

Terri Agnew: Welcome to the GNSO Bylaws Implementation Drafting Team call held on Wednesday, 05 October 2016 at 13:00 UTC

Terri Agnew: agenda wiki page: <https://community.icann.org/x/lxK4Aw>

Amr Elsadr: Hi all.

Amr Elsadr: WHEREAS: On 30 June 2016 the GNSO Council approved the creation of a Drafting Team (DT) that was to work with ICANN staff to “fully identify all the new or additional rights and responsibilities that the GNSO has under the revised Bylaws, including but not limited to participation of the GNSO within the Empowered Community, and to develop new or modified structures and procedures (as necessary) to fully implement these new or additional rights and responsibilities”; In creating the DT, the GNSO Council requested that the DT provide the GNSO Council with an implementation plan “which will have the consensus of the Drafting Team, including any recommendations for needed further changes to ICANN Bylaws and/or GNSO Operating Procedures to enable effective GNSO participation in ICANN activities under the revised ICANN Bylaws, not later than 30 September 2016”; The DT submitted its report to the GNSO Council on [DATE] (also insert link to report when available); The GNSO Council has reviewed the DT’s report;

Marika Konings: The placeholder motion can be found here:
<https://community.icann.org/display/gnsocouncilmeetings/Motions+13+October+2016>

Amr Elsadr: I couldn't get the whole motion to paste here. Marika's post is a lot more useful. :)

steve metalitz: Is there expectation that council will act on this motion on 10/13 after having had at most 24 hours to review it?

Amr Elsadr: @SteveM.: I really doubt it. Will most likely be deferred.

Marika Konings: that will be up to the direction that the SG/Cs give to their Council members - it is to allow the Council to act if it wants to, but depending on when the report is available, it may be more likely to happen in Hyderabad.

Amr Elsadr: For one thing, the motion that created this DT also asked for a draft operating procedures revision to include the new bits that come out of our work.

Marika Konings: @Amr - I thought that was part of the next step, following the completion of the implementation plan?

Amr Elsadr: @Marika: Hmm..., looking at the motion, I could see how that could be right.

Marika Konings: It is also covered in resolved 2 of the placeholder motion: The GNSO Council directs ICANN staff to draft proposed language for any necessary modifications or additions to the GNSO Operating Procedures and, if applicable, those parts of the ICANN Bylaws pertaining to the GNSO, for the Council’s consideration by no later than [the end of February 2017].

Julie Hedlund: @Steve et al., the document is unsynced. To make it larger use the plus sign.

matthew shears: I can only be on for 30 mins

Terri Agnew: Thank you for this Matthew

matthew shears: can someone link to this doc here i the chat

Julie Hedlund: @Matthew: It isn't posted. I'll resend it to the list -- it also was sent with the agenda.

matthew shears: ah ok

Amr Elsadr: Apologies Steve..., could you please repeat the question

Amr Elsadr: ?

Amr Elsadr: Why would the two thresholds be different?

Amr Elsadr: Or why would they need to be?

Farzaneh Badii: why super majority?

Julie Hedlund: @Steve: Reconsideration.

Darcy Southwell: I don't see why the thresholds need to be different for 4.2(b) and 4.3(b).

steve metalitz: @Julie, if 4.3 does not cover IRP why is Standing Panel covered in 4.3(j) and (k)

Julie Hedlund: @Steve M.: I'll read through it again. Let me see.

Edward Morris: Agreed Steve

Darcy Southwell: Agree also.

Amr Elsadr: No objection.

steve metalitz: 6.3(a) answers this question

Mary Wong: Yes, certification

Marika Konings: the Bylaws say 'GNSO Chair' not GNSO Council Chair

Amr Elsadr: The GNSO does have a Chair.

Amr Elsadr: as per the bylaws.

Marika Konings: Exactly Amr

Marika Konings: Old and new Bylaws say the same

Marika Konings: with respect to GNSO Chair

Mary Wong: Not providing a legal opinion here, but one reason against the "Chair as default" rule may be found in the next sub section: "In representing a Decisional Participant on the EC Administration, the representative individual shall act solely as directed by the represented Decisional Participant and in accordance with processes developed by such Decisional Participant."

Mary Wong: Again, it's best to consult Legal for a more definitive answer.

Amr Elsadr: I'm good with simple majority.

Darcy Southwell: Simple majority is sufficient.

Farzaneh Badii: Simple majority is fine

Marika Konings: @Steve M. that is the question - I'm not sure if it is the default if no certification takes place.

Marika Konings: but the question is what happens in that scenario, the GNSO seat remains vacant? It is maybe not for now, but it may be one of the items that is flagged that will need further consideration to ensure there is clarity around what happens in a scenario where there is no agreement.

Julie Hedlund: @Steve: It says "An interim Director shall hold office until the EC designates the Interim Director's successor."

Terri Agnew: Welcome Wolf-Ulrich

Amr Elsadr: Agree with Ed.

Wolf-Ulrich Knoben: Hi, sorry just realized the call was on the wrong calendar

matthew shears: Steve DB - apologies but as I have to drop off I wanted to note that I believe that the text you have proposed for page 3 to account for Steve M's position on the role of Council should not be included and that Steve M should have the opportunity if he wishes to write a minority view.

Edward Morris: Agree with this Steve.

Amr Elsadr: GNSO's board members should be changed by the CPH and NCPH as suggested earlier, if a single GNSO selected Board Member is being replaced. Hopefully!!

Darcy Southwell: Agree with simple majority threshold for interim directors.

Mary Wong: @Steve D, that seems consistent with the Bylaws' treatment of Interim vs "permanent" Directors.

steve metalitz: Art. 11 is current bylaws, we don't need to deal with this unless we want to amend.

matthew shears: apologies have to drop off

Marika Konings: the question is whether you want to call all this voting thresholds out separately that relate to the EC or whether only those that are not simple majority vote of each House

Amr Elsadr: @SteveM: We don't agree that the GNSO Council doesn't have the authority. :)

Edward Morris: That is my understanding as well Steve.

Amr Elsadr: @SteveM: I shared my view last week - that changes in the bylaws are not required to allow the Council to pick up some of these duties.

Marika Konings: it was something foreseen in the original tasking of the DT - any updates to the Bylaws and/or Operating Procedures needed to implement the recommendations of the DT

Edward Morris: +1 Marika

Marika Konings: as Steve DeIB said :-)

Marika Konings: and Steve M. is correct, any changes to the Bylaws would also need to be approved by the ICANN Board

Amr Elsadr: @SteveM: From the current draft: "Other DT members disagreed, noting there is no direct prohibition of Council assuming such duties. For example, the Bylaws state, "The procedures for selecting the Chair and any other officers are contained in the GNSO Operating Procedures"3. This indicates that the bylaws afford the GNSO and the GNSO Council the ability to act in certain situations that are not explicitly described in the Bylaws, but instead, may be included in the GNSO Operating Procedures. Some DT members find that the GNSO Council making selections for the appointment of GNSO representatives on Empowered Community, Customer Standing Committee, IANA Functions Review Team, and other review teams that will become part of the post-transition Bylaws is inconsistent with this article in the Bylaws."

Marika Konings: The ICANN Board has oversight over the GNSO Operating Procedures, but that does not require affirmative approval

Marika Konings: In both cases, changes to the Bylaws and Operating Procedures, public comment is required before considering any changes by the GNSO Council and/or Board

Farzaneh Badii: that's not a correct analogy Steve M.

Amr Elsadr: @SteveM: The new bylaws give the GNSO certain powers that don't include sports drafts!! :) If they did, I would argue that the Council could do that too. ;-)

Amr Elsadr: Or at least are not prohibited to do so.

Mary Wong: To be clear, the GNSO can recommend Bylaws changes - as Marika notes, these need to be posted for public comment and approved by the Board. For Standard Bylaws, it's a 2/3 Board vote. For Fundamental Bylaws, it's 3/4 Board and EC approval.

Marika Konings: as Mary said - GNSO would need to approve first before these are submitted to the ICANN Board for consideration.

Marika Konings: If I remember well, they are expected to do this in consultation (GNSO and ccNSO)

Marika Konings: there is a detailed escalation process that was worked out as part of the CWG-Stewardship work

Amr Elsadr: Thanks SteveM.

Farzaneh Badii: yes

Amr Elsadr: That's right Steve.

Amr Elsadr: No objection.

Amr Elsadr: What about the co-chair?

Darcy Southwell: @Staff - will these items that filter into SG/C operations/bylaws be presented to them for further development at some point in the future?

steve metalitz: Agree with Steve D that reps select co chair of IFRT

Amr Elsadr: I have no preference really. Just want to be clear.

steve metalitz: Let GNSO reps do it

Darcy Southwell: Agree that GNSO reps choose co-chair.

Edward Morris: Sounds good to me Steve

Amr Elsadr: I have no objection to this.

Marika Konings: @Darcy - I think that is a great suggestion and probably something staff can assist with. At the same time, of course, nothing prevents SG/C to review their procedures and determine whether any updates need to be made to reflect the post-transition environment. For example, many SG/Cs have directed voting - you may want to consider similarly like this DT is doing today whether on any of these actions need to be directed by SG/Cs via their Council members and how that would happen in practice?

Edward Morris: +1 Darcy

Darcy Southwell: No

Edward Morris: We are already doing that in our NCUC Bylaws update.

Marika Konings: that is correct - that is SG/C specific (directed voting or not)

Farzaneh Badii: agreed!

Darcy Southwell: Agree! :)

Amr Elsadr: NCUC doesn't have Council reps, so no voting at all. :)

Marika Konings: apologies, didn't mean to distract :-)

Farzaneh Badii: nice and easy!

steve metalitz: Can we set date/time of our next meeting before COB today so we can firm up our calendars?

Amr Elsadr: I haven't, but am generally flexible on both days.

Terri Agnew: doodle poll: <http://doodle.com/poll/annesshthq4cvzry>

steve metalitz: I think we have already addressed page 15 (inspection) with the addition that any SG or C can request.

Marika Konings: Matthew Shears also wanted to flag his earlier comment in relation to the report: Steve DB - apologies but as I have to drop off I wanted to note that I believe that the text you have proposed for page 3 to account for Steve M's position on the role of Council should not be included and that Steve M should have the opportunity if he wishes to write a minority view.

Amr Elsadr: I also wanted to note that I have some comments on the report, which I will send on-list.

Amr Elsadr: I hope we can.

Darcy Southwell: I think (hope) we can get this done in 1 more call.

Farzaneh Badii: I will send my comments to the list as well

Darcy Southwell: @Ed, Good idea.

Wolf-Ulrich Knoben: I'm confident to finish ISPCP internal discussion on time

Edward Morris: OK

Amr Elsadr: From what I've seen on page 15, @Steve: +1

Edward Morris: It looks great Steve

Farzaneh Badii: yes great thanks

Edward Morris: Thanks Steve

Amr Elsadr: Will try Steve. Thanks.

Amr Elsadr: Thanks all. Bye.

Farzaneh Badii: thanks

Farzaneh Badii: bye

Julie Hedlund: Thanks everyone!