

Constitution Committee Minutes



The Constitution Committee met between 09:30 – 18:00 hrs on Tuesday 8 November 2016 and 09:30 – 13:30 hrs on Thursday 10 November 2016 at the Renaissance Barcelona Fira Hotel, Barcelona, Spain.

Please refer to the World Sailing website www.sailing.org for the details of the submissions on the agenda and referred to in these minutes.

1. Opening of the Meeting	1	4. Working Parties	7
2. Minutes of the Previous Meeting	1	5. Annual Report	7
3. Submissions November 2016	2	6. Any Other Business	7

Present:

Philip Tolhurst (GBR) – Chairman
Balazs Hajdu (HUN) – Vice-Chairman
Glauco Valerio Briante (ITA)
Nilufer Cakmakli (TUR)
Melinda Erkelens (USA)
Ana Jasna Gamulin (SLO)
Peter Hall (CAN)
Stanislav Kassarov (BUL)
Dieter Neupert (SUI)
W. Scott Perry (URU)
Tom Schubert (FIN)
David Tillett (AUS)

Apologies:

Charlie Manzoni (HKG)
Manuel J Martin (ESP)
Ruth Miller (ISV)
José Motta Veiga (POR)
Graham McKenzie (NZL)

In Attendance

Jon Napier - Director of Legal Affairs & Governance
John Dyke - Lawyer

1. Opening of the Meeting

The Chairman welcomed everyone to the meeting including observers. Conflicts of interest were noted as being individuals interests in sailing only. Specific conflicts to be noted in accordance with particular matters as they arise

2. Minutes of the Previous Meeting

(a) Minutes

The minutes of the meetings of 10 and 12 November 2015 (circulated and approved after the meeting) were noted.

(b) Matters Arising

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

Constitution Committee Minutes (cont'd)

3. Submissions November 2016

- (a) The Committee considered submissions for which the Board is the Reporting Committee and the Constitution Committee is the Other Committee:

- i) Submission 001-16 World Sailing Constitution - Article 91 - Accounting Records

Opinion: Reject

There is a difference between accounting records and the currencies World Sailing holds. The Committee notes the view of the external auditors,

- ii) Submission 002-16 World Sailing Constitution - Article 94 - Federation Accounts

Opinion: Approve with the following amendment

94. At the Annual General Meeting in every year the Board shall in accordance with the provisions of the Acts lay before the Federation an income and expenditure account **of the Federation and each of its consolidated entities subsidiaries** for the period since the last preceding accounting reference date together with a proper balance sheet made up as at the same date. Every such balance sheet shall be accompanied by proper reports of the Board and the auditors, and copies of such account, balance sheet and reports (all of which shall be framed in accordance with any statutory requirements for the time being in force) and of any other documents required by law to be annexed or attached thereto or to accompany the same shall, not less than twenty-one clear days before the date of the meeting at which they are to be laid, be delivered or sent by post to the auditors and to all other persons entitled to receive notice of General Meetings in accordance with section 11 Companies Act 1982 in the manner in which notices are hereinafter directed to be served. The auditors' report shall be open to inspection and be read before the meeting as required by section 15 Companies Act 1982.

- iii) Submission 003-16 World Sailing Regulations - New Regulation 7.2.3 - Distribution of Papers

Opinion: Approve with the following amendment

The Committee supports the amendment from the Board.

- iv) Submission 004-16 World Sailing Regulations - Regulation 8.9.2 - Athletes' Commission Membership

Opinion: Reject

The Committee supports the Board's reasons for rejection.

- v) Submission 005-16 World Sailing Regulations - New Regulation 8.8 - Sustainability Commission

Opinion: Approve

- vi) Submission 006-16 World Sailing Constitution & Regulations - New Regulation - Men's Forum

Opinion: Defer

The Committee approves the wording of the proposal.

Constitution Committee Minutes (cont'd)

However, the Committee believes that the submission should be deferred in order to consider alongside wider proposal concerning the Women's and other gender Fora.

For example, the Committee considers that an Equality Forum may be a better vehicle for such discussions (or gender equality forum etc.).

- vii) Submission 007-16 World Sailing Regulations - New Regulation 25.8.13 - Special Events

Opinion: Defer

The Committee prefers the Board's recommendation to Council and supports the wording of the Classes Committee amendment (subject to policy).

- viii) Submission 008-16 World Sailing Regulations - Regulation 25.6 - Other World Championships - Special Events

Opinion: Defer

See comment to Submission 007-16

- ix) Submission 009-16 World Sailing Regulations - New Regulation - List of Special, Major and Recognized Events

Opinion: Defer

See comment to Submission 007-16

- x) Submission 011-16 World Sailing Regulations - Regulation 20 - Manufacturer and Sailmaker Marks

Opinion: Approve

Subject to policy.

- xi) Submission 012-16 World Sailing Regulations - Regulation 20.4.1 - Event Advertising

Opinion: Approve

Subject to policy.

- xii) Submission 014-16 Olympic Sailing Competition - Selection of Events and Equipment

Opinion: Reject

The Committee supports the recommendation from the Board. The Committee does not believe the submission identifies all the affected Articles and Regulations.

The Committee will review the process in the Constitution that allows the AGM to review decisions in order to make it more workable.

- xiii) Submission 015-16 World Sailing Constitution - Article 67

Opinion: Approve with the following amendment

67.1 The Board may pass a resolution in writing which shall be valid and effective as if it had been passed at a duly convened and held meeting of the Board provided that it is sent to all directors entitled to receive notice of a meeting and ~~50% plus one more than half of all the directors then~~ have signified their agreement to it.

Constitution Committee Minutes (cont'd)

- xiv) Submission 016-16 World Sailing Regulations - Regulation 8.12 - Information Technology & Tracking Commission

Opinion: Approve

Subject to policy.

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

- i) Submission 019-16 World Sailing Regulations - Deletion of Event Measurer Definition

Recommendation to Council: Approve

- ii) Submission 020-16 World Sailing Regulations - Regulation 35

Recommendation to Council: Approve with the following amendment

Proposal 2

35.5.4 When a report is received by a National Authority under Regulation 35.5.3, it shall review the report and may conduct a further investigation in relation to the matters in the report. **However, the Judicial Board may direct that the report shall be transferred to and conducted by to World Sailing under Regulation 35.6.12.**

35.6.4 The National Authority shall review the complaint and may conduct an investigation in relation to the matters in the complaint. **However, the Judicial Board may direct that the complaint shall be transferred to and conducted by to World Sailing under Regulation 35.6.12.**

- (c) ~~to~~ the Judicial Board if the Chief Executive Officer considers that the decision of the National Authority is unduly lenient.

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

- i) Submission 024-16 Olympic Equipment - Against the Monopolisation of Production of Boats of Olympic Classes

Opinion: Reject

The Committee notes the Board's recommendation. The Committee recommends that the Board appoint a joint working party of the affected committees to address this issue.

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

- i) Submission 039-16 Allow Multinational teams at Sailing World Cup in Exceptional Cases

Opinion: Reject

The proposal is inconsistent with the Eligibility Code (Regulation 19) and would have an adverse impact on Olympic qualification.

Constitution Committee Minutes (cont'd)

- ii) Submission 041-16 World Sailing Regulations - Regulation 24.5.3(b) - Youth Worlds Equipment

Opinion: Reject

Too vague. There is a process in Regulation 17.2 which can achieve this outcome.

- iii) World Sailing Regulations - Regulation 25.2.6 - Kiteboarding Expression World Championships

Opinion: Approve

- (e) To consider submissions for which the Oceanic & Offshore Committee is the Reporting Committee and the Constitution Committee is the Other Committee

- i) Submission 045-16 World Sailing Regulations - Regulation 25.5 - Rating Systems World Championships

Opinion: Approve with the following amendment

25.5.3 Qualification to hold a world championship shall include rating systems which are based on measurement and scientific formulation available to all certificate holders ~~and/or~~ **World Sailing**.

Subject to policy.

- (f) To consider submissions for which the Para World Sailing Committee is the Reporting Committee and the Constitution Committee is the Other Committee

- i) Submission 049-16 World Sailing Committees - Terms of Reference, Para World Sailing Committee

Opinion: Approve

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

- i) Submission 053-16 World Sailing Regulations - Regulation 31 - World Sailing Race Officials

Opinion: Approve with the following amendment

31.3 A candidate who

(a) attends a World Sailing race official seminar,

(b) takes a World Sailing examination, or

(c) participates in any other World Sailing activity required for appointment

agrees to be bound by the provisions of the World Sailing Regulations for a period of four years. Notice of this fact shall be given to the candidate in advance.

- ii) Submission 054-16 World Sailing Regulations - Regulation 31.23.1 - International Expression Judges

Opinion: Approve

Subject to policy.

- iii) Submission 055-16 World Sailing Regulations - Regulations 6.10.16 & 34 - Conflicts of Interest

Opinion: Approve

Constitution Committee Minutes (cont'd)

Subject to policy.

- iv) World Sailing Regulations - Regulation 23.3 - Olympic Jury

Opinion: Approve

Subject to policy.

- v) Submission 058-16 World Sailing Regulations - Regulation 25.9 - Technical Delegates

Opinion: Approve

Subject to policy

- (h) To consider submissions for which the Racing Rules Committee is the Reporting Committee and the Constitution Committee is the Other Committee

- i) Submission 087-16 Racing Rules of Sailing - Conflicts of Interest

Opinion: Approve with the following amendment

The Answer should make clear that the person with the conflict can provide information to the committee to allow it to determine the scope of the conflict.

- ii) Submission 088-16 Racing Rules of Sailing - New Case Rule 69

Opinion: Approve with the following amendment

The term "committee" is singular.

The Committee recommends that the editing of the Case addresses whether the deletion below is appropriate:

Answer 2

A boat or race committee may protest a boat for a breach of rule 2 and the protest committee are required to hear and decide the protest. To uphold a protest for an alleged breach of rule 2, the protest committee are required to clearly establish that a boat has not competed in compliance with the recognised principles of sportsmanship and fair play. ~~It follows that the action must directly affect the competition for a breach of rule 2 to be established.~~

There is a question at the end of the submission which must be removed.

- iii) Submission 089-16 Racing Rules of Sailing - New Case Rule 69 Reports

Opinion: Approve

- (i) To consider submissions for which the Regional Games Sub Committee and Para World Sailing Committee are the Reporting Committees and the Constitution Committee is the Other Committee

- i) Submission 107-16 World Sailing Committees - Terms of Reference, Regional Games Sub-committee and Para World Sailing Committee

Opinion: Approve

- (j) To consider submissions for which the Woman's Forum is the Reporting Committee and the Constitution Committee is the Other Committee

- i) Submission 111-16 World Sailing Regulations - Regulation 9.6 - Objectives of Women's Forum

Opinion: Approve

- (k) To consider and give an opinion to Council on any other submissions not already discussed:

Constitution Committee Minutes (cont'd)

- i) Submission 010-16 2020 Olympic Sailing Competition - Review of Events and Equipment

Opinion: Defer

The Committee notes the decision of Council in June 2016, which included the adoption of the following procedure:

“5. At its Annual Meeting in November 2016, Council may debate any matter concerning the review of the Events and Equipment, but no vote or decisions shall be made at that meeting.”

Under this provision, the matters raised by the submission can be debated but any vote or decision must be deferred to the next meeting of the Council (currently in February 2017). Therefore, this precludes both approval or rejection at this meeting.

4. Working Parties

The Committee noted the work of its Working Parties.

5. Annual Report

The Chairman presented his annual report covering the period 1 January 2016 to 31 December 2016.

6. Any Other Business

- (a) Relationship between World Sailing and its companies

The Committee discussed the relationship between World Sailing and its subsidiary companies. It noted that the current structure was established for reasons for tax efficiency and risk protection and is used by other federations. The current structure is being reviewed, in part as certain types of income may be taxable in any event, negating the benefit of the structure. The Committee noted the new Board will address the issue and propose any changes.

- (b) Meeting voting percentages

The Chairman spoke to his draft paper concerning voting percentages and said an issue had been identified regarding how those who abstain are counted in votes, as they do not a vote for or against. Further, he felt a policy is needed for addressing conflicts in relation to electronic votes and a recommendation is required setting out how to deal with those who abstain. Such a policy should explain how to put people on notice their absence may impact on the vote. It was important that consistency was used through all processes and it was noted that the Articles concerning a Council vote refer to the percentage of the total number of members, which may not be intended.

The Committee considered that this may be a problem for committees which often have people appointed who do not attend meetings. The Chairman explained these people were not currently counted in the case of physical votes and it was felt the same principle should apply to email votes.

After discussion, it was agreed that the paper should be revised to reflect the various comments made and redistributed to the Committee. (see also Minute 6(c) below).

- (c) Conflicts of interest

A number of the Committee felt that the recently issued conflicts of interest policy did not properly address all the points the Committee had raised when consulted on it. The Committee noted that it remains in office for several months and can make recommendation to new Board if required.

Constitution Committee Minutes (cont'd)

There is a declaration form for new committee members to fill in. The Chairman asked the Committee to review and comment on the form, especially those for whom English is not first language to comment.

When acting by email, the Committee felt it was appropriate for a chairman to ask if an individual is conflicted before a vote. It is not necessarily appropriate that someone who is conflicted should be excluded from all emails, but may be appropriate that they do not vote. The Committee noted that under the Regulations the chairman's decision is not final as a committee can still require an individual to be excluded from the discussions. The Director of Legal Affairs and the Chairman will draft guidelines and circulate. Once a policy has been determined will look to see if the Regulations need changing/ what the appropriate time limits are.

(d) New Regulations and terms of reference

Regulation 5.11, regarding the process for electing the Chairman of World Sailing Classes Committee needs revising. In practice, classes are written to and asked to nominate representative. Nominations are usually accepted at any time up to the start of a meeting. The Regulations need to be amended to reflect practice. It was noted the Office would prefer to be notified as early as possible but accepting the need for flexibility.

A generic issue discussed was the rules for objecting to representatives being present at meetings. The Director of Legal Affairs suggested that for all meetings it should be required to object at the start of a meeting and not at a later point when it became more convenient to object.

The Committee noted that the World Sailing Classes Committee had recommended they should be able to appoint representatives to new sub-committees but did not follow through with a submission. The Chairman suggested the Committee should assist them in drafting something to fix this. The Committee would submit the proposal in January as a 2017 submission. The potential issue of every committee wanting someone on every other committee was also noted.

(e) Other areas for work

The Committee received a presentation from the Director of Legal Affairs on the forthcoming ASOIF governance review.