

## MINUTES OF FIDE CONSTITUTIONAL COMMISSION MEETING

8 & 9 JUNE 2012, LAUSANNE, SWITZERLAND

### 1. PRESENT:

- 1.1 Commission members: Chairman Casto Abundo (PHI), Secretary Francois Strydom (RSA), Roberto Rivello (ITA), Willy Iclicky (MNC) and Edward Thompson (GHA).
- 1.2 By special invitation: Former Executive Director David Jarrett (ENG).

### 2. BACKGROUND & APPROACH:

- 2.1 Mr David Jarrett was requested by the Presidential Board to undertake a review and tidying-up of the FIDE Statutes to improve the grammar, remove inconsistencies and outdated provisions and to separate sections which better belong in subsidiary records. At the same time he was expected to review the Electoral Regulations.
- 2.2 In April 2012 the Presidential Board resolved that Mr Jarrett's draft proposals for amendment of the Statutes & Electoral Regulations be circulated forthwith to all Federations to allow maximum time for digestion and comment prior to these proposals being put up for approval at the General Assembly meeting in Istanbul, Turkey during the period 7 – 9 September 2012.
- 2.3 The Constitutional Commission through its Chairman also started a blog and invited Federations to post their comments on the proposed changes and engage in discussion of particular topics.
- 2.4 In terms of the current position, the Statutes can be changed by the General Assembly only upon proposal of the President, the Executive Board, the Presidential Board or any member Federation. Two thirds of the votes delivered without taking into account abstentions are required to effect such changes (current art. 12.4, proposed new art. 4.16).
- 2.5 Proposals of members or FIDE officials or organizations, which are to be included in the agenda for the General Assembly, should reach the Secretariat not later than three months before the beginning of the General Assembly, together with the reasons for the proposals (art. 4.11). In the present case the dead-line was 7 June 2012.
- 2.6 By the dead-line the Secretariat had received comment, enquiries and proposals for amendment to the statutes and Electoral Regulations from or on behalf of the following FIDE organs and member Federations:

- 2.6.1 The proposals prepared by Mr David Jarrett on behalf of the Presidential Board (“the Presidential Board proposals”);
  - 2.6.2 The joint proposals of the Bulgarian Chess Federation, English Chess Federation and United States of America Chess Federation as formulated in the memorandum of the law firm White & Case LLP (“the White & Case proposals”);
  - 2.6.3 The proposals of the FIDE General Secretary, Mr Ignatius Leong (“the General Secretary’s proposals”);
  - 2.6.4 The enquiries and proposals by the Romanian Chess Federation;
  - 2.6.5 The proposals of the Georgian Chess Federation;
  - 2.6.6 The comments and enquiries of Mr Herman Hamers of the Dutch Chess Federation;
  - 2.6.7 The proposal of the Sri Lankan Chess Federation;
  - 2.6.8 The proposals of the Papua New Guinea Chess Federation (“the PNG proposals”);
  - 2.6.9 The proposals of the National Chess Federation of the Philippines;
  - 2.6.10 The Constitutional Commission’s own proposals pursuant to its meetings in Al Ain, UAE and Krakow, Poland in June and October 2011 respectively (“the CC proposals”).
  - 2.7 According to Chapter 8C of the current Statutes, the objectives of the Constitutional Commission are the following:
    - 2.7.1 To review any Statutes changes;
    - 2.7.2 To ensure that Statutes changes occur in conformity with the procedural rules mentioned in the Statutes; and
    - 2.7.3 To ensure that the legality of the Statutes is fully respected.
  - 2.8 In order to perform its role and function, members of the Constitution Commission (hereinafter merely “the Commission”) met in Lausanne, the seat of FIDE, immediately after the dead-line for proposals to consider same and advise the FIDE organs and member Federations of its views.
  - 2.9 It is proposed that during the Congress to be held in Istanbul in September 2012, prior to the meeting of the General Assembly, a number of FIDE Statutes open sessions will be held to give an opportunity to Federations to discuss the various proposals in order to keep the debate during the meeting of the General Assembly within acceptable time limits. A further report by the Commission will be tabled at the General Assembly incorporating the outcome of the discussions during the open sessions.
  - 2.10 These minutes reflect the work of the Commission at its Lausanne meeting. Due to time constraints it was assumed that member Federations were generally satisfied with the Presidential Board proposals to the extent that no comment or counter-proposals regarding specific proposals were received by the mentioned dead-line. The Commission focused on those articles in the Statutes which appeared to be the subject-matter of different (sometimes conflicting) ideas and proposals. Unfortunately a shortage of time prevented the Commission from considering the proposed changes to the Electoral Regulations at its Lausanne meeting.
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3. Ad Chapter 01 Art 1.2 & 1.3

- 3.1 Romania questions whether the insertion of a requirement regarding internal democracy within national chess federations (i.e. the need for elections and no political interference) would be useful or whether the provisions of art. 1.2 read with art. 2.1 and 2.4 would suffice in this regard.
- 3.2 *The Commission points out that the game of chess is recognized as a sport by the International Olympic Committee (IOC) and that the practice of the game, any decision thereon by FIDE and any form of activity relating thereto should strive to meet the ideals and requirements of the Olympic Charter. In terms of the Olympic Charter members of the IOC will not accept from governments, organizations or other parties any mandate or instructions liable to interfere with the freedom of their action and vote.*
- 3.3 *The aforesaid is indirectly acknowledged by the proposed new art. 14.5 of the Presidential Board proposals. The Commission proposes that the wording of the proposed new art. 14.5 be amended by deletion of the opening words: "For all practical purposes," and that the rest of the wording rather be inserted at the end of art. 1.3 with the following addition: "The interpretation of these Statutes must be in conformity with the Olympic Charter as envisaged by art 25 of the Olympic Charter".*
- 3.4 Romania proposes the mention of chess as an educational tool in art. 1.3. *The Commission agrees in principle with the proposal but suggests that it be incorporated by the insertion of the word "educational" in art. 1.3 so that it reads "... the raising of the level of chess culture and knowledge on a sporting, scientific, creative, educational and cultural basis". This would give recognition to the importance of FIDE's Chess in Schools program.*
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4. Ad Chapter 02 art. 2.1

- 4.1 The Presidential Board proposes that art. 2.1 be qualified by the transfer from the Standing Orders of the rider that art. 2.1 does not apply to those Federations that were already members of FIDE on or before the day the General Assembly made this decision.
- 4.2 In the current Standing Orders approved by the General Assembly in Haifa in November 1976 and amended by later General Assemblies, the note to art. 2.1 of the Statutes stipulates that a Federation can only be regarded as a National Federation if it has been legally constituted and recognized in a State which is an entity of International Law or which is at least fully autonomous in the administration of culture and sports. At the end of the Standing Orders it is noted that the stipulation of art. 2.1 does not apply to those Federations that were already members of FIDE on or before the day the General Assembly made this decision.
- 4.3 *The Commission proposes that, for the sake of clarity and simplicity, the proposed rider in art. 2.1 be formulated as follows: "The requirements of a and b above do not apply to those federations that are already members of FIDE."*

- 4.4 Romania asks whether there are present any members in this position. It foresees that in the unlikely event of two countries / territories unifying, resulting normally in a single federation, one may have the strange situation that because of the operation of this rule, two federations could remain.
- 4.5 *The Commission is of the view that the purpose of the rider was to make it clear that the requirements in art. 2.1 a and b did not operate retrospectively at the time of the introduction of those requirements (i.e. to protect the position of FIDE members at the time whose countries were not members of the IOC or United Nations at the time), but that the rider cannot help a federation whose country loses its membership of the IOC or UN on a date after the introduction of those requirements. In the case of a unification of the countries of two FIDE members, it would result in a single FIDE member.*
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5. Ad Chapter 02 art. 2.2

- 5.1 The Presidential Board proposes that in art. 2.2 the provisional admission of a national chess federation as a FIDE member should be decided upon by the Presidential Board (and no longer alternatively by the Executive Board). The Presidential Board further proposes allowing the Executive Board (in addition to the General Assembly) to pronounce final membership for a federation after examination of the preconditions for admission by the Presidential Board.
- 5.2 White & Case proposes that the Executive Board alone should decide on questions of provisional admission and the General Assembly alone should decide on questions of final membership for national chess federations. It suggests that the first paragraph of art 2.2 should remain as it is and that a third paragraph be added to art. 2.2 to read: "A new member federation shall be entitled to vote for the first time on any matter at the first General Assembly meeting following the General Assembly meeting at which it was granted final admittance as a member of FIDE."
- 5.3 *The Commission points out that the General Assembly only meets once every second year. By allowing the Executive Board to decide during the interim period, new federation members can immediately enjoy the benefits of membership. On the White & Case proposal a new federation seeking admission as a member may have to wait up to 2 years for the General Assembly to decide and a further 2 years before it is allowed to vote.*
- 5.4 *The Commission further points out that it should not cause a concern if a new member federation is allowed to vote at the same General Assembly meeting at which it is admitted as a member as it would not be able to participate in any elections held at that meeting of the General Assembly. According to reg. 4.1 of the Electoral Regulations elections shall be held after the consideration of the reports of the President and*

*Treasurer on the first day of the General Assembly. According to custom the admission of new members takes place after the elections but before the rest of the matters on the agenda are considered.*

- 5.5 *The Commission suggests that the word “immediately” be inserted in reg. 4.1 for it to read: “Elections shall be held immediately after the consideration of the report of the president and that of the Treasurer...”.*
- 5.6 *The Commission further suggests that a third paragraph be added to art. 2.2 to make it clear from when a new member would enjoy the power to vote depending on which view (compare paragraphs 5.1 and 5.2 above) the General Assembly favours. Alternatively this may be inserted in art. 4.4.*
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6. Ad Chapter 02 art. 2.4

- 6.1 The Presidential Board proposes that each member federation is required to send to the Secretariat any changes in its address or officers within three months of such change.
- 6.2 Romania proposes a time period of one month for the notification of changes.
- 6.3 *The Commission believes in the present age of electronic communication (Internet and e-mail) a period of one month is reasonable. This would ensure that FIDE’s records are more up to date than if a 3 month notification period is given.*
- 6.4 The Presidential Board would amend the third sentence of art 2.4 to state that FIDE members are obliged” to support FIDE actively in all chess activities” instead of “its chess activities” as the sentence currently reads.
- 6.5 White & Case proposes that the original language of the third sentence of art. 2.4 should be retained.
- 6.6 *The Commission points out that the requirement of “support” does not necessarily mean “participate” although it does convey the notion of helping or being actively interested. In the opinion of the Commission the proposal of the Presidential Board may nevertheless be too onerous as some federations might not have the means to be actively involved in all FIDE events.*
- 6.7 The Presidential Board proposes to delete items e, f, g and h on the list of information to be provided annually by member federations. White & Case proposes that these items (particularly g) should remain. It argues that this data is useful to FIDE in pursuing the development of chess worldwide.
- 6.8 *The Commission points out that FIDE uses the number of FIDE rated players within a federation as a basis for charging fees and that the number of players belonging to a federation (item g) is not really useful to FIDE.*
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7. Ad Chapter 02 art. 2.5

- 7.1 The Presidential Board proposes to do away with the power presently granted to the Presidential Board to appoint a committee of three persons to investigate cases of a severe offence which may lead to a definite exclusion of a member federation. White & Case argues for the retention of the three person committee.
- 7.2 *The Commission draws attention to the expanded jurisdiction of the Ethics Commission as proposed by the Presidential Board (see art. 8 C). The Ethics Commission can fulfill the function previously to have been performed by the ad hoc the three person committee.*
- 7.3 *The Commission suggests that the Presidential Board's proposal be accepted but that art. 2.5 be qualified by the insertion of the words "taking into account the opinion of the Ethics Commission" at the end thereof.*
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8. Ad Chapter 02 art. 2.8 & 2.9

- 8.1 The Presidential Board proposes to sub-divide Chapter 2 by the insertion of a heading: "Non-Voting Organizations and Individuals with a right to attend the Annual Congress" before art. 2.8 and 2.9. These articles refer to affiliated international chess organizations, honorary members and life members /friends of FIDE.
- 8.2 White & Case submits that the heading is unnecessary and confusing and should be deleted. It further suggests the return the word "are" after the words "Affiliated international organisations" in art. 2.8 and the substitution of the word "Individuals" with the words "Individual members are:" in art. 2.9.
- 8.3 *The Commission believes that the sub-division of Chapter 2 in two parts each with its own sub-heading makes sense. It suggests the introduction of a sub-heading "A: Member federations" at the head of art 2.1 – 2.7 and another sub-heading "B: Non-Voting Organizations and Individuals" at the head of art. 2.8 – 2.9. It should be stated in both art. 2.8 and 2.9 that the relevant organizations and individuals have a right to attend the Annual Congress but will have no voting rights.*
- 8.4 *The Commission draws attention to an inconsistency in the text proposed by the Presidential Board. In art. 2.9 a it is proposed to delete the reference to "Honorary Presidents" but in the last paragraph of art. 2.9 the existing provisions regarding Honorary Presidents are retained.*
- 8.5 Romania proposes that the word "fixed" in art. 2.9b be supplemented with the word "agreed". *The Commission suggests that the word "decided" be used instead of both "fixed" and "agreed".*
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9. Ad Chapter 03

- 9.1 Chapter 3 sets out the FIDE officials and organizations. The Presidential Board proposes to eliminate the positions of Marketing and PR Director, CEO Development and Commercial Director. It proposes to add the Electoral Committee.
- 9.2 Romania proposes that the words “and the Secretariat” should be added to “the General Secretary” in g.
- 9.3 *The Commission suggests that the heading and introductory part of Chapter 3 should refer to “FIDE officials and organs” (and not “organizations”).*
- 9.4 *The Commission doubts whether the delegates (a) and the Continental Representatives (r) should appear in this list. The delegates represent their federations and the Continental Representatives form part of the Executive Board (b). Furthermore it is uncertain why the Electoral Committee is mentioned but not any of the other Commissions and Committees established in terms of Chapter 8. It may be because it is intended to move the other Commissions and Committees out of the Statutes and into the Administration Section. It may suffice to include in the list of FIDE officials and organs a reference to “all other Commissions established in terms of Chapter 8 read with the Administration Section”. In the view of the Commission, the Secretariat should be added as a self-standing item.*
- 9.5 *The Commission suggests that there is no meaningful distinction between “commissions” and “committees” and that for the sake of consistency only “commissions” should be used (meaning an official group of persons authoritatively charged with particular functions).*
- 9.6 White & Case we propose that Chapter 3 be further amended to state (i) that only the General Assembly may create additional positions; (ii) an elected FIDE official should not be permitted to also hold another remunerated position within the organization, with the exception of temporary positions on the Appeals Committee and as arbiters. If an elected FIDE official should be appointed to any other remunerated position, he should resign his elected position immediately; (iii) the FIDE Statutes should contain provisions regulating how a FIDE position which becomes vacant during a term can be filled until the next elections.
- 9.7 *The Commission once again points out that the General Assembly meets only every second year and that it may be practical to provide also for the Presidential Board to create additional positions.*
- 9.8 *The use of the word “positions” in White & Case’s formulation (“Only the General Assembly may create additional FIDE positions.”) is too wide and do not differentiate between the officials / organs mentioned in Chapter 3 and employed positions.*
- 9.9 *If the White & Case proposals referred to in paragraph 9.6 above are accepted, it would mean that the positions of Executive Director and Treasurer cannot be filled simultaneously by one person.*
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10. Ad Chapter 04 art. 4.1

- 10.1 Art. 4.1 provides that when the General Assembly is not in session its powers are transferred to the Executive Board. However, the Executive Board cannot take decisions on certain matters, *inter alia* “matters” of Rules Commission and “matters” of Qualification Commission. The Presidential Board proposes that the Executive Board should not decide on “changes to regulations” of both the Rules Commission and Qualification Commission in preference to the current text.
- 10.2 White & Case proposes that “changes to Electoral Regulations” should be added to the list of matters on which the Executive Board cannot decide (see Memorandum page 9).
- 10.3 The General Secretary proposes that the references to both the Rules Commission and Qualification Commission should be deleted as they are no longer elected commissions and stand to be dealt with in the Administration Section rather than the Statutes. He adds that the Rules Commission is now known as the Rules and Tournaments Commission.
- 10.4 *The Commission remarks that minor provisions of the Electoral Regulations do not require entrenchment in the Statutes which permit of amendment only upon a two thirds majority vote. These minor provisions can be accommodated in the Administration Section liable to amendment upon a simple majority vote. Only the most important provisions of the Electoral Regulations belong in the Statutes.*
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11. Ad Chapter 04 art. 4.2

- 11.1 Art. 4.2 deals with the composition of the General Assembly. The Presidential Board proposes that the World Champion and Women’s World Champion should also be included. Romania suggests that in addition to the chairmen of the permanent commissions, also the other members of these commissions should be included.
- 11.2 *The Commission observes that there is no need to refer to commissions and committees in art. 4.2e (as some may believe) in the light of the general recommendation from the Commission that a distinction between commissions and committees should be eliminated – see paragraph 9.5 above.*
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12. Ad Chapter 04 art. 4.3

- 12.1 Art. 4.3 deals with representation of a member federation at the General Assembly by its delegate or a proxy as well as assistance by counselors.
- 12.2 The Presidential Board proposes an amendment to make it clear that the delegate must belong to the member federation that he/she represents and be appointed by the appropriate body of that federation. It is also proposed to abandon the distinction between “delegate” and “permanent delegate”. The Presidential Board further

- proposes reducing the number of counselors who may aid representatives from two to one.
- 12.3 Georgia proposes that the counselor of a representative may belong to any federation other than own federation and that there is no necessity (for the delegate) to be an official of his own federation.
- 12.4 Romania requests that the meaning of “belong” to the member federation must be defined/understood.
- 12.5 PNG proposes that a new sentence “The letter must name the specific Federation assigned to represent it.” must be inserted in the last paragraph of art. 4.3 with reference to letters of assignment (proxies). The note of the Presidential Board indicates that this paragraph is to be moved to 4.16 – it in fact now appears as reg. 5.1 of the Electoral Regulations.
- 12.6 White & Case proposes that a member-federation may be represented at the General Assembly (1) by its Delegate who must belong to the member-federation that he represents and have been elected or appointed Delegate by the appropriate body of that federation, or (2) if the Delegate is absent, (a) by the President of the member-federation or (b) by another person provided that such person (i) has been duly accredited by letter for such representation by the duly elected or appointed officials of the member-federation and (ii) belongs to the member federation granting the proxy or is the official representative of another member-federation at the General Assembly (whether as its Delegate or, in the absence thereof, as its President or by means of a Proxy).
- 12.7 White & Case further proposes that a representative may be aided by two counselors, each of whom shall have the right to address the General Assembly. The names of the counselors must be advised to the FIDE Secretariat by 17:00 on the day before the opening session of the General Assembly. In cases of unexpected unavailability of the named counselors, others may be substituted after this deadline provided that the Secretariat is duly informed of the change without delay.
- 12.8 *Mr. Abundo gave the background of the term “Permanent Delegate”. The late FIDE President Campomanes explained that the Permanent Delegate, a title used in the United Nations, is the person FIDE liaises with throughout the year while the “Delegate” may be another person appointed to represent the federation at a specific Congress in case unavailability, for example. When the Permanent Delegate is present, it is usually he who represents the federation.*
- 12.9 *The Commission did not object to the removal of the term “permanent delegate”. A federation’s delegate is described in art. 2.4d. The Commission also supports the proposal that the delegate must belong to the member federation that he/she represents. To avoid abuse a proper understanding of the requirement of “belong” is indeed important. This would probably be determined with reference to the national statutes of the member federation concerned. Typically he / she would be a member or office bearer of that federation. An individual nationality status on FIDE’s rating list may also be helpful if registered as a player. A letter from the federation on its official*

*letterhead confirming the identity of its delegate should be accepted as prima facie proof that the delegate belongs to that federation unless the contrary is shown by anyone contending otherwise.*

- 12.10 *The Commission believes that space constraints of the venues at which the General Assembly meetings are held militate against permitting more than one counselor to aid a delegate. It is doubtful whether the counselors should have a right to address the General Assembly except for speaking with the permission of the chairman of the meeting as an indulgence. As counselors would often be professional advisors it seems best not to require that they necessarily belong to the federation on whose behalf they attend.*

13. Ad Chapter 04 art. 4.4

- 13.1 In its proposed amendments to Article 4.4, the Presidential Board seeks to streamline the process for making motions of order at the General Assembly.
- 13.2 White & Case suggests a slight modification (i) to make it clear the motion of order may be made by any member federation and (ii) to amplify the chairman's duty to have such a motion considered and decided upon at once by the General Assembly in so far as they do not entail an interruption of the session, by adding that even in the latter case it must be dealt with at once if, upon adequate inquiry by the chairman, the motion is seconded by another member-federation.
- 13.3 *The Commission points out that it is well recognized by Robert's Rules of Order that it is the duty of the presiding officer to enforce the rules and orders of the assembly and that points of order raised must be decided by the presiding officer without debate, unless in doubtful cases he submits the question to the assembly for decision. Before rendering his decision, the chair may request the advice of persons of experience, but the decision remains his.*
- 13.4 *The Commission opines that given the risk of disruption of the meeting the chairman should decide upon motions of order. It speaks to reason that any member of the General Assembly would be entitled to bring a motion of order.*

14. Ad Chapter 04 art. 4.7

- 14.1 Art. 4.7 requires votes on elections to be made by secret ballot, unless otherwise decided by a two third majority.
- 14.2 *It seems reasonable to the Commission to further qualify the requirement of a secret ballot in cases where there is no more candidates than the number of officers to appoint. This however assumes that there is no need for voting in such instances and that the candidates are automatically elected – may be a result not intended.*

15. Ad Chapter 04 art. 4.9

- 15.1 Art. 4.9 provides that in the event of a tie in voting in the General Assembly, the President decides (with the exception of elections). There is a suggestion that it must refer to the FIDE President.
- 15.2 Romania seeks to qualify the President's right to give a casting vote in the event of a tie in voting by saying that if he has the right to vote, he should represent a federation (be a delegate).
- 15.3 *The Commission does not support the proposal of Romania. The chair has a casting vote not as a representative of a particular federation, but in his capacity as chairman of the meeting to break the deadlock in voting. This is a standard procedure in the meetings of most organizations.*
- 15.4 *The Commission points out that art. 4.9 must be read with art. 9.2 (the President presides over the meetings of the General Assembly) and art. 9.5 (If the President is unable to act then he is represented by the Deputy President).*
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16. Ad Chapter 04 art. 4.12

- 16.1 In Article 4.12, the Presidential Board proposes eliminating the requirement that all decisions of the General Assembly be given an alpha-numeric designation.
- 16.2 White & Case proposes that the alpha-numeric designation of decisions should be retained.
- 16.3 *The Commission is informed that this requirement is difficult in practice and has never been honoured. The General Assembly must decide the reasonableness of the proposal and counter-proposal.*
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17. Ad Chapter 04 art. 4.16

- 17.1 White & Case proposes a change to art. 4.16 to the effect that the Statutes "can be changed only by the General Assembly and only upon proposal by ...". This is to make it clear no organ other than the General Assembly can change the Statutes.
- 17.2 *The Commission reckons that this already flows from other provisions in the Statutes, inter alia art. 4.1, but has no objection to the White & Case proposal.*
- 17.3 In relation to proxies, PNG proposes that art. 4.16 be amended to insert a requirement that the General Assembly must vote to accept the Proxy Committees Report and that only countries with a delegate present at the General Assembly would be entitled to vote on the report.
- 17.4 *The Chairman reminded the Commission of the case of the Peru Chess Federation in 2006 which the General Assembly debated for several hours. He said the question of proxies should be handled by the Electoral Commission and reported to the General Assembly.*

- 17.5 White & Case proposes that proxies should remain in Chapter 4 of the Statutes and has made a number of proposals regarding amendments to the text which, it is proposed, would form a new art. 4.19 (see Memorandum pages 30 – 31).
- 17.6 The section dealing with proxies stands to be moved to the Electoral Regulations in terms of the Presidential Board's proposal. *The Commission did not time to consider the Electoral Regulations and the proposal relating thereto at its meeting.*
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18. Ad Chapter 04 art. 4.17

- 18.1 White & Case proposes that changes to the statutes, the standing orders or the electoral regulations shall be implemented by the Secretariat, and shall be published on the FIDE website within one week of the close of the General Assembly meeting at which they were adopted, along with a note explaining the changes.
- 18.2 White & Case further proposes retaining the stipulation that amendments to Financial Regulations come into operation on the first day of the next fiscal year, whereas the Presidential Board proposes replacing this with the general rule that decisions made by the General Assembly will come into effect on the last day of the General Assembly, after the General Assembly is closed.
- 18.3 *In the opinion of the Commission a period of one week for publication of all changes is too short as the Secretariat is normally exhausted after the holding of a Congress and that a reasonable period for publication should be provided for. The Commission does not agree that notes explaining the changes should be published on the web-site and think that these belong in the minutes of the meeting.*
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19. Ad Chapter 04 art. 4.18

- 19.1 The Presidential Board proposes a new art. 4.18 which would determine *inter alia* that the Electoral Regulations are to be approved by the General Assembly by simple majority.
- 19.2 White & Case counter-proposes that the Electoral Regulations can be changed only by the General Assembly by two thirds of the votes delivered without taking into account abstentions. White & Case argues that Electoral Regulations are essential to running fair elections and they have been the subject of much confusion and two recent arbitrations at the Court of Arbitration for Sport. Because of their great importance to FIDE, they should be treated equally with the Statutes for purposes of amendments.
- 19.3 *In the view of the Commission a compromise between the proposal and counter-proposal seems reasonable on the basis that only the major provisions of the Electoral Regulations be incorporated in the Statutes and the minor aspects of a procedural nature be accommodated outside the Statutes. The Commission refers to paragraph 10.4 above.*
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20. Ad Chapter 05 art. 5.1, 5.2 & 5.3

- 20.1 In terms of art. 5.1 the Executive Board concerns itself with matters that are usually dealt with by the General Assembly in particular with the annual reports of the President and the Treasurer as well as all further subjects listed on the agenda for the General Assembly and recommends actions.
- 20.2 Georgia proposes that only the General Assembly must decide which subjects will be discussed at the General Assembly and which subjects in the Executive Board.
- 20.3 *The Commission understands that the same agenda serves in the General Assembly as in the Executive Board – see also art. 5.3. The Georgian proposal does not seem practical.*
- 20.4 In the last sentence of art. 5.2 it is stipulated that “all countries” are welcome to attend the meetings of the Executive Board. *The Commission recommends that this be replaced with a reference to “all member federations”.*

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21. Ad Chapter 06 art. 6.1

- 21.1 Art. 6.1 describes the general purpose of the Continental Associations. It states *inter alia* that the CA will be responsible for the organization of continental championships “under the auspices of FIDE”. The Presidential Board proposes to add that “the organisation of these Associations and the regulations of continental events shall be consistent with FIDE regulations.”
- 21.2 Romania comments that FIDE should leave some room. Romania submits that the use of the word “auspices” is acceptable or other delicate provision would be suitable, something as “non-violating FIDE regulations”.
- 21.3 *The Commission comments that the requirement for continental events to be consistent with FIDE regulations does entail a measure of flexibility. The word “consistent” means compatible or in harmony with. Therefore the CA regulations must not be in conflict with FIDE regulations, but that is not to say the CA cannot adopt regulations on matters which are not covered by the FIDE regulations. It is however important that in qualifying events, the CA adheres to the same time controls and tournament rules as would be enforced by FIDE in the higher event.*
- 21.4 *The Commission recommends that the Presidential Board’s proposal (see paragraph 21.1 above) be modified to provide that “the organization of these Associations, elections of their representatives and regulations of continental events shall be consistent with FIDE rules and regulations.”*
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22. Ad Chapter 06 art. 6.3 and new 6.4, 6.5 & 6.6

- 22.1 Art. 6.3 caters for election of the officials of the Continental Association and for their election to be confirmed by the General Assembly.
- 22.2 White & Case draws attention to the fact that Continental Associations are sovereign bodies and that their officers should not be subject to General Assembly confirmation. It proposes that the General Assembly merely takes note of the appointments (see Memorandum pages 22 – 23).
- 22.3 *The Commission believes that White & Case is correct in their summary of the legal position. Mention at the meeting of the General Assembly of the appointment of the officials of Continental Associations should merely be for acclamation.*
- 22.4 *The Commission notes the further proposals by the Presidential Board for the introduction of a new art. 6.4, 6.5 and 6.6. The note says that the first two were moved from art. 9.6 and 9.7 – it should read art. 9.8 and 9.9 respectively. The new art. 6.6 is what remains of the existing art. 6.4. In the light of paragraph 22.3 above, the Commission recommends the deletion of the first sentence of the new art.6.5 (old art. 9.7). In the view of the Commission an obligation should be imposed on Continental Assemblies to lodge with the FIDE Secretariat copies of their statutes and the results of their elections.*
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23. Ad Chapter 07 art. 7.1

- 23.1 Art. 7.1 deals with the authority of the Presidential Board. The Presidential Board proposes to delete the sentence giving the General Assembly the power to review decisions of the Presidential Board on matters within the competency of the General Assembly.
- 23.2 The General Secretary raises the same issues in regard to the Presidential Board as raised with reference to the Executive Board's excluded competencies (see paragraph 10.3 above).
- 23.3 White & Case proposes that all decisions taken by the Presidential Board pursuant to its rights may be reviewed by the following Executive Board and General Assembly meetings. It argues that it is self-evident that the General Assembly should be able to review decisions on matters within its competency that are delegated to lower bodies when the General Assembly is not in session.
- 23.4 *The Commission believes that in principle the White & Case proposal is sound, however the power of review should not extend to decisions pertaining to day-to-day administrative matters.*
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24. Ad Chapter 07 art. 7.2

- 24.1 Art. 7.2 deals *inter alia* with the Steering Committee of the Presidential Board. The Presidential Board proposes to move these provisions to a new art. 7.3 and to arrange

its composition to consist of the FIDE President, Deputy President, General Secretary, Treasurer and the two Vice Presidents elected on the Presidential ticket.

- 24.2 White & Case proposes that the Steering Committee be expanded to include the four Continental Presidents.
- 24.3 *The Commission is not in favour of the White & Case proposal. As the Continental Associations are sovereign bodies and FIDE has limited influence regarding their internal affairs (see paragraph 22 above), equally FIDE is sovereign and, in spite of the representation on the Presidential Board, there is no need to involve the Continental Presidents in the matters entrusted to the Steering Committee. There are also time and cost considerations if the Steering Committee has to meet and it is in the best interest of FIDE to keep the number of members of the Steering Committee limited.*
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25. Ad Chapter 07 art. 7.4

- 25.1 The present art. 7.4 (to be moved to art. 7.5) provides for the agenda of presidential Board meetings as well as the relevant documents to be sent to members in advance of the meetings. The Presidential Board proposes to remove the alternative of publication on the FIDE website.
- 25.2 White & Case proposes that (i) the Presidential Board agenda should be published on FIDE's website, (ii) Presidential Board decisions should be clearly marked with alphanumeric designations, and (iii) the minutes of Presidential Board meetings should be distributed to members of the Presidential Board and published on FIDE's website. It claims that all of the proposed changes will enhance transparency, accountability and member participation in FIDE.
- 25.3 *The Commission does not think it is advisable to publish the internal documents of the Presidential Board, the managing organ of FIDE, in the public domain. This would certainly inhibit a free and confidential discussion of, sometimes sensitive, matters in meetings of the Presidential Board. The volume of the documents to be published also militates against the proposal. This applies even more so to documents of a clearly confidential nature.*
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26. Ad Chapter 08 A – Commissions

- 26.1 The General Secretary proposes regarding membership of commissions (art. 8A 1.1) that each commission shall consist of:-
- 26.1.1 A Chairman appointed by FIDE President.
- 26.1.2 Twelve members with consultative status - four to be nominated by members of the outgoing Commission, one each nominated by the Continental Presidents and four nominated by the Chairman.

- 26.1.3 From among the twelve members, the Chairman shall, in consultation with the General Secretary, appoint a Council of four members one of whom shall be the Secretary.
- 26.1.4 The Association of Chess Professionals shall nominate a representative who shall have a consultative status.
- 26.2 Romania proposes a minor change in regard to the Chess in Schools Commission – art. 8A 2.4. In sub-art. 2.4.1 it proposes that “ the SCH shall **develop FIDE’s CIS programs and** assist National Federations to introduce Chess in schools.” (proposed change in bold).
- 26.3 *The Commission understands that the provisions relating to non-elective (i.e. appointed) commissions will be moved out of the statutes into the Administration Section. As a result the provisions of art. 8A 2.1 – 2.9 and 3.1 – 3.14 as well as art. 8B 1 – 3.6 of the current Statutes will be moved. The elected commissions dealt with under chapter 8C will remain in the Statutes.*
- 26.4 *The Commission repeats its advice that the distinction between “commissions; and “committees” should be abandoned and that only the word “commissions” should be used. This applies inter alia to the heading of chapter 8C and the names of the Constitutional Commission and the Electoral Commission. The latter should be dealt with in the Electoral Regulations and not the Statutes.*

## 27. Ad Chapter 08 C – Elected Commissions and Committees

- 27.1 In chapter 8C – Ethics Commission, the Presidential Board (after consultation with the chairman of the Ethics Committee, Dr Roberto Rivello) proposes an expansion and re-defining of the Ethics Commission’s jurisdiction and authority.
- 27.2 *The Commission recommends that the first heading under the Ethics Commission should be changed from “Objectives” to “Objectives and Competencies”.*
- 27.3 Sub-art. 2.5 under the Ethics Commission provides for an independent Investigatory Chamber of the Ethics Commission which may be charged to address motivated reports to the Ethics Commission on specific cases or types of cases. *(The use of the word “typologies” here should be reconsidered; typology is the study of types.) The Commission recommends the addition of the following sentence: “When requested for an advisory opinion on the FIDE statutes, the Constitutional Commission may be asked to submit a position paper.”*
- 27.4 Romania proposes that the Ethics Commission should have an appeal competence over decisions of correspondent national organs when cases have international implications not only upon referral by the national chess federation but also by “any other party” (presumably the party in dispute with the national chess federation). Romania stresses however that the national chess federations should be the authority in first instance in disciplinary and ethics matters in domestic or international events.

- 27.5 The Dutch Federation asks whether there should not be a time limit imposed on the decisions of the Ethics Commission as complaints sometimes take a long time to be decided upon.
- 27.6 *The Commission feels that it may be very difficult to impose time limits on the Ethics Commission which has no permanent staff and may only meet a few times in a year. Certainly the expectation must be that a matter should be resolved within a reasonable time from the date it is referred to the Ethics Commission. What a reasonable time would be would differ from case to case and depends inter alia on the complexity of the matter, the time allowed for written submissions, whether an oral hearing takes place, the involvement of legal representatives and the general availability of those members of the Ethics Commission assigned with the case. If something has to be stipulated regarding the speedy hearing and decision of cases referred to the Ethics Commission, then it should be more appropriately appear in the FIDE Code of Conduct and/or the Procedural Rules of the Ethics Commission. At present the Procedural Rules require that a written copy of the judgment shall be delivered to each party no later than 20 days after the judgment.*
- 27.7 The Constitutional Commission made a number of proposals for Statutes changes following its meetings in Al Ain, June 2011 and Krakow, October 2011. The Presidential Board is referred to the minutes of those meetings. This Commission is pleased to see that its recommendation regarding the establishment of an independent Electoral Commission has found favour and is being adopted as one of the Presidential Board's proposals. Another recommendation regarding the power to decide disputes about the interpretation or application of the Statutes has been partially taken up in that the Ethics Commission's competencies have been expanded to include the giving of advisory opinions on the interpretation of the Statutes. The Commission's recommendation for a review and clean-up of the Statutes also received attention and resulted in the Presidential Board's proposals, albeit that no table of contents and subject index have yet been prepared.
- 27.8 To comply with the requirement that proposals for Statutes changes should be made by a member federation if not by the President, the Executive Board or the Presidential Board (see art. 4.16), the Philippines submitted the (outstanding) recommendations of this Commission as a federation proposal.
- 27.9 The proposal includes an expansion of the Commission's objectives and competencies to read "To make and review proposals for statutes changes" (instead of the limited power at present to only review) and "To maintain and update the FIDE Statutes, Standing Orders and Electoral Regulations".
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28. Ad Chapter 9 art. 9.1, 9.3, 9.4 & 9.8

- 28.1 Due to a lack of time, the proposals of White & Case in this regard will be discussed in a special meeting of the Constitutional Commission in Istanbul on 1 September 2012 prior to the open FIDE Statutes sessions to be held at the Congress.
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29. Ad Chapter 10 art. 10.1 & 10.4

- 29.1 Due to a lack of time, the proposals of the General Secretary and Romania in this regard will be discussed in the meeting of the Constitutional Commission in Istanbul on 1 September 2012.
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30. Ad Chapter 11 art. 11.2 & 11.3

- 30.1 Due to a lack of time, the proposals of the General Secretary and Romania in this regard will be discussed in the meeting of the Constitutional Commission in Istanbul on 1 September 2012.
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31. Ad Chapter 14 art. 14.1, 14.2 & 14.3

- 31.1 In Art. 14.2 and 14.3, the Presidential Board proposes eliminating access to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland for “disputes concerning possible violations of the electoral procedure” (art. 14.2) and “other disputes concerning possible violation of statutes or regulations” (14.3). These disputes would instead need to be brought to the Swiss civil courts. FIDE subscribes to the final settlement of any dispute directly or indirectly related to the playing of chess in its whole or partial practice, after final decision by the competent FIDE organ, to wit the General Assembly or Ethics Commission (art. 14.1). In other words, only athletic disputes should be decided by CAS.
- 31.2 The settlement of all disputes under art. 14.1 shall be applicable to acts performed by :
- 31.2.1 FIDE as an Organisation;
  - 31.2.2 FIDE Office bearers;
  - 31.2.3 Member Federations, their clubs and individual players.
- 31.3 Excluded from the settlement under art. 14.1 are disputes relating to acts performed by (i) sponsors and (ii) any person or body with whom FIDE has entered into any form of contractual arrangement related to chess – as in the current art. 14.3.
- 31.4 White & Case proposes that the current Article 14.1 be left untouched, i.e. that the CAS be retained as the dispute resolution forum of any dispute relating directly or indirectly

to chess, be it commercial or relating to the practice and development of chess or a dispute following a decision of FIDE. It points out that English, the main language used by FIDE, is not used in the Swiss judicial system and that the CAS is the premier sports court in the world. It alleges that turning away from the CAS would be a blow to the federation's prestige and Olympic aspirations.

- 31.5 *The Commission points out that the White & Case proposal overlooks another part of the Presidential board's proposal, namely that resort may only be had to the CAS (regardless of the types of case being referred to the CAS) " , after final decision by the competent FIDE organ". This Commission recommended at its Al Ain and Krakow meetings that the Statutes be changed to provide for preliminary recourse within FIDE before a matter is taken to the CAS.*
- 31.6 *The Commission is not certain whether, on the present proposed formulation of the Presidential Board's proposals, in which cases the General Assembly would be the competent internal organ for preliminary decision and, in those cases where the Ethics Commission is the competent internal organ, whether a right of internal appeal to the General Assembly exists.*
- 31.7 The Dutch Federation supports the notion that internal dispute resolution must take place first before the matter is referred to the CAS.
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