
ICANN72 | Virtual Annual General Meeting – ccNSO: Governance Session ICANN72
Tuesday, October 26, 2021 – 10:30 to 12:00 PDT

KIMBERLY CARLSON: Hi, everyone. And welcome to the ccNSO Internal Rules Governance Session. My name is Kim, and along with Kathy and Claudia, we are the remote participation managers for this session.

Please note that this session is being recorded and follows ICANN's expected standards of behavior. During this session, questions and comments submitted in chat will only be read aloud if put in the proper form. As you'll see noted in the chat, we will read the questions and comments aloud during the time set by the chair or moderator of the session. If you would like to ask your question or make your comment verbally, please raise your hand when called upon. Kindly unmute your microphone and take the floor. Please state your name for the record and speak clearly and at a reasonable pace. Mute your microphone when you are done speaking.

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And with that, I will hand the floor over to David McAuley, Chair of the GRC Rules Subgroup.

DAVID MCAULEY: Thanks very much, Kim. And hello, everybody. Welcome to this group on the further discussion on ccNSO decision-making and updating the

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rules. My name is David McAuley. I'm the Chair of the group, as Kim said, and I've had some very outstanding participation by the subgroup members we'll mention at the end of this session. But we welcome you here to the next step in updating the rules forward.

The purpose, as I said, is to bring the rules forward to the present. They were adopted in 2004 by the ccNSO and they've not been updated or revised since. Little bit out of whack in certain places. And this effort seriously began or took some formal steps at ICANN69. And at 69, 70, and 71, we took further steps all the way from identifying areas that might need some change to coming up with concepts and developing drafting considerations. And now here at ICANN72, we have a draft in front of you. And I've set out the work that the subgroup has done on a draft, a three-column document, [with] the new draft on the left. The 2004 rules are in the middle column on, on the right, some rationale [and] description.

Today, we're going to go through that draft and we're going to try to get the temperature of the room, some further feedback. We're getting close to finalizing this process. After this session, we'll also go back out on the list for those who can't be here today to say, "Please watch the recording. Please see these texts." I encourage everybody to give us feedback. But we're getting close to the end of the process.

Today we will handle each session individually. We will have some chance for some questions and clarifications. We hope to move through the whole document, however. And we will have some polling questions. And in addition, I will also be reading the text—not of all the

slides but the text of the new rules draft. We think it's important to make sure that we're clear on exactly what that language is. We will display the results of the polling. We'll get your feedback, and then we will rationalize all this ourselves as a subgroup after we're done and come back on list with the next steps and the next draft, which may in fact be the final draft.

What I'd like to do now is note some important points about this session. One, the polls that we're going to take today are really, as I said, to get the temperature of the room, to get some feedback. We'll continue that on list. But these are not votes on changing the rules, period. The change to the rules is not on the docket today.

Two, any vote to change the rules will be formally announced and conducted electronically. But recognize, too, that no change to the rules can happen that don't meet the threshold for change as established in the existing rules which were adopted in 2004.

Third, bringing the rules up to date is actually a two-part effort. We're close, hopefully, to the end of the first part. The second part is what we're not addressing at this time, and that is the rules that deal with ccNSO as a decisional participant in the Empowered Community. We're talking Annex 5 to the 2016 bylaws of ICANN. That work is still being done by the ccNSO Guidelines Review Committee. When they finish their work, we will then start the second effort of the rules update sometime in the future—the not-too-distant future, I believe.

And then, finally, we want to make sure that all members have a chance to consider this and to speak. And so we encourage a robust of the list.

That would help us [inaudible]. It's been done very well so far, and we would encourage to continue that.

So that's my introduction to what we're doing today.

If we could move on, Kim, to the next slide. This is the roadmap that I can spoke about. We can go past this right now. So we're not talking about the rules that will work as decisional participants. I just mentioned that. That will be the second part of the effort on this.

Next slide.

KIMBERLY CARLSON: David, my apologies for interrupting. Your video is cutting in and out. It's a little muffled at some points.

DAVID MCAULEY: You mean the audio?

KIMBERLY CARLSON: Your audio. I'm sorry. Yes, your audio.

DAVID MCAULEY: Is this okay?

Is it okay now, Kim?

KIMBERLY CARLSON: Yes. Better now.

DAVID MCAULEY: Should I repeat anything?

KIMBERLY CARLSON: I don't think so, no. It was just a little muffled and going in and out. But we could hear you.

DAVID MCAULEY: Sorry about that. I apologize to you all. I will hold this out in front of me to try and make it better.

So what we're talking about is we will get into an introduction to the rules and a statement of the principles of the rules. These are new sections. I'll cover those. We're then going to talk about ccNSO decision-making. There are decisions by council, by members, and then there are decisions by council subject [devito]. We're going to talk about how the votes are conducted, talk about review of the rules, and then we'll also talk about change mechanism for changing the rules in the future. Any change to the current rules has to, of course, meet the threshold of the current rules.

Next slide, please. So we're going to get into the proposed text and, as I said, we will have, around some of the proposed text, some polling. And we will go through the proposed text.

Kim, can I get the next one? Is the audio okay?

KIMBERLY CARLSON: Audio is good. Thank you.

DAVID MCAULEY: Thank you. So we're going to get into a new section and introduction. The old rules were simply the rules stated without any introduction, any context. That's fine. They work perfectly. But in the new rules, we felt it would be appropriate to have some context.

So let me read the introduction that we've come up with as proposed text, and then we'll ask you in the poll what you think about this. Here I go.

“These are the rules of the ccNSO as approved by the members and adopted by the ccNSO Council in the month and year of when that may take place. They replaced the rules of the ccNSO, which were adopted in 2004. The governance of the ccNSO is based on three different sources. In the event of conflict, they are ranked in order of precedence: first, the ICANN bylaws; second, the rules for the ccNSO membership [here-and-after] rules; third, operating procedures, also referred to as ccNSO guidelines. The purpose of the operating procedures is to set forth a detailed course of action for operational or administrative activities. These are developed at the initiative of the ccNSO Council. The rules and operating procedures are in accordance with ICANN bylaws, Article 10, Section 10.3K, which states, ‘The ccNSO Council, subject to direction by the ccNSO members, shall adopt such rules and procedures for the ccNSO as it deems necessary, provided they are consistent with these bylaws. Rules for ccNSO membership and

operating procedures adopted by the ccNSO Council shall be published on the website.”

So I’m going to ask for the first poll to be brought up, and it’s basically to get your reaction to putting in an introduction to the rules. So we’ll give a brief period of time. In fact, I’m going to vote myself.

And, Kim, I’ll let you determine when to bring up the polling results.

So we see fairly widespread support for the idea of this text as an introduction to the new rules. And so I think we can move on to the next section, unless anybody has a burning issue. But as I said on the first two sections, we’re really hoping to move through them fairly quickly. There are new sections just basically stating context.

And I’m unable to follow chat, so I will move on to the next section. This is Section 0.B. It’s a statement of the principles that were adopted by the ccNSO very early. And we’re sort of restating them in the rules. We thought that would be a good idea.

And I shall read. “The following general principles constitute the foundation of the ccNSO. However, they are not part of the internal rules of the ccNSO. One, the ccNSO is a bottom-up organization where the members give guidance to the council as stated in the bylaws. Two, the ccNSO is open and transparent to members and non-members. Three, the ccNSO will operate transparently and in public wherever possible and on a non-discriminatory basis. Four, there should be minimum periods of notice for meetings and votes. Five, there should be a minimum turnout or quorum for a vote to be valid with a regional

representation. Six, the ccNSO operates on the principle of one member, one vote, unless specifically provided otherwise. Seven, the ccNSO should be able to make decisions at face-to-face, virtual, and hybrid meetings and by electronic ballot. Eight, the ccNSO wishes to allow non-members to participate in discussions on issues before the ccNSO. They were initially expressed as context for the further development and application of rules and operating procedures and have proven to be valid to the passage of time. These principles inform and guide the development of the ccNSO.” So that’s the text that we’re bringing into the rules.

So I’m asking again, same as the first poll: what do you all think?

Kim, you can open the poll.

Once again, we have pretty widespread support for doing this, for restating this as additional context. I thank you for that.

And let’s move on to the next section, please—next slide, I mean. So we’re going to get into members-only decisions. We’re getting into Section 1. And when we get into Section 1, this is a section about who takes which decisions. And Section 1 has three parts. Each of them are going to be handled separately. And we’ll deal in another section with the how members decisions are made.

So I’m going to be calling on colleagues to help me in this section. Irina, Stephen, and Alejandra will help respectively with the subsections here.

So here is some proposed text. This has to do with members-only decisions other than explicitly provided in the ICANN bylaws. “In

addition to the decisions in the ICANN bylaws which have been reserved to be taken by the ccNSO membership, the following resolutions and/or decisions are reserved to be taken by the ccNSO members exclusively: A) Members vote to change the rules, B) a veto vote on ccNSO Council resolutions and/or decisions as provided for in the rules, and C) ICANN Board Seats 11 and 12 elections. Details on the voting procedure and other aspects of the ICANN Board Seats 11 and 12 elections are specified in the relevant operating procedures.”

Now, we’re going to get to the poll in a minute, but I want to ask Irina if she could help us get to the rationale/thinking on this and gauge if there are any questions. And I have to say I did think I saw a question in the chat from Bart, but I’ll have to go back and look at it. Irina?

IRINA DANELIA:

Thank you, David. So this a new section. There's no similar section and wording in the current rules.

And the only clarification I want to give here is that, according to the ICANN bylaws, the ccNSO Council shall nominate the individuals to fill Seats 11 and 12 on the Board. However, since a long time ago, it was decided that the ccNSO members actually nominate and second and vote for their representatives on the ICANN Board. It’s up to members to make this decision. And the role of the ccNSO Council here is only formally to oversee the process and then formally submit their members decision further.

I hope that helps. Back to you, David.

DAVID MCAULEY:

Thank you, Irina.

So, Kim, why don't we go ahead with the poll here? The question on this poll is, what do you think of this section?

As we're waiting for this to come up, I'm going to ask Bart in the background if you can let me know if I'm going to a little too slow or too fast. I know we have a lot to get through.

So the results are up. The support here is 74%. Pretty high amount. The do not support is fairly low, in my opinion. And no opinion was expressed by about 24%. So we will take that onboard in our deliberations in the next draft.

Are there any further items on this? And if not, we can move to the next section.

Here's proposed text for council-only decisions in Section 1.2. I will read the text and then ask, I believe, Stephen help us get through some thinking on this. "Council-only decisions other than explicitly provided in the ICANN bylaws. The following limited set of resolutions and decisions are reserved to be taken exclusively by the ccNSO Council. Thus, the member veto mechanism does not apply. One, administrative resolutions and/or decisions: appointment of members to working groups, committees, study groups, and cross-community working groups, appointment of liaisons, ccNSO Council meeting schedules, agendas, and minutes, voting on and processing of membership applications, request a call for volunteers, request a preparation of a

timeline for upcoming activities, request a summary of an activity. And, two, the ccNSO Council resolution and/or decision to adopt a change to the rules.”

So, Stephen, over to you.

STEPHEN DEERHAKE:

Thank you, sir. This is really just back-office administrative stuff at the end of the day with regards to the council being able to carry on their day-to-day work. Having been on council now for some time, it’s just getting out the mop and mopping the floor, really, in terms of setting agendas and doing pro forma requests for volunteers, etc. There’s nothing really exciting here—I don’t think, anyway. It’s just letting the council do what it needs to do day in and day out.

And with that, David, I think it’s back to you for Poll #4.

DAVID MCAULEY:

Okay. Thank you, Stephen. So let us bring up the poll and let’s ask the community here what you think of this approach.

Bart, are we doing okay on time?

BART BOSWINKEL:

Let me check.

We’re doing fairly well.

DAVID MCAULEY: Thank you, Bart. Doing pretty good on this poll result, too. There's a lot of support here—90%. And the rest of the indications are no opinion here. So let's close that out.

Not seeing any hands, so let's move on to Section 1.3, to the next slide, please.

STEPHEN DEERHAKE: David, I actually have my hand up, but I just wanted to point out to you that we've got several comments/questions in the chat that I think need to be addressed. Thank you.

DAVID MCAULEY: Thank you, Stephen. I'm sorry I didn't see your hand. And I'm not being able to follow the chat. Could I ask you to mention the ones that you are noting?

STEPHEN DEERHAKE: Yes. It looks like there's some comment from Patricio to Bart. And there's also something from Peter. I'm trying to scroll through it now.

DAVID MCAULEY: I did see one comment from Patricio earlier on not taking action at meetings. As I said, I'm not able to see—

STEPHEN DEERHAKE: Yes, that’s the one I’m looking at on Page 3, Principle 7. “We never make decisions on the spot in meetings.”

DAVID MCAULEY: And I think that’s fair. We’re going to talk in the rules about—

STEPHEN DEERHAKE: Okay, Irina has got that addressed. Okay, I’m seeing that now.

DAVID MCAULEY: Okay. Thank you.

STEPHEN DEERHAKE: Yes, we’re all good. Go ahead. Carry on. Sorry.

DAVID MCAULEY: Okay. No problem. Thank you, Stephen. Thank you for doing that.

So if we could, Kim, move to the next slide. So we’re getting into Section 1.3, which is council decisions subject to members veto mechanism. This is a bit of an involved section. I’m just going to read this first initial proposed text.

“All ccNSO Council resolutions and/or decisions”—we’ll have to fix that typo; it’s “resolutions”; plural—“are subject to the members veto mechanism as provided in Section 1.3.2 below, unless specifically determined otherwise in the ICANN bylaws or under the rules.”

I'm going to help at Section 1.3 from Alejandra. Alejandra, let me ask you if you want to say anything about this.

ALEJANDRA REYNOSO: Thank you, David. And hello, everyone. Well, the only thing that I need to say about this is that this is the way we've been doing it so far since the beginning. So there's nothing new with this. It is only to say that any other council decision will be subject to the members veto mechanism [like] the ones that we've seen in the previous slide. Thank you.

DAVID MCAULEY: Thank you, Alejandra. And stay close to the mic there because you're going to help again.

So bring up, Kim, if you would, the next poll question. And it's on this section. Looking for support, non-support, or no opinions.

Here we have a good amount of support, 3% non-support, and 11% no opinion. That's helpful. It tells me, I think, that this subgroup is on the right track.

Let's move to the next section, next slide, Kim.

KIMBERLY CARLSON: David, we do have one hand up: Maarten Simon.

DAVID MCAULEY: Okay. I'm not seeing the hands. I'm sorry. So thank you for your help on that. And who is it, Kim, please?

KIMBERLY CARLSON: It's Maarten. He has unmuted himself.

DAVID MCAULEY: Go ahead, please.

MAARTEN SIMON: [inaudible]. One question I have. I supported this point, but how often do we foresee that we will have members votes after we've went through all of this?

DAVID MCAULEY: So let me ask Alejandra. If you want to answer that, Alejandra, and then I might have a comment.

ALEJANDRA REYNOSO: I'm not sure I understood the question correctly because it was a little bit chopped on my end.

MAARTEN SIMON: Shall I try to repeat it?

ALEJANDRA REYNOSO: Yes, please.

DAVID MCAULEY: Yes, please, Maarten.

MAARTEN SIMON: The question is, how often do we foresee having member votes, where we don't have many member votes now? And if we change things to more member votes and less council votes, that means that we will have more member votes. And how often do we foresee that we will have member votes now if we follow this advice?

ALEJANDRA REYNOSO: Just to see if I understand correctly, are you asking how often to we get members veto votes for council decisions?

MAARTEN SIMON: Not veto votes, but it seems that we go now to a system where we have more member votes. There are more decisions that have to be taken by the membership instead of the council.

ALEJANDRA REYNOSO: No, I don't think so. We do have—

MAARTEN SIMON: I think my connection is very bad, so I'll try to type it in the chat.

DAVID MCAULEY: Okay.

ALEJANDRA REYNOSO: Okay. David?

DAVID MCAULEY: Let me make one brief comment, Maarten. I thought I understood the question. I don't know that we will necessarily get to more member votes. And we'll see later on in the rules the mechanisms by which members can instigate a vote. It's not something that just one person can do. There is a threshold that has to be met.

But I think I agree with what Alejandra was getting at. I doubt that this really means necessarily that there would be more members votes. That certainly could happen, but my expectation is, with the way the council works now and the way that the procedures are working now, it would probably remain pretty much the same. And what we're doing with the rules is simply updating them. We're not making really major changes that would cast a new level of voting, I don't think.

But it's a good question. And we will consider this in the next draft.

But before we get there, Kim, if we could go to the next section. Okay, we're getting on to Section 1.3.2. Now I'll hand this back to Alejandra.

ALEJANDRA REYNOSO: Thank you, David. And just to address a little more on Maarten's question, what we're doing here with the proposed [stakes] is just making it clear whose responsibility is to do what. And maybe that's

why it seems like members need to do more. But it's just the same thing, just more clear and explicit, I would say.

So coming to this, now we are going to talk about council decisions and the effective date on which resolutions and decisions will take place. And with this, we will take into consideration also the members veto mechanism. And we will go in four parts for this because it's one section but it's a little bit too much going on. So we decided to split it in part so it's easier for us to be looking at the text.

So we will go first on what is a requirement to publish all council resolutions and decisions. Then we will see how the effective date is determined. Then we will see the requirements for members notification, and, finally, the council notification and how the members veto vote is initiated.

So we can go to the next slide, please. So this is where everything starts, as in we need to publish all council resolutions and decisions. So this is the proposed text to make that happen.

So, please, David, if you mind reading it.

DAVID MCAULEY:

No, I'm happy to. This section is as follows. "Requirement to publish all council resolutions and decisions. The ccNSO Council must publish all of its resolutions and/or decisions as soon as possible to the appropriate ccNSO list and on the website of the ccNSO. But in any case, within seven calendar days after the resolution and/or the

decision was passed, each resolution and decision shall include the date it becomes effective.”

Back to you, Alejandra.

ALEJANDRA REYNOSO: So, with this, as I told you, we will go bit by bit. So this proposed text is the one that we will require your input now on, your feedback. So we will go for a poll now.

DAVID MCAULEY: Thank you, Alejandra.

ALEJANDRA REYNOSO: No problem.

DAVID MCAULEY: Sorry. Alejandra, why don't you—

ALEJANDRA REYNOSO: Go ahead. Go ahead.

DAVID MCAULEY: Okay. The support is strong again—90%. No opinion is the other 10% though. That's meaningful to us in our work and we will take that forward. Thank you.

So, Kim, I'm going to close this and we can go on to the next slide.

ALEJANDRA REYNOSO: So here we have a diagram on how we determined the effective date. And this is what we call the usual cases because, so far, there has been no council resolution or decision that has been vetoed at all. So for us, these are the usual cases of what happens. We publish the resolution, and now we have to see if it's a council-only decision. This is the text that we already have discussed in the previous slide. And if it is a council-only decision, then the effective date will be upon publication because it's a council-only decision. If it's not a council-only decision, then we will see if seven days have passed without any novelty. That means nobody has raised any issue with the decision or the resolution. So if that is the case, then the effective date would be upon seven calendar days after the resolution was passed.

So this is just to see graphically where the usual cases are. And later we will see what happens if there's someone who has an issue and requires this not happening. So, for now, we will focus on this.

Can we go to the next slide, please? So here's the proposed text to determine the effective date. And for this, I will turn it to David.

DAVID MCAULEY: Thank you, Alejandra. "Determining the effective date. The effective date is determined as follows. One, resolutions and decisions which are exclusively reserved to be taken by the ccNSO Council upon date of publication. Two, all other resolutions and/or decisions seven calendar days after publication, subject to the written request for a members

vote by at least ten members of the ccNSO from at least ten different territories and representing no less than three ICANN geographic regions. And effective member’s notification shall, upon timely receipt by the ccNSO Secretariat or ccNSO Council Chair, suspend the resolution and/or decision from taking effect.”

And do we have a poll here, another one. What do you think of this? It’s a support, non-support, no opinion poll. Please let us know what you think.

Here we have 74% support, 23% no opinion, and 3% do not support. As I said, this is not inconsistent with the trend we’ve been seeing so far. And we will take this under advisement in our next draft. Thank you for that. And we also, of course, put this out to the list and ask people unable to be here if they ask thoughts on this. So thank you for that.

We can move on to the next slide.

ALEJANDRA REYNOSO:

Well, here we are now. So if we do receive a member’s notification, what would be necessarily to be in that member’s notification to be considered valid? So the written request needs to have certain very logical items that are listed here in the proposed text.

So I will just go and tell David to read it for us. Please, David.

DAVID MCAULEY:

Thank you so much, Alejandra. “Requirements of member’s notification. The written request members notification for a members

veto vote must be sent by electronic means to the ccNSO Secretariat or the ccNSO Council Chair during the seven calendar days mentioned under 1.3.22. To be effective as a members notification, it must include at a minimum, one, the names of the objecting ccTLD managers and, two, the ccNSO Council resolution and/or decision that it's being objected to and a brief explanation of the objections.”

We have a poll. We'll bring it up. Same question. We're looking for support, non-support, or no opinion on this element of the new draft.

And we see the results. 81% support and 19% no opinion. Thank you. And we'll put this in our toolkit as we move forward.

And we can go on to the next—

BART BOSWINKEL:

David, there is a question in chat which might be relevant for everybody. And it's more the rationale of why the minimal of three regions. And I think that was a discussion on the list as well, but maybe one of the members of the group wants to allude to it.

DAVID MCAULEY:

Thank you, I didn't see it, Bart.

Alejandra, do you want to speak to that or do you want me to speak to that?

ALEJANDRA REYNOSO: Let me give it a first shot. So in the original rules, the requirement was that 10% of the ccNSO members would be required [to cast a vote] to request a veto. That would mean, right now, 18 ccNSO members. So we thought it was maybe too high now because, again, with the rules, when they were developed, we didn't have that many ccNSO members. So back then it was not that many members who could veto a vote. So we decided to lower that number to ten, but then, according to our discussions, we thought, well, but we do need the diversity of the regions because it might be the case that it comes only from one region, for example. And the ccNSO is global. So if it is an issue, it should be addressed by representatives of different regions, not just one. And that is how we came up with three ICANN geographic regions.

Does that answer your question, Maarten?

So Maarten is saying in the chat, "But if a decision affects members in only one region?" Well, I ... That is a good question, but I believe that it is necessary that members do communicate and do seek each other. It would be very, I would say, difficult that that would happen, since we do carefully consider everything at the council level, but I think that we cannot respond to that particular question. But we can take it back to the subgroup if necessary. But thank you for the observation.

DAVID MCAULEY: Yes. And, Alejandra, I think it's a good question. And, Maarten, I think we will take that back. But I encourage you to use the list also to sort of expound on this a little bit further if you can. Maybe not right now but on the list.

I find it hard to envision a situation where council activity could affect just one region, but I presume it's possible. And maybe in such cases, we need to come up with a special mechanism should that be the case.

But in any event, we would appreciate any further thoughts you have on it if you do have them, but we will take that back to our group and think about for the next draft. Thank you.

And, Bart, thank you for highlighting that. As I mentioned a couple times, I'm not really following the chat. And I'm trying to follow hands. So thank you for your help on flagging that question.

And here's the next [inaudible]. Back to you, Alejandra.

ALEJANDRA REYNOSO:

Thank you, David. Just wanted to tell you that Maarten said in the chat that he agreed that it was a bit theoretical—his question—and that he will follow up on the mailing list.

So here we are now on the rest of this members veto mechanism. As you can see, in the left upper corner, it's the usual cases. So that has been the norm so far. But since we never told what can happen, we need to have a mechanism to be able to veto the council's decisions and to, of course, reinstate that the membership has the final say in this regard.

So let's say that we do receive a members notification that we already addressed. What we will see is that, if it is valid—and by "valid," it means that it has the requirements we just went through—then the council

would need to decide if the resolution should become effective, if they do believe that this is something that should happen.

Let's say, for some reason, this does not happen. They say, "Okay, we should not move forward with this." So the chair of the council will inform the members, and the resolution will be rescinded. But that's one path and that's the path forward.

But what if the council does believe that the resolution should become effective? If that is the case and we move to the right, then it is needed to be sent[—]the members and the council's notifications[—]to the members list. And then the chair of the council will initiate a members vote. For this, five days need to pass until any voting process starts. That's why we see there "if five days have passed." If not, we wait. And when the five days have passed, then we start the voting process that will last 14 days.

Now, the next question is, if quorum reached? And if the quorum is not reached, we still don't know what will happen because we will discuss quorum later in this session. So we will have some options there.

But let's say that quorum is reached. So then a simple majority in favor of the resolution will mean that the resolution will be effective upon the publication of the voting results. But if the voting results is that there is no support for this resolution anyway, the resolution must be rescinded.

So this is the graphical explanation of the proposed text that we will see now. So can we go—thank you very much.

And back to you, David.

DAVID MCAULEY:

Okay. Thank you, Alejandra. So here we have council’s notification and initiating the members veto vote.

Reading the text: “If the ccNSO Council believes the resolution and/or decision should become effective, one, council will prepare a statement as to why it believes the resolution and/or decision should become effective council’s notification. Two, the ccNSO Council Chair shall send both the members notification and the council’s notification to the members list and publish both on the ccNSO website no later than seven calendar days after receipt of the members notification. Three, the ccNSO Council Chair or a person designated by the Chair shall initiate an electronic voting process by the ccNSO members within seven calendar days upon receipt of the members notification. Four, the electronic vote by the members shall start five calendar days after the initiation of the vote by the council and be conducted in accordance with Section 2 of the rules unless specific provisions in this section determine otherwise. If the council believes the resolution and/or decision should not become effective following the members notification, the ccNSO Council Chair shall inform the members accordingly, and the resolution and/or decision shall be rescinded.” So this Alejandra was describing diagrammatically, and now you have some text.

So we’re asking what you think of this. We could put up the next poll question. Kindly respond.

Here we have 83% support, and no opinion for the other 17%.

This was rather involved. If there's anyone that has a question or a comment, please go ahead and raise your hand. Otherwise, we're going to move on.

And let's do move on to the next slide. Alejandra, thank you for all that. We're moving—

ALEJANDRA REYNOSO: No problem.

DAVID MCAULEY: We're moving to Section 2. And I'm sorry. My attention was diverted. We have gale force winds here, and I see something that's possibly going to be damaging.

Section 2 is in two parts on both members vote and a quorum. And this particular section Irina is going to give some help on. But I would like to ask Irina if she wants to introduce this before I read the text if you have any thoughts on this.

IRINA DANIELA: Yes, David. Let me speak a little bit. So this is about voting by members. As was mentioned in the beginning in this session, the current practice is also voted on electronically. Though current 2004 rules foresee the situation that members theoretically may vote during the meeting, this

currently is not realistic. So here we clearly say that a ccNSO members vote shall be conducted electronically.

And another difference from the current rules is that, the moment, there's a requirement that 10% of membership are required to initiate the voting. And as Alejandra's has already explained, it seems a little bit too much at the moment. So the subgroup suggests reducing it to ten members from ten different territories and representing three different geographic regions.

All the rest seems to be similar to what we have currently. So it [inaudible] to have passed by a simple majority. And what is simple majority is explained in the glossary, which follows the general text of the rules.

Back to you, David.

DAVID MCAULEY:

Thank you, Irina. So I think I should read the text word-for-word as we've been doing. Again, we think that's important. But thank you, Irina, for that very good introduction to this.

“Electronic vote by members. The ccNSO members vote shall be conducted electronically. An electronic vote of the members can be initiated by any of the following: the ccNSO Council, the Chair of the ccNSO Council, ten members of the ccNSO Council from at least ten different territories and representing no less than three ICANN geographic regions. A vote shall commence five calendar days after the notifications of the proposed matter to be voted upon, and the vote

shall stay open for a period of 14 calendar days. Section 2.2 quorum rule for electronic voting by the members applies. Unless otherwise specified, a resolution and/or decision will be deemed to have passed by a simple majority. Provisions in this section shall apply to all voting by the ccNSO membership unless otherwise provided in the ICANN bylaws for the rules.”

So thank you for bearing with us as we read through all these. It’s good to get the text in front of us. What do you think of this?

We can go ahead, Kim, and put up the next poll.

Here we have 83% and 17% no opinion. Thank you for these indications. This is very helpful to us, as you can imagine.

So I don’t see hands. Why don’t we go to the next slide? This is Section 2.2. Irina, I think you’re still up for this one. Is that right?

IRINA DANELIA:

Sure. So now we come to more difficult things: the quorum rules. Currently, we have a 50% quorum threshold in the rules. And this seems to be a little bit too much. So during the previous session at ICANN and during the webinar we held in August, it was many voices and indications in favor of lowering this threshold.

Just to give you an idea, in 2004, when the current rules were adopted, the ccNSO consisted of 45 members. So 50% quorum would mean 23 member votes. Today, we have 172 members. So 50% means 86

members vote. And 33% would be 58 members vote. So the subgroup suggests that the quorum threshold should be lowered to 33%.

During the previous consultations there was a concern that a 50% requirement means that at least 50% of members were aware of the voting coming. And to address this concern, the subgroup proposes—and that’s written in the rationale in the PDF document—that reasonable efforts should be taken to do the best to inform all the members about upcoming voting and that that these efforts should be documented in the voting report and that these efforts should be also documented in corresponding guidelines.

So with this, back to you, David.

DAVID MCAULEY:

Thank you so much, Irina. Very, very nice.

So let me read the text and then we’ll go to the poll question. This is quorum rule for electronic vote by members. “Quorum is the minimum number of votes that should be cast for a voting to be valid. The members quorum requirement shall apply only to the members vote. The quorum shall be at least 33% of the total membership of the ccNSO and at least three members per ICANN region. In the event that at least 33% of the ccNSO members vote, the voting shall be valid.”

So, Kim, if I could ask you to put up the poll where we seek support, etc.

And, again, we’re at 83% support. We have do not support here at 3%, and no opinion of 14%. If anyone wants to have a hand up, please do.

I see a note from Peter in the chat. “I fail to see the subtle difference between Section 2 and 3[.] That would not obsolete Section 2.” I think that’s a drafting point, Peter, if I’m not mistaken, and we will take that under advisement in the next draft. Sounds like a fair point, and we won’t lose track of that. As I said, I’m not able to follow chat fully, but I did see that.

And, Bart, I’ll ask if you would highlight anything that I might be missing.

But I think we can go to the next section, next slide. So we’re up to the quorum rule for electronic vote by member, Section 2.2. Irina, I think you—

IRINA DANIELA: [inaudible].

DAVID MCAULEY: Yeah.

IRINA DANIELA: So here is the tricky question. So what if the quorum is not met in the first route? Current rules say that their second voting should be started automatically and that the results of the second voting will be valid despite of the fact of how many participants there were. So no quorum for the second voting.

So here, theoretically, we have three options. First, if the first voting fails, then no second voting is needed, and the status quo remains. And

please remember that all these options are relevant for the members voting, which we have discussed and which refer to approval of the rules for the election for Board Seats 11 and 12 and the veto vote. So Option 1: if the first voting doesn't reach the threshold, then the status quo remains. The second option: the second route will be when voting starts, but there is no quorum requirement. And Option 3: the second voting starts with the same quorum requirement.

So here there are different pros and cons for each option, like the current version of the rules definitely does not praise inaction. So if you do not act, if you do not participate, in voting, still rules let things happen.

On the other side, with this lower quorum requirement at 33%, a lack of the result in the first voting may be interpreted as a lack of interest from the community, which would mean that this decision should not be made.

So here are the options. And back to you, David.

DAVID MCAULEY:

Thank you again, Irina. And so I will read these as the text because they are draft text, even though they're in options. These are three separate options. "Option 1. The members will be deemed to have abstained, and the status quo remains. ccNSO Council resolutions and decisions will become effective. Amendments to the rules will not pass and members decisions will not be taken." I should have read the

introductory phrase: “What if the quorum is not met in the first round?”
Apologies.

“Option 2. A second vote will automatically commence 14 calendar day after closure of the first round of voting. The results of the second vote will be valid irrespective of whether the quorum has been met.”

“Option 3. A second vote will automatically commence 14 calendar days after closure of the first round of voting. The results of the second vote will be only valid if at least 33% of the members have cast their vote. If the threshold is not passed”—I think that’s a misspelling; we’ll address that—“ccNSO Council resolutions and decisions will become effective. Amendments to the rules will not pass, and members decisions will not be taken.”

So we can put up a poll. This is a poll where we’re not looking for support but for an option that you might prefer.

I’m doing a time check. We have about 31 minutes left in this session and we’re making good progress. I want to thank everybody for that.

Here we have split opinions, interestingly. Option 1 has a 30% support, as does Option 3. Option 2 is lesser at 15%. And no opinion comes in. So there’s diverging opinion here. This is an area where we have to work as a subgroup a little bit further. Remember that none of the new rules are going to take effect unless they pass muster under the threshold of the old rules. So we have to give this some thought.

And if there is anybody that has opinions here, strongly felt, that they want to make, please put your hand up and make them now. But this is

obviously an area where we need to put our thinking caps on and try and come up with an approach than can be supported enough to make sense for future rules and yet pass muster in getting passed.

Bart, please go ahead.

BART BOSWINKEL:

David, may we use this opportunity, because we do have some time and this is probably a critical area ... Somebody who is strongly in favor of Option 1 shares his or her views, and then for Option 2 and 3 as well, and also none of the above ... So who wants to speak? Who is in favor of Option 1? Could you please speak to this? Because that would be very helpful.

I don't hear anybody. Anybody wants to speak to Option 1? And there is some comments in the chat, but I see one is "Option 1 and 3 are fairly similar." I think there will be, just with respect to Option 3, again—yeah, it's what you see right now in Annex B as well—a second round. And it offers an opportunity to inform, etc. That's the major difference.

Anybody who wants to speak to Option 2?

DAVID MCAULEY:

Bart, I put my hand up. I'll speak to it.

BART BOSWINKEL:

Yeah, go ahead, David. Sorry.

DAVID MCAULEY:

I'm not speaking as the Chair of the subgroup here. I'm just speaking as one individual participating in the ccNSO. And I voted for Option 2.

Now, having said that, it's at the lowest of support, so I imagine I'm going to have to shift to 1 or 3. That's not a problem. But the reason I voted for it was I thought that, if you have a [notice] vote with a threshold of 33% and you do not reach 33% but then you come out with another notice for another vote, the second notice would be seen by the members as more urgent. And they would know that the rules provide that this will pass irrespective of the level of votes.

And so I thought that the two notices will be different. And it's a way to get to make decisions in a group where the membership is large and there are time when not everyone engages, which is fine. That's their prerogative. But I thought it was a path forward to being able to make a decision.

Having said all of that, I'll again note that that's my personal opinion. It's not as subgroup Chair.

And the other thing is I'm happy to move to 1 or 3, and I'll be thinking of that as the subgroup moves forward. Thank you.

BART BOSWINKEL:

Thank you, David.

Jordan, your hand is up next. Go ahead, please.

JORDAN CARTER:

Thank you. And [inaudible] everyone from morning time in Auckland.

The reason that mainly I'm opposed to it is that, without very big membership now, I don't think it's a good idea to assume that all of our members are going to be familiar with every detail with our rules and procedures, as much as they wish that they were.

So I think that, if we're going to have a rule about this, it should be one that has a bias that, if people don't get engaged with the issue, the status quo will prevail. And that's why #1 or #3 are my preferences as opposed to #2 because, with #2, if people aren't very engaged, not paying attention, but a small subset of ccNSO members are and the first vote fails, then they can get the second over the line with five or ten members making the decision. And I just don't think that's appropriate for a global organization like this.

So I think the threshold should be reasonably high. And if you don't demonstrate that level of participation, it shouldn't [succeed]. So that's why I don't support the second option.

BART BOSWINKEL:

Thanks, Jordan.

Irina, go ahead.

IRINA DANELIA:

Thank you, Bart. And here I'm speaking in my personal capacity, not as a subgroup participant. So my preference was with Option 1 because, if we look in details to which decisions it relates to, these are three. First,

voting to approve new rules. If we cannot have 33% of membership supporting new rules or changes in the rules, probably this is not the change that we really need. Secondly, appointment of election of candidates for Board Seats 11 and 12. Probably the same. If we cannot get 33% of membership to make these decisions, that means that there is something really wrong with the organization itself. And then the veto vote on council decisions. If there is not enough support to veto this decision, then this is probably the right decision. And vice-versa.

If we take Option 2 and, for example, the veto on the council decision fails in the first round, then, in the second round, it might be enough[:] the same ten members who initiated the veto process to make a decision, which is probably not a correct way of handling thing. Thank you, Bart.

BART BOSWINKEL:

Thank you, Irina. Anyone else who wants to talk to this?

Alejandra, go ahead.

ALEJANDRA REYNOSO:

Thank you. I don't want to say anything regarding the options but maybe suggest, if possible, if time permits, that we could run another round of polling and asking people again if they still, with what has been discussed in chat and what has been discussed by everyone, feel their option is [disdained], just to see if we have any movement towards either Option 1 or Option 3 because Option 2 was the lest popular in itself, just to have more guidance for this subgroup.

BART BOSWINKEL: David, you have the time, so it's up to you on whether you want to run a second poll on this one.

DAVID MCAULEY: Let's do it. Let's please run another poll. I think that would be useful. Thank you, Alejandra. And this poll will be very helpful to the subgroup.

Well, we can see that Option 1 support has gone down. Option 2 is still there at 12%. Option 3 has moved out into the lead at 59%, a significant number. So thank you all for that. We will take this back to the subgroup.

Unless there are further comments, I think we can move on to the next slide. So we're now up to Section 3, which is dealing with a review of the rules. And I'm going to ask my colleague, Stephen, if he would like to make an introductory remarks about this section.

STEPHEN DEERHAKE: Yeah. Thank you, David. As you've seen, it's been quite some time since we've looked at the rules. And I think five is a reasonable maturity point for a review to see what we need to do, if anything. Are they still serving a purpose? We're quite in a bind at the moment with the rules from Montreal of years and years ago That 50% requirement for a members vote is just ... We surmounted it on the Retirement Group but just barely. And it was not until the eleventh hour.

So I think a periodic review of the rules as we adopt whatever we do end up adopting here would be of import. We just didn't have that built in to the first mechanism, Version 1.0, and we should have, I think, in retrospect.

And with request of the Council and the Chair, and if we get a fairly good representative portion of members saying, "Hey, let's take a look at this," I don't think that's unreasonable, either. And I support this text as it's in place.

And with that, David, I turn it back over to you.

DAVID MCAULEY:

Thank you, Stephen, for that summary. So the text that would represent what Stephen said is as follows: "Frequency of reviews. The rules should be reviewed every five years after adoption of amended version of whether they are effective and serve their purpose, or at the request of, one, the ccNSO Council, two, the Chair of the ccNSO, three, ten members of the ccNSO from at least ten different territories and representing no less than three ICANN geographic regions."

So the next poll should be put up, Kim, if you don't mind. What do you all think of the treatment of reviewing the rules?

So here we have 83% support and 17% opinion. Thank you. We will take that under advisement back in the subgroup. Thank you, Stephen.

I think we can move on to the next slide, Kim. How we doing on time? 19 minutes left.

So, Stephen, any comments on this element of review?

STEPHEN DEERHAKE:

Not much except to say that, again, it's always been an issue, it seems to me—well, it has of late—to actually get a group of volunteers; and this being a very important group of volunteers, given that what we're doing here is proposing a review of the rules. And that's my biggest concern: if we get to a point where it's like, wow, after five years, for example, if this adopted, a review is mandated or a review is requested by a councilor or the council Chair, we've got to round up a competent group of volunteers. And that's my only real concern on this.

Otherwise, in terms of what's proposed here language-wise with getting input from the broader community, etc., I think it's fine. Thank you.

DAVID MCAULEY:

Thank you, Stephen. So let me read the text and then we'll do our poll. "Method of reviews. Each review will be conducted by a group of volunteers from members of the ccNSO and, in accordance with a method determined by the ccNSO Council subject to the members veto mechanism, each review is to include the opportunity for input from the broader ccTLD community and ccNSO Council. Any recommended changes to the rules must be ratified by the ccNSO members in the manner described in Section 2 of these rules." End of reading.

Put up the poll, please, Kim. And we'll see what people think of this element of review.

Sorry. I had a problem with mute. So here we had 88% supporting this element, and no opinion by 12%. Thank you for these indications.

Kim, I think we can move to the next slide. Now we're going to get into the mechanism to amend the rules. This is obviously important. And my colleague, Alejandra, is going to step back in and help us with this section, I believe. Alejandra, do you have an introductory comments?

ALEJANDRA REYNOSO:

Yes, David. So here is what makes the rules very different from any other operating procedures or guidelines that we use in the ccNSO because this is the mechanism to which we can actually amend them. So since the ccNSO is a bottom-up organization where the members do give guidance to the council on what to do, it is then their final decision to amend these rules. But according to the bylaws, both of them need to make that decision.

So what we decided to do is follow a process similar to what happens with the ccPDPs—of course, after extensive consultation with the community first. The council will adopt the rules and then hand it over to the members to vote on them, to adopt them. In that way, both parts will do what they're supposed to do. And afterwards, with the voting, the council will be required to adopt the voting results. So that's the idea behind this proposed text.

DAVID MCAULEY:

Thank you, Alejandra. And the way that idea has been drafted by us is as follows. "Council and membership adoption[.] Mechanism to amend

the rules of the ccNSO. To change the rules of the ccNSO, both the ccNSO membership and council have to adopt the amended rules. First, and after consultation of the ccNSO membership, at least 14 members of the ccNSO Council must vote in favor to adopt the proposed amendment of the rules. Following the adoption by the ccNSO Council, the proposed amendments to the rules must be circulated to all members, and the members vote shall start no sooner than 21 calendar days and no later than 28 calendar days after the date the proposed amendments have been circulated to the members. The members shall have adopted the amended rules if at least a super majority of the votes cast are in favor of the proposed changes. Section 2.2 quorum rule for electronic vote by the members applies.”

If we could put up the poll, Kim, please, we’ll ask what people think of this.

So here we have 78% support and 22% without an opinion on this one. I’m going to close that. Thank you so much, Kim. And thank you all for submitting.

Next section. Alejandra, I’m going to give it back to you.

ALEJANDRA REYNOSO:

Thank you, David, Well, this one is on when the new rules should become effective. And I think in this case it is very simple text. So no further comments.

So if you would like to read it, David, then we’ll see if there are any questions.

DAVID MCAULEY:

Okay. Thank you. We're still on mechanism to amend the rules of the ccNSO. "The date the new rules become effective. Within five calendar days after conclusion of the members vote, the voting report shall be submitted to the council for approval and published on the ccNSO website, together with the amended rules as adopted by the members. The membership shall be informed accordingly to the appropriate ccNSO list. The ccNSO Council has to vote whether to approve the voting report within seven calendar days after its publication. The amended rules become effective upon approval of the voting report by the ccNSO Council." That was to the point.

Next poll, please, Kim. Thank you.

I see Patricio's question and your answer, Bart. Bart, thank you for addressing these things in chat.

So we have 79% support here, 21% no opinion. Thank you for those indications.

And can we go to the next slide? Alejandra, do you have any comments to introduce this?

ALEJANDRA REYNOSO:

Yes. So this is the change mechanism for operating procedures or what we also know as ccNSO guidelines. This section is new and it was asked of us to introduce it to have a way of seeing how these changes happen with the guidelines of the ccNSO. And even though this process was not

documented yet, this is how the GRC has been doing its work. And now we wanted, well, to follow the feedback we received on having this put in the rules so that everyone knows the ccNSO guidelines are developed or amended.

DAVID MCAULEY:

Thank you, Alejandra. So this is the change mechanism operating procedures or ccNSO guidelines. “An operating procedure shall be developed or amended at the initiative of the ccNSO Council. Before voting on the adoption of the operating procedure, the ccNSO Council must consult the members of the ccNSO. The ccNSO Council decision to adopt an operating procedure is subject to the members veto mechanism.”

Please, Kim, if you could give us the next poll. We could see what we think of this one.

89% support and 11% no opinion. Thanks again. These polls are quite helpful.

We can move to the next slide. We have eight minutes remaining.

That’s it. There’s an important thing on this. I want to mention the colleagues that have been working in the subgroup: Irina Danelia, Stephen Deerhake, Chris Disspain, Atsushi Endo, [Catherine Markinson], Alejandra Reynoso, and two observers, Katrina Sasaki and Sean Copeland. Three people are missing from this slide: Bart Boswinkel, Kim Carlson, and Joke Braeken. I hope I pronounced that

right. But the staff support in the ccNSO is consistently excellent. That is no less the case in this subgroup. So I want to thank them all.

We do have some time remaining. If there are questions or comments, please bring them.

I see a hand from Stephen.

STEPHEN DEERHAKE: Thank you, David. I want to echo your commendation of ICANN staff and their support on this effort. It has been quite the ride so far. We're not quite done yet.

In all that polling, we've got a couple that say do not support, and I'm wondering, as a subgroup, how we go forward to find out why the don't support the various parts of this that were presented today and how we can address their concerns. Thank you.

DAVID MCAULEY: Thank you, Stephen. And as we ask for people to put up their hands if they would like to comment on that, Kim, can I ask you to go back to the slide near the beginning that shows the roadmap? So I think Stephen's question is a good one. If anyone who's not supportive of a number of these or anything would like to comment, again, they can do that here or, if they want, they can comment on the list or not comment if that's their preference.

So I'll be looking for hands, but you'll see that the roadmap is now back up on the screen. We're in the process of finishing this session at ICANN72. There's more GRC effort that needs to go on.

One of the things that we contemplate doing in the future is holding a webinar. Obviously, that will be after we take into account what we've heard in this meeting and the revisions we make to the draft. I'm not exactly sure when we would schedule the webinar.

Bart, if you have any thoughts on that, you're certainly welcome to chime in. But that's amongst our thoughts. We do have a couple minutes left. I'm very grateful for that. People are excellent in responding to the poll and allowing us to steam through this in pretty good order. Thank you.

Bart, I see your hand. Please go ahead.

BART BOSWINKEL:

I think, if you recall and the subgroup recalls, the next step of the process is ... I don't know whether this subgroup still wants to consult the community, but at one point, on behalf, the subgroup or the GRC will submit its recommendations to the council. The council at one point needs to initiate the vote of the members on the proposed new rules. And as you can see, that is probably the timing, as soon as the new rules go out for voting, to conduct a webinar explaining the rules once more to all the members so they can take and participate in the vote and they are fully informed on whatever changes that have been made, etc. So that is the timing of the webinar. I don't know when it will

be. It depends a bit on how the subgroup will take this on. And then it goes to council, etc.

Of course, there's always room for a further consultation in those areas where there is unclarity. And if people have expressed their non-support to some of these sessions, either use the check or send an e-mail to the members list. That would be most helpful. And maybe that's something that the subgroup could do as well: invite people to respond to the members list—so all the broader ccTLD community list—on the basis of the document that was circulated because the text that you shared today was the text from that document. So if people do have specific concerns or even broader concerns, please use the members list. That would be most helpful.

Back to you, David.

DAVID MCAULEY:

Thanks, Bart. Excellent points. I love use of the list. I encourage it strongly. It's been used in the subgroup tremendously and also in the larger group on this effort. I do think the subgroup will have some discussions on list, maybe in a meeting, about the three options on when the threshold for voting is not met. That is one area we need to put some further work on. But excellent points, Bart.

I think we've concluded our work for the day. I don't have anything further, so I'm thinking we can stop unless any member of the subgroup or Bart or Kim feel I'm missing something, if I've left something undone. So please let me know. Otherwise, we can close the meeting with our

sincere thanks to everybody who attended and gave us your indications of support, non-support, etc.

I don't see hands or anything, so I think we're done. Thank you again. And enjoy ICANN72.

[END OF TRANSCRIPTION]