

Statutes of the European Sustainable Phosphorus Platform (ESPP)

On 2nd December 2014, in Brussels, Belgium, the following organisations came together and declared the establishment of a **Belgian Non Profit Association** (*Association Sans But Lucratif*) according to the following statutes.

Establishing organisations

See establishment act.

Chapter I: Name and address of Association

Article 1: Form and Name

The association is set up under the form of a non-profit association. The association is named “**European Sustainable Phosphorus Platform**” (hereafter referred to as “ESPP” or the “Association”). The Association is governed by Title I of the act of 27 June 1921 as amended concerning non-profit- organisation, international non-profit associations and foundation.

Article 2: Registered office

The Association’s registered office, which must be in Belgium, is located at 67 rue de Trèves, 1040 Brussels, Belgium.

Subject to the confirmation by the first following General Assembly, the Board of Directors can decide to transfer the registered office to another place in Belgium within the same language region. Such transfer will be registered with the Clerk of the Commercial Court of the judicial division where the Association has its head office and will be published in the Annexes to the Moniteur Belge.

Chapter II: Objectives and duration

Article 3: Purpose and activities

ESPP’s objectives are to promote, facilitate, contribute to and/or implement sustainable phosphorus management in Europe.

These objectives include in particular, but not exclusively, addressing the following issues:

- phosphorus as a non-renewable and critical resource for agriculture (food supply) and industry in Europe
- sustainable phosphate rock supply, mining and processing, including industrial applications
- phosphorus re-use, recovery and recycling in synergy with other nutrients/minerals and carbon/energy
- phosphorus use effectiveness and efficiency in agriculture (in crop and animal production) and the in the bio-economy (bio-energies and bio-materials production ...)
- sustainability and safety of the food chain, from farm to diet

ESPP can carry out any actions which are lawful and undertake any activities appropriate to the achievement of its objectives. ESPP can undertake any activity related directly or indirectly to these objectives and can participate in or support any similar actions which are coherent with these objectives. In particular, and not exclusively, ESPP shall engage the following actions in the context of its objectives:

- promote through communications and awareness raising the general principles of sustainable phosphorus management
- facilitate the definition of a shared vision of sustainable phosphorus management in Europe
- identify, initiate or support dialogue, networking, information exchange, innovation, collaborative actions, policies, business cases and economic models, value-chains, etc.
- identify and address obstacles, propose solutions, communicate opportunities
- contribute to knowledge development, dissemination and implementation
- facilitate dialogue concerning proposals for policies, regulation or actions to contribute to sustainable phosphorus management in Europe
- outreach to, communicate and raise awareness with a different sectors and stakeholders, including: farming, fertilisers and animal feed, chemicals and minerals, wastes and waste water, agri-food industries, bio-resources and bio-energies, food security and diet ...

- support the development of national phosphorus/nutrient platforms/networks in Europe and of actions at different scales towards a circular economy for phosphorus
- cooperate with organisations involved in sustainable phosphorus management outside Europe, including phosphate rock producers / producing countries, networks, conferences, technology suppliers, organisations concerned by global phosphorus governance

ESPP is a not-for-profit organisation and will carry out or participate in commercial activities only in so far as these further ESPP's objectives. In particular, ESPP may promote its Members' and Partners' commercial activities, services and products in so far as these are coherent with ESPP's objectives.

ESPP will ensure in all its activities full respect of all applicable anti-trust legislations.

In pursuing the activities of ESPP, the Members and Partners do not seek to directly obtain financial advantage for themselves, nor shall it be the objective of the Association to directly procure financial advantage for the Members and Partners.

Article 4: Duration

The Association is created for an unlimited duration.

Chapter III: Members and Partners

Article 5: Two categories: Members, Partners

Two different categories of members exist:

- **Members:**
 - full members of the Association
 - participate in decision making (voting right – as defined in article 12)
 - pay the annual membership fee
- **Partners**
 - allowed members cf. Article 2ter of the NPO-law
 - participate only consultatively in decision making (no vote)
 - pay the same annual fee as Members or make an equivalent “in kind” contribution
 - have the same access as Members to information and to all other services provided by and activities of ESPP, including the same visibility on documents, website, etc.

The Association's Members are as the following legal entities:

- initially and for as long as they fulfil the conditions defined below, those organisations signing the present statutes establishing ESPP
- thereafter: any organisation fulfilling the conditions defined below which is admitted as a Member by decision of the Board of Directors.

The Association shall at all times have at least three Members.

Article 6: Conditions for Membership (Members and Partners)

Members:

- a) Legal status:**
Any type of organisation: e.g. companies, associations, governments, local authorities, knowledge institutes ...
- b) Activities:**
Must have activities or products related to sustainable phosphorus management
Must not carry out activities which are contrary to ESPP's objectives
- c) Written agreement with ESPP's statutes (including by email)**
- d) Payment of the annual fee, according to the level and conditions fixed by the General Assembly**

Partners

ESPP Partners must fulfil the conditions in (a) and (b) above.

ESPP Partners must either pay the same annual fee as Members or make an equivalent “in kind” payment (to be defined by the Board)

Article 7: Rights and obligations of the Members and Partners

The Members and Partners shall have the rights attributed to them in these Statutes, in decisions taken by or in internal rules adopted by the General Assembly or the Board of Directors in accordance with these Statutes.

Each Member may participate and vote at the General Assemblies with the voting rights determined in accordance with article 12.

Each Partner may participate in General Assemblies, as observer and with consultative right of expression, without the right to vote.

Members and Partners, even if out-going, do not have any rights on the assets of ESPP.

Members and Partners have the right to consult the Minutes of the General Assembly and of the meetings of the Board of Directors.

Article 8: Application for membership or partnership

Any eligible organisation wishing to become a Member or Partner of ESPP must address to ESPP on paper or email a request to become a Member or Partner justifying their eligibility and indicating their agreement to the statutes. ESPP's Board of Directors will examine the request at its next meeting. The decision is made known to the applicant by post or email, accompanied if the decision is positive by details for the payment of the fee, which is due from the date of the Board of Directors at which the decision is taken in proportion to the part of the financial year remaining from this date. The Board of Directors decision as regards admission of new Members or Partners must be justified according to the conditions for membership but is final and cannot be questioned by the candidate. If membership is refused, a candidate can only apply one more time.

Article 9: Termination of membership or partnership

Members or Partners may leave the Association at any time by simply informing ESPP in writing, on paper or by e-mail. The resignation shall be effective immediately on receipt by ESPP.

However, membership fees remain due for the financial year in progress.

ESPP may not exclude an eligible organisation which pays the annual membership fee from remaining a Member or Partner, except in following situations:

- Non-payment of membership or partnership fees due within the deadlines fixed by the General Assembly or by the Board of Directors shall automatically result in the exclusion of an Member or Partner.
- The General Assembly may exclude from ESPP any Member or Partner considered, by a vote of the General Assembly as defined below, to have carried out or be responsible for actions which are gravely in conflict with the objectives or statutes of ESPP. The Board of Directors may temporarily suspend any Member or Partner if it considers these criteria applicable pending a decision to be taken at the next General Assembly meeting. Exclusion does not result in reimbursement of membership or partnership fees nor in any other compensation.

Chapter IV: Financial Resources, Assets and Membership fees

Article 10: Resources and assets

The resources of ESPP forming its assets for non-profit-making purposes are made up of:

- Yearly membership fees and other contributions paid by Members and Partners
- Fees for services provided by ESPP, income from sales of products or contributions for projects developed by ESPP for its Members and/or Partners and/or third parties
- Grants, donations or external funding to ESPP from any third party
- Any other form of income authorised by law.

Article 11: Membership and Partnership fees and other contributions

The level of annual membership and partnership fees is fixed by the General Assembly by a simple majority vote (fixed for year N+1 if the General Assembly is after 1st July, or for the current financial year N if the General Assembly is before this date)

The fee may be different for different types of organisations subject to the condition that the calculation is based on objective elements and that the difference between the highest fee level and the lowest cannot exceed a factor of 5x.

The annual membership and partnership fee shall not in any event exceed 20 000 Euros /year.

The levels of fees for Members and Partners are identical for the same type of organisation.

Paid membership or partnership fees are in no case reimbursable, neither totally nor partly.
Fees for specific projects or services carried out by ESPP for one or more Members or Partners are not covered by the yearly Membership fee.

Chapter V: The General Assembly

Article 12: Members of the General Assembly

The General Assembly shall be the highest body of the Association. Only the General Assembly shall have the power to decide about the changes to the statutes, objectives, the general policy and the strategy of ESPP.

The General Assembly is made up of each of all of the Members. It will meet at least once per year.

The number of votes each Member holds at the General Assembly is proportional to their membership fee (for the current year N if the General Assembly is after 1st June or in the previous year N-1 if the General Assembly is before this date)

Partners may also participate but solely on a consultative basis (right to information, to speak, but no vote).

The voting right of each Member shall be determined based on the following formula:

$$(\text{Membership fee} / 100) = \text{number of votes}$$

Each year the Board of Directors shall inform the Members on the number of total votes that were available during last financial year.

All Members and Partners can only validly be represented by one individual, which can be appointed for each meeting of the General Assembly, by the Member or Partner, but must be the legal representative or hold an appropriate mandate. A Member may also be represented with its voting rights by the representative of another Member holding a specific power of attorney to this effect. Each Member may only hold the proxy for a maximum of two other Members.

Each Member and Partner shall bear its own personnel, travel and other costs related to its attendance at the General Assembly.

The General Assembly is chaired by the Chairperson of the Board of Directors. It is held at any place chosen, for the next time, by the General Assembly, or otherwise by the Board. It is called by the Chairperson of the Board or at request of at least one third of the Members.

Article 13: Powers of the General Assembly

The General Assembly is empowered to:

- change the statutes or decide to dissolve ESPP
- elect and revoke some or all of the members of the Board of Directors
- approve annually the budget and accounts proposed by the Board of Directors
- approve the annual action plan
- grant discharge to the Board of Directors members and the auditor
- set the annual membership and partnership fee and its terms of payment
- appoint auditor(s)
- exercise all other powers and decisions according to Belgian law and to the ESPP statutes

Article 14: Organisation of General Assembly meetings

The Members and Partners are called to the General Assembly meeting by the Board of Directors.

The call to the General Assembly meeting contains the agenda and is addressed to all Members and Partners either by post mail or electronically at least three weeks before the date of the meeting.

The meetings may take place either as physical meetings or electronically (telephone meeting, video conference, web meeting...). In case of electronic meetings, the participating Members and Partners are deemed to be present.

Article 15: Voting rules

- a) Quorum: the General Assembly may vote validly only if at least one fifth of Members (of Members only, not Partners) and at least one fifth of Members' votes are present or represented except as specified below.
- b) The General Assembly decisions are taken by simple majority of the Members' votes present or represented except as specified below. In case of a tied vote, the Member of which the Chairperson is the representative, has a deciding vote.
- c) However, the decisions regarding the (i) exclusion of a Member or Partner, (ii) modification of the statutes, (iii) dissolution of the Association and (iv) allocation of the net assets, can only be taken when a quorum of two thirds of all Members' votes are present or presented. These decisions are taken by a majority of at least two thirds of all the Members' votes present or represented, with the exception of the decisions regarding (i) the modification the ESPP objectives and activities and (ii) the dissolution of the Association, which require a majority of four fifths of the Members' votes present or represented.
- d) When the conditions above regarding the quorum, in (a) or (c), are not met, a new meeting shall be held, physically or electronically, within the next six weeks, which will be able to validly vote regardless of the number of effective members present or represented.

Article 16: Minutes

The decisions of the General Assembly are recorded by the Secretary of the Board in the form of minutes of meetings. These are distributed to all Members for approval, then signed by the Chairperson of the Board and another one of its Members. The minutes are kept at the registered office of the Association. All Members and Partners may on request receive a copy of the minutes.

Chapter VI: The Board of Directors

Article 17: Members of the Board of Directors

The Association is governed by a Board of Directors comprised of an odd number of members, being (i) Members or Partners ("Legal entities-Directors") or (ii) representatives of Members or Partners ("Physical persons – Directors"), also referred to as Directors (*administrateurs*), elected by and revocable at any time by the General Assembly, from amongst candidates proposed by the Members (only, not by Partners). The Board of Directors shall comprise a minimum of three members and a maximum of seven members, it being understood that the Board of Directors shall at all times contain one member less than the number of Members in the General Assembly.

The Directors are elected for one year (plus through to the next General Assembly after the end of this period of one year), renewable, unless revoked by the General Assembly.

The Board appoints amongst the Physical Persons-Directors, (i) a Chairperson, (ii) a Treasurer, in charge of ESPP budgets and accounts to be submitted to the General Assembly, and (iii) a Secretary, in charge of legal matters.

When the Chairperson is unable to attend the meetings of the Board of Directors or General Assembly, the oldest Director present (by age of person) shall replace him or her.

Article 18: Meetings and votes of the Board

The Board of Directors is called by the Chairperson, by post mail or electronically, with the agenda, at least five full working days before the meeting.

The Board of Directors' meetings may take place as physical meetings or electronically, as described for the General Assembly above. If at least a third of the Directors so request, for reasons of travelling, the meeting shall be held electronically.

The Board of Directors' decisions are taken by simple majority of the Directors present or represented, each Director has one vote, and each Director being allowed to represent one other, by means of a proxy in paper or electronic. In case of a tied vote, the Chairperson has a deciding vote. The decisions are validly taken if at least half the Directors are present or represented.

The Board may decide to make Board meetings open to all Members and Partners (as consultative observers).

The Board decisions are recorded in minutes by the Secretary, circulated to all Board members for approval, signed by the Chairperson and filed at ESPP's registered office. All Members and Partners are entitled to freely consult the minutes and to request copies thereof.

Article 19: Powers of the Board

The Board of Directors has full powers for the administration and management of the Association. It also has residuary powers, meaning that every matter not expressly attributed to the General Assembly by Belgian law or by the present statutes, lies within the Board's authority.

The Board of Directors has specifically at least the following powers:

- Implement the decisions of the General Assembly
- Prepare the documents to be approved by the General Assembly
- Drafting and approving or proposing to the General Assembly internal rules
- Establish groups or sub-committees, nominating their members, defining their mission and duration as well as supervising and coordinating their activities
- Approve any project involving or carrying the name of ESPP
- Subject to the ratification by the General Assembly, decide to change the address of the registered office of the Association
- Define the annual activity plan and related budgets, within the overall budget defined by the General Assembly
- Taking operational decisions to follow and implement the activity plans and strategy
- Management of offices and employees

The Board of Directors may define and validate positions, documents or communications to be published or made by ESPP, with the principle that positions should generally represent consensus of ESPP Members and Partners reached after consultation of all Members and Partners.

Article 20: Delegation

The Board of Directors may, under its own responsibility, delegate the day-to-day management of ESPP or any specific tasks and/or responsibilities to one of its Members or Partners, or to a named member of the staff of the Members or of Partners, or to any other individual or organisation.

In particular, the Board may designate and mandate person(s) or organisation(s) as Secretariat, Director (= "*directeur*"). to be distinguished from an "*administrateur*" which is a member of the Board of Directors) or similar, with a statute as employed staff and/or as contracted service suppliers and/or as some other form of contractual arrangement, to carry out management, representation, development, coordination, communication, etc. of and on behalf of the association. The Board will ensure that the actions engaged and positions taken on behalf of the association, by these persons/organisations correspond to the association's objectives and to the priorities and orientations fixed by the General Assembly.

The Board will define and adopt a document specifying the different delegations, roles and responsibilities of the Chairperson, and where appropriate of other designated Board members, principal staff, delegated persons or representatives or external suppliers and where appropriate relations with other organisations (e.g. other nutrient/phosphorus platforms or similar structures).

Article 21: Representation

Any contract, deed, letter, or other act or document which binds ESPP, unless within the bounds of the day-to-day management or of a specific delegation granted by the Board of Directors, must be executed (signed on paper or electronically) either by the Chairperson and one other Director, or, in the Chairperson's absence, by three Directors acting jointly.

Chapter VII: Divers

Article 22: Accounting year, budget and accounts

The Association's accounting year runs from 1st January to 31st December.

Exceptionally for the year of establishment of ESPP, the accounting year will run from the date of establishment to 31st December 2015 and will integrate funds available from activities carried out in ESPP's name before ESPP's establishment.

The Board of Directors submits each year the proposed budget for the coming accounting year or the accounting year underway for the approval of the General Assembly.

The General Assembly decides each year the budget, including estimated expenditure corresponding to Association's projected activities, and estimated incomes to cover this expenditure, including Members' and Partners' fees.

The General Assembly will approve each year the accounts for the previous year (N-1) prepared by the Treasurer and the Board of Directors.

The General Assembly may (e.g. if so required by Belgian law) appoint one or more statutory auditor(s) who will be charged with the audit of the financial status of the Association, the annual accounts and the regularity of the Association's transactions. The statutory auditor will draw up a comprehensive written report, which will be submitted to the General Assembly.

Article 23: Internal Rules

The Board of Directors may draw up and adopt or submit for adoption to the General Assembly internal rules, which must conform to these Statutes and to the orientations defined by the General Assembly, to govern the functioning of the Association.

Article 24: Liquidation of the Association

If ESPP is dissolved, either by decision of the General Assembly as indicated in the statutes, or because it no longer has three Members, then the General Assembly will designate Receivers, define their powers, and define how any net assets of ESPP after liquidation should be disposed of. The assets must be granted to a non-profit organisation having within its scope one or more objectives similar to ESPP's objectives.

Article 25: Liabilities

ESPP's commitments, debts and liabilities are its own: its Members and Partners, in such capacity, derive no liabilities (save for the payment of fees) from the ESPP's commitments, debts and responsibilities. The same applies for the members of the Board of Directors, except liability for mismanagement.