



OpenPEPPOL 9th GA

March 21st, 2018, Brussels, Belgium

Background document for voting Item 5-7

Approval of Statutes Changes

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1 Introduction to voting item 5-7 – Changes to the OpenPEPPOL Statutes

According to Article 12 in the OpenPEPPOL Statutes the General Assembly has the power to alter the Statutes. Furthermore, Article 14 determines that alterations to the Statutes shall be ratified, when and where necessary, by Royal Decree, and published in the Annexes of the Moniteur Belge.

Finally, Article 14 determines that the General Assembly may only debate an alteration to the Statutes, if such items are on the agenda, and if two thirds of the Members are attending or validly represented.

The 9th OpenPEPPOL General Assembly held in Brussels March 21st, 2018 is therefore asked to approve alterations to the Statutes made within the following 3 categories:

1. Revised naming conversions (Voting Item 5)
2. Editorial changes (Voting Item 6)
3. Substantial changes (Voting item 7)

When approving these changes as proposed in this document, or approving them with alterations agreed during the General Assembly, the General Assembly is also providing the Managing Committee with the power to and responsibility for implementing these in a final revision of the Statutes, and present those for a Notary or Royal Decree, if required.

Once, the Statutes have been finalised and approved by a Notary or Royal Decree, if required, the General Assembly will be asked to approve the revised Statutes. This approval will be handled as an online vote, combined with a web meeting, if required.

2 Revised naming conventions in the Statutes

2.1 Background

To adapt to the common terminology used in the eProcurement domain, and to implement a stricter usage of the OpenPEPPOL terminology, we propose that the following changes are made to the Statutes.

1. The Coordinating Communities should be renamed to Communities, as the word Coordinating will be reserved for governing bodies operating across communities.
2. The Transport Infrastructure Coordinating Community should be renamed to the eDelivery Community.
3. The word Domain should be used to describe business process-areas covered by a Community, and should no longer be used to define the geographic, industrial or operational scope of a PEPPOL Authority.

2.2 Voting item 5 – Revised naming conventions in the Statutes

The 9th OpenPEPPOL General Assembly gathered 21st of March 2018 in Brussels approves that the following changes to naming conventions are implemented in the Statutes:



1. The term Coordinating Communities will change to: Communities.
2. The word Coordinating will refer to governing bodies coordinating activities across Communities.
3. Domain will be used as terminology for Community-specific business process-areas only.

3 Editorial changes to be implemented in the Statutes

3.1 Background

As part of the Statutes revision, we propose the correction of spelling errors, removal of irregularities and revision of overcomplicated descriptions and statements. These changes are seen as editorial changes only, aiming to improve readability and consistency of the statutes.

Please find the reasoning behind the editorial changes listed below:

1. The current Statutes repeatedly state that OpenPEPPOL AISBL is a non-for-profit organisation under Belgian law. This type of repetition is unnecessary and deters from the point of the individual item. We therefore propose the removal of repetitive statements, about the nature and scope of the Association.
2. The current Statutes repeatedly state that detailed processes and procedures will be set out in the Internal Regulations. To simplify the Statutes, we propose the removal of repetitive references to the Internal Regulations, by stating clearly in the introduction to the governance definition that the detailed processes and procedures of the Association are laid out in the Internal Regulations, according to the statutory requirement.
3. The current Statutes describe election procedures, dismissals and appointments individually for each of the governing bodies in the Association. This results in repetitive descriptions of processes and procedures and introduces an unnecessary risk for inconsistencies. We therefore propose the removal of repetitive mentions of individual elections, dismissals and appointments and the detailed descriptions of these procedures. We propose replacing them with a unified description in the introduction to the Governance section, describing the overall rules for elections, dismissals and appointments for the Association.
4. The current Statutes state clearly in Article 6 that all Members hold the same rights but then mentions that Observers have no right to vote or to hold any elected position in the Association. In order to clarify the terms and conditions for Observers, we propose changing the description in article 6 as stated below:

From (original text)

There is only one type of Membership and all Members will enjoy the same rights.

To (New text):

All members except Observers enjoy the same rights. Observers do not have the right to vote, submit candidates for elections, or be elected to any position.



5. The current Statutes mention the details of each eligible type of Member organisation and each Member Category in Article 5 and Article 6. In these circumstances, the Statutes need to be changed whenever member-categories are added/removed or revised. We propose the following changes to avoid unnecessary formal revisions to the Statutes.

a. **Article 5** - Membership Criteria, Rights and Obligations, lists the types of organisations eligible to join the Association, as described below. We propose changing the text as follows:

From (original text)

Membership of OpenPEPPOL is open to the following types of organisation:

1. *Contracting authorities (public sector buyers) and economic operators (suppliers) and other end-users of PEPPOL specifications, building blocks and services;*
2. *Regional or other type of Authorities within the PEPPOL network (according to provisions of the PEPPOL Transport Infrastructure Agreements);*
3. *Service Metadata Publisher Providers (according to provisions of the PEPPOL Transport Infrastructure Agreements);*
4. *Access Point Providers (according to provisions of the PEPPOL Transport Infrastructure Agreements);*
5. *eSignature Validation Service Providers (according to provisions of the Validation Infrastructure Agreements);*
6. *Pre-award Service Providers (according to provisions of Pre-award Infrastructure Agreements);*
7. *Other organisations which are relevant to the purposes of OpenPEPPOL as laid out in Article 4 of these Statutes.*

To (New text):

Membership of OpenPEPPOL is open to the following types of organisation

1. *End-users of PEPPOL specifications, building blocks and services; such as, but not limited to, contracting authorities (public sector entities) and economic operators (private sector entities)*
2. *PEPPOL Authorities (according to provisions of the PEPPOL Agreements)*
3. *Service Providers offering PEPPOL-based services in one or more domains (according to provisions of the PEPPOL Agreements)*
4. *Observers*

b. **Article 6** - Categories of Members – Subscription fees, lists the member types and their relationship to subscription fees. We propose changing the text as follows:

From (original text)

However, in order to indicate differences in roles as well as for the purpose of calculating the annual subscription fee due by each Member, each Member subscribes to one or more of the following categories, depending on the Membership criteria under which the respective Member has been admitted to the Association:



1. *End-users of PEPPOL specifications, building blocks and services (organisation type 1, as defined in Article 5);*
2. *PEPPOL Authorities (organisation type 2, as defined in Article 5);*
3. *Service Metadata Publisher Providers (organisation type 3, as defined in Article 5);*
4. *Access Point Providers (organisation type 4, as defined in Article 5);*
5. *eSignature Validation Service Providers (organisation type 5, as defined in Article 5);*
6. *Pre-award Service Providers (organisation type 6, as defined in Article 5);*
7. *Other organisations which are relevant to the purposes of OpenPEPPOL (organisation type 7, as defined in Article 5.*

To (New text):

However, to indicate differences in roles and to calculate the annual subscription fee due by each Member, each Member subscribes to one or more of the following categories, depending on the Membership criteria under which the respective Member has been admitted to the Association:

1. *End-users of PEPPOL specifications, building blocks and services (organisation type 1, as defined in Article 5);*
2. *PEPPOL Authorities (organisation type 2, as defined in Article 5);*
3. *Service Providers offering PEPPOL-based services in one or more domains (organisation type 3, as defined in Article 5);*
4. *Observers (organisation type 4, as defined in Article 5.*

The number and name of the domains the Service Providers can offer their PEPPOL-based services within are laid out in the Internal regulations. All types of Members are defined according to provisions of the PEPPOL Agreements.

6. In Article 6 the current Statutes require that application for Membership, or Observer Member status, shall be made on the prescribed form at least one month before a meeting of the Managing Committee. As membership approval in most cases no longer takes place in Management Committee meetings, but is instead handled by an administrative approval process, we propose alteration of the Statutes to state only that that application for Membership shall be submitted on the prescribed form.
7. Article 6 of the current Statutes mentions that the Managing Committee defines the actual dates for payment of member fees, within the terms and conditions. As the actual payment date can be subject to change, we recommend leaving these types of payment related details out of the Statutes. The Statutes should mention only that the Managing Committee has the responsibility to define the member fee structure, fee amounts, and overall terms and conditions for payments.



8. In Article 7 - Withdrawal and Disqualification from Membership, the current statutes describe an overly detailed and out of date procedure. In accordance with the goal to avoid repetitive formal changes to the Statutes in line with changes to operational procedures, we propose changes to the text as follows:

From (original text)

Termination of membership may be effected in the following cases:

- a) voluntary withdrawal of a Member from the Association;*
- b) disqualification of a Member by the Association in case of: (i) material violation of these Statutes when a Member acts against the aims and interest of the association; (ii) non-payment of the membership fee within 3 months after the due date; (iii) material change in the nature, structure or purpose of a Member so that the requirements for membership are no longer met.*

In accordance with case a) above, any Member may withdraw from OpenPEPPOL by giving twelve months' notice of this intention, starting from the next 1 January after giving his notice. Notice of intention to withdraw from membership shall be made in writing to the Secretary General. It will then be presented to the next Meeting of the Managing Committee for acceptance.

In accordance with case b) above, the disqualification of any OpenPEPPOL Member, as distinct from the Member's representatives, shall require a special resolution of the Managing Committee.

Furthermore, any Member whose subscription fee has not been settled within three months of the date of invoice is in breach of these Statutes. The Managing Committee will determine what action, if any, is required to be undertaken in the best interests of OpenPEPPOL and any defaulting Member, if payment of the annual subscription fee is late or withheld.

Members who have withdrawn, who have submitted their written intention to withdraw, or who are in any way disqualified from the rights of membership by the Managing Committee forfeit their rights to the ownership or deployment of any OpenPEPPOL asset, and are not entitled to claim any compensation or refund of any subscription paid or due to be paid, unless by the agreement of the Managing Committee.

To (New text):

Membership may be terminated in the following cases:

- a) voluntary withdrawal of a Member from the Association;*
- b) disqualification of a Member by the Association in case of: (i) material violation of these Statutes when a Member acts against the aims and interest of the association; (ii) non-payment of the membership fee within 3 months after the due date; (iii) material change in the nature, structure or purpose of a Member so that the requirements for membership are no longer met.*

In accordance with case a) above, any Member may withdraw from OpenPEPPOL by giving notice of this intention to withdraw from membership in writing to the Association.



In accordance with case b) above, the disqualification of any OpenPEPPOL Member shall require a formal decision by the Managing Committee.

Members who have withdrawn, who have submitted their written intention to withdraw, or who are in any way disqualified from the rights of membership, forfeit their rights to the ownership or deployment of any OpenPEPPOL asset, and are not entitled to claim any compensation or refund of any fee paid.

9. In, article 8 - Liability, the Statutes briefly describe the liability of Members in relation to any obligations incurred by the Association. We therefore propose additional text to clarify the limitations to member liability, as follows:

From (original text):

The liability of OpenPEPPOL Members extends only to the settlement of their own annual membership subscription fees. Members shall not be held individually or jointly liable for any obligations incurred by the Association.

To (New text):

The liability of OpenPEPPOL Members extends only to the settlement of their own annual membership subscription fees. Members shall not be held individually or jointly liable for any obligations incurred by the Association.

Members who have given notice of their intention to withdraw, may for the period of that notice remain liable for payment of their annual subscriptions but their liability for payment of the annual subscription for any calendar year subsequent to the calendar year in which their notice was given shall not in any circumstances exceed the amount of the annual subscription in the calendar year in which their notice was given.

10. The current Statutes specify that Members may vote physically, by registered letter, or electronically. As registered letters are not in use and methods of voting can be improved and updated according to changes in technology, we propose that this level of detail be removed from the Statues entirely.
11. The current Statutes lay out procedural requirements for the provision of minutes at the General Assembly. In line with the goal to simplify the Statutes, we propose changes to the text as follows:

From (Original text):

Minutes of each General Assembly shall be prepared by the Secretary General, ratified by the Managing Committee, and forwarded to Members within one month. The agendas, minutes, voting records, and related papers, reports and accounts, shall constitute part of the formal Records of the Association.

To (New text):

The agendas, minutes, voting records, and related papers, reports and accounts, shall constitute part of the formal Records of the Association and shall be made available to the Members.

We also propose the removal of the following statement mentioned specifically for meetings held electronically as follows:

When the Assembly has gathered electronically the Minutes shall be ratified by the Secretary General, and forwarded to Members within one month.

12. When describing the governing bodies of the Association, the Statutes describe the core principles for decision-making individually for each governing body. To simplify the Statutes and ensure alignment in processes and procedures, we propose the consolidation of the requirements for decision-making, to be described in one common paragraph.

13. When stating the requirement for sending out meeting invitations, agendas and minutes, the current Statutes state that this can be done in writing or by electronic means. As the operational method of sending out notifications can change with technological developments, any specific statement on how to publish or distribute information should be kept at a high-level only. We therefore propose to change the requirement for *sending information in writing or by electronic means*, to only state: *publishing information in writing*.

14. The current Statutes state that the Managing Committee Meetings could be held electronically provided that no Managing Committee member signifies his disagreement in advance. As the Association relies on online communication and uses electronic meetings as the default medium, this clause is obsolete. We therefore propose to completely remove the section mentioned below from the Statutes:

Any Meeting of the Managing Committee could be electronic, provided that no Managing Committee member signifies his disagreement in advance. The notification will show the agenda, date, time and place of the Committee Meeting as well as relevant information to enable Managing Committee members to participate.

15. In Article 19 - Responsibilities of the Managing Committee, the current Statutes state that the Managing Committee is responsible for the administration of the affairs of the Association. As the day-to-day administration of the Association is handled by the operations function and not by the Managing Committee, we propose changes to the text as follows:

From (original text);

The Managing Committee is responsible for the administration of the affairs of the Association and the promotion of its purposes.

To (New text):

The Managing Committee is responsible for overseeing the affairs of the Association and the promotion of its purposes.

16. When describing delegations to Operations, the current Statutes use the phrase: *to one or more of the Staff of the Association*. As OpenPEPPOL has no staff employed but instead relies on the use of assigned consultants, we propose replacement of this phrase with: *to the operations function of the Association*.

17. The current Statutes describe in detail, the procedures for defining the composition of the Operating Office, placing the responsibility for detailed planning with the Managing Committee and the Secretary General. This level of detail is not required in the Statues as it reduces the



responsibilities of the Management Committee to an operational level. We therefore propose changes to the text as follows:

From: (original text):

The composition, staffing, scope of services, responsibilities and budget of the Secretary General's Operating Office are determined by the Managing Committee, in accordance with the purposes of the Association and its annual budget approved by the General Assembly.

The Secretary General may, as part of its exclusive responsibilities, delegate part of its functions to one or more individuals working for the Association or to one or several of its staff. In particular, the Secretary General may delegate tasks related to daily administration and management of the Association, the undertaking of particular tasks that fall within the Secretary General's mandate, or the representation of the Association.

To (New text):

The Secretary General is supported in the day to day management of the Association and in the implementation of decisions taken by the General Assembly and the Managing Committee, by the operations function of the Association.

18. Article 26 - Treasurer, lays out in detail the role and responsibilities of the Treasurer and refers to the use of an Auditor as well as requirements stated by Belgian law. To keep in line with simplification of the Statutes, and to remove the mention of an Auditor as well as the reference to Belgian law (as no such requirements exist in Belgian law), we therefore propose changes to the text as follows:

From: (original text)

Financial support services shall also be provided by a Member of the Association, designated as Treasurer. The Treasurer will,

- *control and monitor the accounting systems of the Association,*
- *approve counter signature arrangements for expenditure,*
- *prepare and present accounts for the Auditor, the General Assembly and Meetings of the Managing Committee.*

Additionally, as required by Belgian law in fulfilment of any obligation for the status and certification of an AISBL, the Treasurer will prepare all required budgets and accounts

To (New text):

Financial support shall be provided by a Member of the Association, designated as Treasurer. The Treasurer will oversee the preparation of all required budgets and accounts.

19. Finally, we propose the correction of any spelling errors and the removal of abbreviations from the Statutes, to improve readability.

3.2 Voting item 6 – Editorial Changes to be implemented in the Statutes

The 9th OpenPEPPOL General Assembly gathered 21st of March 2018 in Brussels approves that the following editorial changes are implemented in the Statutes:

1. Repetitive statements about the nature and scope of the Association are removed.
2. Repetitive references to the Internal Regulations are replaced with a common statement specifying that detailed processes and procedures of the Association are laid out in the Internal Regulations
3. Statutory requirements related to the methods of holding elections, dismissals and appointments are unified, simplified and described in a centralized section of the Statutes.
4. The statement related to the rights of the members is changed to specify that Observers have no voting rights.
5. Membership categories
 - a. The definition of eligible Member organisations is simplified to cater for flexibility and adaptability.
 - b. The definitions of Member types and subscription fees are simplified to cater for flexibility and adaptability.
6. Applications for membership can be submitted and approved at any time, as the approval process is no longer tied to the frequency of Managing Committee meetings.
7. The Managing Committee is responsible for defining the high-level terms and conditions for payment and not for specifying the actual payment date or the operational details related to the payment process.
8. Article 7 - Withdrawal and Disqualification from Membership, is simplified to reflect the actual operational procedure.
9. Article 8 is expanded to include the limitation in payment liability, related to withdrawal of membership.
10. The definition of the type of media used for voting in elections, is removed from the Statutes.
11. Removal of the process details for provision of the minutes and repetitive descriptions of the requirements if the meeting has been held electronically. Simplification of requirements about how the minutes, agenda, and related information shall be made available to the members.
12. Consolidation of the principles for decision making, to be in one paragraph referring to all bodies in the Association.
13. The general requirement for sending out invitations, agendas, minutes etc., is simplified to say only that it is done in writing.
14. The following section is removed from the Statutes:

Any Meeting of the Managing Committee could be electronic, provided that no Managing Committee member signifies his disagreement in advance. The notification will show the agenda, date, time and place of the Committee Meeting as well as relevant information to enable Managing Committee members to participate.



15. Change the responsibility of the Managing Committee from the responsibility to administer the affairs of the Association to the responsibility to oversee the affairs of the Association.
16. The use of the term staff or staffing in the Statutes should be changed to mention delegation to the operations function.
17. Leave out details related to the composition of the operations function in the Statutes and state only that:
The Secretary General is supported in the day to day management of the Association and in the implementation of decisions taken by the General Assembly and the Managing Committee by the operations function of the Association.
18. To revise and correct the Article describing the Treasurer responsibility state only that:
Financial support shall be provided by a Member of the Association, designated as Treasurer. The Treasurer will oversee the preparation of all required budgets and accounts
19. To correct spelling errors, improve language and remove the use of abbreviations from the Statutes.

4 Substantial Changes to be implemented in the Statutes

4.1 Background

The main reason for changing the OpenPEPPOL Statutes in 2018, is the desire to implement a more flexible and adaptable Governance Framework and eliminate the need for formal changes to accommodate minor changes in day-to-day processes.

The governance related changes to the Statutes are more substantial in nature, as they include changes to the voting structure, quorum rules, decision structures and delegation of responsibilities. They are aligned with the high-level Governance Framework laid out in Voting item 4 and are crucial to the implementation of this Framework.

Please find below the reason behind these changes and details of how the Statutes can be revised to implement the Governance Framework.

1. If changes to the Statutes impact on: the scope of the Association, the power of the General Assembly, or the fiscal nature of the Association, they may require evaluation and approval by a Notary or by Royal Decree. The optimal way of handling this, is to provide our Accountants PricewaterhouseCoopers (PWC) in Belgium with the Power of Attorney to present the revised Statutes translated in French, to a Notary on our behalf – if required. The 9th General assembly is therefore asked to approve the provision of the appropriate proxy for PWC to act on behalf of the Association in these matters.
2. OpenPEPPOL Statutes require that 2/3 of members with voting rights be represented at a General Assembly in order to approve changes to the Statutes or approve the dissolution of the Association. This requirement is an unnecessary complication as the number of Members have increased significantly. To align the quorum rules and ensure the practical operability of the General Assembly, we propose to change the requirement for obtaining a quorum to: 50% +1 of



valid member representation, regardless of the subjects on the agenda. This change is fully in line with Belgian law and the common requirements laid out for international associations.

3. To increase flexibility and changeability of the statutory requirements, the governance structure defined by the Statutes needs to be described at a less detailed level. For example, a simple change such as the name of a community or the number of communities in the Association, requires a formal change to the Statutes. We therefore propose the removal of exact names and numbers of communities and the introduction in the Statutes of two general categories of communities: Domain specific communities that cater for the sustainability of specifications and policies; and Stakeholder communities that are accountable for sustainability of the Agreement Framework and cater for member-type specific collaboration.
4. To further professionalise the operational support to an Association mainly driven by member-based collaboration and use of in-kind resources, a shift in the formal delegation of roles and responsibilities, is required. To support this transition, we propose the definition of a clear path for delegation within the Association, to be included in the Statutes as follows:

The highest authority of the OpenPEPPOL AISBL is the General Assembly. In-between two General Assemblies, the General Assembly, by default delegates:

- The Power of Attorney to the Secretary General, being the highest authority
 - The responsibility for overseeing activities carried out by the Association, to the Managing Committee
 - The responsibility for maintaining and developing specifications and policies of the PEPPOL eDelivery Network and business process interoperability, to the domain-specific communities.
 - The responsibility for maintaining and adjusting the PEPPOL Agreement Framework, to the stakeholder communities.
 - The responsibility to handle operations and the day-to-day administration of the Association, to the operations function.
5. To ensure a more strategic focus for the Managing Committee, a change in the composition and election principles for the formation of the Managing Committee, is required in the Statutes. We propose that the Community leaders are no longer appointed as members of the Managing Committee and that 4 – 8 Managing Committee members representing the different member types should be elected directly at the General Assembly, together with a Secretary General.
 6. The Association requires a more structured and dedicated approach for inviting members to submit candidates for committees and boards. The use of open calls for candidates, with no supporting function to encourage members to run for positions, has resulted in low levels of participation. We propose a change in the Statutes to define the establishment of an Election Committee, populated with 3 members, elected directly by the General Assembly, with the responsibility to ensure the availability of eligible and qualified candidates for elections to the Managing Committee.



7. To ensure the integrity of all Committees, Communities and Boards, we propose that any elected leadership role should be populated by a named individual rather than the member organisation they belong to and that any temporary replacement of an elected individual must be agreed by the associated governing body, affected by the situation. We also propose that any Committee, Community, or Board can decide to pre-elect substitute representatives in their election procedures, if desired.
8. To encourage knowledge-sharing, we propose an addition to the Statues to enable any Committee, or Board to invite experts or representatives from other Committees, Communities, or Board, to join their meetings, as observers, with no voting rights.

4.2 Voting item 7 – Substantial Changes to be implemented in the Statutes

The 9th OpenPEPPOL General Assembly gathered 21st of March 2018 in Brussels approves the following procedural step:

1. PricewaterhouseCoopers (PWC) is appointed as proxy for OpenPEPPOL AISBL for submission of the revised Statutes, for review and approval by a Notary or Royal Decree, if required.

Further, the 9th OpenPEPPOL General Assembly gathered 21st of March 2018 in Brussels approves that the following substantial changes are implemented in the Statutes:

2. Implement a common rule for obtaining a quorum in the Association and the General Assembly requiring 50%+1 of members with voting rights to be formally represented, regardless of the items on the agenda.
3. Governance bodies
 - a. A provision for the Association to create Communities through a simple General Assembly decision, without mentioning the exact number and names thereof should be included in the Statutes.
 - b. A provision for the Association to implement two different types of Communities should be included in the Statutes.
 - c. A provision for the Association to implement a flexible organisation by removing unnecessary details about Coordinating bodies and Change Management Boards should be included in the Statutes.
4. A provision for the Association to implement an unambiguous path for delegation and escalation in the Association should be included in the Statutes.
5. Composition and election principles
 - a. A provision for 4-8 Managing Committee members, to be elected directly by the General Assembly as representatives of the different member types, should be included in the Statutes
 - b. A provision for the Secretary General to be directly elected by the General Assembly should be included in the Statutes



- c. Revise the role of the Community Leaders to include the obligation to participate in Cross-Community Coordinating bodies and to exclude participation as members of the Managing Committee.
6. An Election Committee with the responsibility to ensure the availability of eligible and qualified candidates for elections to the Managing Committee, including the Secretary General, should be included in the Statutes.
7. Representation and substitutes
 - a. It should be stated in the Statutes that elected and appointed roles in the Association are given to a person, and not an organisation.
 - b. The possibility to pre-elect substitute representatives on Committees, Communities and Boards should be included in the Statutes.
8. The possibility to expand Boards and Committees with observers from other bodies, if required, should be included in the Statutes.

