



Report of the Statutes Working Group to the 2014 FAI General Conference

The Statutes Working Group (SWG) was tasked to examine several proposals for changes to the Statutes and By-Laws, as follows. Attached in Annex A are proposals for changes to the FAI Statutes received from CASI, with comments from the SWG.

1. Electronic Voting System

- To provide for the use of an electronic voting system at the General Conference.
- In order to take effect at the 2014 General Conference, this proposal must include wording to indicate that it is intended to take effect immediately (S. 1.4.3).

Statute 3.6.1.2.9

Current

Voting shall be by open or secret ballot. Open balloting may be carried out by the use of voting paddles or by roll call. Secret balloting shall be carried out by written ballots prior to which a committee of not less than three persons to count the votes shall be elected by open ballot.

Proposed

Voting shall be by open or secret ballot. Open balloting may be carried out by the use of voting paddles, by roll call or **by use of an electronic voting system that displays the votes**. Secret balloting shall **either** be carried out by written ballots prior to which a committee of not less than three persons to count the votes shall be elected by open ballot, **or by use of an electronic voting system that maintains the integrity and confidentiality of the votes**.

Statute 3.6.1.2.11

Current

When a secret ballot is held, the following shall be considered as void: signed ballots; ballots so marked that their source can be identified; and, in the case of elections, ballots that name persons not standing as candidates.

Proposed

When a secret ballot is **carried out by use of written ballots**, the following shall be considered as void: signed ballots; ballots so marked that their source can be identified; and, in the case of elections, ballots that name persons not standing as candidates.

Statute 3.6.1.2.12

Current

When voting by secret ballot, each delegation shall be required to place in the ballot box as many ballots as the Active Member has votes. Every unmarked ballot shall be counted as an abstention.

Proposed

When voting by secret **written** ballot, each delegation shall be required to place in the ballot box as many ballots as the Active Member has votes. Every unmarked ballot shall be counted as an abstention.

2. Appointment of NAC Delegates to ASCs

- To remove the need for the General Conference to approve the appointment of NAC delegates to Air Sport Commissions, as this authority properly belongs with the NACs and there is no added value provided by the General Conference approval

Statute 2.4.2.2.10

Current

To nominate delegates to FAI Air Sport Commissions for all sports practised in their respective countries, in accordance with By Laws 3.1.

Proposed

To **appoint** delegates to FAI Air Sport Commissions for all sports practised in their respective countries, in accordance with By Laws 3.1.

Statute 3.4.1.12

Current

- election of the FAI Vice-Presidents, and approval of the Air Sport Commission and Technical Commission Members;

Proposed

- election of the FAI Vice-Presidents;

The By-laws will be amended accordingly to reflect the appointment of delegates.

3. Harmonize the use of the terms "FAI Secretariat" and "FAI Head Office"

- The SWG was tasked with examining a proposal to change all references from "FAI Secretariat" to "FAI Head Office" in the Statutes. Literally speaking, "Secretariat" is an organizational reference, while "Head Office" means a location. The term "Head Office" could also suggest that there are more offices, as in worldwide operating companies. The use of the word "Secretariat" reinforces the role of the Secretary General as per Statutes 8.1.2., By-Laws 4.1.1., and related rules.

The SWG proposes to harmonize the FAI constitutional texts by using the word "Secretariat" or "FAI Secretariat", to refer to the body that develops FAI's ordinary work and the expression "Head Office" where it refers specifically to a location (i.e. By-Laws 3.4.3. "...in the vicinity of FAI Head Office...").

4. Unrestricted entry to countries hosting FAI meetings

- At the 2012 General Conference (Minutes, item 10.2), a proposal was made by Israel NAC for a change in the FAI Statutes and Sporting Code, rephrasing Section 3 of the Statutes, as well as its parallel in the Sporting Code (substituting "general conference" with "sporting event"), to say: *The General Conference shall not be conducted in any venue where unrestricted entry to all participants is not guaranteed* (the phrasing may vary, but the idea should be to make unrestricted entry a condition sine qua non, in an unequivocal language).
- It is clear that the FAI does not have any mechanism for controlling the governments of Active Members' countries to ensure that they do not implement any rules or legislation that may restrict the participation of some delegates. Nevertheless the FAI can undertake to ensure that such rules are dealt with in an open manner.
- The SWG therefore proposes an amendment to the Statutes to reflect a similar condition for a bid for a General Conference as currently exists as a condition in the Sporting Code for a bid for an event.

Proposed

3.3.1. A bid to host an Annual General Conference must detail any conditions of admission of participants to the country or location of the event in existence at the time of the bid. This information is to be included in the presentation of the bid to the General Conference where a decision on the event is made.

Including this information in the presentation to the General Conference will allow all affected parties to present their views in the forum where the decision will be made.

This amendment requires re-numbering of the current 3.3.1. and 3.3.2. to 3.3.2. and 3.3.3.

5. Convert the Aviation and Space Education Commission and the Environmental Commission into Expert Groups.

Statute 5.3.3.1

Current

FAI AVIATION AND SPACE EDUCATION COMMISSION

Dissemination of aeronautical and astronautical knowledge, particularly among the young.

Proposed To delete Statute 5.3.3.1

Statute 5.3.3.3

Current

FAI ENVIRONMENTAL COMMISSION

- To evaluate studies concerning the influence of air sports on the environment;
- to develop an FAI policy aimed at maintaining and improving conditions for the development of air sports while respecting realistically demonstrated environmental interests;
- To advise General Conference and Air Sport Commissions on environmental matters affecting air sports.

Proposed To delete Statute 5.3.3.3

The By-laws will be amended accordingly.

6. Composition and Election of CASI

Statute 5.2.3.2.7.1

Current

Ten Active Members, each with one vote, to be elected by the General Conference. Prior to the election, Active Members shall declare....

Proposed

A number of Active Members equal to the number of FAI Air Sport Commissions, each with one vote, to be elected by the General Conference. Prior to the election, Active Members shall declare...

Statute 5.2.3.2.8

Current

Annually, five members of the Air Sport General Commission elected under 5.2.3.2.7.1. above shall go out of office by rotation. They may be re-elected for an unlimited number of terms. Elections shall be by secret ballot. For each round of voting, one ballot paper will be issued for each vote present at the General Conference. Only ballot papers containing the number of candidates' names corresponding to the pre-declared number of Air Sport General Commission vacancies shall be valid. A simple majority shall be required for election. If the number of candidates achieving a simple majority in the first round of voting exceeds the number of vacancies available, candidates will be elected in descending order of votes cast. If the number of candidates achieving a simple majority in the first round is insufficient to fill the vacancies, a second and subsequent rounds of voting will take place as required amongst those who did not achieve a majority, until the vacancies available are filled with candidates achieving a majority of votes cast. FAI members elected to the Air Sport General Commission shall serve for a two-year term.

Proposed

Annually, **half of the number of** members of the Air Sport General Commission elected under 5.2.3.2.7.1. above shall go out of office by rotation. **When the number of members of the Commission is uneven, the number of members eligible for election shall alternate between half of the total number of members plus one and half of the total number of members minus one.** They may be re-elected for an unlimited number of terms. Elections shall be by secret ballot, either **written or electronic.** **When voting is by written ballot,** for each round of voting, one ballot paper will be issued for each vote present at the General Conference, **and** only ballot papers containing the number of candidates' names corresponding to the pre-declared number of Air Sport General Commission vacancies shall be valid. A simple majority shall be required for election. If the number of candidates achieving a simple majority in the first round of voting exceeds the number of vacancies available, candidates will be elected in descending order of votes cast. If the number of candidates achieving a simple majority in the first round is insufficient to fill the vacancies, a second and subsequent rounds of voting will take place as required amongst those who did not achieve a majority, until the vacancies available are filled

with candidates achieving a majority of votes cast. FAI members elected to the Air Sport General Commission shall serve for a two-year term.

Election of CASI Bureau

The SWG was tasked with considering a proposal to clarify the wording of the Statutes relating to the election of CASI Officers, as proposed by CASI.

Current wording

5.2.3.2.9 The officials of the Bureau as described in 3.2.1. of the By-Laws shall be elected annually in accordance with the procedures set forth in the FAI By-Laws. Their terms of office shall correspond to the FAI Year ending with the Annual General Conference and without regard to the actual date of their election.

Wording proposed by CASI

5.2.3.2.9 The officials of the CASI Bureau, as described in By-Laws 3.2.1. shall be elected annually from among its representative members, described in 5.2.3.2.7., using the provisions of By-Laws 3.2., mutatis mutandis. The Secretary, however, need not be a representative member and if that is the case, agreement is required from the Active Member of the country in which the Secretary resides.

The reason given for the CASI proposal was that they considered the current Statutes and By-Laws deficient when dealing with the election of the Bureau of the commission, and that their Officials have, in fact, no legal standing under the FAI Constitution.

In the opinion of the SWG, the problem raised by CASI reflects an inappropriate interpretation of the FAI Constitution. The correct interpretation of this section must take into account the following:

- The difference between “delegates” and “representatives” is irrelevant for this topic. If members of CASI are called “representatives” it is because they are elected by the General Conference (see Statutes 5.2.3.2.7.1. and By-Laws 3.1.1.), instead of appointed by the NAC’s.
- When the FAI Constitution differentiates between CASI and the Specialized Air Sport Commissions, it does so clearly (see Statutes 5.1.2.8. or By-Laws 3.1.1.). However, when establishing common rules for both types of commissions, it does not differentiate, lumping them together under the same paragraph (Statutes 5.2. *The FAI Air Sport Commissions*).
- So, as per Statutes 5.2., CASI is an Air Sport Commission for the purposes of By-Laws 3.2., and thus, the election of the CASI Bureau has enough legal coverage under Statutes 5.2.3.2.9. and By-Laws 3.2., although the latter uses only the word “delegates” to refer to the members of the commissions.

- Further proof of this is that in addition to the election, the rules under By-Laws 3.2. are also used to regulate the duties of the CASI Secretary (see 3.2.13. and 3.2.14.).
- The CASI proposed wording also misses the phrase regarding the terms of office of their Officials.

Nevertheless, the SWG proposes to amend the Statutes as follows:

Statute 5.2.3.2.9.

The rules contained in By-Law 3.2. are applicable, *mutatis mutandis*, to the election of the CASI Bureau. The terms of office of CASI Bureau Officials shall correspond to the FAI year, ending with the annual General Conference.

This wording maintains the difference between the terms of office of CASI Bureau Officials (compulsory annual terms) and the one/two year term established in Statute 5.1.2.8. for the other commissions. The last sentence of the current wording (*without regard to the actual date of their election*) has been eliminated as unnecessary.

Statutes Working Group

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August 13, 2014

Annex A – FAI Statutes – proposal for changes by CASI – approved by the CASI Bureau..

The purpose of these proposed amendments is to make a change to what is owed by a resigning Member, to make more clear the billing process for Membership subscriptions and the establish some meaningful penalties for non-payment of these subscriptions.

Current Text

RESIGNATION BY MEMBER

2.10.1.1. Resignation may be submitted to the FAI Secretariat not later than the first day of August of any year by registered letter signed by the authorised signing officials of the resigning Member. The membership subscription for the current year, if not yet paid, shall be due. If resignations are received after the first day of August, membership subscriptions for the following year shall be payable.

7.2.3. Membership subscriptions shall be invoiced by FAI and paid by March 31 of each year. However, in case of need, other terms of settlement may be authorised at the discretion of the Executive Board. Such terms shall be reported to the General Conference at its next meeting thereafter.

7.4. PENALTIES

7.4.1. Subject to Paragraph 7.2.3. a surcharge of nought point five percent (0.5 %) for each month or fraction thereof shall be imposed on the amount of all dues not fully paid as of April first of each year.

7.4.2. Subject to Paragraph 7.2.3. a Member whose dues are not paid prior to the date of the General Conference shall not be admitted to the Conference except as an observer.

7.4.3. Subject to Paragraph 7.2.3. a Member whose dues are not paid prior to December 31 shall be suspended automatically from membership and shall not be permitted to participate in any FAI activities until all outstanding obligations have been satisfied.

7.4.4. In the event of prolonged delay in payment of membership dues, the defaulting Member may be expelled from FAI under the provisions of Section 2.8.

Proposed Text

RESIGNATION BY MEMBER

2.10.1.1. Resignation by a Member shall be submitted to the FAI Secretariat by registered letter signed by the authorised signing officials of the resigning Member. The membership subscription for the current year, if not yet paid, shall be due and payable.

7.2.3

7.2.3.1 Membership subscriptions for a particular year will be invoiced by FAI before January 15th of that year

7.2.3.2 Membership subscriptions for a particular year are due and payable to FAI by March 31st of that year.

7.2.3.3 However, in case of need, other payment terms may be authorised by the Executive Board and such terms shall be reported to the General Conference at its next meeting

7.4. PENALTIES

7.4.1. Membership subscriptions that are not paid by April 1 of each year will incur an interest charge equal in amount to the Credit Suisse prime rate plus three point zero percent (3.0 %) per month of the overdue amount.

7.4.2 Where other terms of settlement have been authorised in accordance with 7.2.3.3, the interest charge stipulated in 7.4.1 will apply only to the amount that is overdue relative to the agreed upon payment terms.

7.4.3 If the Membership subscription is not paid by April 1 of a particular year or the payment terms authorised in accordance with 7.2.3.3 are not being adhered to, any Sporting Licenses issued by that Member are suspended as of April 1 or the date on which delinquency in the payment terms occurs, as the case may be and that Member may issue no more Sporting Licenses until the required Membership subscription has been paid or the payment terms are again being adhered to, at which time the Sporting License suspension is removed.

7.4.4 If the Membership subscription is not paid by April 1 of a particular year or the payment terms authorised in accordance with 7.2.3.3 are not being adhered to, that Member will be suspended from membership and will not be permitted to participate in any FAI activities until the subscription is paid or the payment terms are being adhered to

7.4.5 Registered Sporting Events taking place in a year will only be recognised if the organising Member has paid the required Membership subscription before April 1 of that year and the Event is organised and held in a country of which the NAC is a current member of the FAI.

Comments of the Statutes Working Group on the CASI proposals

The Statutes Working Group cannot recommend adoption of these proposals as written. While it is the responsibility of the General Conference to determine whether or not to endorse the objectives of these proposed changes, it is the role of the Statutes Working Group to examine proposed changes to the Statutes. It is the view of the Statutes Working Group that the changes as they are written would result in numerous technical problems which have not been addressed.

Some of the issues are:

- It is unclear if the proposed 7.4.4 is intended to prohibit the participation of Air Sport Commission delegates of delinquent NACs in the ASC AGMs. It appears that it is intended to do so. If so, there would be a greater impact on those ASCs that meet earlier in the year.
- It is not clear how the proposed 7.4.5 is to be applied in cases where an Associate Member is the organizer of an event. In circumstances where the Associate Member has paid the Membership fee on time, but the NAC has not, what would be the impact on the Registered Sporting Event? Also, this section does not include the same provision for other arrangements under 7.2.3.3 as the other sections provide.
- The automatic suspension of a Member under the proposed 7.4.4 is not in line with the enforcement standards as detailed in 2.8 of the Statutes, which provide that a decision on suspension of a Member can only be taken by the General Conference.
- The proposed sections do not include the provision for expulsion of a Member after a prolonged delay in payment, as is contained in the current 7.4.4. Without that provision a member could remain as a suspended member indefinitely.
- There is a principle of rule-making that the consequences for the failure of a party to adhere to the rules should not have an undue impact on those who have no ability to affect the behaviour. While it may be that the air sports persons who obtain their Sporting Licenses from a defaulting NAC could exert pressure on the NAC to resolve the issue, removing the FAI sanction from an event would have an undue negative impact on the participants from other NACs who could, for example, have made travel arrangements for the event.

If it is the decision of the General Conference to revise the Statutes to increase the penalty for undue delay in payment of Membership fees, the Statutes Working Group will undertake to work with CASI and the Executive Board to bring a comprehensive proposal to the next General Conference.