

SOUTH WESTERN WATERS ADVISORY COUNCIL

STATUTES

(Last version: July 2014)

INTRODUCTION :

Having regard to the Treaty establishing the European Union, and notably its Article 38,

Having regard to Council and European Parliament Regulation (UE) 1380/2013 on the Common Fisheries Policy,

Having regard to Council Decision 2004/585/EC of 19 July 2004, establishing Regional Advisory Councils under the Common Fisheries Policy,

Having regard to the FAO “Code of Conduct for Responsible Fisheries”,

Having regard to the European Union “Code of Conduct for Responsible Fisheries”,

Being determined to search for, define and promote resource management measures providing the best compromise between maintaining and re-establishing population safety thresholds and the acceptable social and economic impact of such management measures,

Being resolved to avoid and, if necessary, find a peaceful solution to any possible conflicts that might arise between the users of south-western waters and affecting the cohabitation between fishermen and third parties,

Noting with satisfaction the determination of the European Commission ~~and~~ the Council of European Union and the European Parliament, to act in accordance with the principles of good governance based on close collaboration with the parties concerned and the greatest possible transparency,

Wishing to respond favourably to this opportunity given to them to express themselves effectively through the reports they can present via the Advisory Councils,

The undersigned parties have adopted the present Articles:

SECTION I PURPOSE AND OBJECTIVES

Article 1– The purpose and objective of the South-Western Waters Advisory Council, referred to hereafter as **SWW AC**, is to prepare and issue recommendations on fisheries management in southwestern waters on behalf of the parties concerned and in order to achieve a satisfactory Common Fisheries Policy, as per Article 2 of Regulation (UE) 1380/2013. The general objective lies in the achievement of sustainable fisheries in accordance with ecosystemic approach, Principle Precaution and socioeconomic factors. These recommendations will be passed on to the European Union Fisheries Council, to the European Commission, to the Member States of the European Union, to European Parliament and other bodies, as decided by the Advisory Council. These recommendations must also be passed on to the International Council for Exploration of the Sea (ICES), and other bodies, as decided by the Advisory Council.

Article 2 – The **SWW AC** must fulfil the functions of a Advisory Council (RAC) as defined in Regulation (UE) 1380/2013

Article 3 – The registered office of the **SWW AC** will be in LORIENT (France), at 6, Rue Alphonse Rio.

Article 4 – This association will have an unlimited duration. It may be dissolved only in accordance with the present Articles, at the wish of the members expressed in a General Assembly meeting called to that effect, or on any grounds provided for by law or by a final court judgement.

Article 5 – The activities of the **SWW AC** must be open and transparent. Full, regular reports on all its activities will be circulated to its members and to third parties. The proceedings of each General Assembly and Executive Committee meeting will be displayed on the **SWW AC** website within 14 days of the meeting being held.

Article 6 – Powers

The **SWW AC** will have competence for all biological species located within the areas covered by the following ICES zones: VIII, IX, X and COPACE divisions 34.1.1., 34.1.2, 34.2.0, except species located within the **SWW-Pelagic AC** areas (Whiting, Horse mackerel, Mackerel, Herring, boarfish). If **SWW AC** and **SWW-Pelagic AC** would be concerned by the same species, they will have to coordinate their positions to adopt common recommendation carrying by **SWW**.

1. A geographical Subdivision will be created covering the European Insular waters in ICES Zone X and COPACE divisions 34.1.1., 34.1.2, 34.2.0. (waters of the Azores, Madeira and the Canary Islands) in accordance with Clause 2 of Article 2 of Council Decision 2004/585/EC of 19 July 2004.

This Subdivision, based on the activities of a permanent Working Group, will examine questions of relevance to the biological resources found in the European Insular waters of the abovementioned archipelagos. This Working Group will not constitute an autonomous entity and will be subordinated to the legitimate bodies of the **SWW AC**.

2. The organisation, structure, working and later modifications of the Groups referred to in the paragraphs above will be defined in the internal rules of procedure of each group and will be approved on the occasion of the General Assembly meeting held for that purpose or at the proposal of the Executive Committee or of at least 10% of the members.

Article 7 – Purpose

The purpose of the **SWW AC** is, in addition to the tasks described in Article 44 of Regulation EU n° 1380/2013 to issue reports and recommendations:

1. on the status of the marine resources placed within the scope of its competence and on measures and methods to manage these resources and the ecosystem,
2. on how to resolve conflicts of cohabitation between fisheries activities and any other uses of the maritime spaces placed under its competence and renewable resources present or not in the said zone,
3. on how to resolve conflicts of cohabitation between the different fisheries in activity within its zone of competence,
4. on how to promote and defend the general and collective interests of its members.
5. on the social and working conditions of fishing sector employees.

This reports and recommendations and all answers from European Commission or Member States will be available on the **SWW AC** web site and under request to the secretariat.

Article 8 – Composition

The **SWW AC** will comprise the following active members:

A/ for the “fisheries sector”,

1. the professional organisations of owners of ships having an interest in the fishing in the area or fisheries covering by the **SWW AC**,
2. the union organisations of sailors and fishermen working on board the said ships,
3. the organisations of recognised producers whose members correspond to the criteria above,
4. the professional organisations of wholesalers, fish markets, commercial intermediaries, transformers of products of the sea concerned by species present

in the zone covered, and the union organisation representing these sectors and their respective workers,

5. the national, regional or local inter-professional organisations comprising several categories described in the previous points,

B/ for the “other interest groups”.

1. Non-governmental environmental protection organisations,
2. The aquaculture professional organisations present in the zone covered by the Council,
3. Consumer groups,
4. Representatives of non-professional recreational or sports fishing concerned by the zone covered,
5. Groups of wives of fishermen and shipowners working at sea.

Article 9 – Active Observers

The active observers will be individuals or legal entities which are not members of the **SWW AC** but which may take part, without voting rights, in the proceedings and debates in General Assemblies of the **SWW AC**.

These active observers will be:

A/ by rights:

- the European Commission,
- the Member States concerned, i.e.: to get interest in the fishing field in the maritime zone or fishing zone covered by the **SWW AC**,
- the autonomous communities or autonomous regions on the coastline of the zone covered,

B/ on invitation:

- the representative organizations of the fishing sector and other interest groups from third countries with an interest in fishing in the zone and of the species covered,
- the regional fishing organisations with the same interests.

Article 10 – Scientific Experts

Depending on the agenda and whenever necessary, the President of the **SWW AC** will invite scientific fishing research institutes involved in the zone or the species

covered to delegate researchers and technicians to take part in the proceedings as scientific experts.

The scientific experts will therefore be invited to give and explain scientific opinions concerning, among other things, the state of the populations covered by the **SWW AC** and management recommendations made by the scientific community.

The President may also ask the scientific experts for their view on the draft opinions and recommendations of the **SWW AC**.

SECTION II MEMBERS, RIGHTS AND OBLIGATIONS

Article 11 – The representatives of the fisheries sector and other interest groups affected by the Common Fisheries Policy in the zone placed **under the competence of the SWW AC** may be members of this association, on the terms provided for in Article 2.h of the annexe of Regulation EU n° 1380/2013 if they support the objectives of the Advisory Council described in these standards and if they are admitted as members by the terms of the following clauses.

A General Assembly and an Executive Committee set the **SWW AC**.

The European and national organisations (including regional and local organisations) representing the fisheries sector and other interest groups may submit applications to become members of the **SWW AC** to the Member States concerned which must give their agreement. The Member States should grant their agreement on members of General Assembly. News applications will be transmitted to the Executive Committee which will put it to the General Assembly.

The Executive Committee may not refuse admission as a member to organisations having received the approval of the Member State or all the Members States concerned, unless the said organisations should lose the status of eligibility for legal or statutory reasons, or if they should be manifestly contrary to the purposes of the **SWW AC**.

Article 12 – The members may ask, of their own accord and at any time, to be struck off from the **SWW AC**, but they must give notice to the Executive Committee one year in advance of the withdrawal date. At all events, withdrawing from the Council will in no way release them from any obligations they might still have towards it.

The Executive Committee may exclude or debar from the Advisory Council any members no longer fit to belong to it, and may also take any disciplinary measures against them. Exclusion or debarment and any other disciplinary measures adopted will be subject to a prior procedure during which the member in question must be heard and informed of the facts giving rise to such measures, and the decision to impose any sanction must be explained and ratified by the General Assembly after serving notice to the Member State that proposed its application, the other Member States and the European Commission who should be agreed with this measure.

Article 13 – The members will have the following rights:

- a. to take part in the General Assembly and use their voting rights,
- b. to be an elector and to be eligible for any position on the Executive Committee, to be an elector if they sit on the Executive Committee, and at all events to be eligible to be a member of the Commissions or Working Groups likely to be set up for practical purposes,
- c. to inform people and be informed of the action of the SWW AC,
- d. to be informed of the contents of the present Articles and of the agreements made by the management bodies,
- e. to be informed of the composition of the association Executive Committee, as well as of the Working Groups that might be created,
- f. to be informed each year of the state of the accounts, income and expenditure of the SWW AC, and of the progress of its activities,
- g. to present their points of view on important subjects to the Executive Committee,
- h. to challenge the agreements of the management bodies of the Advisory Council if they should deem them contrary to the law or to the Articles.

Article 14 – All the members will have the following obligations:

- a. to share the aims of the SWW AC and contribute to achieving them,
- b. to observe the present Articles and the decisions duly made by the General Assembly,
- c. to pay periodic membership dues, exceptional membership dues and other contributions decided on by the General Assembly,
- d. to fulfil the obligations inherent to their function in a loyal manner,
- e. to fulfil the other obligations that are theirs by virtue of the present Articles.

Article 15 – The President of the **SWW AC**, who will also be President of the General Assembly and Executive Committee, is the legal representative of the said Executive Committee and will implement the decisions adopted by the Executive Committee and the General Assembly, the sessions of which he or she will chair. His function of arbitrator doesn't afford him to have the right to vote.

The President will be appointed by the General Assembly from among the members proposed by the Executive Committee, on consensus and for a period of four years.

Article 16 – The Executive Committee will elect three Vice Presidents, the First Vice President, Second Vice President and Third Vice President, for a period of four years, and they will stand in for the President in the event of absence.

Article 17 – The General Assembly is the highest body in the government of the **SWW AC**. It is composed of members and adopts its decisions by the principle of majority voting or of internal democracy. It will meet each time the Executive Committee so decides, on its own initiative or **on that of its President** or because one-third of the members so decide.

In accordance with the provisions of Article 2.a of the annexe III of Regulation UE 1380/2013, 60 % of the seats on the General Assembly will be allotted to the representatives of the fisheries sector, and 40% to those of other interest groups affected by the Common Fisheries Policy.

The General Assembly must meet for an ordinary meeting at least once a year to approve the annual report and the annual strategic plan of the Advisory Council drawn up by the Executive Committee, to validate the management of the Executive Committee and to give its approval, if necessary, to the annual budget of income and expenditure, as well as to the financial statements for the previous year.

Article 18 – The General Assembly will be convened by the President of the **SWW AC** for an extraordinary session if the provisions in force so require, if the members of the Executive Committee so decide or if more than one third of the members of the Assembly so request, as well as for all matters regarding changes in the Articles, election of the members of the Executive Committee and the President, disposal or sale of assets, fixing remuneration of members of the Executive Committee or the Secretariat, dissolving the association, expelling one of the members at the initiative of the Executive Committee, approving the rules of procedure of the Association or applying for official recognition as an organisation of public interest. Likewise the federation and confederation constitution or union or the attachment on one of them is under its competence.

Article 19 – The meetings of the General Assembly, whether ordinary or extraordinary, will be convened in writing, indicating the place, date and time of the meeting, as well as its agenda. A minimum period of fifteen calendar days must be observed between the first summons and the day of the meeting.

The meetings of the General Assembly will be open to the public and minutes must be taken and approved by the participants.

Article 20 – Ordinary or extraordinary General Assembly meetings will be valid when being convened for the first time if two-thirds of the votes of all the member organisations of the **SWW AC**, and when convened for the second time if one quarter of the members are present.

Article 21 – The decisions of the General Assembly will be adopted by a relative majority of those present or represented if the votes for exceed the votes against. Notwithstanding this, decisions relating to the dissolution of the association, modification of the articles, disposal or sale of assets or remuneration of the members of the representative body must receive the approval of two thirds of the votes of all the member organisations of the **SWW AC** General Assembly.

Article 22 – The Executive Committee is the representative body that manages and represents the interests of the **SWW-RAC**, in accordance with the provisions and guidelines of the General Assembly. It comprises up to twenty-five members, from the date of abrogation of UE Decision n° 585/2004, at least two thirds of whom must be present for the proceedings to be valid.

In accordance with the provisions of article 2.a of the annexe III of Regulation UE n° 1380/2013, 60% of the seats will be allotted to representatives of the fisheries sector and 40% to those of other interest groups affected by the Common Fisheries Policy.

Likewise, no more than four representatives of the catching sub-sector of each Member State concerned will sit on the Executive Committee.

Article 23 – The members of the Executive Committee will be appointed **every four years** by the General Assembly. Associations chosen by the General Assembly as members of the Executive Committee will designate the person who will sit on the Executive Committee on their behalf each year. In the event of any change to the people designated as members by the organisations, notice must be served in writing before each meeting of the Executive Committee, to the Regional SWW AC Advisory Committee Secretariat with a copy being sent to its President.

Article 24 – All the posts on the Executive Committee will be totally free and without remuneration.

Article 25 – The functions of the Executive Committee are to schedule and manage the activities of the association, to handle the administrative and economic affairs of the Advisory Council, unless that function should be delegated to the Secretariat, to put the annual budget of income and expenditure and the financial reports of the previous year to the General Assembly for approval, and all functions that are not expressly conferred on the General Assembly by the present Articles, including the creation of Working Groups.

In accordance with the provisions of annexe III of Regulation UE n°1380/2013, the Executive Committee will exercise the functions and powers of the SWW AC, will make decisions on general policy, will ensure the effective running of the affairs of the SWW AC, and will be responsible for writing up and transmitting recommendations on the fisheries of south-western waters to the competent bodies of the European Union and the Member States.

Likewise, the Executive Committee will write up an annual report and an annual strategic plan for the members of the General Assembly, who must approve them, and will send them to the European Commission, the Member States.

Article 26 – The Executive Committee must meet three times a year and the meetings will be held in turn in the Member States concerned. They will be chaired by the President or, should the President be absent, by the First Vice President, or if he or she is absent, by the Second Vice President, or if he or she is absent, by the Third Vice President, or by the most senior member of the Executive Committee belonging to the catching sector.

The Executive Committee will make its decisions by consensus, whenever possible. However, if this should not be possible, diverging opinions expressed by the members must be included in recommendations approved by the majority of the members with voting rights present at the meeting.

The President will not have the right to vote.

The meetings of the Executive Committee will be open to the public unless decided otherwise by a majority of the Committee.

Article 27 – General.

If an organisation should cease to be a member of the General Assembly, the Executive Committee or a Working Group, its representative appointed by the General Assembly or the Executive Committee must also cease to be a member.

Members of the General Assembly or the Executive Committee may attend the respective meetings in person, or may be represented by another member of the Committee or **by another person who must be a member** of their organisation and who will be appointed as their replacement in the given circumstances. This representation must be recorded in writing and is specific and limited to each meeting.

Each meeting of the General Assembly or the Executive Committee must be recorded in minutes which must be approved by the participants.

Article 28 – Secretariat.

To facilitate the administrative work of the **SWW AC**, an organisation will be appointed **every four years** and must, under the supervision of the **SWW AC** President, among other things:

- a. consolidate the operating principles of the SWW AC,
- b. receive member enrolment applications backed up by the decision of the Member States,

- c. handle the accounts and prepare the upcoming accounts for the General Assembly,
- d. liaise between the President, the members of the Executive Committee and General Assembly, and between the Executive Committee and General Assembly,
- e. update the member register,
- f. conclude the necessary contracts for the work of the SWW AC with professionals and consultants, and pay their fees,
- g. organise the meetings of the General Assembly, Executive Committee and working groups, pay their expenses and handle transport and accommodation if necessary
- h. conduct the activities necessary for the effective operation of the Council, thereby contributing to the achievement of the objectives of the SWW AC.
- i. add under request any new recipients to the secretariat mailing list

Article 29 – The SWW AC will keep an up-to-date list of its members. It will keep accounts giving a faithful reflection of the assets, results and financial situation of the institution, and the activities conducted. It will perform an inventory of its assets and will keep a register of minutes of the meetings of the General Assembly and the Executive Committee, in accordance with the standards in force in the country in which the registered office is located.

Article 30 – Working Groups.

Except for the Insular geographic Subdivision as in the article 6 of these statutes, **the Executive Committee will create the following Working Groups:**

- **Zone VIII working group (except sardines and anchovies) and IX**
- **Pelagic working group (ICCAT species, sardines and anchovies)**
- **Deep-water species permanent *ad hoc* group**
- **“Insular Subdivision” working group**
- **Traditional fisheries working group.**

The Executive Committee may create advisory Working Groups to support the Executive Committee in its task of writing up recommendations. The Working Groups may be ad hoc, with a specific goal and for a limited duration, or they may be permanent. The members of the Working Groups must be proposed by the members and appointed by the Executive Committee.

The Executive Committee will set the number of members and their distribution by nationality, the purpose, the terms of reference, the schedule of meetings and the deadline for giving opinions.

The members of the Working Groups and any replacements will be appointed by the member organisations of the SWW AC.

The Executive Committee may appoint experts for these Working Groups and invite scientists or technicians to take part in them.

Each Working Group will appoint its session chairperson and a secretary who will write up the minutes of the debates and will submit them to the Executive Committee within one week of the meeting being held.

The Executive Committee will allocate the necessary resources for interpreting and rooms for the Working Groups.

The Executive Committee will ask the Member States in the territory of which the meetings will be held, and the regional authorities concerned, with the support of the member organisations based in the said territories, to help the Working Groups of the **SWW AC** by support in kind (meeting rooms, interpreting services, etc.) or by subsidies.

The Executive Committee and the member organisations concerned will ensure that the members of the Working Groups are, to the extent possible, active professionals motivated by looking for methods, techniques, skills, technical and management measures susceptible to meet the objectives of the CFP.

Article 31 – General Secretariat.

The organisation hosting the registered office of the **SWW AC** will allocate the services of a General Secretary, under the orders of the President of the **SWW-RAC**.

The General Secretary is entitled to attend all the meetings of the **SWW AC** (General Assembly, Executive Committee, Committee and Working Groups) and may be consulted; but will not take part in the proceedings and will not have the right to vote.

The General Secretary will handle the day-to-day affairs of the **SWW AC**, manage the personnel and implement the decisions of the President of the **SWW AC** and the General Assembly adopted as indicated above within the framework of their respective powers.

The General Secretary will propose orientations and work programmes to the Executive Committee monitor the proceedings of the working groups and, generally speaking, dedicate all the necessary time and effort to accomplishing their function at the service of the **SWW AC**.

The President may propose the dismissal of the General Secretary to the Executive Committee.

Article 32 – Financial Provisions.

The General Secretary will prepare a draft budget with annual income and expenditure forecasts for the following year (n + 1), which will be submitted to the Treasurer.

The Treasurer will submit it in turn to the Executive Committee which, after approving it, will put it to the vote at the General Assembly.

This annual budget forecast for the year n + 1 will comprise three columns indicating for each item the actual amount for the budget for the current year (n), the estimated actual amount of the budget for the current year (n) and the forecast for the following year (n + 1).

The draft budget (for the year n + 1) will be submitted to the Annual General Assembly which will give its decision, during year n, on the actual accounts of the previous financial year (n - 1).

During year n, the General Secretary will prepare the accounts and the balance sheet for the previous year (n - 1).

He or she will submit them to the Treasurer who, in turn, will do likewise to the Executive Committee which will pass them and submit them for the approval of the Ordinary General Assembly within six months of the end of the financial year.

The accounts will be kept annually and the financial year will commence the **SWW AC** creation anniversary day.

The Executive Committee will appoint an Official Auditor who will have access to all the accounts documents and deeds, will check them and will certify the authenticity and accuracy of the accounts.

The Official Auditor's report will be attached to the accounts and balance sheet submitted to the members of the General Assembly along with the summons to the meeting.

The functions of member of the General Assembly and (or) of the Executive Committee and (or) of the Committee (Chairperson and Chairpersons of the working groups) will be fulfilled free of charge and may in no case give rise to a salary, remuneration, fees, wages or social contributions etc. of any kind whatsoever.

Travel expenses of the members of the General Assembly will be covered by the budget of the **SWW AC**, which will be approved for each financial year.

Travel expenses of the members of the Executive Committee, of the Committee and the Working Groups required for the purposes of the **SWW AC** will be refunded by the **SWW AC** on presentation of supporting documents and subject to the conditions and limits set by the Executive Committee at the proposal of the Treasurer.

Travel expenses of guest experts and scientists will also be refunded on the same terms and in accordance with any agreement that might have been made with their employers.

The Executive Committee of the **SWW AC** will ask the European Commission, the Member States and the Regional Authorities concerned to subsidise the **SWW AC** and (or) place the necessary technical resources at its disposal.

Accounts for interpreting and translation costs will be kept separately and these items will receive a subsidy from the European Commission.

Operations, activities or meetings covered by subsidies that have been granted for a specific use, will also be accounted for separately.

Membership fees will be due each year and will be payable in a single instalment within thirty days of being claimed.

Beyond this deadline, failure to pay the membership fees will signify the resignation of the corresponding member who will therefore lose all rights to take part in meetings of the **SWW AC**, and all voting rights.

Failure to pay within thirty days will be noted by the General Secretary and Treasurer who will inform the member of the situation by registered letter with acknowledgement of receipt, and the other members of the **SWW AC** and active observer by ordinary means.

SECTION III ECONOMIC SYSTEM AND DISSOLUTION

Article 33 – The **SWW AC** has no assets at the time of its creation, its annual budget is not defined and will be determined by the General Assembly at the beginning of each year.

Article 34 – The closing date of the financial year of the **SWW AC** will correspond to the creation anniversary of the **SWW AC**.

Article 35 – The economic resources provided to develop the activities of the association will be as follows:

- a. periodic membership fees set by the General Assembly,
- b. extraordinary fees proposed by the Executive Committee and approved by the General Assembly,
- c. income from its assets and rights, as well as subsidies, bequests, donations and similar received in legal manner,
- d. the revenues obtained by the **SWW AC** from authorised business activities decided on by the Executive Committee, including service provisions, must be allocated exclusively to achieving the aims defined in the present Articles.

Article 36 – Management must be conducted with the appropriate information and financial control and sufficient publicity to ensure that all the members are informed regularly of the use of funds.

Article 37 – In the event of the dissolution of the **SWW AC**, the General Assembly deciding on the dissolution must appoint a winding-up commission of five members which will take charge of the existing funds so that once the obligations have been fulfilled, any sum remaining is given to social or assistance programmes of organisations located in communities depending on European Union fisheries.

Approval and modification of the statutes

Article 38 – **The General Assembly and Member States in question must approve these Articles. Amendments will be presented to the members of the SWW AC for examination at the annual General Assembly and will require the approval of two thirds of the members of the Executive Committee and the consent of the European Commission and the Member States in question. Any amendment of the purposes of the SWW AC will require the consent of the European Commission.**