

Proposed statutory changes for presentation to the 2013 FAI General Conference

The Statutes Working Group (SWG) was tasked to examine several proposals related with its statutory missions.

1. FAI Statutes: Change from "FAI Secretariat" to "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.

In the view of the SWG, the scope of the terms "Secretariat" and "Head Office" is likely the same, although the first word refers rather to an institutional concept, while the second one looks more instrumental; however, in the context and use of those two terms by the FAI constitutional documents, we do not identify any compelling reasons for the replacement.

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 undertake 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. NOTE: The expression "Head Office" will be maintained where it refers specifically to a location (i.e. By-Laws 3.4.3. *"...in the vicinity of FAI Head Office..."*)

2. FAI Constitution – Merge the Statutes and By-Laws

The SWG was tasked with considering merging the Statutes and the By-Laws into an FAI Constitution. It was agreed to undertake this work on the basis of the principle that this is an informal document created only for ease of use, and that the approved separate versions of the FAI STATUTES and BY-LAWS must be referenced as the authoritative documents and at all times take precedence over the merged document.

The proposed FAI Constitution is attached to this report as Appendix I.

3. Unrestricted entry to countries hosting FAI meetings

At the 2012 FAI GC (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 as follows: *The General Conference shall not be conducted in any venue where unrestricted entry to all participants is not guaranteed* (the phrasing may be different, but the idea should remain to make unrestricted entry a condition sine qua non, in an unequivocal language).

The SWG was tasked with considering ways to address this issue.

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 be considered by some other Members as discriminatory or unjustified. 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 in the Sporting Code for an event.

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 would require re-numbering of the current 3.3.1. and 3.3.2. to 3.3.2. and 3.3.3.

4. 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.

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:
- *5.2.3.2.9. The rules contained in By-Laws 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) and the one/two year term established at Statutes 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.

5. Conversion of CIEA and EnvC into Expert Groups

The FAI Aviation and Space Education Commission (CIEA) and Environmental Commission (EnvC) are currently Technical Commissions. Discussions began in 2011 to convert them into Expert Groups. The subject was extensively discussed during the 2013 plenary meetings of both the CIEA and EnvC and the concept was approved.

Proposal:

- i) Deletion of Statutes paragraphs 5.3.1.1., 5.3.1.3., 5.3.3.1. and 5.3.3.3.
- ii) Deletion of By-Laws paragraph 3.1.10.

As a supplementary question, it is unclear whether we should reword the whole Statutes paragraph 5.3. to change the mode to singular, given that only one technical commission will remain after the conversion by this proposal. Nevertheless, paragraph 5.3 could also be left plural in anticipation of the creation of future technical commissions.

6. Change of references from “Corporate Patron” to “Patron of FAI”

The 2012 GC approved amendment to the Statutes to expand the concept of patron beyond corporations through changing references from “Corporate Patron” to “Patron”. The SWG therefore proposes removing the word “corporate” from the following paragraphs of the Statutes:

- 2.12.1.
- 2.12.1.1.2.
- 3.1.1.
- 3.4.1.5.1.
- 3.4.1.14.1.