

Reference: Agenda Item 4 of Ext. G Assembly meeting 6<sup>th</sup> November 2018  
Received from Acting/Honorary chair to point 5 below

**From the Fisheries Secretariat (Dated 9<sup>th</sup> April 2018, received 18<sup>th</sup> April 2018)**

**We ask the General Assembly to agree the following proposed changes to, and actions with regard to, the BSAC Statutes and Rules of Procedure. 9 April 2018**

**1) Limit to terms in office of BSAC ExCom Chair, Vice-Chair and General Assembly Chair.**

We ask the General Assembly to include a limit to the number of terms that any individual can hold these posts because that would be best practice.

In BSAC statutes article 38. The Office Bearers.

With regard to the sections on the Honorary Chairperson of the General Assembly, the Chairperson and the Vice-Chairperson of the Baltic Sea Advisory Council.

Add the words: "Limited to a maximum of 2 terms."

*Alternative text option: "Limited to a maximum of 2 consecutive terms and a maximum of 3 terms in total."*

**2) Remove the restriction on the BSAC Chairperson having to come from amongst the membership of the General Assembly**

We ask the General Assembly to remove this unnecessary restriction in order to provide the opportunity for good experienced potential candidates to be nominated from the wider society. The position would still have to be agreed by consensus.

For reference we note: COUNCIL DECISION of 19 July 2004 (2004/585/EC) Establishing Regional Advisory Councils under the Common Fisheries Policy Article 7 - Functioning - 4. "Each Regional Advisory Council shall designate a chairperson by consensus. The chairperson shall act impartially".

In BSAC statutes article 38. The Chairperson of the Baltic Sea Advisory Council. "To be appointed by consensus for a term of three years by members of the General Assembly amongst the membership of the General Assembly."

Remove the words: "...amongst the membership of the General Assembly."

### **3) Limit to terms in office of BSAC Working Group Chairs.**

We ask the General Assembly to include a limit to the number of terms that any individual or organization can hold these posts because that would be best practice.

In BSAC statutes article 25. Working Groups.

Add the words: “Limited to a maximum of 2 terms.”

*Alternative text option: “Limited to a maximum of 2 consecutive terms and a maximum of 3 terms in total.”*

### **4) Requirement for Chair and Vice-Chair approval for rapid consultation.**

We ask the General Assembly to include the basic democratic safeguard of requiring agreement by both the Chair and Vice-Chair before use of rapid consultation.

4A) In BSAC statutes article 19:

Add the words: “...in agreement with the Vice-Chair”

“In the event that rapid consultation of the BSAC is required by the European Commission or another body, then it shall be the responsibility of the Chairperson *in agreement with the Vice-Chair* to establish quickly, by electronic or other means, the opinion of members of the Executive Committee and communicate these to the European Commission. “

4B) In point 6 in the Rules of procedure for the Executive Committee and the Secretariat on pages 9-10 of the BSAC statutes.

Add the words: “The rapid consultation procedure shall not be used without the express consent of both the Chairperson and the Vice-Chair”.

“At short-notice, rapid requests from the EU and others, members of the Executive Committee shall be notified by e-mail by the Secretariat and shall have a minimum of 3 days to respond. *The rapid consultation procedure shall not be used without the express consent of both the Chairperson and the Vice-Chair*”.

### **5) Clarification of quorum for ExCom meetings.**

We ask the General Assembly to include additional wording to provide necessary clarity in light of increased ExCom membership.

In BSAC statutes article 13: Executive Committee (Quorum).

Add the wording: “or... whichever is the higher,”

Replacing: “At least 16 members (two thirds) must be present for the Executive Committee to perform its full functions.”

With: “At least 16 members or two thirds, whichever is the higher, must be present for the Executive Committee to perform its full functions.”

***Chair proposal:***

Article 13. The Executive Committee shall consist up to 30 members, of whom at least ~~16 members~~ two third members must be present for the Executive Committee to perform its full functions.

**6) Inclusion of a positive assent procedure**

We ask the General Assembly to include a positive assent procedure in the Statutes to ensure that BSAC ExCom advice and decisions are positively affirmed and can be clearly evidenced.

In BSAC statutes article 18:

Add the words: “If less than a quorum (16 or two thirds whichever is higher) of members respond to an email request for a decision then no decision can be made and the matter must go to the next ExCom meeting for a decision.”

Add the words: “For all BSAC ExCom decisions there must be a clear record of who voted for, who against and who abstained. This information should be recorded and made available to members.”

**7) Withdrawal of “Procedure for ExCom decisions if not a quorum”**

See BSAC website <http://www.bsac.dk/BSAC/About-the-BSAC>

<http://www.bsac.dk/getattachment/BSAC/About-the-BSAC/Procedure-for-EXCOM-decisionsAdoptedbyExCom170608withagreedamendments.pdf.aspx?lang=en-GB>

This procedure was adopted by ExCom in June 2008. The secretariat re-issued it to ExCom in Nov 2017 in response to a question from a member about its status.

We ask the General Assembly to instruct withdrawal of this procedure. It should be withdrawn because it is a mixture of contradictory and irrelevant and because it is in breach of BSAC statute articles 13 & 18 and is an abuse of article 19.

Points 1 and 2 of this procedure paper are either contradictory or irrelevant because the mandates they discuss as if they are to be relevant to the quorum actually have nothing whatsoever to do with the quorum. This fact was confirmed at the ExCom in Gydnia (7 Nov 2017).

In response to a suggestion by the Chair of the Demersal working group (Mr Anderson) that quorum for ExCom meetings could be made up by mandates from members not actually present, it was clarified by the Secretariat that where members who can not attend provide a voting mandate to others, that mandate does not count towards the meeting quorum.

The third point in the paper says that if there is no quorum for the meeting “a preliminary decision by the meeting should be approved by a fast track email procedure after the meeting (3 working days to respond).”

This appears to breach BSAC Statutes Article 13. “...At least 16 members (two thirds) must be present for the Executive Committee to perform its full functions.” and Article 18. “... To take decisions, more than two thirds of the members shall be present...”

With its insistence on 3 working days to respond to unspecified matters it is also an abuse of the rapid consultation procedure provided for in BSAC Statute article 19.

It should therefore be withdrawn.

### **8) BSAC mini-ExCom management group. Mandate, TOR and reporting?**

Working practice at BSAC appears to have developed such that the secretariat provides a level of additional information and makes additional requests for input and decisions to a management group consisting of the ExCom Chair, Vice-Chair, Working Group Chairs and sometimes also the General Assembly Chair.

This management group is not mandated in BSAC statutes or procedures and no report of its activities are made to other members. There is some concern that this group may in practice operate as an unofficial mini ExCom.

There may well be good reason and useful function for such a management group. However if we choose to have such a management group it should have a clear mandate within the Statutes, an agreed Terms of Reference, and its activities should be reported to members.

The creation of a focus group mandated by the General Assembly and including General Assembly members to discuss the matter further may be appropriate.

We ask the General Assembly to clarify this situation and how to proceed.

### **9) The need for a clear set of written procedures for development and agreement of BSAC advice and for the decision making regarding these.**

The term “written procedure” is often mentioned and apparently often used to decide on BSAC advice, but what exactly is it? It is not written down and few people seem to know what exactly the procedure is. The “procedure” also seems to change from one situation to the next depending upon, we know not what.

The current situation is clearly not transparent and is therefore in breach of the basic regulations establishing the Advisory Council (2004/585/EC) Article 7. 2. “Regional Advisory Councils shall adopt the necessary measures to ensure transparency in all

stages of their decision-making process.” and of BSAC Statute article 6 “The activities of the BSAC shall be open and transparent.”

That can not continue. These procedures should be agreed and written into BSAC statutes and rules of procedure or be added as an annex to those.

We ask the General Assembly to create a focus group to develop a clear set of written procedures for development and agreement of BSAC advice, which covers all situations in which those decisions get taken.