills me with loathing, angst, desire, paranoia, fear, trembling. I'm trying to come up with more adjectives.

Ron Andruff: All right. Well, listen, I don't want to have anyone have angst on the first day of the ICANN meeting. We've got lots of work ahead of us. So I think I'll bring this topic to a close and to suggest - please, Julie.

Julie Hedlund: Well there's the issue of scheduling the next meeting and we probably really should decide that. And just looking at the calendar, you know, we do have now the intervening ICANN meeting that is next week. It's often difficult for people to make the meeting immediately following the ICANN meeting. Our meetings are normally on Tuesday afternoons which would make it the 26th if we were trying to go to a more frequent schedule which I see dread in Mikey's face. How about that?

And where if we stuck to our monthly schedule just for this time until we decide this issue the next meeting would be the 17th of December or we could compromise and, you know, throw some meetings in between. But I would suggest it would be helpful for all of us if we had something to, you know, be able to plan when the next meeting is.

Ron Andruff: Thank you, Julie. That's exactly where I was going to go with this. I was going to suggest that we schedule for two weeks from now if that's not falling on a competing time.

Julie Hedlund: That would be the 3rd of December, I think.

Ron Andruff: Yeah.

Julie Hedlund: It's not strictly speaking two weeks from a Saturday...

Ron Andruff: Yeah.

Julie Hedlund: ...but I don't think anybody wants the next meeting on a Saturday at this time.

Ron Andruff: Agreed. So let's schedule for two weeks. That gives us two weeks then to - for the two teams we've asked to do a little homework and also for us then to consider ourselves how we want to pursue this.

But I do like the idea of kind of, you know, drilling down and staying focused for a shorter period of time to get the work done as opposed to letting it drag out there as it has in the past. So if there's no disagreement with that then we'll accept that as the next step forward. Very good.

So with that, ladies and gentlemen, we've come to the end of our agenda unless there's anything anyone wants to bring to the table at this moment. And hearing none I thank you all very much for getting up very early. I thank Glen for finding us a room at last minute and all the staff for joining us. Thank you. So I'll bring this meeting to a close.

END