

## **Minutes of the WADA Executive Committee Meeting**

**15 November 2017, Seoul, Korea**

The meeting began at 9.00 a.m.

### **1. Welcome, roll call and observers**

THE CHAIRMAN welcomed the members to the WADA Executive Committee meeting in Seoul. There was one new face around the table and he wished to welcome Ms Barteková, the Olympic gold medallist who was replacing Mr Estanguet that day. He looked forward to working with Ms Barteková.

He had signed the roll call. He asked the members to sign it for a true record of attendance. There was full attendance that day. Ms Barteková was representing Mr Estanguet and Mr Godkin was representing Mr Hunt from Australia.

The following members attended the meeting: Sir Craig Reedie, President and Chairman of WADA; Ms Linda Hofstad Helleland, Vice-President of WADA, Minister of Culture, Norway; Ms Beckie Scott, WADA Athlete Committee Chair; Mr Francesco Ricci Bitti, Chair of ASOIF (and WADA Finance and Administration Committee Chair); Professor Ugur Erdener, IOC Vice President, President of World Archery (and WADA Health Medical and Research Committee Chair); Mr Jiri Kejval, President, National Olympic Committee, Czech Republic; Mr Patrick Baumann, IOC Member, Secretary General, FIBA; Ms Barteková, representing Mr Tony Estanguet, IOC Member and Member of the IOC Athletes' Commission; Mr Witold Bańka, Minister of Sport and Tourism, Poland; Ms Amira El Fadil, Commissioner for Social Affairs, African Union, Sudan; Mr Marcos Díaz, CADE President, Dominican Republic; Mr Toshiei Mizuochi, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Godkin, representing Mr Greg Hunt, Minister for Sport, Australia; Mr Edwin Moses, WADA Education Committee Chair; Mr Jonathan Taylor, WADA Compliance Review Committee; Mr Olivier Niggli, Director General, WADA; Mr Rob Koehler, Deputy Director General, WADA; Ms Catherine MacLean, Communications Director, WADA; Dr Olivier Rabin, Science and International Partnerships Director, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr Benjamin Cohen, European Regional Office and IF Relations Director, WADA; Mr René Bouchard, Government Relations Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Ms Maria José Pesce Cutri, Latin American Regional Office Director, WADA; Mr Rodney Swigelaar, African Regional Office Director, WADA; Mr Kazuhiro Hayashi, Asian/Oceania Regional Office Director, WADA; and Mr Frédéric Donzé, Chief Operating Officer, WADA.

The following observers signed the roll call: Hannah Grossenbacher; Richard Budgett; Neil Robinson; Adam Pengilly; Andrew Ryan; Matteo Vallini; Philippe Gueisbuhler; Warwick Gendall; Rune Andersen; Eva Bruusgaard; Jan Aage Fjortoft; Sergey Khrychikov; Rafal Piechota; Snežana Samardžić-Marković; Joanna Zukowska-Easton; Lisa Studdert; David Sharpe; Gabriella Battaini-Dragoni; An Vermeersch; Shin Asakawa; Kaori Hoshi; Tatsuya Sugai; Machacha Shepande; Elhafiz Elsa Abdallah Adam; Daniela Hernández; Marie-Geneviève Mounier; Mario Pérez; Yoko Fujie; and Joe Van Ryn.

#### **– 1.1 Disclosures of conflicts of interest**

THE CHAIRMAN asked the members if they had a conflict of interest in relation to any of the items on the agenda. In the absence of any conflict of interest, he would continue.

## **2. Minutes of the previous meeting on 24 September 2017 in Paris**

THE CHAIRMAN drew the members' attention to the minutes of the previous Executive Committee meeting, held in Paris on 24 September 2017. He paid tribute to the people who had produced the minutes, because there was not much time between 24 September and the time scheduled to distribute the minutes for that meeting. The minutes had been circulated. Were there any observations on them? If not, he would sign them as a true record of the proceedings.

### DECISION

Minutes of the meeting of the Executive Committee on 24 September 2017 approved and duly signed.

## **3. Director General's report**

THE DIRECTOR GENERAL informed the members that there was a heavy agenda that day with some complex discussion to come; therefore, to save time, he would not repeat what was in his report. He would be happy to take questions on it; but, as the members had met not so long ago in Paris, they would see that some of it was an update on the decisions taken there and an update on the way forward.

On the way forward, most of section 3 consisted of reports on progress on activities decided upon one year previously, and he highlighted the amount of work that had gone into moving the agenda forward. He had heard from some of the members that there was a lot of paper and reading required for the meetings, and he appreciated that, but the reason was because there were a lot of items on the agenda and a lot of issues to deal with. He paid tribute to the WADA staff members, who had worked way beyond their duty to produce the documents. He also thanked all the volunteers and committee chairpersons and experts who had been helping WADA, because a lot of work had been put into many of the documents.

On the Friday prior to the meeting, the members had received an update on new information in relation to Russia. He did not want to enter into a discussion at that point, as there was a specific agenda item (item 5.3) during which there would be a full discussion about the topic. The Russians had also asked to be allowed to speak to the Executive Committee and they would be coming later to talk, after which the members would hear from the Compliance Review Committee, and then there would be a full discussion on the topic.

### DECISION

Director General's report noted.

#### **– 3.1 WADA headquarters**

THE DIRECTOR GENERAL wished to address the WADA headquarters issue. The members would recall that, in Paris, after discussion, the Executive Committee had given him, together with the President and Vice-President, the mandate to negotiate an agreement with Montreal International on the WADA headquarters. That had been done and, over a relatively short period of time, there had been work with the Canadian authorities, Montreal International, Quebec and the Federal Government, and the members had received the proposal made by the Canadians on Friday. The financial offer currently on the table had been substantially increased from what it had been in September, so he was pleased with the negotiation and the offer that the Canadians had made. It amounted to around three million dollars per year of extra contributions on top of the regular Canadian contribution. It was a substantial increase on what had initially been on the table. There was also an offer to work with the Quebec authorities to ensure that legislation would be passed (and WADA had been told that it would be passed because of a parliamentary majority) to allow for some protection on civil claims in Quebec and better protection of whistleblower information collected and stored in Montreal. It would enable WADA to benefit from some jurisdictional immunity, and that was actually very important. More work would also be done at the federal level to see how the protection of whistleblowers could be increased. All that was very positive in terms of the offer on the table.

There was also a proposal and an offer for scientific collaboration. That had not been in the picture in September and it was a very welcome proposal, as it brought more money around the table, and there would be potential long-term collaboration on research projects. There was an offer for one million dollars for joint research projects.

In summary, together with the President and the Vice-President, he was satisfied that the Canadians had given WADA an enhanced offer. It was good and it was clearly in the interest of the organisation. There was a cost attached to any other alternative, including organising a tender and potentially moving the headquarters, and that would be very high, so the request was to see if the Executive Committee could agree that the offer met expectations and could be recommended to the WADA Foundation Board for approval the following day with a mandate for the President and the management to finalise a detailed agreement and then sign it.

MR GODKIN shared with the colleagues on the Executive Committee some advice about considerations the previous day at a special meeting of the public authorities held in the same room. He thanked the Director General and other members of staff for their contribution to that meeting. He tabled for the record and information of colleagues present that the public authorities had formally agreed to establish a One Voice platform the previous day. That was something that had been discussed in May as a work in progress. The idea of the platform was to ensure that the governments had a well-functioning, ongoing mechanism for the prompt, efficient exchange of views and development of positions on emerging anti-doping issues to strengthen WADA and support it to ensure clean sport in every corner of the world. A media release had been issued to that effect the previous evening.

MR KEJVAL thanked the Director General. He thought that a significant improvement had been made. He referred to the tax increase and a possible significant improvement and progress in the future. He proposed extending the contract for five plus five years, to see how much tax was really paid, and then re-evaluating later on. That was the proposal.

MR RICCI BITTI had a question he had raised the previous time in September. What was the plan about the European office? It was vital in relation to the major stakeholders. It was a key point. It did not affect the concept itself.

As to the report, he asked again what he had been requesting for many years. The UNESCO convention was over in terms of importance, because most of the governments had signed, but he wished to know which countries were still missing, which countries had a law in place on doping (criminal and the quality of the law), and the countries that were NADOs. He thought that the information was very important and he had requested it many times in the past. He repeated that it would be useful to have that information.

MS SCOTT thanked the Director General for the work and negotiations that had gone on with Montreal International. The athletes were of the view that the headquarters should remain in Montreal. The athletes were very concerned and troubled about the potential for disruption, loss of expertise and loss of intellectual property that might occur with a move at that time. Athletes around the world felt that stability and a strong WADA in Montreal was the best choice at that time, so very much endorsed the proposal to keep the headquarters in Montreal.

MS EL FADIL said that she supported the headquarters remaining in Montreal for the coming 10 years.

MR BAŇKA said that the European governments were in favour of accepting the offer from Montreal International to host the WADA headquarters for the coming 10 years.

MR DÍAZ said that the Americas were in support of Montreal hosting the headquarters.

THE CHAIRMAN thanked the members for their (in the main) declarations of support.

THE DIRECTOR GENERAL told Mr Kejval that obviously he had taken on board the comments that he had made previously on finance and the Canadians had come up with an amount that he believed to be a good offer. The agreement contained a clause that, every year, both sides would sit down and discuss the situation. As to the five plus five proposal, if WADA were to have a more in-depth discussion as part of the regular discussion after five years, would that be something along the lines of what Mr Kejval was proposing?

He told Mr Ricci Bitti that the European office was undertaking increased activities; there were space constraints, but bigger premises had been acquired and would be accessed the following year, and activities in Lausanne would continue with the IF partners and the sport movement. He took on board the comment in relation to UNESCO. WADA would try to map out the world and respond to the question. There had been different studies but, in terms of legislation, there were different kinds of legislation dealing with different kinds of issues and it was not always easy, but he would try to see how that information might be updated.

THE CHAIRMAN asked if the members agreed (subject to the condition mentioned by the Director General, that the meeting five years hence with Montreal International would be bigger than normal) that the Executive Committee should accept the offer from Montreal International. The Canadian minister of transport was on his way and would make the proposal formally at the Foundation Board meeting the following day.

#### DECISION

Proposal to recommend to the Foundation Board to accept the revised/updated offer from Montreal International approved.

### – 3.2 Updates from way forward (November 2016)

#### 3.2.1 Governance Working Group

MR MAHARAJ said that he would spare the members by not going into great detail, as he was conscious of the fact that there was a full agenda. His plan was to fly over the high-level synopsis of where the group currently stood, how things would unfold and how they would conclude. The slides he had were somewhat denser than the presentation he would be making, so he invited the members to ask any questions after his presentation.

Perhaps the largest area considered by the Governance Working Group had been the question of the Foundation Board, its structure, purposes and practices. On the basic question of the objectives of the Foundation Board, it would come as no surprise to anybody that there was a consensus that WADA should affirm the ultimate role of the Foundation Board as the supreme decision-making body of WADA and the body that defined the objectives of the organisation but, perhaps most importantly, the one that enforced accountability for the achievement of its mandate and the responsible stewardship of its funds. The Foundation Board, as the board of a Swiss foundation, had certain legal obligations (which were not optional), but it was also felt that the key function of the Foundation Board should be the exercise of oversight, which meant electing the Executive Committee, monitoring and holding the Executive Committee to account and, critically, ensuring that the Foundation Board became disentangled from the work of the Executive Committee and the operations of WADA. If there was one message that had been made clear, it was that there was an unnecessary and unhealthy and certainly inefficient duplication of the work of the Executive Committee and the Foundation Board which everybody would undoubtedly experience the following day.

There was a series of other issues that had come up during the discussions and upon which there had not been consensus. There had been a significant amount of support for the idea of expanding the role of the Foundation Board. There were other constituencies who were critical to the success of the anti-doping movement who did not currently have a formal seat at the table and who might gain a seat, for example, laboratories, Paralympians and independent voices. However, although there had been significant support for that, it had not reached the threshold of the necessary two-thirds that would be required for the amendment of the statutes; therefore, that was not an option that seemed likely to be on the table for the Executive Committee and Foundation Board in due course. There had been some concern in particular about whether having additional voices at the table or additional seats for non-funders might dilute financial accountability.

The Governance Working Group would be recommending term limits, with three-year terms and a maximum of three consecutive terms. The term limits should be introduced in a staggered fashion to avoid a complete turnover of the entire Foundation Board at once. The group would also suggest that, if the work of the Foundation Board was to be made more focused on oversight and the mandate of the organisation, it should meet only once per year. A second meeting did not

appear to be necessary, but that should be held open. However, that would require a significantly more disciplined Foundation Board and, in terms of ongoing developments, which would be discussed at the next meeting (hopefully the last) in March, which would be the last meeting before final recommendations were submitted to the Executive Committee and the Foundation Board, the group would be looking specifically at the question of, instead of significant changes to the composition of the Foundation Board, changes to a standing audit, to the processes, policies and procedures, so that the Foundation Board as currently constituted would be more focused on the essential business of developing a vision for WADA and enforcing means for accountability and oversight for the achievement of that mission.

In terms of the Executive Committee, there had been a clear consensus that, because it was smaller and more nimble, it should be the body that took over most of the governance functions of the organisation, that, other than those functions that he had described earlier and those that were prescribed by law, essentially, all other governance functions should be remanded to the Executive Committee, that the relationship between the Executive Committee and the Foundation Board should resemble something more like the relationship between a cabinet and parliament. There had also been consensus that the Executive Committee should be both skills-based and representative; in other words, there was no desire to see it become an entirely independent and purely skills-based body, but it should continue to have equal representation from sport and public authorities. There was a desire to have continued accountability to the core membership. He had also said that he believed that there should be term limits for the Executive Committee and a clear conflict of interest policy and process, which he would cover later.

In terms of the functions of the organisation, the Executive Committee should be responsible for achieving the strategic plan by taking full responsibility for the development and approval of an operational plan. In essence, it should have full freedom to operate within the broad objectives set by the Foundation Board, it should be responsible for monitoring institutional performance metrics, it should propose amendments to the Code and statutes (although those would still have to be passed by the Foundation Board), and it should render decisions on compliance after receiving recommendations from the Compliance Review Committee. To the extent that the Executive Committee would be seen as a more independent (though not fully independent) body, it would seem to be the appropriate place for those decisions to be made. Any powers not specifically reserved for the Foundation Board should be remanded to the Executive Committee.

For terms of service, again, the group recommended three-year terms with a maximum of three consecutive terms. The Executive Committee should envision meeting three times per year, the agenda and policies and processes should be amended so that the work of the Executive Committee focused on the future rather than on the past, on planning what needed to be achieved rather than looking retrospectively on the activities carried out, although it should continue doing that for the purpose of ensuring that WADA was following the path laid out.

In terms of other issues, the group was still discussing the question of how much overlap between the membership of the Foundation Board and Executive Committee was desirable for proper coordination and the independence of the two bodies and, in the absence of an increase in independent members, whether there were ways of increasing the presence of the chairs of standing committees so that the debate and discussion of the Executive Committee would be nourished by their counsel.

As concerned the composition of the Executive Committee, there had been much discussion about it remaining with equal representation from sport and public authorities, with the president and vice-president, and plus one additional representative from athletes. In particular, the public authorities had been very strongly in favour of maintaining their five members so that each of the regions of WADA retained a seat at the table of the Executive Committee. If WADA was to uphold the principle of equal representation between the two core founding constituencies, it led to the model before the members, although he did believe that the addition of an athlete would be desirable.

There was also a consensus that WADA should create a nominations committee, to assist the Foundation Board and Executive Committee in recruiting key officers and vetting members or recruits to standing committees and the senior offices of the organisation. The basic functions would be soliciting interest or candidates in cases in which it was responsible for nomination, vetting

candidates put forward by others where it was not responsible for that, carrying out a diagnosis of what skills were necessary for the various positions within the organisation, and providing counsel and advice to the Executive Committee and Foundation Board on which candidates were best aligned with those needs. The nominations process that the group was proposing was fairly straightforward, as was the vetting process. It was essentially the basic business of ensuring that those people whose names came forward did not have skeletons in their cupboards and would not discomfort or embarrass the organisation. In terms of structure, the recommendation would be that the nominations committee be composed of five people: an independent chair, a member from the sport side, a member from the public authorities side and two independently recruited members.

On the role of the president and vice-president, he did not think it would surprise anybody that the group's view was that, as the two most highly visible and senior officers of the organisation, they must be those who most embodied the values of the organisation. They were the ones most exposed to public and media scrutiny and pressure from external parties and, although WADA had been fortunate throughout its history, it would be reckless not to codify those needs to ensure that WADA continued to be fortunate in the future. There should be strong vetting of the president, vice-president and candidates by the nominations committee, and he would summarise it by saying that he thought that all the members would agree that they would want to ensure that all candidates coming forward augmented WADA rather than sought to be augmented by WADA.

The basic roles of those two officers would again not surprise anybody. The key element that had come out of the discussions was that there had to be a stronger delineation between governance on the one hand and management and operations on the other. It was easy to say but often difficult to recognise, especially during times of crisis, when all eyes would turn to the senior officers. That was especially the case when it came to communications. Although, again, it was easy to say that quotidian matters should be in the hands of the Director General and governance matters in the hands of the two major officers, the group was still working on coming up with a credible definition of those terms that would be functionally useful. The most important issue was of course that the two officers should be independent, and the group had proposed a definition of independence. That would represent a change because it would mean that, to be a candidate for the presidency or vice-presidency, a person should not hold a senior, voluntary or paid position or be under an obligation to a state or sport body. That was to ensure that people were independent not only in substance but also in perception, which was almost as important for an organisation such as WADA. There should also be a period of ineligibility; in other words, there should be some period of a number of months (the precise number was still under discussion) during which candidates might not have held such a position before standing for office. In terms of service, the group was again suggesting terms of three years and term limits of no more than three consecutive terms. On balance, although there had been significant cause for the abolition of alternation between sport and public authorities, it had not risen to the level of consensus and a level whereby it would represent a two-thirds majority on the Foundation Board necessary to amend the statutes. The group believed, as a result, in the absence of a strong consensus to the contrary, that it should continue with the alternation of the presidency and the vice-president should come from the other constituency. Where possible, the demographics of the president and vice-president should complement rather than duplicate one another, but he recognised that that was something that could not be as easily legislated. Finally, the group was recommending that modest remuneration be provided to the president in recognition of the fact that the independence criterion would require a person to give up a significant number of other opportunities, though he emphasised that that would be modest remuneration in line with Swiss law and not significant remuneration.

The group had also reached consensus on the fact that there should be an ethics board or committee to ensure oversight of the creation of a more robust internal ethics code for WADA, and he was not talking about the World Anti-Doping Code but a code of conduct, and a compliance officer to work with WADA to prevent violations. The powers of the ethics committee would be the central business of building the code and investigating alleged violations of the code, adjudicating over whether or not those violations had in fact occurred, and applying sanctions with the proviso that any sanction would be exposed to a potential appeal to the CAS. He was foreseeing the possibility of a relatively compact ethics committee, and the panel might be as few as one or as many as three people. Obviously, the panel would have to be independent of the parties, and would have to report to the chair and WADA's own investigative mechanisms, though it was information

reporting rather than accountability reporting. If the ethics committee's role was to enforce the code where there had been transgressions, the compliance officer's role would be to provide counsel, advice and support to minimise the risk of there actually being violations. One of the key considerations was of course the cost. To the extent that those bodies were independent, they would attract additional cost for the organisation and, although he had suggested means of minimising the additional costs, they would most certainly not be zero. Before coming forward with a recommendation that the bodies be created, the group was costing out the options for the creation of the bodies to allow the Executive Committee and the Foundation Board to make an informed decision about whether the benefits of the bodies outweighed their costs.

On the issue of athlete inclusion, the key principles would surprise nobody, but it was worth repeating that the group's view was that, informing all of WADA's work, upholding the Code was not the same as simply upholding the rules of play on the field, as important as they were; they were fundamentally human rights issues, and the reason for which the members were gathered together and the only metric by which they could judge themselves on success or failure was the extent to which the work defended the human rights of athletes, so that they were neither bullied nor pressured into taking drugs, they did not suffer because others took drugs and they were not inveigled into believing that they must do so. There should be special consideration for Paralympic athletes through additional representation on the standing committees, and the group had talked about means of having an ongoing conversation or supporting the WADA Athlete Committee in having an ongoing conversation with the athletes it represented. There had been much discussion as to increasing athlete representation on the Executive Committee, and he understood that the WADA Athlete Committee itself would be bringing forward additional recommendations, which he looked forward to receiving before the meeting in March.

There were some open questions. In the long term, WADA would have to confront the growing question of what to do about its relationship with professional athletes. The group had begun the conversation, but it was fiendishly complex and it was an entirely different power dynamic. There had been some discussions about the need to come up with a more rigorous definition of an athlete and about what would be the appropriate blend, of elected appointments or a mixed system for the WADA Athlete Committee. He understood that those questions were being considered by the WADA Athlete Committee and, once it had had a chance to consider them, the group would feed the Athlete Committee's views into its overarching processes.

There would be one final meeting in March which might last over two days. The group would then present its highest common denominator of recommendations to the Executive Committee; from then, it would go to the Foundation Board and, assuming that the requisite statutory instruments were passed, it would be looking at new structures, policies and procedures coming in in 2019.

THE CHAIRMAN thanked Mr Maharaj for the very professional presentation. The group had come a long way and had clearly identified work that was still in process. He congratulated Mr Maharaj. He did not attend any of the meetings because, apart from anything else, the group was talking about his job. If there were no questions, the Executive Committee would leave Mr Maharaj to prepare and present to the next meeting of the Governance Working Group in March in Lausanne, and the group would come back with the recommendations and the statutory changes.

MR MAHARAJ responded that the group would first come with the recommendations. Once the Executive Committee and Foundation Board had decided which of the changes they wished to implement, the group would produce the statutory instruments necessary to give effect to them.

THE CHAIRMAN understood that the first opportunity to do that would be May 2018, but Mr Maharaj had indicated that it might be 2019 before they came into force.

MR MAHARAJ replied that, assuming the calendar of meetings in 2018 was similar to that for 2017, if the Executive Committee made its mind known in May 2018, the group would be able to bring statutory changes in November 2018 and they would have legal effect starting on 1 January 2019.

THE DIRECTOR GENERAL added that, under Swiss law, the proposed change to the statutes would have to be approved by the Swiss supervisory authority, so a little bit of time would be

needed between May and November to do the administrative and regulatory work that was required.

THE CHAIRMAN wondered whether there were copies of the presentation available to people who might wish to see it. It had been extremely well done, and he thanked Mr Maharaj for the work done to date and wished him luck in March the following year.

#### DECISION

Government Working Group update noted.

### **3.2.2 Laboratory Accreditation Working Group**

PROFESSOR ERDENER informed the members that after saying something about the group's activities, he would give the floor to his colleagues Dr Rabin and Mr Young. The hard work had been completed and the report was in the members' files. There had been two in-person meetings in Montreal and Lausanne, some conference calls and some very intense e-mail communication and, finally, a good consensus had been reached. His colleagues would provide some details related to the report.

DR RABIN updated members on the process that had been followed for the working group, which had been initially established and whose composition had been approved one year previously in Glasgow by the Foundation Board. There had been two in-person meetings of the working group (one in January 2017 in Montreal and one in March 2017 in Lausanne), there had been a teleconference in July to finalise the draft document circulated for global consultation in August and September, and a lot of e-mails had been exchanged among the members. The draft recommendations had been presented at the May Executive Committee and Foundation Board meetings and presented and discussed in June by the Laboratory Expert Group. The broad consultation between August and September had yielded 89 comments from 20 stakeholders, mainly from Europe, and they had been integrated by Mr Young and circulated for approval to the different working group members, and it was the final draft that was being presented to the members that day.

MR YOUNG talked about the substance of the recommendations. There had been four critical issues/problems that had been addressed by the working group, and they had also been the four areas on which the most comments had been received. The first area was the disparity in capability among the accredited laboratories; there was a big gap there. The second area was an anomalous geographical distribution of laboratories and demand. The third area was what had been learned from Russia (the need for integrity in the laboratories) and the fourth area was comments on the effectiveness of WADA's monitoring process. The consensus and the consensus of the stakeholders' comments was that the first area was the paramount issue that trumped the others, and that was that there had to be uniform high quality among the laboratories. There had been discussions on whether there should be A-level, B-level and C-level laboratories and the consensus had been no. WADA needed only A-level laboratories that were good. The problem, and he would be blunt, was that, if he was an athlete who was low-dosing a prohibited substance and was tested by NADO X and his sample was sent to the laboratory in X, it could test negative. Unfortunately, if the same sample were sent to Cologne, Montreal or Lausanne, it was likely to test positive. He would expect to hear from Ms Scott and the other athletes in the room that that was simply not acceptable. The first priority was uniform high quality. To achieve that, there had been discussion about more and better types of testing, EQAS challenge testing and circles of excellence in which the laboratories helped themselves and WADA helped the laboratories. The standard had to be achieved. That related to the second problem. WADA needed more laboratories in Africa and South America, but the consensus of the group and the comments had been that it did not make sense to sacrifice quality for geographical distribution. The biggest problem about geographical distribution was getting blood samples to the laboratory for the Athlete Biological Passport. A good solution to that would be WADA-approval of blood testing centres that were more geographically dispersed. A bit of a firestorm had been caused by talking about over-capacity in Europe. The members would note that there had been a lot of changes between the first and last draft, and 'over-capacity in Europe' had been changed to 'adequate capacity in Europe'. The idea was not to get rid of laboratories anywhere; the idea was that, if a good laboratory candidate came that would do high-quality work, it would be considered. The simple fact was that supply and demand were out of whack in South

America and Africa, and that was not the case in Europe. The CAHAMA comments had been that, in fact, the laboratories in Europe were under pressure. Some of them were. He had talked to the representatives of the Cologne laboratory, which was not taking more samples. Lausanne, another good laboratory, was taking more samples. The other comment made by CAHAMA was that WADA ought to increase the minimum number of samples that a laboratory analysed per year from the current 3,000 to 6,000 or 8,000. That made some sense as, the more one did something, the better one got. When looking at current testing statistics from 2016 in Europe, less than half the laboratories had tested as many as 6,000 samples, so there was a supply and demand issue there that WADA needed to stay on top of.

The next issue was what one did to protect against laboratory corruption. One of the things WADA had done that had been very effective had been to seize samples, and one could go back and reanalyse those. Another was the WADA investigation team under Mr Younger. Another was routine reanalysis of negative samples from one laboratory to another. WADA would foot the bill for that reanalysis, but it would be part of laboratory quality and making sure that there was no corruption.

The last area about which the group had talked a lot and on which many stakeholders had commented was how WADA administered the process. Regarding the EQAS samples sent to the laboratories, many had commented that the quality of those needed to be improved. The members would see that among the recommendations. Another point had been that the unpredictability of those samples needed to be improved. That could also be seen among the recommendations. Another had to do with the disciplinary process and how many points were assessed for different kinds of violations. That work was under way, as was work with the international laboratory assessment (or the ISO people) to make sure that there were good uniform assessors across the world.

The last point had to do with WADA communications. There was a very good laboratory system; the problem was that WADA was only as strong as its weakest link in terms of public perception and in terms of what those who tried doping cases for a living had to deal with, so how WADA communicated laboratory suspensions, how WADA used that as an educational opportunity for other laboratories and how that affected public perception of the whole system was important. Those were the high points of what had been discussed.

THE CHAIRMAN thanked Mr Young. He should have welcomed him back to the WADA table. He had been missed. He thanked Mr Young for the splendid way in which he assembled and presented arguments. It made the work of the members much easier.

MR BAŇKA stressed the importance of the issue of laboratory accreditation for the governments. They invested a lot in establishing laboratories and maintaining their capacity. In the vast majority of cases, the governments were still a major contributor to the budget of the laboratories, so they were interested in the high quality of the work performed by the laboratories as well as in a sustainable strategy for their development. The evidence for that was a set of comments to the currently discussed recommendations of the working group delivered by the European governments that year; unfortunately, they had not been reflected in the draft recommendations. Consequently, he requested a postponement on the decision in relation to the recommendations until the Foundation Board meeting in May 2018 pending proper consultation of the public authorities on the matter. The request might delay the process of implementation of the recommendations; however, taking into account the importance of the issue, a more solid consultation process was necessary. He therefore asked the members to accept his proposal.

MR YOUNG responded to the suggestion. Extensive comments had been received from Europe and the Council of Europe during the consultation process, and a lot of time had been spent talking about the recommendations. Many of the recommendations had been included, although not all of them. If the issue was why all of them had not been included, he supposed that they could be discussed one by one. There was some urgency to get the matter resolved but, if there were new ideas or better ways of expressing those ideas, he would always be open to them.

DR RABIN added that, out of the 20 organisations that had responded to the consultation process, 16 had come from Europe, including the Council of Europe and, as Mr Young had mentioned, the relevant comments had been incorporated in the revised version that was being presented that day. That was what he wished to clarify.

MR GODKIN believed that the experience of Oceania was quite similar to that of Europe. Oceania had contributed to the process, and he was not sure that the various contributions were contained in the revised document, so he would be open to further consultation.

THE CHAIRMAN said that he had to take on face value what people said. If somebody said that there had been a lack of consultation and somebody else said that there had been plenty of consultation, he was not quite sure how to deal with that. His guess was that WADA should move forward, the members should probably accept the report and then the European governments, if they had specific issues that they wanted to propose, should be invited to do so. The document was a live document, and other suggestions to be made could be considered by the working group.

MR RICCI BITTI said that the Olympic Movement supported the adoption of the recommendations because they were very important in terms of ensuring the functioning of the system. WADA should be open to new recommendations, but it was perhaps wise to move forward.

THE CHAIRMAN thought that that supported his view that WADA should move on; but, if there were further contributions that could be made and which would be valuable, they should be accepted.

PROFESSOR ERDENER said that he would be open to recommendations but did not wish to waste time.

THE CHAIRMAN agreed because, of all the many things that WADA had to do, the one that was outstanding was the governance issue. WADA had moved substantially on all the others and, unless everybody objected, he proposed that the Executive Committee accept the working group report, always stating that it was a live document and that further contributions would be welcome.

#### DECISION

Laboratory Accreditation Working Group  
recommendations approved for  
recommendation to the Foundation Board  
(with further contributions possible if  
required).

### **3.2.3 World Anti-Doping Code amendments**

### **3.2.4 International Standard for Code Compliance by Signatories (ISCCS)**

#### **- 3.2.4.1 Policy for the initial application of the ISCCS by WADA**

MR TAYLOR recalled that the matter had been discussed in September. That time the previous year in Glasgow, the Foundation Board had asked for a new sanctioning framework for non-compliance by signatories and, in May, the Foundation Board, after discussion with the Executive Committee, had approved the recommendation to fast-track amendments to the specific Code provisions on Code-compliance by signatories and to develop an international standard to support and implement that framework. The members would all remember the objectives. The most important thing he wished to emphasise was that he was responding to what had been a strong mandate from stakeholders expressed at many different meetings by athletes and other stakeholders, in particular at the March symposium that year, to act and deal with weaknesses in the system that had been exposed in 2016 and in particular to ensure that there was one system in which everybody could participate to deal with issues of non-compliance and the imposition of consequences to deal with that non-compliance so that there was no disparate fragmented response to such cases in the future. That was an important credibility issue for WADA and its stakeholders moving forward.

The next slide showed exactly that. From the athletes in particular, the call had been that they were held to very strict compliance with their obligations under the Code and signatories should be as well.

As to what had been agreed in terms of a consultation process, he recalled two rounds of formal consultation, from 1 June to 31 July, the revision of the draft, on 1 September it had gone out to consultation again, he had updated the Executive Committee in Paris on 24 September, there had

then been further meetings, and comments had been received on 14 October (and the members had all of those comments in their files). All of those comments had been gone through, including the opinion of Judge Costa, and then a third draft had been produced, and the question had been whether there was enough consensus among stakeholders to be able to go to the Executive Committee and present two things: the international standard for approval and the related Code amendments for the Executive Committee to recommend to the Foundation Board. The answer to that question was that there was. He would explain that. On the first consultation (he had reported to the members in September), there had been detailed comments. There had been meetings in person with the different bodies, and receipt of comments through WADACONnect. The focus had been sanctions as a last resort, encouraging compliance including by having a strong set of sanctions to deter non-compliance, to mirror as much as possible the process for the sanctioning of athletes for non-compliance with the Code, and then to have an independent assertion by WADA of non-compliance and sanctions, and the signatories (just like athletes) could either accept those or dispute them, in which case there would be a decision by an independent court. The group had received very constructive comments from stakeholders, very strong support for the concept and very good and constructive comments about improving the draft. The group had gone through every single one of them, and had made changes. To briefly remind the members, there had been a clear request to distinguish between those acting in good faith and those acting in bad faith, a clear request to prioritise resources, which had been done by way of the development of a policy which had been previewed in Paris in September, the removal of fines except in the most serious of cases, the Executive Committee to receive the recommendation and to assert the non-compliance, and then a one-stop-shop at the CAS and a proposed entry into force of 1 April 2018. That was the draft that had gone out to stakeholders on 1 September.

For the second consultation process, the members would see again very good engagement and a strong positive response to the changes made between versions 1 and 2, and most of the proposed changes to version 2 were issues of detail and drafting, not to belittle them. The members would see the kinds of changes he was talking about. In most cases, it had been a question of finessing and tweaking the detail to get it absolutely right. He had been through every single one of the comments in detail and there was a 'major changes' commentary in the members' files. The most substantive point in terms of changes, prompted by stakeholder comments again, was that, if an assertion of non-compliance was made against the signatory, the signatory could accept non-compliance and the proposed sanction, just like an athlete. Many, in particular among the sport movement, had said that that was fine but, just as if they were to dispute the proposed sanction and go the CAS, certain bodies should have a right to intervene to protect their interests and ensure that their view of the proper consequences under the Code were applied, that they would have a right to intervene in a disputed case and, in a case that was not disputed (where the signatory accepted the consequence), they would want the right to appeal to the CAS if they thought that the sanction was too high or too low or inappropriate in the circumstances. Given the proposition that that was one process by which everybody would end up being bound, it was extremely important that all signatories with a direct interest did have a right to be heard, and therefore that was an important proposal and it had been accepted in the new draft. There was not only a right to intervene in a disputed case but also a right to appeal a non-disputed case.

The other amendments were what he would call wording amendments, which was not to say that they were not important, but they clarified what was already there. Other comments overlapped with what Judge Costa had said. Judge Costa had been asked a number of questions about different aspects of the Code, including in particular the proposal that there be consequences for non-compliance which affected not just the signatory but also athletes and others within the country or sport of the signatory, and he had been asked to give his opinion on whether or not that was compatible with general principles of law and human rights. His conclusion had been that, overall the number and importance of provisions that were compatible with international principles of law and human rights must be welcomed. He had asked for certain amendments to be made to give examples of the different categories of non-compliance because, the more serious the non-compliance, the more serious the consequence, and therefore the classification of non-compliance as critical or high priority was obviously significant, and he had asked for more certainty and predictability in terms of which was which. That had been provided in an annex in version 3 which contained a lot more detail and examples. Judge Costa's second point, importantly, had been that a signatory should be able to dispute the classification of a requirement as critical, for example.

That had been made clear. If the WADA task force went to the Compliance Review Committee and said that there was non-compliance with a critical requirement, the signatory could dispute that and say to the Compliance Review Committee that it thought that it was only high priority or less than that. If the Compliance Review Committee said that it was still critical and it went to the Executive Committee, again, the signatory would not be bound. If the Executive Committee asserted that it was a critical non-compliance, the signatory could dispute that and the CAS would decide in the end. It was not about WADA imposing its view; it was about asserting its view and in the end having an independent determination of that.

He provided some clarifications on the procedure for the selection of arbitrators at the CAS. There had been very strong support for the one-stop process, which was a relief and, in order to ensure compliance with legal principles and human rights, the changes requested to the procedure to select arbitrators at the CAS in such cases had been included. In terms of sanctions, Judge Costa had referred to a country of a non-compliant NADO not being allowed to host an edition of the Olympic Games or Paralympic Games; that should be one edition only, so that had been changed. The power to fine in a case of non-compliance with critical requirements and aggravating factors had been retained. Judge Costa had said that that was fine but that there had to be a maximum. Therefore, the group had proposed a maximum, which was (from memory) the lower of either 10% of annual turnover or 100,000 dollars.

There had been one proposal that Judge Costa had made which he had said was not a compatibility issue. In terms of the standard of proof, the standard provided that WADA, in a disputed case, would have to assert and prove non-compliance on the balance of probabilities, not to comfortable satisfaction. He had said that either was compliant with the law, but he would leave it to the CAS to decide on a case-by-case basis. As a lawyer who made his money from litigation, he approved of that, because it could be argued every time at great expense. However, in terms of getting predictability and limiting the issues that got decided in each case, his view and the view of those in the drafting working group was that they should specify the standard of proof, and so the group had retained the balance of probabilities. With all due respect to Judge Costa, the group did not want to litigate that every time. Also, as Judge Costa had said, it was not a compatibility-with-the-law issue, it was a pragmatic issue. That was where the group had gone with that.

To cover the prioritisation policy, the members would recall that, because of limited WADA resources and the enormous scope of the project (and he would talk separately about what he did think were radical achievements made by the WADA staff in terms of the compliance programme), there would need to be prioritisation, and the members had a paper that had been written in response to the stakeholders' request that there be express power for WADA to prioritise monitoring and enforcement. The policy had not been put in the standard, it had been put in a paper, which the Executive Committee was currently being asked to approve. He had previewed that in Paris, and the members would see that it divided signatories into three tiers based on objective factors in the standard. The members had the actual tiers in their papers. He did not propose to make those public, but the members had them. In the first two years, everybody must comply with all of their obligations but, in terms of focus and enforcement, tier-one signatories would have to address critical and high priority requirements within the normal deadlines; tier-two signatories would have to address within three months, the normal deadline and, if they did not, the normal enforcement mechanism would take place. He expected that to be the exception rather than the rule. There had been plenty of corrective action reports and plenty of corrections taking place. That was about helping people, ensuring WADA was not overwhelmed, a policy that tried to make sure that, in the first two years (and that was a response to comments made by the sport movement representatives in Paris), that helped people to understand and gave people an opportunity, and a bit more time, to get their house in order, and was consistent with the main aim of the standard, which was to help people to comply. Non-compliance cases were a last resort.

The members would recall that there were matters that the group considered necessary to defer to broader Code review. These included WADA's status, and the Governance Working Group was working on how to deal with the issue of oversight of WADA. As to the monitoring of anti-doping service providers, the standard was clear: whoever one was, a signatory, there was no issue about delegating responsibility or outsourcing or contracting whoever it might be to help deliver on obligations, but there was no delegation of accountability. Just as an athlete could get assistance but remained responsible, exactly the same applied to a signatory. There were, nevertheless,

ongoing questions asked about how closely one monitored and dealt with the activities of the other anti-doping service providers to be dealt with in the broader Code review. Also, WADA enforced compliance by signatories, not by the members of signatories and, in particular, the obvious example was national federations, and so the signatories (and that was IFs, but also NOCs and NADOs), had obligations to enforce Code compliance by national federations and other members, and there needed to be guidance given on that subject. He knew that the Code drafting team had some ideas about that, and that was a matter that he recommended be dealt with as part of the broader Code review. Should the consequences for non-compliance be set out in the Code instead of the international standard? Yes, but that would need to happen as part of the broader Code review as a basic matter of logistics and pragmatism.

Regarding good governance standards, he thought that, in every document the members received from then on, the members would find that, fundamentally, people said that there were issues about good governance, and several people had said that good governance standards should be put into the changes, but that was not appropriate. That was about monitoring enforcement of the obligations rather than changing the obligations, but he was sure that would become an issue in the broader Code review.

Last, but certainly not least, should individuals responsible for or complicit in non-compliance be subject to specific sanctions under the Code? He would say yes, but the group was reviewing Code-compliance by signatories, not Code-compliance by individuals, so that was a matter for review under article 2 of the Code.

THE CHAIRMAN thanked Mr Taylor. Again, that was an issue that had involved much work and consultation and he congratulated Mr Taylor on bringing the work to the members in its current state.

MS SCOTT thanked Mr Taylor in particular for the hard work and efforts that had gone into the massive project. The athletes were really grateful for the time and energy that had gone into that. It would not come as a surprise, but the athletes universally supported the approval of the ISCCS and proposed amendments to the WADA Code. The athletes had been calling upon WADA to act for a long time and to ensure that it was not just athletes who were penalised for non-compliance with the Code. The athletes were very grateful and encouraged by the expedited manner with which WADA had responded and looked forward to seeing that adopted as soon as possible.

MR GODKIN said that, from the public authorities' point of view, they applauded the work done on that during the year. It was a momentous and incredibly important piece of work. All credit went to Mr Taylor and his team. The public authorities strongly supported the approval and implementation of the standard and would also endorse close review and monitoring of the implementation over the coming year, in particular to assist with work on the new Code review.

MR BAŇKA congratulated Mr Taylor on his work and stated very clearly on behalf of the European governments that they recognised the importance of the standard and therefore supported its approval; however, they also requested that the detailed report on the implementation of the standard be presented at the meeting in November 2018 and that the conclusions of the report be duly taken into account in the Code revision process. Europe supported the proposed policy; however, it proposed keeping the tiers under constant review and ensuring that major event organisers were included in the tiered system.

MR RICCI BITTI welcomed the work and congratulated Mr Taylor on a very difficult job. He had responded to the request made by the Foundation Board one year previously. The only comment he had, which was in line with what the minister had just said, was that the involvement of the CAS was very important and relevant. During the consultation period, had the group envisaged all the operational problems with which the CAS would be confronted with the new application?

MR TAYLOR thanked the members for their comments. In terms of what Mr Baňka had said, there was absolutely no doubt. When the standard came into force, it would be necessary to pay close attention to the way it worked in practice. He was afraid that, as a lawyer, the only thing he knew when he drafted something new was that the first thing that happened was something that he had not anticipated. He would not pretend otherwise. It was a living document, he knew that the Executive Committee had the ability to revisit standards at each of its meetings, he would expect the Executive Committee to ask for a detailed understanding of how it was working in

practice, he fully agreed with the suggestion to have a formal report in November the following year, and promised that the group would be looking at how it worked in practice from day one and looking to make sure that, if there was anything it could improve, the group would bring it to the Executive Committee as soon as possible. In terms of the policy, it was a living document, it said so, and he agreed that the tiers needed to be kept under constant review. In terms of major event organisers, he agreed, and it said in the policy that they would need as well to be tiered and addressed formally as part of the policy, and he undertook to do that.

In response to Mr Ricci Bitti's comment about the CAS, there had been two meetings with CAS representatives, and the group had engaged with the CAS about the concept, the principles and some of the specifics. He knew that the CAS had been supportive (at least at the meetings he had attended) and understood the need to provide the service, and had said that it was ready to do so. It had also provided specific comments, which had been reflected in the standard, and had asked for at least one if not two questions to be put to Judge Costa, and they had been put to Judge Costa. If there was a specific concern that the CAS had, he would be happy to hear it, but he had not heard it in those two meetings from the CAS and, being a regular user of the CAS's services, he hoped that he had managed to design the system in a way that would enable the CAS to support WADA efficiently. If there were anything specific, he would be interested to know about it. Other than that, he did think that, if the Executive Committee felt able to approve the standard and recommend to the Foundation Board the following day that it approve the Code, WADA would be sending a strong message to stakeholders that the organisation was able to respond quickly and robustly to finding a weakness in the system by listening to stakeholders and coming back with a strong response. It would be an important decision. He was very grateful for the support that had been expressed, and he did think that it was an important moment for WADA and it should communicate, if the standard and the Code were approved the following day, that it had listened and responded.

MR DÍAZ congratulated Mr Taylor and his team. It had been an ambitious road map and WADA would be taking a big step forward if the standard were approved.

THE CHAIRMAN said that Mr Taylor had summed it up beautifully. He thought that the Executive Committee should approve the standard. It was a living document, standards could be reviewed and, if WADA had got something wrong, it would put it right at the earliest possible moment. It was important to recognise the work that had been done. Many had expressed their thanks and he added his own opinion to that. Everybody could be proud about the amount of work that had gone into it and how quickly WADA had been able to react and work through what was a very complicated system. He asked if the Executive Committee approved the proposal.

MR TAYLOR appreciated the approval of the standard by the Executive Committee, but asked the Executive Committee to agree to recommend to the Foundation Board the following day that it approve the associated Code changes, because the Code changes would need to be made.

In addition to approving the standard and recommending to the Foundation Board that it approve the Code amendments, he would be grateful for approval from the Executive Committee of the policy document also discussed in the presentation.

#### DECISIONS

1. ISCCS and proposed policy for the initial application of the ISCCS by WADA approved.
2. Proposed amendments to the World Anti-Doping Code approved for recommendation to the Foundation Board the following day.

#### **- 3.2.4.2 Suspension of Article 4.4 – International Standard for Laboratories**

MR TAYLOR said that there was a provision in the ISL that related to compliance; it linked accreditation of the laboratory to compliance by the NADO. He thought that it was an inappropriate link for various reasons. He knew that the ISL would be reviewed and asked that, in the meantime, the Executive Committee agree to the suspension of the first three paragraphs of article 4.4, i.e.

to take out or suspend the operation of a clause that he did not think worked under the new framework.

THE CHAIRMAN observed that a result of what Mr Taylor had just said would involve changes to other parts of the statutory documentation.

#### DECISION

Proposed amendment to the ISL approved.

### **4. Operations/Management**

*The members had agreed to hold the next World Conference on Doping in Sport in Katowice in Poland, and THE CHAIRMAN invited Mr Bańka to sit down with him and sign a very important document, which was the agreement that WADA would be in Katowice in 2019.*

#### **– 4.1 Executive Committee appointments 2018**

THE DIRECTOR GENERAL said that the members had before them the Executive Committee composition for the following year, to be formally approved by the Foundation Board the following day. The name of the Asian representative would be provided that evening after the region had held its meeting. He guessed that the Executive Committee could tell the Foundation Board that it agreed.

#### DECISION

Proposed Executive Committee appointments approved for recommendation to the Foundation Board the following day.

#### **– 4.2 Foundation Board**

##### **4.2.1 Memberships 2018**

#### DECISION

Current Foundation Board composition noted.

##### **4.2.2 Endorsement of composition for Swiss authorities**

THE DIRECTOR GENERAL said that the proposal was to endorse the current composition of the Foundation Board as required by the Swiss authorities twice a year.

#### DECISION

Composition of the Foundation Board (for the Swiss authorities) approved for recommendation to the Foundation Board the following day.

#### **– 4.3 Standing committee memberships 2018**

##### **4.3.1 Compliance Review Committee rotation**

THE DIRECTOR GENERAL said that the members would see from the documents in their folders that the committee that had done a lot of work in terms of the standards and other hot compliance topics, and the chair of the committee had asked whether the composition of the committee might remain equal for another three years so as to maintain the know-how acquired. That would be an exception to the way in which other committees worked and for which there was a rotation policy with about one-third of members changing every year. There were two options for the members to decide upon: either WADA should treat the committee differently for that period of time, or start the rotation policy like any other committee as of the following year in accordance with the schedule that the members would see in the second part of the document. The committee had initially been formed as a special committee, and the previous year it had become a formal standing committee.

THE CHAIRMAN observed that, when Mr Taylor had written to him and the Director General, they had thought that the decision should be made by the Executive Committee. The floor was open.

MR BAŃKA observed that the committee had been very efficient since its beginning, but one of the most important factors behind the success had definitely been the composition of the committee, and he fully understood the opinion of its chairman. However, the general principle of all the WADA standing committees was the rotation of members, so Europe was of the opinion that WADA should stick to its policy with no exceptions. He supported the initiation of the WADA rotation policy starting in 2018 for the Compliance Review Committee.

MR RICCI BITTI said that he had been behind the proposal to make the committee a standing committee, so he would have to be consistent and second what the minister had said. On the other hand, there were practical ways of accommodating the desire of Mr Taylor to reconfirm the members, but he believed, as his colleague had just said, that the committee was a standing committee and the same procedures applying to all standing committees should apply.

MR GODKIN noted that he supported the proposal not to exempt but wondered whether reappointments were available for the committee. If so, that might provide the stability that was being sought. He understood the motivation behind the request. If that was an option, he did not think that WADA should exempt.

THE DIRECTOR GENERAL acknowledged that reappointment was an option, so there was a way of dealing with it in practice.

THE CHAIRMAN understood that it was the will of the members that WADA treat the committee as it did all of the others but that it would be very smart when it came to the reappointment of the committee members. Everybody had agreed on a course of action then. That in no way took away any of the Executive Committee members' regard for the work done by the committee and he trusted that Mr Taylor could live with that decision and make it work.

MR TAYLOR replied that he understood and thanked the Executive Committee.

#### DECISION

Compliance Review Committee rotation process confirmed to be implemented in accordance with the process for all WADA standing committees.

### **5. World Anti-Doping Code**

#### **– 5.1 World Anti-Doping Code review**

MR SIEVEKING said that he had been asked in May by the Executive Committee to provide a detailed scope of review for the Code and a budget for the Code revision process. The members had a detailed summary in their papers of the proposed changes to the current Code, as well as a detailed budget. The current version of the Code worked quite well, as indicated in May. Since its adoption and entry into force in 2015, 2,000 decisions had been rendered per year, showing that the current provisions were generally working well, which was why a full and complete review of all the articles was may be not necessary. For those asking why the scope should be limited, based on the three-year review of the application of the Code and continual ongoing discussion with stakeholders and prosecutors, as well as with ADO practitioners, and discussion with the WADA Ad Hoc Legal Group, everybody consulted had been of the opinion that a general review article per article might not be required. The objective was not to have a revolution on a document that was working quite well, but to improve and update it where necessary.

There were three areas in which some changes were being proposed, and the first related to the structure of anti-doping. At the meeting of the Executive Committee the previous year in Glasgow, several decisions had been taken regarding the way forward for the anti-doping movement, in particular regarding compliance, governance, IT and other service providers, so obviously the three fields would have to be reviewed and implemented in the Code if required. That would potentially require some amendments. He would not repeat the changes to be made to the

Code in relation to compliance, but they would be necessary, as would a discussion in relation to IT and the status of the other service providers. That was only to adapt to the new reality and circumstances in which WADA was working.

The second area was the underlying principles: the principles would remain but some precision was necessary. The members had a summary in their files. He would mention a few areas. Retesting was becoming more and more important and needed to be clarified in a better fashion in the Code, in particular in relation to ownership of the samples. There was also the question of contaminated products, and the meat contamination issue needed to be addressed.

The third area was changes that did not raise significant policy issues, but where fine-tuning should be made or existing provisions could be drafted in a better fashion to ensure more user-friendly applications. The conclusion was no change to the core principles; WADA did not want to review points that had been discussed in the past, such as a unique list, no B samples, or the four-year sanction. All those principles had been fruitful in terms of application, so it was not a revolution; it was an update, and also involved improving certain existing provisions.

In relation to the Code drafting team, the members had the proposed composition in the documents before them. The novelty was the inclusion of a representative of the WADA Athlete Committee in the team. It was important to remember that, for each Code review, WADA had always had a small team of technicians whose role was to act as a secretariat, to organise the consultation, to have extensive stakeholder consultation, to review all the comments, classify them and then draft and make proposals, identifying trends. The steering group was always the Executive Committee as in all previous revision processes, and it was key to ensure that all the stakeholders' voices were heard, which was why discussions were held on a regular basis. Listening to stakeholders, previously it had been a success, as highlighted with the adoption of the new standard on compliance, for which all stakeholders had been consulted extensively. The idea was to have a very small team, and the members had the composition in their papers.

He highlighted the fact that the review process was based on what had been done for the first two revisions. It was a two-year timeline and, should the Foundation Board agree to the idea of reviewing the Code the following day, the management would start immediately; there would be extensive consultation and, obviously, each draft would be presented to the Executive Committee and Foundation Board and sent out for consultation among the stakeholders.

He also highlighted the fact that the forecast budget had been reduced by 50% in comparison to the budget for previous Code revisions in order to reduce costs, so many meetings would be held by conference call, and there were WADA people on the team, which would also make it possible to reduce costs.

THE CHAIRMAN observed that Code revision was always a complex issue. That was the start of at least a two-year process. Were there any observations?

MR RICCI BITTI said that the sport movement believed that the current Code was very good. As the chairman of the Finance and Administration Committee, he thought that it was very good to reduce costs by 50%, but further effort should be made. The Code should be changed where necessary, and only cosmetic changes were necessary. He thought that the key amendment had already been approved that morning in relation to the Compliance Standard, so he thought that WADA had a very good Code and, obviously, the revision should be minimised in accordance with what was needed.

MR BAŃKA expressed, on behalf of all the European colleagues, his strong support for the approval of the recommendation for the third revision of the World Anti-Doping Code, to commence mid-December 2017. However, he wanted to make a small comment on the scope of the process. It should not be limited to the items for revision as listed in the document; therefore, at least the first consultation phase should be open to comments in relation to all parts of the Code.

He drew the members' attention to the issue of the composition of the drafting team. More diversity was needed, and consideration should be given to expanding the team to better reflect gender balance and geographic diversity. He understood that WADA wanted to keep the revision process as efficient and effective as possible. That was reasonable; however, the diversity of thought and opinions in the influential decision-making role that the drafting group would play was

vitaly important and, in that regard, the drafting group should not be composed only of legal experts.

Once there had been agreement in relation to the upcoming revision process, further clarification would be required on costs, which seemed to be substantial.

MR BAUMANN noted that, in the first phase of the consultation, the Olympic Movement might be slightly late with feedback given that, until mid-February or the end of February, everybody would be busy in Korea, so WADA might want a little bit more flexibility in the first part of the consultation. He fully understood what the minister had said in terms of drafting, but those key people on the list were those who had been involved previously in rewriting the Code and they had done a pretty good job, so WADA would certainly want to keep them even if the group were expanded to reflect what the minister had just said.

MR SIEVEKING told Mr Ricci Bitti that everybody agreed that the current Code version was very good, and it was the result of over 15 years of development, which was why a limited scope was proposed.

As to the question asked by the minister representing Europe, obviously, if brilliant ideas came up during the consultation, he would not say no, but he would prefer a limited scope, because the key principles were really working well. If the members looked at the application of the rules by the CAS and the understanding by the stakeholders over the past few years, there should be no reason to modify them; but, obviously, in the first round they would assess all suggestions.

On the composition, the key was to have Code experts on the team, which was why the WADA directors were liaising with the stakeholders on a daily basis, so they knew the subject quite well. The drafter, Mr Young, had been involved since the very first edition of the Code, and everybody had praised his work. Dr Haas was a very experienced CAS arbitrator, respected by all, and appointed regularly by athletes and ADOs. There was also an athlete, who had been proposed by the WADA Athlete Committee. On geography and gender balance, it was key to have a small team of people with experience, but he would be happy to take into account any further comments by the members.

THE CHAIRMAN said that, having watched the exercise three or four times, he very much supported the principle of a small drafting team with experts; however, it was quite clear that it was a bit male-heavy, so he asked the Director General to respond to the comments made on how WADA might proceed.

THE DIRECTOR GENERAL said that he had experience of the revision process and he would probably regret not being part of the team that time around, as it was a very interesting exercise, but it was a very demanding one, and the idea was to keep a small group of drafters to do the job. Obviously they would be reaching out for consultation and additional expertise if required, but their role was to make sense of everybody's views and try to come forward with something that was also legally defensible. He had to agree, looking at the list of the team, that there were not many women on it, and he would suggest perhaps extending the team by one person and looking for an appropriate woman with the appropriate skills to be on it. WADA would look for the right person to be on it.

THE CHAIRMAN asked the members if they were happy with that.

#### DECISION

Proposed scope for World Anti-Doping Code review to be recommended for approval to the Board..

#### – **5.2 Process for accepting new Code signatories**

THE CHAIRMAN said that the business of accepting new Code signatories was a recurrent issue, and it tended to be an issue that Mr Cohen had to face.

MR COHEN said that he was submitting a proposed policy on the administrative process an IF had to follow in order to become a WADA Code signatory. Since 2010, the policy approved by the Executive Committee was that WADA reviewed all applications and then referred the matter to the

sport movement for further review and confirmation that the new signatory did not create a conflict with an existing world governing body of a given sport. That process had caused some difficulty and continued to do so because, in effect, WADA granted a green light to organisations at times unknown to the sport movement and before any proper review of the applicant's structures, rules and regulations had been performed, since WADA's scope of review was limited to the field of anti-doping, so the risk would indeed be for WADA to grant a stamp of recognition to an organisation that created a conflict with another existing recognised governing body of a given sport which did not comply with the series of basic principals of good governance and minimum standards in the areas of democracy, integrity, gender representation, accountability and universality to name but a few. The proposed new policy aimed to use GAISF's revamped membership policy, which was the most thorough assessment ever performed on IFs to date, to ensure that whichever organisation applied to WADA for Code signatory status had gone through a complete prior assessment of its structures and rules, and that principles of democracy, integrity and those he had just mentioned were respected before it applied to WADA. In relation to anti-doping, the new policy would also benefit WADA, as the applicants would first have received support from GAISF to ensure that they had anti-doping rules and policies in place. That related to international sport federations. Of course, for other organisations, such as the major leagues, if they were to apply for Code signatory status, WADA would review them independently. It was important to ensure harmony and coordination between WADA and the sport movement for all of the other IFs. That was the proposal. It had been approved initially by the Executive Committee, so it should probably be approved again and it could be reviewed regularly if it still caused a problem. Since this was in the framework of the Code revision, it would also probably be an area in which the Code should have provisions in place to detail the conditions that organisations had to fulfil to become Code signatories.

THE CHAIRMAN observed that many hours had been spent with potential signatories over a complex issue.

MR BAŃKA said that, bearing in mind the proposal on accepting new Code signatories that Europe had made in May 2016, Europe could not support the approval of the policy proposed for cases of new sport bodies seeking Code signatory status. Europe was of the opinion that a more open process should be established, not blocking access to Code signatory status for the interested sport organisations, and the anti-doping community should strive for as broad an application of the Code as possible.

MR BAUMANN said that he obviously supported the policy that was currently being submitted and was not entirely sure about the position that the minister from Europe had expressed. In fact, the process was a policy that already existed; it just created some issues, and the aim was to streamline it. The reality was that there were some organisations out there that had failed to comply with minimum standards of integrity and other concerns, and he was not there to mention them, but certainly if he were to take the most recent case of the International Mixed Martial Arts Federation, one of those applying for Code signatory status, it had a lot of issues in a number of countries due to the nature of its own sport, but it was applying to be a Code signatory. If WADA were to take the requirements strictly, there was nothing that really prevented it, but there was a real concern in the sport movement that it would become a WADA Code signatory. The philosophy behind it was totally different to what wrestling typically was, for example, if the athlete was on the floor, the opponent continued to hit them. It was contrary to the spirit of the sport movement, and there were issues in several countries already. That was an example of something that he felt should not happen without the approval of the sport movement. Another example was the International e-Sports Federation, which was a hot topic. There were a lot of organisations that claimed to be dominant in that. He also thought that, without a thorough review by the Olympic Movement and the sport movement, it would be inappropriate for WADA to blatantly approve a body. The third point, which he thought was even more consistent, coming from the area being referred to, was that, by opening and broadening the scope, WADA was flagrantly going against the principles set by the European Parliament in relation to the European model of sport. There was a typical way of organising sport; that did not preclude others from doing sport as well but, if that door were to be opened, WADA would be opening the door to many other aspects of organisations that were in direct contrast with the Olympic Movement itself.

MR GODKIN made a brief comment in relation to professional sport. He thought it was very important that there was a mechanism, taking into account the previous comments that major

professional leagues that had no IF equivalent did have an effective mechanism to attain signatory status. The biggest sport in Australia had no IF equivalent; unfortunately, there had been numerous other issues in that sport, and it was in their interest to ensure that the sport had access to signatory status. Whatever mechanism WADA came up with, he would certainly strongly support providing that capability.

MR BAUMANN fully supported what had been said. If there was no equivalent IF, that was a fair point. If there was an equivalent IF in one of the major leagues, there should at least be some coordination. With the three major leagues, there should be at least some coordination with the IFs involved.

THE CHAIRMAN said that a number of people had tried to use WADA Code signatory status as a means of achieving something else, which he suspected was not quite the way to go. That was basically a sport issue. If the minister said it should be wider in terms of consideration, how would that be handled within Europe? Which structure did Europe have? He suggested taking that relatively modest change to an existing policy and seeking to put people from the European group together with Mr Cohen or the GAISF people to see how to move that forward. He knew that Mr Baumann had given a specific example of one sport. He had spent hours trying to keep people happy in that area; with some sports, that was almost impossible, so that was actually a way of moving it forward a bit. Would the minister be happy with that?

MR BAŇKA agreed that that was a good idea.

THE CHAIRMAN concluded that the policy would be modestly changed and WADA would be happy to try to coordinate a group for further discussion.

THE DIRECTOR GENERAL clarified that it was a policy for the Executive Committee to decide upon. It was wrongly labelled a Foundation Board decision for the following day, but it was a working policy on how to do things, so the discussion did not need to be opened the following day.

#### DECISION

Proposed process for accepting new Code signatories approved and WADA to coordinate a group for further discussion.

### – 5.3 Code compliance

#### **5.3.1 Compliance Review Committee Chair report**

MR TAYLOR said that the paper in the members' files was very much an overview of the activities. The Executive Committee had already spoken about the international standard and he would talk about non-compliance, so he noted the paper. It would probably be best to hand over to Mr Donzé to talk about monitoring, and then it would be possible to pick up other points specifically.

#### DECISION

Compliance Review Committee Chair report noted.

#### **5.3.2 Compliance monitoring update**

MR DONZÉ informed the members that he would be fairly brief as well because, the following day, Mr Taylor would be giving a more extensive presentation on the achievements and challenges of the WADA Code compliance monitoring exercise to date, so he would not go into great detail, although he did wish to reiterate a few points that had been made and update the members on where WADA was on the exercise of Code compliance monitoring, the ambitious exercise that had been launched earlier that year in February. The first element he wished to reiterate, because he thought it was always important to do that, was that the purpose of the exercise (and he emphasised it again) was not to find signatories non-compliant. There was a very well-established process in place which was an ISO-certified process, through which, when a signatory had a Code non-conformity identified by the WADA management through a compliance task force that brought together all the different departments of WADA, a dialogue was started with the signatories, support

and guidance were given by WADA and then, ultimately, the case could be escalated to the Compliance Review Committee, which in turn would provide proper timelines to the signatories to address any outstanding issues. Only after that time, which might take a few months, would the Compliance Review Committee have an opportunity to escalate any case to the Executive Committee under the new standard. It currently went to the Foundation Board, which was responsible for Code compliance matters.

The work had been very intense and WADA had been very busy with the Code compliance monitoring exercise. There were several tools being used, and he reminded the members of the main tools used in the process, the first of which was the Code compliance questionnaire. That had been circulated among all signatories back in February. It was very reassuring and positive to see that more or less 80% of signatories had completed their Code compliance questionnaire by the three-month deadline, and the Foundation Board would currently have to decide on proposed non-compliance for only one signatory that had not completed the questionnaire, and that was the NOC of Equatorial Guinea, which acted as a NADO in the country. Despite multiple reminders, calls and offers of support, that signatory had not completed the questionnaire to date.

In addition to that, and the members would have seen in their files the paper on Code compliance monitoring, WADA had been conducting a number of compliance audits on identified signatories. There had been ten audits carried out to date on various NADOs and IFs, which had been selected by the WADA management and approved by the Compliance Review Committee based on a number of elements, which were the answers to the Code compliance questionnaire, intelligence available to WADA or other types of information received on the signatories. The word 'audit' had a somewhat negative connotation, but the goal of the audits was once again to support the signatory being audited, to address any non-conformities identified, and to work together to ensure that they could be addressed and solved properly by the signatory. The challenge of the exercise, as he had indicated earlier, was really the workload on WADA, and he certainly looked forward to discussions on the budget later that day and the following day, because the WADA management team did miracles with very limited resources in terms of Code compliance monitoring. The very positive aspect of the exercise was that, since the launch of the programme earlier that year, there had been a pretty steady and significant increase in Code compliance by signatories. The signatories had been very constructive and committed to addressing any non-conformities and, thus far, there had been no type of conflict with signatories. There had been a very good partnership. It was a team effort at WADA but, from a collective perspective, it was a team effort by the anti-doping community and he was very happy to see the achievements and the enhanced level of compliance.

Mr Taylor, as part of his presentation to the board the following day, would give a number of specific examples of achievements and progress in terms of Code compliance. That made him believe that WADA was heading in the right direction and would continue to do so in the coming months and years.

That concluded a very short summary. There would be many more details the following day at the Foundation Board meeting; but, if there were any questions, Mr Taylor and he would be very happy to answer them.

THE CHAIRMAN asked if there were any questions for Mr Donzé and Mr Taylor, bearing in mind that it would clearly be a major item at the Foundation Board the following day. He had to say that he had never known anybody to send out over 300 questionnaires and only one person not complete one. That was a staggering statistic. It was either because of the people who had designed the questionnaire or the nice letter written, but it was an amazing statistic and it meant that WADA was the recipient of a huge amount of information. The whole object of the exercise had been to move from a situation whereby everybody was rule-compliant to being effective and running good anti-doping practices. It had been an enormous success, so he paid tribute to Mr Donzé and his team. It was a terrific effort.

#### DECISION

Compliance monitoring update noted.

### **- 5.3.2.1 Russia – RUSADA update, report from the Compliance Review Committee**

THE CHAIRMAN said that he had been asked if representatives of Russia could attend the Executive Committee meeting and the Foundation Board meeting the following day. He had said yes because he thought it would have been wrong not to say yes. That having been said, he would give the floor to the Director General, who would explain how that would be done. The executive committee meeting that day was a closed meeting, whereas the following day the meeting would be open, so the system might be different.

THE DIRECTOR GENERAL informed the members that, as the Chairman had said, he would invite the Russian representatives (the president of the NOC and the sports minister) to come and speak. They would be speaking first, and the members would be able to ask them questions after their speech. They would then be allowed to remain in the room for the report from the Chairman of the Compliance Review Committee which would follow, after which they would be asked to leave the room before the discussion on the topic. He hoped that everybody was clear on the process.

THE CHAIRMAN welcomed the Russian representatives, Messrs Kolobkov and Zhukov, and thanked them for joining the Executive Committee. He would ask them to speak first. The members of the Executive Committee would have the right to ask some questions and then he would invite the representatives to stay to listen to the report from the Compliance Review Committee, after which the Executive Committee would go back into a closed session. He passed the floor to the representatives. He was not quite sure who was first and who was second, but they were both very welcome.

MR KOLOBKOV spoke first on behalf of the Russian Ministry of Sport and the Russian Government, after which he would ask his colleague, the President of the Russian Olympic Committee, Mr Alexander Zhukov, to continue. First, he was glad to see the members. It was the first time he could speak to them formally. He recalled that he had been a member of the Foundation Board some years previously. On behalf of the Government of the Russian Federation, he thanked the Executive Committee members for giving him the opportunity to address the WADA meeting at which a discussion of such an important topic, the restoration of the Russian anti-doping agency, was planned. Two years had gone by since the WADA commission, following the results of the investigation of the activities of all Russian federations, had recommended that the Moscow anti-doping laboratory's accreditation should be revoked and its director, Dr Rodchenkov, should be dismissed due to numerous violations. The activity of the laboratory had been suspended. At the same time, it had been recognised that RUSADA, the anti-doping agency, did not comply with the World Anti-Doping Code. After the anti-doping system in Russia had failed, the creation of a new anti-doping model, which had no analogies in the world, had begun. Despite all the difficulties and problems, they moved forward step by step. All sports and government organisations in the country were doing and would continue to do everything possible to make sure that the problems associated with the failure of the anti-doping system remained in the past. In 2016, the WADA road map for the restoration of RUSADA had been developed and approved. RUSADA had been implementing it in close cooperation with WADA and its experts. The action plan had been developed together with the Council of Europe and it was being implemented. That year, the monitoring visit of UNESCO experts had taken place in Russia. At the initiative of the president of Russia, an independent public anti-doping commission had been established. The measures for the implementation of the plan developed by the commission had been approved by order of the government. It meant that the fight against doping in sport in Russia had reached a fundamentally new state level. Criminal liability for athlete support personnel had also been introduced. A procedure under which violators of anti-doping rules were deprived of the president's maintenance grant and other payments had been established. Access passes to closed cities for doping control officers had been granted. People who had previously been responsible for anti-doping work in Russia had been changed. The process of creating a new anti-doping laboratory on the basis of the leading university in the country, Moscow State University, was ongoing. Over the past two years, testing on Russian athletes had been carried out by foreign anti-doping organisations. According to RUSADA, in 2016, the number of anti-doping rule violations by Russian athletes had been less than 1% (0.6%) and, that year, it had been 0.4%, which was much lower than in other countries. The main thing was that, under the guidance of WADA and its experts, the Russian anti-doping agency had been completely reformed. RUSADA's functioning was carried out under the supervision of two independent experts of WADA. Agency funding was provided directly through the Ministry of

Finance of the Russian Federation. The RUSADA budget had been increased three times. The supervisory board of the agency had chosen a new director general based on the results of transparent and objective competition under the supervision of international experts. New staff members had been trained. In November, the WADA audit of RUSADA had been held. The results of the audit demonstrated significant progress. RUSADA was currently a completely financially and operationally independent organisation. RUSADA was ready to work and comply with the World Anti-Doping Code.

Currently, the investigative committee in Russia was carrying out an investigation regarding the manipulation of doping tests admitted by the past leadership of the anti-doping organisation. More than 700 athletes, coaches, medical staff and other officials had been questioned. Comprehensive studies had been carried out and a large-scale evidence base had been collected. Substitution of doping tests of Russian athletes in the Sochi anti-doping laboratory had not been confirmed. It had been concluded that it was not possible to open a completely closed lid on a sample bottle without destroying its integrity. In accordance with the requirements of criminal procedure legislation, samples stored in the laboratory and the electronic database were sealed. No organisation without exception had the authority to influence the investigation and dictate its terms to law enforcement agencies. That was not possible in any legal system in the world. He was sure that the members understood that. The transfer of samples would not only lead to the criminal liability of those who did that, but also would allow for justice to be carried out in the form of punishment of the perpetrators. After the investigation ended, the samples and the database could be transferred to the relevant organisations. He read article 82 of the criminal procedure code: *material evidence must be kept within the criminal case before the sentence comes into legal force or before the expiration of the appeal period of the decision or determination regarding the criminal case.* There was no legal opportunity to demand the provision of the samples. In turn, the investigative committee had repeatedly tried to interact with the relevant organisations and had issued a statement about the willingness to undertake joint cooperation to investigate possible facts of anti-doping rule violations and information contained in the electronic database. The investigative committee had sent a letter to WADA several days previously and had publicly declared it in the press.

The Russian Federation and Russian Ministry of Sport had always opposed doping. Russia had exerted and would make every effort to fight doping in sport and there had never been a state-sponsored system in Russia. The restoration of RUSADA was very important for Russia. First, the restoration of RUSADA would significantly increase the number of tests on Russian athletes and athletes from other countries. Secondly, the restoration of RUSADA would ensure equal conditions for athletes to compete through doping control and anti-doping preventative measures at all competitions. There were more than 5 million people involved in sport. The members knew the importance that people attached to the development of sport in Russia. Russia had conducted about 2,000 international competitions over the past five years, including 30 world championships and 24 European championships. Russia had done everything together with the members. He was sure that the members had appreciated the level of contact and degree of Russian cordiality. Russia was a reliable partner and cherished the relationship. It was important to protect the rights of clean athletes and ensure equal conditions for their participation in competitions. For Russia, the restoration of RUSADA meant the return of Russian athletes and Paralympic athletes to participate in international competitions. It would be fair. Russia, for its part, had taken unprecedented steps to ensure the purity of its athletes. A tremendous amount of work had been done, and the anti-doping system had been completely reformed. All parts of the road map that affected the operational activities of RUSADA had been fulfilled, and he asked the members to officially confirm that, so that RUSADA could comply with the Code.

Finally, he would tell the members about the new information received by WADA about the database. The information had been received a few days previously, and he could explain. The database, which had been delivered to WADA, was the management system of the Moscow anti-doping laboratory, known as LIMS. The LIMS information system had been developed by the former employees of the ADC, including the deputy of Dr Rodchenkov, who currently lived in the USA. Almost all of the employees had had access to that system and the developers themselves had had administrative access, enabling them to make changes to the program. There had also been the possibility for remote access, through which it had been possible to make changes. However, several years previously, even WADA had drawn attention to the admissibility of remote access and

recommended certifying the system. That had not been done. That requirement had not been fulfilled by the director, Dr Rodchenkov and, from August 2015 to July 2016, former employees of the ADC had had remote access. He did not know why. He could not judge who, when and why the system had been used. That would be clarified by the competent authorities, and the Russian investigative committee had announced its readiness to cooperate with WADA to investigate the information contained in that electronic database. However, the facts he had listed posed numerous questions, for example: for what purpose had the former management of the centre ignored the demands of WADA? Even if it was possible to trace the material of the database, if the unidentified people had had an opportunity to falsify results without being detected, why had the so-called whistleblowers presented that information only then, before a decision had been taken regarding RUSADA's status? They had had it for a long time, so the competent authorities had not had time to investigate that information. For what purpose had the former head of the laboratory gone to live in another country but had retained the possibility to access the system of the laboratory? There were lots of questions Russia was asking. He was no judge, but he thought that the investigative committee and WADA as professionals should answer the questions. It was very important. He gave the floor to his colleague.

Mr ZHUKOV thanked the distinguished members of the committee. He thought that the approach to cooperation over the past two years had been consistent and there had been tremendous teamwork, which had also been highly praised by UNESCO experts and other international organisations. He could assure the members that the Russian Olympic Committee did its best and made every effort to resolve the problems related to the failure of the anti-doping system in Russia in the past. In particular, he wished to make the point that the national anti-doping plan developed by the independent public anti-doping commission created by the Russian Olympic Committee was being implemented. The commission was headed by the honourable member of the IOC, Mr Vitaly Smirnov. The plan contained a number of clauses, which were truly innovative, not only in Russia but also globally, such as limitations in relation to athletes who had violated anti-doping rules in the past to prevent them from holding public or non-public posts in physical culture and sport. Mandatory testing of athletes included in national teams for the first time had also been introduced. A number of special educational programmes, including for young people and next generations, were being implemented. Currently, all the clauses, with no exception, of the road map related to the operative day-to-day activities of RUSADA had been fulfilled. The McLaren report had become key for the full recognition of the Russian anti-doping system. He accepted the fact that the national anti-doping system had failed. That was also recognised by the country's top leadership. The failure had been the result of organised activities aimed at manipulation of doping samples of Russian athletes by a group of individuals for their personal benefit. That group consisted of a number of managers within anti-doping organisation, the Moscow anti-doping laboratory and other anti-doping institutions. The level of involvement and the guilt of certain individuals would be determined by the Russian investigative committee at the end of the investigation. At the same time, he absolutely denied the existence of a state-sponsored doping system. As for other provisions from Professor McLaren's report, the events of the past month had demonstrated that information from that document was controversial, often legally unsubstantiated and required additional verifications of each individual case. At the IOC summit, held only some time previously on 28 October, it had been emphasised that the forensic examination findings from the report could not be used as grounds for individual legal actions, as the methodology used by Professor McLaren had not been developed to identify individual violations of the anti-doping rules. In September 2017, WADA had publicly announced that 95 athletes mentioned in Professor McLaren's report had been declared not guilty due to lack of evidence. The IFs had recently conducted their own investigations based on the information provided by the report. Following the results of those investigations, the overwhelming majority of Russian athletes had been cleared from blame, for example, all the cases of the 27 Russian fencers mentioned in the report had been closed. There was a similar situation in rowing and swimming, in which not a single case of anti-doping violations by the athletes named in the report had been proven. The information from Professor McLaren's report that more than 1,000 Russian athletes had been doping had not been confirmed. Large-scale testing over the past two seasons and numerous checks made by the foreign organisations responsible for the collection and analysis of doping samples in Russia also deflated those conclusions. He recalled that, prior to the Olympic Games in Rio in 2016, IFs, together with the CAS, after reviewing documents provided by Professor McLaren, had taken decisions to allow Russian athletes to compete at the Olympic Games although their

names had been mentioned in the McLaren report. The statement that all Russian athletes' victories had been achieved mainly through doping was lacking in any logical and practical sense. The performance of Russian teams and athletes in summer and winter sports over the past two years when they had been under constant and very strict control by foreign anti-doping agencies completely refuted that statement and that situation. He could not unconditionally accept the conclusions of the McLaren report; however, without the full reinstatement of RUSADA, it would not be possible to restart the operations of the national anti-doping system in Russia, including all the activities of the anti-doping laboratory, and Russian Paralympians would not be able to participate in the Paralympic Games. He wished to stress once again that that requirement had nothing to do with the day-to-day operations of the totally reformed national anti-doping agency, which had been under the full control of WADA over the past two years.

Having implemented a number of important reforms, having acknowledged the failure of the previous anti-doping system, having opened all the doors for constructive cooperation with WADA, he believed that RUSADA and Russian sport in general could and should be considered reliable partners in the fight against doping in sport on a zero tolerance basis, for the rights of all clean athletes to participate in international competitions. He thanked the members for their time.

THE CHAIRMAN thanked the speakers for their statements. He asked the members of the Executive Committee if they had any questions they would like to ask their Russian colleagues in light of what they had said.

Nobody had any questions. Clearly, the speakers had been compelling. He asked Mr Taylor if he would be prepared to provide his report, after which the two speakers would be invited to leave for an early lunch.

MR TAYLOR informed the members that the Executive Committee had in its papers two letters that he had written in his capacity as Chairman of the Compliance Review Committee following detailed consideration of many materials relating to the position of RUSADA and the road map to reinstate RUSADA. As Minister Kolobkov had mentioned, the road map had been developed and approved and agreed with the Russian authorities in 2016. The Compliance Review Committee had actually met in a special meeting outside its usual agenda in October following the completion of the WADA audit of RUSADA to hear the results of the audit of the RUSADA operations and progress against the road map. At that meeting, there had been presentations by a number of members of the WADA staff, including Mr Koehler, the audit team and Mr Peter Nicholson, one of the international experts who had been assisting RUSADA and who had been based in Moscow, because the members had wanted to hear directly from him on the work being done at RUSADA. After that meeting, he had written a letter on 25 October in which he had provided the Compliance Review Committee's position as of that time and he had mentioned that it would meet again by telephone on Friday 10 November to consider any updated information. The first letter had been circulated, including to the Russian authorities, and both Mr Kolobkov and Mr Zhukov had responded to it. On the Friday, WADA had considered their letters, a letter from the RUSADA director general, an update from Mr Ricketts on the WADA audit, and the statement of the investigative committee to which his colleagues had referred, and the committee had also considered the information provided by WADA about the new database. The members had in their files the letter he had sent on Friday which reflected in some detail the Compliance Review Committee's assessment of that information, its analysis of where things stood and its recommendation, and he would very briefly go over that for the members. In short, the first conclusion was that there were conditions of the road map that remained outstanding. First of all, in relation to RUSADA operations, he concurred with Mr Kolobkov and Mr Zukov. As stated in all correspondence, the committee had seen and had reported significant improvement at RUSADA, assisted by the international experts, reforms and an audit that had provided a number of actions, which he understood had been undertaken. He did need to say, and in that he disagreed with Mr Zhukov when he said that all conditions in relation to RUSADA had been fulfilled in relation to closed cities, that a procedure had been agreed and installed for getting access to those cities but, based on reports from the ground, at present that procedure was not fully functioning. Several attempts had been made by a doping control officer with a special permit to access the city to test an athlete and had not worked. On 4 November, a doping control officer had gone to a closed city to test an athlete and had been told to go back three days later, so a procedure was in place but at present it was not being fully implemented. Nevertheless, there was

no doubt that RUSADA had made great strides and the report from Peter Nicholson had been very positive.

The other two conditions that had not been met included acceptance of the findings in the McLaren report and access to samples and data at the Moscow anti-doping laboratory. In terms of the acceptance of the McLaren findings, there were two responses, and Mr Zhukov had been kind enough to repeat them. The first response was that Russia could not accept the McLaren findings because many cases of individual athletes had been dropped due to insufficient evidence. The Compliance Review Committee had carefully considered that submission. The Compliance Review Committee said that, if there were findings of a conspiracy to cover up evidence of doping by individual athletes, if there was in specific individual cases no evidence of doping by individual athletes, that did not mean that there had been no conspiracy: it meant that the conspiracy had been successful. In the view of the Compliance Review Committee, there had been cases in which evidence had been found sufficient to support cases of individual violations, but it did not follow from the inability to find that evidence in other individual cases that there had not been a conspiracy. For example, most obviously, the part of the conspiracy found by Professor McLaren had been disappearing positives. If the positive test had disappeared, that meant the evidence against the individual athlete had disappeared. The second part of the response was the investigative committee's response, which was that it refuted the findings of Professor McLaren that there had been such a conspiracy. Refuting meant disproving. For the reasons set out in the letter, with great respect to the investigative committee, he understood that it had gathered testimony from people who denied a conspiracy. It also challenged some of the conclusions of the experts who had examined the bottles. That did not mean that it had disproved the findings: it meant that it had found evidence which in its view was contrary to those findings. There were some surprising omissions in the statement. There was no mention of the committee having talked to officials from the ministry of sport who were alleged to have masterminded the conspiracy. Even more surprisingly, Professor McLaren's report about disappearing positives said that there had been no access to the LIMS database which would prove those allegations and there was no reference in the investigative committee's statement to the LIMS database, which one would think it would look at in seeking to either prove or disprove the allegations. Therefore, with great respect to the investigative committee, the Compliance Review Committee's assessment was that it had not refuted the findings of Professor McLaren and, as such, the condition to accept the findings remained outstanding.

The second condition was directly related to that, because Professor McLaren had said that no access had been given to the LIMS data and samples at the laboratory, and that had been one of the conditions set out in the road map and agreed with the Russian authorities. The explanation had been given that there was a legal process going on and that therefore no access could be given to the database, although he had just heard that there was a proposal to have a joint investigation into that database. To be clear, the Compliance Review Committee had asked itself whether, if it had access to the database from another source, that condition was still required or still outstanding. His understanding, and Mr Younger was there and he hoped that he would comment on that, was that the condition was even more important than it had been before, because there was a database, and Mr Kolobkov was very fairly asking questions about the database provided to WADA and its authenticity and accuracy. As he understood it, the answer to whether or not it would be possible to verify the database that had been provided was by getting access to the Moscow laboratory and to the samples, the database and in particular the instruments at the laboratory which had produced the data in the first place. They would say whether or not that database was accurate. Therefore, not only had that condition not been rendered moot, it had become even more important.

The Compliance Review Committee was clear that those conditions had not been met. What remained was the last point, which Mr Zhukov had again referred to, which was whether or not those conditions should somehow be waived or separated from RUSADA. If RUSADA was operationally effective, why should it not be allowed to be reinstated apart from those conditions? There were three points. One was that those had been agreed as conditions to the reinstatement of RUSADA, and it was surprising that it was only then being suggested that those were somehow inappropriate conditions for the reinstatement of RUSADA at a time when they had not been satisfied. The second point was that, as he had mentioned, RUSADA was not yet fully compliant and would not be until the closed cities problem had been demonstrated to have been corrected.

The third point was more fundamental. It was a question of whether one could rely on RUSADA's reform being allowed to take effect and provide all of the benefits in an environment which, according to the findings of the McLaren report, had been corrupted and in a previous iteration officials at the ministry had directed officials at other organisations to undermine RUSADA's operations and the operations of the laboratory. Until those findings were refuted or otherwise acknowledged and the full scope of that conspiracy and the effect it had had on competition and on clean athletes had been completely rooted out, exposed and dealt with, it was very difficult for the Compliance Review Committee to understand how one could have any confidence that it would not happen again. One of the most powerful comments from the international expert, Mr Peter Nicholson, had been that there had been important reforms at RUSADA, but it had to operate in its environment. There was talk about a change in culture. There needed to be a change in culture and it needed to have been demonstrated throughout and, when those very specific allegations and findings by Professor McLaren were still not addressed, in the Compliance Review Committee's very respectful view, there could be no comfort that RUSADA would be allowed to continue to operate independently. The conditions were not separate: they were fundamentally linked.

That was the view of the Compliance Review Committee. In particular on that specific issue of the database, because it was new information that had come late the previous week, he quite understood why there were questions about it. He knew that Mr Younger was present and it was up to the Executive Committee as to how WADA should proceed, but Mr Younger was present if the Executive Committee needed help with that.

THE CHAIRMAN thanked Mr Taylor. He thanked the two Russian representatives for being present and thanked them for what they had said. He had thought it quite important that they be present to hear the report at that meeting from the Compliance Review Committee. Quite clearly, there would be a further debate in that room and, if the two speakers did not mind, they would be invited to leave for an early lunch and the Executive Committee would continue its debate. The following morning, the meeting was a public meeting. It was open, and the two speakers were welcome to attend all day if they wished. The particular issue would be dealt with under item 5 on the agenda the following day, when they would have the opportunity to speak to the whole Foundation Board and matters would be dealt with by WADA thereafter. He thanked both of the representatives for coming.

He thanked Mr Taylor for doing that. He really did believe that it was much better to be open in those situations so as to get both sides of the story. He would be able to bring the members up to date on the situation with, for example, the proposal from the Russian investigative committee, but it had been happily established that there would be a discussion around that table and he was happy to open the issue for discussion. That having been said, since much had been made of the database issue, it might be appropriate to ask Mr Younger, who headed the WADA Intelligence and Investigations Department, to report on what he knew and believed.

MR YOUNGER thanked the Chairman. He would be happy to comment on or answer some of the questions from the Russian minister. He also wished to provide a general overview of the current situation. Since the end of October 2017, WADA had been in possession of what he was confident was a copy of the Moscow laboratory LIMS file identifying doping control screened positives that had been covered up from 2012 to 2015. Using the LIMS file as a foundation, coupled with Professor McLaren's evidence, it would be possible to follow up on individual cases of possible anti-doping rule violations. The previous week, WADA had reached out to Russia with an offer to cooperate with the investigation in order to ensure that all of the identified suspicious cases would be followed up properly. WADA had already received a positive reply from Russia which was promising, but he also wished to be clear about expectations. In the letter to Russia, WADA had emphasised that it expected immediate action, as all the relevant evidence was already in their hands. In addition, if the database that WADA had was questioned as being compromised by Russia, WADA asked for immediate access to the original LIMS files and to the instrument electronic data file, which by the way was not (according to experts) compromised or manipulated by remote control, including PDFs made by the instrument electronic data file system. Only that immediate action on their behalf would reinforce their statement that Russia sincerely wanted to address doping by Russian athletes. In the event that Russia decided not to initiate immediate action or in any way delayed the process, WADA would immediately initiate a worldwide anti-doping task force with all affected partners from IFs and other anti-doping organisations with whom WADA would

cooperate and investigate all suspicious cases. WADA had already informed and was cooperating with the Schmid and Oswald commissions. WADA was currently still in the process of authenticating the database. In addition, before WADA could analyse the database in depth, it was necessary to ensure that the content had been understood. If one was not familiar with the structure of the database, it took a while to understand all connections and tables. To date, there was no access to the original LIMS database of the Moscow laboratory, so WADA first needed to reproduce the database and understand the links between the different areas. That was a very challenging task, and WADA needed to be careful and precise in order to make sure that all of the results were valid and substantiated. If early estimates were right, the pursuit of all unidentified cases would be resource- and time-intensive and would therefore require a coordinated global approach. That would be a huge task for his small team and, therefore, most of the ongoing investigations would be on hold until that had been concluded. Therefore, as that process was still ongoing, he hoped for the members' understanding that, at that time, he could not answer their questions regarding how many athletes were involved, how many cases would be established, whether the information in the database would corroborate the McLaren investigation, and so on. What he could tell the members was that he was confident that he would be able to present the results by the beginning of December 2017 and he was definitely aiming at finishing that investigation by the end of that year.

THE CHAIRMAN thanked Mr Younger. There were a number of issues. Were there any contributions from the floor? After that, it would be necessary to decide on a number of things, not least how to organise the following day's public meeting.

PROFESSOR ERDENER said that he would ask a simple question first and would then make some comments. Did the LIMS data include some data from the Sochi laboratory? That was the question. He knew that there were a lot of activities related to the Russian situation on both sides in WADA and the IOC, and all agreed that a functioning anti-doping system was necessary for Russia. There was no doubt about that. The IOC also wanted to ensure with its partners, WADA and the winter IFs, that a convenient level of testing was conducted until the Olympic Games in PyeongChang based on the pre-Games task force recommendations. That was the information.

MR GODKIN wished to make some comments on behalf of the public authorities. The public authorities recognised and welcomed the considerable progress made to date in the rebuilding of RUSADA which had essentially resulted in the agency being able to effectively perform its operational functions, and they expressed regret that the RUSADA road map to compliance, agreed upon by WADA and the Russian authorities, had not yet been fully implemented. That, together with the new evidence and testimony obtained from the Compliance Review Committee Chairman, made it impossible to lift the status of non-compliance at that stage. The public authorities expressed appreciation to WADA and all the other parties involved for their commitment to help Russia and hoped that the remaining points of the road map would shortly be fulfilled. With a view to protecting the interests of clean athletes and the integrity of sport overall, the public authorities requested that the Executive Committee recommend to major event organisers that they implement meaningful consequences as a result of the non-compliance of RUSADA, particularly with respect to the eligibility criteria for the participation of Russian athletes in those competitions. The public authorities suggested that to ensure that all participating athletes in major competitions were subject to proper extensive testing and oversight by compliant anti-doping authorities.

MR RICCI BITTI said that he had no argument about the recommendation of the Compliance Review Committee at all, at least at that point. His question was related more to the future. It seemed to him that the two conditions should be subject to some negotiation (the first) and investigation (the second). It seemed to him that there was not much will on the part of the Russian authorities to fulfil those conditions, which had been conditions from the beginning. On the other hand, the practical matter was that Russia was a very important country in sport and it was working and providing 2,707 tests when the needs had been estimated at about 10 times that amount in that country. He was not arguing about them; he was arguing about the future, and asked what WADA could do if it was stuck with the problem that the Russian authorities were not ready to fulfil over the short term the two remaining conditions (although he was happy to hear that there was something happening with one condition, the file) and the need, sooner or later, to have Russia working properly on anti-doping. That was currently not the case. That was his question. Perhaps it was not related to the remit that day. It was clear to him that WADA had to accept the decision

of the Compliance Review Committee, but it related more to what could be done if the situation remained as it was for years.

MR BANKA said that, where short-term solutions were concerned, Europe supported the proposal by the Compliance Review Committee regarding the status of non-compliance of RUSADA. Not all the conditions set out in the road map had been met by RUSADA and only the full implementation of the road map agreed upon between the Russian authorities and WADA would result in the reinstatement of RUSADA; however, longer term cooperation should be taken into account. Secondly he wished to congratulate the IOC on the work of the Oswald and Schmid commissions. He strongly supported and respected all of the recent decisions to keep the cheats out of the Olympic Games.

MS EL FADIL said that Africa supported the recommendations of the Compliance Review Committee. She did not think that the terms had been fulfilled. That made it impossible to lift the sanctions on Russia. At the same time, however, she thought that WADA needed to make sure that, if it wanted to ensure the participation of Russian athletes in competitions, they should be given extensive testing and oversight by the anti-doping authorities.

THE CHAIRMAN thought that a number of those questions could probably be answered. Whether or not Mr Ricci Bitti's question about the future could be answered, he was not so sure. He did not know if Mr Younger could answer the first specific question about the LIMS database involving the Sochi laboratory.

MR YOUNGER said that he could provide only a short description because the full database had not yet been analysed, but what had already been figured out was that, in Sochi, they had used the same database (the database program, or the LIMS program) because they had been used to working with it, so they had just copied it. Therefore, it was highly likely that WADA would also find some information from the Sochi laboratory in its database, but all of the information had not yet been analysed in detail.

THE CHAIRMAN assumed that WADA had been in touch with the Oswald commission.

MR YOUNGER replied that WADA had been in touch and made sure that, before the Schmid commission issued or finalised its report, it would provide all the evidence that WADA had from its investigation to them.

THE CHAIRMAN said that, in answer to the others, perhaps Mr Ricketts could help. To the best of his knowledge, the pre-Games task force was up, running and organised and much testing was being done, quite a lot of it by RUSADA in the run-up to the PyeongChang Olympic Games, so one could hope that athletes who appeared in the Olympic Games in PyeongChang would be clean. He thanked Mr Godkin for his comments, which were noted carefully.

He told Mr Ricci Bitti that, of the two conditions, it seemed to him that the second one on laboratories was the easier one to deal with at that time. Mr Niggli would say that WADA had had communication from the investigative committee seeking cooperation. His guess was that Mr Niggli would advise WADA that it should do that, on the condition that such cooperation gave WADA access to the laboratory in Moscow. He could deal with that in a moment. As far as the first condition was concerned, words mattered. He had been writing back and forth to the relevant people from Russia, dealing with different words to try to get a formula that would be acceptable. The issue that WADA always came up against was that the wording WADA wanted Russia claimed inferred state-controlled doping. WADA could continue to work on that. If it could solve that particular condition, and if WADA could get access to the laboratory, and subject to the closed cities issue being resolved, he thought that the Compliance Review Committee might be in a position to say that all of the conditions had in fact been met. He thanked the two ministers for their comments.

THE DIRECTOR GENERAL added two comments. It was important to know that there was no recommendation from the Compliance Review Committee that WADA change the activities currently being performed by RUSADA. Therefore, they would continue their testing programme. There would still be international experts there. Therefore, at least until the Olympic Games in PyeongChang, that would not change and the testing programme would go on. On the number of tests, RUSADA had just started testing again and the number mentioned by Mr Ricci Bitti was not representative of the capacity going forward. RUSADA was increasing in capacity, but 2,000 was not an annual number. Perhaps Mr Ricketts had the right number.

MR RICKETTS said that they were aiming for between 5,000 and 6,000 samples that year and increasing to up to 8,000 to 9,000 the following year. The limitation that year had been due to a couple of things, but included using the private sample collection organisation and doping control officers based in Russia, so there had been a limitation on the number of samples that they could actually take on board and deliver and, since RUSADA had started its own testing with its own doping control officers, whom it was continuing to recruit and train, since July there had been an increase in the number of samples that they had collected as well, so that was continuing to increase.

THE DIRECTOR GENERAL added that, as mentioned, WADA had received the previous day a letter from the Russian investigative committee. Mr Younger would actually be liaising with the committee and WADA would see how cooperation could take place, it being understood that, as explained, it was important to get access to the laboratory. So, things might move in the right direction relatively quickly or not and, frankly, it would not depend on WADA but more on the response that WADA received on that cooperation. WADA would certainly reach out to the committee, probably that day, in response to the letter to see how to organise that.

THE CHAIRMAN said that the final thing he wished to discuss was just how much of that became absolutely public in the public meeting the following day, because WADA did have the formalities with which it had to deal. He thought that it would be appropriate that the Russian colleagues be given the opportunity to speak in the room, which would be full of media, and they would be entitled to state their case. Equally, WADA should be entitled to state its case. It would present the Compliance Review Committee report and probably a carefully worded report from Mr Younger at the same time and then, whatever decision was taken, WADA would move on. He would be quite keen to see if WADA could resolve the final two conditions immediately and hopefully get through the Olympic Winter Games in one piece, after which it would be possible to consider the future. Were the members happy with all of that? He thanked everybody for the debate, the very responsible way in which they had approached that and the responsible things that had been said and which would be noted.

MR TAYLOR asked if the decision on Russia was that the Executive Committee would recommend to the WADA Foundation Board that it follow the recommendation of the Compliance Review Committee.

THE CHAIRMAN replied that he had taken quite strongly around the table that morning that that had been feeling.

MR TAYLOR thanked the Chairman.

#### DECISION

Executive Committee to recommend to the WADA Foundation Board that it approve the recommendation of the Compliance Review Committee concerning the non-compliance status of RUSADA remain in effect.

#### **5.3.3 Declarations of non-compliance**

MR TAYLOR said that there were three anti-doping organisations that the Compliance Review Committee would recommend that the Foundation Board declare non-compliant and, for the information of the Executive Committee, Equatorial Guinea was the sole non-responder at that stage to the Code Compliance Questionnaire (CCQ). The other two were Kuwait and Mauritius. The members had a paper; he did not need to read it out. In both cases, there had been serious issues identified with their activities and all their rules; serious non-compliance in particular in relation to Kuwait, non-recognition of the CAS, several issues in relation to Mauritius and, in both cases, a failure to engage and respond to the WADA task force, and failing to respond to questions from the task force was the same as an athlete refusing to submit to testing. It frustrated the process and was as serious as being non-compliant, which was why the Compliance Review Committee would be recommending to the Foundation Board that all three be declared non-compliant the following day. That was for the information of the Executive Committee.

MR GODKIN said that he was seeking a point of clarification prior to the following day's meeting. It related to Mauritius. It was unclear, at least to him, in the papers whether the declaration of non-compliance was based on an assessment that the country in question was not running Code-compliant anti-doping arrangements, or whether it was a question as to whether the respective draft legislation had been submitted and reviewed and, if it was the latter, as enshrined in the Code, it was not actually a matter for WADA to instruct governments on as parliamentary or legislative processes but rather to see whether they gave effect to the Code. There was a subtle but very important difference, so he would welcome some clarification on the basis for the recommendation.

PROFESSOR ERDENER wished to speak about the future questionnaires. The Olympic Movement recommended a more flexible and better platform for future surveys, because many stakeholders had reported technical issues with the platform which had resulted in difficulties in submitting the questionnaires.

MR DONZÉ thanked Professor Erdener. He was aware of a very limited number of occurrences whereby there had been technical issues with the platform. The platform was a brand-new one, and it appeared to work very well for the purpose of that exercise. There had been a few cases whereby WADA had been informed by stakeholders that they had struggled to submit their questionnaire. The matter had been addressed and dealt with by the IT team, and he did not think there was anything outstanding, but WADA was working on a permanent basis to improve and enhance the platform and certainly would have learned from that experience. The platform was improving on a daily basis. He was not too concerned because, as far as he was aware, IT issues had been identified in a limited number of cases, but certainly the platform was getting better as time went on and that involved close cooperation between the standards and harmonisation team and the IT team, and he was certainly confident that it would continue to be enhanced.

THE CHAIRMAN thanked Mr Donzé and hoped that the answer helped.

MR RICCI BITTI said that he obviously supported the recommendation of the Compliance Review Committee. Having said that, he sought clarification as to whether that exercise was taking care of the differences between the signatories, because it was an exercise involving NADOs and IFs, which were direct signatories, and many NOCs. The NOCs were signatories but, when they were in a country in which the NADO was very active, what would they be asked to do? That was his point. Was that being taken care of or not? He was not strictly familiar with the document and the exercise; it was just to satisfy his curiosity.

MS EL FADIL said that the information she had was that Equatorial Guinea had not completed the compliance questionnaire and, in relation to Mauritius, the law was not in line with the Code. Considering the history of the two cases, Africa supported the declaration of non-compliance; however, the African Union would continue its efforts following the meeting to ensure the engagement of the two countries.

MR TAYLOR said that his understanding was that it was a subtle point from his Australian colleague but it was an important one. He did not think that there was any suggestion that WADA had the ability to direct a government to pass particular legislation. WADA had the right to expect that Code-compliant rules would be put in place one way or another and his understanding was that, where the choice was to implement legislation to put in place Code-compliant rules, WADA asked for information about what was being done so that it could provide information and support to make sure what was being done did lead to Code-compliant rules. That support had been offered and had not been taken up by the Mauritian Government, and that was why there had been a request for a declaration of non-compliance by Mauritius. He hoped he had answered Mr Godkin, but was sure that Mr Godkin would let him know if he had not.

THE CHAIRMAN thanked Mr Taylor for his reply.

THE DIRECTOR GENERAL referred to the question asked by Mr Ricci Bitti about the difference between IF and NADO treatment.

MR TAYLOR responded that his understanding was that, if the NOC was acting as the NADO, it would be treated as if it were a NADO; but, if it was not acting as a NADO, it was different. It had many more limited responsibilities. There were responsibilities set out in the model rules for NOCs

and they were expected to comply with them, but the focus and prioritisation was on IFs and NADOs rather than NOCs.

#### DECISION

Proposed declarations of non-compliance to be recommended to the Foundation Board for approval.

#### – 5.4 Technical Document for Sport-Specific Analysis - amendments

MR RICKETTS said that the committee had before it a small number of amendments to the Technical Document for Sport-Specific Analysis (otherwise known as the TDSSA) for its consideration and approval. The amendments came from the outcomes of the TDSSA Expert Group meeting held in Montreal in August that year. The expert group consisted of experts from NADOs, IFs and laboratories. The amendments proposed covered two areas. One comprised a number of modifications to the names and details of four sports and disciplines, which were listed in appendix one and two of the document and purely reflected changes to the names of the sports in ADAMS, and also, for roller sports, some additional minimum levels of analysis, conducted at the request of and in collaboration with that particular IF.

The second aspect was a delay in the mandatory application of the haematological Athlete Biological Passport for certain sports and also growth hormone testing (a delay in that mandatory application until 1 January 2019). Just to provide some background on the delay, following the analysis of the Code compliance questionnaire, it had been found that a large number of countries currently did not collect blood samples, so an additional 12-month delay in the implementation of that requirement would enable the NADOs and RADOs in particular to put in place the necessary measures to facilitate that blood collection.

There was also the ongoing development of the endocrine module of the Athlete Biological Passport which foresaw a longitudinal evaluation to detect growth hormone use and/or improve the targeting of growth hormone testing. The expert group had acknowledged that the landscape of growth hormone testing was likely to change over the coming one to two years, so a reassessment of growth hormone testing and analytical advancements would be further considered at the 2018 TDSSA Expert Group meeting. That would be done in conjunction with the WADA Science Department. Further to that testing for growth hormone as part of the future endocrine module of the Athlete Biological Passport, WADA would continue to improve method sensitivity, since individual cut-off limits would be applied instead of conservative population-based decision limits. It was envisaged that the endocrine module of the Athlete Biological Passport would be ready for initial implementation in 2019. That would be a significant step forward.

The final point on which he wished to touch was that the expert group also recommended that a global review of the TDSSA document and how it was implemented should be undertaken in 2019 through a consultation process with all stakeholders which would evaluate four years of its implementation since it had come into force on 1 January 2015. That also took into account data from a full Olympic cycle of both winter and summer Olympic Games and also the WADA Code compliance programme and the monitoring of signatories' implementation of the TDSSA which was ongoing at that time. That completed his summary. He would be happy to take any questions on it.

PROFESSOR ERDENER said that he supported the amendments.

MR BAŃKA said that Europe was ready to support the document; however, he requested some scientific explanations regarding perceived positive outcomes of the proposed amendments. The European governments were concerned about the way in which the TDSSA was developed. Many thought that the TDSSA amendments represented an administrative and costly decision, which was not scientifically justified and whose effectiveness was questionable. It would also be logical to evaluate the effectiveness of the policy after three years of operation. In the future, when WADA proposed changes to the TDSSA policy, the effectiveness and cost of the programme should be taken into consideration given the significant amount of funding invested in it.

THE CHAIRMAN pointed out that it had been developed a number of years previously. WADA was trying to test the right athlete for the right substance from the right discipline and the right

sport at the right time. It was a complex piece of work, so he thought the scientific base was sound. Certainly, it had always been regarded as sound. He would invite Mr Ricketts to comment on some of the additional costs involved.

MR RICKETTS said that, certainly, the development of the TDSSA had gone through a thorough consultation process with all of the IFs, looking at the physiological and non-physiological risks of the sports against those specific prohibited substances on the TDSSA. That consultation process had then also been opened up to NADOs and laboratories, so it had been quite a thorough development process. It was a new document. There could be further enhancements made to it and that was what the expert group would like to do in 2019, conduct a very thorough review of that. In terms of progress to date, WADA had published TDSSA figures in the 2016 testing figures report, which was the first time they had been included in that report, and had also published an update and circulated it among all stakeholders regarding the outcomes of the recent TDSSA meeting. It had included statistics on the number of tests conducted, the number of sports, the number of testing authorities and also the number of adverse analytical findings found for those substances on the TDSSA. The statistics at that point would show that there had been a great improvement in the level of testing for those substances around the world in many more sports and by many more stakeholders or testing authorities than had been the case prior to that document coming into place. For the clean athletes, that was certainly a very positive outcome; but, as he had mentioned, the consultation and review of the TDSSA were ongoing. He welcomed comments from all stakeholders at any time, but the expert group had felt that a four-year review would give it more data to look at and evaluate and, as he had mentioned, going through a summer and winter Olympic Games and also the outcomes of the WADA compliance programme on the TDSSA could also be fed into that consultation and review process.

THE CHAIRMAN asked the members to approve the changes to the document.

#### DECISION

Proposed amendments to the TDSSA approved.

### **6. Athletes**

THE CHAIRMAN said that the athlete report was normally higher up the agenda, but there had been a couple of things taking up a little bit of time.

MS SCOTT agreed that those were very important things. Her report was in the members' documents. There had been no major updates or changes since the meeting in September at which she had provided a report, so she would keep her report extremely short by saying that there had been no updates since she had last reported in September. She would be happy to take any comments or questions, but would not go through the report again.

MS BARTEKOVÁ said that, since it was her first intervention, she wished to thank all of the members for their warm welcome. She wished to raise two points, before which she wished to congratulate Ms Scott on the amazing job done already. The WADA Athlete Committee was recognised as a leader in anti-doping and she stressed that she really wanted great cooperation with the WADA Athlete Committee and hoped that that would happen. She had travelled to Lausanne, and six members of the WADA Athlete Committee had been hosted there by the IOC. That just went to show that the IOC and WADA were working together.

The first point was related to the strategic paper published by the WADA Athlete Committee. She wished to note how much she appreciated the proactive actions taken by the athletes. She wished to raise two concerns, the first of which related to timing, as the Working Group on WADA Governance Matters was currently reassessing the roles and responsibilities of the standing committees. She would expect the strategic paper to be published after the report of that working group.

The second point related to the scope of the Athlete Committee's strategic paper. The WADA Athlete Committee referred to being a leader in clean sport or to the fight for clean sport, which the IOC athletes' commission believed was a little bit broader than the mandate of WADA's Athlete Committee. Clean sport was understood within the IOC as anti-doping, as well as protecting the integrity of sport, the fight against illegal betting, sexual harassment and abuse in sport, so she suggested rephrasing it and concentrating on anti-doping in the strategic paper.

A second thing that concerned the IOC athletes' commission related to the charter of athlete rights, and she sought clarification of the mandate given by WADA to Fair Sport regarding the development of the charter of athlete rights. The IOC athletes' commission encouraged the WADA Athlete Committee to work with it on matters of anti-doping and the fight against doping in sport and invited the WADA Athlete Committee to be the leader in that section. She wished to clarify that the IOC athletes' commission had never given any mandate to Fair Sport and had not even been involved in the survey carried out by that organisation, which had caused some confusion among the athletes. Therefore, she sought more clarification on that matter. There was no wish to duplicate work, so she asked for some answers.

PROFESSOR ERDENER said that the Olympic Movement always recommended that the majority of the WADA Athlete Committee members be elected from within their bodies but had no opposition to having some appointed members.

MS HOFSTAD HELLELAND spoke on behalf of the public authorities. She recognised that the athletes were the main stakeholders. She acknowledged the recent work of the WADA Athlete Committee, including progress on the development of a charter of athlete rights and planning for the Global Athlete Forum in 2018. That work had to continue to be supported in order to champion the rights of clean athletes, and the athletes had to represent the athletes and not any organisation. It was important to underline that. An independent WADA Athlete Committee with a clear mandate to represent clean athletes was essential in the fight against doping in sport.

MS SCOTT responded to the points raised by Ms Barteková. First, on the strategic direction, the guiding principles developed over the summer and finalised about six weeks previously, she said that all of the IOC members who sat on the WADA Athlete Committee had been involved and very much part of the process in developing the strategic principles and the wording in particular that had been decided upon. In fact, there had been a circular vote many times before it had been finalised, so she was a little surprised to hear that questions were being raised when that had been agreed and signed off by all the members of the committee; however, it would be possible to go back and take a look and, if clean sport did not seem to be specific enough to anti-doping, certainly that could be revisited.

With regard to the charter, she thought that one of the points was the WADA mandate given to Fair Sport. She thought that the members should go back in time and revisit the timelines, because the WADA Athlete Committee had developed the idea of a charter of rights for athletes in relation to anti-doping. Fair Sport had been involved from the very beginning and had helped to distribute a survey to perform a broad stakeholder consultation. That had been started about nine months previously, and the process had progressed since then. The IOC athletes' commission had also decided to begin a charter of rights and so the WADA Athlete Committee had agreed to contribute and participate and work together with both organisations to create a charter of athlete rights. She did not think that there was much confusion in the athlete community or any attempt by the WADA Athlete Committee in particular to divide the athlete community. Personally, she thought that it was not a bad thing to have two organisations working on a charter of rights; there was a lot of room for athlete rights to be developed and elevated and, if the two charters came together at some point to create a very strong document, that would be positive and good.

With regard to elected versus appointed athletes, she believed that the point had also been raised at the previous meeting, and the meeting prior to that, and probably even the meeting prior to that. It seemed to be a theme. However, she believed it had been referred to the Working Group on WADA Governance Matters and that it was being reviewed. She was not sure if the members wanted any more from the WADA Athlete Committee other than an opinion or a position with regard to appointed versus elected but at that moment her understanding was that it was with the Governance Review Committee.

THE CHAIRMAN thanked Ms Scott and Ms Barteková, noting that there was much to be done.

#### DECISION

Athlete Committee report noted.

## 7. Finance

### – 7.1 Government/IOC contributions update

MR RICCI BITTI reported that he did not have much to add to what he had reported in September regarding finance, so he would simply give some updates and invite more discussion about the two items to be taken to the Foundation Board for approval the following day. The Finance and Administration Committee had met in September to discuss the major item, the four-year plan requested by the public authorities in particular. The Finance and Administration Committee had accepted the four-year plan prepared by WADA management which the members had received in September. It was a very demanding four-year plan, because many activities requested by all of the members had been included in it. WADA had carried out a very significant exercise, and he recalled that the increase required had been 8% for the first year, 15% for the second year, 15% for the third year and 5% for the fourth year. The Finance and Administration Committee strongly recommended to the Executive Committee that it accept the four-year plan.

The Finance and Administration Committee thought that it was time to revisit the formula or the model of the share split between the public authorities, between the continents and within the continents. He knew that that was a very difficult job, but he believed that it was perhaps time to reconsider that.

The third point was to encourage the Executive Committee and the WADA management to seek additional sources, because to do what WADA wanted over the coming years clearly required more resources than those available at present, even though WADA was doing a good job. Those were the three points that the Finance and Administration Committee had raised. He asked the members to reflect on those before moving on to the updates and recommendations.

On the contributions from the governments, WADA had reached 97.09%, which was a little better than the previous year when WADA had been at 96.84%. However, he recalled that that was not completely encouraging, because the budget was 98% and there was not much time to reach that. WADA still needed at least 1% to reach the budget. He thanked as usual those countries that had made voluntary contributions. The support from Azerbaijan, Egypt, Saudi Arabia, Japan, Kuwait and Australia was much appreciated. Also, those contributions had been made according to the new protocol for voluntary contributions that had been approved in September.

#### DECISION

Government/IOC contributions update noted.

### – 7.2 2017 quarterly accounts

MR RICCI BITTI said that he did not have much to say about the quarterly accounts. As the members knew, the accounting period was not significant because income came in early in the year and expenses were obviously spread out throughout the year. In spite of all the papers that the members could read at home, he recommended that they look at the last page, which was encouraging. The profit and loss paper showed that WADA had 10,700,000 dollars to spend between then and the end of the year. That should cover the normal monthly expenses plus the capital expenditure. He was confident that WADA was on track and that the budget would be respected that year or improved upon slightly. The exercise mentioned some savings on the depletion of the 500,000-dollar reserve, which was the maximum that WADA allowed itself. The news was encouraging: 10,700,000 dollars to go until the end of the year, and he believed that WADA was in line.

#### DECISION

2017 quarterly accounts noted.

### – 7.3 Four-year plan

MR RICCI BITTI informed the members that it was necessary to take a final decision on the budget for 2018 and decide on the timeline for adoption. At the September Executive Committee meeting, the public authorities had requested that approval of the four-year plan be deferred to the Foundation Board meeting in May 2018 to give more time to consider and discuss the long-

term plan and budgetary process. He would seek confirmation for the remaining three years next May.

#### DECISION

Timeline for adoption of four-year plan (being May 2018) approved for recommendation to the Foundation Board.

#### – 7.4 Draft budget 2018

MR RICCI BITTI said that it had been decided at the Executive Committee meeting in September that the budget would be determined at that meeting and approved the following day. There were two alternatives: an 8% increase (as proposed by the Finance and Administration Committee and the management) and a 5% increase. The members had received a list of activities; obviously, if the 5% option were approved, activities would have to be cut. The Finance and Administration Committee did not recommend that. It believed that it was in the interest of WADA to carry out the activities proposed in September, so the idea was for the members to consider the list before them and the list of expenses. He asked the members to approve the 8% proposal for the simple reason that the list of activities that they saw in front of them comprised the activities that the WADA management would have to reduce if the 8% proposal were not approved. He assured the members that research and compliance were two vital activities for the future of WADA. He reminded those members who had not been present in previous years that WADA had had a special research fund and that special fund would be ending. During the period of the special fund, it had been possible to dramatically reduce the funds allocated from the budget to research (the standard budget had been significantly reduced). Now that the fund was coming to an end, it would be necessary to reinstate the science and social science research fund at least in part. WADA should be generous with regard to compliance, because it was necessary to deal with activities the consequences of which were unknown.

The Finance and Administration Committee and the management strongly recommended that the Executive Committee recommend to the Foundation Board that it approve that 8% model. He had been specific only about those activities that would be cut if the 8% model were not approved. There was a final paper on the 2017 revised budget, which showed a good improvement (a 117,000-dollar depletion instead of the 474,000 dollars budgeted). Therefore, he asked the members to recommend to the Foundation Board the 2018 draft budget with an increase of 8% showing a depletion within the limits WADA allowed itself (the maximum limit of 500,000 dollars). The members would see that a depletion of 474,000 dollars was proposed with the 8% budget increase. It was necessary to approve that proposal in order to present it the following day.

MR MIZUOCHI thanked Mr Ricci Bitti for the proposal. He understood the need for adequate funds if WADA was to continue to carry out satisfactory activities. Having said that, he also wished to recall what he had said at the Executive Committee meeting in September. The proposal to increase the public authorities' contribution by 50% over the coming four years would meet with significant resistance from the governments, and he found the figure to be unrealistic. Since the Executive Committee had decided to deal with the 2018 budget separately from the rest of the four-year plan, he asked the WADA management to prepare multiple options that were realistic to cover the years 2019 to 2021 as a platform for further discussion.

He also added something from a different agenda item. After the Director General's comprehensive report, he wished to mention the Director General's reference under conferences and symposia to the Asia-Oceania seminar to be hosted by JADA that December in Japan. He wished to use that opportunity to thank the WADA management for planning to participate in the seminar that year as well. The Asian region would be hosting a succession of Olympic and Paralympic Games over the coming years: one edition in PyeongChang the following year, one in Tokyo in 2020 and one in Beijing in 2022. That added even more importance to the need to upgrade the anti-doping systems and programmes in that region. Japan was determined to do so, not only in its own country but also to make even greater contributions than in the past to the progress of anti-doping activities in the Asian region. He thanked the members for their attention and patience.

MS EL FADIL said that it had been agreed that it was necessary to reassess the contributions by the different countries, especially those in Africa. Africa supported an 8% increase for 2018, and that was based on the need for WADA to continue its programmes. Africa still considered itself in need of more support.

MR BAŇKA informed the members that Europe supported the timeline for the four-year plan and the accompanying financial plan with a view to possible adoption in May 2018; however, he asked for the removal of the 2018 budget, which was being considered separately from the four-year plan, and proposed starting the plan from 2019 and continuing it through to 2022. He informed the members that CAHAMA had decided to establish a sub-group to examine the proposed four-year plan and to start a dialogue with WADA on the issue. There would be an extraordinary CAHAMA meeting to discuss the WADA plan and budget in early 2018. Regarding the draft budget 2018, like the other public authorities, Europe supported the 8% increase.

MR MIZUOCHI added that the Asian region also supported the 8% increase proposed for 2018.

THE CHAIRMAN suggested dealing with the 2018 budget first and then the four-year plan.

MR DÍAZ said that the Americas supported the 8% increase for 2018.

THE CHAIRMAN said that when he thought of the years and years he had spent proposing budgets, it had never occurred to him to organise an earthquake to get an increase of 8%; he was lost in admiration for Mr Ricci Bitti! Could he take it then from the kind remarks around the table that the budget as presented to the members for 2018 with an 8% increase would be submitted the following day to the Foundation Board for approval?

As far as the later years were concerned, Mr Baňka had asked him at the meeting in September. It was essential, as part of the four-year plan, if there was to be a degree of substantial increase in contributions, that that come first from the public authorities, and that work should be done. He had asked the Vice-President to lead on that kind of work and the members would be speaking in Seoul on how she might proceed. In a sense, it also answered the minister's questions. At that stage, he did not think that it was the job of the WADA management to come up with options on increased public authority contributions. He thought that it was the public authorities that had to do it first, and he would imagine that the Vice-President would be very happy to know that there was already work planned to do that within Europe. He asked the Vice-President if that, as a general statement, fitted with what she planned to do.

MS HOFSTAD HELLELAND stated that there was no doubt that it was very important for WADA to be able to plan for a number of years and look at a long-term perspective. It would make the organisation better equipped to do what it was mandated to do: fight doping in sport. With regard to the four-year plan, some public authorities had expressed issues with how the work was shared between the government authorities. It was clearly the responsibility of the public authorities to determine, as the Chairman had said. It would be a good opportunity to trigger the One Voice initiative, bringing governments together to promote dialogue and common understanding to try to come up with a solution because, as the Chairman had said, it was difficult for the WADA management to do that. Her main aim was therefore to facilitate involvement and fruitful discussions on that important issue and to play a part in bringing that crucial discussion forward so that the public authorities felt involved and were also engaged in that very important issue. She therefore thought that the One Voice initiative was appropriate to facilitate a consultative process exploring various alternatives for the way forward and she looked forward to discussing with the Chairman later how the public authorities could contribute to trying to come up with a solution. It was very difficult, so she could not promise anything, but she could promise that she would try her best.

THE CHAIRMAN thanked the Vice-President. The comment had been made about timelines. If WADA was going to start planning a four-year period, it should have some idea of what the realistic figures were by May 2018.

MR RICCI BITTI said that he did not have anything to say other than to give some more support to what had been said. He fully agreed with the Vice President that it was a difficult exercise when one had to change the balance. It was a daily task in the IOC to split contributions, so it was difficult, but the Finance and Administration Committee had felt that history always needed some adjustment and, obviously, the beginning of WADA had made the Europeans more of a protagonist

at the start and perhaps it was time to adjust, and that was one of the reasons for which the Finance and Administration Committee had felt that it should make the recommendation, although it was up to the Executive Committee. He fully agreed with what had been said.

As to what the Polish minister had said, the presentation that had been made in September had been one of the best presentations in terms of providing an extensive explanation of the reason for all of the items. He also agreed with the minister from Japan that 50% in the current economic climate was slightly shocking, but the presentation had explained in detail why the new WADA was wanted. It was not the same WADA; it was a WADA that covered many more activities and not only those that had been endorsed that morning. The Director General had given a very extensive presentation. He believed that it was necessary to start from that; otherwise, the members would again be wasting their time. He did not recommend that the Executive Committee ask the management to do another exercise. Perhaps the public authorities, with the support and assistance of the WADA management, might make some consideration about expenses if they wished to save some money, but he thought that that should be the approach because, otherwise, they would be lost. In May, they had to present the same four-year plan with some comments and everybody had the right to reduce or save money if they wanted to propose that, but he thought that the document presented in September had been very extensive and comprehensive regarding the reason for which the money was being asked for. Everybody was free to counter the argument and the management would undoubtedly take that into consideration, but his proposal, to conclude the debate, was to go to the Foundation Board with the four-year plan based on the old one, collecting some suggestions to save money if necessary, but based on those asking WADA to consider more, because from his side the exercise was over. The Finance and Administration Committee had done its job. The presentation was still available; if the members had some comments, they could send some in between then and May, but his recommendation was that, the following day, the proposal should be that the four-year plan be presented as is in May.

THE CHAIRMAN said that the Director General was the author of the financial presentation, which of course would be available to anybody who wished to see it.

THE DIRECTOR GENERAL clarified that, from a management point of view, in particular with regard to the remark made by the European representative, he would be happy to provide any explanations and interact with the working group being put into place. That would not be a problem. The only thing he wished to be clear on was that there were only three years left, and they would be discussed for the May meeting, because the Finance and Administration Committee meeting would be held in July. If it were necessary to add another year as had been requested, that would not be possible for May. There could be another discussion later on, but he would not want to push forward another year before letting the Finance and Administration Committee look at it, so first he thought that the three remaining years should be concentrated on, after which it would be possible to do the exercise for an additional year.

MR RICCI BITTI said that he had not understood that four years had been requested; he thought that the request had been to review three years. To him, the four years included 2018, because that was the document that had been presented, so it should be adhered to; then, if there were some extensions, that would come over the following year. For May, his proposal was very clear: the Executive Committee should put forward for approval in May the three remaining years. The first had been approved at that meeting, and the next three would be approved in May, with all of the jobs in between (the public authorities were free to work with the management as much as they wanted and propose some alternatives), but he believed that it was necessary to stick with what had been planned.

MR BAUMANN asked whether there was any update on the presentation received the previous time about the additional private funding process and where that would fit in and how WADA intended to proceed with regard to that.

THE DIRECTOR GENERAL responded that that was a longer-term project. It would be pursued. There had been no progress for a month, but it had been made clear that private funding, if it came, would come on top of whatever core budget was currently being discussed. WADA was discussing the core budget that funded the key activities. If WADA received more, it would do more and it would use the money for a number of identified purposes. Given the uncertainty of the exercise, it was not currently being factored into the budget.

THE CHAIRMAN congratulated the Chairman of the Finance and Administration Committee.

MR RICCI BITTI stated that the timeline would be presented for adoption the following day, because there would be three more years to decide upon in May.

Having said that, he had a small item to discuss before concluding his report: the cash projection. He noted again that the constraints of depleting the cash reserve by no more than 500,000 USD helped WADA to maintain the reserve at a reasonable level. That was a good and comfortable situation and, if WADA did better, would make it possible to gradually increase the reserve as had been planned in the past when there had been more optimism. The cash projection showed that WADA was on track, so he wanted to reassure the members that everything was working according to what WADA allowed itself to do.

The final point was a request for confirmation of the auditors; that had to be done, and he proposed appointing PricewaterhouseCoopers again for the 2018 fiscal year. That had to be formally approved.

THE CHAIRMAN asked the members if they were happy to approve those two points. He thanked the Chairman of the Finance and Administration Committee for being admirably brief and accurate as always. The Foundation Board would have to take the decisions that it would be asked to take the following day, helped enormously by a strong recommendation from the Executive Committee.

#### DECISION

Draft budget 2018 approved for recommendation to the Foundation Board.

### **8. Education**

#### **– 8.1 Annual social science research projects**

THE CHAIRMAN informed the members that Mr Moses would be giving a presentation on Education activities to the Foundation Board the following day. There was a decision to be taken however by the Executive Committee today under the first item: the social science research projects.

MR KOEHLER briefly went over the social science research projects that the Education Committee was recommending for funding. They were all in the paper, but he would provide a brief overview for the record. The previous year, WADA had put out a call for proposals for the 2017 research projects, and the focus had been on effective interventions, the perception of legitimacy for anti-doping rules and the understanding of deterrence measures for the entourage. In addition, to ensure more interest from the community, WADA had put out an open call for proposals to allow for more creativity from researchers should they wish to focus on a specific area. As a result, 37 projects had been submitted to the Social Science Research Working Group from 21 countries, five had dealt directly with interventions, one with legitimacy, 10 focused on entourage support, and 19 projects had come from the open call for proposals. Of those, two had been invalid because the applications had not been complete and they had not fulfilled the criteria to go forward for peer review or review by the Social Science Research Working Group.

The recommendations to the Executive Committee for funding were for three projects, one of which was to deal with interventions, with a focus on evaluation of school-based intervention programmes, and the programme would be done in cooperation with the Austrian NADO, which was currently setting up a school programme. The whole idea of the project was to evaluate and see how it was working and see if it was changing the students' behaviour and the way in which they thought about performance-enhancing substances. It was a strong project involving the Austrian NADO, which was also contributing its own funds and resources to the project, and the amount sought for the project was 28,808 US dollars.

The next project dealt with athlete support personnel and, as the members knew, they were a key factor in terms of prevention of the use of performance-enhancing substances. The project looked at the role played by parents in preventing the use of doping. Earlier that year, WADA had released a parents' tool kit to help parents guide young children and assist them with making decisions, and the project sought to look in depth into the type of role parents played in preventing

doping among children living at home. The amount sought for the project was 35,442 US dollars, and there were two NADOs involved: Canada and the UK.

The third project dealt with body image. Research showed increased use of performance-enhancing substances among the general population than among athletes, and the project focused on body image issues in Australia and finding out some of the best mechanisms to avoid or prevent the use of performance-enhancing substances among students. The project was valued at 111,696 US dollars and would take place over a three-year period.

Finally, in 2018, WADA would also be looking at doing some targeted research, which the Education Committee would discuss at its meeting in April 2018, and using unallocated funds for projects that might require particular attention. On behalf of the Education Committee, he sought approval of the three projects for funding.

MS SCOTT had a question about prevalence. Had there ever been applications submitted to study the prevalence of doping? That was a question from the Athlete Committee.

THE CHAIRMAN commented that he looked forward to the results from the Australian project.

MR KOEHLER responded that there was a prevalence project ongoing and a working group had been established to assess prevalence. It was led by Dr Rabin.

THE CHAIRMAN asked if the members agreed to support the three projects proposed.

#### DECISION

Proposed annual social science research projects approved.

### – **8.2 International Standard for Education and Information**

MR KOEHLER recalled that, in May 2017, the management had expressed the view that there might be a need for the development of an international standard. The Executive Committee had asked the management to explore whether or not it was needed or required and, as a result, a small working group had been established and met on 4 and 5 October in Montreal. There had been lengthy discussion on whether or not an international standard for education would be needed. There had been a unanimous decision by the working group that there was a need for an international standard for education and information, also backed by a 256-page literature review on the lack of education being done, the need for more education to be put in place by stakeholders and the need to guide stakeholders further in terms of moving forward with their education programmes. The working group had had a clear consensus that, if any standard were developed, it should not put more burden on stakeholders. The standard should be in place to assist and guide stakeholders in the implementation of their education programmes. The principles to be looked at included enhancing the clarity, looking at what information was, what prevention was and what values-based meant to stakeholders. There was currently some confusion about what that meant in terms of implementation. There needed to be a clear mandate to define roles and responsibilities to avoid the duplication of activities and education programmes among different stakeholders. It was necessary to ensure that any standard developed addressed enhanced cooperation among stakeholders and to emphasise the need to plan, evaluate and implement education programmes in a smart way. The standard should also focus, in the very first instance, on what was currently in the Code, so the mandatory elements required to be presented to the different stakeholders on what was currently in the Code, not reinventing something new to come into place. An overview of the timeline was in the members' papers. He sought approval to move forward to develop an international standard for review by the Executive Committee and with broad consultation with stakeholders over the coming two years, and that would have to be aligned with the Code review process to ensure continuity between the two streams. He asked the members to accept the development of an international standard for education and information.

MR BAŃKA stated that Europe supported the creation of an international standard for education and information.

MR RICCI BITTI said that the IFs supported the idea of implementing the standard, but they were not in a hurry. Further consideration should be given to a strategic direction, and that included consideration of the effectiveness, the measurement of the return on investment and some form

of system, because everybody was full of education: they were confronted with education every day. The second concern he mentioned was feasibility. Education meant spreading activities and burden, although Mr Koehler sold support very well. He knew what it meant. Education could not be performed at the international level, but had to be performed at the domestic level. He believed that those two items had not been taken fully into consideration to date: effectiveness measurement and the spread of activity that good education required. He was talking about the IF experience. It was necessary to work with the National Federations and show not only that the IFs could support and help them but that what they did was effective. Some further consideration should be given to the matter. The standard should include strategic direction and take into consideration the two concerns he had mentioned.

MR GODKIN thanked Mr Koehler for the outline. There was great merit in the idea of developing the standard and he supported that. He had one query, however: timing. With the demands currently on WADA, was that the right time to be developing such a standard or not?

MR BAUMANN added to what Mr Ricci Bitti had said. Standards were pretty good but, if they became mandatory on how stakeholders had to behave and act in the education sector, there would be a multiplication of educational tools which would create a huge and unbelievable cost for all the stakeholders, who were not entirely certain they could afford it. There were basic things that might be centralised and then spread around. Education was very much dependent upon culture and geography. That made it difficult to assess what should be a standard in one area and a standard in another area.

THE CHAIRMAN surmised that there was qualified approval and invited Mr Koehler to comment on the concerns raised.

MR KOEHLER addressed the concerns raised by Ricci Bitti. He fully agreed. The first global education conference had addressed the issues just raised by Mr Ricci Bitti. One was effective measurement and the lack of such measurement, and the delineation of responsibilities to avoid duplication of work. Based on that meeting, WADA had evolved on the need to bring those things into an international standard to help people where an IF would not be reaching out domestically to deliver education programmes, which addressed Mr Baumann's point, and where cultural sensitivities were key to the development of programmes. There had been a working group discussion: the standard would not be a how-to guide on how to deliver education programmes; it would be a high-level document, with basic principles to guide people on what needed to be done to have a delineation of responsibilities. It was almost impossible to have an international standard for education to be included in the curriculum on how things had to be delivered, so that would be a high-level standard to help guide stakeholders. In terms of timing, the working group had also discussed the fact that, if WADA waited, more time would pass and the importance of education would not have been addressed, and the literature review and research would show that WADA was simply not doing enough in terms of education and prevention and, if it did not move today, tomorrow would never come. It had been determined that that should be a priority and the focus should be moved forward to enhance education programmes.

THE CHAIRMAN said that, at the next meeting, the Executive Committee would like to see how far along that line the management had moved, how the observations made would be satisfied and how it would actually deliver it. He thanked Mr Koehler.

## DECISION

Proposal to establish an international standard for education and information approved.

### **9. Health, Medical and Research**

#### **– 9.1 Technical documents**

##### **9.1.1 TD2017LDOC**

DR BARROSO said that the members had in their papers four technical documents that had been modified recently and for which Executive Committee approval was being sought.

The first document was version 2 of that year's Technical Document on Laboratory Documentation Packages, and contained a minor modification. Basically, it had been noted that, in annex A of the technical document referring to the urine history profile, the matrix of analysis had been incorrectly quoted as blood and it had therefore been corrected to urine. It had been necessary to correct the situation.

#### DECISION

TD2017LDOC approved.

#### **9.1.2 TD2018MRPL**

DR BARROSO referred to the Technical Document on Minimum Required Performance Limits. It was a document applied to substances that did not have a threshold; they were not usually produced by the body so, in principle, they should not be found in urine. The main modification was that the technical document had been updated with regard to the new Prohibited List for 2018. Some of the prohibited classes and names had been changed according to the List and some new substances had also been included with a specific minimum required performance limit. He drew attention to a new fragment of hGH (176-191), which had been specifically named in the technical document, as well as growth factor DB500, which was a fragment of thymosin beta 4. Insulin or insulin analogues had also been included with quite a low MRPL of 50 µg/ml. In addition, there had been some changes to the footnotes to the MRPL table and those were mainly clarifications. For the detection and reporting of 19 norsteroids, there had been a reference made to the technical documents that were applicable to the substances. There had been an important modification regarding the testing for gonadotropin-releasing factors. Gonadotropin-releasing factors were those substances that induced the release of human chorionic gonadotropin and luteinising hormone, and testing for those factors was a mandatory assay for confirmation of LH findings. In addition, for some exogenous threshold substances, if they were found in the presence of any masking agent or diuretics, the reporting rules for those substances changed and, as such, they had been specified in the technical document. Finally, in section 4 of the technical document, there were some footnotes that were specific and important technical clarifications. For example, there was the reporting limit for octapamine. It had been clarified that it applied to both the parent compound and the phase-2 sulphate metabolite in urine.

#### DECISION

TD2018MRPL approved.

#### **9.1.3 TD2018CG/LH**

DR BARROSO referred to the Technical Document on the Reporting and Management of Urinary Human Chorionic Gonadotropin and Luteinising Hormone Findings in Male Athletes. A minor cosmetic change regarded the naming of the gonadotropin-releasing factors, and an important one concerned the details of LH that had to be reported by the laboratories. Before, the laboratories had had to report the concentrations in every sample analysed. Currently, only for those samples with elevated LH values in urine, the so-called presumptive analytical findings, did the LH concentrations have to be reported. Also, when the confirmation procedure for elevated LH findings was performed and that confirmation procedure was negative, the LH finding had to be reported as an atypical finding. That had important consequences for the result management of those findings. He would be happy to answer any questions.

#### DECISION

TD2018CG/LH approved.

#### **9.1.4 TD2018DL**

DR BARROSO said that the Technical Document on Decision Limits was a very important one, because it referred to those substances that had thresholds and for which quantification procedures were required to reach a compliance decision. Several modifications had been made in table 1, the table that listed all the threshold substances and applicable thresholds and decision limits. Glycerol had been removed from the technical document, since it was no longer a prohibited substance as of January 2018, and there had been a major modification in relation to the reporting of results for

exogenous threshold substances. The Laboratory Expert Group had decided for those substances that the concentration in urine had to be adjusted for the specific gravity if it was above 1.020. That meant that it worked in favour of the athletes because, for concentrated urine in which the concentration would be higher, a correction for specific gravity had to be made. There was a minor technical modification regarding how the adjusted decision limits had to be expressed in terms of decimal places, because sometimes that made a difference to whether or not the finding was declared positive. A very important modification regarded the reporting of findings for morphine. Sometimes morphine could be found in athletes' urine as a result of the administration of a permitted substance, which in that case was codeine. Two very specific requirements had been established in order to report a positive finding for morphine. First, the total concentration of morphine, and that was the concentration of the substance and its two main metabolites in urine, had to be higher than the decision limit, and then the ratio between the total concentration of morphine and codeine had to exceed or be equal to 2. There was only one exception, which was when the morphine concentration was very high and had to be considered the result of the actual administration of codeine. Another minor technical modification regarded the threshold for some of the exogenous threshold substances. It had been clarified that the threshold was based on the added concentrations of the parent compound, which was a phase-2 metabolite of such substances in urine.

THE CHAIRMAN thanked Mr Barroso. It was one of his ambitions to have one member of the Executive Committee ask him a question.

MR BARROSO assured the Chairman that they shared the same ambition.

THE CHAIRMAN asked if anybody was brave enough. It was the Executive Committee's responsibility to deal with those technical documents. Were the members happy to approve them and report their approval to the Foundation Board? He thanked Mr Barroso, who once again had achieved a 100% success ratio.

#### DECISION

TD2018DL approved.

#### **– 9.2 WADA-approved laboratories**

DR RABIN drew two points to the members' attention. There was one point for decision and one for information about the laboratories that did blood analysis in support of the Athlete Biological Passport.

The first point for decision had to do with the Bogotá laboratory in Colombia. It was a WADA-accredited laboratory that was currently suspended. During its suspension, of course, the laboratory continued to participate in the EQAS programme, including the blood programme, and the Bogotá laboratory had been doing well. Taking into account the need for blood analysis in the region, he recommended that the Bogotá laboratory be approved for the analysis of blood samples in support of the Athlete Biological Passport. That was a point for decision.

Very briefly, there was also the Cairo laboratory in Egypt. It was a candidate laboratory and it was entering the approval process. WADA would send blood samples to the laboratory for analysis and, if the laboratory did well, it would be recommended in the near future for approval, possibly by circulation, so that was the point of information he wished to draw to the members' attention.

THE CHAIRMAN thought that it was good news. One got a little tired of sending letters to laboratories saying that one was withdrawing accreditation. It was good to know that WADA was moving forward. Were the members happy to approve the accreditation of the Colombian laboratory in Bogotá for blood purposes? The Executive Committee noted the situation in Egypt, which would of course spread laboratories in a satisfactory geographical area.

MS EL FADIL asked about the status of the laboratory in South Africa.

DR RABIN responded that the Bloemfontein laboratory was in the reaccreditation process, known as the probationary phase. The Executive Committee had approved a fast-track mechanism for the laboratory, so it was currently within the process and analysing EQAS samples for the purpose of reaccreditation. He hoped that the process would continue. If all went well, the laboratory could be presented for reaccreditation in May 2018.

## DECISION

Proposal on granting the Bogotá laboratory in Colombia the endorsement to conduct ABP testing approved.

### **10. Legal**

MR SIEVEKING said that, despite feeling under pressure to be brief, there were some points that he wished to make because the meeting the following day would be public and some of the points would not be made then. On the cases in his report, the members would have noted an increase in the number of cases before state courts. There were currently 10 cases, which was an absolute record. Half of them were the consequence of the Pound and McLaren investigations; the members would see them in their papers, and he would be happy to answer any questions on them. There were also some cases before the CAS, including one or two that were quite complex in nature. He also expressed some concern, because there were also two cases before the CAS following the decisions rendered by an Olympic IF, and they were costly for WADA to follow up on.

Regarding Professor McLaren, it had been interesting to hear from the Russian guests that morning because it allowed him to address a few questions. First, they had mentioned that Professor McLaren had not used methodology to establish the anti-doping rule violations during his investigation, and he could absolutely confirm that it was right, although many times people forgot about that and thought that, when 1,000 athletes had been mentioned, Professor McLaren had said that those athletes had been doped. That was not the case and was not based on the evidence that was currently available. The members had also heard that 95 athletes had been declared not guilty by WADA. It was important to stress that WADA had not declared anybody not guilty. WADA did not take decisions. WADA had accepted the decisions of some IFs in 95 cases not to proceed with anti-doping rule violations based on the evidence that was currently available. He stated that WADA had not cleared any athlete. WADA had not declared any athlete not doped. WADA had simply accepted the decision not to proceed based on the evidence that was currently available. It was important to say that WADA did not accept the decisions easily. WADA had an internal process. It reviewed each decision thoroughly. If it needed more information, it requested it from the IFs. It then had an internal discussion on the cases. If it accepted the decisions, it forwarded them to external legal counsel for review. Finally, WADA shared its conclusions with the McLaren team to ensure that they were also satisfied with the outcome, and everybody had noted that, due to recent developments, WADA also shared the cases with the Investigation Department in case they could investigate further, and the members had seen that week that that could be a game-changer.

Things had happened and, based on individual case management, several IFs had asked for retesting, and that had taken place and was taking place. Everybody knew that the IOC had established precise protocols for the forensic analysis of the scratches and marks. The IOC was about to end that and the IFs willing to do the same would be able to follow the same process put in place by the IOC, so things were moving.

There had also been the first CAS decision whereby Professor McLaren's evidence had been produced as supporting evidence. It had been considered appropriate and valid by the CAS panel, so all those things showed that matters were advancing. About the timeline, many people expected decisions soon about all of the athletes. Looking at all of the translated documents (because when they had been published in December of the previous year, all of the documents had been in Russian), all of the English translations had been posted on the website in mid-May, so that was less than six months previously. Therefore, it was not feasible to expect all the IFs to have dealt with all of the cases in less than six months. WADA was monitoring that closely, but he thought that, although he fully understood that some people would like results sooner, legal proceedings and legal reviews always took a certain amount of time.

He made one final point on the McLaren report. Really good progress had been made in relation to Dr Rodchenkov: WADA was now liaising directly with his counsel. He had already provided an affidavit and it was currently possible to liaise with him, but WADA would be informing the IFs the following week, because it was necessary to coordinate communication. It was obviously not possible for each IF to contact him directly. WADA would explain the process in writing the following week. That was also a major change. Dr Rodchenkov was ready to assist whenever he was needed.

The second point he wished to make related to the Puerto case. The committee had requested that WADA continue with the case. With regard to matches and DNA analysis, that was currently in the hands of Mr Younger's team so, if the members had any questions with respect to the process, they should direct them to Mr Younger. As for the legal cases, with the UCI, WADA had asked the Spanish Cycling Federation to reopen the cases against four members of athlete support personnel who had been investigated at the time the report had been published by the Guardia Civil in 2006. The cases had been suspended due to the instigation of criminal proceedings, so there was currently no statute of limitations. All of those people had had a licence from the Spanish federation at that time, so they were under its jurisdiction. Unfortunately, Fuentes had had no official licence. Currently the Spanish federation, as a result of the request by the UCI, had re-opened the cases (the members should not expect results soon, as was always the case with things in Spain), and they could currently choose whether they wished to have the current Spanish law apply or the law that had been in force at the time of the violation. They had until the following week to take a position on that and, depending on their position, a different process would be started. He would keep the members posted. Also on Puerto, for the samples themselves, not for the matches, one year after the June 2016 decision allowing WADA to use the samples, WADA had immediately taken them from the Barcelona laboratory; but, one year later, in June that year, the same court had issued a decision clarifying its initial decision, which was strange because it went further than simply clarifying: it imposed other consequences. For example, there had been a decision to restrict the use of the blood bags by WADA to athletes whose cases had been opened in 2006. That was materially impossible because, in 2006, nobody had known who those athletes were. It was rather strange. WADA had appealed the decision very recently because it had been notified with a huge delay. Based on the clarification decision, Dr Fuentes had requested that the court order WADA to return all of the blood bags that it had been able to access the previous year. As the members could see, WADA was still having a lot of fun and he was not sure that he would be able to confirm a great result there. He would be happy to take questions.

The final point was on clenbuterol. He had informed the members that the WADA Ad Hoc Legal Group would discuss and try to find a solution regarding the meat contamination issue. Even the best lawyers were unable to find a real solution. The matter was still under discussion. The presentation of potential solutions would be postponed until the next Executive Committee meeting in May. That concluded his presentation. He would be happy to take questions.

THE CHAIRMAN thanked Mr Sieveking. The members noted the relative failures of items three and four. Spain was a confusing issue as far as that was concerned. The only thing on which he would comment was the issue of the cases with which WADA had not proceeded. That had not been entirely a WADA decision. There had been outside independent legal advice taken as to whether or not WADA should take action. In many cases, it did not make sense.

MR SIEVEKING insisted on that point. He accepted that those cases would not currently be brought forward but, obviously, if new evidence became available, they could always be reopened. Therefore, that was a provisional decision until new evidence became available.

THE CHAIRMAN observed that the wheels of the law ground exceedingly slowly.

MR BAUMANN referred generally to the different cases. He acknowledged that the IFs were frequently told that they might not always be correct in dealing with their athletes and so forth; so, in many of the domestic jurisdictions, laws had been put in place to transfer the responsibility to NADOs to decide, but it would also appear that, sometimes, some decisions were not exactly in conformity with normal practice. Had consideration been given to briefing or dealing with NADOs or holding seminars regarding the appropriate way to deal with cases? IFs were suddenly faced with decisions that did not make sense. In one country, similar circumstances were dealt with in one way, in another way in another and not at all in another. Sometimes it was necessary to force an appeal, and that was a waste of time and money if there was not a prior process making it possible to better instruct NADOs.

MR RICCI BITTI had a simple question. It was perhaps quite provocative, but it was better to ask it at that meeting than at the following day's meeting. Regarding the Puerto case, if it had happened then, would the compliance operation like the one being done for Russia be undertaken (it was a retroactive question but it was an interesting one)? What would WADA have done with

Spain, which had never disclosed what WADA had wanted for many years, claiming the separation of power? He asked the experts to answer that retroactive curiosity.

THE CHAIRMAN said that he always got nervous when Mr Ricci Bitti said that he had just a simple question.

MR SIEVEKING told Mr Baumann that he could only share his concern that there were many IFs and NADOs rendering decisions that were not compliant, and that was an issue. WADA was organising many result management seminars, there was a compliance process and WADA was appealing cases. WADA was doing everything possible to ensure an improvement in the quality of the decisions rendered, but he agreed that there was still a long way to go. Mr Baumann's IF had to appeal some cases, and WADA also had to invest money and appeal decisions because other people were not doing their jobs properly. He agreed that that was a recurrent issue.

Mr Ricci Bitti's retroactive question was an interesting one. His first thought was that all the issues related to the Spanish criminal system, so he did not think that there was anything in the Code or the standards that allowed WADA to go and criticise a criminal system and criminal law in a country, because they had always said that they would be unable to share the evidence until the process had been terminated. It had not been terminated even after 11 years, so he was not sure that it could have been a compliance issue.

MR TAYLOR stated that like cases were treated alike. If WADA was using the compliance mechanism to say to Russia that it must provide information, and if the criminal procedure took so long, that would be a problem for Russia and not for WADA. The same should apply with Spain; so, hypothetically and retroactively, he thought that WADA would be saying the same thing: it was for Spain to use its criminal procedures but, if that made Spain non-compliant, that made Spain non-compliant.

THE CHAIRMAN asked if Mr Sieveking was happy with that.

MR SIEVEKING responded that he was.

THE CHAIRMAN thanked Mr Sieveking, on that very happy note, for his report. The members would see why WADA had an extremely busy legal department.

#### DECISION

Legal update noted.

### **11. Any other business/future meetings**

THE CHAIRMAN said that the Foundation Board would be meeting the following day and, unfortunately, the members would have to go over one or two of the same issues. The members would see the future meeting dates in their papers. It had always been considered a good idea to meet on the African continent at some point, and there had been a very successful meeting of the African authorities in the Seychelles earlier in the year. The senior minister from the Seychelles Government had then come to WADA and said that he would be delighted to host an Executive Committee meeting. He had never been to the Seychelles, but he thought he knew where it was and it sounded good to him. He was told that it was relatively easy to move around and to get there, so the Executive Committee would be meeting there in September. It would be in Montreal in May and in Azerbaijan in November. He thanked the members, the interpreters and the audiovisual providers. He also thanked the WADA staff for the quality of the paperwork that they provided. 842 pages on the members' iPads two to three weeks before the meeting was a considerable effort and he was hugely grateful to the staff.

At 6.30 p.m. there would be a cocktail party and reception hosted by the Korean hosts and, if it was half as good as the lunch, the members should not miss it. He thanked everybody.

MS EL FADIL informed the members that the first think tank for anti-doping had been held in Africa in the Seychelles at the end of August and had been honoured by the presence of the Director General of WADA and Mr Bouchard. Africa had committed to work with the education ministers and to provide more information to them, especially regarding physical education. She informed the members that she looked forward to hosting them the following year in the Seychelles in Africa in September.

THE CHAIRMAN declared the meeting closed.

DECISION

Executive Committee – 16 May 2018, Montreal, Canada;  
Foundation Board – 17 May 2018, Montreal, Canada;  
Executive Committee – 20 September 2018 (Seychelles);  
Executive Committee – 14 November 2018, Baku, Azerbaijan;  
Foundation Board – 15 November 2018, Baku, Azerbaijan.

The meeting adjourned at 4.00 p.m.

**FOR APPROVAL**

**SIR CRAIG REEDIE**  
PRESIDENT AND CHAIRMAN OF WADA