

Constitution Committee Minutes



The Constitution Committee met at 09:30 – 18:00 hours on Tuesday 12 November and at 09:30 – 13:30 on Thursday 14 November 2013 at the Al Bandar Hotel, Muscat, Sultanate of Oman

Please refer to the ISAF website www.sailing.org for the details of the submissions on this agenda/referred to in these minutes.

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Present:

Philip Tolhurst (GBR) – Chairman
Balazs Hajdu (HUN) – Vice-Chairman

Ana Jasna Antoncic (SLO)
Glaucio Valerio Briante (ITA)
Melinda Erkelens (USA)
Peter Hall (CAN)
Stanislav Kassarov (BUL)
Graham McKenzie (NZL)
José Motta Veiga (POR)
Dieter Neupert (SUI)
Chairman Review Board
W. Scott Perry (URU)
Vice-President
David Tillett (AUS)

Apologies:

Nilufer Cakmakli (TUR)
Charlie Manzoni (HKG)
Manuel J Martin (ESP)
Ruth Miller (ISV)
Tom Schubert (FIN)

In Attendance

Jerome Pels – CEO, 12 November only
Jon Napier – Competitions Manager, 14 November only.
Trish Merrick – Governance Services Administrator

Left the session briefly on 12 November.

Did not Attend

Viacheslav Evseev (RUS)

1. Opening of the Meeting

(a) Welcome

The Chairman welcomed everyone to the first meeting of the committee since appointment in November 2012. Apologies were noted.

For the benefit of the new Committee members the Chairman gave a summary of the main functions of the Constitution Committee as outlined in the Terms of Reference. The first meeting session would deal mainly with items 4 and 5 of the agenda with the second session being closed for in depth discussions on items 6, 7, 8, 9 and 10.

(b) Role of Vice-President

W. Scott Perry, ISAF Vice-President assigned to the Constitution Committee introduced himself and explained that although not a lawyer, his role is to express the opinions and concerns from the Executive to the committee and vice versa. He added that there is a heavy agenda of items to be addressed relating to the structure and governance of the Federation and the Committee would be very busy during the quadrennium.

2. Minutes of the Previous Constitution Committee Meeting

(a) Minutes

The minutes of the Constitution Committee meeting of 5 and 7 November 2012 were noted.

(b) Matters Arising

There were no matters arising not covered elsewhere on this agenda.

3. Matters Arising from Council Meeting of 10 May 2013

The Chairman reported on the meeting of Council and Committee Chairmen in Copenhagen in May which was very productive and as a result the ISAF Secretariat has published an ISAF Goals and Priorities 2013 – 2016 document and hard copies were handed out to the committee.

4. Submissions Deferred from Previous Council Meetings

Please refer to the 2013 Submissions Booklet for details of all submissions also available online at www.sailing.org/meetings

- (a) Submission 007-12 Decision Making Procedure at Council from the Russian Yachting Federation

Opinion: Reject

- (b) Submission 075-12 Olympic Sailing Competition from the International Finn Association

Opinion: No Recommendation

- (c) Submission 089-12 Classes for the ISAF Youth Sailing World Championships from the Danish Sailing Association and International 29er Class Association

Opinion: Approve

- (d) Submission M08-13 ISAF Events, Include Kiteboarding in ISAF Events from the International Kiteboarding Association

Opinion: No Recommendation

5. Submissions November 2013

Please refer to the 2013 Submissions Booklet for details of all submissions also available online at www.sailing.org/meetings

- (a) To consider submissions for which the Executive Committee is the Reporting Committee and the Constitution Committee is the Other Committee:

- i) Submission 002-13 Subscription Fees for Classes from the International Funboard Class Association, International Hobie 14 Class Association, International Hobie 14 Class Association, International Hobie 16 Class Association, International Hobie 17 Class Association, International Hobie 18 Class Association, International Hobie Dragon Class Association, International Hobie Tiger Class Association, International Hobie Wildcat Class Association, International Lightning Class Association, International Star Class

Opinion: No Recommendation

The effect of this will be to link class fees to a subscription over which they have no influence and could result in much higher fees. We also believe that the figures in the reasons given may not be correct.

- ii) Submission 003-13 International Association for Disabled Sailing (IFDS) from the Executive Committee

Opinion: Approve

Subject to policy decision.

- iii) Submission 004-13 Constitution Committee Terms of Reference from the Chairman of the Constitution Committee

Opinion: Approve with following amendment.

6.2.3 The Constitution Committee shall:

(b) ~~from time to time to~~ **review the terms of reference of committees, when appropriate;**

- iv) Submission 005-13 Equipment Control Sub-committee Terms of Reference from the Chairman of the Equipment Committee

Opinion: Approve

- v) Submission 006-13 Race Officials Committee Terms of Reference from the Chairman of the Race Officials Committee

Opinion: Approve

- vi) Submission 007-13 International Measurers Sub-committee Terms of Reference from the Chairman of the Race Officials Committee

Opinion: Approve

- vii) Submission 008-13 ISAF Commissions – Generally from the Chairman of the Constitution Committee

Opinion: Approve with the following amendment

8.2 Subject to Regulations 8.9, 8.14 and 8.15, the appointment and removal of members of commissions is the responsibility of the Executive Committee (including the appointment of a chairman and vice-chairman).

- viii) Submission 009-13 ISAF Commissions Terms of Reference from the Chairman of the Constitution Committee

Opinion: Approve with the following amendments

8.6.2 The Medical Commission shall:

(f) consider and advise the Executive Committee on ~~Medical~~ **medical** matters affecting all branches of sailing served ~~by the International Sailing Federation~~ **ISAF**;

International Regulations Commission

8.7.62 The Commission shall ~~be responsible~~ **report** to the **Executive Committee** ~~and the Oceanic and Offshore Committee.~~

- ix) Submission 010-13 ISAF Advertising Code from US Sailing

Opinion: No Recommendation

Policy only.

- x) Submission 011-13 ISAF Advertising Code from the International 49er Class Association

Opinion: No Recommendation

Policy only. The submission does not include a proper proposal to change the regulation.

- xi) Submission 012-13 ISAF Advertising Code from the International Kiteboarding Association

Opinion: Reject

It is sufficient for this to be in the Class Rules.

- xii) Submission 013-13 Payment of Umpires from the Chairman of the Race Officials Committee

Opinion: Approve

- xiii) Submission 014-13 ISAF Technical Delegates from the Executive Committee

Opinion: Approve

- (b) To consider submissions for which the Constitution Committee is the Reporting Committee:

- i) Submission 024-13 Autonomy, Independence and Non-Interference of MNAs - Regulation 1.15

Recommendation to Council: Reject

Not necessary. "Consultation and due diligence" are already covered by the existing requirement for proper enquiry.

- ii) Submission 025-13 Association Membership from the Chairman of the Constitution Committee

Recommendation to Council: Approve with the following amendment

- 1.16 Associate Membership is available to ~~countries~~ **territorial entities** that meet the criteria in Article 4 and are approved under Article 5.1. Subject to the Articles, the following criteria shall be used when determining applications for Associate Membership:

- iii) Submission 026-13 ISAF Membership from the Chairman of the Constitution Committee

Recommendation to Council: Approve with the following amendment

- 1.25 The Executive Committee may suspend the membership of a Member National Authority, a Continental Affiliate Member, or an ISAF Class Association if the Chief Executive Officer certifies in writing that **having been warned in writing to make a payment at least 30 days previously and remains ~~is~~** in arrears on all or any part of a subscription, fees, dues or other payments due to the Federation or any of its subsidiary companies or any of their predecessors. Additionally the Executive Committee may:

- iv) Submission 027-13 ISAF Membership from the Chairman of the Constitution Committee

Recommendation to Council: Approve

- v) Submission 028-13 Additional Nominations to the ISAF Classes Committee from the Chairman of the Constitution Committee

Recommendation to Council: Approve

- vi) Submission 029-13 Appointment of Audit Committee from the Chairman of the Constitution Committee

Recommendation to Council: Approve

- vii) Submission 030-13 Appointment of Committee Members from the Chairman of the Constitution Committee

Recommendation to Council: Approve with the following amendment

- 5.2.1 The Executive Committee shall, subject to any specific provisions in the Regulations relating to a particular committee and so far as is practicable, follow the following guidelines:
- (e) not more than two persons from any ~~country~~ **one Member National Authority** should be included on any committee;
- 5.2.2 Following the General Assembly, the committees shall be appointed in the following manner:
- (a) within ~~30~~ **60** days of the General Assembly, the new Executive Committee shall publish the proposed members of the committees (including the chairman and vice-chairman of each committee) and that list shall be circulated to Council;
- (e) if by the first day of ~~January~~ **February** following the General Assembly (or such later date determined by the President) the Council has not approved or rejected the list, the list shall be deemed approved by the Council.

- viii) Submission 031-13 Joint Rule 69 Working Party from the Chairmen of the Constitution Committee, Race Officials Committee and Racing Rules Committee

Recommendation to Council: Approve

- ix) Submission 032-13 ISAF Committees from the Chairman of the Constitution Committee

Recommendation to Council: Approve with the following amendment

- 5.6 The ordinary term of office for a committee member shall be ~~4 years from 1 February following the last Ordinary General Assembly from the date of appointment by the Council until 31 December of the fourth year following the General Assembly held prior to the committee member's appointment.~~

- x) Submission 033-13 Women's Forum from the Chairman of the Women's Forum

Recommendation to Council: Reject

Not necessary.

- xi) Submission 034-13 ISAF Regulations from the Chairman of the Constitution Committee
Submission withdrawn.
- xii) Submission 035-13 Race Officials from the Chairman of the Constitution Committee

Recommendation to Council: Defer

- xiii) Submission 036-13 ISAF Officers from the Executive Committee

Recommendation to Council: Approve

- xiv) Submission 037-13 ISAF Constitution – Membership Obligations from the Executive Committee

Recommendation to Council: Approve with the following amendment

- 15.1 **(a)** The status of any existing Member National Authority of the Federation may only be challenged by an existing Member National Authority ~~Reference to FM or MNA?~~ in good standing or an organization which has or is claiming the status of a governing body of the sport of sailing in the particular country in which the Member National Authority is located and has been so certified by the

Constitution Committee having considered the recommendation of the Secretary General.

- xv) Submission 038-13 ISAF Constitution – Representation at General Meetings/Assemblies from the Executive Committee

Recommendation to Council: Defer

- xvi) Submission 039-13 ISAF Constitution – Executive Committee at General Meetings/Assemblies

Recommendation to Council: Approve

- xvii) Submission 040-13 ISAF Constitution – Appointments to Council from the Executive Committee

Recommendation to Council: Approve with the following amendment

(d) If there is an equal number of nominations for a vacancy, then any candidate(s) with the least number of nominations shall be eliminated and a ballot of the Member National Authorities in that group shall be held between the tied candidates. If a tie remains, this procedure shall be repeated until one candidate receives a simple majority of votes. In the event that a tie still persists seven days before the start of the General Assembly, the President shall break the tie in his sole discretion and appoint a candidate to fill the vacancy. ~~All ballots~~ The process shall be administered by the Chief Executive Officer.

- (c) To consider submissions for which the Events Committee is the Reporting Committee and the Constitution Committee is the Other Committee.

Stanislav Kassarov and Balazs Hajdu disclosed potential conflict of interest in some issues concerning the Olympic classes due to their involvement as International 470 Class President and International Finn Class President respectively:

- i) Submission 071-13 Olympic Sailing Competition from the International Funboard Class Association

Opinion: No Recommendation

Subject to policy

- ii) Submission 072-13 2020 Olympic Sailing Competition from the Executive Committee

Opinion: Approve with the following amendment

Proposal 2

Add new Regulation 23.1.3 ~~(f)~~**(a)**

~~**(f)(a)**~~ **Notwithstanding Regulation 23.1.3 ~~(a)(b)~~ to ~~(e)(f)~~ above, below the ten Olympic Events and Equipment in Regulation 23.1.4 are selected for the 2020 Olympic Sailing Competition. Equipment evolution shall be permitted and shall be decided in accordance with Regulation 23.1.3(d). ~~In the event that~~ If Sailing is allocated an additional medal Olympic Events for 2020, a kiteboarding shall be selected. ~~This regulation shall be deleted at the conclusion of the 2020 Olympic Games~~**

- iii) Submission 073-13 2024 Olympic Sailing Competition and Beyond from the Executive Committee

Opinion: Approve with the following amendment

If Submission 072-13 is approved:

~~(a) If Sailing is allocated an additional medal for 2020, a Kiteboarding Event shall be selected. This paragraph shall be deleted at the conclusion of the 2020 Olympic Games.~~

~~(f)(a) Notwithstanding Regulation 23.1.3(a)(b) to (e)(f) above, below the ten Olympic Events and Equipment in Regulation 23.1.4 are selected for the 2020 Olympic Sailing Competition. Equipment evolution shall be permitted and shall be decided in accordance with Regulation 23.1.3(d). In the event that If Sailing is allocated an additional medal Olympic Events for 2020, a kiteboarding shall be selected. This regulation shall be deleted at the conclusion of the 2020 Olympic Games~~

- iv) Submission 074-13 Olympic Sailing Competition from the International Kiteboarding Association

Opinion: Approve

Subject to policy

- v) Submission 075-13 ISAF Sailing World Championship from the International Kiteboarding Association and the Chairman of the Windsurfing and Kiteboarding Committee

Submission withdrawn.

- vi) 075b-13 ISAF Sailing World Championship from the Chairman of the Windsurfing and Kiteboarding Committee

Opinion: Approve

Subject to deletion of second paragraph.

- vii) Submission 076-13 ISAF Sailing World Cup from the International Kiteboarding Association and the Chairman of the Windsurfing and Kiteboarding Committee

Submission withdrawn

- viii) 076b-13 ISAF Sailing World Cup from the Chairman of the Windsurfing and Kiteboarding Committee

Opinion: Approve

Subject to deletion of proposal 2

- ix) Submission 077-13 ISAF Youth Sailing World Championship from the Chairman of the Events Committee

Opinion: No Recommendation

Policy only

- x) Submission 078-13 ISAF Youth Sailing World Championship from the International 29er Class Association, Hong Kong Sailing Federation, Russian Yachting Federation and the Swedish Sailing Federation

Opinion: No Recommendation

Policy only

- xi) Submission 079-13 ISAF Youth Sailing World Championship from the International Kiteboarding Association and the Chairman of the Windsurfing and Kiteboarding Committee

Submission withdrawn

- xii) 079-13b ISAF Youth Sailing World Championship from the Chairman of the Windsurfing and Kiteboarding Committee

Opinion: Approve

Subject to deletion of second paragraph.

- (d) To consider submissions for which the Race Officials Committee is the Reporting Committee and the Constitution Committee is the Other Committee:

- i) Submission 093-13 International Umpires Administration from the Chairman of the Race Officials Committee

Opinion: Approve

- ii) Submission 094-13 International Measurers Administration from the Chairman of the Race Officials Committee

Opinion: Approve

- iii) Submission 095-13 International Race Officers Administration from the Chairman of the Race Officials Committee

Opinion: Approve with the following amendment

- 31.14.1 A candidate for first appointment as International Race Officer shall have complied in the 4 years prior to 14 October of the year of application with the following:

...

- (f) have attended an ISAF Race Management Seminar and have passed the International Race Officers written test ~~within the four years prior to 14 October of the year of application;~~ and

- (g) have passed the ISAF International Race Officers examination, in accordance with the provisions of this regulation, ~~within the four years prior to 14 October of the year of application;~~

- iv) Submission 096-13 International Judges Administration from the Chairman of the Race Officials Committee

Opinion: Approve with the following amendment

- 31.21 Separate lists of International Race Officials shall be printed in the ISAF Yearbook with a designation indicating the designation of the Member National Authority of the official. However if an **International Judge or** International Umpire is approved for re-appointment subject to passing the ~~Umpires~~ **ISAF Examination of his the discipline** before 1 May and the examination is not passed before the 31 December, his name will not be included.

- v) Submission 097-13 Race Officials Performance from the Chairman of the Race Officials Committee

Opinion: Approve with the following amendment

- 32.10 The panel may recommend an appropriate sanction, for example:

that a formal warning be given;
that a reprimand be given;
that the ISAF Race Official shall not be appointed to or approved for events of a specified grade or type;
that the ISAF Race Official be supervised when attending an event;
that the ISAF Race Official attend a seminar before attending a further event;
that the ISAF Race Official be re-assessed in his discipline, if assessment is a requirement before appointment in that discipline;

that the ISAF Race Official take a test in the discipline concerned;
that the ISAF Race Official be suspended from his appointment for ~~up to one year~~ **a specified period of time followed by a re-evaluation of improvements in his performance prior to reinstatement or termination of appointment;**
that the appointment of the ISAF Race Official be terminated.

- vi) Submission 098-13 Conflict of Interest from the Chairman of the Race Officials Committee

Opinion: Approve with the following amendment

- 34.2 When an ISAF Race Official is ~~aware of a conflict of interest~~ **invited to serve at a regatta**, he/she shall **consult the “Race Officials Committee Guidelines for Assessing a Conflict of Interest for Race Officials” as published on the ISAF website** ~~the guidelines for race officials issued by the Race Officials Committee~~ **and act in accordance with these guidelines, which may be to** decline ~~an~~ the invitation ~~to serve at a regatta at which an International Jury is appointed.~~
- 34.4 When, at an event, an ISAF Race Official becomes aware of a conflict of interest, ~~the official~~ **he/she** shall disclose the potential conflict to the International Jury which shall take appropriate action **in accordance with the “Race Officials Committee Guidelines for Assessing a Conflict of Interest for Race Officials” as published on the ISAF website** ~~guidelines for race officials for assessing a conflict of interest, issued by the Race Officials Committee.~~

6. *Submission Process

This item was discussed in closed session.

Decision

The following Working Party was appointed to simplify and streamline the submissions process and to examine ways to allow discussion papers / policy proposals to be discussed outside of the submission format:

- Peter Hall (CAN) – Chairman
- Philip Tolhurst (GBR)
- Stansilav Kassarov (BUL)
- ISAF Secretariat

7. *Election of Officers

This item was discussed in closed session

Decision

The Constitution Committee will put forward recommendations for proposed changes to the procedure for the Election of Officer for the Executive Committee to review at their meeting in February 2014.

8. *Proposed Changes to the Constitution

This item was discussed in closed session. The Committee received a presentation from Vice-President W. Scott Perry outlining the structures of other International Summer Sports Federations compared to that of ISAF. The Committee noted the areas where ISAF could improve and will take these into account along with other suggestions put forward during the discussion.

Decision

The Constitution Committee will put forward recommendations for proposed changes to the Constitution for the Executive Committee to review at their meeting in February 2014.

9. *Further Changes to the Regulations

This item was discussed in closed session.

10. *ISAF Members

(a) Proposed Revision of MNA Groups

The Chairman thanked the members of the Working Party for producing the proposed revision of MNA Groups which was reviewed by the Executive Committee at their meeting in September.

Decision 1

The Constitution Committee recommends adoption of the proposed revision of MNA Groups as recommended by the Executive Committee with immediate effect.

Decision 2

In the case that Council approves the revised groupings, MNAs in the revised Group Q to be advised:

- i) of the recommendation from the Executive Committee in principle for an additional seat in Council; and**
- ii) that the appointment of the candidate to take up the second seat in Council to be decided by the Group in accordance with Article 40 and Regulation 2.4.2 for consideration at the November Conference 2014.**

(b) Confederação Brasileira de Vela e Motor (CBVELA)

Following the reconstitution of the MNA in Brazil the committee noted the Confederação Brasileira de Vela e Motor (CBVELA) as the ISAF Full Member.

11. *Working Parties

(a) The following Working Parties working parties were appointed::

i) MNA Groupings / Subscription Categories Working Party

Vice-President Scott Perry informed the Committee that the Executive Committee will continue to work on a proposal to revise subscription charges and will feedback to the Committee accordingly.

Decision

The MNA Grouping Working Party was appointed in accordance with Regulation 2.4:

- Peter Hall (CAN) – Chairman**
- Ana Jasna Antoncic (SLO)**
- José Motta Veiga (POR)**
- Nilufer Cakmakli (TUR)**

ii) Ethics Code/Betting & Anti-Corruption Code Working Party

Vice-President Scott Perry commented that since the members of the Ethics Commission have been appointed and are ready to serve it is imperative for the Code of Ethics to be finalised and published.

Decision

The following Ethics & Betting and Anti-Corruption Working Party were appointed to:

1. **draft the ISAF Code of Ethics in conjunction with the Ethics Commission**
 2. **draft proposals to tailor the ISAF Betting & Anti-Corruption Code**
 - **David Tillett (AUS) – Chairman**
 - **Graham McKenzie (NZL)**
 - **Member of the Ethics Commission to be appointed by its Chairman**
- iii) Membership Working Party

It was noted that the Vice-Chairman is authorised to review draft MNA constitutions on behalf of the Committee.

- iv) Continental Associations Working Party

Decision

The following Working Party was appointed to draft a standard constitution template document for continental associations:

- **Philip Tolhurst (GBR) – Chairman**
- **Balazs Hadju (HUN)**
- **Dieter Neupert (SUI)**
- **Glauco Valerio Briante (ITA)**

- v) IFDS Merger

Decision

The following Working Party is appointed to advise the Executive Committee on the implementation of the IFDS merger and prepare the necessary amendments to the ISAF Constitution and Regulations:

- **Philip Tolhurst (GBR) – Chairman**
- **Peter Hall (CAN)**
- **Melinda Erkelens (USA)**
- **ISAF Secretariat**

- vi) Rule 69 Judicial Matters Joint Working Party

The Committee noted submission 031-13 and the approval of the Joint Working Party on Rule 69 and Judicial Matters currently constituted as:

- **David Tillett (AUS) – Constitution Committee**
- **John Doerr (GBR) – Racing Rules Committee**
- **Jan Stage (DEN) – Race Officials Committee**
- **Lance Burger (RSA) – Racing Rules Committee**

Decision

The Committee proposed the addition of the Chairman and Graham McKenzie (NZL) to the Joint Working Party (with the consent of the Chairmen of the Race Officials & Racing Rules Committees).

- vii) Jurisdiction Working Party

Decision

The following Working Party is appointed to review the arrangements across ISAF on jurisdictional matters and the need for suitable dispute resolution provisions:

- **Charlie Manzoni QC (HKG) - Chairman**
- **Dieter Neupert (SUI)**
- **Ruth Miller (ISV)**

- ISAF Secretariat

12. Matters Not Covered Elsewhere in the Agenda

(a) Interpretations

The Committee noted that Interpretation Reference 001-13 relating to the suspension of Race Officials was published.

(b) ISAF Sailor Classification

Decision

The Committee recommended to the Executive Committee that Graham McKenzie (NZL) be appointed to the ISAF Sailor Classification Commission to deal with sailor appeals and other legal matters.

(c) ISAF Advertising Code – Events Advertising

The Committee discussed submission 017-12 which was withdrawn in November 2012.

Recommendation

In the absence of a revised submission the Constitution Committee recommended that, for specific events, the matter be resolved via the Racing Rules of Sailing. A new submission to amend the Advertising Code will be put forward for consideration in November 2014.

13. ISAF Annual General Meeting 16 November 2013

The Agenda for the Annual General Meeting was noted.

14. Annual Report

The committee received a copy of the Chairman's report to be circulated around the table at the ISAF Council meeting of 15 November 2013 on the activities of the Constitution Committee since the meeting of Council in November 2012.

15. Any Other Business

There being no further business the meeting was closed.