

**Fuel Cells and Hydrogen  
Joint Undertaking**

***Rules of Procedure of the Governing Board***

Adopted on 26 September 2008

FINAL

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## **The Governing Board Rules of Procedure**

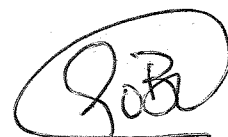
Having regard to

- Council Regulation (EC) No 521/2008 of 30<sup>th</sup> May 2008 establishing the Joint Undertaking for the implementation of the Joint Technology Initiative on Fuel Cells and Hydrogen (hereinafter referred to as "FCH Joint Undertaking") and in particular its Article 7(3)
- The appointment of representatives to the Governing Board by the Founding Members, i.e. the European Community, represented by the Commission, and the European Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping Aisbl (hereinafter referred to as "Industry Grouping") as set out in Article 2 of the Statutes as regulated in the Annex of Regulation (EC) No 521/2008.

In order for the Governing Board, hereinafter called the "Board", to ensure that the FCH Joint Undertaking carries out its mission and performs the tasks assigned to it under the conditions laid down in the Regulation, the following rules of procedure are adopted.

### **Article 1. Membership**

1. The term "Members" refers to the Founding Members (the European Community, represented by the Commission, and the European Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping, hereinafter "the Industry Grouping") and to the Research Grouping provided that it accedes to the FCH Joint Undertaking, as set out in Article 3 of the Statutes.
2. Each Founding Member of the FCH Joint Undertaking shall be represented in the Board by a maximum of six representatives. The Commission shall, in case that the Research Grouping becomes a Member, transfer one seat to its representative, as set out the Article 5 (1) of the Statutes.
3. At least one representative appointed by the Industry Grouping shall represent small and medium-size enterprises.
4. Each Member may decide the term of office of its representatives on the Board in accordance with its internal rules. If the seat of a representative falls vacant, the respective Member shall appoint a new representative.
5. Representatives might have alternates nominated as appropriate. The Board must be informed of the identity of each alternate.
6. Representatives might also give a proxy to another representative. The Board must be informed of the identity of the proxy prior to each meeting.

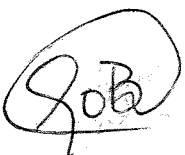


## **Article 2. Chair and Deputy Chair**

1. The Board shall elect a Chair and a Deputy Chair from among the Members' representatives in the Board. They shall be elected for a period of two years.
2. The Chair and Deputy Chair shall not be representatives of the same Member.
3. Members shall nominate candidates for the election of the Chair or Deputy Chair of the Board. The nominations of candidates are communicated to the Executive Director and the representatives one month before the meeting of the Governing Board.
4. The first election of the Chair shall take place after the Board adopts the present Rules of Procedures.
5. The oldest member of the Governing Board present in the meeting shall act as Interim Chair until the Chair of the Board is elected.
6. The Deputy Chair shall automatically take the place of the Chair if he/she is prevented from attending to his/her duties.
7. The election of the Chair's successor shall take place at a meeting of the Board to at the latest on the last day of the outgoing Chair's term of office.
8. The outgoing Chair shall remain on duty until a new Chair is elected, except if he/she ceases to be a representative to the Board in which case the Deputy Chair shall take the place of the Chair as provided in Article 2 (9) of these Rules of procedure. In the case that the Deputy Chair also ceases to be a representative to the Board, Article 2 (11) of these Rules of procedure shall apply.
9. If the seat of Chair or Deputy Chair falls vacant, the Deputy Chair or Chair as the case may be shall convene a meeting to elect a successor.
10. The terms of office of Chairs and Deputy Chairs shall begin on the first day after their predecessors' terms of office.
11. If both the Chair and the Deputy Chair are absent or unable to attend a meeting, the meeting shall be chaired by the longest serving representative or, in the event of equal length of service, by the oldest of the longest serving representative.

## **Article 3. Attendance at meetings**

1. Representatives should attend all meetings of the Governing Board.



2. When it is impossible for a representative to attend, subject to prior written notification to the Chair of the Board, s/he may either participate by telephone or videoconference or be replaced by its his/her alternate or give a proxy to another representative.
3. Each representative may represent no more than one other representative and therefore may only receive one vote by proxy in addition to his/her right to vote
4. The Secretary of the Governing Board shall be the Executive Director. The Executive Director shall take part in the deliberations, but shall have no voting rights. The Executive Director may be assisted by other staff of the FCH Joint Undertaking

#### **Article 4. Admission of observers or other experts**

1. The Chair of the FCH States Representatives Group shall have the right to attend meetings of the Governing Board as an observer.
2. The Chair of the Scientific Committee might participate by invitation, as relevant to the agenda.
3. Based on the agenda, representatives may make suggestions to the Chair to invite experts no later than 5 working days prior to the meeting, which should be approved by the Chair. The Chair, in consultation with the Deputy Chair, may invite any person whose opinion can be of interest, to attend the meeting or part of the meeting as an observer or expert, in accordance with Article 5 (3) (c) of the Statutes.
4. The Board may also invite experts to participate on a regular basis in discussions, not necessarily based on the particular agenda.
5. The Governing Board may decide to examine specific items of its agenda without the presence of observers, and in particular of the Executive Director, in case of confidentiality or conflict of interest.
6. Observers and experts shall not have a right to vote.

#### **Article 5. Meetings**

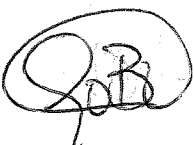
1. The Board shall meet at least twice a year. Additional meetings may be organised at the request of one of the Members, or at the request of the Executive Director. The date of the meetings shall be decided by the Board at its preceding meeting.
2. When the Board is to meet at the request of one of the Members or at the request of the Executive Director, the Chair shall convene a meeting to take place within six weeks of receipt of the request, or as soon as practicable in urgent cases.



3. A provisional agenda for a meeting, together with the relevant material for decision-making will be forwarded to the representatives by the Chair, at least one month prior to each meeting. The Chair in consultation with the Deputy Chair may on a case-by-case basis or in the case of extraordinary meeting or matter of urgency agree that some documents can be forwarded to the representatives at a shorter notice, taking into account each Member's internal consultation procedure.
4. Meetings shall normally be held at the seat of the FCH Joint Undertaking.
5. When circumstances require, and provided a two thirds majority (8/12) do not object, the Chair may change the date or place of a meeting of the Board. Notification of such change shall be given to representatives no later than one month before the original or revised date of the start of the meeting, whichever is earlier.
6. In matters of urgency, the Chair in consultation with the Deputy Chair, may decide to convene a Board meeting at shorter notice, taking into account each Member's internal consultation procedure. These meetings can be organised by telephone conference, videoconference or other means of communication. Any meeting so organised shall have its minutes taken, like any other ordinary meeting. Any decision so taken by the Board shall only be valid and effective for such a decision if confirmed in writing (letter, fax or e-mail) after such a meeting by each representative to the Board within the specified delay.

#### **Article 6. Written Procedure**

1. Decisions of the Board may also be taken by written procedure on a proposal from the Chair. Written procedure may take the form of an electronic procedure (in accordance with Articles 5, 8 and 9 of these Rules of Procedure).
2. A proposal for a decision to be taken by written procedure shall not be subject to amendments – it shall be approved or objected to in its entirety.
3. The Members have 20 working days to approve or reject a decision. The absence of reaction is considered as an agreement.
4. In case of disagreement about the proposed decisions, the Chair may decide to convene an extraordinary Board meeting.
5. In matters of urgency, the Chair in consultation with the Deputy Chair, may decide to shorten the deadline for approval of a decision, taking into account each Member's internal consultation procedure.
6. The result of a written procedure will be notified without delay to the representatives.



## **Article 7. Agenda**

1. A provisional agenda shall be drawn up by the Chair, in consultation with the Deputy Chair, based on a proposal from the Executive Director. It shall contain, in addition to those questions whose inclusion is requested by a representative, any question whose inclusion is requested by the Executive Director. The provisional agenda should be forwarded to the representatives in accordance to Article 5 (3) of these Rules of procedure.
2. Notwithstanding Article 5 (3), questions to be included on the provisional agenda shall be submitted to the Chair no less than five weeks before the date of the start of the meeting, except in cases of urgency.
3. The provisional agenda shall clearly specify items where a vote is required.
4. The final agenda shall be adopted at the beginning of each meeting.
5. With the agreement of all representatives of the Board or alternates, urgent questions may be added to the agenda at any time prior to the end of the meeting, and items on the agenda may be deleted or carried over to a subsequent meeting.
6. No decision may be taken by the Board on an item not included in the agenda unless all the representatives or alternates agree.

## **Article 8. Quorum of presence**

To ensure the quality of the discussions and the involvement of the Members, at least three representatives or alternates of the Industry Grouping and at least three representatives or alternates of European Commission / Research Grouping shall constitute the quorum necessary for the meeting to be valid. In the absence of a quorum, the Chair shall search an alternative solution such as discussion on important matters followed by a written procedure or shall close the meeting and convene another one as soon as possible.

## **Article 9. Voting**

1. The Founding Members shall have six votes each in the Governing Board. The Commission shall, in case the Research Grouping becomes a Member, transfer one voting right to its representative.
2. The vote of the Commission shall be indivisible.

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3. The Governing Board will work together in the spirit of collaboration and for the benefit of all stakeholders. The members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a three-quarter majority of the voting rights (9/12).
4. Votes shall be taken by show of hands unless a secret ballot is requested by one of the representative.
5. Each decision adopted by the Board shall be recorded. A statement of the views of a Member may be entered in the minutes along with the decision, if a representative so requests.
6. The Chair may ask a member of the Board for an oral explanation of his/her vote.

#### **Article 10. Appointment and dismissal of the Executive Director**

1. The Board shall appoint the Executive Director and shall have the power to dismiss the Executive Director, in accordance with Article 5 (2)(j) of the Statutes of the Regulation EC 521/2008, and in accordance with the EC Staff Regulations.<sup>1</sup>

#### **Article 11. Transmission of documents/ Minutes of meetings**

1. The draft minutes, to which shall be attached the summary of decisions taken, and the attendance list, shall be forwarded to the representatives not later than 10 working days after the end of the meeting.
2. Comments and/or objections need to be forwarded to the Chair within 10 working days of receipt of the draft minutes. If no comments or objections are communicated to the Chair within the given timeframe, the draft minutes are considered approved.
3. Once approved by the Board, the minutes shall be signed by the Chair. The signed copy of the minutes shall be kept in the archives of the FCH Joint Undertaking.
4. The final text of the minutes shall be forwarded to representatives not later than one week after its approval.

#### **Article 12. Confidentiality/Transparency**

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<sup>1</sup> Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 45, 14.6.1962, p. 1385)





1. Without prejudice to Article 14 of the Regulation EC 521/2008, representatives and others present at meetings of the Board shall respect the confidential character of the discussions of the Board.
2. Observers and experts shall sign confidentiality agreements and declarations of conflict of interest prior to attending Board meetings.
3. The Board's decisions and minutes of meetings shall be subject to the provisions of Article 14 of the Regulation EC 521/2008 and measures taken for its implementation. A summary of the minutes with the decisions taken shall be published on the FCH Joint Undertaking's web site unless the Board decides otherwise.

### **Article 13. Conflict of Interest**

1. A representative or alternate in the Board shall not participate in any decision where a situation or circumstance of personal or professional nature can compromise his/her independence to decide in the interest of the FCH Joint Undertaking objectives and tasks.
2. If the representative or alternate in the Board considers himself/herself to be in a situation of potential conflict of interest he/she must raise the issue with the other representatives of the Board which should decide on whether he/she may participate in the discussion.
3. A representative or his/her alternate in the Board must not be:
  - Representative of the FCH States Representatives Group;
  - Member of the FCH Scientific Committee;
  - The coordinator of a project;
  - Evaluator or reviewer of proposals submitted to a Call for proposals.

### **Article 14. Reimbursement of expenses**

1. If requested by the representatives or their alternates to the Board, the FCH Joint Undertaking shall bear the travel and subsistence expenses incurred in connection with Board meetings.
2. The Board may define, if considered appropriate, cases where the FCH Joint Undertaking shall bear the travel and subsistence expenses incurred by observers or experts invited by the Board to its meetings.
3. Reimbursement of expenditures of representatives, alternates, and observers linked to meetings of the Board will follow the provisions of the Commission Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meeting in an expert capacity (C(2007)5858).



### **Article 15. Correspondence**

1. All correspondence with the Board shall be addressed to the seat of the FCH Joint Undertaking.

### **Article 16. Secretariat**

1. The Executive Director shall ensure the Secretariat and the appropriate administrative support to enable the Board to carry out its work.

### **Article 17. Amendment of the Rules of procedure**

1. The Board may amend these Rules of procedure at the request of one of its Members.
2. Amendments to the Rules of procedure shall enter into force as soon as they are adopted by the Board.

### **Article 18. General provisions**

1. These rules of procedure shall be published on the FCH Joint Undertaking's web site.

### **Article 19. Entry into force**

1. These Rules shall enter into force as soon as they are adopted by the Board.

*Done in Brussels, 26<sup>th</sup> September, 2008*

*For the Board*

*Chair of the FCH Governing Board*

