

**Note:** The Executive Committee meeting minutes are published on WADA's website once they have been approved by the Executive Committee, generally at its subsequent meeting. The minutes are intelligent third-person verbatim transcriptions, i.e. slightly edited for readability.

## Minutes of the WADA Executive Committee meeting 17 November 2022, Montreal, Canada

The meeting began at 9.00 a.m.

### 1. Welcome, roll call and observers

THE CHAIRMAN welcomed the members to the meeting. He was pleased to be holding the meetings in Montreal again after three years. A lot had changed since that time, including the fact that the meetings were currently being offered in a hybrid format with remote interpretation. The renovations of the WADA office in Montreal were still under way, but he hoped that, for the next Executive Committee meeting in May, the members would be in the new facilities. Despite not being in the WADA offices that day, the members were at least together. Once again, Ms Lefèvre would serve as the meeting moderator. She would provide details on how to navigate the Zoom system and do a quick microphone and camera check with everyone, which would also serve as the roll call.

The following members attended the meeting: Mr Witold Bańka, President and Chairman of WADA; Ms Yang Yang, Vice-President of WADA; Professor Ugur Erdener, IOC Member, President of World Archery; Mr Jiri Kejval, President, National Olympic Committee, Czech Republic, IOC Member; Mr Ingmar De Vos, Council Member, ASOIF, IOC Member, FEI President; Mr Humphrey Kayange Emonyi, IOC Member, representing the IOC Athletes' Commission; Mr Nenad Lalovic, Executive Member, GAISF Council, UWW President, IOC Member; Ms Minata Samate Cessouma, Commissioner for Health, Humanitarian Affairs and Social Development, African Union, Burkina Faso; Mr Baum, representing Ms María Isabel Urrutia, President, CADE, Colombia; Mr Ide Yosei, State Minister of Education, Culture, Sports, Science and Technology, Japan; Ms Roxana Maracineanu, European Representative, France; Ms Anika Wells, Minister for Sport, Australia; Ms Gabriella Battaini-Dragoni, Independent Member, Italy; Dr Patricia Sangenis, Independent Member, Argentina.

The following Standing Committee Chairs attended the meeting: Mr Ben Sandford, Chairman of the WADA Athlete Committee; Mr Henry Gourdji, Chairman of the WADA Compliance Review Committee; Ms Kady Kanouté Tounkara, Chairman of the WADA Education Committee; Mr Ser Miang Ng, Chairman of the Finance and Administration Committee; Professor Lars Engebretsen, Chairman of the WADA Health, Medical and Research Committee.

The following representatives of WADA Management attended the meeting: Mr Olivier Niggli, Director General; Mr René Bouchard, Senior Director, Stakeholder Engagement and Partnerships; Ms Dao Chung, Chief Financial Officer; Mr Sébastien Gillot, European Office and International Federations Relations Director; Mr Kazuhiro Hayashi, Asia/Oceania Office Director; Mr Kevin Haynes, Compliance, Rules and Standards Director; Ms Amanda Hudson, Education Director; Ms Angela Iannantuono, Human Resources and Corporate Services Director; Mr Stuart Kemp, Deputy Chief Operating Officer; Mr Francisco León, Programme Development Director; Ms Catherine MacLean, Communications Director; Mr Marc-André Matton, IT, Data and Digital Development Director; Mr Tom May, NADO/RADO Relations Director; Ms Maria José Pesce Cutri, Latin America Office Director; Mr Rafal Piechota, Director, Office of the President; Dr Olivier Rabin, Senior Director, Science and Medicine; Dr Reid Aikin, Associate Director, Athlete Biological Passport; Mr Tim Ricketts, Testing Director; Mr Julien Sieveking, Legal Affairs Director; Mr Rodney Swigelaar, Africa Office Director; Dr Alan Verneq, Chief Medical Officer; Mr Ross Wenzel, General Counsel; Mr Gunter Younger, Intelligence and Investigations Director; and Ms Shannan Withers, Chief of Staff, WADA.

The following observers attended the meeting, either in person or virtually: Tomas Johansson, Andrew Ryan, James Carr, Michael Vesper, Hannah Grossenbacher, Yumiko Nakajima, Nozomi Haraguchi, Darren Mullaly, Chris Garry, Amandine Carton, Richard Budgett, Julien Attuil, Shin Asakawa, Marcos Díaz, Orlando Reyes, Jocelyn East, Yu Ueki, Carlos Roy, Robert Auguste and Clayton Cosgrove.

THE CHAIRMAN noted that there were three people attending virtually. There was one deputy only for CADE, Mr Richard Baum from the USA; however, he noted that, given that CADE had already had a deputy that year at the September Executive Committee meeting, Mr Baum could sit in but could not vote. He would allow him, of course, to present the CADE mandate when requested.

Having looked at the agenda, it was anticipated that the duration of that day's meeting would be around three hours with one break, and his aim was to break for lunch at around one o'clock. He would largely follow the order of items on the agenda. However, he might move some items to ensure fluid timing around the break. He would do his best, of course, to keep to the timeline.

- **1.1 Disclosures of conflicts of interest**

THE CHAIRMAN asked if any members wished to disclose any conflict of interest. He saw no requests for the floor, so moved on to the next agenda item.

**2. Minutes of the previous meeting on 23 September 2022**

THE CHAIRMAN stated that draft minutes from the September meeting had been circulated among the members as part of the meeting document set. No member comments had been received. If there were none that day, he would proceed to approve them. He asked the members if they had any comments or questions. No comments meant that the minutes from the September meeting were approved.

DECISION

Minutes of the meeting on 23 September 2022 approved and duly signed.

**3. Director General's report**

THE DIRECTOR GENERAL welcomed the members to Montreal. They had his report in their file. The Executive Committee had met not so long ago in Sydney, so he would not repeat things that had been discussed already. He would deal with two important issues under separate items on the agenda. One was progress with the governance reforms and the other one was obviously the RUSADA update. He did not intend to go any further, but the report was there and he would be happy to take any questions from the members.

THE CHAIRMAN thanked the Director General. Were there any comments or questions? He did not see any requests for the floor, so moved on to the next agenda item.

DECISION

Director General's report noted.

- **3.1 Human rights impact assessment – appointment of expert and scope of work**

THE CHAIRMAN gave the floor to Mr Kemp, who would present the proposal of the senior expert to conduct the human rights impact assessment.

MR KEMP informed the members that, following a request by WADA's Athlete Committee in March 2021 to conduct an initial human rights assessment, WADA had been considering ways and means of meeting that request. Specifically, the Athlete Committee had called for a professional review to be undertaken that would evaluate the intersection between the World Anti-Doping Programme and the United Nations Guiding Principles on Business and Human Rights. That past September, the Executive Committee had reviewed the Human Rights Impact Assessment Framework, which intended to set up the general principles and considerations in order to conduct such an assessment. No significant comments had been received on the substance of the

document itself. However, details had been requested on the proposed senior expert who might conduct the work, and more details had been requested on the budget that would be required. It had been agreed that, in order to successfully and effectively carry out that important work, WADA would require guidance from a senior expert with expertise in the field of human rights, sport, anti-doping and policy development. Ms Snežana Samardžić-Marković had been identified as an ideal candidate to lead the work, and therefore the Executive Committee was being asked to confirm her appointment. Ms Samardžić-Marković was uniquely positioned and highly qualified to lead the work, given her leadership in the field of human rights while working as director general of democracy at the Council of Europe. Her familiarity with the World Anti-Doping Agency and governmental experience and her demonstrated ability to lead complex consultation initiatives would also be an asset. Ms Samardžić-Marković had been responsible for overseeing 50 internationally and legally binding conventions and managing over 700 staff, as well as a number of inter-governmental structures and monitoring mechanisms within her mandate at the Council of Europe. Furthermore, the European Court of Human Rights and the protection of human rights had been core elements of her work, which had focused on specific topics such as anti-discrimination, gender equality, prevention of violence against women, children's rights, the protection of national and other minorities, and the fight against human trafficking. Full details of her governmental and sport experience could be found in the CV included in the members' documentation package.

A budget of 25,000 US dollars had been allocated for the remainder of that year to begin the work and a further 50,000 earmarked for the work in 2023. It was envisioned that, while the full impact assessment might not be finalised until 2024, should further funding be required, that would be identified in the 2024 budgeting exercise. Ms Samardžić-Marković would lead both internal and external consultation with WADA staff and relevant anti-doping stakeholders under the guidance of a small secretariat of WADA staff and WADA's new Athlete Council. The framework presented in September would be updated on an ongoing basis with outcomes and changes reported both to the Executive Committee and to the Foundation Board. Ultimately, the senior expert's work on behalf of WADA would aim to identify any potential or perceived conflicts between anti-doping policy and human rights. The work would examine the possible legal, policy and implementation challenges with a particular emphasis on athlete perceptions and highlight the possible recommendations that might be necessary for WADA to consider. The project had the potential to proactively explore an emerging and important topic in sport and in anti-doping that could benefit all athletes under the World Anti-Doping Programme, ensuring that it had been robustly assessed through a human rights lens. Should the members have any questions about the project or the appointment of Ms Samardžić-Marković, he would be happy to take them.

PROFESSOR ERDENER spoke on behalf of the sport movement to thank the Director General for his very comprehensive report. In that regard, the sport movement fully supported the appointment of Ms Samardžić-Marković as an expert on the scope of work for the human rights impact assessment. As mentioned during the previous Executive Committee meeting, the IOC was committed to improving the promotion and respect of human rights within the scope of its responsibility and was happy to provide its support to WADA and coordinate the respective efforts.

THE CHAIRMAN thanked Professor Erdener for his comment.

On behalf of the WADA Athlete Committee, MR SANDFORD thanked WADA and Mr Kemp for the work that they had done to progress the matter. As said, that had come about from a letter that the Athlete Committee had formally written to WADA back in March 2021. It was great to see progress to the stage at which there was an expert and a framework, and he was really looking forward to engaging in that project as it progressed. It was a very good thing for WADA to do. It was very proactive. It showed that WADA was being athlete-centred and that it was working with athletes. He thought that it was very progressive of WADA to be doing that.

MS BATTAINI-DRAGONI added to the statements she had just heard from two members of the Executive Committee. She had been really satisfied and impressed by the quality of the original document distributed and which had been presented very briefly by Mr Kemp. She welcomed that incredibly good work. She echoed Mr Sandford's feeling that WADA was on the right track. WADA knew what had happened to date and where it wanted to go. She was also delighted to see that a person had been identified and that the work would start very soon.

MS WELLS agreed on behalf of the public authorities to confirm the appointment and just reiterated their interest in keeping all members abreast of developments, given the interest in the development of the framework.

On behalf of the European public authorities, MS MARACINEANU welcomed the choice of a woman who was an expert in the field. She underscored the importance of the process and study in order to ensure a global approach to human rights within WADA's internal processes but also to look closely at the Code and recognise the issues to be promoted regarding the respect of human rights and any improvements to be made to it.

THE CHAIRMAN thanked the members for their comments. As the item was for decision, he asked them whether they formally agreed to confirm the appointment of Ms Samardžić-Marković to conduct the human rights impact assessment. He thanked the members.

#### DECISION

Proposal to appoint Ms Samardžić-Marković to conduct the human rights impact assessment approved.

#### - **3.2 Intelligence and investigations audit report 2022**

THE DIRECTOR GENERAL stated that, as the members would recall, the Intelligence and Investigations Department had a specific status within the organisation, and it operated independently. From the beginning, there had been an independent audit conducted annually on its work to ensure that, while it was operating independently, it was operating within the framework assigned to it. That audit had taken place and the members had received the report of the auditors, which was in their files. Once the audit report was formally approved by the Executive Committee, it would be made public, as agreed, on the WADA website. He wished to highlight three elements from that audit report. First of all, the fact that there was a high volume of work for the Intelligence and Investigations Department had been pointed out by the auditor. The second thing that was important for everybody to bear in mind was the added complexity that had been noted by the auditor in relation to data protection and the difficulty that some of the data protection regulations created for the work that was being done. It was not only on investigations, but in many fields of WADA's activity; the activity was increasingly complex because of that and that, obviously, had been highlighted. The third and most important thing from the audit report was the fact that the report confirmed the confidentiality and independence of the department and the guarantee that it was operating in the way that it had been set up to do. The report was there. It was for formal approval by the Executive Committee before being made public.

THE CHAIRMAN asked if the members had any comments or questions. For the record, did they agree to approve the report of the 2022 annual audit conducted on the WADA Intelligence and Investigations Department?

#### DECISION

Intelligence and Investigations audit report 2022 approved.

#### - **3.3 International Testing Agency, athlete board member**

THE DIRECTOR GENERAL said that the members would recall that, when the ITA had been created, it had been agreed that the WADA Executive Committee would have a role in appointing the members of the ITA board, which the members were asked to do from time to time when there was a vacancy and a requirement for a new appointment. WADA had received a request from the ITA to appoint a new athlete member on its board. Ms Terho was an athlete who was very well known to all of the members. She was a member of the WADA Foundation Board. She was on the WADA Athlete Council. She had been a member of the Executive Committee. It had been felt that, for the sake of efficiency and to move forward with that request without any undue delay, the management would submit the proposal directly to the members without going through a whole process of evaluation by the Nominations Committee, because the members knew very well the person in question. Therefore, the recommendation that was being put to the members that day was the appointment of

Ms Terho as an ITA board member, as an athlete representative on that board. That was the decision being requested.

THE CHAIRMAN thanked the Director General. Were there any comments or questions? He did not see any. As that item was for decision, he asked the members to approve the appointment of Miss Terho to the International Testing Agency.

#### DECISION

Proposal to appoint Ms Emma Terho as a member of the ITA board approved.

#### **4. Governance**

##### **- 4.1 Confirmation (re-election) of second terms for the President and Vice-President 2023-2025**

THE DIRECTOR GENERAL informed the members how he intended to proceed the following day. It would be a formal re-election of both the President and Vice-President for a second three-year term. The way in which the item would be dealt with at the meeting would be that, first, a short video would be presented, followed by an intervention by the President, who would address the Foundation Board. After that, there would be a formal vote. There was only one candidate for each of the positions, so he thought that approval would be by acclamation, unless there was any objection to that. However, it would be done formally as per the statutes, first the President and then the Vice-President. After the vote, the Vice-President would address the Foundation Board. That was an item that would take a little bit of time the following day.

PROFESSOR ERDENER said that the sport movement fully supported the re-election of the President and Vice-President. He wished to thank them very much for their really great effort and hard work during their first term, especially for creating a very good climate in that important organisation.

MS BATTAINI-DRAGONI observed that it was very important to guarantee stability for all the work that was being done at WADA. Stability meant that there should not be too short a time for work or for leadership. Having seen what had been done over the past three years, she definitely thought that it was important to be able to guarantee stability and to renew the mandates of the President and Vice-President. She just wanted to insist on that point, because otherwise there might be a risk, if that did not happen, of the reforms being in danger. The President and Vice-President were there to defend and continue to promote those reforms, and that was very important.

THE CHAIRMAN thanked Ms Battaini-Dragoni for her comments.

MS WELLS spoke on behalf of the public authorities to support the re-election of the President and Vice-President and thank them for the significant contribution that both had made over the past few years during their tenure. She was in particular really pleased with the level of athlete engagement that both had worked towards over the past few years. She knew that the feedback in Oceania was that athletes were pleased with that too. She therefore congratulated both of them on their efforts. The other thing worth noting was that that had been a very unusual tenure in that it had been necessary to oversee the organisation through Covid-19, a pandemic that none of the members could ever have expected. She knew from the perspective of governments that it had really thrown a lot of policy and logistical challenges at them and, from a place as isolated as Australia, there had been no planes because all planes had been grounded, so it would have taken a school of dolphins for her to get across and see all of the other members. She was very grateful that the President had been so committed to keeping the members all connected and working methodically through the issues.

THE CHAIRMAN thanked Ms Wells for her comment.

First of all, he thanked the members very much for the comments and opinions about his and Ms Yang's first term of office. It was a big honour for both of them to work with the members. It was a huge responsibility, but a big honour to protect clean sport. He was looking forward to continuing that work. As said by the Director General, the following day he would like to present a summary of the first three years and share his plans and

vision for the next term of office. He thanked the members very much again for their positive comments regarding the first three years.

MS CESSOUMA said that she was honoured to be with the members at the Executive Committee meeting. She had succeeded Ms El Fadil, who had left the organisation. She had spoken virtually about her commitment to ensuring clean sport. She wished to convey also the commitment of Mr Faki, the Chairman of the African Union Commission. He had spoken to her about how enthusiastic he was about the commitment of all of the members. She echoed the words of Ms Wells and Ms Battaini-Dragoni and congratulated the President and Vice-President on the excellent work that they had done and noted her wish to support them. It had not been easy with the pandemic, but they had done an excellent job and should of course continue their work, which she fully supported. By working together, she hoped to unite efforts, because only together would it be possible to put an end to doping in sport, in particular on the African continent. It was good to be with the members and the President and Vice-President could count on the support of the entire African region to enable them to make further progress.

THE CHAIRMAN thanked Ms Cessouma for her comments, her support and great commitment to clean sport and good collaboration.

## DECISION

Information on confirmation of second terms for the  
President and Vice-President 2023-2025 noted.

### - **4.2 Governance reforms implementation**

THE DIRECTOR GENERAL gave the members a little update, picking up from where he had left off in September. On the Athlete Council, after the designation of group one and the election of group two, WADA was currently in the process of appointing group three. The process was that group one and group two would each designate one of their members to be on an appointment panel together with the chairman of the Nominations Committee. Group one had done that. Group two had had to vote because there had been more than one candidate, so it had held a vote and decided on its representative. The panel of three was currently in the process of appointing the seven remaining seats on the Athlete Council. There had been 54 applications, so there had been quite a lot of interest in the seven seats. It had already made an initial selection, and he thought that interviews were currently being conducted with 21 candidates, after which there would be a recommendation for the appointment of the seven remaining. That was work in progress. Of course, the group was taking into account a number of criteria, in particular gender and geographical balance, but also the skills required in the committees. The work was ongoing and he was relatively confident that, by the end of the year, there would be a full Athlete Council.

On the NADO Expert Advisory Group, the election had taken place in early November. It had gone without a hitch and there were currently 10 members of that group appointed. Each region had voted for its own representatives. The members would remember that there had been two per region. For Africa, there was one representative from the NADO of Egypt and one from the NADO of South Africa; for the Americas, there was one representative from the NADO of Panama and one from the NADO of Argentina; for Asia, there was one representative from the NADO of Korea and one representative from the NADO of Japan; for Europe, there was one representative from Austria and one representative from Norway; and, for Oceania, there was one representative from Fiji and one representative from New Zealand. That would be the composition of the group. That group would then have to decide through whatever mechanism it was going to use, consensus or vote, and it would have to appoint the two members who would then be sitting on the WADA Foundation Board representing the NADOs. Again, that was work in progress.

Regarding a third independent member on the Executive Committee, discussions had been taking place between the public authorities, the sport movement and the Nominations Committee, and he thought they were progressing well. The appointment of that new independent member would have to coincide with the selection of the chairman of the new Athlete Council. All that would happen in the first few months of the following year and both would be voted in via circulatory vote. As soon as both names were submitted, the members would

be appointed at the same time so that the composition would be complete by the time of the next Executive Committee meeting in May.

The last point was on the statutes. There was work on the revision of the statutes to reflect all the changes. That was work in progress. The Swiss counsel was liaising with the Swiss authorities. As discussed the previous time, the idea was that, once there was a draft, it would be circulated among all of the members with enough time for them to look into it and make comments before starting a more formal process of approval, both at the Foundation Board level and at the Swiss authorities level.

At the Foundation Board meeting, he would give a more substantive report on that because it had not benefited from the interim report in September. He would bring the Foundation Board members up to date on the progress that had been made.

MR DE VOS stated that, after quite a lengthy and sometimes complicated process of reform of the governance of the organisation, it was good to see that things were evolving in the right direction. It was said that the proof was in the pudding; the pudding was starting to be made with all the right ingredients, and that was good. He was happy to see that everything was going in the right direction. With regard to the Athlete Council, it was a very big group and it was good to see that groups one and two had been composed. He hoped that the real gaps would be identified, not only in terms of gender equality and regional distribution, but it was also a good opportunity to look at expertise that was perhaps missing from the athletes' group. He invited the relevant people to also look at that. As the world anti-doping organisation, WADA should look to see if there were some candidates who could also contribute in a more scientific way to the organisation. All in all, it was very good. It was good to see that everything was going according to plan and he fully supported the continuation of the process. He also hoped, on a personal note, that that would bring the necessary stability, and his independent colleagues had already referred to that. Stability was very important in such an organisation. He hoped that, when the reforms had been carried out, the organisation would be in a place of stability and continuity. He therefore also supported the re-election of the President and Vice-President.

THE CHAIRMAN thanked Mr De Vos very much for his comments and support.

#### DECISION

Governance reforms implementation update noted.

#### - **4.3 Executive Committee and Foundation Board memberships 2023**

##### **4.3.1 Executive Committee composition 2023**

##### **4.3.2 Foundation Board composition 2023**

THE DIRECTOR GENERAL referred to the latest list of members. The following day, the Foundation Board would have to appoint some members of the Executive Committee whose mandate had come to an end or new members for the following year. The management did not yet have all the names. Apart from the independent member and the Athlete Council chairman, it would also be necessary to have the name of the Executive Committee members for the Americas region, which the management did not yet have, and for Oceania. Whatever the management received between that day and the following one would be added to the list and voted on the following day by the Foundation Board. For those that were still not available the following day, a circulatory vote would take place as soon as the name was made available. That would be for the Executive Committee. For the Foundation Board, it was slightly different because it was an acknowledgement of the composition of the Foundation Board that was required of WADA by the Swiss authorities every year. There had been quite a number of changes that year because, as the members knew, members of the Executive Committee could no longer be members of the Foundation Board at the same time, which had resulted in a number of changes. The members had the updated list. The following day, again, he would ask the Foundation Board to acknowledge the names available at that stage and, later on, for those that were missing, it would be necessary to circulate the updated list as soon as it was completed with the missing names. That would be for the following day's formal process at the Foundation Board meeting.

MS WELLS assured the Executive Committee that Oceania had been working diligently away on progressing that issue, and she would provide an update as soon as she could. Also, since they were on the topic of governance reforms to the committees and how the platform operated, she wanted to let the members know that there had been some discussion amongst the public authorities about the use of the agenda to facilitate some really good substantive discussions about the policy issues before them. In instances in which ministers were travelling from the other end of the world, it would be good to find some way in the minutes or across the course of the agenda of those committees to talk about the substantive issues that were coming up across the horizon. She just wanted to note that whilst discussing reforms to governance.

MR BAUM was pleased to speak on behalf of the Colombian Sport Minister and CADE President, Ms Urrutia. He appreciated the update on the governance reform and wanted to make a few comments looking forward to the following year and adjustments that might be made both in the agendas for the different meetings and also in the document package. As part of the governance reform, he appreciated that WADA would be reworking both meeting agendas for the Executive Committee and the Foundation Board, separating the agendas so the meetings would be less duplicative. That was a change that governments had strongly supported and they appreciated that it was coming the following year. As WADA considered the agendas for the following year, the governments recommended collectively finding a way to work into the meetings more open discussion and dialogue among the members around the table. Of course, he understood that there was a lot to cover in a limited amount of time at each meeting. Nonetheless, there should be time set aside for at least one subject for open dialogue and a deeper dive into a key issue or challenge. The governments would be glad to suggest some topics and were also interested in the ideas ripe for discussion from the sport movement, independent members and the WADA staff and management. The open discussion supported by a background document by WADA would allow more voices to be heard at each meeting. That was particularly true for the Foundation Board. After all, there was a lot of talent and experience at the table and the members had a lot to learn from one another.

There had also been a request, as WADA thought about the document package for the following year's meetings, and that could be made particularly within the short executive summaries in many or most of the documents, to take the time to briefly frame the key challenges under each area. Members were interested in hearing about the accomplishments and activities that WADA completed each year and, frankly, what the WADA staff and the committees and the whole organisation accomplished each year was very impressive to read. However, he also wanted to hear about the obstacles and challenges that the members would have to take on together in the months and years ahead when reading through the document package and preparing for each meeting. He asked that the management consider that and looked forward to further dialogue on those subjects over the next six months.

THE CHAIRMAN thanked Mr Baum for his comments.

THE DIRECTOR GENERAL referred to the agenda for the Executive Committee and Foundation Board. Obviously, the following year, there would be only one Foundation Board meeting in conjunction with the Executive Committee meeting. It would always be a matter of reconciling the fact that the Foundation Board remained the supreme organ of the organisation and therefore needed to be informed of the activities of the organisation and, while it might seem redundant to the Executive Committee, the Foundation Board members would have to at least get an update on the annual information. It was the goal, as had been said, to try to avoid overlaps as much as possible.

Regarding the idea of having more time for open discussion on a specific subject, he thought that there was no objection to that at all. If either the sport movement or the public authorities sent in advance the topic they wished to discuss, the management would be happy to accommodate that in the agenda. He also suggested that some of the background papers come from those who were interested in the topics to actually set the scene for what was to be discussed. He saw no issue with that in principle.

MR DE VOS noted that an interesting and, in his view, valid point had been made regarding documentation, but especially regarding meetings. First of all, the documentation that the members had received for that meeting was already 800 pages long, and that was only a small package. He would request not increasing too

much all the documents that the members had to digest. On the other hand, a very valid point had been made. Instead of having that kind of dialogue within the formal meetings, he suggested, when there was an Executive Committee and a Foundation Board meeting at the same time or in the same framework, maybe organising an informal meeting between the different stakeholders to discuss such matters. That would be very productive in the run-up to Executive Committee and Foundation Board meetings, and it was very important, and there was experience from previous years. A good dialogue in an informal way between the public authorities and the sport movement would be a very good idea and it was something that would be really essential to the success of the meetings that took place afterwards.

THE CHAIRMAN thanked Mr De Vos. It was a very good idea to have additional meetings where necessary. WADA was very open to having such meetings and, of course, to continuing the good dialogue between the public authorities and the sport movement.

#### DECISION

Executive Committee and Foundation Board  
memberships 2023 noted.

#### - **4.4 Standing committee compositions 2023**

THE DIRECTOR GENERAL informed the members that they had the proposed composition of the various standing committees for formal approval by the Executive Committee in their files. In terms of the process, the chairmen had been elected in September. Following that election, there had been a discussion between the chairman of the committee, the President and himself, trying to compose the committee with the candidates who had put their names forward for the various committees. And, of course, they had tried to ensure the expertise that was required in those committees, as some were pretty technical, at the same time maintaining gender and geographical balance as much as possible. That was what the members had in front of them. They also had the analysis and the statistics on that, and would see that it had been possible to maintain the balance between the public authority and sport movement candidates. The gender equality was a little less good than it had been previous year, but the Athlete Committee was no longer part of that because it was no longer a standing committee. It was a special committee. That changed the count a little bit. Otherwise, he thought that things would be more equal. And the members would also know that there was a significant number of NADOs that had members on the various committees. So the names were there. Once the committees were approved, all of the Foundation Board and Executive Committee members would receive the profile of each of the members of the committees for consultation. That was a request made through the governance reform. The proposal was for formal approval by the Executive Committee.

MS CESSOUMA noted, on behalf of the African region, the composition of the various standing committees and supported the proposal. However, she wished to stress the importance of ensuring parity in representation between the various regions in order to ensure that they collectively and in coordination progressed anti-doping globally. Perhaps, as a region, it was necessary to do more to ensure that capable and experienced compatriots submitted their nominations for consideration. As a region, Africa would definitely do that. She appreciated that the issue of gender parity was very important and something needed to be done about it.

MR DE VOS spoke on behalf of the sport movement to support and approve the appointments.

MS WELLS supported the appointments on behalf of the public authorities.

THE CHAIRMAN thanked the speakers. For the record, did the members agree to approve the new members or renew the members of the 2023 standing committees? That included the Education, Finance and Administration and Health, Medical and Research committees. He thanked them very much.

#### DECISION

Standing committee compositions 2023 approved.

#### **4.4.1 Compliance Review Committee composition 2023**

THE DIRECTOR GENERAL informed the members that the Compliance Review Committee would have to be dealt with separately, since it was no longer a standing committee. It was a special committee. There were two members of the committee who had to be appointed. One was a renewal of the representative from the public authorities, Michael Petrou, and the other was a new independent member, Vered Deshe. Both candidates had been recommended by the Nominations Committee for appointment to the Compliance Review Committee. The members were being asked to formally approve the renewal of one member and a new independent member on the committee.

MR DE VOS spoke on behalf of the sport movement to approve and support the proposals.

MS WELLS approved the proposals on behalf of the public authorities.

THE CHAIRMAN asked the members if they were happy to approve the following members of the Compliance Review Committee for three-year terms commencing on 1 January 2023: Michael Petrou, public authority member, and Vered Deshe, independent member.

#### DECISION

Compliance Review Committee composition 2023 approved.

#### **- 4.5 Nominations Committee membership terms ending May 2023**

THE DIRECTOR GENERAL said that there were two positions that were for renewal in May 2023, so they were not for decision. The positions were for the chairman of the Nominations Committee and the nominee from the public authorities. Those two members had indicated that they were willing to serve another term of office. Both had been recommended or supported by the Nominations Committee to be maintained on the committee. Therefore, the question that he was putting to the members was the following: unless there was an objection or concern expressed by 15 December, it would be assumed that everybody was comfortable with the reappointment of the members in May and no search process would be initiated for their replacement. That would save costs and be more efficient. He was putting that to the members for them to consider. If nothing was received by 15 December, it would be on the agenda for formal approval in May.

MR DE VOS confirmed on behalf of the sport movement that there was no objection to the proposed procedure, as it was also very efficient.

MS WELLS added that the public authorities had no objection either.

#### DECISION

Proposed Nominations Committee appointment procedure approved.

### **5. Finance**

#### **- 5.1 Government/IOC contributions**

MR NG presented a short report on the contributions for 2022. As of 16 November, WADA had received from the public authorities 97.2% of contributions compared to 90.8% the previous year. There was a total of about 610,000 US dollars yet to be received, mainly from Asia and the Americas. In Europe, the outstanding amount was mainly from Greece (103,000 US dollars) and Serbia (33,000 US dollars); in the Americas, 24,000 US dollars were due from Peru, Cuba and Venezuela; in Asia, 345,000 US dollars were due, mainly from Bahrain (114,000 US dollars), Lebanon (39,000 US dollars) and Pakistan (42,000 US dollars). From Africa, WADA was still expecting 50,000 US dollars in contributions. Oceania had contributed 100%. He was happy to say that there had been additional contributions of 212,000 US dollars from the governments of Australia and Japan and that there had been a contribution of 63,000 US dollars from India. That latest update included contributions from the City of Lausanne and the Canton of Vaud. WADA thanked them for their generosity. In

terms of special funding, Saudi Arabia had contributed 500,000 US dollars for research. Also, the EU had approved a grant of up to 1.4 million euros for a two-year pilot project on building investigative capacity. WADA had thus far received one million euros. That ended his report.

MS CESSOUMA thanked Mr Ng for the presentation. She was aware that there was a challenge when it came to Africa, which was currently working on finding a solution. As the commissioner in charge of the issue, she found herself in difficulties, because the process involved the expert committee on culture, sport and youth, but she was blocked, because it had not been possible to appoint the country that would host the expert committee. She had been working on the matter for several months, but was stuck between three countries, each of which wished to host the committee. Until that expert committee was approved, she would be unable to resolve the budget issue, but she undertook to work on that and find a solution by the end of the month. She would get back to WADA in the first quarter of 2023, hoping that, by that time, a solution would have been found. She was extremely sorry. She really wanted to find a solution so that Africa could contribute to eradicating doping in sport, in particular in Africa.

#### DECISION

Government/IOC contributions update noted.

#### - **5.2 2022 quarterly accounts (quarter 3)**

MS CHUNG went over the quarterly accounts. The total income was at 44.1 million US dollars, representing 91% of the revised budgeted income. The total operating expenditure had reached 63% or 20.7 million US dollars of the budget. From the numbers reported, the first nine months' spending had been lower than budgeted, as WADA had been very cost-conscious. The management had been operating in a fiscally responsible manner, with some events held in person and in hybrid mode. Most recently, the September Executive Committee meeting and the Global Education Conference had taken place successfully in Sydney. More expenses would come in the last quarter of the year. Those Executive Committee and Foundation Board meetings, taking place in person, along with other meetings and expenses and projects towards the end of the year, would increase the total expenses and should be within the budget and, of course the surplus would be adjusted or changed accordingly. Depreciation was at 76% of the budget. Overall capital expenditure was at 2.3 million dollars, 36% of the budget, but it was mainly due to timing. A quick note on investment: the total market value investment at the end of September was at 19.5 million dollars, split between UBS and Lombard with 95% of the portfolio in Bonds. As everybody knew, with the fluctuations of the market, the value of the portfolio had decreased due to unmaterialised loss. The members should bear in mind the fact that the actual value would not change until its maturity. WADA continued to invest in secure investments as per policy and based on the recommendations of the banks. That was the update for the quarterly accounts.

#### DECISION

2022 quarterly accounts noted.

#### - **5.3 2023 draft budget**

THE CHAIRMAN noted that the item was for information only, as it had already been decided to recommend the 2023 budget to the Foundation Board at the September meeting. Therefore, unless the members had comments or questions, he suggested moving to the next agenda item.

#### DECISION

2023 draft budget noted.

#### - **5.4 New Audit and Risk Committee, terms of reference**

THE DIRECTOR GENERAL said that both the public authorities and sport movement would be aware that there had been discussion on the terms of reference, an informal discussion on the Audit and Risk Committee, and there had been two rounds of consultation with very good comments made by both sides. Summarising, he thought that the terms of reference had evolved towards focusing more on the risk aspect and less on the

financial aspect. The terms of reference currently reflected that and placed more emphasis on risk management whilst keeping some reference to compliance with the policies and regulations of the organisation. The consequence was also that the skills of the members of that committee had also been described slightly differently so that they reflected some experience in risk management in particular.

The second suggestion received during the process of consultation was the fact that WADA should make sure that it aligned the terms of reference of the committee with the terms of reference of the Finance and Administration Committee to avoid any overlap and make sure they were complementary, which made sense. The current process was that there would be consultation with the Finance and Administration Committee to make sure that the terms of reference of the committee could be adjusted in accordance with the draft terms of reference of the Audit and Risk Committee. Once both had been agreed upon informally, the management would circulate both at the same time for approval, in order to then continue with a system that was coherent within the organisation. It was work in progress. He thought that WADA was almost there and, as soon as the matter had been finalised with the Finance and Administration Committee, it would come to the Executive Committee and the Foundation Board for approval of the terms of reference, after which it would be possible to start setting up the Audit and Risk Committee.

MR KEJVAL thanked the Director General and the management. It looked like a small issue, but it was a big issue. It was necessary to work out which body was responsible for what. The sport movement fully supported the process, including the final decision by circulatory vote.

#### DECISION

Audit and Risk Committee terms of reference noted.

#### - **5.5 Working Group on Efficiencies report**

MR NG said that, following the request made by the Foundation Board in May to look into WADA's operational efficiency, a four-member working group had been formed with two members from the sport movement and two from the public authorities. The working group had held two virtual meetings in September and October. The WADA management had presented a summary of the various efficiencies implemented over recent years for the group to consider, and he mentioned the key findings. Close to 40 efficiencies had been identified and grouped into four categories: processes, digitisation, system and tools, procurement and partnership. For all four, attempts had been made to quantify the existing and potential future savings. The group had discussed in depth the various options. Overall, a total estimate of 1.4 million US dollars per year in cost savings had been identified, of which 104,000 US dollars had been identified as potential future additional savings, which had been not included in the 2023 draft budget. Those had been based on the assumption that WADA would continue to operate in a hybrid environment and would fulfil its mandate while bearing in mind that a work environment and conditions had yet to stabilise post-pandemic. Moving on, therefore, some adjustments might still be required. The working group had also discussed more extreme scenarios in which, in cases of extreme financial difficulties, WADA would stop delivering its mandate and concentrate foremost on minimising costs. Under such circumstances, some key programmes, notably independent observers, athlete engagement and outreach, the annual and other symposiums would probably have to be dropped. Another scenario would be that all meetings, including the Executive Committee and Foundation Board meetings, as well as all standing committee and expert group meetings, including the new Athlete Council, could also be entirely virtual, in which case the total estimated saving would amount to 3.5 million US dollars. However, it was very clear that that scenarios would not allow WADA to pursue and deliver its mandate properly and would significantly affect the productivity of the organisation and would not meet the stakeholders' expectations. Therefore, the scenarios had been viewed by the group as extreme measures, which would be put forward only in the event of real severe financial crisis. WADA had taken advantage of the hybrid operating environment established and developed during the pandemic to maintain savings in relation to meetings and transport. Digitisation was ongoing and would further benefit the organisation. The areas, in most cases, would require initial investment that would offset any short-term benefits. Savings in time and better use of resources would continue to occur and key performance indicators would help to keep track of effectiveness on a regular basis. WADA continued its efforts in the procurement area, including ensuring that conferences were organised in partnership with hosts and

contracts negotiated with suppliers that were cost-effective. A number of partnerships had been put into place and efforts to seek private funding were also ongoing. The management would continue to report on that progress.

In conclusion, the working group was of the view that WADA was currently operating in an efficient way. Its budgetary process was vigorous and many aspects of its operations had been changed and improved and should be maintained while at the same time balancing an efficient approach, as excessive cost-cutting might become counter-productive. The right balance had to be achieved and implemented and monitored over time, as the organisation was coming out of three very unusual years due to the pandemic.

MS WELLS noted the report on behalf of the public authorities and just wanted to offer her thanks to the working group for all of the diligent work done, particularly within such tight timeframes. She understood that there might be members from regions who wished to speak to particular matters in that regard.

MS CESSOUMA echoed her colleague Ms Wells and congratulated WADA's management on the clear report, which she supported. Rigour had been mentioned, and that was extremely important. She fully supported the report.

MR IDE introduced himself. He was the State Minister of Education, Culture, Sports and Science and Technology in Japan, taking over the duties of the previous state minister, Mr Ikeda. He was attending the meeting for the first time. He would continue to work with the members to prevent doping in sport.

He wished to express his gratitude for the efforts made by the WADA Finance and Administration Committee and Finance Department to compile the report on efficiencies. The report identified and analysed past and current efforts regarding measures making it possible to cut operational costs. Based on the results, he expected to see potential factors for increasing efficiency identified and reflected in future project planning and budgets. Operational efficiency had been discussed; but, in the event of financial difficulties, the possibility had been raised that projects such as the independent observer programme and symposium could be discontinued. Efficiency was important; but, in the future, discussions would need to be held by the Executive Committee and the Foundation Board from the perspective of the effectiveness of WADA projects in conjunction with the strategic KPIs.

Speaking on behalf of Europe, MS MARACINEANU highlighted the significant amount of money that would be saved, as well as the need to regularly examine WADA's efficiency, which WADA was determined to do. It was important from the point of view of those European countries contributing to WADA's funding, as they were contributing to the fight against doping in sport and prevention, and national organisations, prevention and education plans were also being funded on a national level. Therefore, it was important, whilst requesting an increase in WADA's budget, to also call for responsibility on the part of WADA so as to be able to contribute in the respective countries to the fight against doping in sport.

THE DIRECTOR GENERAL responded to Japan and Europe to say that, actually, the timing was good because there was discussion taking place on the terms of reference of the Finance and Administration Committee. WADA could certainly look at having that kind of exercise as a regular item on the agenda of the Finance and Administration Committee so as to report and then discuss or report to the committee. As the Japanese delegate had said, if there were to be strategic decisions necessary in terms of making savings, of course, they would have to be discussed around that table.

## DECISION

Working Group on Efficiencies report noted.

### **6. Athletes**

#### **- 6.1 Athlete Ombuds update**

MR SANDFORD informed the members that, at the previous meeting, he had told them that the field had been narrowed down to the final three candidates. A total of 140 people had applied for the position, and there

had been a lot of excellent candidates who would do a very good job as the athlete ombuds. The field had been narrowed down to a final three; since then, those involved in the process had been in contact with their preferred candidate. The issue was that the timing was very bad. The preferred candidate needed to talk to their current employer. Because the sports world and anti-doping world were very small, it had been felt that it was necessary to look after that person's privacy until the discussions had taken place. That was the current situation. He was unfortunately not able to disclose who the person was until they had had those discussions. Once they had taken place, hopefully they would be favourable and that person would accept the position and then it would be possible to present the person to the members. One of the complicating things was that there was an ombuds working group, which had been set up by the Athlete Committee. In terms of presenting the person to the Athlete Committee, there had been an Athlete Committee meeting the previous week, at which the final three candidates had been presented. The Athlete Committee had endorsed all three of those people. As to efficiencies, which had been mentioned that day, in order not to have to go back to the Athlete Committee to confirm the person who had already been confirmed, the committee obviously did not know who the preferred candidate was either, but hopefully that information would be available soon if they were able to accept the job.

MR KAYANGE EMONYI thanked Mr Sandford and the WADA management in terms of the process. It had been a long process and finally the tail end of it was being reached and the ombuds services would be offered to athletes during the very difficult circumstances in the anti-doping world. Hopefully, it would soon be possible to roll it out and see the benefits that it would have for athletes.

## DECISION

Athlete Ombuds update noted.

### **7. Legal**

#### **- 7.1 RUSADA CAS update**

MR WENZEL informed the members that he would follow the structure in the paper that the members had received, which was to speak first about the consequences of the CAS award, second, about the reinstatement conditions for RUSADA, and third, an update on the cases resulting from Operation LIMS. Before talking about the consequences in a little bit more detail, he wished to make a general preliminary remark, which was that of course the consequences that had been imposed through the CAS award had been not those sought by WADA. Of course, much publicised had been the duration of the consequences. WADA had sought a period of four years for the consequences and the CAS award had imposed a period of only two years, the so-defined two-year period. However, the curtailing of the consequences sought by WADA had been more than just with respect to duration. WADA had sought the application of the consequences to a wider range of events, all major events, as one example. WADA had also sought increased testing on Russian athletes before major events as a condition of eligibility to participate. WADA had sought more stringent conditions with respect to neutral participation than those that had been set out in the CAS award. So, again, the consequences that had been imposed through the CAS award were not those that had been sought by WADA and WADA, from the beginning, had publicly expressed its disappointment with that suite of consequences.

In terms of the monitoring of the consequences that had gone on over the past nearly two years, and that was reflected in the report that the members had, the monitoring work had continued, of course, but had been much reduced as a result of the measures that had been imposed by, in particular, IFs further to the IOC recommendation after the invasion of Ukraine by Russia. That work continued, but it had been reduced. The end of the two-year period that the CAS had decided to impose the consequences for was approaching, and the CAS award was unambiguously clear that the consequences would expire at the end of that two-year period, on 17 December of that year. As mentioned, WADA was disappointed and had from the beginning expressed its disappointment with the fact that, in particular, the duration of the consequences had been cut in half by the CAS panel. However, WADA could kick and scream as much as it wanted, but those kicks and those screams would not change the fact that the CAS award was clear and it was binding, including on WADA and the rules; in particular, the ISCCS simply did not authorise WADA to extend the consequences or to change the terms of the CAS award, which was a final and binding award on those matters.

Although the CAS award spoke for itself, stating that the consequences would expire on the second anniversary of the award, as mentioned, on 17 December of that year, the Compliance Review Committee had requested that WADA seek an independent legal opinion, independent in the sense that it had asked that the lawyer instructed be someone who had not been instructed by WADA previously to provide an opinion with respect to whether or not the consequences did indeed end at the end of the two-year period, WADA had sought that opinion from an eminent English barrister, Michael Beloff KC, who was also a CAS arbitrator particularly experienced in matters of sport law. His opinion had been very clear, that the consequences with respect to reinstatement would expire automatically at the end of the two-year period on 17 December of that year. However, it was probably worth pointing out that at least one consequence (with a small 'c' in the sense that it was not a result of the CAS award) would remain, and that was that, as per WADA's statutes, article 6, subparagraph 6, where there was a non-compliant NADO, the government representatives of the NADO's country could not sit on WADA's Foundation Board, Executive Committee or other committees or boards of WADA. That consequence with a small 'c' would therefore remain after the two years until such time, of course, as RUSADA was reinstated.

That brought him on to the second part of the presentation, which was reinstatement and the reinstatement conditions. WADA would, of course, have to assess at the end of the two-year period whether or not RUSADA had met the reinstatement conditions. It was important to understand that, unlike the consequences, which automatically expired at the end of the two-year period, reinstatement was not automatic. There was a process to determine whether or not the reinstatement conditions set out in the CAS award had been met. Those reinstatement conditions, very broadly speaking, comprised three categories of condition. One was financial payments that needed to be made by RUSADA to WADA. One related to assistance with respect to the investigation of the relevant cases, the LIMS cases and prosecution of certain cases within their authority, and also a number of criteria that related to the independence of RUSADA. The members would see from the report in their bundle that the financial conditions, the payments, had largely been met: arbitration costs, the fine, contribution to legal costs and the 1.27 million dollars in respect of WADA's investigation of the matter up until the CAS award. The one financial element that had not been met and could not yet have been met related to the costs of WADA monitoring the implementation of the consequences and also the reinstatement conditions. It was mentioned in the report that WADA was about to send a first bill or invoice to RUSADA in respect of those costs. That had been done and it covered the period from the CAS award up until the end of September. That had been sent out very recently to RUSADA and, of course, a further invoice covering the remaining few months up until the end of the two-year period would be sent to RUSADA in due course after the two-year period had expired.

More generally, with respect to the reinstatement conditions (and again, that was set out in the report, but he would summarise it again), the process was that, after the two-year period, it was first for WADA's management to assess whether or not the reinstatement conditions had been met. Once the management was of the view that they had been met, then it would be referred to the Compliance Review Committee. If the Compliance Review Committee agreed with the WADA management that the reinstatement conditions had been met, it would ultimately go to the Executive Committee for a decision on reinstatement. WADA's management, at the end of the two-year period, would of course carefully scrutinise all of the relevant documents and assess whether or not the reinstatement conditions had been met. It would not take documents at face value and it might well be that further follow-up would be necessary, whether that be questions, whether that be interviews, whether that be on-site visits, whether that be an in-person audit, if those matters were necessary in order to properly determine whether the reinstatement conditions in particular regarding independence had been met, then they would be done. Related to the reinstatement conditions (and again, that was set out briefly in the paper that the members had received) was the fact that, as a result of the virtual audit that had been done at the beginning of September, shortly before the Sydney meetings, a number of new non-conformities unrelated to the matters that had been the subject of the CAS award had been identified and communicated to RUSADA with deadlines for the correction of those non-conformities. Of course, those non-conformities would follow the usual process and, if they were not resolved to the satisfaction of WADA and ultimately the Compliance Review Committee, they could of course lead to separate consequences being imposed. It was also worth stressing that the rules were very clear that when, during an existing non-compliance (so the situation that WADA was

in), further non-conformities were identified, while those non-conformities were pending, reinstatement in respect of the first non-compliance could not take place.

That was what he had to say with respect to consequences and reinstatement conditions relating to the CAS award. As mentioned at the beginning, the third element in that presentation, following the structure of the paper that the members had, related to the cases resulting from Operation LIMS. Again, very broadly speaking, those were either use cases, 2.2 cases based on evidence recovered from the Moscow laboratory, principally in January 2019, but also other elements such as the evidence made available by the independent person, Professor McLaren, in and after 2016. So, the use cases on the one hand, but also presence cases, whereby samples had been seized from the Moscow laboratory both in 2014 but also in 2019 and reanalysed and had resulted in adverse analytical findings. Those had given rise to presence cases or 2.1 violations. The members had an extremely detailed report in which the statistics were broken down by sport, by the type of case, whether it was 2.1 or 2.2, and information was provided as to the number of cases that fell into the various categories: under investigation, asserted, closed or a conviction or sanction secured. He certainly did not propose to go through the detail of that long report. However, perhaps just to touch briefly on the summary table on page one of the report, the members would be able to see from the sanction column in the November 2022 row that there had been 162 sanctions imposed in the LIMS cases across the 2.1 and the 2.2 cases. The current number since the paper had been drafted had increased by four cases. So, in fact, there had been 166 sanctions imposed already as a result of Operation LIMS. That was more than 40 cases higher than when WADA had held its Executive Committee meeting in Cairo in May. One could also see that the number of cases asserted, that had gone from investigation to charge effectively, had increased from 38 in May to 80 at the time the report had been drafted. Cases continued to be brought as well. Indeed, at that moment, one could see in the investigation column that there were still 262 cases under investigation. As and when decisions were made by signatories, often IFs, but in certain instances also RUSADA, they were scrutinised very carefully by WADA's Legal Department, if necessary in conjunction with external counsel. If it considered that those decisions were not correct, WADA had and would continue to lodge appeals against them. Since at least the meetings in Cairo, by way of an example, the three appeals that WADA had lodged against decisions of the International Canoe Federation not to move forward with a number of use cases, WADA's appeals had been upheld and sanctions of four years, four years and two years had been imposed on those athletes.

So, in summary, WADA's Operation LIMS had resulted in a significant number of convictions to date. That process was continuing. In addition to monitoring the decisions rendered by signatories, IFs and RUSADA, WADA was also assisting signatories with those cases. Documentation packages, with reports from WADA's Intelligence and Investigations Department, had been sent to signatories in respect of all of those cases. When proceeding to hearings, representatives of WADA's Intelligence and Investigations Department had been heard as experts during the course of those proceedings. So the monitoring work, but also the support work, would continue. As mentioned, there were at least 262 cases still under investigation and a further 80 in the process of being charged.

MR SANDFORD welcomed the detail provided in the report. He had two questions. The first one was in relation to the Valieva case and whether RUSADA not bringing the case in time had any compliance consequences for RUSADA and if that raised any questions about the independence of RUSADA. The second question was more of a clarification from what Mr Wenzel had been talking about. He just wanted to be clear that Mr Wenzel had said that RUSADA would not be reinstated while there were any non-conformities coming from the virtual audit that had been done that year; for any of those non-conformities outstanding, RUSADA would not be reinstated until those had also been fixed.

MR WENZEL responded to the second question first. Mr Sandford had summarised it correctly. That was the situation. It was clearly set out in the ISCCS.

With respect to the Valieva case, he had to stress that WADA had, of course, taken the matter directly to the CAS and that had been made public. But, in general terms, of course, it was a case that was pending and the detail of it was confidential. With respect to the question about possible compliance consequences, he would say that the answer was no. He did not think there was any plan to initiate compliance proceedings against RUSADA for any delays that had happened in that case. The ISRM article 4.2 provided a recommendation,

maybe a strong recommendation, but a recommendation that cases of first instance be decided within a period of six months, but it explicitly made a carve-out for complex cases. In addition to that, the comment to Article 4.2 made it clear that there would not in principle be compliance consequences for delays in result management unless those delays were particularly serious or there were repeat instances of delays. On top of that, in that case, of course, there was a provision in the Code which dealt with that, which said that, when there were delays, WADA could bring the matter straight to the CAS, which was what it had done. To his knowledge, at least, it was the first time since the creation of WADA that WADA had invoked that provision and brought a matter directly to the CAS that was subject to first instance proceedings. So, on the basis that the standard made it very clear that, other than in extreme cases, there would not be compliance proceedings and also on the basis that another provision in the Code had been used in order to deal with the situation, he did not see compliance as being a viable route. What would the corrective action be to bring the case? It was already before the CAS so, no, he did not think compliance would be relevant to those delays.

MS WELLS spoke as the chairman of One Voice to note that it was the unanimous view of the public authorities that they were very concerned about the reinstatement of RUSADA and felt that it would need to be very carefully managed and communicated by WADA and that a detailed report would need to be provided to the members which carefully considered, provided evidence and set out all aspects of compliance, all consequences and next steps. Particularly, the public authorities were concerned that a virtual audit was not sufficient for them to have confidence in any reinstatement.

THE CHAIRMAN reiterated what had been said by Mr Wenzel, just to make it clear: RUSADA remained non-compliant. The process for reinstatement would not end on 17 December. In fact, the process would start on that date. Through the three phases of the process, compliance would be robustly assessed. WADA would need to verify each and every one of the reinstatement conditions. Verify meant verify, not simply accepting anyone's word for it. WADA was not naive. WADA knew that trust in Russia and its anti-doping system was extremely low. It was very important to underline that. Lastly, what was very important was the fact that WADA's compliance monitoring programme had identified a critical non-conformity in the Russian system: the 2021 World Anti-Doping Code had not been fully integrated into Russian law. That would go through the process in a normal way. If Russia did not address the problem, it could result in another set of consequences being imposed.

## DECISION

RUSADA CAS update noted.

### - **7.2 Possible consequences due to voluntary withdrawal of funding**

MR SIEVEKING said that, since the previous meeting of the Executive Committee, the working group had continued its discussion on the important question. He wished to thank the participants, Michael Vesper and Hannah Grossenbacher on the sport movement side, and Alexandre Husting, representing One Voice, for their proactive participation in that meeting. He would also recall that, and it was important, voluntary non-payment was effective non-payment by a government, but not payment that was outside its control. It was something voluntary. It was important to specify that. So, in the event of bankruptcy or force majeure or war or any other issue, it would not fall within the scope of that discussion. The working group discussions had been fruitful and there was consensus on a number of consequences. First, on financial consequences, there was consensus on the payment of interest and some form of administrative costs. The public authorities were not willing to call that a fine, but obviously there could be something like reimbursement of the cost triggered by the non-payment to WADA. Another consequence on which consensus had been reached was that NADOs should use their best efforts to procure payment by the government of their country in the event of such payment not being made in a timely fashion. In relation to sporting events, there were two consequences on which there was consensus. Government representatives from the non-paying country could be excluded from participation at sporting events such as world championships or Olympic Games. The second agreed consequences on the sport movement side included exclusion from submitting a bid. Therefore, a government that was not paying its contribution to WADA, while the payment was still outstanding, would be excluded from submitting a bid for any major event. Also, it should apply to WADA events in the sense that non-paying countries could not host any

WADA events. There was also a consequence that government representatives from the non-paying country should not sit and could not sit on boards or committees of any signatory to the Code unless they had been appointed to that position or elected in their personal capacity. Those were the agreed consequences for the time being. It was already a good way forward. However, given the threat of withdrawal, which could really jeopardise WADA's activity and its ability to lead the fight against doping and was a major risk and by extension a major risk also for the entire anti-doping community, it was felt that the agreed consequences might not be sufficient to achieve the objective. He believed that there could be additional consequences, for example, an increased contribution in addition to interest and administrative costs. It was also considered that there should be consequences for NADO representatives of the country in question regarding participation in WADA activities and, in the event of non-payment by a government, the NADO representative of that country should be prevented from sitting on WADA boards or committees and also prevented from any participation in certain WADA events such as the symposium, the world conference or independent observer teams at major events.

There had been quite some resistance to those additional proposals on the public authorities' side during the discussion group meetings. Another important point reached was the process to be followed in the event of non-payment. That had been discussed in detail for the first time at the previous meeting. In the event of non-payment, it would be necessary first to assess whether that payment had been made or not and whether WADA considered it deliberate or not. It would then be up to the government to demonstrate that the non-payment had not been voluntary and, in the event of disagreement, it would be ultimately the WADA Executive Committee that would decide if WADA's management did not accept the government position with an appeal to the CAS against any Executive Committee decision. He did not think any further meeting of the discussion group was necessary at that stage. The next step was to draw up a proposal and to table that proposal to the Executive Committee in May 2023 for discussion and guidance with the objective of having a proposal for adoption by the Foundation Board in November 2023. It was necessary to involve the Foundation Board, as it would involve Code amendments, requiring consultation and approval of the Foundation Board.

MS MARACINEANU asked if she had fully understood that Mr Sieveking had said that the sport movement agreed that the countries that did not pay would not be allowed to be candidates to organise events. Would athletes from those countries be allowed to participate in those events? Non-payment should not have an impact on athletes or NADOs in terms of participation in events.

MS BATTAINI-DRAGONI said that she had listened carefully to the presentation and was satisfied that a lot of thought was being given to the matter and that people were taking it seriously. Having said that, she had been interested by the use of the word 'voluntary' during the presentation. She asked what exactly that term 'voluntary' meant. The representative of Europe had raised the issue of whether or not athletes could participate, and that was also an important issue. Some further clarification might help to move forward on that matter. It was not an easy matter, but it was necessary to have precise standards in terms of how to react in the future.

MR DE VOS followed up on the comments made by the French colleague and the independent colleague. It was very important for the Olympic Movement, the sport movement, to underline that such sanctions should not affect the participation of athletes in events. Of course, they would have consequences for the NADOs, but not for the athletes.

MS CESSOUMA said that the African region was concerned because there were African countries that might have to speak to the authorities to see how the matter could be cleared up.

MR SIEVEKING stated that Mr Wenzel had also taken part in the discussion and invited him to add anything he wished. Regarding the first question, one could not bid while payment was pending. It could be quite a short period of time. But, actually, if the deadline to bid for a major event fell within the period during which there was a voluntary outstanding payment, obviously, the country could not present a bid for the event at that time. That was a way to put some pressure in the sense that, if one did not pay, one could not present one's candidature to host an event in one's country. However, as soon as the payment was made, that consequence would no longer exist. It did not apply to athletes. That had been made clear in the discussion group and the idea was that none of the consequences would have an impact on athletes.

In response to Ms Battaini-Dragoni, the title of the topic had changed. At the beginning, the paper had referred to 'unilateral withdrawal of funding'. That had been changed to 'voluntary' based on the outcome of the discussion with the group. But, obviously, if a country could not pay, was willing to pay, but could not pay for reasons outside its control, that would not apply. In that case, the government would have to establish that it wanted to pay, but that it was unable to do so at that time for X or Y reason, and that would then have to be assessed by WADA. He was really talking there about a country that could pay without any problem, but decided not to pay its contribution for other reasons, for political reasons or other. It did not cover all cases of non-payment, because there could be force majeure, there could be bankruptcy, there could be many other possibilities preventing a government from paying its dues to WADA in a timely fashion.

THE CHAIRMAN confirmed that, as the president, he was really determined to adopt a document allowing the Executive Committee to address the risk of voluntary withdrawal of funding. He regretted that it had not been possible to reach a meaningful compromise on the issue. Therefore, he thought that the best way forward was to draft a document by WADA and then consult with the stakeholders. He hoped for a constructive approach from all of the stakeholders. He would like to have that document adopted at the meeting in November the following year. If there was no consensus in November, it would be put to a vote.

#### DECISION

Update on possible consequences due to voluntary withdrawal of funding noted.

### **8. Compliance**

#### **- 8.1 Non-compliance cases**

THE CHAIRMAN noted that the item was for decision. Before starting, he noted that an updated compliance paper on the Gabon National Anti-Doping Organisation had been circulated on 10 November. He also reminded the members that there had been a recent change with regard to the Moldovan NADO's status, so a new updated document had been shared the previous day.

Without further delay, he passed the floor to Mr Gourdji.

MR GOURDJI said that, before jumping into item 8.1 and summarising the two cases before the members, he wished to provide a very brief update on the Compliance Review Committee's activities since the previous report just a couple of months earlier. In October, the Compliance Review Committee had held an in-person meeting from 10 to 13 in Montreal. He would not update the members further on RUSADA. They had already heard from Mr Wenzel. He wanted to assure them that, at each of the Compliance Review Committee meetings, the members monitored the progress towards achieving the reinstatement conditions and would not be satisfied until everything was verified.

With respect to the Ukrainian National Anti-Doping Organisation, the Compliance Review Committee was always informed of the ongoing communication between the NADO and WADA and the work being carried out by the NADO with support from other NADOs. The Compliance Review Committee continued to be quite encouraged to see the collaboration and acts of solidarity from a number of the NADOs in ensuring that Ukrainian athletes continued to be subject to the robust anti-doping programme.

The committee also received updates on the review of the standards and had been informed of the revised approach for the revisions to be considered in 2023. At that past meeting, it had been updated on matters of guidance and oversight. The Compliance Review Committee continuously provided guidance and oversight of WADA's compliance programme with satisfaction, and had been participating in advising on the development of the compliance risk management framework, which was maturing quite nicely. The committee had also been receiving updates on WADA's progress in achieving its 2022 annual plan, which was going to be concluding shortly. Finally, the committee had also endorsed the Compliance Task Force proposed signatory audit plan for 2023, which contained 10 audits, and provided feedback on WADA's management audit selection process, which it found to be robust.

Just to go over the two compliance cases, the document before the members had been amended a couple of times, and the two cases that had been updated for the Comité de lutte et de prévention du dopage gabonais, the Gabon NADO, and the National Anti-Doping Agency of the Republic of Moldova, the Moldova NADO. The first case pertained to the Gabon NADO. The details were in paragraph two of the report, but could be summarised as followed: in May 2021, it had come to WADA's attention that the anti-doping legislation recently adopted in Gabon was not in line with the Code. WADA had worked closely with both the Gabon NADO and the public authorities to facilitate the drafting of the necessary amendments, and it had been determined that the final version was indeed currently in line with the Code. However, at that time, Gabon had been unable to adopt the required amendments within the timeline. When the Compliance Review Committee had met on 12 and 13 October, it had been prepared to recommend to the Executive Committee that it approve WADA sending a notice to Gabon, asserting it as non-compliant. However, on 4 November, the Gabon NADO had submitted to WADA a calendar for the adoption of the amendments to the legislation to be completed within four months from the date of that meeting. In light of those developments, the Compliance Review Committee had changed its recommendation and currently recommended that the Executive Committee instruct WADA's management to give Gabon's NADO four months, starting from the date of that meeting on 17 November and ending on 17 March 2023, to correct the outstanding non-conformity. If the amendments to the legislation in the version considered by WADA to be in line with the Code had not been adopted by that timeframe, 17 March 2023, as per article 845 of the standard, WADA would automatically send the Gabon NADO a formal notice, asserting it non-compliant and proposing the consequences that the members would find in paragraph two of the document.

The second case related to the Moldova NADO. The details could be found in paragraph 3 of the document and he could summarise as followed: in December 2021, it had come to WADA's attention that the legislation in force in Moldova, the existence of which had not previously been communicated to WADA, was not in line with the Code. A critical corrective action had been raised and Moldova had been given a three-month deadline, which expired on 22 May 2022, to implement the amendments required in order to bring the legislation in line. Since then, WADA had worked closely with both the NADO and the public authorities to facilitate the drafting of the necessary amendments. Unfortunately, at the meeting on 12 and 13 October, the amendments had not yet been finalised and a calendar for adoption had not been presented to WADA. Therefore, the Compliance Review Committee had been prepared to make a recommendation to the members that they approve WADA sending a notice to Moldova, asserting its non-compliance with the Code. However, since the meeting in October, the Moldovan NADO had been working quite hard in collaboration with WADA on drafting the necessary amendments to its law that would bring it into line with the Code, and it had also provided a calendar for its promulgation, which would be within the four months of the Executive Committee meeting and would meet the watchlist criteria as per the standard 845. Therefore, the Compliance Review Committee recommended that the Executive Committee instruct WADA's management to give Moldova's NADO four months, starting from the date of that meeting, to implement the amendments in its law. If the amendments were not adopted by 17 March 2023, as per the standard 845, WADA would automatically send the Moldovan NADO a formal notice asserting non-compliance and proposing the consequences and reinstatement conditions that the members would find in paragraph 3 in the attachment.

MS CESSOUMA thanked Mr Gourdji for the excellent job done and the solution on the table. Gabon was an African country and the necessary steps would be taken to find a solution prior to the expiry of the deadline. She would continue to raise awareness among the African governments, as it was in their own interest to ensure that their instruments were in line with the WADA Code. If there was a technical committee meeting, the issue would be addressed there too.

MR IDE said that he endorsed the recommendation; in addition, he wished to make some comments. In some countries, the procedures for amending a law could take time; therefore, he would expect WADA to take a respectful approach with due consideration of the circumstances of each country regarding a recommendation to declare non-compliance, especially when it was outside the NADOs' scope, such as the application of the Code to the legislative system.

MR LALOVIC stated that the sport movement supported WADA's initiative to send a formal notice of non-compliance to the Moldovan NADO with the accompanying consequences if the non-compliance issues were

not resolved by 17 March. He would not enumerate all the consequences. They were stringent. In addition to that, he wished to say that he fully supported the recommendation by the Compliance Review Committee regarding the Gabon NADO, and he wished to thank Mr Gourdji for his report. Addressing the commissioner from Africa, perhaps the name of the NADO should be revised, because when he had heard the name in French, he had been afraid that they were speaking about wrestling.

MR GOURDJI responded to the point about rules. He recognised that rules were passed and were structured quite differently around the world. Some states had various tiers to their rules, from laws to standards to orders to decrees, with different levels of approval and authority. Some were much easier to approve at the ministerial level and some had to go to presidents and go through a parliamentary process. Having said that, what was most important for all signatories was to coordinate the draft at an early stage with WADA, and that would ensure that the proposed draft was always in line before it advanced too far in the promulgation process. The Compliance Review Committee mentioned that and had open discussions with WADA and was very pleased to see WADA had put in more of a process of awareness training with its signatories in that particular area. The fact that the members could see the constant amendments to documents before a meeting just went to show that the mechanisms that WADA had put in place worked.

MS MARACINEANU said that, as a European country but also on behalf of One Voice, she appreciated the support extended by WADA to governments and NADOs but she noted that, when there were changes to the standards or the Code, they should be considered beforehand with the public authorities, so as to enable them to incorporate them as quickly as possible in their legislation. She appreciated that there was some flexibility, and that could be seen in the support given to the two NADOs mentioned that day to help them become compliant. Europe had also worked with WADA on the issue. It was never pleasant to hear that NADOs might not be compliant with the Code when they did their utmost to be compliant. It was important to be heading together in the same direction, but perhaps some thought should be given to the amendments, which could be dealt with in blocks or packages, taking into account consistency but also the different cases in the individual countries.

MR BAUM spoke on behalf of the Americas to comment on the subject and also provide a brief update on Puerto Rico. At the previous meeting, Puerto Rico had been referenced in the Compliance Review Committee report. The Americas region was pleased to report that Puerto Rico had made significant progress towards full compliance with the WADA Code. The previous week, the Puerto Rican Senate had approved the required legislative amendments. That week, the amendments had been approved by the House of Representatives. The final bill had been sent to the governor and it was expected that he would sign the legislation into state law shortly. The Americas region appreciated the work of Puerto Rico's national director of sports and the Puerto Rican Olympic Committee to drive that legislation through the state legislative body after delays caused in large part by the devastating impact of the hurricane. It was encouraging and proper that Puerto Rico had made important progress in updating its laws. The Americas region would like to take that opportunity to make a larger point that it did not believe it was appropriate for a NADO to face severe consequences for delays with government representatives taking formal legislative action. As had been previously discussed, enacting legislative changes could be a slow and difficult process. Even if they received financial support from governments, NADOs were generally not formally part of governments. He believed that the approach to delays in enacting legislation should be reviewed and revised to better insulate NADOs from collateral consequences of a government's failure to take action.

THE CHAIRMAN asked the members if they agreed to instruct the WADA management to give the Gabon and Moldova NADOs another four months to correct their outstanding non-conformities, failing which WADA would automatically send a formal notice, asserting non-compliance and proposing the consequences and reinstatement conditions recommended by the Compliance Review Committee.

#### DECISION

Proposal regarding Gabon and Moldova NADOs approved.

## 9. Science and medicine

### - 9.1 New approach to the approval of research projects by the Executive Committee

MS MACDONALD informed the members that some changes to the approval process for scientific research projects were being introduced which would have an impact on the Executive Committee agenda. She wished to provide some information for the members, and there was a paper available to read. The current process for the annual call took about eight months between the time of submission to a decision on funding, with several more months needed before projects were actually launched. It had been heard from some researchers that that long process deterred them from pursuing funding and could delay the ultimate implementation of research results for projects that had no other source of funding. So, the following year, the research team planned to implement a process to receive applications on some specific research topics at any time during the year or for a limited time to complement the annual call. Depending on the timing of receipt of the applications, the projects would be reviewed individually or in small batches by relevant experts with the recommended projects circulated to the Health, Medical and Research Committee. Those that the committee members recommended for funding would be presented for approval at the nearest upcoming meeting of the Executive Committee, most likely becoming a standing agenda item. As some challenges were anticipated managing that ongoing intake around other research management activities and an increased burden for reviewers and the Health, Medical and Research Committee, the idea was to assess the impact in the third quarter of the following year and propose improvements for 2024, which might include expansion to a wider range of research topics. She hoped that the changes to WADA's research funding process would help attract more innovative research applications, including those from outside the anti-doping science community, and would expedite the generation of research results to improve the anti-doping system.

PROFESSOR ERDENER thanked WADA on behalf of the sport movement for the proposal to review the process for grant applications, which he supported. That item was also an opportunity to talk once again about the importance of research and WADA's strategic objective to lead in that area. In that context, he would welcome, at a future meeting, hearing from the organisation and from the Health, Medical and Research Committee about how WADA could further strengthen that leadership role. He would be interested to hear thoughts on how WADA could continue to encourage further applications as well as strengthen its position as an organisation leading and promoting innovative research for clean sport. WADA's leadership role in that area should be recognised not only by its stakeholders, but also beyond the clean sport community. In that spirit, he once again welcomed the commitment to provide an annual 4.5 million US dollars to fund research in WADA's budget, which came in support of WADA's strategic objectives.

DR SANGENIS said that, having read the documents provided, she had some thoughts that she wished to share. She believed that one of the objectives of WADA was and should be the support and funding of research regarding doping. That been extensively discussed in previous meetings. Also, it was essential to maintain the quality and type of the research that was funded. She wished to emphasise three points. There were several more. First, she was very happy that the budget had been increased. Absolute transparency in the selection of the projects was essential, as was diversification regarding continents, institutions, researchers, backgrounds of the researchers and innovation. Finally, most scientific institutions, in her experience, found that the real priorities for research were the areas needing more evidence and more data where funds were allocated. What were the challenges ahead currently and in the future? Did WADA need an extra panel of experts to help with that? The Health, Medical and Research Committee was completely involved in the selection of the projects. Would it be possible to have projects that involved the cooperation of different researchers in different institutions and/or countries?

MR ENGBRETSEN stated that, overall, transparency in the Health, Medical and Research Committee and also in reviewing the proposals received every year was quite good. He sent applications to the NIH in the USA and the EU to get funds. The reviews at WADA were actually better than at the NIH. The issue was that WADA had a hard time getting outside institutes and outside major researchers to commit to such anti-doping research. Most of the applicants came from the laboratories or from people connected to the laboratories. One big issue for the coming three years was to be able to wake up and to be able to connect to a different type of researcher

than in the past. WADA needed some kind of Nobel Peace Prize-type researchers in that area, because there were some areas in which WADA was really lagging behind. So, over the coming three years, WADA would start off by changing the application dynamics by allowing people to apply continuously in certain areas, and would see how that worked. The other thing was to have more outsiders apply. The members should bear in mind the fact that, that year, there had actually been a decrease in the number of applications compared to recently, probably caused by Covid, but it was still a little bit concerning, probably also because the funds that people were applying for were not as high as they usually were when they applied to the NIH or the EU, for example. Nevertheless, he really appreciated Dr Sangenis bringing that up. It was a very important thing for the Health, Medical and Research Committee.

MS MARACINEANU said that she wished to make a proposal. In the lead-up to major events such as the Olympic Games, there were governments, such as France, which set aside a certain amount of funds for research in sport, and perhaps some synergies might be found between the annual call for research proposals and the research funds made available by countries in the lead-up to major events. That was what France had planned to do for the Olympic and Paralympic Games in 2024 and she was quite sure that other countries focused on research some years prior to a major event, so perhaps synergies might be found for the joint funding of research projects.

THE CHAIRMAN responded to what the minister had said, noting that WADA had already started discussions with the French public authorities about possible collaboration in that regard. It was a very good idea and WADA was always very open to such collaboration with institutes and the authorities to help develop the science and the research.

#### DECISION

New approach to the approval of research projects noted.

#### - **9.2 Technical document TD2023DBS**

MS EGLI provided some background information. The initial version of the Technical Document on DBS for doping control had been effective since September 2021. Since then, it had been adopted by some ADOs and laboratories and, following its implementation in the field, some of the procedures from the TD2021DBS had been transferred to the ISTI to reference DBS as a type of sample in addition to urine and venous blood. More specifically, all the mandatory requirements regarding DBS sample collection, initial storage and transport had been transferred to the ISTI in a new annex, annex J. Following approval by the Executive Committee at the previous meeting, the revised version of the ISTI would come into force in January 2023. Therefore, and to avoid any duplication, she was proposing some amendments to the Technical Document on DBS. First, the proposal was to remove all the mandatory requirements pertaining to the collection and transport of DBS samples that had already been transferred to the ISTI. WADA would like also to transfer all the non-mandatory procedures related to sample collection and transport to new versions of the sample collection guidelines, the doping control officer manual and any other relevant documents. Those procedures had been removed from the proposed TD2023DBS. Therefore, in that proposed version of the Technical Document on DBS, WADA retained only requirements and procedures for analytical testing and laboratory storage of DBS samples, as they had been approved in the initial version of the Technical Document on DBS. No new requirements were proposed. After a global consultation with stakeholders and also further consultation with the additional experts, some improvements and minor adjustments had been made to the documents. Subject to Executive Committee approval, TD2023DBS would replace the current TD2021DBS and would become effective on 1 January 2023.

THE CHAIRMAN asked the members if they had any comments or questions. Did they agree to approve the TD2023DBS to come into effect on 1 January 2023? He thanked them for approving the document.

#### DECISION

Proposed TD2023DBS approved for entry into force on 1 January 2023.

- **9.3 Technical document TD2023APMU**

THE CHAIRMAN suggested discussing both agenda items, 9.3 and 10.1, together as the proposed changes to the ISRM were also related to the APMU technical document.

MR AIKIN informed the members that he would be presenting the two documents for approval that were related and the reasons behind the changes. Both were being updated to reflect changes in the Athlete Biological Passport, in particular the impending arrival of the endocrine module, a new module to detect growth hormone doping, and also to accommodate the addition of new markers, new blood or serum markers of steroid use to be added to the steroid module. The modifications to both documents reflected procedures required for the athlete passport management units to be carried out in their management of passports and generation of documentation packages, also for the result management of passports, atypical passports on the side of the ADOs, which formed part of the second document, the ISRM changes. He believed that the members had the changes in front of them. They had been put out for consultation at the end of the summer and then had been harmonised into the documents that were before the members for approval.

THE CHAIRMAN believed that the Executive Committee could approve the Technical Document 2023 on Athlete Passport Management Units to come into effect on 1 January 2023 and modifications to the International Standard for Result Management to come into effect on 1 January the following year. Did the members agree?

DECISION

Proposed TD2023APMU approved for entry into force on 1 January 2023.

**10. International standards**

- **10.1 International Standard for Result Management**

DECISION

Proposed modifications to the ISRM approved for entry into force on 1 January 2023.

- **10.2 International Standard for Testing and Investigations annex K and annex B**

THE CHAIRMAN referred to annex K and annex B, another item for decision. He reminded the members that the item had been postponed from the September Executive Committee meeting due to a request from some stakeholders to consult with the WADA Ethics Expert Advisory Group. Such consultation had since been undertaken. The decision being requested under that agenda item was to approve annex K and annex B to the ISTI.

MR RICKETTS stated that he had a presentation to walk the committee through the topic and to provide the background and the detailed work that had gone into that new and innovative concept. As the members knew, Covid-19 had seriously affected the ability to collect samples due to the health restrictions that had been enforced and the inability to have face-to-face contact with athletes. As such, testing programmes had gone from 15,000 out-of-competition tests per month to a low of 550 in April 2020. Although the health of society had been the priority, the timing of the pandemic had been in the lead-up to the Tokyo 2020 Olympic Games, which had been postponed for an extra year. However, the media had been reporting on gaps in the testing system and that athletes had been able to dope freely. As a result of that, WADA had seen innovation from a number of NADOs which had developed and put in place virtual sample collection programmes that could be applied in certain situations and which WADA had supported as a pilot programme and under certain conditions. The countries or the NADOs involved in the pilot programmes were Denmark, the Netherlands, the USA and the United Kingdom. As a result, WADA's Strategic Testing Expert Advisory Group had looked at ways to close that testing gap by conducting a feasibility study on the potential use of virtual testing procedures. The NADOs that had conducted the pilot programmes had been asked to present their findings to the expert group, which they had all done, and the expert group had considered all the elements of a virtual sample collection, including

health and safety, IT and security, data privacy, result management, logistics, the costs involved, as well as, of course, the athlete perspective. That work had continued for a period of 18 months and the outcomes had been circulated among the stakeholders in June and July that year as part of the wider changes to the ISTI. The virtual procedures had also been presented at WADA's annual symposium in June by members of the expert group. The procedures had received input from WADA's legal and data privacy experts and, as a result of those consultation processes, further amendments had been made to the original draft, as well as further discussions held with a number of stakeholders. Just to clarify, the use of those virtual procedures was limited to a certain scenario, first during a pandemic, where an in-person notification could still take place, but not an in-person sample collection, so, when entry into an athlete's home or training centres was not permitted due to the health restrictions in place as a result of the pandemic. In those situations, those procedures were available to use. The procedures aimed to replicate the in-person testing processes as closely as possible whilst protecting the integrity and security of the process. Prior to considering the implementation of the procedures, an ADO would be required to check its national data privacy laws to ensure that the procedures could be implemented. It was known that the laws varied from country to country and region. As such, the procedures were not mandatory if they could not be implemented due to the data privacy laws. There would not be an issue of non-compliance for not doing so. However, if an anti-doping organisation was able to and was willing to implement the procedures, then it would be mandatory to follow the procedures in Annex K to ensure global harmonisation and consistency for the athletes. Prior to implementing the procedures as well, of course, WADA needed to educate athletes and national federations on the procedures and the processes. Certainly, the athletes played a more operational role in the process. The ADO also had to use an IT system that used end-to-end security encryption, as well as train sample collection personnel on its use and the procedures. The ADO provided all the equipment, not just the sample collection equipment, of course, but also a tablet or a body camera and would instruct the athlete through each step of the process. The video stream, however, must not be recorded. With normal in-person sample collection, the athlete was witnessed providing their urine sample and the DCO or the chaperone had to witness the direct departure of that urine from the body to ensure its authenticity as it went into the collection cup. However, with the virtual procedures, the viewing of the sample provision was not shown on the video. Whilst the athlete was required to remain on camera at all times, as was the sample once produced, the athlete was required to position the camera in the toilet area so that only their upper body was on camera. The video was required in the toilet area to protect the integrity of the sample whilst also showing the doping control officer the athlete's movements in that space and to minimise as much as possible any tampering. In addition, a temperature measuring strip was required to be placed on the collection vessel and shown to the doping control officer after the sample was provided so that the temperature could be observed. Also, if there was any suspicious activity by the athlete or their representative at any time during the process, the DCO had the option to request an additional sample. Such suspicious activity would be reported. Furthermore, there was the option of DNA analysis of a sample if necessary. To support the annex K procedures, the Strategic Testing Expert Group and WADA had included the virtual procedures in the existing guideline on testing during Covid-19 developed in consultation with the World Health Organization during the Covid-19 pandemic. The guideline would be renamed to reflect testing during a pandemic and was really the operational interpretation of annex K procedures, which included specific guidance on several areas, including IT systems and their security requirements, protecting the privacy of those involved and their information and testing of vulnerable athletes such as minors. That was in addition to all the health and safety requirements that had been put in place during the pandemic. Following a request from members of the Executive Committee and stakeholders, WADA had been asked to run the procedures by WADA's Ethics Expert Advisory Group. That had been undertaken and a specific meeting had been set up and held the previous month in October. The expert group had been provided with a background paper and also the draft procedures of annex K and asked for its views on the ethical aspects of the procedures. In short, the expert group had supported the procedures. However, it had provided several recommendations on areas that should be considered, and those recommendations had been either incorporated into the annex or the guidelines just mentioned. That included the importance of education for athletes and the proper training of sample collection personnel, as well as guidance on testing vulnerable athletes. The expert group had also considered the virtual procedures less invasive than the normal procedures, in particular by not having a doping control officer going into the athlete's house during a pandemic and also not directly witnessing them provide the sample. The expert group had also

felt that the virtual procedures were an improvement to the inability to test during a pandemic. So, just to clarify, those testing procedures were for use only during a pandemic, which he was sure everybody hoped they would not have to experience again to the extent that they had. However, the procedures were a step forward for the anti-doping movement should WADA find itself in that situation in the future.

Before concluding, he wished to bring to the committee's attention a small modification to another annex of the ISTI, annex B, which was the annex that dealt with procedures for working with minors. There was a small addition that clarified the number of sample collection personnel required when testing minors, and he wanted to include that for approval since he had the opportunity to do so with that update to the ISTI. Finally, it was proposed that both annex K and annex B be incorporated into the revised ISTI approved at the previous meeting in September and that it come into effect on 1 January 2023. A supporting guideline would also be published in the coming weeks to support that. That concluded his presentation.

MS WELLS stated that the public authorities did not have a unanimous position on that point. The region would speak separately on those agenda items.

As the Oceania representative, she said that she supported annex K and minor modifications to annex B. Consultation had taken place with the Australian and New Zealand athlete committee members, who also supported annex K; therefore, it was seen as a useful addition to the testing process to be used only in very limited circumstances. She was comfortable with the additional advice provided by WADA's Ethics Expert Advisory Group, and noted that the annex itself was not mandatory.

MR IDE said that he was aware that the testing process described in annex K could be implemented only during a pandemic or an epidemic. Since they were exceptional measures, it was necessary to provide clear standards describing conditions under which such measures were implemented. In addition, it had been only about two months since the September Executive Committee meeting and it might be too early to take a decision at that time. However, if WADA was going to approve a new annex K, it was necessary to ensure the effectiveness and reliability of the doping tests and protect the privacy of athletes and also to make sure that the measures were in compliance with the domestic laws in the various countries such as personal data protection laws.

MR SANDFORD welcomed the update on annex K. Annex K was unanimously supported by the WADA Athlete Committee. It had been circulated among the members and all of the members supported it. In addition, as Mr Ricketts had pointed out in his presentation, he had been the athlete representative on the working group that had worked on annex K and had been supportive of that. Everybody had become very aware during the pandemic that they were not necessarily happy with the lack of testing going on. He thought that that was an elegant solution to the gap created by the pandemic. As Mr Ricketts had highlighted, a number of NADOs had gone about testing in a number of different ways and, as an athlete representative, he would say he had not necessarily been happy across the board with how they had approached it, and he thought that what had been done there was to bring those together to develop a robust system that was as close as possible to the current sample collection procedures, taking into consideration local laws and local regulations. It took into consideration whether NADOs could do that or not. It took into consideration the privacy of athletes and the concerns of athletes and the concerns of an athlete committee about such procedures. It did all of those in quite an elegant way, and also maintained the integrity of the sample, which was paramount. Although no sample collection was ever perfect, WADA was in a good place with annex K. It would be taking place only when there was an epidemic or a pandemic and only when such situations came up. The WADA Athlete Committee was fully supportive of that because it closed a gap and provided guidance where there was currently none.

MS MARACINEANU said that the European countries welcomed the work commenced by WADA on the matter. It showed the crying need for an innovative response in the event of a pandemic, such as the Covid crisis experienced recently. She therefore congratulated WADA on the work done which made it possible to anticipate situations whose impact on sport and competition and the various countries was unknown. She was aware that no procedure was 100% perfect. Regardless of the procedures, however, she thought that it had to be said that urine testing was an intrusion on the privacy of athletes. That was why WADA could not allow such intrusion to include a digital system that was insufficiently secure in an insufficiently clear framework, or at least

insufficiently discussed. She had been an athlete and testing was a difficult, almost humiliating procedure that took place between two people. Athletes had to give a urine sample and Europe was unanimous in its belief that adding a screen to the process would raise a number of issues that had not been discussed sufficiently. Some countries had been able to consult athletes. It was true that, in Europe, it was hard to do that with 24 countries. Mr Sandford had said that the athletes had participated in the design of the system, but it might be a good idea to wait until the establishment of the Athlete Council in January 2023 in order to put it to that body. She was not sufficiently clear about the non-mandatory nature of the system. It was not sufficiently well described to ensure the harmonisation of procedures and the respect of national legislation in terms of privacy and data privacy. For example, it had been said that, if a country wanted to and could do it, then it would become mandatory. There was a difference between wanting to and being able to. When they were able to do it, did that mean that it was mandatory? It was not sufficiently clear. There were also concerns regarding the application of the process to minors. Although further details had been given, they would be filmed urinating into a toilet, even if it was the upper part of the body. What about the differences between girls and boys? It might not be possible to check whether or not cheating was going on in the same way with a screen. Maybe the test should be carried out in a similar way to the DBS procedure. The use of applications and devices was not sufficiently safe in her opinion. The credibility of WADA could be called into question if that new procedure were adopted, which was why she firmly opposed it. She was open to discussing postponing the method for the time being, and then further discussing it, in particular with the NADOs, because the new procedure would give a lot of responsibility to the NADOs. It was necessary to have a broad discussion with athletes and NADOs, in particular since the risk for NADOs and WADA in the event of challenges to the procedure by athletes testing positive was significant. She was aware that it was an exceptional procedure to be used only in exceptional circumstances; nevertheless, the pandemic was still at large.

MS CESSOUMA said that she had listened to all of the participants but, following internal consultation, including the feedback received from the technical committee in her region, she was happy to support the inclusion of the annex, but did so based on the fact that Covid had necessitated a review on how WADA did things in times of pandemics. She was told that, in time, there would be no more pandemics, but there was currently Ebola in Africa. The annex and process set forth in the document were not mandatory and the French delegation had mentioned that. Having said that, there was an absolute need to ensure that measures to ensure privacy were respected and protected at all costs. That was very important. On too many occasions, one saw and read about issues of cybersecurity breaches of various forms, and it would be disastrous if material related to such testing measures became public in one way or the other. The region proposed that the annex be reviewed. It was very important that it be strengthened and tightened up from time to time with a view to mitigating any potential breaches in security.

MR BAUM stated that the Americas region really appreciated the important and serious work that had already been put into refining the proposal and noted that the US anti-doping agency had been able to contribute to the work and developing the alternative testing method required during the Covid pandemic. However, the virtual testing with electronic monitoring had raised concerns about privacy issues and potential complexities with domestic laws limiting the use of electronic communications in some countries. CADE was supportive of work continuing to refine the proposal to address the concerns, and those raised by colleagues from other regions suggested that the proposal be further updated and reviewed before a formal decision was made to improve annex K.

MR RICKETTS thanked Oceania and Mr Sandford for their comments and input. He also thanked the minister from Japan. The clear measures that he had asked for were included in the updated guidelines that would support the annex and went into the operational set-up and steps that each anti-doping organisation needed to take before going down that road, including IT security and data privacy as well as the testing of vulnerable athletes, etc. He felt that that information was included in the guideline. Following the consultation, he felt that the guideline could be updated very easily if stakeholders felt that it needed to be fleshed out even further, WADA could do that at any time and republish it without bringing it through to the Executive Committee.

He thanked his colleagues from Europe for their comments. Firstly, the IT security aspect was a very important element of setting up and considering the procedures. Not just having end-to-end security encryption,

but also a number of other criteria to investigate and ensure that the system that was to be used fulfilled all those requirements, including meeting the requirements of the ISPPPI. As mentioned, extra information had been included in the guideline about those systems. That was something that each organisation would have to undertake with its own IT experts. The information provided had been developed with WADA's chief technology officer and based on the systems that WADA used in its internal systems as well and to the level of protection that WADA had with systems such as ADAMS. On the data privacy side of things, the data privacy aspects, language had been added to the annex. He was not sure WADA could be any clearer to say that the ADO should liaise with the applicable national health and data privacy organisations to see if the procedures would not be in breach of those and to have that discussion.

As mentioned, the non-mandatory nature of the language in the annex was that sample collection in a virtual environment was not mandatory. That was the language added. So, again, he thought that he had been clear in ensuring that was the case. The reference to dry blood spot not being mandatory and also being a new annex to the ISTI was correct and if an organisation wished to implement DBS or not was up to them. The same applied with the virtual sample collection procedures. Even if one looked back further, when the Athlete Biological Passport had come into place, WADA had started off with something that was a new and innovative process that experts had put their heads together and developed. And as, over time, that had been critiqued, it had been changed. Athlete Biological Passport blood testing was not mandatory but, for those that did do it, WADA had to have a set of mandatory procedures as the global governing body and to ensure the consistency of the processes that were put in place for that.

He thanked the minister from Africa for her comments and said that the WADA Ethics Expert Advisory Group had suggested that the procedures apply not only to a global pandemic, but also a national regional epidemic. That language had also been included in the draft annex. He thanked the members for their other comments.

THE CHAIRMAN thanked Mr Ricketts, who had explained everything perfectly and presented all the arguments about the annex. However, he wished to make it clear and repeat what had been said. What was being proposed in annex K was a standard for the collection of urine samples in a virtual environment during a pandemic. That standard was not mandatory if the stakeholders, for some reason, including legal restrictions, were not in a position to collect urine samples in a virtual environment. They did not have to do it. However, if they decided to do so, they should do so in the same way as described in annex K. It was as simple as that. Of course, WADA could review the rules and was committed to doing so if necessary, if it noticed that there was a need to improve or review the rules. It was something that was anticipated, especially by the athletes. It was a very innovative and anticipated solution. From his perspective, it would be very good to adopt it and confirm it then and there. He therefore proposed putting that item of the agenda to the vote. There were 13 people eligible to vote. He asked them to raise their hands if they were in favour of approving a new annex K to the International Standard for Testing and Investigations to come into effect on 1 January 2023, in addition to approving minor modifications to annex B of the ISTI. 12 members had voted in favour of approving the new Annex K and there was one vote against. That meant that annex K of the ISTI would come into effect on 1 January 2023, with minor modifications to annex B, so those two proposals were approved. He thanked the members very much.

## DECISION

Proposed modifications to the ISTI approved.

### - **10.3 International Standard for Code Compliance by Signatories**

MR HAYNES announced that he would provide an update to the Executive Committee on the proposed approach for the revision of the ISCCS following the stakeholder consultation process that had taken place earlier that year. First, he wished to thank those stakeholders who had taken the time to provide their feedback. It had been possible to find consensus on most amendments. However, one new concept, that of historic cases, had proven to be problematic in that it would require a change in the philosophy of the ISCCS. As the members knew, the ISCCS had proved to be very effective in dealing with current existing non-conformities and focused on addressing those non-conformities through the different steps detailed in the compliance standard, with non-compliance always a last resort. The notion of historic cases, however, focused on non-conformities identified

in the present but that had occurred in the past and therefore might not be corrected. Those issues often arose from investigations and it was important that WADA, as a credible regulator, have a mechanism to deal with such cases. As a result, it had been felt by some stakeholders and agreed by the drafting team that the procedure to deal with historic cases would sit better in the Code rather than the compliance standard.

The proposal was therefore to present the Code with limited article amendments together with the latest ISCCS to stakeholder consultation in early 2023 and then present final amendments to both documents to the Executive Committee in May 2023. Just to be clear and linked to some of the previous comments made earlier, any changes made to the Code on historic cases would be very limited and would certainly not require any changes to national legislation.

MR IDE said that non-conformity cases should be dealt with based on the rules in the Code that were valid when such non-conformity had occurred and, from the perspective of legal stability, the rules currently effective should not be applied to cases retroactively. WADA's limited resources should be invested in investigation and research to prevent future doping cases, not to impose sanctions against past non-conformity cases.

MR SANDFORD said that he looked forward to future consultation on the matter. It was a topic that athletes had often found frustrating since they were held as athletes to a standard whereby their samples were held in storage for up to 10 years, whereas an ADO might have been non-compliant in the past but that non-compliance might have slipped through the gaps for various reasons. There was currently no process to hold that organisation to account for that non-compliance in the past. He applauded the effort that would go into that work so that athletes could have faith that non-conformities or non-compliance in the past would be addressed in some way. He looked forward to that process because there had been frustration on the part of athletes that athletes were held to a higher standard than organisations and any work to address that was good.

MR HAYNES echoed Mr Sandford's sentiment. That was basically the foundation of why WADA was trying to deal with that gap in the system of dealing with those historical cases. He took on board the comments by the minister from Japan, and he thought that the matter could be fleshed out more during the consultation process.

## DECISION

ISCCS update noted.

### **11. Other business/future meetings**

THE CHAIRMAN asked the members, before concluding that day's meeting, if they had any other issues that they would like to raise.

Regarding future meetings, in May the following year, the Executive Committee would meet again in Montreal. WADA was seeking hosts for its September and November meetings. He hoped that all members, regardless of their location, had found that meeting very fruitful. He thanked them very much for their engagement and participation. Of course, he was looking forward to seeing most of them at the Foundation Board meeting the following day. If there were any questions overnight, members should not hesitate to send an e-mail so that he could be certain to address the matter at the Foundation Board meeting or directly back to the members at the end. He thanked the WADA staff for planning and supporting the conduct of that hybrid meeting. He also thanked the interpreters for their hard work.

## DECISION

Executive Committee – 9 May 2023, Montreal, Canada, TBC;  
Executive Committee – September 2023, TBC;  
Executive Committee – 16 November 2023, TBC;  
Foundation Board – 17 November 2023, TBC.

The meeting adjourned at 13.00.

FOR APPROVAL

MR WITOLD BAŃKA  
PRESIDENT AND CHAIRMAN OF WADA

MR OLIVIER NIGGLI  
DIRECTOR GENERAL AND RECORDING SECRETARY