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MEETING OF THE BY-LAWS & GOVERNANCE SUBCOMMITTEE  
OF THE MANAGEMENT COMMITTEE

February 25, 2003  
10:00 a.m. - 3:00 p.m.  
Hunton & Williams, NYC

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The By-Laws & Governance Subcommittee held an open meeting on February 25, 2003. An agenda was prepared and distributed in advance of the meeting.

In attendance in person were: Neil Butterklee, Paul Gioia, Michael Mager, Tariq Niazi, Garry Brown, Doreen Saia, Elaine Robinson, Tom Halleran, John Reese, Dan Duthie, Francis Pullaro, Jennifer Kearney, Michael Delaney, Kim Byham, Robert Grassi, Peter Brown, Howard Fromer, Kathy Robb and Meredith Winn.

In attendance by teleconference were: Glenn Haake, Jim Scheiderich and Aaron Breidenbaugh.

Review of the agenda

The Subcommittee reviewed the agenda and added the following items: 1) whether committees should be able to vote on compliance filings; 2) streamlining the By-Laws; 3) procedures for adding items to the MC agenda; 4) limitations on special meetings; and 5) the definition of Other Suppliers. The Subcommittee did not address items 1, 2 and 5 in this meeting and held them over until the next meeting.

Appeals to the Management Committee

The Subcommittee discussed the process for appeals to the MC from the BIC and the OC. Some members of the Subcommittee believe that it is not clear in the current MC By-Laws whether both tariff and non-tariff issues can be appealed from the BIC and the OC to the MC. It was noted that a tariff issue must be brought to the MC for approval whether or not the issue is brought before the MC as an appeal from a Lower Committee. In order to avoid redundant procedures, the Subcommittee agreed to make it clear in the By-Laws that appeals to the MC from the BIC or the OC can be taken on non-tariff issues only. The Subcommittee asked Hunton & Williams to revise the MC By-Laws to reflect this change.

The Subcommittee also asked Hunton & Williams to draft revisions to the MC By-Laws reflecting that a Party has an absolute right to place a tariff item on the MC agenda. Currently, Section 5.05 of the MC By-Laws requires that a representative's proposal to place a "new business" item on the agenda of the next MC meeting must be seconded. Hunton & Williams will revise the MC By-Laws to provide that the Chair of the MC must place a tariff item on the agenda, if requested, whether or not the requirements of Section 5.05 have been met. The Subcommittee will review the proposed draft at the next By-Laws Subcommittee meeting.

The Subcommittee generally agreed that if the MC overturns an action that failed before a Lower Committee then the proposal will be implemented without further motions having to be brought at the Lower Committee or at the MC. If the appeal were an issue of policy, however, and did not include a specific proposal for implementation, further work might be required to implement the approved proposal, depending upon the language in the motion before the MC.

#### The relationship between the Committees: bypassing the BIC and the OC

Some members of the Subcommittee expressed concern that providing an absolute right to place tariff items on the MC agenda without requiring those items to be heard first by the Lower Committees would undermine the role of the Lower Committees. The Subcommittee will discuss this issue further at the next By-Laws Subcommittee meeting.

#### Limitations on calling special meetings

Hunton & Williams was asked to draft revisions to the MC By-Laws to state that, if an item on a BIC agenda will also be on the agenda for a subsequent special meeting, the special meeting cannot be noticed until after the BIC meeting and must be noticed at least five days prior to the special meeting. The Subcommittee will review the draft revisions at the next By-Laws Subcommittee meeting.

The Subcommittee discussed whether or not to publicize requests for special meetings. Hunton & Williams was asked to revise the MC By-Laws to include a notice provision requiring Parties who request a special meeting to make their request in writing to the MC explaining why they have requested a special meeting and why the matter cannot be heard at the next regular MC meeting.

The Subcommittee discussed how to limit the number of special meetings that are held. There was no resolution to this issue, and the matter was held over until the next By-Laws Subcommittee meeting.

#### Eligibility for Chair and Vice-Chair

The Subcommittee asked Hunton & Williams to draft revisions to the MC By-Laws to provide that, for purposes of determining Chair and Vice-Chair diversity, only the sectors of the candidates for Chair and Vice-Chair, and not the sectors of the candidates' Affiliates, shall be considered. Hunton & Williams will include in the revisions a provision stating that, while the sector of an Affiliate of the candidate for Chair or Vice-Chair is not disqualified from eligibility, the Affiliate himself is. The Subcommittee will review the proposed revisions at the next By-Laws Subcommittee meeting.

#### Terms of service for chairs of subcommittees and working groups

Hunton & Williams will draft revisions to the MC By-Laws to provide that the terms for chairs and vice-chairs of subcommittees and working groups coincide with the term of the Chair of the MC. The Subcommittee will review the proposed revisions at the next By-Laws Subcommittee meeting.

### When are materials due for an MC meeting?

The Subcommittee discussed the interpretation of Section 5.02 of the MC By-Laws which requires the MC agenda to include “all relevant supporting documentation prepared or furnished by the officers of the Management Committee or the other proponents of a particular agenda item.” A member of the Subcommittee proposed that Section 5.02 of the MC By-Laws should be revised to provide that the agenda for MC meetings shall include a specific list of items to be considered along with any proposed motion and supporting documentation provided by the proponent of the agenda item. It was generally agreed that, in some cases, the description of the particular agenda item itself or the motion may provide Parties reasonable notice of the item to be considered at the MC meeting.

Hunton & Williams was asked to draft language to clarify the requirements of Section 5.02 to reflect the above proposed changes. The Subcommittee will review the proposed draft at the next By-Laws Subcommittee meeting.

### Procedures for adding new items to the MC agenda

Some members of the Subcommittee suggested that a Party has an absolute right to place an item on the MC agenda if adequate notice and all required documentation are timely provided rather than leaving this issue to the discretion of the Chair. It was proposed that the Chair may prioritize agenda items based on importance and defer issues until a later meeting if practicable. The Subcommittee will discuss further the issue of the scope of the Chair’s discretion on agenda issues at the next By-Laws Subcommittee meeting.

### Cost impact analyses

Following substantial discussion during which no agreement was reached, Hunton & Williams was asked to draft revisions to the MC By-Laws providing that NYISO will include information about the cost of major projects to the extent feasible when those projects are proposed. The Subcommittee will review the proposed draft at the next By-Laws Subcommittee meeting.

### Next Meeting

The next meeting of the By-Laws & Governance Subcommittee is scheduled for Monday, March 31, 2003 at 10:00 a.m. at the offices of Hunton & Williams, 200 Park Avenue, 31<sup>st</sup> Floor, New York City.