

WORTHINESS

GOVERNING SPORT IN THE THE 21ST CENTURY

EUROPEAN ATHLETICS GOVERNANCE WORKSHOP
FUNCHAL, 14 OCTOBER 2016

ALEX MCLIN

MEMBER, COURT OF ARBITRATION FOR SPORT

FORMER CEO, FEDERATION EQUESTRE INTERNATIONALE

EXECUTIVE DIRECTOR, SWISS ARBITRATION ASSOCIATION

ATTORNEY-AT-LAW

GOVERNANCE

Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. Sir Adrian Cadbury (2002)

Mechanisms, processes and relations by which organisations are controlled and directed.

Governance structures and principles -> distribution of rights and responsibilities among different participants in the organization.

GOVERNANCE IN SPORTS

The framework and culture within which a sports body sets policy, delivers its strategic objectives, engages with stakeholders, monitors performance, evaluates and manages risk and reports to its constituents on its activities and progress including the delivery of effective, sustainable and proportionate sports policy and legislation.

EU Good Governance Expert Group

WHY?

- **Technology breaks down expectations of confidentiality**
- **Access to information has transformed expectations**
- **Sport stakeholders now feel entitled to understanding the issues and motivations behind decisions (major and minor)**
- **High-profile “scandals” (non-sport and sport)**

TRENDS

- **Speed, agility and adaptability more important than ever**
- **Nature and means of communication more relevant**
- **“Real-time” governance and credibility**
- **The long shadow of reputation**
- **Third-party standards**

PERCEPTION

The screenshot shows a Twitter search results page for the hashtag #fifa. The page is divided into several sections:

- Left Sidebar:** Navigation options including 'Everything', 'All people', 'Everywhere', and a list of trends such as #FailedCharities, #WhoKilledSam, #Scandal, #BreakTheInternet, #KimKardashian, Gruber, Too Many Cooks, Cake Boss, Nehru, and Montreal.
- Search Results Header:** 'Results for #fifa' with a 'Save' button and a 'Top / All' filter.
- Photos Section:** Titled 'Photos · View all', it contains two main images:
 - A photograph of the FIFA World Cup trophy on a pedestal against a background of golden bokeh lights.
 - A grid of small red icons representing various national football teams.
- People Section:** Titled 'People · View all', it shows two images:
 - A photograph of FIFA President Joseph S. Blatter in a dark suit and glasses, standing in front of a blue background with the 'FIFA' logo.
 - A caricature of Joseph S. Blatter with a large red nose, holding a small trophy.
- Right Sidebar:** 'Who to follow' section featuring accounts like @microspot_ch, @ClovisTrevino, and @LathamWatkinsLLP, each with a 'Follow' button. Below this is a footer with copyright information: '© 2014 Twitter About Help Terms Privacy Cookies Ads Info Brand Blog Status Apps Jobs Advertise Businesses Media Developers'.

PRINCIPLES / STANDARDS / LEGISLATION

Cadbury Report (UK, 1992)

Principles of Corporate Governance (OECD, 1999, 2004 and 2015)

Sarbanes-Oxley Act of 2002 (US, 2002)

Principles:

- **Rights and equitable treatment of shareholders**
- **Interests of other stakeholders**
- **Role and responsibilities of the board**
- **Integrity and ethical behavior**
- **Disclosure and transparency**

INTERNAL VS. EXTERNAL CONTROLS

External controls in a competitive market:

- **Competition / takeovers**
- **Demand for and assessment of performance information (esp. financial statements)**
- **Government regulation**
- **Media pressure**
- **Managerial labour market**
- **Proxy firms**

INTROSPECTION

What could I be doing better?

Am I informing my stakeholders about my challenges?

How can I measure progress?

How can I communicate this progress?

INTROSPECTION

Awareness: autonomy is earned and deserved

Collective assessment: best practice determination

Individual determination: what is right for our stakeholders?

INTROSPECTION

35 Olympic sports seek consensus on:

- **Executive power**
- **Awarding of major events**
- **Stakeholder representation**
- **Transparency**

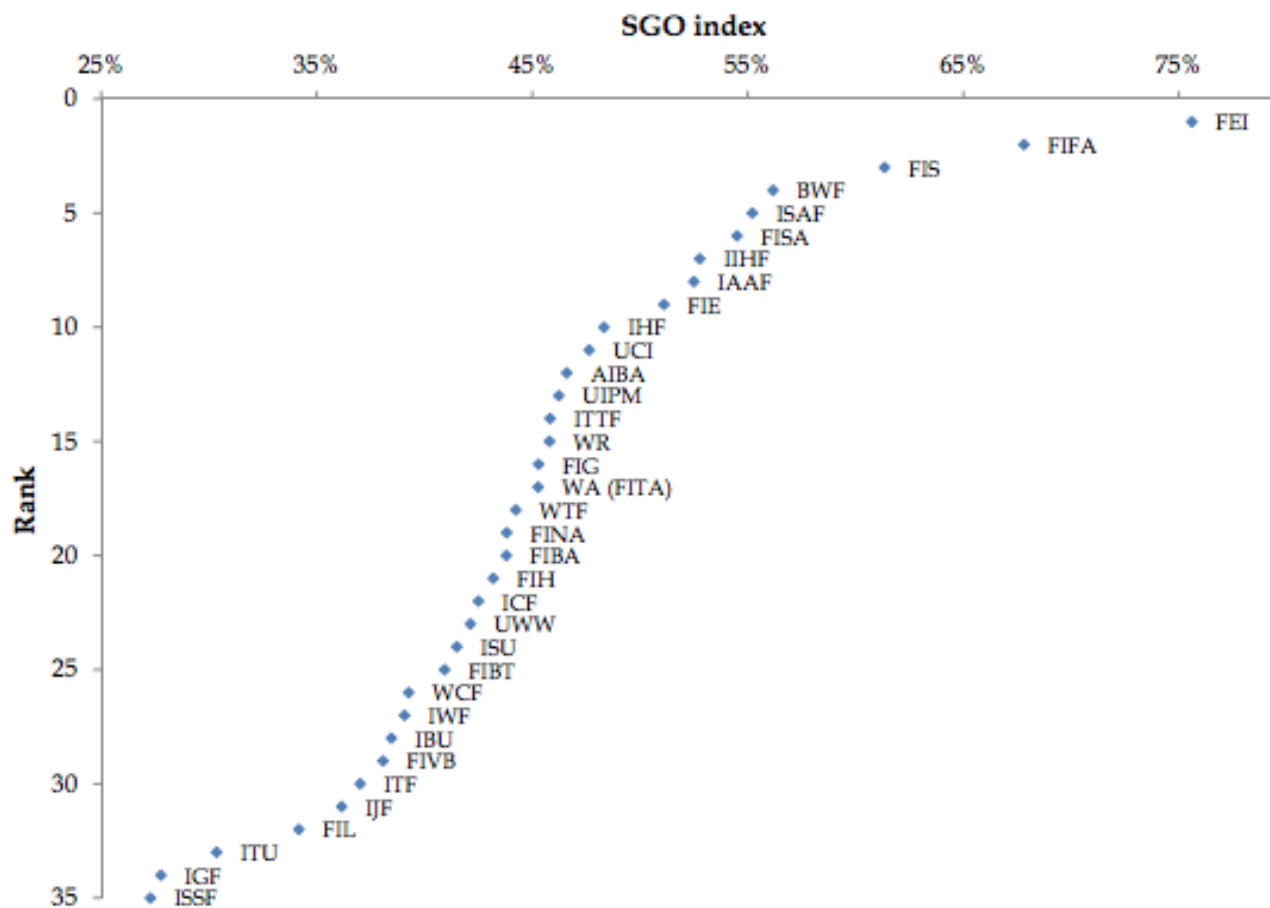
ASSESSMENT

Authorities:

- **Council of Europe**
- **European Union**
- **Transparency International**
- **Play the Game**
- **One World Trust**
- **Pricewaterhouse Coopers**
- **Scholars on corporate and international public governance (Burger et al., Chaker, Chappelet & Kübler-Mabbott, De Zwart & Gilligan, Henry & Lee, Katwala, McNamee & Fleming, Mowbray, Taylor & O'Sullivan)**
- **IBGs, RGS & NGBs incl. EOC, FIA, UCI, CGF, IOC, ETSA, UEFA, FEI, IAAF, EA**
- **Sorbonne / ICSS (integrity) / SIGA**

MEASUREMENT: YOU, OR WHO?

Figure 1: Sports Governance Observer 2015 scores



MEASUREMENT

Basic Indicators for Better Governance in International Sport

- **Organisational transparency**
- **Reporting transparency**
- **Stakeholder representation**
- **Democratic process**
- **Control mechanisms**
- **Sport integrity**
- **Solidarity**

Jean-Loup Chappelet and Michaël Mrkonjic
IDHEAP – Swiss Graduate School of Public Administration

MEASUREMENT

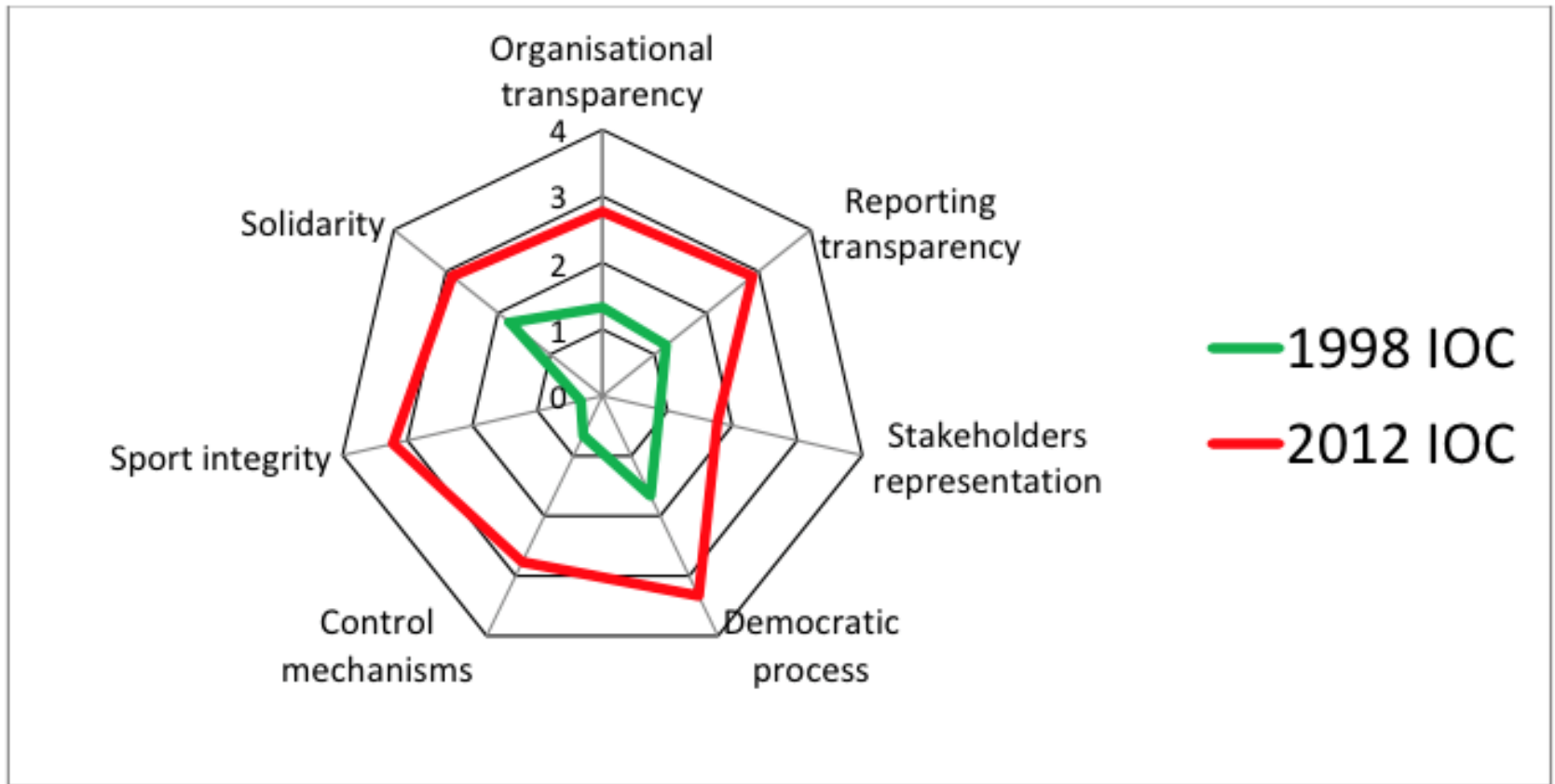


Figure 2 – BIBGIS spiders comparing the IOC in 1998 and in 2012

MEASUREMENT

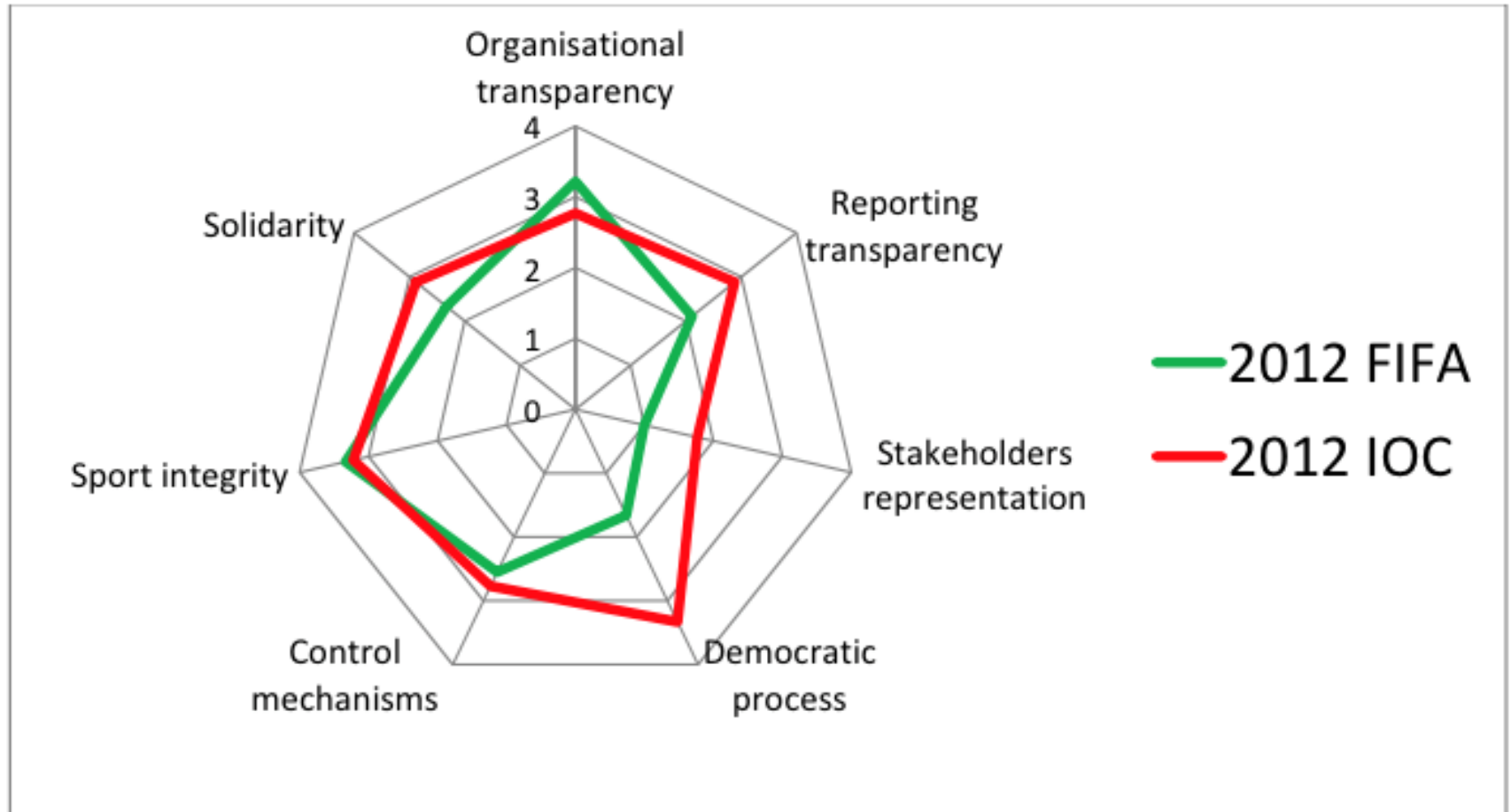


Figure 3 – BIBGIS spiders comparing the IOC and FIFA in 2012

MEASUREMENT - FEI

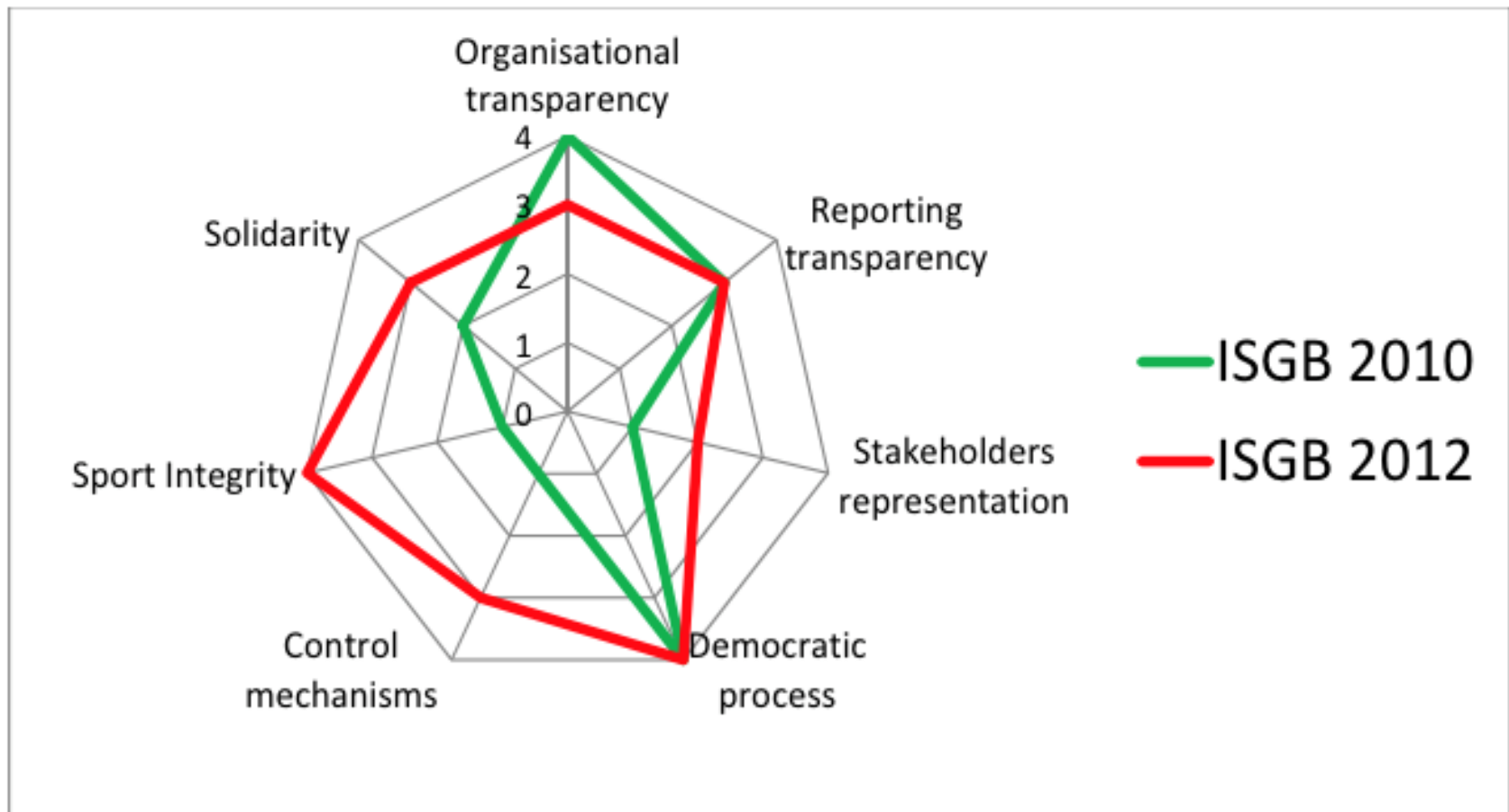


Figure 1 – BIBGIS spider comparing the same ISGB in 2010 and 2012.

IF Governance Monitoring System (GMS)



The Association of Summer Olympic International Federations

Alex McLin – ASOIF Governance Task Force

ASOIF Governance Task Force

Composition:

- Francesco Ricci Bitti (Chair, President ASOIF)
- Ben Cohen (ALCG / FIBA)
- Alexander McLin (ALCG / CAS / ASA)
- Jean-Loup Chappelet (IDHEAP)
- Denis Oswald (CIES / IOC / FISA / CAS)
- Ingmar de Vos (FEI)
- Luis Fernando Lima (FIVB)
- Patrick Baumann (FIBA / IOC / ASOIF / SportAccord)
- Andrew Ryan (ASOIF)

Guiding Principles & Considerations

- Each IF owns its evaluation and monitoring system
- ASOIF is committed not only to supporting its members in the adoption of standards, but also in ensuring regular evaluation and reporting against adopted standards
- The credibility of a system chosen to evaluate a given IF is dependent on various factors
- Evolution
- Support

Assessment: General Framework

Initiative must take into account:

- Complex environment in which international sport evolves
- The specificity of sport
- The IFs' hybrid structures
- The IFs' international nature (as opposed to regional or continental)

General Fundamental Principles

Recognise and apply:

- IOC Charter
- IOC Recommendations contained in Agenda 2020
- IOC Code of Ethics
- IOC Fundamental Principles of Good Governance of the Olympic and Sports Movement
- The IOC Code Against the Manipulation of Sport Competitions

Measurement: Key Governance Principles

1. Transparency
2. Integrity
3. Democracy
4. Solidarity
5. Control Mechanisms

Transparency

- Make public (i.e. place in public domain e.g. via official website) Statutes, Rules and Regulations
- Make public organisational charts for staff, elected officials and committee structures, and other relevant decision-making groups
- Make public vision, mission, values and strategic objectives
- Make public a list of all member federations providing basic information for each
- Make public all elected officials with biographical info
- Make public annual activity report and main events reports
- Make public annual financial reports following external audit
- Make public allowances/financial benefits of elected officials
- Make public General Assembly agenda with relevant documents (before) and minutes (after) with procedure for members to add items to agenda
- Make public a summary of reports/decisions taken during Board & Commission meetings and all other important decisions of IF

Integrity

- Incorporate in Statutes all appropriate ethical principles which align with and embrace the IOC Code of Ethics and are applicable to all members, officials and participants
- Have clear rules to guard against conflicts of interest
- Comply with the WADA World Anti-Doping Code
- Establish regulations to tackle match-fixing and manipulation of competitions
- Establish confidential reporting mechanisms for “whistle blowers”
- Respect principles of sustainable development and regard for the environment
- Put in place integrity awareness/education programmes
- Provide for appropriate investigation of threats to sport integrity
- Cooperate with relevant public authorities on integrity matters
- Make public all decisions of disciplinary bodies and related sanctions, as well as pending cases where and as applicable

Democracy

- Election of the President and a majority of members of all executive bodies
- Elections process which allows for a secret ballot at the request of voting constituents under a clear procedure/regulations
- Key stakeholders, e.g. active athletes, are represented in governing bodies
- Candidates for elections have a possibility to present their vision/programmes while ensuring equal treatment for all candidates
- Make public all open positions for elections and appointments including the process for candidates and full details of the roles, job descriptions, application deadlines and assessment
- Establishment and publication of eligibility rules for candidates for election
- Term limits for elected officials
- Main decisions are taken by secret ballot with exclusion of members with a manifest or declared conflict of interest
- Main decisions are taken on basis of written reports supported by criteria
- Governing bodies meet regularly: the General Assembly ideally once a year

Sports Development & Solidarity

- Transparent process to determine allocation of resources in declared non-profit objectives, in particular grassroots activities
- Redistribution policy and programmes for main stakeholders
- Monitoring / audit process of the use of distributed funds
- Existence of environmental responsibility policy and measures
- Existence of social responsibility policy and programmes
- Education programmes and assistance to athletes during and after career
- Due regard is paid to gender and geographical representation through guidelines
- Legacy programmes to assist communities in which events are hosted
- Anti-discrimination policies on racial, religious or sexual orientation
- Cooperation with relevant public authorities on social responsibility issues

Control Mechanisms

- Establish an internal ethics committee with independent representation
- Establish internal yet independent audit committee
- Adopt an internal control and risk management system
- Adopt accounting control mechanisms and external financial audit
- Carry out due diligence assessment of elected and senior officials prior to election/appointment
- Observe open tenders for major commercial and procurement contracts
- Decisions can be challenged through internal appeal mechanisms on the basis of clear rules
- Due diligence and effective risk management in bidding requirements, presentation, assessment and allocation of main events
- Awarding of main events to follow an open and transparent process
- Internal decisions can be appealed to the Court of Arbitration for Sport



Thank you

alex.mclin@mclinarbitration.com