

**Minutes of the WADA Executive Committee Meeting
15 May 2019, Montreal, Canada**

[Between 7:00 and 10:15 a.m. the Executive Committee held a separate meeting to address the Covington Report. This report had considered in detail, the accusations made by Washington USA Lawyers acting on behalf of Beckie Scott and Edwin Moses on the allegation that bullying had taken place. This meeting was held in camera and was not recorded. The report has been published in full on WADA website.]

The meeting began at 10:40 a.m.

1. Welcome, roll call and observers

THE CHAIRMAN welcomed the members to the WADA Executive Committee meeting. He expressed the hope that that would be the shorter of the two sessions that the members had ahead of them.

He was particularly grateful to those members of the Executive Committee who had come in earlier that morning to do a very specific job. He asked Mr Niggli to summarise what had happened at that meeting.

THE DIRECTOR GENERAL reported on the conclusions of that morning's meeting. There had been a three-hour session, at the end of which, following discussion, the Executive Committee had unanimously approved the report that had been tabled; that the report would be fully published on the WADA website with all of its annexes at the end of that day, after the meeting of the Executive Committee; that the recording of the Seychelles meeting would be put online for people to listen to if they wished; that the various recommendations in the report would be put on the agenda of the September Executive Committee meeting for discussion and to see how they could be implemented; that, as far as the Executive Committee was concerned, the matter was closed; that, the following day, there would be a report at the Foundation Board meeting from Covington and a limited period of time allocated for questions on the matter. That had been the outcome of that morning's meeting.

THE CHAIRMAN thanked the Director General and said that he was particularly grateful to the members of the Executive Committee for doing what they had done.

As the members were aware, the public authorities had had a long meeting the previous day and, within their own systems and according to the decisions and processes they had agreed upon, they had elected Mr Baňka as the sole candidate under the rotation system for the next presidency of WADA. He congratulated Mr Baňka on his appointment and wished him every success. He also wished to pay tribute to Mr Díaz, to whom he had spoken at breakfast the previous day, and he thought he could congratulate both candidates, as there had never been a contested situation like that before for the public authorities, and the quality of their prospectuses and the way in which they had conducted themselves during their campaign had brought a great deal of credit to the organisation they had served so well, so he offered them both his congratulations.

MR BAŇKA thanked his colleagues; it was a huge honour and opportunity for him, and he appreciated it. He thanked Mr Díaz for a very good, fair and interesting campaign. Mr Díaz was a great person and he hoped that they would continue to cooperate to make WADA stronger.

MR DÍAZ announced that not only would the public authorities be supporting the next president of WADA, but they also hoped that everybody present would support him. He would make sure that Mr Baňka was supported and he was certain that he would be a very good president.

THE CHAIRMAN introduced and welcomed to his first meeting of the Executive Committee Mr De Vos, the President of the FEI. There was a new member, the new president of CADE, Ms Sotomayor, although she was not available and was being represented by Mr Díaz. Mr Godkin represented his minister in Australia. Mr Shepande was representing Ms El Fadil, who could not be with the Executive Committee that day, and Ms Terho was representing Ms Barteková.

MR GODKIN noted that there was a general election being held that weekend in Australia, so he was operating under the caretaker conventions at that meeting.

The following members attended the meeting: Sir Craig Reddie, President and Chairman of WADA; Ms Linda Hofstad Helleland, Vice-President of WADA, Member of Parliament, Norway; Ms Beckie Scott, Chair of the WADA Athlete Committee; Mr Francesco Ricci Bitti, Chair of the WADA Finance and Administration Committee, President of ASOIF; Professor Ugur Erdener, Chair of the Health, Medical and Research Committee, IOC Vice President, President of World Archery; Mr Jiri Kejval, IOC Member, President, National Olympic Committee, Czech Republic; Mr Ingmar De Vos, IOC Member, FEI President; Ms Emma Terho, representing Ms Danka Barteková, IOC Member and Member of the IOC Athletes' Commission; Mr Witold Bańka, Minister of Sport and Tourism, Poland; Mr Machacha Shepande, representing Ms Amira El Fadil, Commissioner for Social Affairs, African Union; Mr Marcos Díaz, representing Ms Andrea Sotomayor, CADE President, Ecuador; Ms Tomoko Ukishima, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Andrew Godkin, representing Ms Bridget McKenzie, Minister for Sport, Australia; Mr Jonathan Taylor, Chair of the WADA Compliance Review Committee, Partner, Bird & Bird LLP; Mr Olivier Niggli, Director General, WADA; Ms Catherine MacLean, Education and Communications Director, WADA; Mr Tom May, Program Development and NADO/RADO Relations Director, WADA; Dr Olivier Rabin, Science and International Partnerships Director, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr René Bouchard, Government Relations Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Mr Sébastien Gillot, Director, WADA European Office and IF Relations; Ms Maria José Pesce Cutri, Latin American Regional Office Director, WADA; Mr Rodney Swigelaar, African Regional Office Director, WADA; Mr Kazuhiro Hayashi, Asian/Oceanian Regional Office Director, WADA; and Mr Frédéric Donzé, Chief Operating Officer, WADA.

The following observers signed the roll call: Richard Young, Darren Mullaly, Clayton Cosgrove, Rafal Piechota, Fukuei Saito, Philippe Gueisbuhler, Hannah Grossenbacher, Michael Vesper, Jan Aage Fjörtoft, Rune Andersen, Richard Budgett, Anne Van Ysendyck, Andrew Ryan, Andrew Parsons, Hirokazu Kumekawa, Gabriella Battaini-Dragoni, Michael Gottlieb, Joe Van Ryn, Sergey Khrychikov, François Kaiser, Ben Sandford, Shin Asakawa, Ichiro Kono, Eva Bruusgaard, An Vermeersch, Joanna Zukowska-Easton and Hubert Dziudzik.

– **1.1 Disclosures of conflicts of interest**

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

2. Minutes of the previous meetings on 14 November 2018 in Baku, Azerbaijan and 22 January 2019 by teleconference

THE CHAIRMAN drew the members' attention to the minutes of the previous meeting on 14 November in Baku and the teleconference held on 22 January, circulated to them on 29 March. Requests had come in from Japan and New Zealand for minor alterations to the minutes, and those had been circulated. With those alterations included, were the members happy that they represented a true record of what had happened at those meetings?

DECISION

Minutes of the meeting of the Executive Committee on 14 November 2018 and 22 January 2019 approved and duly signed.

3. Director General's report

THE DIRECTOR GENERAL said that he would try to be relatively brief, as there was a heavy agenda. He would highlight a few points and then a number of items would be dealt with separately later on during the meeting.

In relation to Russia, there would be an in-depth report later on from Mr Younger and the Chair of the Compliance Review Committee, but he highlighted the fact that, as the members might have seen from the press releases, WADA had received or recovered the samples from the Moscow laboratory. They had been transferred to the Lausanne laboratory, where they were being stored and would be available for retesting. That was very good news, showing that the second condition of the road map had been fulfilled and that we were moving forward. The members would hear all about where WADA was and how it was going and how result management would be able to start later on.

The other important point in his report had to do with the International Mixed Martial Arts Federation. It was a relatively urgent plea to the Executive Committee to have a discussion among the stakeholders (from the sport movement and the governments) on how to deal with the requests being received for new signatories to the Code, because that example highlighted that the current system was problematic, also for WADA. The situation regarding the Mixed Martial Arts Federation was that it had asked to become a signatory to the Code and had asked to become a member of GAISF. It had been denied membership of GAISF; consequently, WADA had had to refuse its request to become a signatory to the Code, because that was the rule that it had in place, and WADA was currently being sued in Switzerland by the federation for refusing to admit it as a signatory whilst it claimed that it had all of the necessary anti-doping rules in force. WADA's decision was dependent on a GAISF decision and was not really a WADA decision. It was important to have a discussion on that to see how to revise the system, and it was even more important because, in the revised Code that would be entering into force, WADA was saying that there would be a policy in place to deal with such matters, and WADA needed to start working on that policy so that, by 1 January 2021, it would be in place when the revised Code entered into force. What he sought that day was an agreement that WADA would establish a small working group to deal with that.

He highlighted the annual symposium held in Lausanne in March. It had been a very successful symposium; once again, there had been a record number of participants, over 900, and he thanked the WADA staff in particular, because it was a huge effort every year and it had really been a big success. The focus that year had been on the Code and the Standards, which was obviously the most important topic in the lead-up to the World Conference on Doping in Sport in November, and the feedback received from the various sessions there had been very helpful in terms of drafting the various documents and progressing them. In parallel, there had also been a one-and-a-half day session dedicated to the athletes, and he thought that that had also been a good session, and the members would hear more about that later on in the report from the athletes. The following year, the symposium would take place from 17-19 March, again in Lausanne.

Shortly after the WADA symposium, the IOC athletes' forum had been held in Lausanne, and WADA had also been present. He highlighted the fact that there had been 350 athletes present, and WADA had been significantly involved. It had participated in panels and it had also had an outreach booth, providing a great opportunity to interact with many athletes from around the world. The feedback received during that event had been very positive. There had been very supportive comments from the athletes there about the work WADA was doing and he had been very pleased with the opportunity afforded to WADA by the IOC at its forum.

There was a list of strategic priorities in his report under which WADA was operating and which were revised regularly. The strategic plan would be discussed later, but the members would see the current strategic priorities in his report.

MR DE VOS said that it was his first meeting. He had not expected to have to take the floor so early, and he apologised for that. English was not his mother tongue, but he would do his best. It had been a very interesting exercise receiving over 1,500 pages of documentation and trying to read it. As a representative of GAISF, he noted that GAISF had been somewhat surprised to read about the issue concerning it in the Director General's report, especially the reference to the policies supposedly adopted by WADA. He had understood that, in November 2017, there had already been such a policy approved by the Executive Committee, and November 2017 was relatively recent. He believed that it was primarily a sport issue to be dealt with by the Olympic Movement in the first instance. He was, of course, open to discussing the matter in a transparent way, but he also thought it would be necessary to question whether a new policy was really needed when there was already one in place. Secondly, it was not because somebody attacked WADA in court that all of a sudden it needed to change all its rules and policies.

THE DIRECTOR GENERAL responded that, obviously, there was a policy in place, but he was not sure it was accurate to say that it was only (or primarily) a sport issue, because both sides were involved in WADA and the reality was that the policy had been established to try to accommodate as best as possible the needs of sports, and he understood the challenges for members such as GAISF, but the fact that WADA was being sued changed things somewhat, not only because WADA being sued, but also because, depending on the decision, everybody could be forced to change; so, rather than have the court impose something on WADA, it had been thought that it would probably be better to start engaging each other beforehand in a constructive fashion to try to solve the matter. The policy might stay the same, but there should at least be a discussion.

MR RICCI BITTI supported what Mr De Vos had said. It was obviously a very special case and he was ready to cooperate with the working group to look at the matter again, but he referred to recent history by way of an example (and he could give an example from his sport in 2005). There were two examples in sports such as cycling and tennis whereby the federation had been asked by the professional organisation to be the only signatory. That had worked very well. WADA had intended

to have many more signatories. The system that had been protected, perhaps the only system, was working very well, and was much more controlled in terms of activities and anti-doping programmes, and that was why he was very reluctant to change his position, because the positive examples of the system were much greater than that relating to the Mixed Martial Arts Federation.

THE CHAIRMAN understood all that, but the point he was more interested in was what the Director General was saying, which was that, if a Swiss court imposed a system on WADA and on sport, it might be better to be seen to be trying to resolve that situation beforehand. Were the members happy that WADA try, having taken note? He thanked the members for agreeing to let WADA try.

DECISION

WADA Management to convene discussions
with sport on the policy on Code
Signatories.

Director General's report noted.

– **3.1 Sherbrooke University academic chair/anti-doping curriculum programme**

THE DIRECTOR GENERAL said that WADA had been approached some months previously by Sherbrooke University to have a partnership in anti-doping through the establishment of an anti-doping chair program. It had been deemed to be an interesting project with a lot of potential. The proposal was before the members for their consideration. There would be a presentation the following day from the dean of the university. The university had a number of interesting features, but one of the things he had particularly liked was that, as part of the regular curriculum, there was cross-disciplinary teaching; in other words, engineers were taught about law, law students were taught about medicine, and so on. There was already that cross-fertilisation, which was exactly what existed in the field of anti-doping, which required a range of skills. It had been considered a good fit with WADA. He asked Mr Bouchard who had been leading the proposed project from WADA to provide the members with more details.

MR BOUCHARD provided a short summary of the proposal from Sherbrooke University. The proposal was to approve a partnership and an investment of 200,000 dollars a year for five years.

Sherbrooke University was a very solid organisation, ranking very well in Canada and North America among the different universities. It offered about 400 programmes, had 35,000 students from 90 countries, managed research centres and had 74 research chairs. It was recognised as being very entrepreneurial and as training students who would be operational on the labour market very quickly. It had a very good reputation. Sherbrooke University had approached WADA in the context of the renewal of the WADA headquarters in Montreal until 2031. The university had gone to WADA with its proposal, which was to create an applied research chair together with a graduate research programme in anti-doping. Also, the proposal was designed to create strong partnerships with other institutions worldwide. There was already an agreement in place with the University of Lausanne and other partnerships would be pursued. Looking at the proposal, there would be a dedicated PhD professor, and then a minimum of two post-doctoral staff working on anti-doping, and then there would be a range of other staff who would also be in a position to contribute. The university would establish an international network of researchers and WADA would take part in determining the research themes on an annual basis. The members would see examples in their packages. The management had thought they were good themes but, if the members felt strongly about other themes, they should note that the research list was only a preliminary one.

In terms of the training component, the goal was to train about 15 to 30 students per course in the field of anti-doping, therefore to train executives from the public, private and anti-doping sectors, people from NADOs, IFs and governments who wanted a career in anti-doping or were interested or already active in the field. The idea was to ensure that the students would be operational quickly. It would be offered to students from around the world, and that was very important. It was not a programme designed for Canadians only; it was designed for students from around the world, including Africa, Latin America and Asia, and he knew that there were issues there in terms of training and changes of personnel. Every time there were gatherings of ministers, that was one of the issues that popped up: education, training and building capacity, so the programme would be offered worldwide. As to the type of learning, it would be blended, on site and online, with focused weekends for special courses. Funding opportunities would be pursued by the university to bring students from different parts of the world to Montreal. The campus was in Montreal, about ten minutes from the WADA head office.

The staff would start the research activity in June 2019 and, in September 2019, the work of the chair would begin; then, in September 2020, the education programme would begin.

The benefits for WADA would include access to a full dedicated team of researchers, the creation of an international network of researchers, pooling existing research in the area of anti-doping and leveraging WADA investment. Sherbrooke University had made a commitment to invest the same amount as WADA (200,000 US dollars a year for five years). The public and private sectors would be contributing. Twelve companies in the greater Montreal area had been approached to provide financial investment, and the objective was to raise four to five million dollars. A comprehensive training programme would be offered to students from all around the world. He thought that there would be synergy between the WADA head office and the nearby campus. He could see employees who were experts in their field contributing to the teaching corps, and could also see some of the members of the standing committees, when they had meetings in Montreal, going to the university to give lectures. For WADA, there would be a pool of students trained, which was quite a benefit. It would help the overall system and help build capacity in those parts of the world in which there was a need to do so.

MR DÍAZ thanked Mr Bouchard. After consultation amongst themselves, the public authorities wanted to support the proposal made that day and welcomed opening WADA up to a relationship with the academic world, hopefully leading to future agreements and partnerships with other universities from around the world.

MR BAŇKA supported the proposal submitted by the university, but requested clarification as to the general process on how to deal with similar requests from other universities, for instance, from Europe, and suggested that WADA consider developing a general policy on WADA partnerships with universities. He raised the issue of a potential conflict of interest with the companies funding the programme proposed by the university.

PROFESSOR ERDENER responded to Mr Baňka's comment. During his report, he would inform the members about some links with various universities.

THE DIRECTOR GENERAL responded to Mr Baňka, clarifying that the idea was really that the programme would be open to associations with other universities in Europe. There had already been contact with the University of Lausanne in Europe, for example, which had an anti-doping programme. The idea was to get synergies and so on. WADA had been approached by the university, and there were people who were motivated about doing something, which he believed was good for anti-doping. It had not been as if there was an existing process; rather, it had been deemed a very good opportunity for the fight against doping in sport, but there was clearly no exclusivity and WADA would be open to any other programme with an interest in anti-doping.

MR BOUCHARD added that WADA had insisted a great deal on the need for Sherbrooke University to make sure that it worked with other universities already active in the field. WADA saw Sherbrooke University as creating a university hub, partnering with those in the different areas so as to gather all the content, knowledge and expertise possible. On the issue of conflict of interest, in relation to the companies approached thus far, there was no obvious conflict of interest, but WADA would clearly establish a policy in order to make sure that there was no conflict of interest and the university would, of course, become a research centre and its views would be presented and not those of the companies investing in the project, so WADA would ensure that the item was covered.

MR SHEPANDE said that Africa supported the initiative, in particular the opportunity to have contributions from satellite universities in the various regions.

THE CHAIRMAN asked whether, on that basis, with the assurance that it would not be an exclusive arrangement, and with the assurance that WADA's interests would be protected in the way in which Mr Bouchard had mentioned, the members were happy to proceed and make the recommendation to the Foundation Board the following day.

DECISION

Proposal on Sherbrooke University academic chair/anti-doping curriculum programme supported for submission to the Foundation Board.

– 3.2 Strategic plan development/approach

THE DIRECTOR GENERAL said that there had already been a discussion at the two previous Executive Committee meetings about WADA engaging in a strategic plan review, and the current strategic plan would in fact be coming to an end at the end of that year. Nevertheless, he had to insist that the discussion had not been only about a strategic plan; it had also been agreed that WADA would carry out a gap analysis of its work, including stakeholder consultation to see whether WADA was missing some key elements in its activities and priorities, and that required relatively broad consultation, so the plan and the offer were linked to the overall mandate, which was not

simply to list the strategic priorities of WADA but also to get the appropriate feedback. He did not think that WADA was equipped to do the consultation in-house and bring back the suggestions and proposals, hence the proposal to engage outside help. He had been hoping that WADA would be able to go with the Boston Consulting Group, because WADA had previous experience with that firm, but the previous time it had worked pro bono. When discussing the project with the firm, its quote had clearly been way beyond WADA's financial resources, so WADA had looked for alternative solutions, one of which had been a firm recommended by BCG but which was more independent, with the potential involvement of somebody from BCG at some stage in the process, and the other had been PricewaterhouseCoopers, with which WADA had worked in the past, in particular when the feasibility of the ITA was being looked at. He was putting forward a recommendation for PricewaterhouseCoopers because it was believed that PricewaterhouseCoopers could do the job well, and also because it did not require bringing together different companies, which would probably make things smoother in terms of the work. That was the situation. The proposal was before the members, and he looked forward to hearing from them about it.

PROFESSOR ERDENER said that the Olympic Movement supported the recommendation to mandate PricewaterhouseCoopers to conduct the process. Of course, there would be a new president that year representing the public authorities, and it would be necessary to support some new ideas coming from the new president.

MR DÍAZ spoke on behalf of the public authorities to say that, after consultation, they believed that the strategic plan should start in-house, with the management, and should involve, as Professor Erdener had said, the forthcoming president and his team presenting views and proposals. The public authorities were concerned about hiring an agency for that task, and thought that WADA should consider perhaps hiring an advisor who could give guidance on the process.

THE DIRECTOR GENERAL responded that the future president would of course be involved in the process. There was no question about that. It would be a question of timing. Going back to what he had said before, the management would be involved, and in fact a five-year plan had been produced the previous year and there was a list of strategic priorities. If the members wanted the management to conduct the gap analysis and reach out to WADA's stakeholders, it would need the support of something that was bigger; otherwise, there could be a local consultant to help frame a document that encompassed the strategic priorities, which was what had been done in the past, but the work would be more limited in terms of what WADA was trying to achieve. He would be happy to have a conversation with Mr Baňka to see how he would prefer to proceed. Again, it was a matter of timing. How urgent was it for the Executive Committee? It was up to the Executive Committee to decide how it wanted to proceed.

MR DÍAZ noted that the proposal to explore the possibility of having an advisor had cost implications.

THE CHAIRMAN responded that he understood that, but it was the cost of doing it in-house, which removed the members of staff from many other things that they needed to be doing, as opposed to the cost of bringing in outside expertise. When asked to do a complete review of everything that WADA had been through, in particular with the friends from Moscow, everybody had decided to do a gap analysis and that was a much bigger job than just handing it to the management, and his view was that a much better return would be achieved by getting an outside firm to come in and look hard at what WADA should be doing. On that basis, he was happy that the members supported the management's idea in principle. The management could by all means talk to Mr Baňka and obviously seek to keep costs at the most affordable level. That was something that WADA had said it would do and he was very reluctant to turn around and say that WADA would not do it.

MR RICCI BITTI suggested that the Executive Committee support the proposal. To gain time, perhaps the management could start analysing the options and the costs, and could come back the next time with some more precise information. That would be a good compromise to avoid wasting time.

THE DIRECTOR GENERAL said that the costs were there and the offer was there. Was the proposal to renegotiate that? He thought that WADA could discuss how to adjust the proposed timing, but the costs were there. He could possibly seek from PricewaterhouseCoopers if there were room to save on any costs, but he was not sure.

MR RICCI BITTI believed that his proposal had been to gain time; it had been a sort of compromise. He thought that everybody agreed.

THE DIRECTOR GENERAL said that he had read somewhere about a conflict of interest because PricewaterhouseCoopers was WADA's auditors. He pointed out that there were different branches of the company, and the consulting firm was not the auditing firm, so there was no conflict.

THE CHAIRMAN asked if the members were happy with that proposal. He thanked the members and concluded that management would proceed on that basis.

DECISION

Strategic plan development/approach
proposal approved.

– **3.3 World Conference on Doping in Sport 2019 – programme**

THE DIRECTOR GENERAL said that the draft programme had been put in place for the World Conference on Doping in Sport and the idea was to see whether the Executive Committee was satisfied with what was being proposed in terms of the organisation of the conference. The format was very similar to that of previous editions of the conference, allowing for a presentation of the revised Code and standards, an opportunity for brief interventions by all stakeholders, a discussion on the standards in separate parallel break-out sessions, the formal adoption of the revised Code by the Foundation Board, the adoption of the revised standards by the Executive Committee and then a conference resolution. The programme was there and he would be happy to take comments from the members on that. It was a draft, and there might be small adjustments required in terms of logistics and so on, but that was the proposed framework.

THE CHAIRMAN remarked that those members who were long enough in the tooth would remember the world conferences, and there was, quite clearly, a method of doing them, because it was really important that, as far as the Code was concerned, the consultation phase finish properly and give people the opportunity to comment. It was even more complicated that year with the standards, because he could not remember ever having to do so many standards. It was a huge undertaking and it was well under way. That was the format that would be adopted to give the maximum number of people who would be attending the opportunity to speak. Were the members happy with it?

DECISION

Proposed World Conference on Doping in
Sport programme approved.

4. Operations/management

– **4.1 Endorsement of Foundation Board composition for Swiss authorities**

THE CHAIRMAN said that, as a foundation under Swiss law, WADA was obliged to submit the composition of the Executive Committee and Foundation Board to the Swiss authorities. The list was before the members. Were they happy that it be sent off to Bern?

DECISION

Proposed Foundation Board composition
endorsed to be presented for Board
approval.

5. Governance reforms

– **5.1 Implementation plan**

THE DIRECTOR GENERAL told the members that they would be given a number of presentations on the topic. In particular, they would be hearing from François Kaiser, an attorney in Lausanne, on the proposed legal documents and revision of the documents. Before that, however, he wanted to take the members through the proposed timelines. There had been some discussion leading up to the meeting in February and March about the various timelines. The members had before them a document that sought to encapsulate all the different timelines, but it was not that easy to follow, so he would try to simplify it with his presentation. There would be two main things to deal with: the revision of the legal documents, the statutes and associated documents, and the creation of an inaugural Nominations Committee, which would be a key piece in everything that WADA would be doing. For the statutes, which the members had in their files, there would be a period of consultation until the end of June to provide comments, followed by a revision so that, at the Executive Committee meeting in September, there would be a revised draft, which should be almost the final version of the statutes, to be adopted in November during the World Conference on Doping in Sport in Katowice.

For the Nominations Committee, the members could see that it would be central to a lot of what WADA was trying to do, because it would have an impact on many things. There was a dotted line

for the president and vice-president, because it would not be applying to that election, but it would be the case in the future. Otherwise, it would clearly have an impact, in particular on the standing committees and so on, so that was why it was necessary to get moving with the Nominations Committee. Looking at the timeline for the Nominations Committee, the idea was to decide on an external agency to identify independent members to be on the Nominations Committee. There would also be a call for nominees from the public authorities and the sport movement to be members of the Nominations Committee and, once the agency had been appointed, it would develop clear profiles for the independent members on it, including the chairman. Once developed, the profiles would be submitted to the Executive Committee to make sure that it was comfortable with them. The initial agency would also look into the proposed members from the public authorities and sport movement over the summer so that, at the meeting in September, there would be a proposed Nominations Committee with proposed names to be voted on by the Executive Committee. Once appointed, the Nominations Committee could start its work, and it would develop the criteria for assessing and vetting the standing committee chairs between September and November. In parallel, there would be a call for proposals for the chairs. In November, the Nominations Committee would start its work to vet the potential candidates to be chairs of the standing committees. The composition of the Executive Committee would be known after the meeting in November, so the Nominations Committee would be able to start its work mapping the Executive Committee skills to come forward with a profile for the independent members for nomination at the Executive Committee meeting in May the following year. The Nominations Committee would make its recommendation to the Executive Committee at the extraordinary meeting in January to appoint the standing committee chairs, and it would also provide an opportunity for the Nominations Committee to present the skills mapping exercise so as to agree on the profile of the independent members to be looked at for formal nomination in May, when the Foundation Board would approve the two independent members. There was not much time and the Nominations Committee had to be set up, otherwise everything would be held up.

For the standing committees, between then and September, the terms of reference would be looked at so that draft terms of reference would be on the table in September for approval by the Executive Committee. The terms of reference would obviously be important for the Nominations Committee, which would then have to vet the proposed chairs. The call for proposals would run from September to November, after which the Nominations Committee would carry out a review, and there would be a subsequent decision in January. For the Compliance Review Committee, the situation would be different, because the Nominations Committee would carry out a search for its chair and the independent members. The Athlete Committee would have an opportunity to review the candidates proposed and make recommendations. All that should be finalised in January 2020 at the extraordinary Executive Committee meeting. After the standing committee chairs were nominated in January, the composition of the standing committees should be finalised as soon as possible so that they could start their work.

For the Executive Committee, the usual process of looking at who would be nominated to the Executive Committee in November would start in September. After that, there would be a skills mapping exercise by the Nominations Committee and the Executive Committee would have to endorse the proposal of the profile of the independent members, then there would be a period of time during which independent members could be proposed by the public authorities and sport movement, and final approval would be sought by the Executive Committee in May 2020.

There was a lot of information and it was not particularly easy to follow; but, if WADA did that, all the reforms would fall into place early the following year, the legislation would be approved in November and would therefore be in sync so that WADA would be operating under the new rules as of January. That was what was being suggested to the members in terms of timelines and he sought the approval of the Executive Committee to be able to meet the various deadlines.

THE CHAIRMAN said that a number of members would remember that observations had been made that the timeline was too short. It had actually been extended; but, if WADA was going to make it work, there was a certain timeline to be adhered to.

MR DÍAZ said that the public authorities were fully supportive of the governance reforms endorsed the previous year by the Foundation Board in Baku and wished to support the plan proposed by the Director General. They believed it would be wrong to delay the implementation of the reform process. The first stage in the process was the appointment of the Nominations Committee, and the public authorities had noted that, in that regard, some amendments needed to be made to have the document in line with the proposal and the package approved. The public authorities had been writing the amendments in coordination with the sport movement and were ready to approve the document.

MR DE VOS sought confirmation of the fact that, since the sport movement was still assessing the documents, it still had the possibility to provide further comments to the next Executive

Committee meeting on the governance and statutory reforms. He sought confirmation of that. The comments he made that day were not necessarily final comments.

On behalf of the Olympic Movement, it would be interesting to find out about the cost or the effect from a financial point of view of the new committees and also the consultancy and the timelines. It would be useful to find out the long-term financial impact of the new structures.

In relation to the Nominations Committee, that morning, there had been consultation between the public authorities and the Olympic Movement and they had agreed on a number of amendments (under 5.3.1). Before approving the timeline, it might be a good idea to first approve the Nominations Committee regulations so that they were clear, and then agree on the further timeline, which would then be incorporated.

MS SCOTT asked about the selection of the Athlete Committee chair, because the Athlete Committee had understood that the call for nominations would go through the Nominations Committee, at which point candidates vetted would go to the Athlete Committee and it would select the chair. From that proposal, it seemed that the process was reversed and the nominations would be going to the Athlete Committee, which would be selecting somebody to go to the Nominations Committee. Was there a reason for that?

MR GODKIN said that he did not want his comments to cut across any consideration related to the changes, but he questioned the wisdom of the skills mapping exercise on the basis that there was a diversity of skills and qualifications and capabilities around the table, but the members did not bring those technical skills to the meetings: they were there in a representational capacity and, if WADA was going to be selecting individual independent members on the basis of some kind of skills mapping, that might bring about some strange outcomes, so he wondered about the basis for the skills mapping exercise given the particular roles and functions of the members. The vetting of members was something that WADA had sought to clarify, and there had been some clarification on what the vetting would be, in particular for ministers, etc. There were concerns about the wording in relation to the requirement to divest people of conflicts of interest at the time of application. Certainly, at the time of taking up office, it was clear, but would that not have the effect of deterring candidates if they had to divest themselves simply to express an interest? He thought that that needed to be sorted out.

In terms of the Executive Committee meeting in January, he supported that, but wanted to be mindful of the impost on many members in terms of making another meeting during the year.

Lastly, in relation to confidentiality clauses in the documents, they were completely appropriate, but he would not want any of those to unnecessarily restrict due consultation within regions and the sport movement, so it was necessary to be very clear about what was meant by confidentiality provisions.

THE DIRECTOR GENERAL responded to Mr Díaz. That would be part of a later point on the agenda. He did not see an issue with that. That would probably also answer some of the questions raised by Mr Godkin.

He was asking the Executive Committee to agree on the timing, and he did not want to restrict the Executive Committee members when it came to making comments further down the road. There would be a consultation period until the end of June to comment on the legal texts and so on. As to the cost of the Nominations Committee, he would try to assess that long-term. It had been difficult, because there was still no clear picture as to whether people would be involved on a voluntary basis or whether everybody would have to be paid. He was counting on the firm to be selected that day to help determine a reasonable level of compensation to attract good people to the Nominations Committee. The Nominations Committee was needed, so it would be necessary to find the resources for that.

In answer to Ms Scott, rather than having the Nominations Committee vetting a long list of people, some of whom might not be of interest, he would rather vet those who were being selected. The idea was that the Athlete Committee would make a few proposals, and then a few people could be vetted. It had seemed a more sensible idea to go first to the Athlete Committee and then to the Nominations Committee. He did not think it would change much for Ms Scott; but, if it did, he would be happy to discuss the matter.

As to the skills mapping exercise, the origin was that the feeling of the governance group had been that, if independent people were added to the table, WADA would want people who brought something new to the table, and the examples given had been a specialist in digital technology, an expert on fundraising, and so on, so the Executive Committee could decide that it was adding specific value to the table by adding the members. He did not know whether the exercise would be useful or not; perhaps it would have to be tried once to see if it brought the sought-after added value.

As to the remarks on conflicts of interest and confidentiality clauses, Mr Kaiser would take those on board. He understood that by asking people to give up their positions before having anything else clearly meant that good people might be lost. That would be factored into the text.

MR KEJVAL picked up on what Mr Díaz had mentioned in relation to money, referring to capital expenditure and operational expenditure. The Nominations Committee, the Athlete Committee and the whole process of governance reforms had been increasing the number of people. These would be included in future financial projections and he assumed that the members would be informed as to how much it would all cost.

THE DIRECTOR GENERAL totally agreed and said that, as soon as there was visibility and numbers, that would be done. Either way, it would have to be part of the budget. There would be two phases: set-up costs and then the projected long-term recurring costs.

THE CHAIRMAN stated that, regarding regulations for the Nominations Committee, it looked to him as if a group of people had been working to produce something with which everybody would be happy. If that was the case, did the Director General want to deal with that formally before having the timetable approved?

THE DIRECTOR GENERAL said that the regulations for the Nominations Committee were under 5.3.1 and he was not sure that they had a bearing on the timing. He would be happy to adopt them, although it would be necessary to have a legal person look at them to make sure that they were consistent with everything else.

THE CHAIRMAN asked if Mr De Vos would be happy to proceed on that basis: that, provided there were no legal problems arising from the change, the Executive Committee could actually approve the timetable and then come back and make sure that the draft regulations before the members were satisfactory.

MR DE VOS said that, since the paper had been agreed upon by the public authorities and the Olympic Movement, it should not be an issue and he would be happy for the legal details to be looked into to ensure that WADA was safe on that side.

THE CHAIRMAN concluded that the timetable was agreed upon.

Many pages had been distributed, and he fully understood that there had been a lot of work, but he complimented the management and the staff on the logical and sensible presentation of the documents.

DECISION

Proposed governance implementation plan approved.

– 5.2 Statute amendments and by-laws/regulations update

MR KAISER said that he had been asked by WADA to prepare a first draft of governance regulations and by-laws, and amendments to the statutes in order to implement the recommendations from the WADA Working Group on Governance Matters, so the work had in fact been limited to the recommendations made by the Working Group on Governance Matters. What he would be presenting did not include the suggestion made that day by the governments and the Olympic Movement because he had not had that when he had prepared the presentation; therefore, it would be necessary to adapt it.

To provide the scope and framework of the work, governance issues had been addressed in relation to the Foundation Board, the Executive Committee, the Director General and the management, and he had also addressed issues in relation to the standing committees, noting the specificity of the Compliance Review Committee and the Athlete Committee. He had also taken into consideration the Nominations Committee, the new body to be adopted, as well as the principle of the independent ethics board, as that had also been mentioned in the working group recommendations, without any specific recommendation made to that extent. For the time being, it was still a work in progress, but he had already drawn up the basic provisions.

As to the different categories of documents in the members' files, the members would see the statutes, which were in fact the constitution of the foundation governing the Foundation Board, the highest body of the foundation, which it was thought then needed to be implemented through regulations and by-laws, so in fact the concept was not to put too many things into the statutes but really to stick to the most important issues and find the basis for the next level of regulations. The next set of documents, the regulations, were slightly above the by-laws, and they set up the organisation of the management and the control of each concerned body in the foundation, and the delegation of competence and how that was organised in the institution. The by-laws were more

detailed rules to organise the governance of each of the bodies of the foundation, and helped regulate the affairs of the body itself.

In a very short period of time, to give a quick summary of the regulations, he would stick to certain points, but he would of course be willing to answer any questions afterwards. On the statutes, the main issue dealt with basically had to do with the term of the president and vice-president, two times three-year periods consecutive, the members, three times three-year periods consecutive, but with a maximum of 12 years in any capacity either as a Foundation Board or Executive Committee member. He had also dealt in more detail with the deputies, a position linked to the member, but there was an absolute limit of a maximum of 12 years, in any capacity within WADA, in operations or the board or any other bodies of the institution. On the Executive Committee level, the system of the chairman and vice-chairman being the president and vice-president of WADA had been kept. In relation to the members, there would be a two times three-year period consecutive, with a maximum of nine years altogether and the same system for the deputies, linked to the members, with the proposal that, in principle, there should be one deputy per year, the idea behind it being to make sure that the deputy attending the meetings for the year would have reference to what had been said at previous meetings and not have a new person attending each time instead of the member. Of course, having said that, that would be the principle, and there would be exceptions for situations requiring the presence of a different deputy at the meeting.

The principle of the independence of the Foundation Board and Executive Committee members had been introduced, and the same had been done for the ethics board. He had not yet gone into detail about how the ethics board would be organised, but that work would be done next.

In relation to the president and vice-president, he had been told that the alternation between the public authorities and the Olympic Movement had to be deleted. That did not mean that the principle that the agency was a joint effort of the Olympic Movement and the public authorities should not be reinstated. He had also kept the system whereby the president and vice-president would automatically be chairman and vice-chairman of the Executive Committee.

Provisions had been introduced in relation to the independent members to be appointed to the Executive Committee, which was the case in the current statutes. In relation to the majority for the decisions to be adopted by the various bodies of the agency, he had not changed the system, but had introduced the specification that the calculation of the votes cast would be by members present, but also only at the time of the vote, meaning that a member leaving the room before the vote, despite attending the meeting, would not be taken into account when calculating the majority.

He had also introduced the delegation of management to the Executive Committee by the Foundation Board because, under Swiss law, the Foundation Board was in charge of everything in the foundation including the management in principle, although in practice it was always delegated.

In relation to the regulations of the Foundation Board, the first issue was the level of independence. The working group had recommended adopting different types of independence depending on the various levels. In that regard, for the president and vice-president, stricter independence criteria had been applied following the recommendation, which meant not having a senior position in a governmental body or sporting institution, not receiving benefits from stakeholders whilst in office, and not having dependence on stakeholders such as seeking guidance or acting on behalf of the stakeholders. For the members of the Foundation Board, there would be only a general standard of independence as suggested by the working group, which meant being free from undue influence and keeping freedom of judgement when it came to taking decisions for the good state of WADA.

The regulations contained more detailed delegation of management to the Executive Committee. There had already been some provisions in the statutes, but it had been felt that it would be useful to have more development in the regulations, with the system of the appointment of the 10 ordinary members and the two independent members with independence criteria and a general standard of independence for all members except for the two independent members, who would have to meet the stricter independence criteria like the president and vice-president. The process for the appointment of the two independent members would involve vetting by the Nominations Committee.

In relation to the term of office, as he had said before, it would be three times three years consecutive, with no more than nine years altogether.

The final point had to do with indemnity for the chairman. It had been felt quite rightly by the working group that the amount of work, competence and skills required from the chair and president of WADA was such that it should be reasonable to provide for a certain remuneration. A maximum of 100,000 Swiss francs had been mentioned, and that would need to be decided upon by the members. It was a fairly sensitive issue, because that would also have to be submitted to the relevant Swiss federal authority for approval.

The by-laws in relation to the election of the president and vice-president of WADA (which were more or less what the members had seen in Baku) would become effective as of 1 January 2020, and they would not apply to the re-election of the president and vice-president in November. On the appointment and eligibility criteria, there was no basic change to what had already been seen, except that the stricter independence criteria would have to be met six months prior to taking office. The role of the Nominations Committee would be important in that respect, as it would have to review and vet all candidates except when dealing with the re-election of the president and vice-president, because the vetting would already have been done at the time of the election.

The by-laws also contained various procedural rules for the election. The Executive Committee would submit the dossiers of the candidates to the Foundation Board, with a recommendation to check whether or not the candidates fulfilled the criteria, and there would be an election process in the event of there being one or several candidates, in which case various voting rounds would take place. The by-laws also contained rules in relation to the conduct of the candidates during the candidacy to make sure that everything was fair and dealt with correctly.

He had spoken previously about independence. The working group recommendation had in fact been to try to apply different independence levels depending on the people involved in the agency. There would be some red flags, which would prevent people from becoming officials of WADA, and there would be some more general independence criteria applied to all officials. The general standard of independence would be expected of anybody serving WADA in any capacity, and it was basically to maintain freedom of judgement and not to be under influence when participating and fulfilling one's duty. The stricter independence criteria were to hold no position within the body of any stakeholder or receive any benefit in any form from any stakeholder and not to seek guidance on any decision to be taken from the stakeholders, and that was the normal practice in governance, at least in Switzerland.

In relation to the regulations of the Executive Committee (attachment three), there was nothing new. No quorum would be required for the meetings, which was important to note; otherwise, there would be the normal provisions in writing, so as to have proper regulations to follow in the event of any questions during meetings. The regulation also provided two principles in relation to the establishment of standing committees and the delegation of the management for day-to-day operations to the Director General and his or her management team, and the details were dealt with in specific by-laws.

The regulation of the Nominations Committee formed the core of that day's discussion. In relation to appointment, the members would be appointed by the Executive Committee after the vetting process, so it would be the Executive Committee's responsibility to appoint the Nominations Committee members. There would be two periods: first, the Nominations Committee would be approved and voted in September that year, and would undertake various aspects of their work, and then the second phase would start in May 2020 with the first permanent Nominations Committee. As to the inaugural committee, the idea had been to appoint an external agency, which would then recommend the chairman and independent members of the committee and vet all the other members. Two members would be nominated by the public authorities and the Olympic Movement (one each) and the term of office would be limited until May 2020, when the permanent committee would be established. That did not prevent the initial people from continuing to serve on the permanent committee, but they would have to go through the process again. The inaugural Nominations Committee would be in charge of recruiting and vetting the chair of the permanent Nominations Committee and then the Nominations Committee would vet the two independent members. The term of office would then be two times three years consecutive. As to the level of independence, the working group had suggested that the chairman and the two independent members would have to meet the stricter independence criteria in view of their importance and the importance of the Nominations Committee. The other members, as they would be coming from the stakeholders, would have to meet the requirements of the general standard of independence.

On decision-making, the recommendation from the working group had been to apply unanimity decisions, and that was why the draft before the members provided for that. Personally, he drew the members' attention to the fact that a unanimous decision was always dangerous, because it gave one person a veto right against all the others, but that was what had been recommended, so he had felt that he would not be allowed to change that recommendation, although it was something that the members ought to consider at some point in time.

The other important regulations were the by-laws on the standing committees, especially in relation to appointments. For the chairs, except for the Compliance Review Committee, the candidates would be vetted by the Nominations Committee but appointed by the Executive Committee. In relation to the chairman of the Compliance Review Committee, the Nominations Committee would also recruit and vet the candidates and the final nomination would be the task of the Executive Committee. There would also be a different system for the chair of the Athlete

Committee. Candidates would be proposed by the Athlete Committee, vetted and recommended by the Nominations Committee and appointed by the Executive Committee. For members of standing committees, with the exception of the Compliance Review Committee, the dossier would be discussed by the director general and the chairman of the Executive Committee and the chairman of the relevant committee to try and establish a list of the best candidates to be appointed to the committee. In that regard, there would be no involvement on the part of the Nominations Committee, as it had been felt that it would not be necessary to have the Nominations Committee involved at that level. For the members of the Compliance Review Committee, however, the Nominations Committee would have to recruit the additional two independent candidates and vet them, but they would also be appointed by the Executive Committee.

In relation to the level of independence for the chairs of the standing committees, also a key issue addressed by the working group, it had been felt that the general standard was sufficient, as they all came from sport or various backgrounds; however, the Compliance Review Committee was a bit more specific and was of great importance in WADA, and it had been felt that the chairman and independent members of the Compliance Review Committee would have to meet the stricter independence criteria. The by-laws did not go into detail in relation to how the standing committees would function. That would be the purpose of the terms of reference, which were already in place and would be reviewed shortly. The group had tried in that first draft to set up the minimum provisions required of the terms of reference to have a certain amount of harmonisation without losing the flexibility given to the standing committees to manage their own affairs.

As to the by-laws for the director general, the working group recommendation had not addressed the matter in detail, saying only that something should be done because there was nothing in writing; the only mention was in the statutes of the foundation, saying that the power to represent the agency lay with the signature of the director general and the president or any other member of the board. It had been felt that it was time to try and put in writing the basic rules on how the directorate-general and management team functioned. The rules had therefore been included in the members' files. One of the relevant issues was reporting, which was important, because a delegation under Swiss law required provisions on reporting, and in that case the director general would report directly to the chairman of the Executive Committee.

The final document was the conflict of interest policy. The current policy had been amended, and it provided examples and guidance as to what was and what was not a conflict of interest.

He would be happy to answer any questions.

MR BAŇKA informed the members that the CAHAMA would consider the proposed amendments and make proposals at the next Executive Committee meeting.

MR DE VOS congratulated the working group. The Olympic Movement had two comments. First, although it might be a bit sentimental, the Olympic Movement wanted to keep the reference in article 7 of the statutes to the fact that the Foundation Board was an equal partnership between the Olympic Movement and the public authorities, so he suggested keeping at least the first sentence in article 7 (*The Foundation Board is an equal partnership between the Olympic Movement and the public authorities.*) That was the first comment.

He was happy to learn that it was the intention to keep the statutes as broad as possible and have the detail in the by-laws and regulations; however, in article 6.9, in relation to the independent ethics board, there was already too much detail in the statutes, and he suggested having the text modified to read that *the Foundation Board may establish an independent ethics board and a code of ethics*, and then making references in the rules so as to not be bound by too many details in the statutes, and that could prove much more cost-effective.

MR RICCI BITTI seconded what his colleague had said. He thought that there was too much independence in that exercise. Independence was a very good concept but did not exist in truth, at least if it was not accompanied by another small word, which was *relative*. He thought that the first comment made by Mr De Vos was vital: the partnership between the Olympic Movement and the public authorities had been a very unique experience and, in spite of some difficulties, a very positive one. It had been unique and modern and, although there had been problems and difficult times, he believed that the principle should be retained. He also believed that the by-laws on the standing committees should not be too detailed, because they bound the organisation, and he believed it was necessary to be a bit more flexible. With the by-laws, it was necessary to be simple and mention only what was there. The detail should be in other documents. It was very dangerous to be very explicit on all the functions and composition of such committees.

MS SCOTT commented that the Athlete Committee would make a submission to have the adjustment made from the Nominations Committee to the Athlete Committee being the group that selected the chair versus the proposal, because that was what the Athlete Committee had been led

to believe, which was that all the candidates would go to the Nominations Committee and then to the Athlete Committee for selection, instead of the other way round, and she believed that that was the recommendation made by the WADA Working Group on Governance Matters that had been approved the previous year. The Athlete Committee would therefore be making a submission on that.

THE CHAIRMAN said that he would be happy to let Mr Kaiser respond, except that he knew that that was out for consultation and he would like to have comments clearly by 30 June that year. He took on board the comments heard and he was sure that they would be before whoever was producing the final document for approval.

MR KAISER said that he was fully aware of the fact that WADA was of an extraordinary nature, made up of the Olympic Movement and the governments. He knew the reason for such formation and the spirit behind it, and respected it. He fully agreed that the change should be made to maintain the description of it being an equal partnership between the Olympic Movement and the public authorities and that sentence would of course be reinstated in article 7.

In relation to the independent ethics board, he took the comment and thought it was perfectly justified: it was not necessary to go into detail saying how it would be appointed and so on in the statutes. That could be left for the regulations and a Code of Ethics. Nevertheless, he thought that there should definitely be an independent ethics board, as that had definitely been a recommendation made by the working group, but he agreed that it should be more simple.

In relation to the final comment on the Athlete Committee, the idea behind what had been chosen was that, if the Nominations Committee was put in front, with a large number of candidates, it would start to cost a lot in terms of assessment. The idea was to keep open as much as possible any athlete candidates from all over the world and, if one started to have the Nominations Committee involved at that stage, the work would be tremendous, hence the interpretation to make it more effective and less costly.

THE CHAIRMAN noted the excellent presentation, which clearly helped WADA to move on. Members would now have the opportunity to comment in detail so as to finalise the documentation and have a system and a set of papers to be considered again at the next meeting.

As to the Nominations Committee regulations that had been suggested, maybe there should be a brief comment and, if they were acceptable, fine.

THE DIRECTOR GENERAL said that he thought that the matter had been discussed. The Executive Committee had indicated its agreement to adopt the rules that had been tabled by members of the Public Authorities and Olympic Movement provided there was no legal impediment to them. If everybody agreed, he would be comfortable with that.

DECISION

Statute amendments and by-laws/regulations update noted.

Regulations of the Nominations Committee approved, subject to the proposed adjustments being verified by legal counsel.

– 5.3 Nominations Committee

5.3.1 Regulations of Nominations Committee

5.3.2 Selection of external agency to assist in the appointment of the inaugural Nominations Committee

THE CHAIRMAN said that the last piece on governance was crucial to the agency, as it had taken two years to get a working group to bring WADA to the current stage, and WADA actually had to move it on; otherwise, it would be in some difficulty.

THE DIRECTOR GENERAL noted that that was the topic on which there had been some discussion earlier in the year. The members had in their folders the various offers that WADA had received. The management had actually recommended the cheapest one, which was not cheap, but it was the cheapest. The proposed group, Korn Ferry, had done previous work with other organisations such as the IAAF and provided good quality services, and it seemed to have a fairly large network of people. The recommendation was to go with the agency and start the process discussed so as to move forward with the costs. He had been questioned why it was so expensive, and the answer was that it was probably a good business to be in. He did not have any answer. The other agencies had submitted quotes that were around double the price of that one. He was not going to justify their rates.

MR DE VOS reiterated the point made under 5.1 regarding the concerns about the high costs of such actions and asked whether there had been any negotiation on the fee. Had the management at least tried?

MR DÍAZ supported the less expensive option.

MR BAŃKA agreed wholeheartedly with his colleague.

THE CHAIRMAN said that his only knowledge of the agency was that, many years ago, when he had finished a job, his CV had been with that company and nothing had happened. There was no conflict of interest there, he could assure the members. He noted the concerns. It was a tough approach to go to an international business like that and say congratulations, it had been appointed and would hopefully do a terrific job, but that it would be appreciated if it would reduce its fee by 50%. However, WADA could always appoint the agency and try to negotiate.

THE DIRECTOR GENERAL said that he would certainly have a discussion with the agency on that. That was part of the set-up costs and would hopefully be a one-off.

THE CHAIRMAN thanked the members for the work done that morning.

DECISION

Proposed agency to assist in the appointment of the inaugural Nominations Committee approved.

6. Athletes

– 6.1 Athlete Committee Chair report

MS SCOTT said that the members had her report in their files, so she would not go into too much detail but would instead give the members an overview of some of the main points. The first meeting of the year had been held in Lausanne, Switzerland, following the annual symposium hosted by WADA. At that event, the Athlete Committee had convened a one-and-a-half day special session for athletes, with very positive reviews and responses. Over 65 athletes had come from around the world for a day-and-a-half of education and information and panellists and speakers, but it had also been used as an opportunity to conduct a consultation on two of the big projects on which the Athlete Committee had been working that year. One, of course, was the Anti-Doping Charter of Athlete Rights and the other was the Working Group on Athlete Representation within WADA. The athletes had been asked for their feedback and information and they had been consulted with broadly at the event. That had been very helpful. There had been some very strong and positive feedback from that session.

At the meeting, the Athlete Committee had made quite a strong endorsement of countries whose legislation had strengthened the fight against doping in sport and equipped authorities to investigate and gather intelligence on the heels of the 2019 FIS world championships at which there had been a drugs raid on the Austrian and other teams.

The next point in her report was on governance. Mr Sandford would speak about the Anti-Doping Charter of Athlete Rights and ombudsperson proposal.

DECISION

Athlete Committee Chair report noted.

– 6.2 Athlete Representation Working Group update

Moving on to the Working Group on Athlete Representation, MS SCOTT informed the members that they had a draft proposal before them. By way of background, the group had been formed after the Working Group on Governance Matters' proposals had been accepted the previous November with the decision not to add a full athlete voting member representative at the table until the issue of representation was solved. The Athlete Committee had taken it upon itself to try to solve the issue of representation, and it had turned out to be not that simple a task, but there had been several meetings and several independent experts had attended the meetings and consulted, and the committee felt that it had reached a point at which there were two options in terms of how athletes could become members. She would not go into them in too much depth. Essentially, the Athlete Committee had been looking at the proposal of elections and how to host an election and, really, in the end, had determined that it was not feasible or practical or necessarily accomplished the goals of having a strong breadth of representation across nations and sports and the demographics represented under the Code, so the committee had come up with a couple of other options, one of

which was indirect election. The other was appointment. The Athlete Committee had developed criteria on the candidates and some preliminary skill sets to identify and have as members of the committee, given that one of the other recommendations in the governance proposals had been an athlete representative on each of the standing committees. That concluded the report, but she would be happy to answer any questions.

MR BAŇKA said that Europe supported the proposal for the athlete ombudsperson. It would be necessary to discuss a lot of the details, but the idea of an ombudsperson in principle was a very good one.

MS TERHO thanked Ms Scott for the report and the great cooperation in April at the IOC athletes' forum and for bringing her expertise. She thanked the Athlete Committee for the work done by the working group. It was very important and there were many points to be considered, in particular in relation to the diversity of the committee in terms of sports, geography and gender, as anti-doping was obviously a worldwide issue and athletes had different concerns all over the world. Also, given the recommendation made by the Working Group on WADA Governance Matters that every standing committee have an athlete representative, it was even more important that the skill level be broad. The IOC athletes' commission regretted not having been accepted to be part of the working group and share some of its experience in terms of athlete representation, because there were also skills that could be used. She was sure there would be a chance to discuss at meetings, but the draft paper had not been finalised by the time of the previous meeting, so she had some comments that she would like to make. In relation to part 2 and the eligibility criteria, there were athletes who were members of different athlete commissions, in particular at the international level. The IFs benefitted from the network and it was important that there be direct connections between the athletes and the athletes within the governing bodies of their sport or continental associations to enable greater influence within international decision-making bodies. To be more efficient, it was necessary to ensure that the connections between the different sport bodies were in place.

MR RICCI BITTI supported what Ms Terho had said. In relation to the composition of the working group, the inclusion of a representative of the IOC athletes' commission would be beneficial, in particular in view of the experience and recent problem of misunderstanding or mutual misunderstanding. It was the right time to try to build a bridge again, because life would be easier; even if there were different views, the athletes understood where the strengths lay.

His second comment had to do with the criteria for nominations. In the past, WADA had not considered three or four very important criteria: geography, the fact that winter and summer sports were very different, the differences that existed between the individual and team sports, and he had always recommended that one sport not be represented more than once, so there should be people from different sports. That was his advice for the future, and he reiterated that that was not only the position of the IOC, but it was also the position of the IFs, which were the most important delivering authority when it came to competition in sport.

MS SCOTT responded to the comments. She told Mr Banka that Mr Sandford would be giving a presentation on the ombudsperson, so he would learn even more about it, but she thanked him for his endorsement and support. It was much appreciated. She also felt that it was an important addition and hoped that it would get through.

Ms Terho's point was taken. The decision had been made to keep the core group very small initially, given the time limits and the urgency, and it had been decided that it would be better to go with a smaller group and conduct consultations with each stakeholder group separately. While the Olympic Movement and IOC members would be consulted, so would the Paralympic Movement and non-Olympic and professional groups. She looked forward to all the contributions. It was really not a matter of excluding one group; it had been a matter of trying to be as efficient as possible and then having consultations on an equal level with each group, so as to avoid getting bogged down in a bureaucratic process that would take a long time.

She told Mr Ricci Bitti that she took his points on board. The Athlete Committee was in a consultation phase. It was a draft document and a work in progress.

THE CHAIRMAN said that, if he read the situation correctly, the suggestion was that, having consulted, it was time to expand the size of the group and, if that was the case, he was quite relaxed about that and it might bring a lot more suggestions to the table and it might be of help.

DECISION

Athlete Representation Working Group update noted with suggestion from the ExCo to enlarge their working group.

– 6.3 Athlete Charter (including ombudsman proposal)

MR SANDFORD said that he would take the members through the Anti-Doping Charter of Athlete Rights and then the work being done on the ombudsperson. Some slides had been prepared. The Athlete Committee had been working on the Anti-Doping Charter of Athlete Rights for two years, involving consultation and talking to athletes and other stakeholders in anti-doping, so thousands of athletes had been spoken to and the response had been overwhelming, that it was a really good document to move things forward and the stakeholders saw a huge amount of value in the document, as did the athletes.

The members would see in their folders the discussion paper, which brought them up to date with the major changes to the charter since it had been presented at the meeting in Baku, as well as the updated draft version of the charter. Since the meeting in Baku, in tandem with the Code submissions and the international standards submissions, the charter had been opened up for international feedback, and over 30 pages of comments had been received, showing a huge amount of interest in the charter and what the document sought to achieve. The charter had been presented at the WADA symposium and the WADA athlete forum, with over 70 athletes there taking part and really trying to thrash out what other things they would like to see in the charter, how they would like to see it implemented and any initial shortcomings that they saw. All of the submissions received had been reviewed and, for certain parts of it, expert advice had been sought, and experts had also drafted some of the clauses to make sure that it was in line with international standards in the Code. The current draft was completed, and it had also been presented at the IOC international athletes' forum, and he thanked the IOC for giving the Athlete Committee an opportunity to present the charter. Questions had not been taken at the time, but the feedback from the participants had been really positive and the participants had really liked what the WADA Athlete Committee was doing.

As to the major changes that had occurred since the meeting in Baku, the members would see that the charter had changed a lot and he thought that it was very close to the final version and that it was a very thorough document that articulated very well the rights and then, in part two, the best practice rights. A mission statement had been added, the preamble had been changed and streamlined and included the approval and change process for the charter, and the two-part structure had been maintained. In relation to part two, some concerns had been addressed to the group, and it had agreed with the concerns and tried to clearly articulate in part two that it applied only to ADOs and that the overall document applied only to ADOs as well. The wording and definitions had been made consistent with the Code and international standards and, as the Code continued to change a little bit over the coming months, he would make sure that the charter was up to date with whatever revisions to the Code took place before its adoption in Poland later in the year. Articles had been added (as a direct result of athlete feedback) on doping control rights, protected persons, B-sample analysis and, for the sake of clarity, another one on other rights not being affected had been added. Also, the application and standing clause had been added. The ombudsperson had been removed from the charter, so that was a separate work in progress.

As to the Code and the charter, and he saw that Mr Young would also cover that, the group had worked out how the charter would be referenced in the Code. It would be in the introduction and also in WADA's roles and responsibilities.

In terms of next steps, any relevant changes made to the Code would be tracked and, if changes to the charter were required, they would be made. Later in the year, the Athlete Committee meeting would be held in August and the final version of the charter would be given to the Athlete Committee for discussion and approval and, once approved by the Athlete Committee, the approval of the Executive Committee would be sought so that it could be adopted. That was the situation regarding the Anti-Doping Charter of Athlete Rights.

THE CHAIRMAN said that a lot of work had clearly been done. How wide had the consultation been? What did 30 pages consist of? Had they come from 60 people or one person?

MR SANDFORD responded that they had definitely not come from only one person. He had never added up the number of people who had submitted comments, but estimated about 25. The comments had come from stakeholders and not just individuals. Some had been very thorough, going through every clause and recommending changes.

THE CHAIRMAN asked if there were any questions on the changes and improvements on what was beginning to look like close to the final version.

MR KEJVAL said that he appreciated the activities of the athletes and thanked Mr Sandford and his team. He had a few issues. The first had to do with the name, because it was similar to the Olympic Movement charter. Might it be possible to come up with a different name, because it was a little bit confusing, especially when talking about the charter itself?

There were some issues in the Code and he would like to hear from WADA as to if or when somebody would look at the points and not duplicate things. He gave the example of article 9 and other redundancies.

In the second part, the responsibilities were missing.

MR RICCI BITTI had a question for WADA. The key question for the signatories was what the implications of the charter would be for the Code signatories. The question was related more to the Code people. The strength of the document in relation to the Code and the implications for the signatories were not yet very clear.

MR SANDFORD responded to the first comment on the use of the term *charter*. It was something that the athletes had been insistent on, that the document be a charter. He did not think that there would be any confusion; the Olympic charter stood alone as a really powerful document, and there were hundreds of charters out there in the world. In Canada, he believed that there was a charter of rights. The members would probably have to excuse him referring to it as a charter in that context, but it would definitely be referred to as the Anti-Doping Charter of Athlete Rights, or COAR, the Charter of Athlete Rights, so he did not think that there would be any confusion.

In relation to article 9, was he right in saying that there were concerns about the scope of that? Was that the issue? The way in which the first part of the charter worked was that it articulated where all the rights could be found and what they were. It was basically simplifying them and putting them in one document. Those were the rights that athletes had under the Code at that time. Article 9 articulated the rights to compensation, and that then led to the part of the Code which was on page 72, and the issue that had been mentioned previously was about athletes pursuing damages against other athletes for breaches of the Code, and the comment currently in the Code was that nothing in the Code precluded clean athletes or other people who had been damaged by the actions of a person who had committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such person, so the right existed in the Code that damages could be sought, or it could be flipped around to say that the Code did not preclude an athlete seeking damages from another athlete who had denied them their prize money or damaged them in some way. That right therefore existed in the Code.

In relation to responsibilities, they were already in the Code as well, so section 21 of the Code dealt with the roles and responsibilities of athletes, and the Athlete Committee had not thought it necessary to rearticulate word for word what was already in the Code, and the other thing that had come through from athletes was that they wanted a document focused solely on their rights and they were happy with their roles and responsibilities being left in the Code as they were.

MR YOUNG noted that the Code was a lengthy document, athletes' rights were spread throughout it, athletes felt that it was important to have the most important rights articulated in one place, and there was nothing in the charter that created a new right. There would be no case whereby an athlete's lawyer could come in and say that there was another defence based on the Anti-Doping Charter of Athlete Rights. If they had a defence, it would be based on a right already in the Code.

The second part of the Charter was like a guideline, with things that it was thought the signatories should do, and it was up to the Executive Committee to decide what that guideline was. That was the way in which it all fitted together.

As to article 10.8 where the Code did not preclude one athlete asserting a claim against another for damages, that had been in the 2009 Code and the 2015 Code, and all that had been done was to continue it.

MS HOFSTAD HELLELAND thanked Ms Scott and Mr Sandford for their presentation. She was really encouraged by the work done. It of course had her full support. The charter and ombudsman represented a really big step in the right direction towards WADA being seen to be taking athletes more seriously. She encouraged the members of the Athlete Committee to continue along that path and she was confident that they would have the full support of the members. She also noted that the charter was included in the Code, which was extremely important, and she thought that it gave it the status it deserved.

MR DE VOS asked about the question in relation to the legal impact of calling it a charter, as WADA was a foundation under Swiss law and, in Switzerland, a charter had a clear legal dimension or definition. It would be very important to clarify that beforehand. It was not simply a technical matter, but it could be important in terms of future actions and consequences.

MR YOUNG responded that there was no legal status intended. It did not trump anything in the Code; it simply reiterated things in the Code. He would be happy to take a look at that and perhaps add a footnote that simply explained that in the Code, that the name had no special meaning in regard of the Magna Carta or something like that.

THE CHAIRMAN asked if it was very close to the final draft or whether there were any changes envisaged.

MR SANDFORD answered that it was very close to the final draft.

THE CHAIRMAN said that it would be coming up for approval at the meeting in Katowice. It would be necessary to answer that last question about the legal effect and name and get that one clear; otherwise, his guess was that it would fall at the last hurdle, which would be a great shame after the work that had been done. Compared with the first draft, it was light years better, which was really good.

MR SANDFORD informed the members that it was the first time that the proposal in relation to the athlete anti-doping ombudsperson (the group had opted for a gender-neutral term) was being presented. It had been part of the charter for the past two years; but, because it was not currently in place, the group had agreed with some of the comments received and taken it out of the charter to work on it as a separate item. Like the charter, it had taken over two years to get it to that stage. Throughout the history of the Anti-Doping Charter of Athlete Rights, there had been a lot of comments on the importance of the position of the ombudsperson and how it should be structured, but that was the first time that the group had sat down to articulate that in one document. There was a really big need for that, and it did not take long when talking to athletes about their issues with anti-doping and the system to realise that there was a piece of the system missing. He hoped that it would go a long way towards providing athletes with a safety valve, a place to get information and guidance and also report particular issues. He did not know if people had used ombudsmen before in their own countries; they existed in New Zealand and, when he had been a skeleton athlete, he had used the New Zealand ombudsman to make sure that the ministry of sport in his country was following the correct procedures and allocating funding. The ombudsperson was important, as it would be a semi-independent body in that case, trusted by athletes, who would be able to take on a complaint, talk to the anti-doping organisation involved and see what was happening from their perspective, then apply the rules to the situation and come to a result and state the finding, either that the body in question was doing a good job or perhaps it could do a better job and maybe the athlete should have been advised beforehand.

Athletes faced such systemic issues, and the ADOs were providing education and all the information; they were the ones athletes went to to query supplements and get help within the area of anti-doping, but they were also the agency in charge of prosecuting the athletes. So, for an athlete who had possibly committed an anti-doping rule violation, there was no neutral place to turn. Athletes would then engage a lawyer, but the lawyer might be saying the complete opposite of what the ADO was saying, and an athlete often needed some simple advice about the best steps forward for the best outcome, so the ombudsperson was not a legal position, but was somebody able to offer neutral advice and help guide athletes through the rather complicated anti-doping world out there. There were a lot of regulations and compliance rules on ADOs, and the main function of ADOs was to interact with athletes, so it was about making sure that the surface with athletes and ADOs interacting was working in compliance with the rules in place. There were some really good compliance systems in place, but athlete feedback and input into that compliance system were missing. WADA might do a compliance review, but athletes were not actually consulted in the process and, therefore, allowing an ombudsperson to receive feedback from athletes or a real-time update from athletes as to what was happening on the ground meant that WADA would be empowered to recommend changes in a much quicker way than was currently the case.

As to the structure of the ombudsperson, the initial feeling had been that it would be great if it were an independent office but, after more thought, it had been realised that the power of the ombudsperson was that they actually had no power, they made unbinding recommendations. To have no power, one could not really be independent, and so the office needed to be part of WADA because WADA had the status and authority to ask questions, so an ADO receiving a list of questions from the ombudsperson who was part of WADA would be much more likely to respond to those questions than if they had come from an independent third party. That was a very early draft and it was necessary to work through all of that with WADA. The ringfenced funding had come up in part because of a situation at FIFA some years previously. FIFA had had an ombudsman within the legal department there and had quickly used up a lot of the department's funds. To minimise any impact on the WADA budget, it had been thought that any funding should be ringfenced. On accountability, the thought process was that the ombudsperson should report to the WADA Director General and the WADA Athlete Committee.

In terms of the functions of the ombudsperson, they would have a very broad jurisdiction but limited powers. They would be able to investigate, guide athletes through the network of anti-doping, connect athletes to the services that they needed, and report concerns from athletes and suggest ways of improving the system to make things better. It would be necessary to consult with further experts in the field, final concepts would be presented to the WADA Athlete Committee at the meeting

in August, and then the final proposal would be presented to the Executive Committee and Foundation Board in September or November, depending on when the members wanted to receive it, but it would be ready by September.

THE CHAIRMAN asked the members if they had any questions.

MR KEJVAL said that, if he had understood correctly, the charter was just an extract from the Code, but the ombudsperson proposal was very new and would affect all the legislation later on. It was an interesting idea, and it might be interesting for athletes to have an independent person to ask for advice or a solution. There were a few issues. He referred to SpeakUp! and the fact that WADA had its own Intelligence and Investigations Department. There had been a recommendation to set up commissions within the NADOs; in his country, that had been done recently and the experience had been positive, with close work with athletes. He could imagine that, when the athletes were in a particular situation, they fought with WADA and tried all possibilities, so he thought that it would be very difficult for only one person to do that job. In his view, the idea was interesting but needed a lot of further thought. Perhaps another solution would be found, although he backed the general idea.

MR SANDFORD thanked the members for the good questions. In terms of the proposal fitting into the legal context, he saw no impact on the existing structure. It was designed to fit in to the process that WADA already had, and was designed to be an add-on to help the process work more smoothly. In terms of SpeakUp! and the Intelligence and Investigations Department, they were there for doping. An athlete would contact SpeakUp! or the WADA Intelligence and Investigations Department if they were concerned about another athlete doping, and that was what SpeakUp! was for. The ombudsperson was more of an athlete compliance or athlete issue system; it was not there to compete with SpeakUp! and was not where an athlete would go to report doping or refer to investigations. That was very separate. He had recently seen some research on SpeakUp! and whistleblower programmes, and one of the biggest problems they had was that they were not well known, and that was where the ombudsperson could possibly add some value. The idea was to have one central place to which athletes could go for information, which was not the case at that time. One of the problems consistently being seen was that athletes lived in a world in which they had to comply with different rules at different times of the year, whether they were competing nationally or internationally or at the Olympic Games, and they were not always certain when they were in one jurisdiction and another and who they should call at different times. The ombudsperson was not set up for that, but he would imagine and hope that, if an athlete did call up and wanted to report doping, that athlete would be referred directly to SpeakUp! as the correct channel.

He was a big fan of athlete committees and had been on them for the past 13 years, which was quite a long time. He thought that he had been on three different athlete committees and he was currently on two, and his experience was that athlete committees really struggled in certain situations when athletes came forward with complaints, particularly when they were issues about the organisation of which the athlete committee was a part. Sometimes it was a really smooth process, but it could be complicated at other times, especially when it was confidential or the athlete committee lacked the expertise to look into the matter, which was often the case with athlete committees, because the members were volunteers and were not there in a professional context, and that was when the role of the ombudsperson came into its own, and it was important that the ombudsperson and athlete committee be allowed to work together in many situations, because they would both have different roles, but there was definitely still a need for the ombudsperson within the system, because it was not currently being covered by athlete committees. If it were being covered by athlete committees, he would not be sitting there preaching to the members of the Executive Committee about the benefits of having an ombudsperson.

The issue of size was an interesting one, and he had had a few comments that it was going to be so successful that one person would not be able to manage it and it would grow really quickly, because it was an idea that had real benefits, especially when he was out talking to NADOs, which saw the benefit on the ground of having an ombudsperson to whom they could refer athletes and to whom athletes could go. It was necessary to start off small and see where it went. In general, there would be the office of the ombudsperson, perhaps in the same way as there was the WADA Intelligence and Investigations Department with many investigators but one chief investigator, so there might be one ombudsperson but, if that did prove to be successful, he hoped that WADA and the anti-doping community would see the benefit of it and would put the funds in to make sure that that person could do their job well, so it might expand beyond one person to however many people it took to do that job well, but that was a bridge to be crossed once it was reached and once all the structure was in place.

THE CHAIRMAN thanked Mr Sandford. It was clearer, that was for sure. If the suggestion was that it come back inside WADA, he reserved the right that the management might well send a whole

range of questions to try and make it even clearer still. As Mr Sandford had said, one had to start somewhere.

MR SANDFORD said that he was also looking forward to the management coming back with questions so as to move things forward.

DECISION

Anti-Doping Charter of Athlete Rights
and ombudsman update noted.

7. Finance

– 7.1 Government/IOC contributions update

MR RICCI BITTI informed the members that the Finance and Administration Committee meeting would be held on 24 July in London and he thanked the UK Government for hosting the meeting, which was the key annual meeting to deal with the strategic approach in relation to finance in WADA.

The members had been given the latest statistics on contributions. WADA was doing well. It had achieved 82% of contributions against 72% the previous year at the same time. Oceania had paid in full. Africa and the Americas were better. Relatively speaking, Asia and Europe were the two critical areas. In Asia, WADA still awaited contributions from Kuwait and Bahrein for a total of more than 200,000 dollars and, in Europe, payments were still due from the Russian Federation, Spain and Sweden for a total of 1.6 million dollars. In the Americas, WADA was doing well, but it had a permanent problem with Venezuela, which had not paid for four years, although the political situation was some justification. The members had all of the information in their documents, although he wished to mention the additional contributions that WADA received every year. That year, WADA had received 238,000 dollars from Japan and Australia, two countries he wished to thank at that meeting.

DECISION

Government/IOC contributions update
noted.

– 7.2 2018 year-end accounts

MR RICCI BITTI noted that WADA had recorded a surplus of 3.1 million dollars in 2018 against a budget of 1.3 million dollars. The increase or difference was due to an income increase of 251,000 dollars and a reduction in expenditure of 1.5 million dollars against the budget. Summarising the main reasons, starting with income, WADA had done very well the previous year in terms of contributions, with a 99.13% year-end figure compared with 97.99% the previous year. The second issue had been a really extraordinary contribution. The previous year, China and Japan alone had accounted for 1.2 million dollars in contributions and, added to the 1.5 million dollars from the Montreal agreement, those important contributions had enabled the excess in income.

In terms of total expenditure, WADA had achieved expenditure of 95% against the budget, and he stated very clearly that, although the expenses had been under budget, the majority of the activities set out in the ten recommendations by the Director General had all been started and carried out, so the savings came from something else. WADA had started all the initiatives to be put in place following the presentation of the strategic document, which had been presented several times over the past few months.

In terms of key expenses, starting with salaries and personnel, there had been an increase in cost of 14%. The members should not be shocked, because there were 20 people more and they had been recruited to carry out the new activities or the improved activities that WADA had put in place. The second matter was obviously the fact that the recruitment of 20 people meant increased recruitment and reallocation costs and so on. There had been an increase in travel expenses of 24% due to the higher volume of activities (Olympic year and increase in staff, for example). There had been a huge increase for information and communication, but the amount of money was small. There had been an increase of more than 100%, but a lot of activities had been planned, including the Youth Olympic Games, and there had been very high expenses related to Russian compliance, governance and so on.

In terms of what had helped to offset the increase, WADA had saved money in research grants (which was not positive in his view) and testing fees. He urged the members to reconsider the issue of research grants, and he could assure them that the Finance and Administration Committee would recommend that they give consideration to some increase in research grants, as research was a vital activity. Capital expenditure had been less than budgeted. Investment in ADAMS remained a high

priority. The depreciation expense was higher than the budget due to the fact that ADAMS was quickly becoming somewhat obsolete. The athlete module was central and cost a lot of money, and the new mobile application and athlete module had required a lot of money, hence the higher depreciation. There was more office space in Lausanne because of a staff increase and he believed that the Lausanne office was vital, at least from the perspective of the sport side of the agency. Interest income had been very positive; it had increased a great deal, and investment had gone very well, increasing the budget by about 28%. The currency exchange had also been favourable, with a very strong US dollar in the second half of the year favouring WADA expenses in Canadian dollars.

To conclude, the surplus had allowed WADA to implement the reserve policy recommended repeatedly by the Finance and Administration Committee. The Finance and Administration Committee had always recommended that, ideally, WADA should get to a six-month operational reserve. It was far from that, but at least half a million dollars had been put in that year. He did not think that it was enough, and there would be another important discussion by the Finance and Administration Committee at its next meeting, because WADA was in the range of two months, so the six-month reserve was still a dream.

The cash situation was very good, so the financial position of the agency had been positive in 2018. The endorsement of the 8% annual increase by the Foundation Board had undoubtedly been a tremendous help, enabling WADA to plan and pursue activities and the strategic aims that the Director General had mentioned on a number of occasions. With the exception of the issue of the research grants and the reserve, he was very satisfied.

To conclude the item, the 2018 auditor's report was positive: there was no deficiency.

By way of a follow-up from the previous year, he informed the members that, having asked the right people about the Swiss pension plan that had been an item pending from the previous year, he had been informed that the WADA decision not to record obligations for reasons of non-materiality was okay, and WADA therefore did not need to do what it had feared that it would have to do and adjust the pension plan to the Swiss system. The auditor had also confirmed that that was not material and the actual valuation was not required. WADA would continue to contribute to the pension plan and nothing else.

If there were no questions, the aim from a financial point of view was more research money and more money put into the reserve if there was a profit the following year because, if WADA did not take advantage of the 8% increase, it would be very difficult later on to achieve the aim of six months' reserve and, if not six months, a little bit more than under two months. He asked the Executive Committee to recommend that the matter be put to the Foundation Board the following day along with the auditor's report.

THE CHAIRMAN highlighted the degree of understanding around the table. Were the members happy that the accounts be formally put before the Foundation Board the following day? There would be the normal report from Ms Beauparlant from the Montreal office of PricewaterhouseCoopers, and then the Foundation Board would be asked to vote on the accounts. Were the members happy that they be accepted? He congratulated Mr Ricci Bitti, who was either brilliant or lucky, or both.

DECISION

Proposal to submit the 2018 year-end accounts
to the Foundation Board for adoption approved.

– **7.3 2019 quarterly accounts (quarter 1)**

MR RICCI BITTI informed the members that the WADA account was very seasonal, and it always looked as though WADA had made a huge profit in the first part of the year, but that was not true. The problem was that WADA received the money early on in the year and spent month by month. The situation was positive. Attachment 2 represented the first quarterly situation. He noted that the expenses were at 22%, which was positive, because they should really be at 25%, and income was obviously much higher, at 45%, because of contributions, so that was very positive, but only for the time being.

As to the variances in the attachment, there were one or two worth mentioning. The ADO symposium had been a great success, but the cost came in the first part of the year so, obviously, that was reflected. The Legal Department was already at 30%, mainly due to litigation fees and legal fees for data protection, obviously related to investigation. As mentioned, for data security, a lot of activities would have to be implemented that year and would obviously be reflected in certain costs. Data security would be one of the big-ticket items and it would be necessary to be ready, and the Finance and Administration Committee would undoubtedly have to revise the budget accordingly in relation to those items of some concern.

Finally, he was duty-bound to say that there had been a reporting change. For the first time, education and programme and NADO/RADO relations were under two items, and there was a breakdown of the operational costs into three groupings: human resources, office facilities and general operational costs. The reporting was slightly more detailed and clearer in his view. He again wished to thank the staff of the Finance Department and the stakeholders for their endorsement of the vital 8% budget increase.

THE CHAIRMAN said that it looked as if everything was heading in the correct direction. WADA had operated on a reserve policy, which was as tight as could be, and financial common sense would indicate that, with a staff of 125 people, it was necessary to have a bit more in reserve just in case. He thanked Mr Ricci Bitti and wished him luck again in getting the accounts approved the following day.

DECISION

2019 quarterly accounts update noted.

8. Education

– 8.1 Education Committee Chair report

THE CHAIRMAN informed the members that, unfortunately, Mr Moses was unable to be with the members that day, so he asked Ms MacLean to report to the members on the activities of the Education Committee.

MS MACLEAN said that Mr Moses and she had discussed his report and she would be presenting it verbatim. Beforehand, she introduced her colleague, Mr Cunningham, who was the Senior Manager of Education and would be there to answer any questions, in particular in relation to the education standard, as he had been the lead drafter.

Putting her Edwin hat on, she started by thanking and commending the Education Committee members for their contributions. They had met on 23 and 24 April in Montreal and the meeting had been very constructive. It was worth noting that a number of invited observers had added to the richness of the debate, including representatives of the WADA Athlete Committee, UNESCO and the Council of Europe. The Education Committee had warmly welcomed the news of the appointment of Ms Amanda Hudson, who was currently head of education at the UKAD and who would be taking up her role on 5 August as Director of Education at WADA.

The Education Committee had also welcomed the announcement that, on that date, education would become a standalone department within WADA with a seat at the management table, reflecting the importance with which WADA and its stakeholders were increasingly viewing education. Given that education was a key pillar of anti-doping, the Education Committee had emphasised the importance of going beyond detection and deterrence strategies to focus on prevention, an emphasis in the revised 2021 Code. The Education Committee had also confirmed its willingness to play a key role in the development of anti-doping education, which had been an under-resourced area of anti-doping to date.

The Education Committee had had robust discussions, including on the social science research programme, the International Standard for Education and the new guidelines for education, and had even carved out a few hours to hold a strategic planning session on the second day in order to be able to provide strategic guidance to the education group. The strategy session had wrapped up with the agreement that, in addition to the existing working group on social science research and the standard, two additional working groups would be formed on the guidelines and strategy in relation to which the committee members had raised their hands to contribute as volunteers. Mr Moses thanked the committee members for that additional commitment.

There were some other key outcomes of the Education Committee meeting that would be of particular interest to the members. The Education Committee had provided guidance to the standard working group, and was happy with the standard's development, which was reflective of stakeholder demand to ensure that it focused on the development of education rather than compliance. Since the previous meeting, certainly the key priority of the Education Department, and in particular Mr Cunningham, had been to support the development of the first standard for education, and that process had been supported by the Executive Committee since it had first tasked WADA with examining the feasibility of introducing a standard in May 2017. The research strongly supported the introduction of a standard, as the focus of anti-doping until then had been on the detection and deterrence of doping, overlooking the fact that the majority of athletes wanted to compete clean. It was believed that anti-doping activities should reflect and support that desire by supporting people to do what was inherently natural to them rather than focusing only on what they should not do. It

was believed that the standard was an important part of the shift towards a more positive approach and narrative.

The Education Committee had discussed the need to highlight anti-doping as a wider societal issue, in order to encourage other sector stakeholders such as private health, public and private foundations and education stakeholders to engage more meaningfully. Related to that, the Education Committee had stressed the need for more partnerships, particularly within the global anti-doping system, and highlighted several opportunities to provide support in that regard.

The Education Committee had acknowledged that there were multiple funding opportunities for stakeholders and recommended that they be mapped and promoted to encourage applications.

The Education Committee had reinforced the need to rebrand the anti-doping programme with positive narratives emphasising that approaches should be multi-dimensional and evidence-based. The Education Committee had also been updated on the activities of the Education Department, which continued to deliver a high level of quality output for stakeholders, and thanked the department for its efforts.

In the absence of Mr Moses, she looked forward to receiving questions.

THE CHAIRMAN thanked Ms MacLean.

DECISION

Education Committee Chair report noted.

9. Health, Medical and Research

– 9.1 Health, Medical and Research Committee Chair report

PROFESSOR ERDENER informed the Executive Committee about some of the major activities of the Health, Medical and Research Committee. There would be a presentation on the research project on artificial intelligence. It was important for WADA to explore the possibility of applying AI to the anti-doping field. Three complementary projects on AI, seeking to explore in depth the capability and feasibility aspects, as well as the social and ethical acceptance of AI in anti-doping were being considered. Dr Rabin would present for information the three projects, and it was anticipated that a decision from the members would be sought by circulatory vote once the negotiation process and review by the Health, Medical and Research Committee members was completed in the coming weeks.

The proposal in relation to the anti-doping chair at the University of Sherbrooke to be approved the following day was also a programme that could bring significant support to the development of knowledge in anti-doping, and WADA was foreseeing important synergies between research initiatives in Montreal and associations with other initiatives, in particular in the field of research in science and medicine at the University of Lausanne and the École polytechnique fédérale de Lausanne.

As the members would note in a later session that day, a significant amount of work had gone into updating the international standards (on laboratories, TUEs and the Athlete Biological Passport section of the ISTI) and all the related technical documents in support of the Code revision. The latest 2021 version of the ISTUE revision including a summary of major changes was included in the members' documents. The ISL, to which some significant changes had been made compared to the current version in force, would be presented by his colleague Dr Barroso later that day. He was pleased that a genuine consultation phase had been completed with a fully satisfactory outcome as discussed and presented in Lausanne in March.

Lastly, laboratories were also requiring a lot of attention as WADA strengthened and diversified the EQAS programme and provided more resources for site visits and audits. That programme would continue as the new version of the ISL was implemented.

DECISION

Health, Medical and Research Committee Chair update noted.

– 9.2 Laboratories

9.2.1 Application to be an ABP-approved laboratory – King Faisal Specialist Hospital and Research Center, Riyadh, Saudi Arabia

DR BARROSO said that there were two items on the agenda in relation to laboratory accreditation status. He sought approval of the candidate status of the King Faisal Specialist Hospital and Research Centre in Saudi Arabia to become a laboratory for the Athlete Biological Passport. That was only for blood analysis, and the Executive Committee had been requested to approve candidate status applications moving forward. That meant that the laboratory would not become operational immediately; it would be subject to certain requirements, including an on-site assessment and so on, but all of the documentation required by the ISL had been provided. That was the first point on the agenda for the members' consideration. He sought approval of the candidate status of the hospital so that it would later become an Athlete Biological Passport-approved laboratory.

DECISION

Proposal regarding candidate status of the King Faisal Specialist Hospital and Research Centre in Saudi Arabia to become a candidate laboratory for the Athlete Biological Passport approved.

9.2.2 Removal of candidate laboratory status – Santiago, Chile

DR BARROSO informed the members that the laboratory had been a candidate for over three years, and the candidacy had been for full accreditation. Over that period, the laboratory had been unable to meet the WADA requirements to be considered to enter the probationary phase, and WADA had been advised that the Chilean authorities were no longer interested in supporting the application by the laboratory to become a WADA-accredited laboratory; so, unfortunately, the Laboratory Expert Group had decided to propose that the laboratory be removed from the list of candidate laboratories. If it wished to return, it would have to start from scratch.

THE CHAIRMAN observed that there seemed to be a certain logic to that.

Now deputising for Mr Baňka who had to leave the meeting, MR PIECHOTA said that Europe was glad that the strategy in relation to the WADA laboratory accreditation had finally been amended and reference to the geographical limitation on the number of laboratories had been removed. He invited WADA to confirm its willingness to participate in a joint Council of Europe and WADA screening process of the European laboratories interested in engaging in the formal accreditation process, including the request to the Executive Committee for candidate laboratory status. He sought confirmation.

DR RABIN responded that there had been discussions with the Council of Europe and WADA would be more than happy to participate in the joint process as discussed.

DECISION

Proposal to remove the candidate laboratory status of the laboratory in Santiago, Chile, approved.

– 9.3 Scientific technical documents

9.3.1 Blood Analytical Requirements for the Athlete Biological Passport – TD2019BAR

DR RABIN informed the members that there was an important switch that would be made on 1 June: all the approved WADA-accredited laboratories doing blood analysis in support of the Athlete Biological Passport would switch to a new generation of blood analyser, moving from the old generation Sysmex analyser called the XT to the new generation called the XN, which required some amendments to the technical document. The system did not operate in exactly the same way as the old one, so a few changes needed to be made to the quality assurance requirements, and the fact that the equipment could not duplicate analysis had to be taken into account in the technical document. He had taken the opportunity of the changes to add two other things, which he thought were very important, the first of which was the possibility to use the blood samples collected for the Athlete Biological Passport to do other kinds of analysis, for example, the blood analysis and then EPO analysis on the same blood samples. That was clearly set out in the technical document. On the

reporting requirements, when some samples had not been analysed for reasons sometimes due to lengthy delays or damage to the samples, or the results had been submitted, it had not been possible to see that in ADAMS, and the new document would be modified and would facilitate the management of blood results. Those were the proposed changes being put to the Executive Committee.

THE CHAIRMAN declared that he had actually understood the presentation. There was some updated and modern kit that did different things. It seemed to him inevitably that the Executive Committee should accept the proposal.

DECISION

TD2019BAR proposal approved.

9.3.2 Decision Limits for the Confirmatory Quantification of Threshold Substances – TD2019DL, Version 2

DR BARROSO informed the members that the document had been presented at the meeting in Baku and the first version had entered into force on 1 March; however, it had been necessary to carry out some additional amendments and corrections. For the determination of specific gravity in urine samples, the first version had been restrictive, allowing laboratories to use only refractometers. Based on further data collected, WADA would be allowing the use of densitometers to measure specific gravity during the screening procedures. The difference between the two was basically the physical principle, but they measured the same. There had been a minor clarification in relation to how specific gravity values had to be reported and how the values had to be rounded up to three decimal places, because that could be important in some compliance decisions, as well as a minor clarification on how the decision limits were expressed in the table. Most importantly, there had been clarifications about when the specific gravity should be measured and when it should be taken into consideration before reporting an adverse analytical finding. Basically, specific gravity had to be measured in all samples during the screening and confirmation procedures; however, at the time of adjusting the decision limits, when specific gravity was high in concentrated urine, there had been clarifications included in the technical document to make sure that it was fully in line with the ISL. That meant that the specific gravity was not always important; for example, it was not important if one was going to confirm exogenous threshold substances during the B-sample analysis. Those were the main changes to the technical document.

DECISION

TD2019DL proposal approved.

9.3.3 Human Growth Hormone Isoform Differential Immunoassays for Doping Control Analyses – TD2019GH

DR BARROSO informed the members that the change was minor. A different tube could be used for blood sample collection, in particular in North America. The FDA had not approved the use of the previous tubes in the USA; therefore, it had been necessary to carry out a study to demonstrate that the tubes available in the USA were equal in terms of matrix analysis and so on. The study had been conducted by the laboratory in Salt Lake City and it had already been accepted for publication.

DECISION

TD2019GH proposal approved.

9.3.4 Minimum Required Performance Levels for Detection and Identification of non-Threshold Substances – TD2019MRPL

DR BARROSO informed the members that two footnotes had been amended in the technical document to make it consistent with the other technical documents. The specific gravity correction had been clarified in the two footnotes in the technical document.

THE CHAIRMAN thanked Dr Barroso. The members relied entirely on the expertise of the Science Department. Quite clearly, the representatives around the table were not competent to comment on the very detailed work that the Science Department did, but the suggestions made to the system over the years had always seemed logical and there was a very good system in place.

DR BARROSO clarified that the technical documents and standards were subject to circulation and comments from all the stakeholders, including the WADA-accredited laboratories.

DECISION

TD2019MRPL proposal approved.

– 9.4 Research projects – artificial intelligence

DR RABIN thought that it was very important to bring the projects for information to the Executive Committee. He was sure that the members would remember that WADA had been working in partnership with the Fonds de Recherche du Québec, a joint venture to support some projects of interest, AI being one of the sectors identified by the two organisations, in particular to see how AI might be applied to the anti-doping field. WADA had agreed with the Fonds de Recherche du Québec to put some resources behind the project totalling two million dollars (one million dollars for each organisation, 200,000 dollars per year). The call had been launched on 24 May 2018 with a deadline for submissions in September, and a total of ten project applications had been received, two of which had not been submitted for evaluation as they had not met the criteria. In February that year, the usual process of bringing the project review panel together to evaluate the projects had been followed. The panel had identified a few issues to be addressed: intellectual property, to be sure that it would be possible to apply the outcomes of the project to anti-doping; data protection and anonymisation was a big issue, as personal data were highly protected in the field of anti-doping and it was necessary to ensure that the best measures were in place to protect the data; financial requirements because, when talking about IT, it could be extremely costly, so it was necessary to be very vigilant; and a few technical issues that needed to be fine-tuned.

Three projects had been selected, the first of which was a project by one of the leading AI companies in the world: Element AI, based in Montreal. WADA liked the fact that it was a global project, taking data and applying AI algorithms to extract abnormal patterns that could not be seen with the human eye, so it was a very global and very interesting project. One of the issues that it would be necessary to negotiate and clarify with the company related to data protection, so WADA needed to find a means of anonymising the data in such a way that it was properly applied in the framework of the project.

The second project was headed by Professor Yann Joly at McGill University, going more into the societal, ethical and philosophical aspects of AI, and in particular its application to anti-doping, and it was very important to anticipate the kinds of reaction if WADA were to apply AI to anti-doping. There were reactions around the world to the application of AI and it was important to identify the issues and take them into account before making any further progress.

The final project was a combined project between an organisation called Dataperformers and the Paris laboratory, which wanted to apply AI to the Athlete Biological Passport, and looked at how to better extract information from the steroid profiles and see how AI could help gain sensitivity to reveal abnormal steroid profiles.

The three research projects were in the pipeline and WADA had almost finalised the discussion with the organisations. The Dataperformers project and the McGill University project were likely to go ahead first. The Element AI project would probably require more discussion on data anonymisation and protection of personal data and how to use it, so it might be approved a little later. That would of course go to the Health, Medical and Research Committee before coming back to the Executive Committee, probably for approval by circulatory vote in the coming weeks.

THE CHAIRMAN noted the agreement that WADA had with the institute in Quebec, so presumably the costs set out in the attachment were spread out over a number of years and were 50-50.

DR RABIN replied that that was correct. The total was for one million dollars for each partner over five years.

THE CHAIRMAN stated that he was hugely impressed with the accuracy. Were the members happy to do that? There was an agreement with the research organisation and it was the first time WADA would make use of it.

DECISION

AI research project proposal approved.

10. World Anti-Doping Code

– 10.1 World Anti-Doping Code review update

THE CHAIRMAN said that quite a lot of the documentation that the members had received concerned the huge amount of work done on the revision of the World Anti-Doping Code and the international standards.

Before giving the floor to Mr Young to update the members on the major changes made during the third and final phase of consultation, MR SIEVEKING stated that the review process had started a long time ago, with three consultation phases, hundreds of pages of comments and many meetings

with stakeholders and the drafting team. During the third phase, there had been great stakeholder participation with more than 60 submissions and 200 pages of comments, so he thanked the stakeholders again for their interest in the Code and the standards. The quality of the comments received had been very detailed and complex. The current Code had been working well and had been well accepted by the stakeholders, and he had always said that WADA would be fine-tuning and adapting it to new factors. The current draft tabled had done that, adapting to the new environment and changing factors, representing not a revolution but constant evolution, ensuring that the Code was fit for purpose and remained a state-of-the-art set of rules. There had been a lot of key fine-tuning carried out during the third draft, but there had been no game-changing changes. On the way forward, it was important to let the members know what would happen. Obviously, there would be no more official consultation phase; he would listen to the directions given by the Executive Committee on some of the questions and then look at unsolicited comments that WADA would undoubtedly receive over the coming week; then, there would be a fourth draft tabled at the next Executive Committee meeting in September. The fourth draft would be published before the meeting together with the stakeholders' comments, so everybody would be aware of the basis on which the changes had been made. The team had had a very limited period of time in which to review the comments, discuss them and draft the document that had been submitted to the members, so there might be some discrepancies, but the drafting team would seek to ensure that all the documents were consistent, and would also be submitting some questions to Judge Costa and would have an opinion from him by early summer.

MR YOUNG noted that Mr Sieveking's remark about the kinds of comment received was very important. There was less on principle in the 2021 version and in the third draft, which was more technical, and technical changes made the Code more complex, but that complexity did not open the door to legal challenge. In fact, the reason WADA had that complexity was to fill in the gaps, clear up misunderstandings and to have the kind of case results WADA sought, so it did not give lawyers for athletes the opportunity to raise concerns; it foreclosed those opportunities. The third observation, and he had not been present, but he had heard at the Partnership for Clean Competition meeting that Mr Howman had criticised the Code for being too long and not clear. That was an oxymoron. It might be long; the new Code would not be any longer than the old one, but it was clear, and the reason that it was long in the first place was because clarity was necessary and it took words to add clarity. He could write a very short Code with the 10 general principles to apply, but there would be no harmonisation. Finally, looking at the changes between the second and third drafts, there were at least 200, but a lot of those were technical and were not worth discussing. A paper on significant changes had been sent to the members and identified about 50, but he would talk about a baker's dozen, and the members could ask questions about them. He had cross-referenced the articles of the Code and provided information in the summary of changes; so, if the members wished to learn more, they could go there.

On the definition of tampering and refusal, all the descriptions of what tampering was had been put in one place, which a number of stakeholders had deemed to be a good idea. The team had really addressed the issue pointed out by a number of stakeholders that false documents or false testimony during the result management process should be a separate violation. The team had opened up the possibility in exceptional circumstances for tampering to be down to a two-year sanction instead of a set four-year sanction, not because WADA was soft on tampering, but quite the opposite. Tampering was very fact-orientated and, if a panel had to give somebody four years or no violation, one could lose the case because there was no violation, so it dealt with that exceptional circumstance.

On the addition of attempted complicity, currently there was attempted use, tampering and trafficking. If an athlete attempted to dope and was unsuccessful, then the person complicit ought to have attempted complicity as well.

There was a general presumption in the Code from the beginning that, if one followed an international standard, what one had done had been valid and appropriate. If one did not follow that standard, the athlete could point out that that might have caused their positive test, and the burden would shift to the ADO to show that it had not caused the positive test. That applied only to certain international standards; it was not a defence in an anti-doping case that the ADO had not followed the education standard to a tee. The team had wanted to make that clear. The second was substantive. Obviously, the athlete had a right to be notified of their opportunity to attend the B-sample opening; but, if there was some failure in the process, it ought to follow the normal procedure whereby that burden would go to the ADO to show that the sample was still valid and, if there was an independent observer there to observe the B-sample opening and demonstrate that it had not been tampered with, then the normal rules should apply. He was pointing that out because that was something about which the members would be asked.

In article 8, the hearing article, and article 13, the appeals article, it had been made perfectly clear that the initial hearing had to have operational independence and that any appeals hearing had

to have both operational and institutional independence. Some stakeholders wanted both at the initial hearing; that was not required by the European Convention on Human Rights, and Judge Costa had been asked to confirm that, so the team had not made the change as requested by the stakeholders and, if it were to do so, it would substantially alter the result management process of a number of IFs as well as NADOs.

A new definition of protected persons had been added. The team had made no changes to that and minors were included in that category. One of the changes that the team had made, however, was that 16- and 17-year-olds were not given the benefit of flexibility in sanctions and the non-mandatory disclosure of doping decisions that benefitted protected persons. A lot of feedback had been that 16- and 17-year-olds should not get flexibility in sanctions if they were elite athletes, but the mandatory disclosure of anti-doping decisions should not apply to them, and the team had agreed and made that change.

Who decided what a recreational athlete was? An ADO needed its rules to apply to international-level athletes and national-level athletes and did not need to go below that, but some countries (for example, some of the Scandinavian countries), for health reasons, wanted to test people in health clubs and apply their anti-doping rules to those people, and that was okay, but they should have flexibility in sanctioning and in the public disclosure. Therefore, in the second draft, the team had had the IF and the NADO deciding who was a recreational athlete and it had been pointed out at the symposium that one could get different definitions, and, thinking about it, recreational athletes were the only people that the national organisation would care about; they were not even close to the international level. In the definition, there was a ceiling that said that nobody above a certain level could be a recreational athlete, meaning anybody who, over the past five years, had been in a registered testing pool, competed in international competitions, been an international- or a national-level athlete, so that was why, between the two, it made sense that, if Finland wanted to test people in health clubs, Finland could decide where the level of recreational athlete was.

In relation to substances of abuse, there had been lots of comments on that article and general support, and people were generally enthusiastic about it. There had been questions about the devil in the detail, but a number of stakeholders had said that they might not agree with all of the details but that the team should not let disagreement over the details kill the article, so it had been left in. The second part of that had to do with in-competition use of a substance of abuse, for example, cocaine. If an athlete intentionally used a prohibited substance that was a non-specified substance such as cocaine, the athlete would get four years. Intent meant that the athlete had taken the cocaine intentionally. If the athlete could demonstrate that it had been totally unrelated to sport and had not affected the competition, it should really be only two years. He did not think it would be controversial, but it was a change that needed to be pointed out.

In terms of misunderstanding about the case resolution agreement issue, WADA's job was to ensure the Code was applied in a harmonised manner. If the athlete and the ADO could agree that it was a fair resolution of a case and took it to WADA and WADA said that it was appropriate understanding of the Code and application of the Code, then the case would be over. It was a settlement and would be blessed by WADA only if it was consistent with the Code. A number of stakeholders had said that they could not settle cases under their system and only the hearing panel or the review board had the power to decide what discipline was appropriate, and that was fine. In that case, the article would not apply. It would apply where it worked within the national system; otherwise, it would simply not apply. The team was not saying that they had to change their rules.

Most of the heavy lifting with problems in the multiple violations rules had been done in the first and second drafts. One change had been made which was the formula for how a second violation was calculated. There had been a big difference between the first violation and second violation and, if one flipped those around, the amount of time one was ineligible for the second violation was significantly different; so, out of fairness, the team had changed the formula. He would be happy to explain it if anybody wanted the details.

There was an area in which confusion had been created inadvertently. It had always been the case that, if one was a NOC or an IF with members, one could discipline those members and the Code did not preclude one from doing that. The team had expanded the language there, and people had understood that WADA was requiring IFs or NOCs to monitor all of their members. That had not been the intent. The intent had been to require them to adopt Code-consistent rules and, if one found out that they were not following the Code, something should be done about that, but there was no independent monitoring obligation, and so the team had changed that language in response to very understandable concerns.

It was important that NADO officers, directors and board members be independent of management and international sport organisations and governments. He did not think that was disputed. Questions had been asked about whether that meant that a NADO could no longer be a

service provider to a major event organisation or an IF, and the answer was that that was not at all what it meant; it meant that an officer or a director of a NADO could not be an officer or a director in that MEO or IF, and so that would be clarified in a footnote.

On the obligation of sport administrators to be bound by the Code, under the current Code, the only people who had to be bound to agree to follow the Code and accept hearings on Code violations were athletes and athlete support personnel. A sport administrator was not covered by the Code, and so a senior sport administrator could engage in doping and doping cover-up and there would be no Code violation and no possibility of taking that person to a hearing and imposing periods of ineligibility for administration complicity or whatever it was. A number of stakeholders in the context of Code compliance had made an important point, which was that, in terms of punishing the organisation, the organisation should not be responsible for the actions of a bad person who engaged in doping and there should be individual responsibility. The team agreed with that in principle, but one could not impose individual responsibility on the senior manager who had engaged in doping unless one required that they become subject to the Code. There might be some national laws, although Switzerland was not one of the countries concerned, whereby there would be problems making that a condition of employment; but, when one talked to the athletes, they were not very impressed with that because it had always been the case that an athlete who committed an anti-doping rule violation and was found to be ineligible for a period of time could not work for a Code signatory, so it was simply imposing the same obligation, which, to his knowledge, had never been struck down under national law.

In relation to code of conduct rules and Code rules, the Code was pretty clear that one could not impose new anti-doping rule violations or new punishments for anti-doping rule violations outside the face of the Code, but that did not mean that one could not impose code of conduct obligations that did not have anti-doping consequences. An IF concerned about the image of the sport could have a no-needles policy, for example, as a code of conduct rule. If somebody violated the no-needles policy, it would not be an anti-doping rule violation but simply a code of conduct violation.

People had asked why WADA was not a signatory, and the answer was that WADA was not a signatory because WADA's role was to monitor signatories and enforce compliance on signatories, so it could not do that for itself, but the point that it should be committed to the roles and responsibilities of WADA as set out in the Code was absolutely valid. The Code said that WADA, through its Foundation Board, would formally accept those roles and responsibilities.

THE CHAIRMAN said that Mr Young would be interested to know that one of his friends, Professor Ljungqvist, had called him to ask about the major changes to the Code. He did not know how old Professor Ljungqvist was, although he was a very senior gentleman, and he was fascinated by what was happening.

MS UKISHIMA said that, in the proposed 2021 World Anti-Doping Code, provisions for a new type of anti-doping rule violation and involvement of governments would be added. She understood that those were important amendments for effective anti-doping activities. On the other hand, the amendments appeared to expand discrepancies between key provisions in the World Anti-Doping Code and the equivalent provisions in the international convention. As a result, the legal systems of the states parties to the international convention could be inconsistent with the World Anti-Doping Code because the legal systems of the states parties had to be in conformity with the international convention. That was her concern.

MR DÍAZ stated that the public authorities had, throughout the Code revision process, sent in their different observations by region or by individual country, and had reached consensus on two particular subjects. One was to support Japan's observation: in particular, article 22 in the draft made it clear that expectations were imposed on the governments that went beyond the provisions of the UNESCO convention, so he asked that it be revised and modified accordingly. Before the final review process, he requested a multi-stakeholder consultation meeting to share the concerns and observations and look at consensus where different opinions were expressed. It would be a good idea to understand the proposals from the different stakeholders.

MR DE VOS said that the Olympic Movement appreciated the work carried out. It was a huge undertaking. He wished to make some preliminary remarks. Given the quantity of documents and timing, the Olympic Movement would like to have an opportunity to provide additional comments between then and the next Executive Committee meeting in September. The Olympic Movement would have to consult before the adoption of the new Code could be supported.

On the Code review in general, personally speaking, looking at all the documents, not only was there a lot of text but also the language was, in his view, complex. A non-English language speaker had to read and re-read it, and he wondered if perhaps the sentences might be made shorter. That would help. In the end, the aim was for the Code to be universally applicable and complexity needed to be avoided as much as possible. There was also a huge concern in relation to the increasing

regulations and the complexity of the Code and the international standards. On top of that, he believed that mandatory principles and non-technical processes should be included in the Code and not in the standards.

In relation to the extraterritoriality of some national legislation, that issue should be addressed and coordination in terms of defining the scope of such legislation would be very helpful.

With regard to the enlargement of the scope of people bound by the Code, he understood the recommendation and supported the recommendation of the athletes to look at ways of holding accountable those who enabled doping, but there were concerns as to how that was currently addressed in the Code, because he believed that there would be no consistency in application across the different countries because of the different national laws. He recommended consideration as to how to practically address the concerns of the athletes.

In relation to the roles and responsibilities of the signatories, he understood that there had been a shift in responsibilities and it was the obligation of the signatories to take action under their own rules against any sporting body, but he was happy to hear that it would remain WADA's role to monitor compliance with the Code which might require the support of the signatories. He hoped he had understood that correctly.

MR GODKIN said that the recent long teleconference with his people on the Code review had been much appreciated. Were there any general remarks that might be made on the substances of abuse and the introduction and more thinking about whether threshold limits could be a substitute for that in general?

MR YOUNG responded to Mr Godkin. On the substances of abuse, taking the issue of cocaine, everybody recognised that cocaine could be a powerful stimulant that would affect competition. What had been heard from probably most of the ADOs was that they were wasting huge amounts of money on cases involving cocaine used out of competition with trace amounts detected in competition. WADA would like to go after the real dopers instead of wasting money on those cases in which the athletes were taking them forward on no significant fault, etc. Two things had been heard from the ADOs: one, they had asked WADA to come up with a reporting limit on cocaine that said that the amount of cocaine in the system at the time of the test had no effect on athletic performance, and two, if one was to sanction cocaine used out of competition but for which the athlete had tested positive in competition, why not cut through the hearing process and just have a fixed sanction of a certain number of months? There was a special legal science group that was trying to figure out the answer to the first question, which was, could one say, based on the analytical results, that there was no performance-enhancing benefit of that amount of cocaine in the system? The answer was, if it was a blood sample, yes, but urine was not so easy, and so the group was trying to figure out if there was a way that, based on a urine sample only, it would be possible to draw a reporting limit and say that it was not necessary to worry about cocaine below that amount. What had been done in the Code, short of being able to do that, was that the team had come up with a flat three-month period of ineligibility if the athlete could show that it had been used out of competition and unrelated to sport performance. Some people had thought that that ought to be longer and some had thought that that ought to be shorter, but most people had asked the team to leave it in there nonetheless.

In relation to the Olympic Movement request, he would be happy to receive additional comments. The comments made the Code a better document and, in the conversation with Australia the previous week, a couple of things that were inconsistent in the Code had been pointed out. Those would obviously be changed, and he would look forward to hearing comments. At the end of the day, there could not be any inconsistency between the language in the Code and the language in the standards. They had been developed on a moving process but, before September, that process would have been stopped and resolved. That was a fair comment. There had been some inconsistencies, but there would no longer be any.

As to the scope of people bound by the Code, a whole bunch of different approaches had been tried. The important thing was that there should not be anybody who was a leader of a signatory who did not agree to be bound by the rules that applied to everybody else. If they were athlete support personnel, that would work out great, but that was not the way in which it had been written and, if anybody could come up with a better way of addressing that issue, the team would be perfectly happy to look at it. The only two organisations that had all of their employees agree to be bound by the Code were WADA and NADOs. For the IOC or an IF, it was the officers and directors and board members, but only those employees involved in anti-doping or medical or sport performance issues, so the accounting department, the HR department and the like were not affected.

In terms of shorter sentences, that was fair. Coming to the table and reading the document for the first time, he totally understood that. In terms of the detail, he understood that too, but there were a lot of lawyers out there who were highly paid to get athletes who tested positive or committed other anti-doping rule violations off, and those who were on the other side for a living needed very

detailed and clear rules; otherwise, if a panel felt sorry for somebody and the rule was not crystal clear (and crystal clear required detail), they might let them off with a slap on the wrist, and that was not what WADA sought in terms of harmonisation in the Code. The length of the sentences could be looked at or, if anybody had specific points, such as the fact that the sentence might make a lot of sense to an arbitrator or a lawyer but just did not make sense to an athlete or a sport administrator or anybody else, the team would be happy to try to correct that.

On article 22, from the point of view of governments, he understood the concern. There had been a two-day meeting with the Council of Europe at which the consensus heard had been that governments could not require their employees to agree to be bound by the Code. Therefore, the team had taken that out and replaced it with a phrase stipulating the fact that it was the expectation of the signatories (signatories could not make governments do anything) that governments would not employ or continue to employ somebody who had been found to have engaged in doping. A situation whereby a deputy minister had been involved in doping and doping cover-up and had then gone to work for a sport organisation was just not acceptable. He was not sure what had to happen to the convention. Every time there was a potential Code change, that could affect the convention, and it was not his area of expertise, whether there needed to be a change to the convention or not, but that was a serious problem that needed to be addressed. Part of the backdrop was that everybody would ask what had been learnt from the Russian experience and how that learning had been reflected in the Code, and that was one of the things that was related to that.

MR SIEVEKING recalled that the article in question had always been a kind of wish-list, what signatories wanted governments to do. The governments were not bound by the Code so there was no obligation, but it was the expression of the Code signatories as to what they would like governments to do. That had always been the intention, to have a list of potential areas in which governments with no obligation under the Code could assist signatories. All the changes proposed in the article addressed one issue identified in the Russian crisis. There was no obligation for governments in that article; it was just an indication of what WADA's stakeholders wanted the governments to do if they wanted and were able.

THE CHAIRMAN said that it was not getting any easier but, as Mr Young had said, legal necessity every now and again demanded that WADA take a particular course of action. He thanked all the people on the Code Drafting Team for offering to consider the occasional improvement comment between then and September. That would make at least the one-and-a-half days of the World Conference on Doping in Sport in Katowice a little shorter. It was a formidable piece of work and he was most grateful.

DECISION

World Anti-Doping Code review update noted.

– **10.2 International standards review update**

MR SIEVEKING said that he would be brief. One standard, the ISL, was specific, but the process for all the other standards had been similar to that for the Code, although there had been one phase less, because the standards had comprised only two consultation phases, which were now over, so the next step would be the same, and he was sure that each drafting team would be ready to receive unsolicited comments over the coming weeks. Updated documents would be presented at the Executive Committee meeting in September. There was one exception to the process, and it concerned the International Standard on Result Management, and he wished to also note the International Standard on Education. Starting with the ISE, there had been great cooperation between the Code Drafting Team and the ISE drafting team, and the result was a very good document that finally clarified what education was and what a good programme was and the steps that stakeholders needed to follow to ensure that it was done properly. It was a key area of anti-doping and stakeholders had expressed in Lausanne that it was their number-one priority. Resolving the matter via an international standard had been a very good idea, because it was the last key area in the Code not covered by a standard.

The comments on the ISRM had been received. The document had been very well accepted. In Baku, the members had agreed to have a second phase for the standard, which had been drafted only the previous year and, to ensure that the process would be the same as for all the other standards, the members had agreed upon a second phase of consultation. The proposed dates for the second consultation phase were in the members' files: 27 May to 8 July, six weeks, a little shorter, but for once the members would have only one document to review and not seven or eight. He hoped that the Executive Committee would agree to that proposal so that he could inform the stakeholders after the meeting.

THE CHAIRMAN noted that huge amounts of work had been done drafting all the standards. It was tempting to take them all one by one and ask for changes, but it was actually not practical. Mr Sieveking was happy to have comments.

MR SIEVEKING repeated that the date was 27 May to 8 July for the second consultation phase for the result management standard.

THE CHAIRMAN said that, in that case, if the members had points to raise, they should seek out the individuals who had responsibility and raise them, and the individuals would take them on as best they could.

10.2.1 Laboratories

DR BARROSO recalled that a new version of the ISL had been presented in Baku for approval. At that time, several points had been made by the Executive Committee and there had been a request for the WADA management to send the standard out for another consultation process, and that had been done from 10 December to 4 March. As a result, he would present the main changes adopted in the new version as compared to the version presented in November 2018. WADA had received 131 comments during the further consultation process and, as expected, most had come from the laboratories, but WADA had also received comments from the NADOs, testing agencies and public authorities and so on. On the two issues raised by the Executive Committee in November, the first had been the famous article 4.4.1 linking the maintenance of WADA laboratory accreditation to payment of WADA contributions by the host country. The article had been overwhelmingly rejected by all those consulted and had been removed from that version of the ISL. The second matter had to do with the request by the Executive Committee for the technical letters to be approved by the Executive Committee. The technical letters would therefore have to be approved by the Executive Committee. As to how the process would be implemented in practice, considering the technical letters had to be immediately applied by the laboratories, WADA would work on that but would definitely seek the approval of the Executive Committee.

The third point had to do with the laboratory evaluation system, which included a table of penalty points. The previous system had been deemed overwhelmingly, especially by the anti-doping laboratories, to be too primitive and it did not have enough emphasis on education and corrective actions. A more risk assessment-orientated system had been advocated, and the comments had also been taken into consideration. He clarified that the system of laboratory accreditation in the current section 4 had been further clarified in relation to the four different stages that a laboratory had to go through to become WADA-accredited. That was much clearer in the current version and applied also to those laboratories seeking approval for the Athlete Biological Passport.

In relation to the laboratory evaluation system, the current system implemented was actually much more balanced and had much more emphasis on education and the possibility of the laboratories to implement corrective actions to address or solve any deficiencies. There had been a recognition of ethical behaviour by the laboratories, meaning that it was the laboratory that would go to WADA and say that it had made a mistake and that it would not be necessary for WADA to go to the laboratory to find out. There had been a couple of examples in the past for which the laboratories had not been properly compensated. That had been incorporated into the system. The laboratories would be deducted five points if they came forward and declared the mistake made. Also, when the laboratory was able to implement a corrective action satisfactorily and in a timely manner, it would be compensated with the deduction of penalty points related to the actions.

What happened to penalty points accumulated before or during a suspension period? Just to make it clear, even when laboratories were suspended, they were still subject to the WADA proficiency testing programme and still received samples from WADA for evaluation. It had been made clear that any points accumulated before or during the suspension would be cleared after the laboratory was reinstated. Obviously, if the laboratory was not up to the quality expected, it would not be reinstated. There would be no point reinstating a laboratory with penalty points that might lead to a suspension within a short period of time. However, in cases of analytical testing restrictions, this was a new definition currently known as partial suspension, when a laboratory was suspended for a specific method, for example. In such cases, any points related to the analytical testing restriction would be cleared after the reinstatement of the laboratory, but any points related to something else would continue to be carried by the laboratory. Two important things needed to be taken into consideration. A laboratory would be immediately suspended with no right to a disciplinary process under two circumstances only: when a laboratory reported a false adverse analytical finding and that false adverse analytical finding led to consequences for the athlete as defined in the Code, the athlete was sanctioned, could not compete, etc. Whatever consequence for the athlete through the fault of the laboratory would lead to a laboratory suspension. The second scenario was when a laboratory accumulated a maximum amount of points as defined in the penalty point system. The penalty point system gave the laboratories plenty of opportunities to correct their mistakes and

actually get points deducted. If a laboratory got to accumulate a maximum number of points, it meant that it had really serious problems, in which case the Laboratory Expert Group would recommend the immediate suspension of the laboratory accreditation. In summary, the system was much clearer. The rules applied to everybody, everybody knew exactly how they were going to be applied and there was much more emphasis on education and the correction of mistakes before a laboratory was sanctioned. Those were the main changes in that version.

THE CHAIRMAN remembered when the Executive Committee had decided to defer the matter and seek further consultation; he had not realised how broad the consultation would be.

MR PIECHOTA welcomed the additional round of consultation requested at the previous meeting. There had been some positive feedback from the laboratories in relation to the changes made to the draft. However, Europe still had some concerns in relation to two articles in the standard, articles 4.1 and 4.2.3. He made it clear that he did not wish to delay the adoption of the standard; actually, it had already been done, but he did not want further delays. As to the articles, he asked WADA to redraft them. In relation to article 4.1, the second sentence of the article should be removed, because it contradicted the intention to lift the geographical limitations for the laboratory network, or at least it should be redrafted in such a way that it was clear to everybody that the decision was that of the Executive Committee and not the WADA management. As to article 4.2.3, he really liked the idea of having a good definition of operational and administrative independence in the standard, but the proposed definition in that article lacked clarity. Therefore, he proposed that the formulation of the article remain unchanged, as in the ISL 2016 version, with a view to developing a more appropriate definition at the next WADA Executive Committee meeting in September; in drafting the proposal, WADA should take into account the recommendation on the operational independence of NADOs adopted by the Council of Europe the previous year; and, in the context of the revision of the Code, he asked WADA to consider introducing a definition of independence and including it in the Code as it also applied to the independence of the NADOs.

PROFESSOR ERDENER said that full consensus among all the stakeholders was necessary for some major changes, involving the public authorities, the Olympic Movement, technical experts and the Health, Medical and Research Committee.

THE CHAIRMAN said that he was really very keen not to get involved in rewriting a standard at that stage in the game. He really wanted the ISL to be approved. The point made by Professor Erdener about cooperation between the two major bodies was fine.

DR BARROSO responded to the comments. Article 4.1 referred to approval of the candidacy status by the Executive Committee, and that was the only article in which there was any reference to geography. The second sentence said that the Executive Committee reserved the right to reject an application on the grounds of regional or national needs for anti-doping testing, etc., but it was only the Executive Committee that could make that decision, not the WADA management. There was no mention of the geographical distribution of the laboratories anywhere else, because the primary focus was on quality. On the laboratory independence, the team had gone well beyond the 2016 version, but obviously a lot of lessons had been learnt from the Russian situation and the involvement of the ministry and institutions in the operations of the laboratory, which was why the team had wanted to make it absolutely clear that the laboratories had to be operationally and administratively independent from anti-doping organisations and the sport organisations. Political parties were mentioned, and he understood that that might be more controversial, and he was open to suggestions in that regard to make the definition better than it was; but, as a matter of principle, WADA wanted to make sure that the laboratories were truly independent and accountable.

DR RABIN acknowledged the comments from the European representative. The working group had worked under what had been approved by the Foundation Board in November 2017 and then again in May 2018, and those points related to geographical distribution had been clearly mentioned not as a priority criterion but something to be taken into account at the discretion of the Executive Committee; and, on independence, it had been clearly mentioned that the notion of administrative independence approved by the Foundation Board would be included. The team had been working along those lines. No major comment had been received during the consultation phase on those two points.

THE CHAIRMAN reminded the members that the laboratories were working every day and WADA could not have a standard that was rattling around. He urged the members to approve the standard that was there on the clear understanding that dialogue between Europe and WADA would happen when necessary.

In relation to the comment on all the other standards, if anybody had concerns, they should be speaking to their own technical experts and getting them to make whatever points needed to be made.

DECISION

ISL proposal approved.

10.2.2 Code Compliance by Signatories

10.2.3 Education

10.2.4 Protection of Privacy and Personal Information

10.2.5 Result Management

10.2.6 Testing and Investigations

10.2.7 Therapeutic Use Exemptions

– 10.3 Code Compliance

10.3.1 Compliance Review Committee Chair report

MR TAYLOR informed the members that he had a short report. He would be talking about Russia in a separate paper. As to the general position, he just wanted to note that the Compliance Review Committee continued to work with the Compliance Task Force, which he commended for its daily, very productive and impressive work on the compliance monitoring programme.

DECISION

Compliance Review Committee Chair report noted.

10.3.2 Compliance monitoring update

MR DONZÉ informed the members that they would receive a fairly detailed update from Mr Ricketts the next day on the compliance monitoring programme with the latest updates on the development of the programme.

DECISION

Compliance monitoring update noted.

10.3.3 Russia update (including LIMS)

MR TAYLOR informed the members that, although the report was from him, he was really telling the members what Mr Younger had been telling him and the rest of the Compliance Review Committee for the past few months. The Compliance Review Committee had been kept up to speed with the work done by Mr Younger's team on authenticating the data and obtaining the samples. The members would have seen from the Director General's report that all the samples had been obtained and, in the opinion of the Compliance Review Committee, that condition had been satisfied. Very early that morning, he had received a very detailed report about the authenticity of the data. He asked the members not to ask him any detailed questions about that report, as the technicalities were beyond his expertise. Fortunately, Mr Younger was there to speak to the detail of it. The big picture that he had got early that morning was that a very significant degree of authenticity had been established, there were some inconsistencies that needed to be followed up, the who, what, where and why needed to be established, and the Compliance Review Committee would make sure that that happened, but the main focus of the work was moving forward very steadily.

MR YOUNGER announced that he was very pleased to update the members on the progress of the work in relation to the authentication and use of both the data and the samples that WADA's Intelligence and Investigations Department had retrieved from the Moscow laboratory. Starting with the LIMS data analysis, as he had reported at the extraordinary Executive Committee meeting held by conference call on 17 January 2019, the Intelligence and Investigations Department had secured a forensic copy of the Moscow laboratory information system, including the underlying analytical data, known as raw data. Since then, with the support of internal IT experts, around 24 terabytes (more than 24 million documents) of data had been analysed and compared with multiple sources to investigate the authenticity of the data. The initial analysis had been concluded and, early that morning, he had provided a preliminary report to the Chair of the Compliance Review Committee, for the very technical content of which he apologised. He had informed the Chair of the Compliance Review Committee of a very high degree of matching between the data collected in January (the forensic copy) and the LIMS copy that WADA's Intelligence and Investigations Department had

acquired through a confidential source in November 2017. However, some inconsistencies between the two sets of data had also been identified and they required further investigation. He emphasised the importance of having retrieved the raw data from the Moscow laboratory. Raw data was the most important and best evidence, and had lifted the burden from the LIMS as being the primary source of evidence. From a legal point of view, a copy was never as strong as the original evidence. In relation to the data, it had already been confirmed as genuine, and the department had already started preparing a number of strong cases in close cooperation with the relevant IFs to pursue doping violations, and the members would hear about them very soon. All athletes identified as suspicious by the department would be investigated. The department would continue the work until all identified and prioritised cases had been identified properly. The department would also determine whether or not the inconsistencies identified would have a material impact on the ability to secure credible evidence of doping for some cases. He estimated that the exercise of investigating the data inconsistencies could be finished by the end of October 2019, following which a final report would be provided to the Compliance Review Committee.

On the Moscow sample extraction, he referred to the samples in the Moscow laboratory which had been sealed as part of a federal investigation. After WADA's Intelligence and Investigations Department had acquired the copy of the LIMS database in November 2017, it had compiled a target list of samples for extraction from the Moscow laboratory. In so doing, it had taken a very conservative and inclusive approach to make sure that all samples would be available for analysis if needed during the investigation. WADA getting access to the samples before 30 June 2019 had been one of the two conditions imposed by the Executive Committee in September 2018. On 22 April 2019, the expert Intelligence and Investigations Department team had travelled to Moscow and retrieved all targeted samples. They had been removed on 30 April and were currently stored at a WADA-accredited laboratory outside Russia. In relation to the sample selection process, he referred to his Operation LIMS update report in the members' files and reiterated that the department had been conservative and inclusive.

In terms of next steps in relation to the samples, a number of them would be used in the work to build strong cases against athletes and others who had cheated. In relation to the raw data, the Intelligence and Investigations Department team and the laboratory experts were reviewing and identifying all suspicious samples that indicated the presence of prohibited substances and would have them re-analysed to detect the use of prohibited substances or methods. Where samples had been part of a protected athlete list in the Russian doping scheme, such as in the urine bank and the Duchess List, further forensic analysis of them would be considered. Considerable progress had been made over the past few months on the retrieval and analysis of both the data and the samples from the Moscow laboratory. The team would continue to work relentlessly over the coming months to build strong cases to support the IFs in their pursuit of the cases and to further investigate the inconsistencies identified. He would of course keep the Compliance Review Committee updated on the work.

MS SCOTT referred to the inconsistencies in the data and asked why October was anticipated as the date for verification of such inconsistencies. Why so long, and was there any plan for WADA in terms of consequences if it was determined that the inconsistencies were due to tampering?

Packages going out to the IFs were being prepared for cases to be brought forward. Was there a plan for what would happen to the IFs if they did not bring the cases forward?

To Ms MacLean, the athlete community was concerned and had been following the developments quite closely, and it was very important to be transparent (especially with the athletes) as the process unfolded, and she recommended full transparency to WADA.

MR TAYLOR responded that, in terms of what the Compliance Review Committee would do, he would discuss with the Committee the contents of the report received from Mr Younger that morning. The Committee would want to not slow down his work in pursuing the individual cases; but at the same time, the Committee would be trying to work out a strategy to ensure that it was exploring and understanding the inconsistencies to be ready to react once it had a very clear view of how the inconsistencies had come about (who, what, why and when). Until the Compliance Review Committee knew that, it would not know if there had been non-compliance and what the recommendation should be. He did not have any plans to delay once the Compliance Review Committee did know that. The only question for him (and again he needed to discuss it with the Compliance Review Committee) was that he wanted to find a way to move forward and deal with the inconsistencies in a manner that did not undermine or slow down Mr Younger's work on the individual cases but still allowed the Committee to deal with the matter with alacrity once it had a clear position on the nature and scope.

MR YOUNGER thanked Ms Scott for her question. The database had not been isolated after 18 November 2015, and so it had still been in use. There had been a lot of changes in the database, but WADA had a frozen one, so he was comparing the frozen one with the one from the laboratory

that had remained active. He did not yet know whether there had been changes or files deleted. That would have no impact on the cases, because an authenticity approach had been carried out first, to determine whether what the department had was consistent and genuine compared to the Moscow LIMS data, and the department could say that it was, which was the first and most important step. It would then be necessary to look into the files that were no longer in the Moscow laboratory database but that were in the WADA-obtained one. They might have been deleted after 18 November 2015, when the laboratory's accreditation had been suspended. He did not yet know whether that would have an impact on the cases.

The process was taking so long because WADA wanted to be very thorough in its investigation. It was investigating around 300 cases, which was a lot when one considered that the evidence had to be compiled and made very strong because, if WADA went to the CAS, it would want to win the cases. WADA was going with the strongest cases, and if there was an inconsistency and the WADA data did not match the Moscow laboratory data, it would be necessary to investigate why. The department needed to be very thorough and the lawyers would agree. If WADA went to court having not investigated properly and not having all the explanations for inconsistent data, WADA would face a big problem. Therefore, it was a huge task: the database contained 24 terabytes, so there was a lot in the system and WADA needed to check what had happened during the process.

When approaching the IFs, WADA had handed over the cases and the IFs had time to decide whether the evidence was enough, in which case they would go ahead with the case, or whether the evidence was not enough, in which case the Intelligence and Investigations Department would go to the WADA Legal Department. If the WADA Legal Department decided that the evidence was strong enough, WADA would appeal and would go to the CAS with those cases. In that respect, if the IFs did not want to accept the case or go ahead with the case, the WADA Legal Department would probably do so.

In relation to transparency, he fully agreed, and the Intelligence and Investigations Department was fully transparent with whatever it had. If the Athlete Committee wanted to have more insight, he would be happy to go and explain in greater detail to the members of the Athlete Committee.

MR SIEVEKING said that the Intelligence and Investigations Department was preparing packages for the IFs based on all the evidence collected to date, including some new evidence from the LIMS database. Depending on the number of cases, the IFs would be given a few months to review the cases (depending on the number of cases given to the IFs), and then WADA would see what the IFs decided. If they brought the case forward, WADA would monitor it and, if it was unhappy with the decision, it would appeal. If the IFs decided that they did not have enough to bring the case forward, WADA would review the decision and the conclusion and, if WADA did not agree, it would bring the case forward and appeal the decision. He did not know how long it would take, as there were many factors, but he assured the members that any case with sufficient evidence would be pursued.

There were already some decisions that had been handed down by the CAS in the first instance, for example, in IAAF and other cases, and WADA was starting to find out what kind of evidence was being admitted. WADA would start with the strongest cases for which it had the most evidence, and would then go downwards until it reached the point beyond which there was no chance of the CAS agreeing to sanction an athlete, but WADA would start with the strongest cases and see where they went. As long as WADA had sufficient evidence, it would bring a case forward if it considered that the IF should have done so.

MS MACLEAN echoed Ms Scott's sentiment in terms of wanting greater transparency and would be transparent within the limitations of result management. She would also like to be as transparent as possible.

MS TERHO sought confirmation that the inconsistencies were because of the reasons mentioned and there did not seem to be any evidence of tampering.

MR YOUNGER said that the department was not yet at that stage. The first step had been to compare the two databases, and some data had not matched. He did not know whether or not it had an impact or whether or not it was relevant. WADA would go with its cases in the system, because it had the data, for example, for case number one, all the data that was in the system, and would then see whether the inconsistencies would have an impact on the cases. There were 300 cases and only two investigators. It would take a while, but he was confident that he would finish in a few months' time.

THE CHAIRMAN declared that he did not want anybody to leave with the assumption that, if the IFs did nothing, WADA would automatically pick it up. He and Mr Gillot had spent quite a long time at the SportAccord meeting in Australia making the point to the summer and winter IFs that WADA would provide the evidence package and it was very much in the IFs' interest to prosecute. It really

was in the IFs' interest. It was their sport and they were at the sharp edge of it. It was an enormous amount of work and, on the members' behalf, he had gone and knocked on the door of the private offices downstairs and thanked the investigators for all the work they had been doing, and he repeated his thanks at that meeting. It was an enormous effort.

MS SCOTT followed on from her previous question. She understood that WADA would appeal if the IFs did not take cases forward, but what happened if there were IFs that were deliberately not taking cases forward in an effort to avoid positive cases? Would there be any sanctions for those IFs if it was shown that they were deliberately not taking cases forward?

THE DIRECTOR GENERAL replied that he thought that Mr Sieveking had answered that question. If they did not go forward, the case would go back to the WADA Legal Department to assess why and, if WADA did not agree, it would bring the case forward. That would have an impact on the IF, because it would become a compliance issue to be discussed if result management was not done without good reason.

DECISION

Russia update noted.

10.3.4 New recommendations of non-compliance

MR TAYLOR informed the members that he would recuse himself and ask his vice-chair, Mr Gourджи, to assist.

THE CHAIRMAN noted that Mr Taylor had a clear conflict of interest over the cricket case, because he advised various cricket bodies, which was why he had recused himself. In countries such as England, Australia and New Zealand, cricket was a religion. In India, it was much more serious than that. He gave the floor to Mr Gourджи.

MR GOURDJI said that the Executive Committee had received a recommendation from the Compliance Review Committee to withdraw the initial recommendation of asserting the International Cricket Council non-compliant with the World Anti-Doping Code after the usual Compliance Review Committee pre-Executive Committee conference call. He would provide the members with some clarification as to the updated recommendation.

After the first batch of meeting documents sent to the Executive Committee, WADA had received a letter on 25 April with a detailed road map from the ICC proposing concrete ways of solving the non-conformities that the ICC had been having. Those had to do with the anti-doping rules of the ICC, the anti-doping rules of the Board of Control for Cricket in India (BCCI), which was the national association operating in India under ICC jurisdiction and, most importantly, the fact that the BCCI was preventing the Indian NADO from conducting its own anti-doping activities in Indian cricket. At its conference call on 1 May, the Compliance Review Committee had reviewed and discussed the new developments at length and had come to a unanimous conclusion that the road map presented by the ICC was indeed a significant development and had the potential to break the deadlock between the BCCI and the Indian NADO in a country in which cricket was by far the number-one sport, as the Chairman had rightly mentioned. The road map proposed that, from the start of the cricket season in India in late August or early September, the BCCI start working with the Indian NADO by outsourcing the conduct of a number of its tests to the NADO for a period of six months, after which the partnership would be expanded. In line with the letter and in the spirit of the International Standard on Code Compliance by Signatories, the Compliance Review Committee had concluded unanimously that that was an opportunity for collaboration between the two bodies that could not be missed if the issue of lack of trust between the BCCI and the Indian NADO was ever to be solved; however, it had made it very clear that it expected that, at the end of the six-month trial period, cooperation between the BCCI and the Indian NADO would expand and that the Indian NADO would no longer be prevented from implementing its own anti-doping activities in cricket, including in- and out-of-competition testing on all levels of players falling within its national jurisdiction. Such development would be the only possible way to ensure that the current ICC non-conformities were addressed in line with the Code requirements. As a result, the Compliance Review Committee had requested a number of amendments to the proposed road map and, in fact, the ICC had been open in its letter, asking for amendments to the proposed road map which included asking WADA's internal Compliance Task Force to closely monitor the implementation of the road map and the following developments. The Compliance Review Committee would discuss the ICC case at its next meeting and stood ready to reassess the matter and make a recommendation to the Executive Committee if necessary at any time.

THE CHAIRMAN thanked Mr Gourджи. Were there any questions? Were the members happy with the recommendation from the Compliance Review Committee? There must be millions of people waiting for the decision. He thanked Mr Gourджи for stepping in for Mr Taylor, who was clearly conflicted because of his business interests in the cricket world.

DECISION

New recommendation of non-compliance noted.

11. Legal

– 11.1 Meat contamination from clenbuterol – proposed change to Code

MR SIEVEKING stated that there was a proposal to amend article 7.4 as soon as possible, and the members would see the proposed change in their files. The amendment could be enforced on 1 June. Most of the members appeared to be in agreement with it, given that it would allow laboratories to report as atypical findings any clenbuterol findings below a certain level, meaning that a positive test could be due to meat contamination. It was important because, if an athlete currently tested positive for clenbuterol, even if they were able to establish that it came from the meat, there would be no fault but their result could still be disqualified, so it was not proportionate to the offence of having eaten meat in a country in which clenbuterol was an issue. The proposal would be put to the Foundation Board the following day.

THE CHAIRMAN noted that the issue had been a difficult one for a long time and, if the proposal provided a solution, then the team would have done the world a favour.

MR SIEVEKING reiterated that it would be a temporary solution until the new Code came into force, but the issue would be solved in the ISRM from 1 January 2021.

DECISION

Proposed change to the Code in relation to meat contamination from clenbuterol to be submitted to the Foundation Board.

– 11.2 US Bill on Anti-Doping

MR SIEVEKING said that there had been several bills put to the US House of Representatives and the US Senate since 2018. The bill in question had been reviewed and it was still work in progress. The vast majority of bills did not end up becoming law. He sought the members' comments to know what the WADA management should be doing in that respect. Professor Haas had been asked to review the implications of the bill and its compatibility with the Code and the UNESCO convention. The conclusion was that there was nothing in the bill that, prima facie, would go against the Code principles; in particular, the bill supported enhanced cooperation and sharing of information between USADA and US law enforcement, and that cooperation was also strongly supported by the Code. The bill did not exclude US private leagues, which was interesting, as the bill clearly referred to the World Anti-Doping Code, so that would be a first step towards having a link between private leagues in the USA and the Code, but Professor Haas had some concerns that the adoption of the bill could result in important issues in terms of legal security and coordination among all anti-doping partners. He did not wish to enter into the details. The members had the legal opinion in their files. A WADA delegation had met some people in Washington some months ago to discuss it. He sought guidance from the members to know what was expected from the WADA management in terms of following up on the US process.

MR RICCI BITTI stated that the Olympic Movement was very worried about the consequences in spite of the positive point of view of Professor Haas, who was held in very high esteem. He was very concerned for many reasons, but there were basically two, so he asked WADA to clarify with the people responsible for the draft bill what the impact on the activity at the national level and the extraterritorial characteristics would be. In his opinion, there were some risks, and he did not know if his friend Mr Younger was there, but it was a bill that could discourage instead of encourage the exchange of information, and so that needed to be clarified, because the spirit of partnership between the sport movement and public authorities across the world should not be dictated by a bill in one country.

THE CHAIRMAN said that, if one read Professor Haas's opinion, the most relevant and difficult part was paragraph 15, which indicated the potential for lack of coordination, lack of working together and also the possibility that that type of legislation might encourage similar legislation in other countries, so there would be an American bill followed by a Russian bill followed by an Australian bill followed by another bill. That was complicated. All he had been able to do was seek advice in the

USA to see first of all what the chances were of that particular bill becoming law because, with all the bills in the USA, only 4% (he thought) became law, so WADA needed to find out and get some feeling for how the progress would be. Instructions to the management would be to be sharp, knowledgeable and informed about progress and communicate what WADA knew with the major stakeholders, but there could be no doubt about the serious concern about the potential implications of legislation that extended US legislation all over the world at their behest, and he had had a number of discussions with people who had explained how it would work in practice; the trouble was that, in law, the liability arose, so it was necessary to be sharp and work on that. He could not give Mr Ricci Bitti any further assurances, but it would be high on the order of priorities for the Director General and the staff.

MS SCOTT asked what specifically the concerns were. Other countries (for example, Austria and Italy) had enacted legislation against anti-doping and made it a criminal offence. Had the WADA management followed that closely as well and presented a position?

MR SIEVEKING suggested reading paragraph 15 of Professor Haas's opinion. It was more or less as the Chairman had set out. There could be problems with different authorities and different laws applying to a same doping issue, so that could be complicated in terms of coordination.

In terms of investigations in Austria and Germany, when WADA was aware of potential legislation that could be against the provisions of the World Anti-Doping Code, WADA would obviously follow it up. The criminalisation of doping was not set out in the Code, so it was not part of WADA's competence.

THE CHAIRMAN noted that the members were straying from the point.

THE DIRECTOR GENERAL stated that WADA had been supporting and working with many countries on their legislation. The problem was not having legislation; in actual fact, the fact that the USA was thinking about having legislation was quite a surprise, but it was good news. The problem was the extraterritoriality issue, having one law in the USA that could potentially apply anywhere in the world. No other countries had done that. Then there would be an overlap of responsibilities, a case with different laws that could potentially apply, and the whole system would become a lot more complicated rather than there being clear responsibilities. That was where the concern was, not the fact that there was a law, because the fact that USADA and the law enforcement bodies would share information was perfect.

MR RICCI BITTI reiterated that he was afraid that the characteristics of the bill were different. There had been many successes in the past because some countries had criminalised doping, allowing for successful interventions. When the law had extraterritorial characteristics, it prevented people from cooperating and was a deterrent.

THE CHAIRMAN commented that something happened all the time and there was never a quiet week in anti-doping.

DECISION

US bill on anti-doping update noted.

12. Questions on departmental reports

13. Any other business

THE CHAIRMAN thanked the members for their attendance and hard work. He was told that WADA was looking for potential hosts of Executive Committee meetings in September 2020 and maybe in January 2020; so, if the members knew of a country that might be interested to host a WADA meeting, they should contact the management. He thanked the interpreters and the audio-visual providers. The members should be grateful to the staff for the quality of the paperwork delivered in advance. On 23 September, the Executive Committee would be in Tokyo, after which the members would be in Katowice for the World Conference on Doping in Sport, and almost certainly the Executive Committee members would be back in Montreal in May 2020.

MS UKISHIMA said that the next meeting of the Executive Committee would be held in September in Tokyo. Japan would be hosting the Rugby World Cup in September and it seemed that the two events would be taking place at the same time. As she was responsible for sport, anti-doping and the Rugby World Cup and the Olympic Games and Paralympic Games, she looked forward to hosting the members in Tokyo.

14. Future meetings

Executive Committee – 23 September 2019, Tokyo, Japan;
Executive Committee – 4 November 2019, Katowice, Poland;
World Conference on Doping in Sport – 5-7 November 2019, Katowice, Poland;
Foundation Board – 7 November 2019, Katowice, Poland.
Executive Committee – 16 May 2020, Montreal, Canada;
Foundation Board – 17 May 2020, Montreal, Canada;

The meeting adjourned at 5.10 p.m.

FOR APPROVAL

SIR CRAIG REEDIE
PRESIDENT AND CHAIRMAN OF WADA