

**Statement of the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee**  
on the  
**Report on the Inquiry into the 2018/2022 FIFA World Cup™ Bidding Process**  
**prepared by the Investigatory Chamber of the FIFA Ethics Committee**  
November 13, 2014

**1 Introduction**

**1.1 Preliminary remark**

Given the fact that a bid team from Australia had participated in the bidding process regarding the 2022 World Cup™ and that the relevant report therefore also contained considerations and findings on this particular team, the Deputy Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee, being of Australian nationality, deemed it appropriate to refrain from being involved in examining the report and issuing a corresponding statement. This step is however without any prejudice to the Deputy Chairman's involvement in possible Ethics proceedings that might result from the investigations presently relevant. Whether or not the Deputy Chairman – or any other member of the Ethics Committee – will have to withdraw from any such proceeding will be assessed separately on the basis of the circumstances of each particular case.

**1.2 General**

On December 2, 2010, the Executive Committee of the Fédération Internationale de Football Association (FIFA), using an anonymous voting procedure, determined the hosts for the 2018 and 2022 FIFA World Cup™ tournaments. Allegations of corruption related to the voting process had surfaced even before the final vote that December day in Zurich. Ever since, there have been persistent allegations of misconduct with respect to the selection process.

Given the importance of this event to international football, the concerns raised by participants in the process, and the lingering doubts surrounding the procedure for selecting the host cities, the Investigatory Chamber of the FIFA Ethics Committee determined to review the bidding and award process as well as specific allegations of misconduct. The investigation has been led by the Chairman of the Chamber, Michael J. Garcia, and the Deputy Chairman, Cornel Borbély.

## **2 Jurisdiction and Investigative Process**

### **2.1 Authority to Investigate Under the FIFA Code of Ethics**

Generally, the starting point for any inquiry by the Investigatory Chamber of the FIFA Ethics Committee must be the 2012 FIFA Code of Ethics (hereinafter: “the FCE” or “the Code”). According to art. 28(1) of the FCE, the Investigatory Chamber shall investigate potential breaches of provisions of the Code on its own initiative and ex officio at its full and independent discretion.

FIFA’s first Code of Ethics took effect October 6, 2004. Since then, the Code has been revised several times, including in 2009 and, most recently, in 2012. The FIFA World Cup™ Bidding Process took place primarily after the enactment of the 2009 Code of Ethics (“2009 FCE”) and prior to the 2012 revisions. However, jurisdiction for the inquiry presently relevant is still governed by the standard set forth in the current FCE. According to art. 3 of the FCE, the Code shall apply to conduct whenever it occurred including before the passing of the rules contained in the Code except that no individual shall be sanctioned for breach of the Code on account of an act or omission which would not have contravened the Code applicable at the time it was committed nor subjected to a sanction greater than the maximum sanction applicable at the time the conduct occurred. Further according to art. 3 of the FCE, this shall, however, not prevent the Ethics Committee from considering the conduct in question and drawing any conclusions from it that are appropriate.

Based on the aforementioned provision of the FCE, the report presently relevant (hereinafter: “the Report”) strived to consider the conduct of the participants in the bidding process and draw appropriate conclusions.

### **2.2 Referral from FIFA**

On November 18, 2012, the Sunday Times of London published an article alleging that the Qatar bid team paid USD 1 million to Samson Adamu, the son of FIFA Executive Committee member Amos Adamu, in the months prior to the vote for the FIFA World Cup™ host. The newspaper stated the money was offered to “sponsor” an “African [Football] Legends Dinner” hosted by Samson Adamu in Johannesburg before the 2010 FIFA World Cup™ in South Africa.

In advance of publication, the Sunday Times forwarded to FIFA certain material in their possession, and FIFA in turn forwarded the same information to the Chair of the Investigatory Chamber of the FIFA Ethics Committee.

### **2.3 Investigative Process**

The investigation into the bidding by nine teams, composed of eleven different countries – a process that in its formal phase covered more than a year – was jointly led by both independent members of the Investigatory Chamber of the FIFA Ethics Committee, the Chairman and the Deputy Chairman. In accordance with art. 35(2)(c) and 32 of the FCE, the Chairman, a United States national, recused himself from any issues concerning the United States bid team. Further, in accordance with the same provisions, the Chairman also exercised

his discretion to recuse himself from all issues and any findings related to the Russian bid team based on a travel ban imposed on him by the Russian government in April 2013 related to the Chairman's prior work as a prosecuting attorney. FCE Arts. 35(2)(c) and 32. As a result, the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee was solely responsible for all findings and conclusions with respect to the activities of those bid teams or any nationals from those countries.

Additionally, in accordance with art. 35(2)(c) of the FCE, the Deputy Chairman, a Swiss national, recused himself from all issues and any findings related to Swiss nationals.

The inquiry into the bidding process involved interviewing representatives of each of the bid teams, current and former FIFA Executive Committee members as well as other FIFA officials. In addition, other football officials who were believed to have relevant information have been called upon to assist in establishing the facts of the case. Third parties, although not subject to the cooperation requirements of the FCE, were also approached and asked for cooperation. In all, more than 75 interviews were conducted, either in person with an audio recording for the record or through written questions. Investigatory team members traveled to ten countries to conduct interviews, including the United States, Italy, the Netherlands, Spain, Japan, Australia, the United Kingdom, Malaysia, Switzerland and Oman. Witnesses who could not appear for interviews were sent written questions. In many cases, follow-up questions were sent.

Each bid team was sent a request for documents and, as the facts were further developed, requests for specific follow-up material. FIFA provided voluminous materials related to the registration and evaluation process, prior Ethics proceedings, and other relevant documents. Other football associations, confederations and officials provided material relevant to certain issues. In a number of cases, third parties voluntarily produced documents that contributed to establishing the facts. All of that material, approximately 200,000 pages of relevant material, is part of the official Ethics Committee record of this case.

The allegations examined were widespread and varied. Some were made prominently in the media; some were reported directly to the Investigatory Chamber of the FIFA Ethics Committee. Still others were uncovered in the course of reviewing the materials produced. With each issue, and with every witness, the same procedure was followed, namely a process designed to address the significant allegations in as thorough and efficient a manner possible while treating fairly all parties to that process.

### **3 FIFA and the FIFA World Cup<sup>TM</sup>**

#### **3.1 Structure of FIFA**

##### **3.1.1 Associations and Confederations**

FIFA, the world's governing body for organized football, is a private association under Swiss law, with its headquarters in Zurich, Switzerland (art. 1 of the FIFA Statutes). FIFA is currently composed of 209 member associations covering the globe. Those national

associations are responsible for organizing and supervising football in their respective countries (cf. art. 10(1) of the FIFA Statutes).

National football associations have not only joined together in FIFA but also in the Confederations with limited geographical scope and jurisdiction. There are six such Confederations in total, each of them responsible for a specific region: Asian Football Confederation (AFC); Confédération Africaine de Football (CAF); Confederation of North, Central American and Caribbean Association Football (CONCACAF); Confederación Sudamericana de Fútbol (CONMEBOL); Oceania Football Confederation (OFC); and Union des associations européennes de football (UEFA) (cf. art. 20(1) of the FIFA Statutes). The Confederations themselves are not members of FIFA.

Under Swiss association law, they are considered independent branches of the organization. Nevertheless, the FIFA Statutes place certain duties on the Confederations and grant them specific rights within the framework of FIFA (cf. art. 20(3) of the FIFA Statutes). One of the most important powers residing with the Confederations is the selection of the members of the FIFA Executive Committee (cf. art. 20(3)(g) of the FIFA Statutes).

### **3.1.2 Executive Committee**

FIFA consists of the following bodies: the Congress (legislative); the Executive Committee (executive); and the general secretariat (administrative) (cf. art. 21 of the FIFA Statutes). The Executive Committee is responsible for overseeing FIFA's day-to-day business and representing FIFA vis-à-vis third parties (cf. art. 31 and 32 of the FIFA Statutes and art. 69 of the Swiss Civil Code). Relevant decisions of the FIFA Congress are binding on the Executive Committee (art. 21(1) of the FIFA Statutes). Within this – very liberal – legal framework, FIFA has room to determine the authority of the Executive Committee in response to specific circumstances.

Under FIFA Statutes, the Executive Committee is in responsible for, among other things:

- Appointing and dismissing the FIFA Secretary General (art. 31(8) of the FIFA Statutes).
- Appointing the chairmen, deputy chairmen and members of the standing committees of FIFA (art. 31(4) of the FIFA Statutes).
- Approving FIFA Organization Regulations (art. 31(10) of the FIFA Statutes).

Notwithstanding the above, the FIFA Executive Committee has the general power to act and decide on all matters that do not fall within the authority of the FIFA Congress or any other FIFA body (art. 31(1) of the FIFA Statutes). Moreover, it has the final decision-making power concerning any matters not provided for in the FIFA Statutes (art. 85 of the FIFA Statutes).

Decisions in the FIFA Executive Committee are taken, in principle, by simple majority of the votes cast by the members present (art. 27(6) of the FIFA Statutes). If votes are equal, the FIFA President, who presides over the Executive Committee and has an “ordinary” vote, then has the deciding vote (art. 32(5) of the FIFA Statutes). The FIFA Executive Committee presently consists of 25 members (art. 30(1) of the FIFA Statutes). The President and the

female member are elected by the FIFA Congress for a term of four years (art. 30(1), (2) and (3) of the FIFA Statutes). All other Executive Committee seats, including the eight vice presidents, are determined by the Confederations (art. 30(4) of the FIFA Statutes).

The seats in the FIFA Executive Committee are apportioned to the different confederations according to the following allocation formula (cf. art. 30(4) of the FIFA Statutes):

- CONMEBOL: 3 (1 vice president and 2 members);
- AFC: 4 (1 vice president and 3 members);
- UEFA: 8 (3 vice presidents and 5 members);
- CAF: 4 (1 vice president and 3 members);
- CONCACAF: 3 (1 vice president and 2 members); and
- OFC: 1 (1 vice president).

Each one of these 23 FIFA Executive Committee members elected or appointed by a Confederation (also for a term of four years) must subsequently be installed by the FIFA Congress (art. 30(1) of the FIFA Statutes). To date, in the more than 50 years since this process has been in place, no Executive Committee appointment proposed by any Confederation has been rejected by the Congress. Once installed, a vice president or other member of the FIFA Executive Committee may only be removed from office by the FIFA Congress or the congress of the Confederation concerned, subject to sanctions and decisions issued by the FIFA judicial bodies (art. 30(4) of the FIFA Statutes). Once again, there is no record of removal by the Congress of any sitting Executive Committee member or of such action being taken by any confederation.

There are few rules or guidelines imposed on the Confederations in electing or appointing FIFA Executive Committee members. In the past, those rules were limited to certain time constraints and to stipulating that not more than one member from the same FIFA member association could serve on the Executive Committee simultaneously. As of 2013, candidates for FIFA Executive Committee also must undergo an integrity check prior to their election or re-election. Accordingly, procedures and preconditions with regard to elections or appointments of the eight vice presidents and 15 members of the FIFA Executive Committee are governed almost entirely by relevant Confederation rules and regulations. These rules and regulations, in turn, differ from Confederation to Confederation.

## **3.2 FIFA World Cup™**

### **3.2.1 Overview**

By statute, FIFA is tasked with organizing its own international competitions (art. 2(b) of the FIFA Statutes), the highest profile of which is the FIFA World Cup™. While there are several different “World Cup” tournaments organized by FIFA, the term “FIFA World Cup™” is generally used to describe the quadrennial competition of the senior men’s national (“A”) teams of the FIFA member associations (the “World Cup™”). The FIFA World Cup™ consists of a qualifying stage and a final tournament. For the public, the focus is on the final tournament of a FIFA World Cup™, which takes place in one host country (or two in the case of co-hosting nations) over a period of approximately four weeks. The name of the country

that hosts the final round of the FIFA World Cup™ is reflected in the designation given the tournament: for example, 2014 FIFA World Cup™ Brazil.

The inaugural tournament of the FIFA World Cup™ took place in Uruguay in 1930. Since then, it has been continuously organized on a four years cycle, except for 1942 and 1946 when it was interrupted by the Second World War. For each tournament, FIFA decides the number of places awarded to each of the Confederations beforehand, generally based on the relative strength of the Confederations' teams, with host nations receiving automatic qualification to the final tournament.

The final tournament of each FIFA World Cup™ is divided into two stages: the group stage followed by the knockout stage. In the group stage, teams compete within eight groups of four teams each. The top two teams from each group advance to the knockout stage, which is a single-elimination round in which teams compete in one-off matches beginning with the round of 16 (or the second round) and advancing through to the final match.

### 3.2.2 Attendance and Viewership

The FIFA World Cup™ is the premiere event for world's most popular sport. In 1930, over half a million people attended the first FIFA World Cup™ tournament and in 1950 attendance exceeded one million for the first time. The last three FIFA World Cup™ tournaments (the 2006 FIFA World Cup™ Germany, the 2010 FIFA World Cup™ South Africa, and the 2014 FIFA World Cup™ Brazil) have each been attended by over three million people. The FIFA World Cup™ was first televised in 1954 and is now the most widely viewed sporting event in the world. For example, the cumulative audience of all matches of the 2006 FIFA World Cup™ Germany is estimated to have been 26.29 billion people while the final match alone drew 715 million viewers. The FIFA World Cup™ attracts many sponsors.

### 3.2.3 Revenue

The proceeds generated by the FIFA World Cup™ make up by far the major share of FIFA's overall revenue. For the four-year periods that result from the corresponding cycles of the FIFA World Cup™ tournaments, the amount of FIFA World Cup™-related FIFA revenue for recent years is represented as follows (in million US Dollars).

	1995-1998	1999-2002	2003-2006	2007-2010	2011-2014
TV Rights	162,2	987,3	1'300,9	2'408,1	2'418,4
Marketing Rights	145,6	497,8	559,9	1'071,9	1'479,2
Licensing Rights			72,5	54,7	76,6
Hospitality Rights			203,8	120,0	174,9
<b>Total</b>	<b>307,8</b>	<b>1'485,1</b>	<b>2'137,1</b>	<b>3'654,7</b>	<b>4'149,1</b>

As shown in the chart above, FIFA World Cup™-related revenue consistently accounts for 80 to 90% of FIFA's overall revenue. For example, FIFA's total revenue for the period of 2007 to 2010 amounted to USD 4,2 billion, with the FIFA World Cup™-related revenue constituting 87% of this total. The numbers make clear that FIFA could not cover expenses without the revenue generated by the FIFA World Cup™.

### **3.2.4 Selection of Hosts**

Given the prestige inherent to the FIFA World Cup™, being selected as a host country brings with it a considerable attention on the world sports stage. Moreover, the economic benefits that result from hosting the final competitions of a FIFA World Cup™ tournament are substantial. A host country can anticipate a multi-billion dollar revenue increase from this one-month event.

Host countries also face certain demands. For example, they must ensure that their general and sports-specific infrastructure is capable of coping with the considerable challenges that result from vast numbers of spectators, athletes and administrative staff coming to a few selected locations for a very short period of time. Indeed, FIFA issues comprehensive requirements for sports-specific infrastructure requiring compliance within specific deadlines.

With regard to the selection of countries as hosts of the final competitions of a FIFA World Cup tournament, the relevant rules and regulations have changed over time. For four decades until 1998, FIFA followed a pattern of alternating the hosts of FIFA World Cup™ tournaments between the Americas and Europe. The 2002 FIFA World Cup™ however marked a first change to this pattern with the host countries (South Korea and Japan) located in Asia. The 2006 FIFA World Cup™ was hosted by Germany in line with the custom to hold every second FIFA World Cup™ in Europe. By contrast, the decisions on the hosts of the 2010 and 2014 FIFA World Cup™ tournaments were made in accordance with a specific rotation scheme among the FIFA Confederations, allowing only countries from the chosen Confederation (Africa in 2010, South America in 2014) to bid to host the tournament. That rotation system was abandoned in 2007. Since that time, any country represented by a national association in FIFA may apply as host for a FIFA World Cup™. The only restriction is that tournaments may not be held on the same continent, or hosted by member associations of the same Confederation, on two successive occasions (art. 80(4) of the FIFA Statutes). These principles applied to the bidding process for hosting the 2018 and 2022 FIFA World Cup™ tournaments, although with one "informal," yet significant, modification: the 2018 FIFA World Cup™ would be played in Europe.

From 1964 through the most recent selection of hosting nations in 2010, the decisions on which country would host a FIFA World Cup™ tournament were made by the FIFA Executive Committee. Prior to that time, the FIFA Congress made the selection. In considering the proposed change, it was noted in the record from that meeting:

*"If accepted, this will enable national associations concerned to make adequate preparations without encountering strong competition which regrettably is occurring in connection with*

*the present campaign [Election of World Championship venue 1970, decided by 1964 Congress]. The present uncertainty causes national associations much expense to canvass for votes; puts strain on friendships of some who do not like to discriminate between the applicants particularly when both claimants have much in common; involves them in much work, worry and expense and prevents them from concentrating their efforts on more fruitful activities. The Committee feel that many of the delegates who exercise their right to vote do so without having seen the facilities which are offered by the various applicants and are therefore forced to base their choice on not wholly relevant issues. All this will be avoided if the following plan, proposed by the Executive Committee is found generally acceptable. It would be, of course, for members of the Executive Committee to satisfy themselves through personal visits to the countries selected that all the facilities and amenities available were suitable – football stadia, hotels, hostels and so on – and that financial requirements and national economy of the potential host, was satisfactory. They would also study the advisability and practicability of allocating the World Cup and Congress to Continents which hitherto have not staged them.”*

It appears that for the better part of a century, one venue at a time was bid; for the selection in 2010, FIFA decided to bid both the 2018 and 2022 venues simultaneously.

#### **4 Overview of the 2018/2022 FIFA World Cup™ Bid Process**

##### **4.1 Technical and Legal Requirements**

###### **4.1.1 Entities / LOCs**

On January 15, 2009, FIFA sent out a notice inviting eligible FIFA member associations to file an expression of interest with FIFA for “either or both” of the 2018 and 2022 FIFA World Cup™ hosting rights. Following this notice, 11 Member Associations (MAs) filed such expressions of interest. On February 16, 2009, FIFA sent a document entitled “Bid Registration” to each MA that had expressed interest in hosting the games. The Bid Registration detailed the rules and procedures governing the Bidding Process for each interested MA. Additional terms governed joint bids, such as those pursued by the Belgium-Holland MAs and the Spain-Portugal MAs. Executed Bid Registration agreements were submitted to FIFA by March 16, 2009.

By September 18, 2009, the registered bidders were required to establish a “bid committee” in one of two forms: as a separate business unit of the bidding MA or as a separate legal entity. The sole purpose of the bid committee was to participate in the FIFA World Cup™ bidding process on behalf of the MA, while operating separately from the MA’s day-to-day operations. The MAs’ general resources and the resources allocated to the bidding process were therefore managed separately. By December 11, 2009, every bidder established an additional legal entity known as a Local Organising Committee (“LOC”). The LOC’s sole purpose was to run the FIFA World Cup™ operations in the event the bid succeeded. During the bidding process, the LOCs remained dormant.



#### **4.1.2 Financing of Bid Activities**

The MAs and bid committees were responsible for financing the promotion of their bids. FIFA allowed bid committees to fund their activities from both the public and the private sector. However, FIFA prohibited the use in bidding activities of funds provided by FIFA to the MA through the FIFA Financial Assistance Programme, the FIFA Development Programme, or other FIFA-funded initiatives. Bid committee activities were therefore funded largely by “bid sponsors,” under sponsorship agreements that, like other aspects of the bidding process, were subject to FIFA regulation and oversight. Before appointing a bid sponsor, each bid committee needed FIFA’s written approval of that sponsor and of the contemplated sponsorship agreement. Once the agreement was signed, bid sponsors could pledge financial and other support for the bid publicly. Bid committees were allowed to solicit and receive donations from entities other than their bid sponsors, provided those donors refrained from making public reference or statement in any form to the fact, or nature, of their donations.

Under the Bid Registration agreement, all activities were to be conducted in an “economically reasonable and prudent manner at all times recognizing its responsibility to safeguard the integrity and reputation of football and complying with the FIFA Code of Ethics.” Each MA was required to ensure that the bid committee established a clear accounting system and appointed an “independent and internationally recognized auditing firm” to carry out a final audit of the bid committee’s finances at the end of the Bidding Process. The bid committee was to provide FIFA with a copy of this audit report within 90 days of the vote for FIFA World Cup™ host. This requirement applied to all bid teams regardless of the outcome of the vote.

#### **4.1.3 Bid Books**

The 2018/2022 bid process marked the first time that the Bidding Agreement set forth precise requirements for the “bid books” the bidders would submit. Bid books are the centerpiece of every FIFA World Cup™ bidder’s written proposal and are described in the Bidding Agreement as “the core element of the Bid.” Typically sleek and colorful publications, the books detail every facet of how the bidder plans to conduct the event, including the unique characteristics of the bidder’s “hosting concept”, the bidder’s ideas to promote football development, and specifics concerning stadiums, geography, transportation, media rights, accommodations, security, and other practical aspects of the bidder’s plan to host the FIFA World Cup™. In the Bidding Agreement, every bid committee acknowledged and agreed that “all information given, statements made, and plans and measures proposed” in its bid book “will have a binding legal character and be legally binding” not only for the bid committee, but also for the LOC and the MA, both of which would sign related agreements to be submitted along with the bid book. The Bidding Agreements for the 2018/2022 bidding process thus sought to ensure that the bid books, which were due to be submitted to FIFA in May 2010, would contain more than mere empty promises.

FIFA provided templates for the various agreements and guarantees bidders executed and submitted during the bid process. Among those agreements was a series of “Hosting

Documents” to be executed by the MAs and annexed to the bid books, including government guarantees concerning customs and visa procedures, tax exemptions, security measures, commercial rights, and other topics; legal declarations to be signed by the national government concerning that nation’s laws addressing antitrust protections, ambush marketing, public advertising regulations, no-fly zones around event venues, data-protection laws and other subjects; guarantees from local governments of the cities proposed as hosts of FIFA World Cup™ games; agreements with owners and operators of the facilities proposed as FIFA World Cup™ venues; framework agreements for every proposed training site to be used during the FIFA World Cup™; agreements with the many hotels needed to accommodate the hundreds of thousands of visitors a FIFA World Cup™ event would draw; and a legal opinion from a reputable attorney in that nation confirming the validity and enforceability, under the bidding country’s laws, of the other agreements and guarantees submitted to FIFA.

Bid teams took the requirements of the contents of the bid books quite seriously. Each team submitted a professional product of significant length and cost. Once the copies were filed with FIFA, they were made available to each Executive Committee member. It appears that, despite the “core” relationship to the bid’s merits, few members reviewed the books. Some members did take the opportunity to pass the books related to other bids on to the bid team from their respective home countries.

#### **4.1.4 Evaluations**

In order to assess key elements of each bid by a neutral fact-finding body, FIFA created the “FIFA Evaluation Group for the 2018 and 2022 FIFA World Cup™ bids” (the “Evaluation Group”). As a result of those inspections, the Evaluation Group produced written reports that “evaluate the information provided in the Bidding Documents, indicate the extent to which the requirements have been fulfilled, and identify potential gaps and risks in respect of FIFA’s requirements for hosting a FIFA World Cup™”. Detailed reports for each bidder that evaluated categories of operational and legal risks were prepared and submitted to the President and the Executive Committee members on November 19, 2010.

## **4.2 Rules of Conduct**

### **4.2.1 FIFA Code of Ethics**

The FIFA Code of Ethics applies to all football officials (cf. art. 2 of the FCE). The 2006 edition of the FCE was in effect until September 1, 2009, when the 2009 FCE took effect for the remainder of the bidding process (cf. art. 21 of the 2009 edition of the FCE). Any sanctions for conduct committed before the effective date of the 2012 FCE must be based upon violations of the substantive provisions in force at the time the conduct took place and cannot be greater than those available at that time (art. 3 of the FCE). Accordingly, although the procedures of the current Code govern this inquiry and the actions of the Investigatory Chamber of the FIFA Ethics Committee and those asked to assist in establishing the facts of the case in this process, any prima facie case that an individual committed an Ethics violation during the bidding process must also be based in part upon the relevant Code in effect at the time of the alleged misconduct.

Both the 2006 and 2009 editions of the FCE contained substantive provisions prohibiting certain conduct by football officials. In the 2006 code, such provisions governed, among other things, general conduct, conflicts of interest, gifts, bribery and duty to disclose violations (see, e.g., art. 3, 8, 11, 12 and 16 of the 2006 edition of the FCE). Likewise, the 2009 Code contained rules governing those same substantive areas with some modifications. The rules related to gifts did not change and continued to prohibit officials from accepting “gifts and other benefits that exceed the average relative value of local customs” or cash in any amount (art. 11 of the 2006 edition of the FCE, art. 10 of the 2009 edition of the FCE).

The Conflicts of Interest and Bribery rules also remained unchanged (art. 8 and 12 of the 2006 edition of the FCE, art. 5 and 11 of the 2009 edition of the FCE).

As a result, the substantive rules governing those areas of conduct remained essentially the same throughout the bidding process.

Under the system in place during the bidding process, Ethics complaints could only be filed by the parties designated in the Code, including members of the FIFA Executive Committee and the FIFA Secretary General. In practice, complaints were generally sent to the FIFA Secretary General who would then decide whether the matter merited submission to the FIFA Ethics Committee.

#### **4.2.2 Other Bidding Regulations**

Bidding documents vested responsibility for the Bid Committees’ conduct not only with the Committees themselves, but also with their respective MAs. By reviewing, signing, and returning the Bid Registration submitted to FIFA in March 2009, an MA formally entered the bidding process and agreed to all provisions, procedures, terms and requirements the process entailed. The Bid Registration laid out rules and requirements for the by-laws and internal regulations of each bid committee, ensuring that the MA has legal ability to adequately influence, direct and control the decisions and activities of the Bid Committee with respect to the Bid. Among other rules, FIFA required that the MA be the sole shareholder of the bid committee, unless local law required otherwise, and that the MA elect the majority of the bid committee’s board members and chairman. Because the MAs from the bidding nations were also required to sign the Bidding Agreements the Bid Committees submitted to FIFA in December 2009, those MAs were jointly and severally liable for the proper performance of the Bid Committee’s obligations under the Bidding Agreement.

Those obligations included compliance with the FIFA Code of Ethics and similar rules of conduct, as FIFA emphasized – and the MAs and Bidding Committee acknowledged – multiple times during the bidding process.

By executing the Bid Registration in March 2009, the MAs agreed in particular with the following:

*“It is essential to the integrity, image and reputation of FIFA and the Competitions that the conduct of the Member Association and the Bid Committee during their Bid preparations complies with the highest standards of ethical behavior. The Member Association therefore expressly agrees to be bound by, and to comply with, the FIFA Code of Ethics in its*

*applicable form and the provisions, procedures, terms, rules and requirements outlined in this Bid Registration. The Member Association shall also be responsible for ensuring that the Bid Committee agrees to be bound by, and complies with, the FIFA Code of Ethics in its applicable form and the provisions, procedures, terms, rules and requirements outlined in this Bid Registration.”*

While, as noted above, the Codes of Ethics applicable during the bidding process included provisions forbidding bribery, excessive gifts, conduct giving rise to actual or apparent conflicts of interest, and abusing one’s position in football to further private interests, the bidding materials reiterated those basic principles of ethical behavior. Under the Bid Registration filings, for example, the MAs and bid committees were obliged to refrain from attempting to influence members of the FIFA Executive Committee or any other FIFA officials, in particular by offering benefits for specific behavior, and were prohibited from giving FIFA Executive Committee members or anyone associated with them any monetary gifts or other personal advantage that could give even the impression of exerting influence, or conflict of interest, either directly or indirectly, in connection with the Bidding Process. There was no requirement placed on Executive Committee members to report gifts from bid teams or their agents.

#### **4.2.3 Declarations of Compliance**

All bidders’ MAs and bid committees also submitted separate but substantively identical “Declarations of Compliance” affirming the applicability of the FIFA Code of Ethics and other rules of conduct. The MAs’ Declarations were submitted along with the Bid Registration materials filed in March 2009; the bid committees’ Declarations followed in September 2009 with the documents proving that the bid committees had been established.

#### **4.2.4 Bid Circular No. 2**

On March 16, 2010, FIFA issued “Bid Circular No. 2,” addressed to “the Member Associations of FIFA/Bid Committees who have expressed an interest” to host the FIFA World Cup™, and addressing issues related to “rules of conduct”. The triggering event for the release of this circular was the first meeting of the FIFA Ethics Committee under the new Chairman at which monitoring of the bid process was discussed. As a result, a “reminder” of the relevant rules of conduct was being sent, under the signature of the FIFA Secretary General, to the recipients of the circular:

*“In order to safeguard a fair, open and transparent Bidding Process, the FIFA Ethics Committee decided to remind you that the Member Associations and Bid Committees must conduct any activities in relation to the Bidding Process in full compliance with the rules of conduct set forth in Clause 11 of the Bid Registration as well as the declaration of compliance with the rules of conduct referred to in Clause 11.1 of the Bid Registration.”*

Attached was a two-page appendix detailing the governing “Rules of Conduct” found in the Bid Registration signed by representatives of each bid team. According to the relevant rules, the MAs and the Bid Committees were in particular obliged to conduct any activities in relation to the Bidding Process in accordance with basic ethical principles such as integrity,

responsibility, trustworthiness and fairness, to refrain from attempting to influence members of the FIFA Executive Committee or any other FIFA officials, to refrain from providing to FIFA or to any representative of FIFA, to any member of the FIFA Executive Committee and the FIFA Inspection Group any monetary gifts or other benefits in connection with the Bidding Process, and to refrain from collaborating or colluding with any other member association or any other third party with a view to unfairly influencing the outcome of the Bidding Process.

### **4.3 Timeline and Summary of Key Events**

#### **4.3.1 December 2008: Decision to Select Two Hosts at Once**

The 2010 FIFA World Cup™ vote marked the first time FIFA selected two FIFA World Cup™ hosts at once. The FIFA Executive Committee formally approved this “simultaneous bidding procedure” at its meeting in Tokyo on 19-20 December 2008.

#### **4.3.2 2009-Early 2010: Registration of Bidders**

MAAs were invited to submit an Expression of Interest to FIFA by February 2, 2009; those MAAs that expressed such an interest were required to subsequently submit a completed Bid Registration form by March 16. The bidders fulfilling all relevant criteria were:

- (1) Union Royale Belge des Sociétés de Football-Association and Koninklijke Nederlandse Voetbalbond (“Belgium/Holland 2018”)
- (2) The Football Association Ltd. (“England 2018”);
- (3) Football Union of Russia (“Russia 2018”);
- (4) Real Federación Española de Fútbol and Federação Portuguesa de Futebol (“Spain/Portugal 2018”);
- (5) U.S. Soccer Federation (“United States 2022”);
- (6) Football Federation Australia Limited (“Australia 2022”);
- (7) Japan Football Association (“Japan 2022”);
- (8) Korea Football Association (“Korea 2022”); and
- (9) Qatar Football Association (“Qatar 2022”).

#### **4.3.3 May 2010: Delivery of Bid Books**

On May 14, 2010, a delegation from each bid team provided their bid books to FIFA in a brief ceremony. Later, following the FIFA Congress plenary session on June 10, 2010, a “Bidders Exhibition” took place, which was “targeted to the participants of the FIFA congress” and included “one standardized exhibition stand per bidder and an area for socializing.”

#### **4.3.4 June-July 2010: FIFA World Cup™ in South Africa**

The 2010 FIFA World Cup™ South Africa took place from June 11 to July 11, 2010. On April 1, 2010, the FIFA Secretary General sent a letter to all bid teams requesting that they refrain from any bid related activities in South Africa during the event period in order to preserve the integrity regarding to the promotion, ‘look and feel’ and the unrestricted attention of the 2010 FIFA World Cup™. The Secretary General referenced Clause 7.3 of the Bidding Registration, which permits FIFA to regulate promotional activities by bid countries at FIFA events. Bid teams were, however, permitted to participate in an “Observers Programme” from June 27 to July 3, 2010, in Durban, Cape Town, and Johannesburg, South Africa. The aim of the program was to provide bid teams with an overall understanding of how the FIFA World Cup™ was run.

#### **4.3.5 July 2010: Bid Circular No. 3**

On July 7, 2010, FIFA sent “Bid Circular No. 3” to the same MAs and bid committees who received Bid Circular No. 2. In contrast to the prior “guidance,” this communication established new reporting requirements for contact with members of the FIFA Executive Committee and their member associations. These requirements included that each and every contact and/or initiative that a bidding association (including the relevant Bid Committees) makes (be it directly or indirectly) with a member of the FIFA Executive Committee or a member association of an FIFA Executive Committee member (be it directly or indirectly) should be reported in advance and in writing to the secretariat to the FIFA Ethics Committee. The report should include an explanation about the reasons for such contact as well as any other information that could have an impact on the Bidding Process.

The new policy placed no corresponding reporting requirement on the members of the FIFA Executive Committee or their respective member associations.

#### **4.3.6 July-October 2010: Bid Inspection Visits and Report**

After reviewing the bid books, the Evaluation Group conducted on-site visits of each of the eleven countries involved in the bidding from July 18 through September 17, 2010. Expenses for those trips were paid by FIFA with the exception of local transportation. Team members looked at stadia, training sites, hotels and other areas related to the criteria. According to the Chairman of the Evaluation Group, no one at FIFA pressured him regarding his reports.

The Evaluation Group was told not to “rank” the bid teams. Yet, with respect to overall operational risk, all bid venues were ranked “low risk” except for Qatar (“high risk”) and Russia (“medium risk”). In the individual subcategories, the only high risk grades went to Qatar for “team facilities” and Russia for “transport: airports and international connections.” All legal risks were classified as low or medium, with Belgium/Holland, Japan, and the United States receiving an overall rating of medium risk and the rest of the countries classified as low risk. In the cover letter to the Executive Summary, the Chairman of the Evaluation Group concluded, “[w]e feel we have accomplished our work in the spirit of integrity, objectiveness and transparency.”

#### **4.3.7 October 2010: Division of 2018 and 2022 Bidders**

During a meeting held on October 28 and 29, 2010, the FIFA Executive Committee approved an agenda attaching “Voting Procedure Guidelines,” which governed the appointment of the hosts for the 2018/2022 FIFA World Cups™. Those guidelines stipulated that “should a European member association be appointed as the host of the 2018 FIFA World Cup™ in the first part of the voting procedure, no European member association shall be permitted to take part in the voting procedure for the 2022 FIFA World Cup™.”

According to the guidelines, the U.S. team was the only non-European bidding nation for the 2018 venue. Once the U.S. team dropped out, a European 2018 FIFA World Cup™ venue would be assured, as would the absence of any European bidders for 2022. In contrast to the guidelines, however, the minutes of the October meeting listed the U.S. team as a bidder only for the 2022 FIFA World Cup™. According to statements from senior FIFA officials, there was an understanding between all Confederations to keep a rotation system whereby every third FIFA World Cup™ would return to Europe. According to the same statements, there was no objection to this from the non-European bidders.

#### **4.3.8 October-November 2010: Ethics Committee Proceedings and Suspensions**

On November 17, 2010, the FIFA Ethics Committee issued decisions finding that FIFA Executive Committee members Amos Adamu and Reynald Temarii had violated various provisions of the FCE based on their conduct at recent meetings with undercover reporters from the Sunday Times. Over the course of August, September, and October 2010, these reporters had posed as employees of the fictional company “Franklin Jones,” which they described in meetings with certain football officials as a London-based public relations firm representing a consortium of American businesses in order to lobby for the U.S. FIFA World Cup bid. The reporters secretly recorded conversations with Messrs. Adamu and Temarii, as well as CAF Executive Committee members Slim Aloulou and Amadou Diakite, CAF Honorary Member Ismail Bhamjee, and OFC Executive Committee member Ahongalu Fusimalohi. During individual meetings with Messrs. Adamu and Temarii, the undercover reporters offered financial investments in football development projects in the officials’ home countries and confederations in exchange for their vote for the U.S. to host the 2022 FIFA World Cup™.

On October 17, 2010, the Sunday Times published two articles describing its “sting” of these officials. In the following days, the FIFA Ethics Committee opened proceedings against the accused officials and provisionally suspended them from football-related activities. Mr. Adamu was ultimately found to have violated art. 3(1), (2), and (3) (General rules), art. 9(1) (Loyalty), and art. 11(1) (Bribery) of the 2009 edition of the FCE; he was banned from taking part in any football-related activity at national and international level (administrative, sports or any other) for a period of three years beginning October 20, 2010. Mr. Temarii was found to have violated art. 3(1) and (2) and art. 9(1) of the 2009 edition of the FCE, and was banned from football for a period of one year from October 20, 2010. Appeals by these two officials were later dismissed.

#### **4.3.9 November 19, 2010: FIFA Executive Committee Meeting**

At the Executive Committee meeting held November 19, 2010, the FIFA President, on the heels of the Sunday Times “sting” and the suspension of Messrs. Adamu and Temarii for, among other violations, conflict of interest, reminded the Committee members of their duty of loyalty. Those suspensions were also discussed at the meeting and the President noted that six football officials had been sanctioned for violating the FCE. With respect to replacing the banned Executive Committee members, the President explained that this would only be possible once the decisions taken by the FIFA Ethics Committee became final and binding. If the Executive Committee members in question decided not to appeal against their sanctions, they would be immediately replaced by their relevant Confederation; if they decided to appeal, there would be no immediate replacement and only 22 Executive Committee members would be eligible to vote in December.

At this same meeting, the Chairman of the Evaluation Group gave a summary of the inspection tour and the process of compiling the bid evaluation reports. Other than the aforementioned topics, there is no reference in the minutes to any questions or discussions by the members of any of the topics related to the vote for the FIFA World Cup™ scheduled to take place in less than two weeks.

#### **4.3.10 December 1-2, 2010: Final Presentations and Vote**

At the FIFA Executive Committee of December 1, 2010, 22 members were present and eligible to vote on the hosting of the 2018 and 2022 FIFA World Cups™ as Messrs. Adamu and Temarii had been banned from all football-related activity by the FIFA Ethics Committee. The FIFA President explained that it was not possible to replace these members because they were currently appealing the Ethics Committee’s decision. The only other mention of any discussion related to the upcoming vote was a notation that the Holland/Belgium bid had filed certain documents so that the members took note that contrary to the findings of the bid evaluation report, the Bid Committee had now fully complied with the requirements regarding certain agreements. There is no record of any discussion of other concerns related to risk factors identified in the bid evaluation reports.

According to the minutes of the meetings, the Executive Committee members agreed that after the ballot to determine the host of the 2018 FIFA World Cup™ had taken place, they would not be informed of the result but would instead proceed directly to the ballot on the 2022 FIFA World Cup™.

The vote took place on December 2, 2010, using an “exhaustive balloting” procedure. The vote for the 2018 FIFA World Cup™ took place first, and was immediately followed by the vote for the 2022 FIFA World Cup™. According to the Voting Procedure Guidelines approved of by the Executive Committee at its October 28-29, 2010 meeting, Executive Committee members were called individually to a voting booth, where they each submitted a ballot paper. If, after all votes were counted, no bidder received an absolute majority (50%+1) of votes, the bid country that obtained the fewest number of votes was eliminated. This proceeded until an absolute majority was reached.



The results of the votes for the 2018 and 2022 FIFA World Cup™ were as follows:

2018 Bidders: England, Belgium/Holland, Spain/Portugal, Russia

Round 1: England 2; Belgium/Holland 4; Spain/Portugal 7; Russia 9

Round 2: Belgium/Holland 2; Spain/Portugal 7; **Russia 13**

2022 Bidders: Australia, Japan, Korea, USA, Qatar

Round 1: Australia 1; Japan 3; Korea 4; Qatar 11; USA 3

Round 2: Japan 2; Korea 5; Qatar 10; USA 5

Round 3: Korea 5; Qatar 11; USA 6

Round 4: **Qatar 14**; USA 8

After two rounds of voting, Russia received an absolute majority of votes for the 2018 FIFA World Cup™; after four rounds, Qatar received an absolute majority of votes for the 2022 FIFA World Cup™. The two winners – as well as the tallies for each round of the 2018 and 2022 FIFA World Cup™ votes – were announced publicly that day.

## **5 Cooperation in the Context of the Investigation**

### **5.1 Overview of the Cooperation Requirement**

#### **5.1.1 The Code of Ethics**

According to art. 18(2) of the FCE, at the request of the Ethics Committee, persons bound by the Code are obliged to contribute to clarifying the facts of the case or clarifying possible breaches and, in particular, to declare details of their income and provide the evidence requested for inspection. Moreover, according to art. 41 of the FCE, at the request of the Ethics Committee, the persons bound by the Code are obliged to contribute to establishing the facts of the case and, especially, to provide written or oral information as witnesses. A failure to cooperate may lead to sanctions. Further according to art. 41 of the FCE, witnesses are obliged to tell the absolute and whole truth and to answer the questions put to them to the best of their knowledge and judgment.

Persons subject to the Code must also adhere to the “General Rules of Conduct” (art. 13 of the FCE), which are relevant to all of their actions, including their cooperation with the FIFA Ethics Committee. Those rules require persons bound by the Code to be aware of the importance of their duties and concomitant obligations and responsibilities; to respect all applicable laws and regulations as well as FIFA’s regulatory framework; and to show commitment to an ethical attitude while behaving in a dignified manner and acting with complete credibility and integrity. These standards and obligations are imposed, in particular, on all officials so that FIFA can meet its special responsibility to safeguard the integrity and reputation of football worldwide (cf. the FCE Preamble).

### **5.1.2 Additional Cooperation Requirements Applicable to the Bidding Process**

In addition to imposing substantive ethical rules (for example, restrictions on collusion and the denigration of other bids), the bidding contracts and agreements signed by each organization participating in the 2018 and 2022 FIFA World Cup™ bidding process required cooperation with the FIFA Ethics Committee. According to section 11.6 of the Bid Registration, every participant acknowledged the potential role of the FIFA Ethics Committee in a possible investigation of the process and also agreed that upon request by the FIFA Ethics Committee, the MA undertakes and warrants, at its own cost, to fully cooperate with, and support any audit or inquiry conducted by, the FIFA Ethics Committee and to provide, in a timely manner, any information or document required to be disclosed.

Further, Annex 7 to the Bid Registration, titled “Declaration of Compliance with the Rules of Conduct for the Member Association and the Bid Committee,” provided that each signatory organization was bound by, and shall comply with, the FIFA Code of Ethics in its applicable form as well as the specific rules of conduct set out in the Annex. Those rules included in particular that upon request by the FIFA Ethics Committee or by FIFA, the MA/Bid Committee undertakes and warrants to, and ensures that its representatives shall, at the [Member Association’s/Bid Committee’s] own cost, fully cooperate with, and support, any audit or inquiry conducted by, the FIFA Ethics Committee and to provide, in a timely manner, any information or document required to be disclosed. According to section 12.3.3 of the Bid Registration, all annexes survived the termination or expiration of the Bid Registration.

By reviewing, signing, and returning the Bid Registration submitted to FIFA in March 2009, a signatory formally entered the bidding process and agreed to all provisions, procedures, terms and requirements the process entailed. By executing the Bid Registration in March 2009, the MAs agreed in particular that it is essential to the integrity, image and reputation of FIFA and the Competitions that the conduct of the Member Association and the Bid Committee during their Bid preparations complies with the highest standards of ethical behavior. The MAs therefore expressly agreed to be bound by, and to comply with, the FIFA Code of Ethics in its applicable form and the provisions, procedures, terms, rules and requirements outlined in the Bid Registration. The MA was also responsible for ensuring that the Bid Committee agreed to be bound by, and complied with, the FIFA Code of Ethics in its applicable form and the provisions, procedures, terms, rules and requirements outlined in the Bid Registration (section 11.1 of the Bid Registration).

### **5.1.3 Limitations on the Investigatory Chamber’s Power to Compel**

It must also be noted, however, that the Investigatory Chamber of the FIFA Ethics Committee has no subpoena powers. Third-party cooperation is always voluntary; the Investigatory Chamber requested such cooperation during this inquiry whenever deemed necessary. Moreover, even as to those bound by the FCE and other contractual agreements to cooperate, good faith in meeting those obligations is essential to the Ethics Committee’s work.

## **5.2 Cooperation of FIFA Executive Committee Members**

The Investigatory Chamber sought to interview all 24 FIFA Executive Committee members who were expected to vote in December 2010, including the two who were suspended prior to the voting. All Executive Committee members who voted for the 2018/22 venues and remained on the Executive Committee either interviewed with representatives of the Investigatory Chamber or submitted answers to written questions. However, in two cases this was done only after the individuals initially refused to be interviewed.

Eleven officials who served on the FIFA Executive Committee during the bidding process no longer hold seats on that committee, although several are still considered football officials pursuant to the FCE. Of those eleven, five agreed to be interviewed or to provide written answers to questions. Three either declined or did not respond to the request. The Investigatory Chamber was unable to confirm any contact with two individuals. Finally, one official cooperated with the Investigatory Chamber only after Ethics proceedings had been initiated against him for refusing to cooperate.

## **5.3 Bid Teams**

All nine bid teams responded to the Investigatory Chamber's request for documents, with the degree and scope of each team's cooperation varying within certain margins. With regard to one specific bid team however, the Report noted that the relevant federation was particularly uncooperative in responding to the Investigatory Chamber's requests.

## **5.4 FIFA**

The Investigatory Chamber of the FIFA Ethics Committee made numerous formal requests for evidence and witness interviews to FIFA. Materials sought included, among many items, FIFA Executive Committee meeting minutes, prior Ethics Committee files, internal reports, and e-mail communications among FIFA officials. FIFA complied with all such requests. Moreover, the Investigatory Chamber conducted a number of interviews with FIFA personnel ranging from senior officials to employees.

# **6 Main Findings Achieved in the Context of the Investigation**

## **6.1 Findings Regarding the Australia 2022 Bid**

### **6.1.1 Role and Relevance of a "Whistleblower"**

In May 2013, a source suggested that the Investigatory Chamber of the FIFA Ethics Committee contact a former senior member of the Australia 2022 bid team who would be willing to disclose specifically relevant and sensitive information to the investigators. The Investigatory Chamber subsequently interviewed the relevant individual twice, in New York in November 2013 and in Australia in April 2014. At all times during the investigation process, the relevant individual was responsive to investigators' requests for information and documentation. It also offered investigators direct access to its computer to obtain e-mails dating from its time on the bid team.

While the relevant individual provided some useful information regarding possible issues for the Investigatory Chamber to examine, the evidence often did not support its specific recollections and allegations. The relevant individual further undermined its own reliability by speaking with the press about its communications with the Investigatory Chamber, despite having agreed to refrain from doing so to protect the integrity of the ongoing investigation. Given these circumstances, the Investigatory Chamber of the FIFA Ethics Committee has not relied on any statement, document, or other information provided by the relevant individual in reaching any conclusions or findings in the Report. However, where documents provided by the relevant individual were also obtained through reliable channels, those documents were considered.

#### **6.1.2 Efforts to Gain the Support of a FIFA Executive Committee Member**

The Report concludes that the Australia 2022 bid team did undertake specific efforts to gain the support of a particular then FIFA Executive Committee member and it suggests that there have been efforts to conceal certain key relationships in this context. Certain devices employed by the bid team and its consultants were seemingly aimed at hiding ties with individuals close to the Executive Committee member concerned while taking advantage of their influence over the member to further the bid strategy. According to the Report, there is a *prima facie* case that two consultants violated the bidding and ethics rules that the bid team represented would bind its consultants. However, given the bid team's omission of specific language binding its consultants to FIFA statutes and regulations, the Investigatory Chamber of the FIFA Ethics Committee considers itself limited in what action it can take.

#### **6.1.3 Contacts of Australia 2022's Consultants with FIFA**

According to the Report, there have been communications between one particular consultant of the Australia 2022 bid team that show that the relevant consultant executed his strategy of using his purported relationship with high-ranking FIFA officials to create the appearance that he was influencing the bidding process. Further according to the Report, his communications with FIFA officials reflect inappropriate denigration of other bids. That misconduct was exacerbated when he forwarded those communications to the bid team members in order to demonstrate his "insider" status. The Report concludes that his actions gave the appearance, at least to his employer, that he was improperly influencing the process.

#### **6.1.4 Occurrences in the Context of "Football Development"**

According to the Report, there have been several different occurrences involving the Australia 2022 bid that displayed potentially problematic connections between financial and other support for "football development" and the bidding process. These occurrences included, for example, the OFC seeking financial support from Australia during the time of the bidding process. According to the Report, the relevant requests (which were made, at least in part, by the then OFC President who at the time also was a FIFA Executive Committee member) and Australia's acquiescence helped create the appearance that benefits were conferred in exchange for a vote, thus undermining the integrity of the bidding process. Moreover, the Report identified certain payments from the Football Federation of Australia (FFA) to

CONCACAF which, according to the Report, appear to have been comingled, at least in part, with personal funds of the then CONCACAF President who at the time also was a FIFA Executive Committee member. Finally, according to the Report, there are indications that the Australia 2022 bid team attempted to direct funds the Australian government had set aside for existing development projects in Africa toward initiatives in countries with ties to FIFA Executive Committee members with the intention to advance its bid to host the 2022 FIFA World Cup™.

According to the Report, the FFA was well aware of the ramifications such a pattern of conduct might imply. Nevertheless, further according to the Report, the Australia 2022 bid team appears to have reached the conclusion to provide financial support under the title “(football) development projects” preferably in areas home to FIFA Executive Committee members.

#### **6.1.5 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the findings contained in the Report regarding the Australia 2022 bid, there are certain indications of potentially problematic conduct of specific individuals in the light of relevant FIFA Ethics rules. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee trusts that the Investigatory Chamber will take appropriate steps if it deems such measures appropriate and feasible (see also the relevant recommendations made in the Report regarding consultants). In this respect, the Chairman of the Adjudicatory Chamber underlines that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Notwithstanding this, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the Australia 2022 bid were, all in all, not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

### **6.2 Findings Regarding the Belgium/Holland 2018 Bid**

According to the Report, the Belgium/Holland 2018 bid team provided full and valuable cooperation in establishing the relevant facts and circumstances. Witnesses were made available for interviews, documents were produced and follow-up requests were likewise accommodated. The Investigatory Chamber of the FIFA Ethics Committee did not identify any issues with regard to the Belgium/Holland 2018 bid.

### **6.3 Findings Regarding the England 2018 Bid**

#### **6.3.1 General**

According to the report of the Investigatory Chamber of the FIFA Ethics Committee presently relevant, the England 2018 bid team provided full and valuable cooperation in establishing the relevant facts and circumstances. Witnesses were made available for interviews, documents were produced and follow-up requests were accommodated.

### **6.3.2 Efforts to Gain the Support of one of the FIFA Vice Presidents**

According to the Report and the report mentioned under 6.3.5 later, the England 2018 bid team placed particular emphasis on winning former FIFA Executive Committee member (in the position of a FIFA Vice President) and then CONCACAF President Jack Warner. According to the Report, Mr. Warner sought to exploit the perception of his power to control “blocks of votes” within the FIFA Executive Committee, showering the England 2018 bid team with inappropriate requests. According to the findings of the Investigatory Chamber of the FIFA Ethics Committee, the bid team often accommodated Mr. Warner’s wishes, in apparent violation of bidding rules and the FIFA Code of Ethics.

According to the Report, relevant occurrences included Mr. Warner pressing, in 2009 and again in 2010, England’s bid team to help a person of interest to him find a part-time job in the UK. According to the findings of the Investigatory Chamber, England 2018’s top officials in response not only provided the individual concerned with employment opportunities, but also kept Mr. Warner apprised of their efforts as they solicited his support for the bid. In the opinion of the Investigatory Chamber of the FIFA Ethics Committee, by providing the individual concerned employment, England 2018 gave the appearance that it sought to confer a personal benefit on Mr. Warner in order to influence his vote.

Moreover, according to the Report, Mr. Warner also asked England 2018 for favors and benefits related to a Trinidad and Tobago football club he owned, the “Joe Public Football Club”. Whether the England 2018 bid team ultimately provided any benefits to Mr. Warner’s club is unclear. According to the Report, e-mail correspondence shows, however, that England football officials appeared willing to do so. Accordingly, both Mr. Warner’s demands and England 2018’s response undermined the integrity of the bidding process, although to a limited extent.

Furthermore, according to the Report, Mr. Warner also used his FIFA Executive Committee member status to extract benefits for his local member association, the Trinidad and Tobago Football Federation. Relevant occurrences involved a training camp for a U-20 TTFF team in the UK in summer 2009, in the context of which England 2018 agreed to provide substantial assistance. According to the Report, England’s response to Mr. Warner’s – improper – demands, in at a minimum always seeking to satisfy them in some way, damaged the integrity of the ongoing bidding process. Yet, such damage was again of rather limited extent.

The Report concludes that Mr. Warner had considerable influence as CONCACAF President and a FIFA Vice President and Executive Committee member. According to the Report, he repeatedly used that power to exact personal benefits in violation of the FIFA Code of Ethics. Mr. Warner’s conduct demonstrated an expectation that bidding teams would react favorably and seek to curry favor with a voting member of the FIFA Executive Committee. According to the Report, England 2018’s response showed a willingness, time and again, to meet such expectation, thereby damaging the image of FIFA and the bidding process.

### **6.3.3 Sponsoring of a CFU Congress Dinner**

According to the Report, the England 2018 bid team sponsored a gala dinner for the Caribbean Football Union (CFU; a sub-confederation of CONCACAF) at its annual Congress in Trinidad in 2010, once again in an effort to curry favor with Jack Warner who then was, apart from a FIFA Vice President and Executive Committee member, also the President of CONCACAF and the CFU. The relevant support amounted to USD 55'000 and has been suggested by Mr. Warner. According to the Report, Mr. Warner had made the request knowing the pressure that England 2018 would be under to comply because of the ongoing bid. Further according to the Report, the England 2018 bid team bowed to that pressure because of Mr. Warner's potential vote and in this way damaged the integrity of the bidding process. Yet, such damage was of limited extent.

### **6.3.4 Memorandum of Understanding with the OFC**

According to the Report, among the development efforts England 2018's bid book highlighted were projects England supported pursuant to a 2006 Memorandum of Understanding (MOU) with the OFC. With that agreement expiring, OFC urged England, in 2010, to renew its commitment. At that time, the OFC President was Reynald Temarii. Mr. Temarii was also the – lone – representative of OFC on the FIFA Executive Committee. According to the Report, negotiations of the MOU (which was eventually split in three separate MOUs) raised the appearance of Mr. Temarii using his position in FIFA and the upcoming December 2, 2010 vote in order to achieve a most favorable result for the OFC, and of England 2018 granting Mr. Temarii (or the OFC, respectively) considerably preferential treatment in terms of allocating football development funds.

### **6.3.5 Occurrences Highlighted in the “Dingemans Report”**

On May 10, 2011, Lord David Triesman testified before the Culture, Media and Sport Committee of the House of Commons about what he characterized as unethical conduct by certain then FIFA Executive Committee members during the FIFA World Cup™ bidding process. Lord Triesman, who served as Chairman of England's Football Association (the FA) and the England 2018 bid until his resignation from both posts in May 2010, described separate interactions with four specific members of the FIFA Executive Committee. All of the relevant interactions took place before Lord Triesman resigned from his positions in the FA and the England 2018 bid. Nevertheless, he waited until well after the conclusion of the FIFA World Cup™ 2018/2022 bid procedure to raise his allegations. According to indications contained in the Report, this approach has been chosen in order to not jeopardize the England 2018 bid.

Subsequent to Lord Triesman's testimony before the House of Commons Committee, the FA commissioned James Dingemans QC to conduct an independent investigation, collect evidence, and report his findings on the relevant issues. On May 27, 2011, the FA sent Dingemans' report (the “Dingemans Report”) to the FIFA Secretary General.

The contents of Lord Triesman's allegations and of the “Dingemans Report” are well known, so there is no need to recapitulate them here. However, it shall be noted that the Investigatory

Chamber of the FIFA Ethics Committee received no cooperation from Lord Triesman in the context of the investigation presently relevant. The Investigatory Chamber first requested a meeting with Lord Triesman in September 2013, but he refused to provide evidence due to an ongoing libel lawsuit one of the FIFA Executive Committee members concerned had filed in response to his May 2011 testimony. Months later, after reports that a court resolved the litigation in Lord Triesman's favor, he made public statements indicating that he felt comfortable discussing matters relevant to an investigation into potential violations of the FIFA Code of Ethics.

The Investigatory Chamber of the FIFA Ethics Committee therefore contacted Lord Triesman again. He however declined to assist the Chamber again, referring to the fact that the FIFA Executive Committee member concerned continued to pursue his libel claim against Lord Triesman and has sought permission to appeal the decision to strike out his claim to the Supreme Court. Accordingly, the Investigatory Chamber of the FIFA Ethics Committee carried out its analysis of the allegations and related evidence without any further assistance from Lord Triesman.

According to the assessment of the findings contained in the "Dingemans Report" carried out by the Investigatory Chamber of the FIFA Ethics Committee, the said report presented ample evidence with respect to certain allegations to warrant the initiation of FIFA Ethics Committee proceedings against selected individuals. According to the Investigatory Chamber, information compiled in the Dingemans investigation and supplemented during the Chamber's own inquiry established a *prima facie* case that serious violations of bidding rules and the FIFA Code of Ethics have occurred in the contexts concerned.

According to the Report, three of the four FIFA Executive Committee members made improper requests for support or favors towards the England 2018 bid team and/or the FA during the bidding process. With regard to at least two of these Committee members, England 2018 accommodated, or at least attempted to satisfy, the improper requests made by these Executive Committee members, thereby jeopardizing the integrity of the bidding process. Yet, the integrity of the bidding process as a whole was jeopardized to a rather limited extent.

#### **6.3.6 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the findings contained in the Report regarding the England 2018 bid, there are certain indications of potentially problematic conduct of specific individuals in the light of relevant FIFA Ethics rules. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee trusts that the Investigatory Chamber will take appropriate steps if it deems such measures appropriate and feasible. In this respect, the Chairman of the Adjudicatory Chamber underlines that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Notwithstanding this, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the England 2018 bid were, all in all, not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.



## **6.4 Findings Regarding the Japan 2022 Bid**

### **6.4.1 General**

According to the report of the Investigatory Chamber of the FIFA Ethics Committee presently relevant, the Japan 2022 bid team provided full and valuable cooperation in establishing the relevant facts and circumstances. Witnesses were made available for interviews, documents were produced and follow-up requests were accommodated.

### **6.4.2 Gifts Distributed by the Japan 2022 Bid Team**

According to the Report, the Japan 2022 Bid Team distributed, in 2010, several different gifts to senior FIFA officials, members of the FIFA Executive Committee, and some of their wives. The value of the gifts (which included, inter alia, special balls, digital cameras and clutch bags) ranged from approximately USD 700 to approximately USD 2'000 each. During interviews with the Investigatory Chamber of the FIFA Ethics Committee, the Executive Committee members concerned denied receiving any improper or valuable gifts from a bid team, or did not attribute any significant relevance to the gifts respectively. According to the Report, there are various potential explanations for the Executive Committee members' statements and perceptions, however all of them troubling. Accordingly, the Report suggests adopting clearer gift rules and reporting requirements for future FIFA World Cup™ bids. Those reporting requirements should apply to FIFA Executive Committee members but newly also to FIFA Congress delegates (cf. art. 80 of the FIFA Statutes).

### **6.4.3 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

Notwithstanding the above, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the Japan 2022 bid were, all in all, not even remotely suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

## **6.5 Findings Regarding the Korea 2022 Bid**

### **6.5.1 General**

According to the report of the Investigatory Chamber of the FIFA Ethics Committee presently relevant, the Korea 2022 bid team produced records in response to requests by the Investigatory Chamber of the FIFA Ethics Committee and made witnesses available.

### **6.5.2 Occurrences Involving a “Global Football Fund”**

According to the Report, Dr. Mong-Joon Chung, a Vice President on the FIFA Executive Committee and Honorary President of the Korean Football Association (KFA), had sent, in late 2010, several letters to FIFA Executive Committee members about a proposal to establish a “Global Football Fund” supporting football development. According to those letters, Korea intended to raise USD 777 million from 2011 to 2022 to aid Confederations and member associations to build new football infrastructure and renovate existing facilities. The Fund should also be used to support human resource development programs for the training of

coaches, administrators, and players etc. The fund should be distributed to the respective continents and be left to each Confederation to administer for concrete development projects.

According to the Report, the idea of the “Global Football Fund” as well as the initiative to create it was linked to the Korea 2022 bid. While the fund has not been mentioned in the official bid documents submitted by Korea 2022, the bid team highlighted the proposal to contribute USD 777 million to football development during its oral presentation of the bid the day before the December 2, 2010 FIFA Executive Committee vote. Moreover, Dr. Chung’s close association with Korea’s bid, both in fact and in the perception of others, was beyond any doubt. In the light of this, the Report concludes that the Global Football Fund letters created at least the appearance of a conflict or an offer of benefits to FIFA Executive Committee members in an effort to influence their votes.

### **6.5.3 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the findings contained in the Report regarding the Korea 2022 bid, there are certain indications of potentially problematic conduct of specific individuals in the light of relevant FIFA Ethics rules. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee trusts that the Investigatory Chamber will take appropriate steps if it deems such measures appropriate and feasible. In this respect, the Chairman of the Adjudicatory Chamber underlines that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Notwithstanding this, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the Korea 2022 bid were, all in all, not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

## **6.6 Findings Regarding the Qatar 2022 Bid**

### **6.6.1 General**

According to the report of the Investigatory Chamber of the FIFA Ethics Committee presently relevant, the Qatar 2022 bid team provided full and valuable cooperation in establishing the relevant facts and circumstances. Witnesses were made available for interviews, documents were produced and follow-up requests were accommodated.

### **6.6.2 Consultants and Advisors Affiliated with the Bid**

According to the Report, the conduct of two individuals who acted as consultants or advisors to the Qatar 2022 bid team raised concerns in the light of relevant FIFA Ethics rules. In both cases, the relations between the bid team and the individuals concerned was characterized by a significant lack of transparency, and the Investigatory Chamber of the FIFA Ethics Committee identified certain questionable conduct by these individuals. However, unless such individuals hold official positions in organized football, binding them to FIFA Ethics rules poses certain legal challenges. The Investigatory Chamber therefore suggested addressing this particular issue more thoroughly in the context of future bid processes.

### **6.6.3 Role and Relevance of the “Aspire Academy”**

Established by the Qatari government in 2003, the Aspire Academy for Sports Excellence trains athletes from Qatar and other countries at a modern complex of sports academy facilities. The Aspire Academy is portrayed as a centerpiece of Qatar’s efforts to develop an internationally recognized sports program. While the Aspire Academy was established prior to the launch of the Qatar 2022 bid, according to the Report there is no doubt that Qatar 2022 pulled Aspire into the orbit of the bid in significant ways.

### **6.6.4 November 2010 Argentina – Brazil Friendly Match**

On November 17, 2010, the national football teams of Argentina and Brazil played each other in a friendly match in Doha, Qatar. According to the Report, information provided to the Investigatory Chamber of the FIFA Ethics Committee indicates that an entity wholly owned by a Qatari business conglomerate financed the event. Further according to the Report, a wealthy Qatari associated with the said entity arranged the support, reportedly in part to advance an interest in sports-related investments. According to bid officials and Qatar 2022, the said entity was unaffiliated with Qatar 2022 or the Qatar Football Association (QFA), the funds provided to arrange the match did not come from Qatar 2022 or QFA, and the total amount paid to finance the match was comparable to fees paid for other matches featuring similarly elite teams. Nevertheless, according to the Report, the financing of the event and the contractual structures in this regard raised, in part, concerns under relevant Ethics rules, in particular in relation to certain arrangements concerning payments intended for the Argentina Football Association. However, the relevant arrangements were not connected to the Qatar 2022 bid.

### **6.6.5 Sponsoring of the CAF Congress 2010**

According to the Report, Qatar 2022 sponsored, in January 2010, the CAF Congress in Angola. The sponsorship agreement granted Qatar 2022 exclusive rights to market its bid during the event. For this privilege, the bid team paid CAF approximately USD 1.8 million. The sponsorship included in particular the full branding of the convention center, branding on all collateral (invitations, menu, event program, etc.) that is involved during the congress and gala dinner, and sponsoring the Gala Dinner and any related activities (entertainment show, etc.). During the event, Qatar 2022 presented its bid to the CAF member association delegates.

However, according to the Report, no bidding rule or FCE provision prohibited sponsorship agreements like the one between Qatar 2022 and CAF, and the Confederations are technically independent from FIFA.

It remained unclear how much the event did cost. The Investigatory Chamber of the FIFA Ethics Committee concluded that this connection, when viewed in the context of the lack of transparency in the record, created a negative impression. However, the circumstances presently relevant were not suited to affect the integrity of the FIFA World Cup 2018/2022 bidding process as a whole.

#### **6.6.6 Payments from Mr. Mohamed Bin Hammam**

According to the Report, while Mr. Mohamed Bin Hammam – a former AFC President and FIFA Executive Committee member – actively supported the Qatar 2022 bid as the December 2, 2010 FIFA World Cup™ vote neared, the relationship between him and the bid team appeared to be somewhat distant relative to the relationships of other FIFA Executive Committee members from bid nations, including Executive Committee members who, like Mr. Bin Hammam, did not have a formal role with any bid.

The FIFA Ethics Committee conducted proceedings against Mr. Bin Hammam in 2011 and 2012. Mr. Bin Hammam was interviewed and provided written statements and documents during those and related matters. The Adjudicatory Chamber of the FIFA Ethics Committee banned Mr. Bin Hammam from football-related activity for life in 2011 and then again in December 2012. Mr. Bin Hammam, who had appealed the lifetime ban from the Ethics Committee in 2011 to CAS and secured a reversal, did not appeal the December 2012 ban. Mr. Bin Hammam did not respond to the Investigatory Chamber's request to speak with him in connection with the investigation presently relevant.

According to the Report, during the previous investigations of Mr. Bin Hammam, it had been established that he had made several different improper payments to high-ranking CAF football officials during the time before the December 2, 2010, FIFA Executive Committee vote. However, according to the Report, the record before the Investigatory Chamber of the FIFA Ethics Committee does not support the conclusion that the purpose of these payments was to promote the Qatar 2022 FIFA World Cup™ bid. Rather, the evidence before the Investigatory Chamber strongly suggests that Mr. Bin Hammam paid CAF officials to influence their votes in the June 2011 election for FIFA President where he was a candidate. According to the Report, only FIFA Executive Committee members participated in the December 2, 2010 FIFA World Cup™ vote, leaving the various CAF association officials who received benefits from Mr. Bin Hammam essentially without means to influence the bidding process in Qatar's favor.

The same applies to a payment of USD 1,212 million Mr. Bin Hammam appears to have made to Mr. Jack Warner, a then FIFA Executive Committee member, in the aftermath of the December 2, 2010, vote. According to the Report, the basis of the alleged payment was an invoice from Mr. Warner to one of the companies controlled by Mr. Bin Hammam purportedly dated December 15, 2010, but prepared and sent in or around July 2011. However, further according to the Report, this document did not relate to the FIFA Executive Committee FIFA World Cup™ vote. Rather, according to the Report, the document purportedly dated December 15, 2010 was used to facilitate a transfer of USD 1,212 million from Mr. Bin Hammam to Mr. Warner in connection with Mr. Warner's decision to resign from FIFA and refuse to cooperate in the proceedings against Mr. Bin Hammam. As set forth in the Investigatory Chamber's report on Mr. Bin Hammam of 2012, that payment breached the FIFA Code of Ethics. According to the Report, however, that misconduct does not appear related to the December 2, 2010 FIFA World Cup™ vote.

Finally, according to the Report, among the recipients of payments made by Mr. Mohamed Bin Hammam during the period presently relevant was also one to Mr. Reynald Temarii, then

OFC President and FIFA Executive Committee member. In mid-October 2010, the OFC Executive Committee decided whom Mr. Temarii would support in his vote regarding the 2018 and 2022 FIFA World Cup™ hosts: for the 2018 FIFA World Cup™ host, Mr. Temarii would vote for England's bid, and if England were eliminated, for Spain's bid; and for the 2022 FIFA World Cup™, Mr. Temarii would vote for Australia's bid, and if Australia were eliminated, for the United States's bid. OFC's intention to support Australia's bid for the 2022 FIFA World Cup™ was publicly reported as early as October 17, 2010.

However, on November 17, 2010, the FIFA Ethics Committee suspended Mr. Temarii from all football-related activity for one year for violations of the FIFA Code of Ethics committed by Mr. Temarii in the context of attempts to bribe him that were staged by journalists. The suspension of Mr. Temarii, OFC's lone representative on the FIFA Executive Committee, cast doubt on whether OFC would be able to support the designated FIFA World Cup™ bids with a vote in the December 2, 2010 election. Mr. Temarii could only be replaced by OFC as FIFA Executive Committee member once he fully accepted the decision of the FIFA Ethics Committee. Hence, whether OFC could replace Mr. Temarii and thus vote for 2018 and 2022 FIFA World Cup™ hosts hinged on whether Mr. Temarii would waive his right to appeal the FIFA Ethics Committee's decision.

According to the Report, Mr. Bin Hammam met with Mr. Temarii on November 25, 2010, encouraged Mr. Temarii to appeal the FIFA Ethics Committee's decision, and offered to arrange for the payment of Mr. Temarii's legal fees incurred in this respect. Further according to the Report, this was an attempt to persuade Mr. Temarii to appeal the Ethics Committees' decision and thus eliminate a vote for Qatar's competition in the FIFA World Cup™ bidding process. According to the Report, Mr. Temarii's conduct and correspondence with Mr. Bin Hammam shortly after he received the one-year suspension suggest that Mr. Temarii was aware that his appeal would benefit Qatar's bid.

However, according to the Report, there is no direct link between Qatar 2022 and any payments of Mr. Bin Hammam to Mr. Temarii. Still, according to the report, it is evident that Mr. Bin Hammam supported Qatar's bid and that his actions with respect to Mr. Temarii influenced the voting process by eliminating votes for Australia (a direct Qatar 2022 competitor) and England. Notwithstanding this, it should be noted that, given the outcome of the December 2, 2010, vote (cf. section 4.3.10 above), the difference it would have made if Mr. Temarii would have participated in the vote would not have been significant. Therefore, the occurrences presently relevant did not affect the outcome of the FIFA World Cup™ 2018/2022 bidding process as a whole.

#### **6.6.7 Role and Relevance of a "Whistleblower"**

According to the Report, allegations of corruption on the Qatar 2022 bid team began circulating in the global press almost immediately after Qatar had been selected as host of the 2022 FIFA World Cup™. From December 2012 on, the individual concerned made itself available to the Investigatory Chamber over the course of more than a year and provided voluminous records and other materials.

According to the Report, serious concerns about the individual's credibility were apparent from the outset. It had, in particular, made public allegations and then retracted those allegations in a sworn statement. That statement described a motive – revenge against a bid team it felt it had been rejected by – that seemed consistent with its actions. Nevertheless, given the seriousness of the individual's allegations, and the fact that others had advised the Investigatory Chamber to contact it, the Investigatory Chamber of the FIFA Ethics Committee determined that the individual concerned deserved a full and fair opportunity to provide information relevant to the inquiry.

However, the Report concludes that, in particular, the journals the individual concerned provided could not be relied upon to corroborate its story. According to the Report, they *inter alia* appeared false as to a material fact. Further according to the Report, it appeared that the source has altered evidence to support its allegations. Given these circumstances, the Investigatory Chamber of the FIFA Ethics Committee found that it was precluded from drawing conclusions based on statements and other information received from the individual concerned. Accordingly, the Investigatory Chamber has not relied on any information or material it received from individual concerned in reaching any conclusions in the Report.

The Chairman of the Adjudicatory Chamber takes note of these findings which demonstrate the difficulty to establish reliable evidence, independent of the public opinion.

#### **6.6.8 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the findings contained in the Report regarding the Qatar 2022 bid, there are certain indications of potentially problematic conduct of specific individuals in the light of relevant FIFA Ethics rules. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee trusts that the Investigatory Chamber will take appropriate steps if it deems such measures appropriate and feasible. In this respect, the Chairman of the Adjudicatory Chamber underlines that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Notwithstanding this, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the Qatar 2022 bid were, all in all, not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

### **6.7 Findings Regarding the Russia 2018 Bid**

#### **6.7.1 General**

As mentioned under 2.3, the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee was solely responsible for all findings and conclusions with respect to the activities of the Russia 2018 bid or any nationals from those countries.

The Russia 2018 Bid Committee made only a limited amount of documents available for review, which was explained by the fact that the computers used at the time by the Russia Bid Committee had been leased and then returned to their owner after the Bidding Process. The owner has confirmed that the computers were destroyed in the meantime. The Bid Committee also attempted to obtain access to the Gmail accounts used during the Bidding Process from

Google USA. However, the Russia Bid Committee confirmed in a letter dated 1 August 2014 that Google USA had not responded request. Notwithstanding this, the Russia 2018 Bid Team made several witnesses available for interviews.

#### **6.7.2 Collusion**

According to the Report, only very few documents received from the Football Union of Russia (FUR) or the Russia 2018 Bid Committee concerned correspondence between the Russia 2018 Bid Committee and other bid committees. The existence of alliances between the Russia Bid Committee and other bid committees was, in particular, categorically denied by several Russian football and bid committee officials. Statements from officials of other bid committees corroborated this.

Notwithstanding the above, according to the Report, during interviews with representatives of the Japan Bid Committee indications of a vote trading agreement between the Japan and Russia bid committees became apparent. However, no supporting evidence has been obtained by the Investigatory Chamber of the FIFA Ethics Committee that corroborated such indications.

#### **6.7.3 Compliance with Obligations to Report Contacts**

According to the Report, the Russia 2018 Bid Committee has only in part complied with the reporting requirements regarding contacts made with FIFA Executive Committee members. In particular, the obligation to report in advance any contact with Executive members was complied with in only three cases. Further contacts with Executive Committee members have been reported retroactively, and certain other meetings or contacts have not been reported at all. However, according to the Report, there was no sufficient evidence suggesting that the Russia 2018 Bid Committee had attempted to unduly influence the 2018/2022 FIFA World Cup™ bidding process by contacting FIFA Executive Committee members.

#### **6.7.4 Gifts and other Benefits**

According to the Report, the policy of gifts and other benefits provided by the Russia 2018 Bid Committee appears to have been in line with the relevant FIFA rules of conduct. The gifts offered by the Russia Bid Committee to FIFA Executive Committee members were, as far as evidenced in the documents provided and testimonies given, of a symbolic and incidental value. According to the Report, even though the travel and accommodation costs for FIFA Executive Committee members (partly accompanied by their families) were fully covered by the Russia 2018 Bid Committee, such coverage was acceptable under the relevant FIFA rules of conduct in force at the time. Further according to the Report, no documents made available for review or statements made by interviewed persons indicated that the Russia 2018 Bid Committee or the Russian government attempted to unduly influence the 2018/2022 FIFA World Cup™ bidding process through football development projects or friendly matches.

#### **6.7.5 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the Report, the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee considered the evidence available as not sufficient to support any findings

of misconduct by the Russia 2018 bid team or any individual involved with it suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee concurs with this conclusion.

## **6.8 Findings Regarding the USA 2022 Bid**

### **6.8.1 General**

As mentioned under 2.3, the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee was solely responsible for all findings and conclusions with respect to the activities of the USA 2022 bid or any nationals from those countries.

According to the Report, the USA 2022 bid team provided full and valuable cooperation in establishing the relevant facts and circumstances. Witnesses were made available for interviews, documents were produced and follow-up requests were accommodated.

### **6.8.2 Collusion**

According to the Report, none of the written communications or correspondence made available to the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee contained any indications that support a conclusion that the USA 2022 Bid Committee attempted or succeeded in entering into any kind of agreement with any other FIFA member association or bid committee. In particular, based on the documentation provided, there are no written records of oral communications that may have taken place between representatives of the USA 2022 Bid Committee and any other representative of member associations or other bid committees throughout the entire bidding process.

However, according to the Report, one of the then FIFA Executive Committee members alluded to the fact that the United States might have attempted to influence member associations within the Asian Football Confederation (AFC) to support the USA 2022 bid by spreading incorrect rumours relating to China's potential bid to host the 2026 FIFA World Cup™. Yet, the Investigatory Chamber of the FIFA Ethics Committee does not have at its disposal any evidence corroborating this.

Further according to the Report, a member of the USA 2022 Bid Committee referred to a discussion he allegedly had with UEFA where it had been made clear to him that UEFA's eight votes on the FIFA Executive Committee gave the USA 2022 bid a significant advantage over CONCACAF's three votes to select the host nation for the 2018 FIFA World Cup™ (the USA had initially submitted bids for the 2018 FIFA World Cup™ as well).

According to the Report, the member of the USA 2022 Bid Committee further noted that one of the FIFA Executive Committee members from UEFA had asked him to withdraw from the 2018 FIFA World Cup™ bid, otherwise he would find it difficult to support the US bid for the 2022 FIFA World Cup™. While member of the USA 2022 Bid Committee maintained, in essence, that there was no agreement between the USA Bid Committee and UEFA or the FIFA Executive Committee member concerned, the USA Bid Committee nevertheless decided to withdraw its bid for the 2018 FIFA World Cup™ and focus instead on the bid for



the 2022 FIFA World Cup™. This decision was apparently made for tactical reasons and given that it had become clear, throughout the bidding process, that the 2018 FIFA World Cup™ would be awarded to a European country.

All in all, according to the Report, there is no evidence in the record that would indicate that the USA 2022 Bid Committee engaged in any conduct aimed at influencing the bidding process by colluding or collaborating with another bid committee, member association, or FIFA Executive Committee member.

### **6.8.3 Compliance with Obligations to Report Contacts**

According to the Report, there appear to have been certain discrepancies in the documentation and contact reports submitted by the USA 2022 Bid Committee to FIFA on the one hand and testimonies of US football officials on the other. The Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee therefore concluded that the USA Bid Committee might not have fully complied with relevant reporting requirements.

Further according to the Report, representatives of the USA Bid Committee were in recurring contact with two CONCACAF representatives on the FIFA Executive Committee. According to the Report, the documentation made available for review contains a large number of email and other communications between these individuals. However, many of these communications appear to have been unrelated to the USA 2022 bid but rather linked to the positions of the individuals concerned in organized football instead. All in all, the Deputy Chairman of the Investigatory Chamber of the FIFA Ethics Committee concluded that the USA 2022 Bid Committee did not attempt to unduly influence the 2018/2022 FIFA World Cup™ bidding process by contacting FIFA Executive Committee members.

### **6.8.4 Gifts and other Benefits**

According to the Report, the gifts and benefits made available by the USA Bid Committee, as reflected in the documents reviewed, were limited to gifts and benefits of a symbolic nature and do not seem to have been aimed at influencing the Bidding Process. Thus, they were in accordance with the relevant FIFA rules of conduct in force at the time. The same applies to the policy on gifts adopted by the USA 2022 Bid Committee.

According to the report, the documents made available for review by the USSF did not contain any indications that development assistance or other benefits were offered and/or granted by the USA 2022 Bid Committee, the USSF or the US Government specifically directed at the bidding process or aimed at influencing such process. No football matches played with the participation of an US national team and/or on US soil, for which documents were made available for review, showed unusual terms suited to raise concerns of indirect benefits being made thereby. According to the Report, the same applies to the political support of the USA 2022 bid by the US Government. Such support did not appear to have been excessive in a manner that would signal that undue political interference or influence on the Bidding Process occurred.

### **6.8.5 Assessment and Statement by the Chairman of the Adjudicatory Chamber**

According to the findings contained in the Report regarding the USA 2022 bid, there was no major problematic conduct of specific individuals of the USA 2022 bid team in the light of relevant FIFA Ethics rules. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee trusts that the Investigatory Chamber will take appropriate steps if it deems such measures appropriate and feasible. In this respect, the Chairman of the Adjudicatory Chamber underlines that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Notwithstanding this, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee reaches the conclusion that the potentially problematic facts and circumstances identified by the Report regarding the USA 2022 bid were, all in all, not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

### **6.9 Collusion**

According to the Report, the December 2, 2010 FIFA World Cup™ voting procedures were susceptible to strategic voting (i.e., to FIFA Executive Committee members casting ballots for specific bids for reasons other than merit) in two principal ways. First, the “exhaustive balloting” procedure used during the vote was particularly susceptible to strategic voting because it enabled voters to change their votes between rounds. Second, the decision to select bidders for both the 2018 and 2022 FIFA World Cup™ tournaments simultaneously made the voting process subject to collusion and vote-trading.

According to the Report, there were certain indications that vote-trading might have, to a limited extent, taken place in the context of the December 2, 2010 FIFA World Cup™ votes. However, the Investigatory Chamber of the FIFA Ethics Committee has not established conclusive evidence in this regard.

### **6.10 Remarks to President Blatter**

The FIFA President, who is also the Chairman of the Executive Committee, has broad powers. *See* FIFA Statutes Art. 32; FIFA Organisation Regulations (“FOR”) Art. 5. He presides at meetings of the Executive Committee but has one ordinary vote (except in limited cases involving tie votes). *See* FIFA Statutes Art. 32(4). He has no formal role in selecting the members of the Executive Committee; for the most part, neither does the FIFA Congress but the relevant Confederations.

President Blatter’s responsibility for the myriad issues that developed over the course of the bidding process merits consideration. As a preliminary matter, it must be made clear that President Blatter did not violate the FCE. The one concrete allegation against the President, concerning an account purportedly held in his name at a U.S. bank, was demonstrably false.

Mr. Blatter has implemented a number of critical reforms, including those that made this inquiry possible. The rules with respect to jurisdiction of the Ethics Committee were changed and absent those 2012 reforms, the present inquiry could not have been initiated by the Chair of the Investigatory Chamber of the Ethics Committee. As head of the organization, he also deserves credit for the cooperation FIFA demonstrated throughout this investigation. The

bidding process established by FIFA was for the most part fair and thorough, although the Executive Committee's obligations in that process — including its members' obligations to abide the same reporting requirements placed on the bid teams — should have been made more explicit.

As the leader of FIFA, it is important that he addresses the recommendation issued in the Report and supported by the Chairman of the Adjudicatory Chamber outlined in the following chapter 7.

## **7 Overall Conclusions and Recommendations by the Investigatory Chamber**

### **7.1 Conclusions**

In the Report presently relevant, the Investigatory Chamber of the FIFA Ethics Committee indicated its intention to open formal investigative proceedings against certain individuals. The Investigatory Chamber stressed in this regard that the Chairman and the Deputy Chairman of the Investigatory Chamber have concluded only that the evidence in the record established *prima facie* cases of possible FCE violations (cf. art. 62 of the FCE), and have made no final determination about whether the relevant violations actually occurred (cf. art. 68 of the FCE). The Chairman of the Adjudicatory Chamber can only take note of these findings and stresses that the Investigatory Chamber has full independence and discretion with regard to the initiation of proceedings against specific individuals. Apart from these investigative proceedings against certain individuals, the Chairman of the Adjudicatory Chamber concludes that the various incidents which might have occurred are not suited to compromise the integrity of the FIFA World Cup™ 2018/2022 bidding process as a whole.

### **7.2 Recommendations**

#### **7.2.1 Preliminary Remarks**

FIFA designed a bidding process for the FIFA World Cup™ 2018/2022 which was well-thought, robust and professional. However, as a result of the Report, there are areas in which FIFA can and must improve the bidding process for future FIFA World Cups™.

FIFA already enacted several reform measures in response to criticism of the 2018/2022 FIFA World Cup venue-selection process. Most significantly, the FIFA Statutes were amended to give the Congress, rather than the Executive Committee, sole authority to decide the venue for the FIFA World Cup™ (cf. article 80(1) of the FIFA Statutes). FIFA also implemented certain procedural guidelines (cf. article 80(2) of the FIFA Statutes):

- The FIFA general secretariat will establish a fair and transparent bidding procedure based on specific regulations issued by the Executive Committee.
- The FIFA general secretariat will submit to the Executive Committee a public report evaluating the compliance of all bids with the bidding procedure and requirements for hosting the event, taking into consideration the defined criteria for selecting the host.

- After reviewing the report, the Executive Committee will designate, based on its best judgment and in an open ballot, up to three bids to be submitted to the Congress for a final decision.
- The Congress will select the host venue from the bids designated by the Executive Committee.

Further rules prohibit the awarding of hosting rights to more than one FIFA World Cup™ at the same meeting (cf. article 80(3) of the FIFA Statutes), and provide that one Confederation's members may not host consecutive editions of the tournament (cf. article 80(4) of the FIFA Statutes).

Notwithstanding this, the Investigatory Chamber of the FIFA Ethics Committee offered the following recommendations based upon the facts and circumstances the inquiry into the bidding process presently relevant uncovered.

### **7.2.2 Term Limits**

The Investigatory Chamber of the FIFA Ethics Committee noted unfortunate patterns in the history of the 24-member 2010 FIFA Executive Committee. The Report describes examples of two veteran Executive Committee members resisting efforts to hold them to the same rules as bid teams. Similarly, this Report describes how two of the Executive Committee's most senior members challenged the Ethics Committee's independence and authority, as set forth in unambiguous FCE provisions, to conduct the inquiry presently relevant. In the light of these circumstances, the Investigatory Chamber of the FIFA Ethics Committee recommended a maximum of two four-year terms for all officials on the FIFA Executive Committee, without exception or possibility of renewal. The Chairman of the Adjudicatory Chamber supports the introduction of term limits, but also take note that the FIFA Congress in 2014 rejected such.

### **7.2.3 Recusal of Executive Committee Members**

The Investigatory Chamber of the FIFA Ethics Committee recommended the adoption of a regulation requiring members of the FIFA Executive Committee to recuse themselves from participating in venue-selection votes where they share a nationality with a bidding nation. According to the Report, football officials could then actively take part in bid-team efforts while eliminating a potential conflict related to their duties as Executive Committee members.

In this respect, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee points out that, as the Report itself noted in a different context, the FIFA Statutes have been amended to give the FIFA Congress, rather than the Executive Committee, sole authority to decide the venue for the FIFA Men's World Cup™. Therefore, the Investigatory Chamber's recommendation presently relevant should also apply to the FIFA Congress.

### **7.2.4 Rotation System**

According to the Report, while new rules preclude member countries of the same Confederation from being awarded hosting rights to consecutive FIFA World Cup™ tournaments, no other statutory provisions govern the rotation of the hosting right among the Confederations. The Investigatory Chamber of the FIFA Ethics Committee therefore

recommended adopting a more open and transparent rotation system for hosting the FIFA World Cup™. The Chairman of the Adjudicatory Chamber supports this recommendation from the Investigatory Chamber.

#### **7.2.5 Bid Evaluation Criteria and Rankings**

According to the Report, a number of bid team representatives expressed skepticism that Executive Committee members reviewed the bid books or the evaluation reports. While the Investigatory Chamber of the FIFA Ethics Committee acknowledged that the revised FIFA Statutes contain improved provisions with regard to the evaluation of FIFA World Cup™ bids, it recommends that FIFA should explore options for incorporating independent experts and objective criteria into the process of evaluating and selecting venues. The Chairman of the Adjudicatory Chamber supports this recommendation from the Investigatory Chamber

#### **7.2.6 Travel to Bidding Nations**

The Investigatory Chamber of the FIFA Ethics Committee recommended strict limits on FIFA Executive Committee members' travel to FIFA World Cup™ bidding nations. According to the Report, given that the Executive Committee will continue to have a role in the FIFA World Cup™ venue-selection process, it recommended that FIFA adopt a policy – at least for Executive Committee members – which prohibit visiting bid nations and further prohibits bid teams from visiting committee members. The Chairman of the Adjudicatory Chamber supports this recommendation from the Investigatory Chamber. Alternatively, a strict reporting system could be implemented.

#### **7.2.7 Enhanced Reporting Requirements**

According to the Report, in addition to abiding by existing gift rules (in particular those contained in the FCE), FIFA Executive Committee members should be obligated to promptly report all gifts, of whatever value, received from bid teams or others promoting those bids. A corresponding obligation should be placed upon the bid teams. According to the Report, this rule will be harder to implement and enforce with respect to the voting members of the FIFA Congress. The Investigatory Chamber of the FIFA Ethics Committee recommended that disclosures should be made to the FIFA Ethics Committee, which would then advise the disclosing party how to proceed.

Moreover, the Investigatory Chamber of the FIFA Ethics Committee recommended that during the bidding period, any friendly match played or arranged between a team representing a bidding nation and a team from the home country of a FIFA Executive Committee member be subject to certain disclosure requirements. For example, the relevant member associations should report information concerning the parties involved, the allocation of fees and other payments, and assignments of broadcasting rights, and should further make relevant documents or other material available for review. According to the Report, the disclosures should be made to the FIFA Ethics Committee.

Furthermore, according to the Report, each member of the bid team, including outside consultants and companies working on the bid effort, should be identified and reported to FIFA when the bid team files the registration documents and, as personnel and contractors

may be added later in the bidding process, on a rolling basis thereafter. Every person working with a bid team should sign and file a statement certifying that he or she has read and understood the applicable rules and regulations, including the FIFA Statutes and Code of Ethics; agrees to be bound by and obey those requirements; and agrees to cooperate with any FIFA Ethics Committee investigation or inquiry. It should be made clear that failure to fulfill these obligations may result in a ban from participation in future bidding processes. Each bid team should further be required to designate an “ethics officer” responsible for disseminating the rules and training others associated with the bid team about the rules’ applicability and scope.

Further according to the Report, in a number of instances, bid teams initially responded to requests from the Investigatory Chamber of the FIFA Ethics Committee by claiming that “confidentiality clauses” prevented them from disclosing certain contracts and other material relevant to the inquiry presently relevant. The Investigatory Chamber recommended that it should be made clear to those in football, particularly in the bidding process, that such clauses cannot be invoked to shield material from review by the FIFA Ethics Committee.

The Investigatory Chamber further recommended that bid registration agreements require all records related to bid teams’ activities—including relevant email communications, whether sent or received on an official account associated with the bid, a private email account, or an account of a separate business—to be preserved and available for inspection for a period of at least five years.

Moreover, the Investigatory Chamber of the FIFA Ethics Committee recommended that FIFA implement and enforce provisions in bidding documents requiring every bidder, including unsuccessful bidders, to submit a final audit. According to the Report, the agreement should set forth strict consequences for non-compliance.

Finally, the Investigatory Chamber of the FIFA Ethics Committee recommended in this context that FIFA should continue to encourage appropriate football development at all levels while ensuring that the projects are not used to improperly influence the bidding process. The Investigatory Chamber recommended a reporting requirement for FIFA Executive Committee members and bid teams of all memoranda of understanding, mutual-assistance agreements, and other promises or initiatives related to football development in the Executive Committee member’s home country. According to the Report, the reporting requirement should be retroactive to a point at least 18 months before the bidding process formally begins. Likewise, bid teams and Executive Committee members should also disclose any agreement, offer or promise to place disbursement of development funds or selection of development projects within an Executive Committee member’s discretion.

The Chairman of the Adjudicatory Chamber supports all of these recommendations from the Investigatory Chamber.

## **8 Overall Assessment and Statement by the Chairman of the Adjudicatory Chamber**

### **8.1 Compliance of the Investigation with the FCE**

The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee has examined the Report presently relevant, including its annexes, during the past weeks. One of the main issues of this examination was whether the relevant investigations conducted by the Chairman of the Investigatory Chamber of the FIFA Ethics Committee, Michael J. Garcia, and the Chamber's Deputy Chairman, Cornel Borbély, have been carried out in compliance with the FIFA Code of Ethics.

In this respect, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee points out that the organization of the Committee (including, in particular the division of the Committee and of the proceedings) is specified in articles 26 and 27 of the FCE. The competences of the two Chambers are set forth in articles 28 and 29 of the FCE. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee did not find any violations of these provisions with regard to the Report of the Investigatory Chamber presently relevant.

The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee further noted that it was stated in the Report that the Investigatory Chamber has the right to investigate possible breaches of the FCE on its own initiative, independently and *ex officio*. The Report however pointed out correctly that this is not only a matter of discretion but that the Investigatory Chamber clearly has a *duty* to investigate if there are indications of corruption or similarly serious misconduct committed by FIFA officials. In such circumstances, no mandate from any FIFA body is required for proceedings to be initiated. The Investigatory Chamber of the FIFA Ethics Committee was correct in referring to art. 28 par. 1 of the FCE in the present context.

The Investigatory Chamber of the FIFA Ethics Committee has notified FIFA of the fact that it had initiated preliminary investigations and that it was conducting the inquiry presently relevant. This was also in compliance with the Code of Ethics, since the Investigatory Chamber is under no other obligations than to merely inform on the initiation of proceedings. In particular, the Ethics Committee's Chambers – which are completely independent – are under no obligation whatsoever to provide any FIFA body with further information.

The investigation presently relevant concerned the bidding process provided for by FIFA with regard to awarding the hosting of the final competitions of the Men's FIFA World Cup. More specifically, the investigation concerned the decisions to award the hosting of the 2018 and 2022 FIFA World Cups<sup>TM</sup>, which have been made during one and the same meeting of the FIFA Executive Committee on December 2, 2010. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee has examined whether the investigation has been conducted in compliance with the FCE, in particular with articles 65 and 66 of the FCE. In this respect, the Chairman did not find any irregularities or violations of the FCE.

The Chairman of the Adjudicatory Chamber has also examined whether potential conflicts of interest have been avoided in the context of carrying out the investigation. In this respect, the Chairman noted that, in accordance with art. 35 of the FCE, all necessary measures have been

taken in order to safeguard the impartiality of the investigation and of the members of the Investigatory Chamber involved.

## **8.2 Overall Assessment of the Findings Contained in the Report**

As regards the procedural framework for conducting bidding procedures related to awarding the hosts of the final competitions of FIFA World Cups™, the Investigatory Chamber of the FIFA Ethics Committee did not find any violations or breaches of the relevant rules and regulations. The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee fully concurs with this finding.

For the time being, the Chairman of the Adjudicatory Chamber is in a position to issue a statement on the findings regarding the 2018/2022 FIFA World Cups™ bidding process presented by the Investigatory Chamber of the FIFA Ethics Committee and on the conduct of the bid teams involved. By contrast, the Chairman of the Adjudicatory Chamber is not in a position to assess any conduct of individual persons possibly or actually relevant in this context, since specific investigations of such conduct have not been covered by the inquiry presently relevant. If the Adjudicatory Chamber of the FIFA Ethics Committee is to pronounce on such conduct, the Investigatory Chamber will have to conduct specific investigations and submit corresponding final reports to the Adjudicatory Chamber in accordance with the relevant provisions of the FCE.

With regard to the 2018/2022 FIFA World Cups™ bidding process and to the conduct of the bid teams involved, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee fully concurs with the findings contained in the relevant report prepared by the Committee's Investigatory Chamber.

As summarized above, the Report identified certain occurrences that were suited to impair the integrity of the 2018/2022 FIFA World Cups™ bidding process. While the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee fully concurs with the relevant findings, the occurrences at issue were, in the Chairman's assessment, only of very limited scope. In particular, the effects of these occurrences on the bidding process as a whole were far from reaching any threshold that would require returning to the bidding process, let alone reopening it – a decision which anyway would not fall under the FIFA Ethics Committee's competence.

The assessment of the 2018/2022 FIFA World Cups™ bidding process is therefore closed for the FIFA Ethics Committee.

Such closure is however subject, as already mentioned above, to Ethics proceedings regarding specific officials based on indications of possible misconduct identified in the course of the investigation presently relevant and to any action that might be taken pursuant to the recommendations offered by the Investigatory Chamber in its Report (cf. section 7.2 above).

## **8.3 Concluding Remarks**

Being selected as the host country for the final competition of a FIFA Men's Football FIFA World Cup™ has considerable effects on the economy of the country concerned. Investments



in the amount of billions of US Dollars must be and are actually made with regard to infrastructure, sports sites and marketing, resulting in a lot of stakeholders trying to profit from such investments. Moreover, the mere fact of a country participating in the FIFA World Cup™ bidding procedure already triggers substantial political efforts.

Given these circumstances, the line between a bid team's conduct, and thus the bidding process as a whole, that is entirely in line with all relevant rules and regulations and – potentially or actually – improper conduct is a very fine one. From which point on lobbying must be considered as improper conduct is, for example, not always clear. The same applies to overly favorable presentations of a country's economic capability. Corruption, however, is certainly under no circumstances permissible.

Yet, the main challenge with regard to corruption is proving it. For example, promoting football projects, retaining highly professional support for submitting a bid and state subsidies are located in a certain gray area surrounding the bidding process and the vote on FIFA World Cup™ hosts. The fact alone that senior politicians take interest in a country's bid in the context of an official state visit that takes place for different purposes is not *per se* suspicious.

Whether or not there are “package deals” concluded on such occasions that include bidding or voting activities related to FIFA World Cups™ is very hard to prove.

To assume, e.g., that envelopes full of cash are given in exchange for votes on a FIFA World Cup™ host is naïve. Corruption, also in general business not linked to football, is executed in much more sophisticated ways, including money transfers through several different accounts of consultants, trusts, offshore companies, etc. For a judicial body like the FIFA Ethics Committee, corruptive payments must not only be objectively attributed to specific individuals or entities but also subjectively linked to a particular misconduct. The perception for example, according to which a FIFA World Cup™ vote must have been “bought” if the host selected is not the one that has been generally considered a favorite (a position that is quite common in the media), is mere speculation and far from anything a judicial body like the FIFA Ethics Committee is allowed to accept as proof. The same applies to the general public's perception of a specific country's suitability as FIFA World Cup™ host.

By contrast, the Investigatory Chamber of the FIFA Ethics Committee is under the obligation to collect real facts, i.e. proof, which have then to be assessed by both Chambers of the Committee. In this regard, it shall be pointed out that such proof must be substantive, with (official) documents, money and paper trails, e-mail and other correspondence and witness statements still being the most sound kinds of proof. However, with regard to witness statements in particular, it must always be examined whether they can be corroborated by other proof, since they are subject to errors in perception, fragmentary recollection, and even motives like the intention to falsely accuse somebody.

Finally, it should also be pointed out that, as the Investigatory Chamber has also emphasized in its Report, the FIFA Ethics Committee, unlike public law enforcement authorities or prosecutors, does not dispose of any coercive means in the context of its activities. It is therefore dependent on the cooperation of the individuals subject to its jurisdiction, and at the same time limited in its activities by such cooperation. However, these circumstances do of

course not exempt the Committee from having to comply with the appropriate standards of proof. This must always be kept in mind when judging the conclusions reached by the FIFA Ethics Committee or its work in general, respectively.

#### **8.4 Findings**

- The evaluation of the 2018/2022 FIFA World Cups™ bidding process is closed for the FIFA Ethics Committee.**
- The Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee finds that the investigation into the said bidding process has been conducted in full compliance with the relevant provisions of the FIFA Code of Ethics.**
- The Chairman of the Adjudicatory Chamber supports the recommendations made by the Chairmen of the Investigatory Chamber in their report on the 2018/2022 FIFA World Cups™ bidding process.**
- The Adjudicatory Chamber of the FIFA Ethics Committee is prepared to examine specific cases if the Investigatory Chamber opens Ethics proceedings against officials based on information obtained during the FIFA World Cup™ investigation.**



Hans Joachim Eckert

Chairman of the Adjudicatory Chamber