

Report of the Statutes Working Group on the 2005 proposals for amendment to the FAI Statutes and By-Laws.

1. Acceptance of Court of Arbitration for Sport

Conference will be invited to consider adopting a Statutory Clause which is required by IOC for FAI to maintain its "Recognised Federation" status:

New Statute 2.8.1.1.5.: "Any decisions made by the appropriate highest FAI authority may be submitted exclusively by way of appeal to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, which will resolve the dispute definitively in accordance with the Code of Sports-Related Arbitration. The time limit for appeal is twenty-one days after the reception of the decision concerning the appeal."

The principles seem clear and there is no way for FAI to avoid the Court of Arbitration for Sport's (CAS) authority in dispute settlement if we wish to retain IOC recognition. In view of the urgency of the matter, the SWG therefore supports adoption of the proposed new statute under 2.8.1.1.5.

It may however be questioned if the proposed new statute should be limited in scope by coming under 2.8.1 – Violations, Penalties and Appeals, and the SWG therefore recommends that the FAI EB study the broader implications of its proposal in view of a later adoption outside of the scope of statute 2.8.1 – Violations, Penalties and Appeals.

*The SWG also recommends to modify 3.4.1.7 to read: - taking decisions on appeals against decisions (deleting the word "**final**")*

In addition, CASI should be instructed to modify Chapter 9 – Appeals to the FAI - of the Sporting Code General Section (9.4.2 and 9.5) accordingly.

2. Nominating Procedures for FAI President.

The **Aero Club of Israel** (Mr. Omri Talmon, FAI Vice President) proposes the insertion of a new Statute, Article 6.1.1.2., the purpose of which would be to have the same candidacy procedures for the FAI President as is required now for the Executive Board. Israel states that its proposed procedure would eliminate nominations from the floor for the highest FAI position, including candidates who may not be known to many members, or candidates who would decline the nomination. Israel proposes the following text:

6.1.1.2. NOMINATING PROCEDURES

6.1.1.2.1. Members shall inform the FAI Secretariat not less than three months before the General Conference of the name, professional and aeronautical background and qualifications of the individuals being nominated for the office of FAI President. Each Member may nominate one candidate. Nominations shall be accompanied by a CV for each individual, in a standard format as specified by the FAI Secretariat.

6.1.1.2.2. The FAI Secretariat shall prepare a list of the nominees including the CV of each candidate and send it to all Members with the Agenda for the General Conference. The list shall be submitted to the General Conference for election of President from among the individuals on the list by the following procedure.

(... existing 6.1.1.2 renumbered as 6.1.1.3. Renumber succeeding paragraphs).

The Statutes Working Group considered the proposal from Israel at its May 2005 meeting. There was understanding and some support for this idea, on the grounds that it would allow those who were not able to attend the Conference to reflect on the relative merits of the candidates and form a view.

However, the Group as a whole felt that delegates at the Conference should be able to solicit late candidates if they so wished. It was pointed out that the situation for Board Members was different, in that anybody was eligible to stand as a candidate for the Board. The candidates could therefore be totally unknown to delegates. This was not the case for the FAI President, where only FAI Vice Presidents are eligible. If there turned out to be only one pre-nominated candidate, this would severely limit the powers of the GC, in that they would have no option but to elect that person to the presidency.

The Stats WG therefore determined that, although the proposal was understandable and well intentioned, it brought with it an unacceptable risk of unintended negative consequences. The main argument against it was that it would restrict the freedom of the GC to choose the best person for the post of FAI President. The Stats WG therefore recommended rejection of this proposal.

3. Discharge of Executive Board

The **Aero Club of Israel** (Mr. Omri Talmon, FAI Vice President) proposes an amendment to the Statutes concerning discharge of the Board. At present, paragraph 3.4.1.3. of the Statutes reads as follows:

3.4.1.3. - approval of the FAI accounts and the actions of the Executive Board, and of the financial statements prepared by the Auditor ;

Israel proposes the removal of the words “and the actions of the Executive Board”, so that the paragraph would read:

3.4.1.3. - *approval of the FAI accounts and of the financial statements prepared by the Auditor ;*

The **Aero Club of Israel** justifies the proposal as follows:

“This Statute includes two separate issues.

Approval of the financial statements. This is normally a legal requirement from organizations created under this or other charter, and we assume the FAI falls under such a category. Financial statements are created and written in accordance with generally accepted auditing standards, have a known form, are easily read and comprehended by persons with some accounting knowledge (or their assistants/consultants), and are distributed ahead of time. In this case, in addition to the legal requirement, the process of approval makes sense and has a meaning. Further, pursuant to an eventual objection or remark the statements can be amended as they do not become official before the approval.

It is not the same with the “approval of the actions of the Executive Board”. As a managerial rule, as long as the Executive Board acted within its defined powers and in accordance with the decisions of the Conference there is no need for such an approval. Further, it has no practical meaning because we deal here with the past and what was done - was done. Finally, the Conference is in no position to make such a decision unless it is privy not only to a list of “actions” but also to the deliberations which preceded them and/or to circumstances which incited them.

It can also be looked upon this way: If the Conference does not approve the financial statements, these can be rewritten, reclassified etc., until approval is granted. This is not the case of the “actions”. Suppose that the Conference does not give an approval – then what?”

The opinion of the FAI lawyer on this matter is at **Attachment 1** to this Annex.

Considering the legal aspects only, the SWG recommends that the argumentation and conclusions of JP Morand in his Memorandum of May 20, 2005 be followed and that the GC reject the proposal of the NAC of Israel.

Considering however the difficulty of many of our members to comprehend complex legal text (language and Swiss Law) and its implications on the statutes, the SWG recommends that the EB study the possibility to re-write the relevant statutory dispositions for clarification purposes.

4. Treatment of Membership Applications from Defaulting Countries.

In 2004, before the establishment of the Statutes Working Group, the FAI Executive Board, concerned about membership applications from countries that had previously defaulted, had agreed to suggest a new Statute as follows:

"7.4.5 When a country has previously had one or more members that repeatedly failed to meet their financial obligations to FAI and as a result were either suspended twice or more within a 5-year period before resigning from FAI, or were the subject of a formal vote of expulsion within the previous 10 years, the FAI Executive Board may, on receipt of new applications for FAI membership from any potential member organisations in that country, require advance payment of more than one year's membership subscription, or impose other conditions designed to encourage timely payment by such prospective members."

The Statutes Working Group found the Executive Board's proposed Statute changes on this subject to be inappropriate. It was, in their view, the FAI's duty to protect the interests of air sport persons (APs). Imposing collective responsibility on a country was not acceptable. In any case, it was not possible for a non-member to be penalised under the FAI Statutes.

The Statutes Working Group recommended that the EB needed to retain as much flexibility as possible. FAI had to be careful not create a barrier that penalised APs by making it more difficult for them to compete internationally. The Stats WG was therefore of the view that, instead of the EB's proposed changes to Statute 7.4.5. (Annex 3, paragraph 4), FAI By Law 2.1.1.5. should be modified as follows (added text in heavy italics):

"2.1.1. To join the FAI as an Active Member the applicant shall forward to the FAI Secretariat a letter of application appropriately signed by its President, Secretary General or other duly authorised persons. This application shall be accompanied by:

<.....>

2.1.1.5. - *the payment for the first year's membership dues for the class in which membership is sought. In addition, if a country has previously had one or more FAI Members that failed to meet their financial obligations to FAI and as a result were either suspended twice or more within a 5-year period before resigning from FAI, or were the subject of a formal vote of expulsion within the previous 10 years, advance payment of one or more years' membership subscriptions, or other conditions designed to encourage timely payment, may be imposed at the discretion of the Executive Board. If the application is not accepted, all payments shall be returned in full. If the application is referred to a different class than the one requested, and the applicant agrees to this, the balance of dues shall be paid by the applicant or refunded by the FAI as the case may be."*

5. Proposals from United Kingdom.

Numerous changes to FAI Statutes and By Laws proposed by the United Kingdom are at **Attachment 2** to this Annex

The Stats WG agreed that many of the suggestions made by the UK NAC had merit, or were merely editorial in nature, but no important urgent matters were evident so there was no need for urgent action. The Stats WG considered that it was not a good principle that it should look into matters like this too often. The principal task of the Group was to look into urgent and important matters. If minor changes were made every year, the status of the constitution would be degraded. However, it was important that the extensive and useful work done by the UK should not be lost. The Chairman therefore proposed that these suggested changes (unless editorial in nature, which the Secretariat could action), should be kept in a file entitled "Future Changes", and that the UK be invited in due course to provide specific wording for suggested changes, where this had not already been provided.

6. Pepe Lopes Hang Gliding Medal

To reflect the reality that the Pepe Lopes Medal is not restricted to hang glider pilots but is also open to paraglider pilots, the FAI Hang Gliding and Paragliding Commission (CIVL) proposes the amendment of By Law 12.10.1. as follows:

By Law 12.10.1.2.

"Eligibility. The medal may be awarded for outstanding contributions to sportsmanship or international understanding in the sport of hang gliding **and paragliding**. The medal will only be awarded for truly significant acts or services and will not necessarily be awarded every year."

*The SWG does not see an objection to follow the FAI CIVL proposal and would like to **recommend** adoption of the proposed Statute modification to the GC.*

7. The Gold Space Medal.

In view of the stature of this Medal (ranking equally with the Gold Air Medal) the FAI President proposes amending By Law 12.9.1.4. as follows:

12.9.1.4. Nomination and Approval. Procedures shall be as described in Chapter 10, but with the same requirement for an absolute majority as in the case of the Gold Air Medal (See By-Laws 11.2.5.1), **and with a requirement for ratification of the FAI Astronautic Commission's decision by the FAI Vice Presidents.**

*By-Law 10.1.7. Modification of Policy for Awards. States that If any changes are to be made to the rules for FAI Awards described in Chapters 10-12 of these By-Laws, these must be approved by the appropriate Commission **and** the FAI General Conference. The Commission's approval has to our knowledge not yet been sought or given, and therefore the SWG recommends to first do so.*

The SWG, in principal, recommends adoption of the proposed By-Laws change. However, in order to avoid confusion between FAI General Awards (chapter 11) and FAI Awards for Individual Disciplines (chapter 12), the SWG recommends the changed By-Law to come into Chapter 11 – FAI General Awards as follows:

11.3. THE FAI GOLD SPACE MEDAL

11.3.1. *History. The Gold Space Medal was established by the FAI in 1963 and is of equal stature with the FAI Gold Air Medal.*

11.3.2. *Eligibility. The FAI Gold Space Medal is reserved for those who have contributed greatly to the development of Astronautics by their activities, work, achievements, initiative or devotion to the cause of Space.*

11.3.3. *Proposals may cover any period of time up to 31st of December of the preceding year.*

11.3.4. *Frequency and Number. Only one Gold Air Medal may be awarded annually.*

11.3.5. *Nomination and Approval Process. Procedures for nomination and approval shall be as laid down in Chapter 10, with the following additional conditions:*

11.3.5.1. *An absolute majority is required to determine the recipient of the Medal.*

11.3.5.2. *If, after the first ballot, no candidate has obtained an absolute majority, a new ballot shall be conducted between the two candidates who have polled the greatest number of votes. If the second ballot leads to no decisive result, a third ballot shall be conducted in the same way. If an absolute majority is still not obtained, no Medal shall be awarded in that year.*

Subsequent amendments:

- *Renumber 11.3 as 11.4 onwards*
- *Delete in total 12.9*
- *Renumber 12.10 as 12.9 onwards*

8. FAI General Badges

Following the introduction of FAI's new visual image, and pending decisions about new FAI badges, the FAI President recommends the suspension in toto of By Law 13.2., a section which cannot be implemented at present.

Unfortunately, as indicated, it seems that the provisions of this By-Law cannot be implemented at present. This is however, in view of the SWG, no sufficient reason to delete By-Law 13.2. The SWG therefore recommends that the EB study the present situation and report on the possibilities to implement the relevant By-Law.

9. Montgolfier Diploma

Montgolfier Diplomas may be awarded for gas, Rozier or hot-air ballooning, or for a major contribution to the sport as a whole. Normally, a person may receive a FAI award once only. However, Montgolfier Diplomas are effectively 4 awards in one. The FAI Ballooning Commission therefore recommends the addition of a new By Law 12.2.1.3.4.:

“The Montgolfier Diploma may be awarded to the same individual or team more than once, **but not in the same category.**”

The Statutes Working Group recommends adoption of the CIA's proposed amendment to By Law 12.2.1.3
