

EA TEMPLATE FOR COMMENTS

Please use the document line numbering as a reference for your comments whenever available, so that we can easily see what your comments are referring to.

Date: 02 April 2019 Deadline 02 June 2019	Document: Deed of amendment of articles of association
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1	2	(3)	4	5	(6)	(7)
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BAS, BSCA, CAI, DAK, EGAC, IIOC, ISRAC, LA, NA, SA, SEMAG, SNAS, UKAS	No comments			BAS, BSCA, CAI, DAK, EGAC, IIOC, ISRAC, LA, NA, SA, SEMAG, SNAS, UKAS have no comments.		
	Title					
ATCG	General document			ATCG finds this draft as a comprehensive and clear document		
NAH			ge	In our opinion - after we did the necessary elections - the available comment period of the document AoA should be longer, because the changes approved shall be applicable only from 2022. This is also necessary because the documents – which		Not agreed But a second round of comments is envisaged. The provisions covered in the

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				<p>are the fundamental for the further operation of EA - AoA and RoP are connected to each other, reviewing should be appropriate in parallel. In this system the comments of these documents are separated which may cause several problems of coherence.</p> <p>AoA completely does not reflect the concept described in the "AI_5.2 EAGA(18)11-3 draft new EA Management Structure 23Oct2018.pdf" and does not involve the rules for all the planned bodies of EA.</p> <p>Without the general concept of decision making this AoA cannot be approved. This is the right moment to clarify who is responsible for what; who can make decisions in what matter. (See for example the unclear status of TMB not mentioned at all in AoA. In our opinion, it is a fundamental change, so it must be defined in AoA.)</p> <p>Therefore, we do not intend to comment the AoA as a self-standing document, only together with RoP.</p>		<p>AoA and RoPs have been presented in November 2018 and May 2019.</p> <p>The AoA is the leading document.</p> <p>It shall include the decision-making process in the GA and MAC only. All the rest shall be covered in the RoP and EA-1/14.</p>
IPAC			Ge	In so far as permitted by the Dutch Code, we propose to change the title of Chair and Vice-Chair to President and Vice-President to be more in line with similar governance models – ISO, CEN, CENELEC have a President.	In so far as permitted by the Dutch Code, we propose to change the title of Chair and Vice-Chair to President and Vice-President.	Agreed
BELAC			ge	<p>The proposal of revision of the AoA is limited to the principle of replacement of the Executive Committee by an Executive Board and the composition of the Board is defined. However, a detailed description of the Board's tasks and limits of responsibilities as well as provisions with respect to the role of the Technical Management Board still to be created are missing (they are expected to be fixed in the Rules of Procedure or other documents).</p> <p>BELAC takes the view that the revision of the operational structure of EA needs to be considered as a whole. The revision of the AoA and of the RoP should be discussed in parallel and be the subject of a common approval process.</p>		<p>Agreed</p> <p>The AoA and RoP shall be endorsed by the GA at the same time.</p>

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AA	Definitions Article 1	p.	te	As in the proposed draft only the definition of a technical committee will remain (so not mentioned anywhere else in the AoA) clause p. theoretically could be deleted. It nevertheless is preferable though to keep the definition p. (valid as well then for the RoP) and then add a new clause q. on the newly created Technical Management Board (even though no Technical Management Board is mentioned in the rest of the AoAs).	Add clause q.: Technical Management Board : a board established by the General Assembly to coordinate and harmonise the technical activity of EA which reports to the General Assembly.	Agreed But the reporting to the GA has not been considered, because according to the RoPs, the TMB and/or the Technical Committees report to the GA. Accordingly the reporting to the GA has been deleted in clause p. Technical Committee.
IPAC		h) and new	Te	The definition of the EB shall not contain the description of its functions and responsibilities. It must also be clear that the delegation of power from the GA to the EB concerns the daily administration of EA and not the strategic and political decisions that, although may be proposed by the EB, need GA validation – we cannot simply accept that 6 NABs decide the future of 36 Members. The TMB and MAC need also to be defined in the AoA to ensure that EA achieves its objectives.	Change to; h) Executive Board (EB): the body referred to in article 2:44 of the Dutch Civil Code charged with the management of the administrative and financial aspects of EA, elected by and reporting to the General Assembly; (new) Technical Management Board (TMB): the body in charge of coordinating the technical committees of EA, elected by and reporting to the General Assembly; (new) Multilateral Agreement Council (MAC): the body charged with the decision-making process of the EA MLA and the functioning of the peer-evaluation system and reporting to the General Assembly;	Partly agreed TMB and MAC will be added see also above AA
ENAC			Te	Technical Management Board must be included in the AoA as it is a fundamental for EA to achieve its objectives as described in article 3 in AoA	Before current clause p on Technical committees, add a clause Technical Management Board: a board established by the General Assembly to coordinate the technical activity of EA and reporting to the General Assembly.	see AA
COFRAC			Te	Add the definition of the Technical Management Board in the definition of the AoA in Article 1 p	Before current clause p on Technical committees, add a clause Technical Management Board : a board established by the General Assembly to coordinate the technical activity of EA and reporting to the	see above

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					General Assembly.	
DAkKS			ge	Mentioning the Technical Management Board	i. Technical Management Board	
	Name and seat Article 2					
	Objectives Article 3					
	Capital Article 4					
IPAC	Members of EA Article 5	3	te	Since EA has a permanent secretariat it should be it to keep the listing. Remove fax numbers, surely some of us will no longer have them ...	Change to: 3. The Secretariat shall keep a register of Members listing the names, addresses, e-mail addresses or other contact mechanisms of all the Members	Not agreed The EB shall ensure that this list is available. In practice the EX delegates this task to the Secretariat.
	End of membership and suspension Article 6					
	The General Assembly, admission and right to vote Article 7					
	Article 8					
	Article 9					
	General Assembly meetings Article 10					

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	Article 11					
ACCREDIA	Executive Board Article 12	12.1 a	te	We have to avoid that during a votation there is no majority. Today the members are 6. It is better to have an odd number.	Add: - a maximum of five additional persons appointed by the General Assembly, preferably amongst delegates of Full Members.	Partly agreed See Article 13 (8) and (9).
SWEDAC		Item 3	te	The articles should not discuss what is preferable or not. They should give clear information on what rules apply.	Put full stop after "Full member National Accreditation Body".	Not agreed This shows the intention why the EB is established. The reason is to have CEOs in the EB.
IPAC		1, 2	te	The EB has a lot of responsibilities and specially authority, so it should be balanced by a minimum number of members (not maximum), so that it provides a more representative sample of the EA Full Members. Delete clause 2, since clause 3 states the same with more requirements. Clause 3 needs to state that EB members must represent different Full Members! The preferably statement induces confusion to its implementation – shall we discuss who is the most highest senior management candidates before the elections and classify the eligibility according?? Certainly not, so delete it.	Change: 1. b) a minimum of four additional persons appointed by the General Assembly, amongst delegates of Full Members... Delete clause 2 Change clause 3: 3. The members of the Executive Board shall be senior management officers (with Executive responsibilities) of distinct Full members' National Accreditation Bodies.	Partly agreed Clarified that the EB members shall be CEOs (or deputies).
INAB		1b	te	The membership of executive board is significantly reduced compared to the EC with the possibility for less representation	propose that a position on the EB is reserved for small ABs	Not agreed That was discussed in the EX/GA with the result that we need some flexibility. Furthermore, what is a small NAB?
INAB		7	te	It is unclear what further rules on election may be documented in the Rules of Procedure or why this is necessary as a new requirement	AOA stipulate how the EB is elected. This should be the only place where this is necessary. The Rules stipulate how to implement this	Not agreed No difference to the existing

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						rules for the EX. The details shall be in the RoPs in order to keep some flexibility (if needed). But the RoP shall be endorsed by the GA too, like the AoA.
INAB		6	te	It is not appropriate that an EB meeting could occur with the possibility of 4 persons only	Suggest 5/6 members or full membership	Partly agreed There are 6 EB members, not 4. See also Article 13 (8) and (9).
INAB		1b	te	The AoA should include the TMB as a key organ of the EA Association	As an organ of the Association, not as an organ of the EB. Functions, voting etc will need to be documented along with decision making ability This should also include the role of the MLA chair to the EB/TMB	Not agreed This chapter deals with the EB, not with the TMB or other EA bodies.
INAB		1b	te	The AoA should document the role of the CPC chair to the EB	Clarify role and reporting responsibilities	Not agreed Will be covered in the RoP.
ENAC			Ed	There should not be a maximum of 4 members but exactly four members in addition to the Chair and Vice Chair. Clauses 1b and 2 are unclear on the eligible members in the EX Board because 1b says “preferably” and 2 says ‘shall be Full member’. In the other hand “delegate” is clearly defined in article 5 : <i>Within EA, the Members shall be represented by one or more adult individuals, empowered to do so by law or the articles of association of the corresponding Member or under a specially proxy given to him or them in writing by</i>	Change 1b to : a maximum of four additional persons appointed by the General Assembly, preferably amongst delegates of Full Members Delete 2.	Partly Agreed The meaning is different. Preferably amongst delegates means that the EB members should have participated in the GA and therefore known to the EA members.

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				<i>the corresponding Member, these persons hereinafter referred to as: "delegates"</i>		
ENAC			Ed	<p>There should not be a maximum of 4 members but exactly four members in addition to the Chair and Vice Chair.</p> <p>Clauses 1b and 2 are unclear on the eligible members in the EX Board because 1b says "preferably" and 2 says 'shall be Full member'.</p> <p>In the other hand "delegate" is clearly defined in article 5 : <i>Within EA, the Members shall be represented by one or more adult individuals, empowered to do so by law or the articles of association of the corresponding Member or under a specially proxy given to him or them in writing by the corresponding Member, these persons hereinafter referred to as: "delegates"</i></p>	<p>Change 1b to : a maximum of four additional persons appointed by the General Assembly, preferably amongst delegates of Full Members</p> <p>Delete 2.</p>	see above
ACCREDITED A		12.7	te	We have to give the opportunities to have in the leadership of EA many ABs	<p>Add:</p> <p>- Preferably any member of the Executive Board should not be a Chair of one of the technical committees</p>	<p>Partly agreed</p> <p>The aim is agreed, but it shall be covered in the RoP.</p>
EFAC				<p>The proposed constitution of the executive board is of concern as it is potentially restrictive and bias on two counts:</p> <p>1). The six members could be from the major economies in the EU and therefore decisions made could have a detrimental effect on smaller economies who do not have the same resources of the larger economies.</p> <p>2). History has shown, particularly with IAF, that the direct involvement of stakeholders has enhanced cooperation (single voice) across NB's & CAB's, producing greater harmony within the certification community. Therefore, it is proposed the Executive Board include stakeholder involvement, even if it is as an observer.</p>	<p>The composition of the Executive Board shall be:</p> <p>a. the Chairman and Vice-Chairman;</p> <p>b. a maximum of four additional persons appointed by the General Assembly that shall be appointed from a range of various sized economies, preferably amongst delegates of Full Members;</p> <p>c. a minimum of two stakeholder representatives.</p>	<p>Not agreed</p> <p>That was discussed in the preparation of the draft AoA. Normally it is a challenge to have enough candidates, and if we have too restrictive rules then it can be difficult to get enough candidates.</p> <p>According the AoA the NABs are the EA members, some of them shall be members of EA by law.</p>

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						The cooperation with stakeholders is essential for EA, but the stakeholders shall not be part of the membership in order to be independent. But it is ensured that stakeholders shall be involved in any policies/documents relevant for stakeholders (see EA-1/14).
COFRAC			Ed	There should not be a maximum of 4 members but exactly four members in addition to the Chair and Vice Chair. Clauses 1b and 2 are unclear on the eligible members in the EX Board because 1b says “preferably” and 2 says ‘shall be Full member’: The use of ‘preferably amongst delegates of Full Members’ is unclear, the objective is that when there are	Change 1b to : a maximum of four additional persons appointed by the General Assembly, preferably amongst delegates of Full Members In 2, add after Full members: “unless there is no candidate amongst full members”	Partly agreed see above
ATCG		1-2	te	Composition of EB should be defined in a more precise manner: - “a maximum of..” should be avoided and replaced with a fixed number of persons, - even number of members should also be avoided, for voting reasons. - members should be chosen from delegates of full members, only - Members of EB (including Chairman and Vice Chairman) shall not be from the same NAB	For example: “1. The composition of the Executive Board shall be: a. the Chairman and Vice-Chairman; b. five additional persons appointed by the General Assembly, amongst delegates of Full Members. 2. The members of the Executive Board shall be representatives of different National Accreditation Bodies. ”	see above
BELAC		1 b		BELAC disagrees with the composition of the Board	To consider a composition with a maximum of 8	not agreed

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				being limited to a maximum of 4 additional members : this is insufficient to ensure that the Board will be able to operate in an effective and efficient way and to represent the interests and expectations of the whole membership	additional members.	see above If we would increase the number up to 8, then the total number of EB and TMB would be (significantly) higher than the existing EX. That means that we would not reach one of the aims, to be more efficient and to reduce the effort for EA officers.
AA	Executive Board: resolutions Article 13		te	Decision making in the Executive Board by 50% seems unreasonable in view of only 6 Board members. In order to take valid decisions and taking into account 6 board members at least 4 borat members should be represented, which would correspond to a 2/3 majority. Higher majority requirements might be hindering an effective decision-making process. As 4 required representatives would require 3 supporting votes at least on any subject anyway based on the provisions in Article 13, point 3 (absolute majority) this seems appropriate for decision-making.	Amend to: The Executive Board may only pass valid resolutions at a meeting of the Executive Board at which at least half 2/3rds of the members of the Executive Board in office are present or represented	Agreed
IPAC		8, 9	te	1) Since the number of EB members has been reduced to half, keeping the same rules would also reduce by half the representativeness of the Members opinions, and this is not acceptable. For example, under the proposed rules, a quorum of 3 Members would be sufficient, so only 2 Members are needed to pass an Executive resolution valid for an Association with more than 30 members... Requiring all members to be present or represented (via proxy or Webex) is more aligned with number 11, which calls for all EB members to be consulted. 2) Since the EB is now composed of only 6 members, a	Change: 8. The Executive Board may only pass valid resolutions at a meeting of the Executive Board at which all the members of the Executive Board in office are present or represented... 9. Every member of the Executive Board shall be entitled to cast one vote at a meeting of the Executive Board. In so far as nothing else has been provided in these articles of association, all resolutions at meetings of the Executive Board shall be passed by a ¾ (three quarters) majority of the votes cast...	Partly agreed see above

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				3/4 majority shall be required to ensure the representativeness of the association members.		
INAB		9	te	Majority voting is not appropriate for an EB with now only 6 members.	Voting and decisions should be unanimous	Partly agreed see above
INAB		8	te	It is not appropriate for an EB to pass valid resolutions with only the possibility of 3 persons	Suggest 5/6 members or full membership	Partly agreed see above
COFRAC			Te	<p>Based on the fact that the number of people composing the EX Board is reduced to a maximum of 6 persons, it is not acceptable that :</p> <p>For clause 8: valid resolutions of the Board may pass with only 3 persons attending the meeting. To pass resolutions in a meeting, there should be $\frac{3}{4}$ (three quarters) of members present or represented.</p> <p>In addition and for the same reason, a member of the EX Board should only have one proxy.</p> <p>For clause 9, resolutions at meetings of the EX Board shall be passed not by absolute majority of the votes cast but by a $\frac{3}{4}$ (three quarters) majority of the votes cast</p>	<p>Clause 8 : change to</p> <p>The Executive Board may only pass valid resolutions at a meeting of the Executive Board at which at least $\frac{3}{4}$ (three quarters) of the members of the Executive Board in office are present or represented. A member of the Executive Board may be represented by another member of the Executive Board by written proxy. The requirement of the proxy being in writing shall be met if the proxy has been laid down electronically. A member of the Executive Board may cast his vote as a proxy only for one other member of the Executive Board.</p> <p>A member of the EX Board can only have one proxy.</p> <p>Clause 9, change to :</p> <p>Every member of the Executive Board shall be entitled to cast one vote at a meeting of the Executive Board. In so far as nothing else has been provided in these articles of association, all resolutions at meetings of the Executive Board shall be passed by a $\frac{3}{4}$ (three quarters) majority of the votes cast. Blank votes shall be considered as abstentions and treated as votes not cast. If the votes are tied, the proposal</p>	<p>Agreed</p> <p>see above</p> <p>The clause that a member can have one proxy only is already there.</p>

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					shall be rejected.	
ENAC			Te	<p>Based on the fact that the number of people composing the EX Board is reduced to a maximum of 6 persons, it is not acceptable that :</p> <p>For clause 8: valid resolutions of the Board may pass with only 3 persons attending the meeting. To pass resolutions in a meeting, there should be ¾ (three quarters) of members present or represented.</p> <p>In addition and for the same reason, a member of the EX Board should only have one proxy.</p> <p>For clause 9, resolutions at meetings of the EX Board shall be passed not by absolute majority of the votes cast but by a ¾ (three quarters) majority of the votes cast</p>	<p>Clause 8 : change to</p> <p>The Executive Board may only pass valid resolutions at a meeting of the Executive Board at which at least ¾ (three quarters) of the members of the Executive Board in office are present or represented. A member of the Executive Board may be represented by another member of the Executive Board by written proxy. The requirement of the proxy being in writing shall be met if the proxy has been laid down electronically. A member of the Executive Board may cast his vote as a proxy only for one other member of the Executive Board.</p> <p>A member of the EX Board can only have one proxy.</p> <p>Clause 9, change to :</p> <p>Every member of the Executive Board shall be entitled to cast one vote at a meeting of the Executive Board. In so far as nothing else has been provided in these articles of association, all resolutions at meetings of the Executive Board shall be passed by a ¾ (three quarters) majority of the votes cast. Blank votes shall be considered as abstentions and treated as votes not cast. If the votes are tied, the proposal shall be rejected.</p>	Agreed see above
	Executive Board: representation Article 14					
	Article 15					
DAkKS	Article 15a		ge	Because of its importance DAkKS has the opinion that the Technical Management Board has to be mentioned within the Articles of Association.	<p>Technical Management Board</p> <p><u>Art. 15a</u></p> <p>EA maintains a Technical Management Board to coordinate and harmonise the work of all Technical Committees. The composition of the Technical Management Board shall be:</p>	Partly agreed see below

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					a. Vice-Chairman of EA as Chair of the Technical Management Board b. Chairs of all Technical Committees	
ENAC	Technical Management Board New article	New		Technical Management Board must be included in the AoA as it is a fundamental for EA to achieve its objectives as described in article 3.	Add new article: "Technical activity performed by EA is managed through the Technical committees and coordinated by the Technical Management Board who reports to the General Assembly. Membership and specific tasks and responsibilities of Technical committees and Technical Management Board are established in the Rules of Procedure"	Agreed
	Interested parties Article 16					
IPAC	New Article 16	New	Te	The TMB must be in the AoA to ensure that the objectives of EA are achieved, since EB is not concerned with the technical harmonization. Although many times discussed in the GA, the proposed AoA lack of any safeguard mechanism regarding the democratic and impartial representation of Full Members in the 2 governing boards of the association. As it is, only one or two NABs could be elected for all the positions of the EB and TMB, and this is not desirable and must be prevented.	Technical Management Board New Article 16 The technical activity performed by EA is managed through the Technical committees and coordinated by the TMB, who reports to the General Assembly. Membership and specific tasks and responsibilities of Technical committees and TMB shall be established in the Rules of Procedure. Furthermore, it is expected, as long as applications for the positions allow, that the TMB members come from Full Members' NABs distinct from those in the EB.	Partly agreed The non-duplication of membership will be covered in the RoP.
NAH	Rules of Procedure and other rules and codes Article 17	1	te	We would appreciate to review the 'Further Guidance' parallel with AoA and RoP in order to avoid any incoherence between documents.	1	see above
IPAC	New Article 17	New	te	The MAC must also be in the AoA to ensure that the objectives of EA are achieved, since EB is not concerned with the PE system and the EA MLA.	Multilateral Agreement Council New Article 17 The EA MLA, including the functioning of the peer-	Agreed see now revised Article 9

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					evaluation system and the decision making of its signatories, shall be managed by the MAC, who reports to the General Assembly. Membership and specific tasks and responsibilities of the MAC shall be established in the Rules of Procedure.	
	Financial year, management report, annual accounts, accountability and budget Article 18					
	Financial Oversight Committee Article 19					
	Amendment of the articles of association Article 20					
	Dissolution and liquidation Article 21					
	Final provision Article 22					

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