

AEWA EUROPEAN GOOSE MANAGEMENT PLATFORM



**5th MEETING OF THE
AEWA EUROPEAN GOOSE MANAGEMENT
INTERNATIONAL WORKING GROUP**

15-18 June 2020, Online conference format



**PROPOSAL FOR AMENDMENT OF THE MODUS OPERANDI OF THE AEWA
EUROPEAN GOOSE MANAGEMENT INTERNATIONAL WORKING GROUP**

Introduction

In accordance with Rule 35 of the Modus Operandi of the AEWA European Goose Management International Working Group (EGM IWG), any of the designated national government representatives may propose amendments to the Modus Operandi and shall communicate this to the Secretariat no less than seventy days before the next meeting of the EGM IWG.

This document contains the proposed amendments to Rule 16, submitted by Norway on 8 April 2019 for consideration at the EGM IWG4, which took place in Perth, Scotland in June 2019. The changes suggested to Rule 16 paragraph 2 were deferred for further discussion at EGM IWG5 in June 2020. The Secretariat has not received any additional proposals in advance of EGM IWG5.

The Secretariat circulated the proposed amendment to the EGM IWG members for consultation on the 17 April 2020. The Secretariat received comments from five Range States (EC, France, Germany, the Netherlands, UK). The comments per Range State are provided in Annex 1 to this document.

The proposed changes submitted by Norway on 8 April 2019 to Rule 16 concern the addition of a second paragraph, as follows:

Rule 16 – Decisions and Provisions for Voting

1. Decisions of the EGM IWG shall be taken by consensus unless a vote is requested by the Chair or by three members.
2. Only the Range States that are contributing towards the EGMP core budget on a regular annual basis are entitled to taking decisions on institutional and financial matters. The remaining Range States shall be entitled to take decisions on substantive matters only.

Action requested from the EGM IWG

The EGM IWG is requested to review, discuss and if relevant, approve the proposed changes to the Modus Operandi of the EGM IWG presented in this document.

MODUS OPERANDI OF THE AEWA EUROPEAN GOOSE MANAGEMENT INTERNATIONAL WORKING GROUP¹ INCLUDING THE PROPOSALS FOR AMENDMENT

PURPOSE

Rule 1

The inter-governmental AEWA European Goose Management International Working Group (hereinafter referred to as EGM IWG) is constituted to serve as the coordinating and decision-making body of the AEWA European Goose Management Platform established under the auspices of the African-Eurasian Migratory Waterbird Agreement (AEWA), following AEWA Resolution 6.4, with the goal to ensure the conservation and sustainable use, as well as the favourable conservation status of the migratory goose species and populations to which it applies. The European Goose Management Platform operates in line with existing international obligations and the pertinent legislative frameworks and regulations, as relevant in each range state, including AEWA, the Bern Convention and the EU Birds Directive for the range states to which these apply. The EGM IWG works closely with the UNEP/AEWA Secretariat to ensure consistency and coherence with the legal provisions and work of the Agreement.

ROLE

Rule 2

The role of the EGM IWG is to:

1. coordinate and ensure the implementation of the AEWA International Species Action and Management Plans approved by the AEWA Meeting of the Parties which fall under its remit;
2. stimulate and support Range States in the implementation of these International Action and Management Plans;
3. monitor and report on the implementation and the effectiveness of these Action and Management Plans

¹ As adopted by the 4th Meeting of the AEWA European Goose Management International Working Group on 18-20 June 2019 in Perth, Scotland.

REMIT

Rule 3 – Species/Population Coverage

1. The EGM IWG serves as the coordinating and decision-making body for the implementation of the:
 - AEWA International Single Species Management Plan for the Svalbard Population of the Pink-footed Goose (*Anser brachyrhynchus*);
 - AEWA International Single Species Action Plan for the Conservation of the Taiga Bean Goose (*Anser f. fabalis*);
 - AEWA International Single Species Management Plan for the Barnacle Goose (*Branta leucopsis*);
 - AEWA International Single Species Management Plan for the Northwest/Southwest European population of the Greylag Goose (*Anser anser*).
2. Further AEWA International Species Management Plans, as well as such AEWA International Species Action Plans which contain provisions for adaptive flyway management, for migratory goose species/populations within the Western Palearctic may also be included within the remit of this Working Group, following their adoption by the AEWA Meeting of the Parties.

Rule 4 – Tasks

The EGM IWG will:

- set priorities for action and take decisions regarding the conservation and sustainable use of the species/populations covered;
- coordinate the overall international implementation of activities;
- secure funds and other resources for implementation, as decided by its members;
- ensure regular and thorough monitoring of the species/populations which fall under its remit, to the best ability of each Range State, including the timely annual provision of necessary national data to the International Data Centre as per the requirements and timetables established under the EGM IWG;
- regularly monitor the effectiveness of implementation of the AEWA International Species Management and Action Plans under its remit and take appropriate action according to the findings of this monitoring; and
- provide for the update of the AEWA International Species Management and Action Plans under its remit, as required.

MEMBERSHIP

Rule 5 – Range States

Membership to the EGM IWG will encompass those Range States regularly supporting the species/populations as per the remit above: *Belarus, Belgium, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Latvia, Lithuania, Netherlands, Norway, Poland, Russia, Spain, Sweden, Ukraine, UK, as well as the European Union.*

Rule 6 – Range State Representatives

1. The EGM IWG will comprise:

- a maximum of two designated representatives of national state authorities relevant to the implementation of AEWA; and
- a maximum of two representatives of national scientific or expert institutions and organisations as invited to the national delegations by the state authorities of the respective Range State;
- a maximum of two representatives from the European Union, represented by the European Commission.

2. Designations of national government and expert representatives will be requested from the AEWA National Focal/Contact Points by the UNEP/AEWA Secretariat. Possible changes in the national representation to the EGM IWG following the initial designation shall be communicated to the UNEP/AEWA Secretariat as soon as possible via email.

Rule 7 – Permanent Observer Organizations

1. In addition, relevant specialised international inter-governmental and non-governmental organisations may, in consultation with the UNEP/AEWA Secretariat, be invited by the Chair to participate in the EGM IWG as permanent observers, subject to confirmation by a meeting of the EGM IWG.
2. The Chair of the AEWA Technical Committee will also be invited to join the EGM IWG as a permanent observer by the Chair of the EGM IWG.
3. The admittance of permanent observers to the EGM IWG by the Range States will take place at the first meeting of the EGM IWG where the observer in question will be in attendance.

MEETING ATTENDANCE

Rule 8 – EGM IWG Members

Meeting attendance will be open to the designated representatives and admitted permanent observers as outlined above under Rules 5-7, as well as representatives from the UNEP/AEWA Secretariat and the International Data Centre.

Rule 9 – National delegations

1. In addition, the designated government representatives may choose to include additional national representatives in their national delegations to the meetings of the EGM IWG. The national delegations to each EGM IWG meeting shall, however, be limited to a maximum number of five participants per country. Additional representatives shall be communicated as part of the respective national delegation to the UNEP/AEWA Secretariat in advance of the meeting.
2. For those countries eligible to receive financial support under the EGM IWG for meeting attendance, only up to two representatives per country can be funded.
3. An exception to the rule regarding the size of national delegations shall be made in the case of a host country, whereby the designated government representative in the EGM IWG of the host country will have the right to invite additional national organizations as observers to the meeting as part of their national delegation, bearing in mind that any additional costs related to such observers shall be carried by the host country and cannot be covered by the EGM IWG budget.

Rule 10 – Permanent Observer Organisations

The participation of permanent observer organisations to the meetings of the EGM IWG will be limited to one representative per organisation.

Rule 11 – Additional Individual Experts

In addition, the EGM IWG Chair may, in consultation with the UNEP/AEWA Secretariat, invite additional individual experts as observers to meetings of the EGM IWG, to contribute to specific agenda items. Should such experts hail from one of the Range States of the EGM IWG, the Secretariat will consult with the designated government representative(s) prior to the issuance of the invitation. Such additional observers will be admitted by the IWG members during the opening of the specific meeting they have been invited to attend.

MEETINGS

Rule 12 – Timing and Language

Unless the EGM IWG decides otherwise, meetings of the EGM IWG shall be convened by the UNEP/AEWA Secretariat annually. The meetings will be conducted in English only.

Rule 13 – Venue

The meeting venue shall be at the seat of the UNEP/AEWA Secretariat at the United Nations Campus in Bonn, Germany, unless a voluntary host country is found amongst the EGM IWG Range States.

Rule 14 – Notice of Meetings

Notice of meetings, including date and venue, shall be sent to all EGM IWG members by the UNEP/AEWA Secretariat at least 90 days in advance.

Rule 15 – Quorums

1. A quorum for general decisions shall consist of half of the Range States in the EGM IWG which have confirmed their participation in the European Goose Management Platform.
2. A quorum for decisions to be taken regarding the implementation of activities under an AEWA International Species Management or Action Plan shall consist of half of the Range States to the respective Plan which have confirmed their participation in the European Goose Management Platform.
3. A quorum for decisions to be taken regarding the implementation actions within defined populations or management units of an AEWA International Species Management or Action Plan shall consist of half of the Range States to the respective population or management unit which have confirmed their participation in the European Goose Management Platform;
4. No decision shall be taken at a meeting in the absence of a quorum.

Rule 16 – Decisions and Provisions for Voting

1. Decisions of the EGM IWG shall be taken by consensus unless a vote is requested by the Chair or by three members.

Rule 17

1. Decisions of the EGM IWG by voting (pursuant to Rule 16) shall be passed by a simple majority vote of the members present and voting. In the case of a tie, the motions shall be considered as rejected.
2. Decisions on changes to the Modus Operandi may only be taken at meetings of the EGM IWG. In the case of voting, a qualified majority (75%) of the members present and voting is necessary to adopt the proposed changes.

Rule 18

Only the designated government representatives of the EGM IWG Range States shall exercise voting rights. In his or her absence he or she may name an Alternate from amongst the other members of the national delegation to act in his or her place. The Alternate shall be communicated to the Chair and to the UNEP/AEWA Secretariat.

Rule 19

Where two representatives of national state authorities have been designated for one Range State, these shall coordinate amongst themselves and inform the Chair and the UNEP/AEWA Secretariat which representative will be carrying out the vote for the Range State in question.

Rule 20 – Decisions between meetings

1. At the discretion of the Chair, in consultation with the UNEP/AEWA Secretariat, EGM IWG business – including voting – may be conducted between regularly scheduled meetings as necessary by email or via conference call, with any actions recorded in the minutes of the next regularly scheduled meeting.
2. For any such decisions between meetings conducted by the remote means listed above, the same quorum and voting principles apply as outlined above in Rules 15-19.

Rule 21 – Meeting Record

A summary record of each meeting shall be prepared by the UNEP/AEWA Secretariat as soon as possible and shall be communicated to all the members of the EGM IWG.

Rule 22 – Meeting Documents

The documents for each meeting of the EGM IWG will be made available in English language only and shall be distributed to its members by the UNEP/AEWA Secretariat at least 30 days before the opening of the meeting, with the exception of annual assessment reports on adaptive harvest management, which shall be distributed at least two weeks before the opening of the meeting. At the discretion of the Chair, documents may be accepted after this deadline, but not later than one week before the meeting. Typically, documents will be distributed electronically.

STRUCTURE and OFFICERS

Rule 23 – Chair

The EGM IWG Range States shall, amongst themselves elect a Chair country, represented by its designated national government representative to the Working Group. The term for the Chairmanship shall last for two consecutive years, with the elected Range State chairing two consecutive meetings of the EGM IWG. The Chair country shall thus be elected at the end of every second meeting of the EGM IWG, and the newly elected Chair shall assume their functions upon election. A country cannot serve as a Chair for two consecutive terms.

Rule 24

The Chair shall preside at the meetings of the EGM IWG, approve the provisional agenda prepared by the UNEP/AEWA Secretariat for circulation and liaise with the members between meetings of the EGM IWG as necessary. The Chair may represent the EGM IWG as required within the limits of the EGM IWG mandate and shall carry out such other functions as may be entrusted to him/her by the EGM IWG.

Rule 25

If, in an election, there is no consensus regarding the proposed Chair country, the proposed Range State which obtains the overall majority will be elected as Chair. If no proposed candidate obtains an overall majority in the first ballot, a second ballot shall be taken, restricted to the two candidates obtaining the largest number of votes. If the votes are equally divided in the second ballot, the presiding officer shall decide between the candidates by drawing lots.

Rule 26 – UNEP/AEWA Secretariat

The UNEP/AEWA Secretariat will be in charge of servicing the EGM IWG and a dedicated Coordinator situated at the Secretariat will facilitate the day-to-day operations of the EGM IWG in close cooperation with the Chair and the International Data Centre.

Rule 27 – International Data Centre

The necessary scientific analysis, assessments and subsequent proposals for conservation and management options will be provided by the International Data Centre of the European Goose Management Platform.

Rule 28 – National Focal Points

The designated representatives of the national state authorities from the Range States will act as National Focal Points for the EGM IWG and will be the main contact persons for the elected Chair and the UNEP/AEWA Secretariat.

The designated representatives of national state authorities will further coordinate the implementation of national activities as agreed in the EGM IWG and carry out national consultations as appropriate prior to the meetings of the EGM IWG to allow for decisions to be taken at the meetings.

TASK FORCES

Rule 29

The EGM IWG may establish species and/or thematic Task Forces as may be necessary to deal with the preparation and coordination of decision papers and background documents for the EGM IWG as well as to deal with other specific tasks. The EGM IWG shall define the terms of reference and composition of each Task Force.

Rule 30

In so far as they are applicable, these Rules shall apply *mutatis mutandis* to the proceedings of the established Task Forces.

FINANCING

Rule 31

The annual running costs for the European Goose Management Platform, including for the EGM IWG, will be provided by the Range States to the Platform as decided by the EGM IWG.

REPORTING

Rule 32 – Reporting to EGM IWG Meetings

In addition to the timely provision of the required national data as outlined under Rule 4, reports on the implementation of the AEWA International Species Management and Action Plans within the remit of the EGM IWG and on other agreed tasks and decisions taken by the EGM IWG, shall be prepared by each Range State according to a format agreed by the EGM IWG and presented at each face-to-face meeting of the EGM IWG.

Rule 33 – Reporting to the AEWA Governing Bodies

In addition, reports will be produced according to a standard format with contributions from all Range States and submitted for inclusion into the general International Review on the Stage of Preparation and Implementation of Single Species Action Plans to the AEWA Meeting of the Parties. Range States will also be requested to provide information to feed into other reporting processes required by the AEWA governing bodies.

FINAL PROVISIONS

Rule 34 – Modus operandi

This Modus Operandi shall be applied at the first meeting of the EGM IWG following its approval by the EGM IWG.

Rule 35 – Changes to the Modus Operandi

This Modus Operandi may be amended by the EGM IWG, as required, in accordance with the provisions of the African-Eurasian Migratory Waterbird Agreement and decisions of its governing bodies. Proposals for changes to the Modus Operandi can be submitted to the UNEP/AEWA Secretariat by any of the designated national government representatives 70 days before the next meeting of the EGM IWG. The proposed changes shall then be circulated to the EGM IWG members by the UNEP/AEWA Secretariat 60 days before the meeting.

ANNEX 1

Comments from Range States on the Proposed Amendments to the EGM IWG Modus Operandi

EC

Thank you for consulting us on the proposed change to the Modus operandi for the EGMP. As I indicated when this matter was raised at last year's meeting, we do not support this proposal. If AEWA wants all range states, including the EU, to be involved in this process then there should be no differential approach to range states, based on their contributions to the process. We also do not agree to changing the rules of operating this initiative while it is underway. We will convey this position to those MS who have asked for the Commission views on the matter.

France

As already stated at the 4th EGMP-IWC meeting in Perth last year, France strongly supports the proposed amendments to Rule 16, submitted by Norway.

Germany

We reiterate our position we had already voiced during EGM IWG4 and which was shared by the EU and Iceland as well. **Germany continues to oppose** the proposed change as well as its redrafted version for a variety of reasons:

1. The change would contradict the voluntary approach of the EGMP

The EGMP works on the basis of voluntary contributions and is obviously not a treaty with binding financial obligations. The proposed change would be completely contradictory to this chosen approach and essentially turn it into an obligatory one by linking membership rights to financial contributions. There are good reasons why the EGMP was established as a platform working on the basis of voluntary contributions and not as e.g. a Protocol under AEWA. If this fundamental change of working together was to be adopted for a voluntary platform, Germany would be much less willing to establish voluntary initiatives or platforms under AEWA in the future.

2. Issue with budgetary law

Additionally, the proposed change could lead to legal problems in terms of budgetary principles under German law, possibly prohibiting Germany to finance voluntary contributions where they are tied to conditions. Subject to a more detailed assessment of this issue, the adoption of the proposed change could prompt severe consequences for Germany.

3. Lack of legal definitions

The proposed change and its redraft lack legal definitions and leave too much room for interpretation. It remains unclear what most of the used terminologies are referring to:

- "*core budget*": Which contributions are covered exactly? Germany's project contributions of the past are apparently not deemed to be part of the core budget, which seems arbitrary.

- “*institutional matters*” and “*substantive matters*”: What are the definitions? What happens in cases where both matters are equally affected? What procedure applies for the categorisation in cases of doubt?
- “*financial matters*”: How will this be handled practically, considering that all matters require financing?
- “*contributions [...] ideally matching the established scale of contributions*” (see redraft): Will this requirement be met even if the extent is significantly below the “*established scale of contributions*”?
- “*EGMP Secretariat*” (see redraft): The core budget is being defined as “*the EGMP Secretariat and Data Centre*”. An EGMP Secretariat does not exist. The only existing secretariat in this context is the UNEP/AEWA Secretariat.

There is no guidance within the Modus Operandi itself or the AEWA Agreement whatsoever since the proposed terminology is not found anywhere else.

In terms of procedural law, the **proposal can only be adopted by consensus**. The EGMP is a platform established under the framework of AEWA. According to Rule 1 Modus Operandi the EGMP „*operates in line with existing international obligations and the pertinent legislative frameworks and regulations [...] including AEWA [...]. The EGM IWG works closely with the UNEP/AEWA Secretariat to ensure consistency and coherence with the legal provisions and work of the Agreement.* “. Hence, the EGM IWG must act within the legal limits of the AEWA Agreement. Article 5 (2) b) of the AEWA Agreement clearly states: “*Decisions relating to the budget [...] shall be adopted by the Meeting of the Parties by consensus.*”. While the EGMP budget is voluntary in nature, the change of the Modus Operandi would effectively establish legal consequences/sanctions for those voluntary contributions, and therefore changes the voluntary nature of the contributions. They become binding in the sense that a Party must pay if they want full Party rights. As a consequence, for Germany this becomes a budgetary decision with legal consequences that must be treated in the same manner as budgetary decisions under AEWA: only through consensus. The EGMP cannot establish budgetary rules with legal consequences through a majority decision if this is not foreseen in the AEWA treaty itself and would otherwise undermine the treaty. Any decision by majority would therefore be regarded null and void by Germany.

Netherlands

I inform you that the proposed addition nr 2 to Rule 16 is not acceptable to us:

Rule 16 – Decisions and Provisions for Voting

1. Decisions of the EGM IWG shall be taken by consensus unless a vote is requested by the Chair or by three members.
2. Only the Range States that are contributing towards the EGMP core budget on a regular annual basis are entitled to taking decisions on institutional and financial matters. The remaining Range States shall be entitled to take decisions on substantive matters only.

The reason for this is that we agreed on a voluntary contribution. Therefore, it does not seem correct to attach a condition to this voluntary budget. Further it excludes countries that do contribute to the core-activities of the platform but not to what is considered core. We appreciate that core refers to paid staff but there is a thin line with capacity paid for by Parties to contribute to the platform.

(In this respect I can inform you that we seek funding to continue the work of our research consortium for the coming years)

And our last thought on this is that it is not clear how this relates to Article 5 of the AEWA Agreement where budget decisions are referred to the MOP.

UK

The Government of the United Kingdom of Great Britain and Northern Ireland supports the proposal from Norway to amend Rule 16 of the EGMP IWG Modus Operandi.

However, we suggest the following amendment to Norway's proposed text to provide greater clarity in the language used. We do not consider that our amendments substantively alter Norway's proposal.

Only the Range States that are contributing towards the EGMP core budget on a regular annual basis are entitled to contribute to decision-making, either by consensus or by a vote, on institutional and financial matters. The remaining Range States shall be entitled to contribute to decision-making, either by consensus or by a vote, on substantive matters only.