

**Minutes of the WADA Foundation Board Meeting  
20 November 2016, Glasgow, UK**

The meeting began at 8.30 a.m.

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

THE CHAIRMAN welcomed the members to the WADA Foundation Board meeting in Glasgow. The meeting room was very big. He actually had a map that told him where the members were; so, provided they were sitting in the right seat, he had a chance of getting through the meeting calling the right people to speak at the right time, although they might have to indicate who they were.

There was one apology from the newly appointed Korean vice-minister, Mr Yu. He welcomed to their first Foundation Board meeting Mr Mizuochi from Japan, Ms Crouch from the UK, Mr Kiliç from Turkey, Mr Infante from Venezuela and Ms Assele from Gabon.

He informed the members that they should be aware that, in accordance with practice, the WADA Foundation Board meetings were open meetings and the media were in attendance, so he asked them to bear that in mind when making their interventions.

He had recognised the moment at a previous Executive Committee meeting, but WADA did miss its former vice-president, Dr Stofile, who had died some months previously. He was a man of very considerable substance in his life as a whole, he had given much of his time to WADA, and everybody missed him. He asked the members to stand for a few moments in his memory.

MR GENDALL stated that the Government of New Zealand would like to record its tremendous regard for Dr Stofile, who had been a great and fine man for his country, the international community and sport. He had been a close friend of New Zealand, so much so that New Zealand had presented him with a signed All Blacks jersey when he had been elected vice-president and, had he been present the previous night, he would have been very happy with the outcome of the New Zealand/Republic of Ireland rugby match. He asked for it to be put on record that the Foundation Board not only honoured his memory but was also greatly appreciative of his service and commitment to the WADA community.

The following members attended the meeting: Sir Craig Reedie, President and Chairman of WADA; Mr Toni Pascual, Chairman, IPC Anti-Doping Committee; Mr Nenad Lalovic, Member of the IOC, President, United World Wrestling; Mr Patrick Baumann, Member of the IOC, Secretary General, FIBA; Dr Robin Mitchell, Member of the IOC, President, Oceania National Olympic Committees; Mr Richard Pound, IOC Member; Ms Rania Elwani, ANOC Representative; Mr Fabio Pigozzi, President, International Federation of Sports Medicine; Professor Eduardo Henrique de Rose, President, PASO Medical Commission; Mr Andrey Kryukov, Executive Board Member, Kazakhstan National Olympic Committee; Mr Ryan, representing Dr Tamás Aján, Member of the IOC, President of the IWF; Professor Ugur Erdener, Vice-President of the IOC, President, World Archery; Mr Francesco Ricci Bitti, Chairman of ASOIF; Mr Gian Franco Kasper, Member of the IOC, President of FIS; Mr Anders Besseberg, President of the IBU; Ms Heidemann, representing Ms Angela Ruggiero, IOC Member and IOC Athletes Commission Member; Mr Adam Pengilly, IOC Member and IOC Athletes Commission Member; Mr Nicholson, representing Ms Kirsty Coventry, IOC Member and IOC Athletes Commission Member; Mr Tony Estanguet, IOC Member and IOC Athletes Commission Member; Ms Tracey Crouch, Minister for Sport, United Kingdom; Mr Chris Agius, Hon. Parliamentary Secretary for Research, Innovation, Youth and Sport, Republic of Malta; Mr Philippe Muyters, Flemish Minister for Work, Economy, Innovation and Sport, Belgium; Ms Gabriella Battaini-Dracani, Deputy Secretary General, Council of Europe; Mr Akif Çağatay Kiliç, Minister of Sport, Turkey; Mr Enyew Ambesaw, representing Mr Redwan Hussien, Minister of Youth and Sport, Ethiopia; Ms Tjongarero, representing Mr Jerry Ekandjo, Minister of Sport, Youth and National Service, Namibia; Ms Nicole Assele, Minister of Youth and Sport, Gabon; Mr Michael K. Gottlieb, Assistant Deputy Director, White House Drug Policy Office, Executive Office of the President, USA; Ms Carla Qualtrough, Minister of Sport and Persons with Disabilities, Canada; Mr Lira, representing the President of the South-American Sport Council (CONSUDE); Mr Pedro Infante, President of the Central American and Caribbean Council of Sport (CONCECADE), Venezuela; Mr Toshiei Mizuochi, State Minister of Education, Culture, Sports, Science

and Technology, Japan; Mr Mohammed Saleh Al Konbaz, President, Saudi Arabian Anti-Doping Committee, Saudi Arabia; Mr Yingchuan Li, Assistant Minister, General Administration of Sport, China; Mr Godkin, representing Ms Sussan Ley, Minister for Sport, Australia; Mr Gendall, representing Mr Jonathan Coleman, Minister for Sport and Recreation, New Zealand. Beckie Scott, Edwin Moses and Valérie Fourneyron signed and were respectively present as the Chairs of WADA's Athlete, Education and HMR Standing Committees. WADA Management attending included Mr Olivier Niggli, Director General, WADA; Mr Rob Koehler, Deputy Director General, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Ms Catherine MacLean, Communications Director, WADA; Dr Olivier Rabin, Science Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Mr Benjamin Cohen, European Regional Office and IF Relations Director, WADA; Mr René Bouchard, Government Relations Advisor, WADA; Mr Frédéric Donzé, Chief Operating Officer, WADA; Ms Maria José Pesce, Latin American Regional Office Director, WADA; Mr Rodney Swigelaar, African Regional Office Director, WADA; and Mr Kazuhiro Hayashi, Asian/Oceanian Regional Office Director, WADA.

The following observers signed the roll call: Thorhild Widvey, Selkie Jeong, Marko Todoroski, Judith Lind, Valéry Genniges, Yves Le Lostecque, Max Cobb, Volker Laakmann, Erik Johannesson, Grace Ji, Kenny Lee, Lisa Ghil, Choi Taera, Louise Barton, Sergey Khrychikov, Rafal Piechota, An Vermeersch, Patrick Schamasch, Eva Nyirfa, Khalid Galant, Hu Yahuan, Hitesh Patel, Jonathan Taylor, Jeremy Stewart, Carolina Mauri, Alexandre Nunes, Rogerio Sampaio, Lucienne Attard, Rune Andersen, Machacha Shepande, Victoria Katukula, Jessica Jossob, S. Luffu Turgut, Suat Baylan, Iskender Okyay, David Howman, Neil Robinson, Richard Budgett, Matteo Vallini, Marcellin Dally, Tarik Karkincam, Paul Melia, Joseph de Pencier, Valérie Amant, Ichiro Kono, Eva Bruusgaard, Keiko Uchitani, Ayako Ito, Tatsuya Sugai, Paulina Tomczyk, J. F. Reymond, Joe Van Ryn, Chen Zhiyu, Dr Nzoghe, Willy Lemambo and Hannah Grossenbacher.

#### – 1.1 Disclosures of conflicts of interest

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

#### 2. Minutes of the previous meeting on 12 May 2016 in Montreal

THE CHAIRMAN drew the members' attention to the minutes of the previous Foundation Board meeting, held in Montreal on 12 May 2016. The minutes were very full, and had been circulated several weeks previously. He was not aware of any comments on them. Were the members happy that they were a true record of what had taken place at the previous Foundation Board meeting? If so, they would be approved.

#### DECISION

Minutes of the meeting of the Foundation Board  
on 12 May 2016 approved and duly signed.

#### 3. Director General's report

THE DIRECTOR GENERAL informed the members that he would start by giving them an update from the previous day's Executive Committee meeting. There had been a long and fruitful discussion, and the Executive Committee had made a number of recommendations and taken a number of decisions, which could be summarised as followed: the Executive Committee had looked at the recommendations for matters to be voted on by the Foundation Board and recommended that the Foundation Board vote in favour of the renewal of the current President, elect a new vice-president, vote to amend the WADA statutes, adopt bylaws for the Compliance Review Committee and the election of a new chairperson of that committee, and approve modifications to the statutes and the Swiss Register of Commerce.

There had been a very lengthy discussion on the way forward, and another discussion would take place that day, so he would not give the outcome of the debate but would provide the recommendations from the Executive Committee on each of the points on the way forward later that day. The idea was to discuss a number of suggestions put forward by different stakeholders over the past few months, and that discussion would include items that were at different places in the agenda, in particular two items: the consequences for non-compliance, and the whistleblower policy.

The Executive Committee recommended the approval of the 2017 budget to be presented by the Chair of the Finance and Administration Committee, had approved social science research projects and technical documents on the laboratory document package and the decision limits, recommended the adoption of the whistleblower policy to be presented later that day, and recommended that the

Foundation Board follow the recommendation made by the Compliance Review Committee on declarations of non-compliance and, finally, approved the proposed amendment to the Technical Document on Sport-Specific Analysis, so there had been a very full agenda the previous day and long discussions.

Most of the report was in front of the members, although he wished to update them on some items that had arisen since the report had been written, starting with the report by the independent person, Professor McLaren. The work was progressing. WADA had been in contact with him to find out when he would complete that work, and had been told that the plan was to announce the report and make it public on 9 December, so WADA was waiting for that to be confirmed, following which notification would be sent to the members.

There would be a separate agenda item on Russia right after item 4 and the various election processes. There would be a presentation and update on the work ongoing with Russia, and there was a delegation from Russia headed by Mr Smirnov, the chairman of the commission on the reform of anti-doping in Russia, to have a discussion and answer questions from the members. That would come right after the elections.

Linked with that, but on a slightly different topic, the members would have been aware that WADA had experienced a cyber-attack following the Rio Olympic Games by a group called the Fancy Bears. There had been a lot of communication about that. Since that time, WADA had engaged a number of professionals to help work on the matter, had scanned the entire system, and knew that the penetration that had occurred was limited to one account, and had obviously taken measures to reinforce the security of the system since then. Basically, WADA was closely monitoring any unusual traffic in the system and had reinforced the login/password requirements. However, all the members, as presidents of international organisations or government members, should be aware of the fact that the attacks could continue. WADA had been informed recently that the hackers were still trying to get a hold of passwords and logins using fake e-mails, which looked as though they came from organisations such as WADA. He warned them to be extremely careful; things had probably not stopped, and the members would have seen in the press that other organisations had been penetrated since the attack on the WADA system as well.

He drew the members' attention to the Independent Observer report from the Rio Olympic Games; it was planned as he understood it that the report on the Paralympic Games would come relatively soon. Mr Ricketts had been a member of the Olympic team. There had been a number of recommendations in that report concerning WADA in particular, and WADA was addressing them. One of the recommendations had been that WADA look into those organisations that might not have responded appropriately to requests from the task force in terms of testing prior to the Olympic Games, and WADA would look into that as part of its compliance exercise.

Another recommendation had been that there be a storage and reanalysis policy in place for each ADO, and that was also something WADA would look at as part of its compliance exercise.

A number of recommendations linked to IT and how WADA could improve the system with better IT, in particular the development of a paperless system, which had been discussed for several years, potentially having bar codes on doping samples to reduce paperwork and mistakes. All the action and recommendations related to technology would be looked at carefully and taken on board by the development team for the new ADAMS.

The last recommendation had been that experts from the Independent Observer team should be present in the laboratory at least one or two weeks prior to the official start of the Olympic Games, and that would also be taken on board for the next edition of the Olympic Games and raised with the IOC. In summary, the recommendations to WADA from the Rio Olympic Games were being looked into.

There were four new members of staff since the previous Foundation Board meeting: Mr Bouchard, who had been the chair of the Compliance Review Committee, and was now working for WADA in the field of government relations; Mr Younger, a former law enforcement officer, would be heading the WADA Investigation Department. Mr Younger had lengthy experience in law enforcement, had worked with Interpol and then the German police force as the head of cyber-crime; Mr Julien Sieveking had been promoted to the position of Legal Director; and then Mr Cohen, who was joining WADA as the new Director of the Lausanne office, taking over from Mr Donzé, who had joined the team in Montreal.

PROFESSOR ERDENER thanked Mr Niggli for his comprehensive report. He wanted to say something about the independent person's report. The sport movement would like WADA to clarify the deadlines for the release of the McLaren report, which was very important, as well as the roles and responsibilities of WADA and the independent person. The Olympic Movement was a little bit

disappointed at the continued postponements of the release of the report. As everybody knew, the first part of the report had been released immediately before the Olympic Games in Rio. He wished to inform the members that no official communication had been received from the independent person about the 100 Sochi samples analysed in the London laboratory, and the Olympic Movement supported further communication between Messrs Canivet and Oswald, and Professor McLaren.

MR RICCI BITTI echoed what his colleague had said about the McLaren report. The Olympic Movement asked WADA to take care of the deadline for the long-awaited report - Russia was a huge country and, in spite of the efforts of the people sent by WADA to coordinate the testing activities, the testing was around 10% of what was required in Russia. The IOC had asked Messrs Canivet and Oswald to take care of the individual cases following the testing in London, and they were expecting the independent commission outcomes to continue their work. Time was of the essence.

He also welcomed the agreement/memorandum of understanding with the Council of Europe and, in terms of the relationship with the inter-governmental organisations, he had another recommendation for WADA to urge UNESCO to look into having more legislative activities in many countries in relation to doping. Some countries were very much behind what was needed to be effective.

The third recommendation was to keep an eye on the major leagues. There were two major league sports that were becoming Olympic sports and, in Tokyo, baseball would be back. He knew that it was a difficult matter, but he thought that WADA should not stop its efforts to continue to make the leagues aware that it would be better if they became part of the family very soon.

MR ESTANGUET said that, more than ever before, anti-doping had become a political matter and WADA had become a major target. There were many things at stake, such as security, and he was very happy that Mr Niggli had mentioned it in his report. That was a collective challenge for everybody to defend the agency that had come under attack. Did WADA really have the ability to protect itself? The athletes were very concerned about that and wished for full cooperation on the matter. The governments probably had the skills and the ability to develop the tools to protect WADA, so it was an appeal for cooperation, at a time when the agency had new projects, the whistleblower policy and intelligent investigations, so he underscored the importance of all of that. WADA had to reassure the athletes. That linked up to communication. There was a real challenge there, given the loss of confidence in WADA on the part of the athletes, and he wanted to know whether a communication strategy might be launched to regain the athletes' confidence. The communication should not be too institutional, as that would not reach the athletes. The Prohibited List that came out every year and had just been renewed for the following year had to be communicated well to the athletes. WADA had to make a lot of progress in terms of communication.

MR POUND congratulated Mr Niggli on his first report as Director General. He had three points. The warnings about cyber-attacks were something everybody should be conscious of. A concerted, sophisticated attack could get into almost any system. That said, the good news, if there was any, showed that in relation to the issue of TUEs, it had all been properly done in each case, and that knowledge would be important for the stakeholders.

He thought that the Independent Observer report had been absolutely first-class, very helpful, and hoped that WADA, in addition to what it would do in relation to the recommendations directed at WADA, would follow up with the other parties to ensure they too were reflecting on the required actions, as it was a coordinated system that had to be put in place.

In relation to the report of the independent person, as somebody with some experience of investigations of such nature, the key was that the report not be issued before it was ready, and it was important to make sure that enough work had been done to be sure it was ready. It was kind of amusing that the first part of the report had been criticised because it had come too soon, and the second part was being criticised because it was coming after some might prefer. The post-report cooperation would be feasible once there was a report. It would be very detrimental to the process of producing the report if the interim investigation steps were disclosed and discussed with outsiders, so he thought that the members needed to have confidence in the terms of reference given to Professor McLaren.

In relation to the major leagues, in particular in North America, WADA had been in touch with them since the first day of the World Anti-Doping Code, and it was a complex process. He understood that not just two but four of the sports covered by those leagues had become Olympic sports, so the relationship between the leagues and the IFs needed to be kept in mind before WADA started moving too heavily in one direction or another with the leagues.

MS BATTAINI-DRAGONI also wished to take the opportunity to congratulate Mr Niggli, the new Director General, and say how much she appreciated his work and the way in which she could talk

to him and cooperate. In that context, she immediately mentioned the important ministerial conference, to take place the following week, to which WADA was invited. Through the Chairman and the Director General, the Council of Europe was pleased to sign an agreement of cooperation between WADA and the Council of Europe with the presence of all the European ministers of sport. She underlined the high importance attached to such cooperation. The agreement would deal with the purpose of facilitating the exchange of information in the field of observing compliance with the anti-doping convention and the Code, so that would be an important document to avoid duplication of work and make sure that there was a proper exchange of information and help cooperate over the years to come. She very much looked forward to WADA's presence the following week in Budapest, where the ministerial event would take place. That, she believed, was a very clear manner of expressing the Council of Europe's support to WADA.

MR GENDALL intervened in relation to item five of the Director General's report. Regarding the investigation fund, when New Zealand had made its small contribution, because it was a small country, it had had to divert budgeted funds from another area in order to put its money where its mouth was and support the athletes. New Zealand had done so on the basis that the sporting community would match the contributions of the governments, and he asked for an explanation as to what had happened to the matched funds. He noted from the report that there had been no confirmation received by WADA as to the matching payment and thought that the governments would benefit from an explanation as to what had happened.

THE DIRECTOR GENERAL told Professor Erdener that, as he had mentioned in his presentation, the date foreseen for the release of the report was 9 December. The roles and responsibilities for Professor McLaren were well defined in the terms of reference, which had been agreed upon at the start of his work and had been published. Professor McLaren was conducting his work independently of WADA; WADA had no control over his work and did not seek any control, so the timing was entirely up to him. In response to Mr Pound, the date was 9 December because Professor McLaren had indicated that he would be ready at that time. WADA was putting no pressure on Professor McLaren to complete his work. Professor Erdener had advocated more communication between Professor McLaren and the Canivet and Oswald commissions. That was up to him and the commissions. There had been an exchange of letters and a meeting between Professor McLaren and Mr Canivet in London some weeks previously. Professor McLaren had indicated that he would be willing to share everything he had with the commissions once his report was completed. The differences had to do with the timing of things, and that was part of the discussion that had taken place between Professor McLaren and Mr Canivet. He had indicated that he was absolutely willing to cooperate fully with both commissions once he had put everything together in his report.

He told Mr Ricci Bitti that there would be a full discussion on Russia later that day. He was well aware of the fact that testing needed to take place in Russia and that it was important that RUSADA make progress. In the interim, the numbers might not be as good as WADA might wish, but there were challenges on the ground that needed to be overcome. Mr Ricci Bitti would have heard the explanation from Ms Battaini-Dragoni on the memorandum of understanding with the Council of Europe, and he took Mr Ricci Bitti's point about legislation and encouraging governments to have appropriate anti-doping legislation so that they could assume their responsibilities in that field. WADA would certainly endeavour to hold further talks with UNESCO and other inter-governmental organisations.

On the major leagues, WADA would continue to have dialogue with them. They were not signatories to the Code and did not fall under WADA's jurisdiction. The relevant IFs knew that relations were sometimes complicated. There was a good relationship with three out of the four major leagues and WADA would continue to try to push them in the right direction. Baseball in particular, had made a lot of progress over the past few years and would hopefully continue in the right direction. It was a long-term project.

He thanked Mr Estanguet for his comments. He responded by saying that in relation to the security and protection of data, the athletes' data was of concern to everybody. To reassure the athletes as well, WADA and the IT services were fully involved, and worked in cooperation with numerous authorities in many countries and bodies recognised as experts in the field. As Mr Pound had said, nobody could be fully protected from a "hacker" attack. The Fancy Bears had been described as the messiahs of hacking. It was necessary to be realistic. WADA did everything possible to ensure as high a degree as possible of protection. Later on, he would talk about a project that took into account the hacking risk in the framework of the whistleblower programme and policy, and WADA intended to do everything it could to protect the whistleblowers, but the major risk was the human factor. It could do a lot but, if somebody was not careful and gave out his or her password, and was simply a victim of phishing, WADA could not do anything about that. The only thing WADA could do

was educate, and that was an essential part of WADA's work. The athletes also had to protect their accounts.

In response to Mr Pound's comments, WADA would follow up on the Independent Observer report and look at how that would be dealt with at future editions of the Olympic Games, and WADA would have a dialogue with the IOC on those. On the independent person report, Professor McLaren was in charge of the report and nobody was interfering with him. WADA was in dialogue with the major leagues, but that would take time.

He thanked Ms Battaini-Dragoni for her kind words. He looked forward to being at the ministerial meeting and signing the memorandum of understanding.

He thought that the question from Mr Gendall on matching funding was for somebody in the Olympic Movement to answer.

PROFESSOR ERDENER said that the IOC supported matching, but expected good coordination between the McLaren and IOC commissions.

MR RICCI BITTI stated that he had been planning to provide an explanation during the Finance and Administration Committee report but would clarify some points on the matter. The IOC had not been consulted when the President had asked the governments for the voluntary contribution, but the IOC was ready to match and he was very confident that the IOC would match the contributions. The IOC management had said that it would do so at the end of the McLaren investigation. In that regard, and in response to Mr Pound, he clarified that the fact that the IOC had been disappointed about the early announcement was not contradictory, because the announcement had been a draft announcement in which Professor McLaren had clearly stated that he needed one month more, and that had occurred ten days prior to the Olympic Games in Rio de Janeiro. Speaking as a representative of all the IFs, who had represented a huge and unexpected burden, and had obviously not been welcomed, there was no contradiction. Coming back to the issue of money, he could reassure the members that, at some stage, the IOC would be very happy to match all the voluntary contributions made by the governments as usual.

THE CHAIRMAN thanked Mr Ricci Bitti. For the record, the request originally made for further funding for investigations had come at the request of the athletes at the Foundation Board meeting in Colorado Springs one year previously. That was when he had said that he would ask the governments to contribute and would then invite the IOC to match that funding. Both governments and the IOC had been round the table when that decision had been taken.

MR RICCI BITTI said that that was a matter that related to the IOC management, which had to decide on the practical issues of payment.

MR MUYTERS asked, in relation to what Professor Erdener and Mr Ricci Bitti had said, whether the matching was conditional on the McLaren report. He hoped that it was not. Professor McLaren had to work independently so the matching could not be coupled with the McLaren report, he hoped.

THE CHAIRMAN said that his clear understanding was that the financial situation was as explained and that there would be cooperation upon conclusion of the report.

PROFESSOR ERDENER clarified that it was not a condition, but an expectation.

MR RICCI BITTI pointed out that the concept of independence was relative. Professor McLaren was independent but was paid fully by WADA.

MR BAUMANN congratulated the European office on the Partnership to Quality project with the different IFs. As a representative of an IF and having gone through the process, it was a very valuable process, and as president of SportAccord, with all the other IFs, he thought that the Doping Free Sport Unit could certainly expand and work with WADA to do that also for the other IFs, but it was a very helpful way of working.

The second point he wished to raise, coming from his own sport, was the matter with the professional leagues. It had to be understood that everybody would like them to be in, and that was why there was strong support for working together; but, at the end of the day, that was a legislative matter in the USA, under collective bargaining agreements, and the IFs could not do anything. The only way would be through the governments and the relationship that the USA had with UNESCO and signing up to the WADA Code, and the US Congress needed to take action. He just wanted to say that that was where the work was heading.

The third point was that he fully respected the independence of the investigations being dealt with, and he was not sure what the terms of reference brought with them, but it would be helpful if, once the investigation was over and things came out, there were not also recommendations or

statements to any of the stakeholders sitting around the table in terms of what they should do. That should be discussed by the Foundation Board or in the appropriate bodies rather than making public communications.

THE DIRECTOR GENERAL thanked Mr Baumann for his comment on the Partnership for Quality project; he too thought that it had been a useful exercise, and the Lausanne office had done a good job and was in good hands going forward. WADA would keep working closely with the IFs. In relation to the professional leagues, everybody was aware of the situation. WADA had made progress through positive dialogue and would continue to have dialogue. The government aspect raised, in particular in the USA, was a challenging one, but who knew what the future held? In relation to the comments on Professor McLaren, he did not know what the content of the next report would be and he did not have anything else to say on the matter.

#### DECISION

Director General's report noted.

### **4. Operations/management**

#### **– 4.1 Renewal of WADA President's term**

THE CHAIRMAN commented that he had better sit back for a moment and asked Professor Erdener to take the floor.

PROFESSOR ERDENER said that he wished to mention that the IOC executive board had nominated Mr Reddie to be the president of WADA for a second term, and he wished to propose something further. As the IOC executive board had also proposed to work with governments, everybody knew that there were some difficulties concerning the present rotation system, and he recommended that a convenient solution be found in the WADA working group on governance, which had been discussed the previous day at the Executive Committee meeting, and a solution and implementation be proposed at the next Foundation Board meeting in May. That was the IOC's proposal.

THE CHAIRMAN noted that the second bit could be dealt with under governance. He asked if it was the members' wish that his term be renewed for a maximum period of three years.

MR POUND asked if he might wordsmith the summary of what had happened with respect to the President. As he understood it, the President had been elected for a second term of three years, not a maximum of three years.

THE CHAIRMAN confirmed that that was what happened under the statutes.

#### DECISION

Proposal to renew current WADA President's term approved.

#### **– 4.2 Election of WADA vice-president**

THE DIRECTOR GENERAL said that he had been informed that morning by the governments that they had decided on one candidate, the Norwegian Minister of Sport, Ms Linda Hofstad Helleland, and so he proposed that she be elected.

THE CHAIRMAN asked if that was the members' wish.

THE CHAIRMAN asked Ms Helleland to join the members at the table.

MS HELLELAND thanked the members of the WADA Foundation Board, to whom she was grateful for the trust they had placed in her. She was deeply committed to further advancing the global fight against doping in sport in the years to come. Being a minister for sport carried responsibility. The importance of sport for society lay largely in the positive values on which sport was based. Doping threatened those basic values and undermined the integrity and reputation of sport. With the best interest of clean athletes at heart, she was strongly committed to further advancing the fight against doping in sport. That was her motivation for taking up the position of vice-president of WADA. Since 1999, the fight against doping in sport had made significant strides under WADA's guidance and coordination; however, over the past year, the world had witnessed a number of serious doping revelations and violations in international sport. The disturbing events had called the credibility of the existing anti-doping system into question.

She believed that the fight against doping in sport worldwide was at a crossroads; therefore, WADA needed to make some bold choices. First, WADA needed to restore confidence in the integrity of anti-doping decisions in international sport. That was a shared responsibility between governments

and the sport movement. Second, WADA needed to strengthen its ability to respond to current and emerging challenges in the anti-doping field. It was of crucial importance that the independent role of WADA as the global regulator responsible for standard setting and monitoring be safeguarded. WADA's capabilities should be strengthened. That included the adoption of clear sanctions for large-scale subversions of the anti-doping system, the authority and capacity to investigate and monitor Code compliance, and the capacity and authority to impose proportional sanctions for non-compliance. Third, WADA needed to reinforce its efforts to strengthen the protection of clean athletes. A robust whistleblower policy, ensuring better protection for whistleblowers, was of the utmost importance. Finally, WADA needed to reinforce its efforts to restore confidence in the international anti-doping system. The worldwide fight against doping in sport should be based on the principles of good governance, conflicts of interest should be avoided and it should also include transparency, accountability and the protection of the fundamental rights of athletes. More than ever, a strong and independent WADA was needed. International sports needed a strong WADA. Everybody loved sport but, more importantly, they loved clean sport. She looked forward to contributing to WADA's mission in the fight against doping in sport for clean athletes and for a level playing field for all and for the integrity of sport.

THE CHAIRMAN said that he was sure that all the members of the Foundation Board would be as pleased to be working with Ms Helleland as he was.

MS BATTAINI-DRAGONI congratulated the new Vice-Chair of WADA. From a gender perspective also, it was very important that she was in that position. The Vice-Chair would have the Council of Europe's full support, and she wished Ms Helleland the best during her vice-chairmanship.

Going back to what Mr Pound had said before the election, the question of the way in which WADA looked at the chairmanship was indeed something that would be a matter for discussion for the Chairman, the Vice-Chair and all the chairs of the other committees, as they all played a very important role, and that would be very much part of the discussions in the group to be set up to discuss the questions of governance for the future of WADA. Having said that, Mr Reddie had the full support of the government side. The governments had had an opportunity to discuss the matter over the past few days and the governments certainly supported Mr Reddie's re-election. The principles that were very important were obviously impartiality, rotation in future chairmanships and also the independence that a chair and vice-chairperson had to have with a view to conducting future activities. She had wanted to make that statement to clarify the governments' position, as the governments had had an opportunity to discuss the matters over the past few days when they had all met for the first time together at a coordination meeting in London.

THE CHAIRMAN thanked Ms Battaini-Dragoni. He was sure that those subjects would come up later in the agenda at the appropriate time.

#### DECISION

Ms Linda Hofstad Helleland elected  
WADA Vice-President.

#### – 4.3 Amendments to WADA statutes

##### **4.3.1 Compliance Review Committee – bylaws and appointment of new chair**

THE DIRECTOR GENERAL informed the members that they would be asked to do three things. The changes came after the Executive Committee discussion in September, when it had been suggested that the Compliance Review Committee, which was currently playing an important role in the WADA compliance programme, be made a regular standing committee. However, he wished to note that the Compliance Review Committee was of a slightly different nature to the other committees, as it was made up of people who were outside the field of sport and anti-doping, experts in compliance and so on, and had to have a certain independence to make its recommendations to the Foundation Board. In order to do that, WADA had to change the constitution to ensure that such independence could exist, that the chair of the committee would not be required to be a member of the Foundation Board or a former member of the Foundation Board, and that was one of the proposed changes. The other change being proposed was that the committee operate under its own bylaws, so that there would be specific rules of play for the committee. In order, it was necessary first to change the statutes, then approve the bylaws, and finally appoint a new chairman, as Mr Bouchard, who had served the committee so greatly, was stepping down from his position to become a member of the WADA staff.

MR RICCI BITTI said that the sport movement agreed completely with the approach, which was a good step forward in governance, so it supported the idea that the chairman and all chairpersons of the standing committees be outsiders, but that needed to be combined with the fact that they

should be invited to the Executive Committee and Foundation Board without voting rights. That was what was being asked. He had nothing against remuneration, but asked that the policy be clear and transparent.

THE DIRECTOR GENERAL clarified that there were no changes proposed under the constitution for the chairs of the committees to have voting rights, so they would have no voting rights unless they were members of the Foundation Board or Executive Committee, and there was a clear policy of indemnities, and it would be in place and available to the members.

MS BATTAINI-DRAGONI voiced the fact that she supported the changes to the WADA statutes in article 11; but, in line with the principles of an equal (and she underlined the term equal) partnership in WADA's functioning between the public authorities and the sport movement, Europe considered it very important that the balance be applied consistently in the different committees in WADA. In particular, the two arguably most central committees, the Health, Medical and Research Committee and the Finance and Administration Committee, should not both be chaired at the same time by one of the two partners, either the public authorities or the sport movement, so she asked that that principle be enshrined in the WADA statutes as a principle of good governance. Otherwise, if that were not possible immediately, she would take the matter back to the group working on governance. It was very important to respect the principle of equal partnership, and her example in relation to the two committees was self-explanatory.

THE DIRECTOR GENERAL responded that it would be unwise to make any further changes to the proposal, since the text had been put forward to everybody in advance, and one could not change a constitution at the last minute. As Ms Battaini-Dragoni had said in her previous intervention, that had to be part of a global discussion, which would take place after that meeting. He took her point about the fact that the issue should be dealt with by the group working on governance.

THE CHAIRMAN asked if it was the members' wish that the statutes be amended as proposed.

MS ASSELE said that the Director General had said that the documents had been sent in advance; unfortunately, everything was in English so it was difficult for her to follow, despite the fact that there was interpretation. She did not know the reason for the lack of documentation in French; it was the first time she had come to such a meeting and had not found any documents in her language. Everybody needed to be treated equally. She had a file of 400 pages in English, so how could she follow everything being said about the proposed amendments? She was deeply concerned.

THE DIRECTOR GENERAL responded that he had taken note of her comment. It was a historic moment because, in the past, WADA had indeed produced the meeting documents in both languages and there had even been discussion about whether or not to continue having simultaneous interpretation and the meeting minutes in both languages but, for cost reasons, the documents of the Foundation Board, which were produced late but in advance, would not be translated in full. However, if some documents needed to be translated, he would be willing to have them translated and make them available. He had not been warned in advance that time, but would be aware for the next meetings.

THE DIRECTOR GENERAL asked the members if they wished to adopt the bylaws.

There was a proposal to appoint a new chairman of the committee, Mr Taylor, a well-known sport lawyer with a great deal of expertise in the field of anti-doping and a good understanding of the situation. He proposed that Mr Taylor be appointed exceptionally that time by the Foundation Board. It would be the competence of the Executive Committee but, since they were dealing with the matter there, he asked for the Foundation Board members' support for the proposal.

THE CHAIRMAN asked if the members were happy with the proposal.

#### DECISIONS

1. Proposed changes to Article 11 of the Statutes approved.
2. Proposed bylaws for the Compliance Review Committee approved.
3. Proposal to appoint Mr Jonathan Taylor Chairman of the Compliance Review Committee approved.

– **4.4 Modification to Swiss Register of Commerce**

THE DIRECTOR GENERAL sought the members' approval of the modification to the Swiss Register of Commerce, with the understanding that the newly appointed Vice-President would be given the authority to sign. WADA always needed two signatories. He sought formal approval for the changes to the Swiss Register of Commerce.

DECISION

Proposed modification to the Swiss Register of Commerce approved.

– **4.5 Executive Committee appointments 2017**

THE DIRECTOR GENERAL asked the Foundation Board to formally appoint the Executive Committee for the following year. The members all had the paper before them with the representatives and the list of those Executive Committee members, and he asked them for their formal approval, including for the new Vice-President.

THE CHAIRMAN asked the members for their approval.

DECISION

Proposed Executive Committee appointments for 2017 approved.

– **4.6 Foundation Board**

**4.6.1 Memberships 2017**

**4.6.2 Endorsement of composition for Swiss authorities**

THE DIRECTOR GENERAL asked the members to formally approve the composition of the Foundation Board for the Swiss authorities.

THE CHAIRMAN noted that this was one of the requirements of being a foundation under Swiss law.

DECISION

Proposed Foundation Board memberships and composition for 2017 approved.

– **4.7 Standing committee memberships 2017**

THE DIRECTOR GENERAL said that the usual process had been followed: the composition of the committees had been discussed with the chairs of the committees and the WADA President and himself. The members would see the list of groups in their tabled documents.

There was no decision required by the Board; the memberships were simply tabled for information.

DECISION

Proposed standing committee memberships for 2017 noted.

– **4.8 Operational performance indicators**

THE DIRECTOR GENERAL referred the members to the operational performance indicators, which were for information only.

THE CHAIRMAN said that he always thought it was worth looking at the performance indicators at least once a year to get a feeling for the efficiency of operations and hard work that WADA undertook and completed. He thanked the members for all of that.

DECISION

Operational performance indicators noted.

**11.1.4 Non-compliant countries status report**

**11.1.4.1 Russia**

*Discussions on Russia were moved up the agenda and therefore reflected here, as opposed to later in the program under 11.1.4.1.*

THE CHAIRMAN stated that an independent commission had been appointed by the president of the Russian Federation to examine the issues in Russia, and it was chaired by his colleague at the IOC, the honorary member Mr Vitaly Smirnov. He was pleased to invite him to join the WADA Foundation Board. The first part involved a report from Mr Koehler, the Deputy Director General, who had been leading on the work being done with Russia to develop the compliance of the Russian anti-doping agency. Mr Koehler would provide a report to bring the members up to date as far as WADA was concerned, and then Mr Smirnov would be invited to speak to the Foundation Board to bring the members up to date on his work in Russia, after which he was sure that both speakers would be available for questions.

MR KOEHLER said that he would spend some time giving the members an update on what had been done and a clear status update on the current situation with Russia. The members would all recall that, on 18 November 2015, RUSADA had been declared non-compliant. Since that date, WADA had worked closely with RUSADA and the ministry of sport, had engaged UKAD to fill the testing gaps in Russia, had two international experts working in RUSADA under the watch of WADA, had worked with the Council of Europe, which had an expert sitting on the board of RUSADA, and continued to work with the international experts in Russia on a daily basis for status updates in the rebuilding of RUSADA. It was also worth pointing out that WADA was working closely with the Council of Europe, as it had also developed a plan to coordinate activities with the ministry of sport to ensure that the authorities adhered to the European convention on anti-doping in sport, and WADA thanked the Council of Europe for its support and work with WADA.

Having said that, there were still some challenges. WADA still had limited access to the closed cities. It had been mentioned earlier that there were testing capacity issues, but it was important to point out that, while limited, the testing currently being done in Russia had been intelligence-led and effective. It had been led by UKAD and they should be commended for the work and amount of intelligence that had gone into the target testing.

WADA was seeing improvements in relation to whereabouts, but there were still challenges regarding understanding the need to provide comprehensive whereabouts. The good news was that every filing failure was being followed up with the help of the experts and UKAD.

In relation to the NFs, there was a need to have the NFs buy in to the anti-doping programme, and when he said buy in, he meant sharing information on competitions to encourage and ensure that athletes were providing whereabouts and being part of the solution in Russia. The current status was the focus on winter sports, although not exclusively.

As to the laboratory in Moscow, currently the storage facilities were still sealed off by the federal investigative committee in Russia. As a result, requests from IFs to retrieve samples were not being answered. Because it was a federal investigation it would be a criminal offence to cross the line. WADA had been in touch several times with the ministry of sport to try to ensure that the investigative committee would remove the seal so that access to the samples could be gained. Other challenges were that WADA had not yet seen acceptance of the first report by the ministry of sport. There had been indications from the former minister of sport that the report had been falsified and that he would prosecute anybody involved in the report. WADA had not yet received acceptance of the report from RUSADA and, of course, the cyber-attacks allegedly led by a Russian espionage group had been challenges to cooperation. That said, it was not all doom and gloom: there was progress and things were moving forward in a very good manner.

As to the current actions taken by Russia, Mr Mutko, was no longer the minister of sport and had been replaced. The two people named in the independent report, Mr Yuri Nagornykh and Ms Natalia Zhelanova, had been dismissed. Ongoing education was taking place with the NFs to ensure that they were engaged and had a better understanding. One event had been held a week-and-a-half previously and more were scheduled to be held.

Since WADA had been engaged with the Smirnov commission, mandated by the President of Russia to reform anti-doping in Russia, there had been progress. WADA had received formal agreement from the ministry of sport in Russia that the relationship with the Smirnov commission should be working to rebuild anti-doping efforts in Russia.

Looking at the investigative committee put in place, it had interviewed over 50 athletes, coaches and managers to date, and had offered to provide all information to WADA and cooperate with WADA, and the Smirnov commission had worked with the experts on a revised (increased) budget for RUSADA. WADA was not alone in that journey; it was working with partners. Recently, WADA had worked with the IPC and the IAAF to ensure that efforts were coordinated and aligned to work

towards RUSADA compliance. A group had been formed and was meeting constantly, and information was shared on a regular basis to ensure that Russia and organisations returned to compliance.

WADA had revised a detailed road map to work with RUSADA on key deliverables and timelines to ensure compliance could be achieved. Of course, timelines needed to be adhered to and deliverables needed to be met. UKAD would be involved along with the international experts to ensure that WADA could get things going in a correct and responsible manner. The objective was to keep the Compliance Review Committee up to date on a regular basis, as it would have to make the decision as to when RUSADA was deemed compliant.

WADA wanted to make sure that RUSADA had operational and financial autonomy, the process on the recruitment of a new director general needed to commence, it was necessary to continue close cooperation with WADA, WADA needed to continue to employ the two international experts working in Russia, WADA needed to increase the independence of the RUSADA board to ensure that the management reported only to that board, and there had to be ongoing recruitment of doping control officers and staff (already completed in relation to doping control officers), and training also needed to occur in the coming months.

He mentioned a recent update received from the ministry of sport, which had appointed regional anti-doping education experts throughout Russia. The experts would all be trained by RUSADA to ensure that education was delivered throughout the country. RUSADA would be bringing together the ministries of education, health and internal affairs and the customs authorities to talk about how all of the organisations could work together to share information effectively between the police, customs authorities, RUSADA and law enforcement officials.

Finally, the president of Russia had recently released a decree containing a clear message that there needed to be full support to rebuild anti-doping in Russia and work closely with WADA. In summary, he thought that WADA was on a good path, working well and that there was light at the end of the tunnel.

THE CHAIRMAN said that he found that extremely encouraging. He had been on record for some time as saying that one of the priorities was that RUSADA had to be compliant. He asked Mr Smirnov to talk about progress being made in his enormous country. He was really pleased that Mr Smirnov was present, as he believed that the two sides were working together to resolve the issue.

MR SMIRNOV congratulated the Chairman on his re-election; he expected very close cooperation with WADA as usual. He thanked WADA for giving him the opportunity to make his speech before the Foundation Board. He wanted to give the members information, and introduced the members of his team, Mr Vladimir Lisin, who was the vice-chairman of the commission and Vice-President of the International Shooting Sport Federation, and Mr Ratner, who was in charge of PR.

He wished to say a few words about the reason behind the establishment of the Independent Public Anti-Doping Commission, the body he represented. Recent events related to the release of IOC and IP reports, as well as the ineligibility of a number of Russian athletes to compete in the Olympic Games in Rio, had sent shockwaves throughout the country. He had stepped down as president of the Russian NOC in 2001, at which time not a single Olympic champion from Russia had been sanctioned for an anti-doping rule violation during the Olympic Games; moreover, not a single Olympic participant had ever been sanctioned for doping. The disclosure of recent events had seriously affected society. At the government meeting in July, Mr Putin had proposed that the Russian NOC establish a new fully independent body and entrusted the government to provide the commission with all kinds of assistance. The commission consisted of people who were highly skilled professionals in their respective fields: lawyers, medical experts, businessmen and famous athletes/Olympic champions. He was keen on finding the truth; hopefully, everybody had the same goals and all were ready to do their best to resolve the situation. In the shortest time, all clean athletes, both Olympic and Paralympic, who had suffered should be brought back to competition. That was one of the main objectives of the commission. He thanked WADA, its President, Mr Reddie, for the meeting in Rio and for his constant support. Written confirmation had been received that the activities of the commission and its goals complied with the World Anti-Doping Code, and similar confirmation had been received from the IOC president.

He wished to advise the members on what had been done already. Over the past few weeks, the Russian Parliament had passed two highly important legislative acts. The first introduced criminal responsibility for the administration of prohibited substances and methods, and the second had to do with the composition of the foundation board of RUSADA. He did not have to explain to the members how difficult it was to amend national legislation and interact with government to facilitate the passage of national normative acts; however, this had been done. The state Duma had made its decision. From that point on, trafficking and the administration of prohibited substances by athlete

support personnel would not be restricted only to serious fines and administrative responsibilities: the guilty individuals would face a prison sentence of up to two years. There had also been a goal to exclude every state structure from the RUSADA foundation board, as recommended. To achieve that, amendments had been made quickly to the federal law on physical culture and sport. Under new legislation, RUSADA would become independent from state authorities and directly financed from the state budget, starting in 2017. The control of the laboratory would be transferred from the ministry of sport to Moscow State University, the main educational centre in Russia. For the first time, a new law had established the national court of arbitration for sport to settle sport-related disputes at the national level, including doping cases. It would also be important to resolve difficult situations. There were currently two independent international experts working with RUSADA, and he thanked WADA for involving those experts. The Moscow anti-doping laboratory was a state-of-the-art facility with highly skilled employees. The storage of the laboratory had been sealed off by an investigative committee, but he had a feeling it would be resolved very soon. The laboratory would be reinstated as soon as possible, and that was why he was asking WADA to help in the search for highly skilled professionals who could help get the laboratory going. He was ready to ensure the absolute transparency of laboratory operations in Moscow. Significant changes had happened in the government. The Sydney 2000 Olympic champion, Mr Kolobkov, had been appointed Minister of Sport in Russia and was currently in charge of Russian sport. Certain employees of the ministry and affiliated organisations implicated in the independent person's report had been dismissed. According to information received from the investigative committee, 50 Russian athletes, coaches and managers had been interrogated within the investigation into criminal cases of anti-doping rule violations. Employees of the ministry of sport responsible for the implementation of international anti-doping rules in Russia, some NFs and other organisations were being questioned. Furthermore, the highest representative of the investigative committee had answered a call and would take part in the next meeting of the commission, to take place in ten days' time. Recently, he had had a long meeting with Professor McLaren. His commission also cooperated with the IOC's disciplinary commission, which was headed by Messrs Oswald and Canivet.

He sought to increase the efficiency of the fight against doping in sport in his country and sought zero tolerance for any doping-related issues. The wish was to accelerate changes in Russia's sport community. The educational part was very important so, together with WADA representatives, the commission had set up an education course. There were 75 federations in Russia, including Olympic, non-Olympic, Paralympic, professional and others. He had promised to take part in each meeting organised with the different groups of federations, so the representatives of the federations would be much more prepared in that area. At the same time, a system was being established in Russia whereby all candidates for the Russian team in all sports would be tested for doping substances, meaning that, once RUSADA compliance was restored and the laboratory accredited, it would become possible to take close to 25,000 tests involving 10,000 national athletes. All those responsible for anti-doping rule violations in Russia, including athletes, coaches and sport officials would be punished. The latter should probably be punished even more.

Russia had never had a state-sponsored system of doping, and would never agree with the collective responsibility of clean athletes for the mistakes of their dishonest peers. What had happened in Rio with the track and field and the Paralympic team had been wrong, in his view; clean athletes had missed out on the biggest opportunity in their careers. Doping was not currently a problem relating to one specific country. The various stakeholders had to fight that evil together, establish a universal system that would be accepted globally, and the principles of equality among the members of the Olympic family must prevail.

THE CHAIRMAN thanked Mr Smirnov. That was extremely encouraging, in particular in relation to all the steps taken in the fields of legislation and education, and he certainly understood how helpful it would be if the laboratory could be restored to full compliance as well. He asked the members of the Foundation Board if they had any questions of Mr Koehler or Mr Smirnov.

MS BATTAINI-DRAGONI said that she was grateful for the opportunity to be present and to have such a clear presentation from the WADA secretariat and also to hear the important statement by Mr Smirnov. She wished to provide information about what the Council of Europe was doing in Russia to help its member state, the Russian Federation, address the very difficult situation in relation to the anti-doping system. The first thing she wished to say was that she was very pleased to report that both the Russian Federation and WADA had immediately requested that the Council of Europe play a very active role in the establishment of measures to redress the situation. That was a good example of good cooperation. Accordingly, a Council of Europe expert was sitting on the supervisory board for RUSADA. The Council of Europe had also developed an action plan and was proud to have been able to do so, as the plan covered the main areas in which steps needed to be taken, including questions in relation to education (mentioned repeatedly during the previous presentations), the

implementation of the Council of Europe convention on anti-doping, and also issues of governance. The action plan had been put in place in May that year and the Council of Europe was working with WADA and the Russian Ministry of Sport to implement the action plan.

She also wished to welcome the important statement by Mr Smirnov, in particular in relation to the important legislative steps taken and to give him in his very important and difficult responsibility her best wishes. The Council of Europe would accompany his efforts, as it was necessary to look at doing whatever could be done to get out of the present situation as soon as possible.

MR POUND congratulated Russia in particular on its choice of chairman for that particular commission. He had known Mr Smirnov for more than 40 years and he had a very fine reputation internationally and also at home, and both those reputations would be helpful in what he was seeking to accomplish. His suggestion would be to use his domestic influence to try and get people to understand that the outcomes of such commissions were in part designed to identify and help solve existing problems, and it was not helpful for the minister of sport to threaten to put in jail anybody connected with the reports and to say that they had been forged. The same applied to RUSADA. A big step forward in any semi-truth and reconciliation process was the acknowledgement that there had been a problem and that it had to be solved. One of the first steps was to acknowledge that there had been a problem. There had been a weakness or a bifurcation of the approach within Russia. To the extent that Mr Smirnov could heal that wound, it would help make future progress possible more quickly.

DR PASCUAL had one very specific comment to make, because of his previous experience with anti-doping laboratories. It was difficult to understand why the samples continued to be not accessible by WADA or the investigation system, so he recommended, after all that had been heard, that the Russian authorities use WADA to help them investigate what had happened. If it had never been a state-sponsored doping system, and he believed that, why not open up the laboratory for sample investigation so as to resolve the problem as soon as possible for everybody's benefit?

MR PENGILLY observed that it was encouraging to hear about the progress being made; obviously, there was still plenty to do, but it was definitely encouraging and he congratulated Mr Smirnov and his team on that. Trust had obviously been lost by a great many athletes around the world, so was there a plan or specific interventions to rebuild that trust so that Russian athletes were welcomed to the start line by other athletes around the world and not being questioned as to what had gone on back home?

MR SMIRNOV responded to the observations and questions made. He emphasised that he would follow WADA's recommendations and the IOC's recommendations. He had had a very long meeting with Professor McLaren and had had an opportunity to discuss a lot of problems. He hoped that Professor McLaren would bear in mind his position. He had taken part, in different capacities, in 27 Olympic Games, so he knew what it meant to athletes to miss out on an Olympic Games, not to have an opportunity to take part, and he was not talking about the trust of Russian athletes, he had to speak about those who were guilty and had taken prohibited substances. Russian athletes were eager to take part in the competitions and the Olympic Games, but it was necessary to explain to them the position, which should be absolutely clear. Sometimes, it was a matter of a lack of understanding, because there were different mentalities in different countries. As to whistleblowers, there needed to be some kind of explanation. That was his task and the task of his colleagues, who were experienced people. As to the issue of those who were guilty, a very close relationship had been established within the investigative committee, there was an agreement with the committee that the highest authorities he had mentioned in his presentation would take part in the meeting and he hoped that all misunderstandings would be excluded in the future. He thought that the results of those meetings would be successful.

He relied on the support of the WADA President and members of the Foundation Board and would do his utmost to reinforce trust and support on both sides.

THE CHAIRMAN thanked Mr Smirnov for coming and making the presentation. A number of issues had been touched on and there were two things that WADA needed to do. One was the technical work to make RUSADA compliant, reaccredit the laboratory and to get normal anti-doping activity up and running in Russia, and then WADA had to be in a situation so that the rest of the world knew that it was working and working well and restored the kind of trust about which Mr Pengilly had been talking. He thanked Mr Smirnov very much. There were members of the media who might be interested in talking to him during the coffee break. He reminded the members that, when they were having their coffee, the person standing next to them might not be interested in their stories.

## 5. Way forward

THE CHAIRMAN said that the paper to be discussed was under item 5.7, attachment 1, and it collated all of the information in the previous several papers, the think tank outcomes, Olympic summit outcomes, NADO opinions and so on. Mr Niggli would take the members through it, but there would be short, detailed presentations from Mr Bouchard on compliance and the consequences of non-compliance and from Messrs Sieveking and Younger on the whistleblower policy. The other papers had been included in the members' files and they would see the recommendations made the previous day, which in the main had been accepted.

- **5.1 Think tank outcomes, September 2016**
- **5.2 Olympic summit outcomes**
- **5.3 Government forum outcomes**
- **5.4 NADO summit outcomes**
- **5.5 Proposals from members**

MR POUND said that he did not have many proposals, but he thought that it was important that the members have a chance to raise some of those things. His comments related to the way forward and additional means of perhaps making the activities more productive. One would be that, where there were reasonable grounds to believe that there was a scheme going on to miss tests or not be present on whereabouts cases, and WADA thought it was a scheme, that WADA develop a mechanism, possibly on determination by the Executive Committee or the Director General that that was going on, so that WADA could accelerate tests instead of giving a notice on a missed test, which would go to everybody and mean that three months would pass before it was possible to do another test. If something was going on, and the members could read in Tyler Hamilton's book that athletes were crawling around underneath the windowsills so that the doping control officers could not find them, notice could be given straight away: on Monday, if an athlete who was supposed to have been present for a test was not there, they would have to be there on Tuesday and, if not, would have to be there on Wednesday, and if the athlete was not there on Wednesday, they would have their three missed tests, so techniques like that would hamstring people doing such things.

The other suggestion he had would be that, if WADA were conducting an investigation of some sort in country X, when WADA went there, it would have the right to request the cooperation of the public authorities in that country and that, when it reported on the investigation, it could report on whether or not WADA had received cooperation. That would be a useful exercise to build into it.

His third comment related more to the paper distributed earlier on the conclusions of the meeting of the public authorities. He took note of it. It had been given to the members, but they had not discussed it in detail, and he would not want to think that not commenting on it meant that everybody agreed with the contents of it.

THE DIRECTOR GENERAL responded that the testing comment was something that could be taken on board. WADA tried to be reactive when it had information, but the main tests were not being conducted by WADA and missed tests were mostly found by those anti-doping organisations conducting testing. That all had to do with intelligence, and managing and reacting to intelligence in the proper fashion.

MR YOUNGER said that he thought WADA had a very strong relationship with Interpol and there was a memorandum of understanding and Interpol was connected to 190 member states, so WADA would ask Interpol for support in order to identify the right authority, because it was not always easy to understand the structure in the respective countries. Going through that channel would help WADA to be more efficient and WADA would learn about the best approach to investigate. He did not think that it would be wise to approach the organisations directly without knowing the structure, as WADA might end up walking from police station to police station to find the right one. He thought that the best approach was to go through Interpol.

MS BATTAINI-DRAGONI thanked Mr Pound for highlighting the fact that there had been a document distributed. The document came from a willingness to show in a very transparent manner what the public authorities believed was important at that point. It was a document to enable the government representatives to see what had been discussed and the points agreed upon, and then how to better participate in the discussion with the sport sector partners. That was the intention of the document and obviously she recognised fully that the members did not necessarily have to agree on everything, but perhaps the document would facilitate understanding of what the government agreed upon, and that would be a very good starting point. The public authorities would probably

continue to do that for some time; they attached a great deal of importance to the possibility to come together, as the sport movement members did. The public authorities were taking inspiration from the sport movement, which had so many opportunities to get together and discuss and reach decisions. The public authority representatives tried to emulate that model and discuss issues among themselves. That had been the purpose of the document, as well as to inform the other members about how the public authority representatives sought to move ahead in the joint project of strengthening WADA.

MR ESTANGUET noted that the IOC would like to propose a new principle or amendment to the Code regarding the eligibility of athletes to compete in the Olympic Games. The idea was that any athlete or other person sanctioned with a suspension of more than six months by an ADO for an anti-doping rule violation would not participate in any capacity in the next edition of the Olympic Games. Everybody was aware of the amendment and that it would affect the Code, and legal advice would probably be necessary to ensure that the Code was strong, but it was a strong commitment to have people competing clean at the Olympic Games.

THE CHAIRMAN thought that he was probably the only person still alive who had helped write the BOA bylaw similar to that in 1991. It had become known as the Osaka rule. He was really sympathetic to having a situation, particularly for the Olympic Games, whereby people who had committed a doping offence simply could not take part. There were legal implications and he had given the undertaking to the Executive Committee that, before suggesting amendments to the Code, WADA would find out from senior legal experts whether that could be done.

MR LIRA took advantage of the opportunity, as he had listened very attentively to the presentations of athletes, and he had been thinking that in Latin America there were some gaps that might be positive in that educational training work could be started. He was referring to a very special gap, children. Throughout Latin America, there were school games and, in Latin America, each country had school sport competitions for children, and thousands took part in them. It was of the utmost importance that they be given the first training and education on the matter. Those were events organised under the umbrella of the respective governments with state resources and mutual work could be done by WADA and the states to coordinate and work together.

The same thinking applied to adult athletes. Some countries were very well organised. In Chile, athletes should really talk publicly about the subject, and should be disseminating the work of the Olympic Games.

THE CHAIRMAN observed that there were very few people in that room who would disagree with that particular remark.

#### – **5.6 Independent testing authority**

*Included below under Way Forward - Testing.*

#### – **5.7 Road map and initial timelines for way forward**

THE DIRECTOR GENERAL said that the idea was to follow the order of the paper under item 5.7 and to bring into the discussion any comments the members might have in relation to the topics. The members had in their files all the different papers that had been written by a number of stakeholders in the months leading up to the meeting, and could see in full the views that had been expressed. The paper under item 5.7 summarised the views available at the time the paper had been drawn up. Since then, the governments had met in London the previous Thursday and Friday and had come up with the conclusion of their meetings, and that was in a document just tabled for the members' information and would be part of the background information that morning.

He would take the members through the different themes that were the result of the proposals received, and some would have a more in-depth presentation, as they were linked to other matters. He would also provide, before engaging in discussion, the recommendations from the WADA Executive Committee on the topics, as there had been an in-depth discussion the previous day and, for all the points, the Executive Committee had made recommendations as to the proposed way forward.

Starting with a very important theme, compliance and the consequences of non-compliance, that had been high on the agenda of course, even before the Rio Olympic Games, and in May at the previous Foundation Board meeting the athletes had asked WADA to look into preparing a catalogue of possible sanctions, and the request had been to ensure predictability and know the consequences. Everybody needed to know the consequences. That had been clearly reinforced at the WADA think tank, at which there had been an expectation that WADA would come up with predictable and graded sanctions that could be discussed. WADA had given that task to the Compliance Review Committee,

and he thanked the members of the committee, as they had put a lot of work into coming up with a framework. It was not easy, but they had done a lot of work to try to come up with a paper in relation to a framework that could be used. The framework would be presented by Mr Bouchard, but he noted first that the conclusion of the previous day's discussion at the Executive Committee had been that the framework was indeed a good start, that WADA should be a regulatory body able to impose sanctions, but everybody needed to agree on them in advance, and WADA should start working on transforming the paper into an international standard, which could then become a mandatory document. That would obviously require a consultation process, and that had been done for all the international standards, so that would be a process for all stakeholders to agree on the content. Why had an international standard been discussed? Because it had been felt that waiting for a full Code revision would take too long and there was a sense of urgency in terms of trying to clarify sanctions and the situation. The proposal of the Executive Committee was to work on the basis of the document, entrust the Compliance Review Committee to continue its work, continue consultation and try to bring that into an international standard under the new chairmanship of the Compliance Review Committee chairman. He would give the floor to Mr Bouchard, who had been the chairman of the Compliance Review Committee until that morning and who would provide a very detailed explanation on the work done and the outcome of it.

### **Way Forward I – Consequences of non-compliance**

*(Item 11.1.2)*

#### **– 11.1.2 Consequences of non-compliance**

MR BOUCHARD said that he would go through the presentation, which he had provided to the Executive Committee members the previous day, taking into account some of the things mentioned by Mr Niggli and giving an overview of the thinking of the Compliance Review Committee on that matter. At the previous Foundation Board meeting in May 2016, the Compliance Review Committee had undertaken to develop a framework of consequences for cases of non-compliance. That commitment had been in response to requests made to the Foundation Board by the athlete representatives, and also constituted a response to the views expressed at the WADA think tank on 20 September 2016. The Compliance Review Committee members had discussed the issue with all the seriousness that it required and with the expertise of an athlete representative, an IF representative, a government representative and people who had worked in regulatory environments, be they pharmaceutical, air transport or broadcasting. The think tank participants had discussed and agreed on the need for stronger World Anti-Doping Code compliance monitoring by WADA with proportionate and graded sanctioning powers. In developing the framework, the Compliance Review Committee had also considered the outcome of the NADO summit held on 30 August 2016 and the outcome of the Olympic summit on 8 October 2016. Before presenting the proposed framework, he pointed out that modifications to the World Anti-Doping Code would probably be required, and should be undertaken as quickly as possible to incorporate those consequences. The Compliance Review Committee was of the view that WADA should be empowered to impose those consequences as quickly as possible. In other words, if changes to the Code could not be made quickly, the Compliance Review Committee was of the view that other mechanisms should be considered, including contractual agreements, agreements that would link the reinstatement process of signatories to the full respect of consequences. The development of an international standard should also be considered. The Compliance Review Committee was saying and proposing that the framework of consequences be approved by the Foundation Board and that it constitute the basis for the consultation to take place in the context of the next revision of the World Anti-Doping Code and that WADA be empowered to impose those consequences until a new Code was adopted.

He wished to make a few clarifications before presenting the framework regarding the reference in the document to the independent testing authority (ITA). He made it clear that the Compliance Review Committee had not been mandated to discuss the issue and had not done so, so his reference to the ITA in the document was purely as an example and on the understanding that the decision had yet to be taken regarding the creation of such an organisation. It was already mentioned in the document, but he thought it important to clarify that matter.

The process leading to a declaration of non-compliance was a long one; before consequences were imposed, a number of steps had been taken or would have to be taken. Most of the steps were designed to help solve the issues before a case was submitted to the Foundation Board for a declaration of non-compliance. It was important, as it showed that the imposition of consequences was a last-resort mechanism to require signatories to achieve or regain compliance. Prior to declaring a signatory non-compliant, the WADA management would work with the signatory to resolve the relevant issues. Although it could be a short process, in some cases it could take up to 12 months.

The WADA task force would then take an additional three months to favour engagement with the signatories. If the issue was not solved, the Compliance Review Committee would be given the task of reviewing the file and making a recommendation to the Foundation Board. It could take between two to three months between the time the Compliance Review Committee reviewed a case and the time the WADA Foundation Board decided on a recommendation of non-compliance. Overall, it could take between six to 12 months before the Foundation Board took a decision to declare a signatory non-compliant. The consequences would not be imposed immediately. The slide showed that there was an appeal process that the signatory could use. The decision would be appealable to the CAS. Finally, there was a reinstatement process that would be proposed, and he would talk about that later on.

Why would WADA need a framework of consequences? Based on what had been seen by the Compliance Review Committee, WADA did not currently have the right tool box of consequences to create a real deterrent. Of all the cases submitted to the Compliance Review Committee to date, there were four types of non-compliance with the Code or the international standards. There were cases in which a few components of an anti-doping programme were not aligned with the Code or the international standards. There was a second type of case in which significant components of an anti-doping programme were not aligned with the Code or the international standards, a third type of case in which legislation or regulations were not aligned with the Code or the international standards and, finally, there was a fourth type, in which there was a deliberate attempt to circumvent the rules. Those were very different cases, but WADA currently treated them in the same manner. It would impose the same consequences regardless of the case, regardless of how long or how many times the signatory had been non-compliant. WADA currently imposed the same consequences for the different cases, and that was why he was saying that WADA did not have the right tool box.

He went through the consequences that WADA could presently impose when a signatory was declared non-compliant. First, ineligibility to sit on the WADA Executive Committee or Foundation Board or standing committees; second, preclusion from participating in the WADA Independent Observer missions or Athlete Outreach teams; third, ineligibility to receive funding from WADA for specific activities or programmes; fourth, non-compliant NADOs were not allowed to conduct certain activities, which created some issues. There was also a requirement to pay WADA's costs relating to compliance. They were significant consequences, but they were not key deterrents.

What did WADA need to protect clean athletes? It needed to be better equipped with tools or consequences to compel signatories to be compliant and have a deterrent effect on other signatories and allow WADA to recover a proportion of or all the costs involved in the context of investigations and audits. Therefore, he would be proposing the following measures. He was showing the members some of the principles discussed in the context of the consultation, the main principles that had emerged from the discussions he had mentioned previously. There were many other important considerations that had been taken into account in the development of the framework, and they were detailed in the documentation. The key ones were that WADA was the organisation responsible for imposing consequences worldwide. Before imposing consequences, WADA needed to engage with the signatory and try to solve the issue. WADA would impose consequences as a last resort mechanism, as was currently the case. It would impose consequences penalising athletes as the last resort mechanism. That was a fundamental guiding principle. Signatories would have the right to appeal decisions of non-compliance to the CAS, as was currently the case. The final decision would not be taken by WADA, as the process allowed for an appeal to the CAS.

Again, listening to what the stakeholders had said, he proposed that the consequences be proportionate, graded, published and predictable. To him, the predictability of the consequences was key to the framework, as it was possible to tell Code signatories what the violation they had committed was and what the consequences would be. It was open and predictable. The consequences should come into effect the day the WADA Foundation Board declared a signatory non-compliant, and they should come to an end the day the Foundation Board reinstated the signatory. The Compliance Review Committee also proposed that they target the problematic programme areas and avoid weakening the system, and include fines, which should be adjusted to the signatories' ability to pay. That was important. The fines should not differ greatly between the NADOs and the IFs.

As to the proposed framework, it took into account the differences between cases of non-compliance. The consequences were adjusted to three types of case, and he would repeat them because they were important. One, a few components of the anti-doping programme were not in line with the Code or international standards. Two, significant components of the anti-doping programme were not aligned with the Code or the international standards and/or the legislation and regulations were not aligned with the Code or the international standards. The third case was a deliberate attempt to circumvent the rules.

Going through the first case, in the event of a few components of an anti-doping programme not being in line with the Code or international standards, the Compliance Review Committee was proposing that the consequences be gradually imposed based on three levels, which were on the screen. For the first level, the consequences would be a declaration of non-compliance. For level two, the consequences would be extended or increased. For level three, the same would be done when the issues were not fixed one year after the declaration of non-compliance. For level one, the Compliance Review Committee was saying that non-compliant NADOs or IFs would be assisted by an independent body to conduct their activities. The second consequence was that a non-compliant NADO or IF could not perform some or all of the activities (conduct testing, deal with TUE applications, run education programmes, etc.). Moving on to level two, non-compliant NADOs or IFs would be monitored, not just assisted, by an independent body, which meant that the body would verify how things were done, so the control would get heavier. They would have less autonomy in conducting their activities, and a fine would be imposed. In addition, representatives of governments whose NADOs had been declared non-compliant and representatives of IFs declared non-compliant would be declared ineligible to sit on the boards or committees of international sport organisations such as the IOC, the IPC or major event organisations. Level three would have the same kinds of consequences, but the bar would be raised.

Moving to the second case, he was talking about key components of the anti-doping programme not aligned or legislation and regulations not aligned. There would be more consequences, more severe consequences, which would be implemented more quickly. First, the non-compliant NADO or IF would be immediately supervised by an independent body. Second, non-compliant NADOs or IFs could not perform some or all of the activities he had just gone through. Third, a fine would be imposed upon the first declaration of non-compliance. Fourth, representatives from governments of NADOs declared non-compliant or representatives of IFs declared non-compliant would be declared ineligible to sit on the boards of the organisations he had talked about. Fifth, the country of the non-compliant NADO would be ineligible to be awarded Olympic or Paralympic Games, world championships or major games. For level two, the consequences would be extended or increased, but also, representatives of non-compliant NADOs or NOCs acting as a NADO and representatives of non-compliant IFs and athletes of the country of the non-compliant NADO who could not demonstrate that they had been subjected to a robust anti-doping programme would be ineligible to participate in the Olympic Games, Paralympic Games, world championships or major games organised by major event organisations. For level two, he was talking about a period of at least two-and-a-half years.

Case number three related to a deliberate attempt to circumvent the Code. There were the same types of measures as for previous cases, imposed more quickly, with greater severity or for a longer period of time.

As for the reinstatement process, the Compliance Review Committee was proposing a process similar to that leading to the declaration of non-compliance; in other words, WADA would be tasked with ensuring that the conditions had been met and the consequences fully respected. The Compliance Review Committee would be asked to review the case and to make a recommendation to the Foundation Board, and then it would be up to the Foundation Board to decide on reinstatement.

His conclusion would comprise three comments and a couple of questions. First, he would say that WADA could continue to teach, educate, provide advice, engage and work with signatories to improve anti-doping programmes, and it should continue to do so. But that was not sufficient. WADA would probably have to deal with more non-compliance issues in the future. The imposition of meaningful consequences was required. Second, WADA currently depended on a variety of organisations to impose meaningful consequences. It could make the call, but the call could be answered differently by different organisations. It was certainly not the best approach if one wanted a coherent system and harmonised consequences. He asked the members how the system could be coherent if the main regulatory body could not impose meaningful consequences. He asked them whether the system was well equipped to deal with cases of non-compliance. His answer would be no. Was it better equipped to deal with major cases of non-compliance than it had been the previous summer? He thought that the answer was no. He thought that the system was vulnerable. That was why the Compliance Review Committee was proposing consequences that were predictable. The onus would be on the signatories to respect the rules or face the consequences. Everybody would know what would happen if signatories did not do the right thing in the right manner.

MR PENGILLY thanked Mr Bouchard for his presentation and for the work he had obviously put into that, which was very commendable. He was very supportive; athletes had been asking for that for some time. As vice-president of an IF, he would also be supportive, although he was not speaking on behalf of the IFs. He had three comments. He was an athlete representative and therefore very cautious of a full athlete ban, particularly when the fault did not lie at the feet of the athlete. However, given that such sanctions and consequences were a last resort, that everything would be

communicated from the outset but it would take two or three years and there would be a possibility to demonstrate that one was clean through another, more robust system, he felt that it was an appropriate solution, in particular for the other athletes around the world who were subject to effective anti-doping programmes. He believed it was important that, by stopping a NADO's activity, WADA avoid shooting itself in the foot so as to avoid a vacuum, and that an anti-doping programme or mechanism be in place so that a programme could move in to avoid a vacuum, and that had to happen at relatively short notice. That had to be legally enforceable, so everybody would have to work together to make sure that it was because, while WADA might be making the decision, the IFs and MEOs needed to action some of the consequences and sanctions.

MR RYAN congratulated Mr Bouchard and his group on a very important and complex piece of work. The basis of what was being put into place seemed logical, and it seemed to be the next step to give WADA the ability, finally, to have some chance to sanction in some way or another itself, but there would be some degree of subjectivity even in the model because of the complexity of that, for example deciding what fell into each of the three levels of non-compliance, and he would give further examples: the level of a fine that was appropriate because it was designed to be variable, how much, and how the money raised would be used. The question then was to understand not the answers to the questions but the process by which Mr Bouchard envisaged those subjective areas being handled.

MS TJONGARERO said that, bearing in mind the myriad socio-political and economic challenges facing the members, she supported the supposed Compliance Review Committee process. As the custodian of the World Anti-Doping Code, WADA should fortify its resolve to hold stakeholders accountable. The proposed action taken by WADA in implementing the consequences of non-compliance, as expressed in the document, should consider those peculiar challenges, many of which could be seen in the political and social spheres outside sport that led to a particular stakeholder not being able to deliver Code-compliant programmes. If WADA was satisfied that the principle was covered in the proposal, she suggested that WADA allow the Compliance Review Committee and management team to proceed as suggested. She believed that the proposal addressed the issue, but she was mentioning it to amplify the need to be circumspect in how to move forward. It could not and should not be a one-size-fits-all approach. Mindful of the fact that mitigating circumstances should be carefully considered, she was confident that WADA could deal with such matters as they arose and she thanked the members.

MS CROUCH congratulated the President on his re-election and Ms Helleland on her election. She fully supported the intention behind the proposal set out in the presentation and document, and strongly felt that WADA should be empowered to impose meaningful sanctions for non-compliance. Any sanctions should be applied equally and consistently for all anti-doping organisations with no discrimination between IFs and NADOs. For an efficient sanctioning system, WADA should recognise that amendments to the World Anti-Doping Code would be necessary and there could be implications for UNESCO and the Council of Europe conventions, but she agreed with the approach outlined by Mr Niggli whereby work began sooner through an international standard rather than waiting for the Code revision process, which would take time, and expected that consequences of non-compliance would apply to all Code signatories; but, on the whole, she fully supported the intention behind the principles.

MR BESSEBERG thought that it was high time that WADA had a clear charter of consequences for non-compliance with the WADA Code. Was it correct, if a NADO was not compliant, that it could not organise major events? In practice, WADA would not be giving a sanction to the nation involved but giving sanctions to all the national sport federations of that country. Was that fair, given that they had not been doing anything wrong? He felt it was more of a threat, in that, for a country to be compliant, WADA would punish all the NFs. Was that really fair?

MR LIRA said that he was from Chile and headed the South American Sport Council. He represented 10 countries in South America. Generally, he agreed with the proposal, but thought that it was important that the sanctions be proportionate and graded and, like the previous speaker, wondered whether the whole country should be sanctioned if only one entity had problems and should be sanctioned. Sanctions should be proportionate and graded. In some cases, WADA sanctioned when a country did not have the right legislation. In political processes in Latin America and some European countries, legislative problems took time to be resolved. It could take a long time, and that should be taken into account as well; otherwise, WADA would be penalising the athletes, and that was not ideal. He also thought that, when sanctioning a country, the country might be reinstated by being allowed to organise training sessions for athletes, federations or the groups carrying out anti-doping controls.

MR ESTANGUET thanked Mr Bouchard for his presentation. As had been said by Mr Pengilly, the athletes were delighted to see that their recommendations were being taken into account since the

Foundation Board meeting and the think tank. In relation to the ineligibility of athletes, he wished to say that he did not want to see clean athletes being sacrificed. There were individual rights that needed to be protected. He saw that the sanctions would be imposed upon all stakeholders, not only through fines but also by withdrawing accreditation for officials, and the athlete entourage should be added to that list of individuals and organisations that could be sanctioned. As to the timeline for implementation and enforcement, he repeated that, when an athlete was sanctioned, they were out of the game from one day to the next. Anybody who did not respect the rules should be expelled from the event immediately and should not be given three years. Obviously, organisations needed time to adjust and be brought into line, but WADA should be careful about leaving them too much time to procrastinate; otherwise, the efficiency of WADA would be impaired.

MR RICCI BITTI repeated what he had said the previous day and congratulated Mr Bouchard on the very professional job. He spoke more on behalf of the IFs to say that they welcomed the framework, and he endorsed it fully. He recommended giving more careful consideration to the nature of the major stakeholders of WADA, the IFs and the NADOs, and their specific characteristics because, even though they were treated equally, their jobs were very different. Going back to the foundation of WADA, IFs were responsible for elite sport, and the NADOs were responsible for the domestic domain. His recommendation, reiterating his support of the general concept presented, was to pay a lot of attention to what Mr Estanguet had already said, i.e. the risk of collective responsibility sanctions had to be considered carefully in order to avoid infringing upon the role of the governing bodies. He gave his full support, but made a very strong recommendation to consider in detail the consequences of some sanctions that might not be easy to enforce and might punish the athletes more than necessary.

MS BATTAINI-DRAGONI said that she did not wish to repeat what the other speakers had said. She obviously wanted to thank Mr Bouchard, was very impressed by the work he had produced, and took it very seriously. She agreed with most of the things said in that the system of sanctions introduced was extremely interesting and gave clarity about the way in which the entire system could function, and she welcomed in particular the proportionate and graded sanctioning system. Having said that, there were a few principles put in writing in the document distributed half an hour previously, which was a summary of the discussions in London before the Foundation Board meeting and without knowing about the presentation, but the members would see that many points in the document corresponded to what had been seen that day on the screen during the presentation. She invited the Compliance Review Committee to read carefully the document, which was a common statement by some of the members.

As a European representative, she wished to add something that had not been mentioned. Once the framework was introduced in the World Anti-Doping Code, there would also be a need to look into the European anti-doping convention to see the extent to which modifications might be needed. It was very important to show that the system could really influence matters elsewhere. That might also have an impact on UNESCO. The other thing she wished to mention was the fact that, obviously in the Compliance Review Committee, there would be a certain margin of appreciation, as every court had that margin when it came to understanding the facts and coming forward with sanctions, but the possibility for constant dialogue was very important to avoid misunderstanding in the interpretation of facts between WADA and those considered non-compliant, at least up to the point whereby an appeal would be possible.

To conclude, the principle of a margin of appreciation on one side, but also the question of legal certainty, was very important. It was necessary to be careful that, in the final production and translation of all of that into the Code itself, all those principles were taken into account. To the point of knowing when to take action, before the possible revision of the Code or not, there was a need for some clarity, because the legal certainty sought would not be there unless it was also in the Code. She was prepared to listen to any comments on that point.

MS SCOTT thanked Mr Bouchard for the report. As highlighted, the athletes had been very supportive of the development of a framework and also very much supported the proposal presented whereby WADA was the international regulator for doping in sport with effective and meaningful sanctions. The situation that summer had highlighted WADA's limited powers and showed the lack of clarity and coherence of the sanctioning process and, if all agreed that WADA had to be strengthened and empowered, all should agree to give WADA the authority and autonomy to do the job to the best of its ability. Athletes had been very much consulted and involved in the process in relation to the framework. She knew that because she had been one of them. In order to build and retain athlete trust in the system, the proposed framework was an absolute priority and should be moved forward as a matter of urgency.

MS QUALTROUGH congratulated everybody on the framework and echoed what Ms Scott had said about the athlete perspective. Had there been any exploration of the levers that the public authorities had at their disposal in terms of sanctions as well? The public authorities had funding and policy levers that could be added to the suite of sanctions as they figured out the best way to assist in addressing the system. She saw the levers that the sport federations had at their disposal, such as membership of boards and committees, and hosting of events, but public authorities also had levers at their disposal that they would be pleased to explore and perhaps put on the table to assist.

MR POUND joined in the congratulations to those responsible for developing the framework, which was a welcome emergence from the days in which it had been suggested that WADA was merely a service organisation. On the timelines, he would be cautious about making that schedule part of the legislation. It might be necessary to change that, and WADA did not want to be met with a challenge after initiating. Secondly, if looking for consensus, he certainly believed that having the power to impose at least provisional sanctions on the part of WADA was essential. The rights of the parties affected were protected by recourse to the CAS if required. He also thought that part of an effective fight against doping in sport was the ability to be nimble and respond quickly where circumstances called for it, and that, in his view, would include amending the Code as and when the problem appeared rather than waiting for a quadrennial review. WADA's job was to make the fight against doping in sport as effective as possible. To deal with the point raised by Mr Besseberg, a national ADO assumed responsibility for the entire country and, therefore, if the entire country was not compliant through its NADO, that should also affect all of the domestic sport organisations in that country.

MR BAUMANN added a few comments of his own. He thought it was a very natural transition from where WADA was to where it wanted to go, so it was a very logical step in the discussion. At the same time, he had two concerns. WADA should be careful not to shoot itself in the foot. He did not know how many organisations were compliant and in which group they fell. If it was the large majority of stakeholders, there might be some work to do in advance to avoid ending up exposed. It was not simply a reaction to what had happened shortly before the Olympic Games in Rio. More on the content, he thought that where predictability was needed and necessary, in terms of knowing the consequences, there should be clear predictability on the criteria for groups one, two and three, and he thought that that was not very clear from the stakeholders' perspective. Much was left in the hands of the people coming in and controlling and there was a degree of subjectivity that should be taken out of the system. Going through the international standards rather than changing the Code would weaken the proposal from a legal point of view.

THE CHAIRMAN thanked the members for their contributions.

MR BOUCHARD thanked Mr Pengilly for his support. His points were well taken. The Compliance Review Committee had tried to address them in the framework, but there might be more work required to fine-tune the details.

Mr Ryan had talked about the process. Going back to the first slide, the process provided checks and balances. First, WADA was engaging with the signatories and finding out through an audit or an investigation about issues, talking to the signatories. The next step was the WADA task force looking at the issues, then there was engagement, conversation and support, with people who would go and help. If that did not help, it would go to the Compliance Review Committee. It could take two to three months before a recommendation to the Foundation Board, but the Compliance Review Committee might put a signatory on the watch list, giving them another four months. Then there would be a recommendation, declaration and appeal process if people were not satisfied. In terms of the process, there were sufficient checks and balances to allow for the orderly implementation of consequences. On fines, the detailed document stated that a structure should be developed so that there was some predictability that took into account the capacity to pay.

In relation to the comments made by the African minister, WADA tried to take into account all of the aspects and not to lack nuances when imposing consequences. Currently, WADA lacked the nuances, as it did not have the right consequence tools, so it had to apply the same consequences no matter what the case. The new framework would allow WADA to be a little bit more subtle in its approach. Having said that, it did not mean that WADA would not be severe as time went on.

He thanked Ms Crouch for her support. The Compliance Review Committee had definitely looked at equality of treatment. It might have missed something but, overall, it had tried to look at all of the components of the system. There was a possible issue of unfairness, as pointed out by Mr Besseberg. At one point, one had to ask whether every sector of the sport movement, including governments, should be put in the mix and made to be responsible at some point, or whether WADA should target only the organisation that was at fault. For the same reason alluded to by Mr Pound, the Compliance Review Committee had felt it necessary to be a little broader in its approach. That

might create issues, but he thought that those points could be tackled when refining the consequences.

On the proportionality of consequences mentioned by Mr Lira, fundamentally, that was exactly what the Compliance Review Committee had tried to do, get a graded scale, and say that it was necessary to build capacity in some areas and not hit people with a hammer. Particularly where the first case was concerned, a lot of the violations had to do with capacity, and that went back to the point he had made earlier when he had said that the Compliance Review Committee would help stakeholders get out of that situation but, if there was no effort on their part to do that, there had to be consequences.

Mr Estanguet had mentioned the fact that consequences should be applied to all and had welcomed the decision and, in fact, he felt that a system should be imposable by default. That would have to be discussed when there was consultation in the event of agreement on an international standard. As to the time before the consequences were enforced, some felt it was too long, others felt it was too short; for administrative reasons, it might take time to reconstitute an anti-doping programme. There had to be target times and sometimes it might not be adequate, as Mr Pound had said. That was something that could be discussed during consultation. There could also be different timescales in relation to sanctions.

He took the point that there was risk and one did not want to have more of an impact than necessary on the system by linking organisations to the organisation at fault, but he had tried to answer that point, echoing what Mr Pound had said, which was basically that a NADO or an organisation might be active on behalf of the country so, if nothing was done, and it took a while or took forever, maybe it was the NADO of that country that needed to be held responsible. He understood the risk; again, consultation would help.

He was glad to hear that that was the kind of thing that Ms Battaini-Dragoni was considering for the Council of Europe. What had been established was just a base, and any other organisation that felt that it should add consequences to that framework would be welcome to do so. The idea was to say to people wanting to cheat that there would be consequences. Any other organisation that wanted to do the same thing would be welcome to do so.

As to the impact on UNESCO, clearly the question could be asked: should there be similar consequences at UNESCO? Maybe that was a discussion that should take place with UNESCO.

The legal certainty definitely needed to be looked at. In the implementation and through consultation, those were the kinds of thing that needed to be fine-tuned.

He thanked Ms Scott for her support and her contribution, and he also thanked all the members of the Compliance Review Committee for their work.

As to Mr Pound's comments on challenging timelines, as he had said, WADA should implement the framework as soon as possible. In relation to the time grid, from six months to a year to 18 months, again, that was the kind of thing that might be looked at in the context of consultation, but it needed to remain predictable. It should be nimble and flexible but, the greater the flexibility, the more political aspects would enter into the decision process. One needed to be predictable and have targets. Of course, some kind of flexibility might be taken into account.

He told Mr Baumann that he had already addressed the issue of the impact on the different organisations. He agreed, in relation to the criteria, that WADA needed to work out what few components and significant components meant. There had been examples. The Compliance Review Committee and WADA could make those determinations that could be brought to the Foundation Board and then appealed, but that issue should definitely be looked at.

THE CHAIRMAN noted that Ms Qualtrough had asked a question about potential help from public authorities.

MR BOUCHARD thanked Ms Qualtrough for her remark, and she was absolutely right. He thought that WADA was trying to establish the base, and any other consequences that could be implemented or went along the lines of the intent, which was to discipline, would be welcome, and he thought that the idea that she was putting forward was valuable and should be considered moving forward.

THE DIRECTOR GENERAL summarised that what he took from the discussion was overwhelming support for the proposal and the work done, so WADA would move forward with consultation and would take into account the remarks made and would focus on reducing uncertainty and ensuring predictability and graded sanctions. He added that, in response to Mr Baumann, the request had come from the athletes in May the previous year, way before there had been anything on the table.

THE CHAIRMAN thought that the Foundation Board owed the most enormous debt of gratitude to Mr Bouchard for the work he had chaired with a group of real experts. The work was of the highest possible quality, and it really did move WADA forward, and he was really encouraged by the quality of the remarks, which would help the next bit of the process as that went out to fuller consultation. WADA was greatly in Mr Bouchard's debt.

#### DECISION

Update on consequences of non-compliance noted.

#### **Way Forward II – Investigations**

THE DIRECTOR GENERAL said that the next two issues would be dealt with together. In relation to investigations, the recommendations received from the think tank, the Olympic summit and so on had been for WADA to develop its capabilities and professional intelligence gathering and a structure. That was well under way. WADA had hired Mr Younger, who was forming a team around him to deal with that, and WADA was putting that into place. The members would hear about the whistleblower policy in a minute. The Executive Committee had agreed that WADA would come back in May with a proposed policy that would give Mr Younger and his team some independence within the WADA management framework so that they would be able to conduct their work in complete independence, which was one of the requirements that had led to the appointment of an independent person to conduct investigations. Going forward, that was work WADA should be conducting, and WADA would put into place the framework required to make sure that everybody was comfortable.

#### **Way Forward III – Testing**

THE DIRECTOR GENERAL said on the testing front, there was a proposal on the table from the previous November about the creation of a potential independent testing authority. WADA had already agreed on a process for that and the process had been followed. The members would see the reports and minutes of two meetings of a technical group, which had looked into the matter, as well as a report from PricewaterhouseCoopers, which had been mandated to look at the cost. The process would be followed up with a meeting of a steering committee, agreed upon and appointed in May, that afternoon and the following morning, and so WADA was following the process and the Executive Committee had been comfortable the previous day about following the process that had been agreed to.

THE CHAIRMAN noted that that was a clear statement about how WADA was going to deliver what it had been asked to deliver, and the testing process was well under way. Moving on to topic four, whistleblowers, he asked the Director General to take the floor.

THE DIRECTOR GENERAL said that WADA had been asked to develop a clear policy for whistleblowers. WADA had worked on that and was presenting a policy, which was in the members' folders under item 10.2. He would be asking the members to formally approve the policy that day. It was a field of activity that concerned the legal and investigation field; however, going forward, the main responsibility would be with the Intelligence and Investigations Department.

#### **Way Forward IV – Whistleblowing**

*(Item 10.2)*

##### **– 10.2 Whistleblowing programme and policy**

MR SIEVEKING informed the members that the policy in question was the legal framework in support of the WADA whistleblower programme. It would obviously also include a mobile application and a web platform for the reporting of misconduct in confidence. Those were the very first steps, as it was an evolving field, and WADA needed to promote an open environment in which everybody would feel that they could report in confidence. The policy was a legal document that sought to clearly define the process to be followed and the obligations and rights of WADA and the person reporting misconduct, describing what could be reported, how it could be reported, how the information reported would be processed and stored and who would have access to the information. It also addressed key questions such as the scope of support that WADA could offer to whistleblowers.

The drafting team had comprised members of the WADA Intelligence and Investigations and Legal Departments together with internationally recognised experts in the field of whistleblowing and data protection. The first draft had been circulated for consultation among a limited number of stakeholders, including IFs, NADOs, the IOC, IPC, Council of Europe, INADO and the WADA Athlete Committee. WADA had received numerous supportive and constructive comments, and he took the

opportunity on behalf of the drafting team to thank them all for their valuable feedback, in particular Ms Scott and the Athlete Committee.

The main questions to be addressed in the policy were obviously the same as those that had triggered the most comments in the consultation, the first being the nature of reporting (anonymous versus confidential reporting). WADA had opted for confidential reporting, because anonymous reporting was considered by some state courts and national data protection authorities as illegal or at least questionable. It should be made clear that the proposed system guaranteed that whistleblowers could report in full confidence and that their identity would never be revealed beyond the WADA investigations team unless there was express consent given by the whistleblower.

The second important point was the difference between whistleblowers and informants. Both statuses triggered different rights and responsibilities. Any person reporting misconduct to WADA would be considered an informant. The informant could then decide not to pursue cooperation with WADA once the information had been provided. However, informants could also become whistleblowers, meaning that they wished to cooperate further with WADA. In that case, an agreement would be signed between the future whistleblower and WADA. There was no obligation for any informant to become a whistleblower; the whistleblower status would offer additional rights and protection to the person willing to cooperate further.

On the protection offered to whistleblowers, the solution had to take into account what a whistleblower could reasonably expect from WADA when reporting misconduct and what WADA could reasonably provide.

In relation to financial support and rewards for whistleblowers, the solution proposed two steps and was similar to that set out in the Code for substantial assistance. The first step was that the information had to be valuable or should lead to prosecution for misconduct. WADA would then, based on the circumstances of the case and several factors set out in the policy, fix the amount of compensation or financial assistance.

In relation to the link with other ADOs, in particular those in which existing channels for whistleblowing were in place, some whistleblower systems already existed at NADO level to report misconduct and WADA applauded that. The important thing was that people willing to speak could report in confidence. However, the policy was the WADA policy. It could be used as a model for stakeholders that did not yet have a system in place to develop their own, but the policy addressed the issue of dealing with information reported to WADA, so the informant's or whistleblower's identity would not be shared with anybody if no express consent was given. However, if a whistleblower came forward to WADA, and there were cases ongoing with another NADO, WADA should be able to share the information with the NADO and vice versa. The same principle should apply to the sharing of information with a law enforcement authority.

In terms of next steps, in the short term, WADA had to finalise the technical implementation of the application and the website, and that was being dealt with, and communicate with all stakeholders in view of the launch to take place in 2017. More importantly, there would be permanent revision, because the field was evolving fast. WADA would be making regular assessments and reviews to ensure the policy and programme continually reflected and further refined evolving best practices. WADA would report at least annually on the effectiveness of the whistleblower programme and would seek to learn from experience. Stakeholders were obviously invited to share their views and ideas or comment on the system.

Obviously, that would all require additional work for WADA and additional costs in terms of providing assistance so, if the Foundation Board accepted the proposed policy, the Finance and Administration Committee would have to consider the financial cost with the WADA management in the revised 2017 budget.

MR YOUNGER expressed his deepest gratitude to the members for giving him the chance and placing their trust in him to create a strong and efficient intelligence and investigation team at WADA. He had started on 1 October. He assured the members that he considered whistleblowing as a key element in investigations and, in his experience from law enforcement over the past 30 years, there had almost always been whistleblowers. Whistleblowers should be treated in a special way, as they were the key elements for WADA's success.

The policy proposed would not convince whistleblowers to come forward. For whistleblowers, the first decision to come forward was an emotional decision. The whistleblower wanted to know whether the person to whom they were talking was trustworthy. The important thing was to meet in person and establish a relationship. He already had whistleblowers and dealt with them on a daily basis. The first part of the process was therefore trust, and the second had to do with the information and whether it could be confidentially forwarded. The final part had to do with reliability. The

whistleblower policy covered the confidentiality and reliability, because the whistleblower was given a paper that clearly set out the responsibilities and rights of WADA and the whistleblower.

There were informants and whistleblowers. Informants came forward and gave information and then the cooperation was over. Whistleblowers were more or less for further cooperation, meaning that it was important to know the person who was coming forward and their reasons for doing so. Whistleblowers could be used for information and then also used for future operations. The best thing would be to have a big range of whistleblowers. There would be rights for the informants, because there would be uncertainty at the beginning. The process needed to be transparent. They would want to know what they could expect, how it worked, how WADA worked, and how WADA kept the information confidential. The right was to provide disclosure but also to get acknowledgement of receipt. To ensure the trust component, it was important to meet the person, to understand the reasons for working together. In relation to responsibilities, there were good and bad whistleblowers out there, and the bad ones might want to put competitors in a bad light. He needed to know that the reasons were in good faith. As well as developing a common strategy, one had to tell them that, whatever they did in the future concerning the matter, they had to talk before doing it, because it might endanger the strategy developed, and inform immediately about any risk and danger, and whether it was just a feeling or a real threat. In his experience, sometimes they felt they were in danger because they thought that the information would be leaked, but he would reassure them and give them the feeling that they were really protected. It was also important to give accurate information.

The whistleblower's rights were more or less the same as those of the informant; the working relationship was very important. Protection measures included confidentiality. If somebody came to him and said that they could give the information to him only confidentially, nobody would ever find out about that. The ideal scenario for him would be finding a way of bypassing the whistleblower to use the information. For example, if one wanted to look for a needle in a haystack, one would have a lot of work to do if one did not know where to search. However, if somebody were to advise looking in a certain corner, the search would be easier. Nobody would question afterwards why that corner had been searched in the first place.

WADA offered external legal assistance. If somebody found out about a whistleblower and there was retaliation, WADA would support and help the whistleblower to cope with that and would not accept such retaliation. In relation to physical protection, WADA was not law enforcement and could not provide physical protection but, through his network, WADA could open up doors to law enforcement, which would be in accordance with the agreement with the whistleblower.

For rewards, there was substantial assistance. This had to do with how whistleblowers were recruited. Most were met in interviews, perhaps they were athletes who had been caught, and then negotiations would be started. WADA could then perhaps offer substantial assistance. Financial assistance would be provided for expenses if whistleblowers worked for WADA, because WADA could not expect them to travel somewhere without being reimbursed, and then, for really good and successful cases, WADA could consider a financial reward. That would of course depend on the case and the situation of the whistleblower.

For whistleblower responsibilities, as for informants, WADA needed to insist on the fact that it could not allow the whistleblower to commit any violations, as that would be against the rules. It would also be necessary to seek approval for any action related to the investigation; that meant that, if they did something, it needed to be approved by the team. The whistleblower would be involved in the strategy. Then there was confidentiality. How could they communicate with WADA? There were all the usual WADA channels (telephone and e-mail), whistleblowers could come in person, and WADA had also established a secure and encrypted whistleblower system, which allowed whistleblowers to communicate, and WADA would not be able to track them down via their IP address, which would be completely independent, and in fact he was not interested, as his objective was for the person to come voluntarily.

The information would not be stored in the normal WADA system; there would be independent secure storage, and members of the WADA staff would not be able to find out the identity of his whistleblowers, and there would be a secure compartment. Every whistleblower would get a number, reports would be written with the associated number, and they would be submitted officially to WADA with only the number and no name. The information would be in the secure storage. Within his department, he wanted to separate those dealing with whistleblowers from the investigation case officers, so as to avoid mixing up information. Therefore, the person running the case would not be responsible for managing the whistleblowers. He would deal only with whistleblowers and would therefore not run any investigations.

He would not disclose the identity of whistleblowers without their consent. Only if the whistleblower said that they were willing to work with a NADO would he disclose their identity. If not, WADA could share the intelligence with the NADOs. His whistleblower would work with him and so, if a NADO had a case, he could work with the NADO in question without involving the whistleblower. It was important to note that everybody was innocent until proven guilty. He would be more than happy to discuss any issues or questions arising from his presentation.

THE CHAIRMAN commended the formidable piece of work, not only to produce a detailed policy with legal authority, but then to find out with terrific capability from Mr Younger and his team the amount of work necessary to implement that policy and to make it work properly. He thanked those who had been doing that. Were there any questions the members would like to ask because, at the end of the debate, they would be asked to approve the policy?

DR PASCUAL said, regarding retaliation and sentences such as those stating that WADA would not tolerate any retaliation, it seemed that the power of WADA was acting on consequences of non-compliance, and he wondered if that could be studied in the framework of other consequences for ADOs in relation to non-compliance. Was that part of the possible consequences that an organisation could suffer?

MR AGIUS congratulated the speakers on the good work they had done. Europe welcomed the whistleblower programme and policy and gave its full support to the development of the user-friendly policy. A lot of safeguards so whistleblowers were encouraged to come forward with information had been mentioned, and he believed that no stone should be left unturned in identifying additional incentives and safeguards for whistleblowers who came forward and who reported anonymously. He advised WADA to coordinate actions with NADOs and IFs that already had whistleblower programmes in place. Looking at other programmes, there could be a better whistleblower programme. He also invited WADA to consider fully sanctions for any false reporting, which would definitely avoid athletes coming forward and reporting abuse anonymously.

MR ESTANGUET thanked the speakers for their presentation. He thought that great progress was being made and fully supported the new programme. He believed that many clean athletes would help make the system more effective. On security, there was some concern among the athletes on how the information and identity of the whistleblowers would be protected. It was also necessary to take into account cultural differences among athletes participating in such a programme. It was not easy to become a whistleblower. In some parts of the world, it was easier to do so than in others. WADA would have to take into account the cultural differences so that all the athletes could participate and share information, no matter how small. In relation to communication, how would WADA communicate the programme and how would WADA make athletes want to participate? It was necessary to be very careful and ensure positive communication.

MR KILIC congratulated the Chairman on his re-election. Once WADA started to look into that matter, and it had to in order to protect clean athletes and find out who was doing unlawful things behind the scenes, it would go deep. Once the whistleblowers came forward, disturbing information would come out and information would come out that would link to other organisations, and he meant not only law enforcement but also legal organisations, as it was an issue of banned substances and health issues; so, once WADA got the information, how would it process that and work together with other agencies and international organisations that were against the unlawful distribution of such substances?

MR NICHOLSON echoed the comments made earlier. Coming from the customs world in Canada, one of the biggest challenges was dealing with the ability to share information for law enforcement bodies and so on; so, with the government officials and people sitting around the table, being able to ask for their support when doing investigations and help with the privacy laws in place in certain countries might help facilitate things in terms of helping the NADOs and WADA in their efforts.

MS SCOTT congratulated Messrs Sieveking and Younger on the level of detail and expertise that had gone into the policy. It had been a specific request from the athlete community, and many had been particularly distressed by the situation with the Stepanov family, so the actions taken by WADA were really heartening to the athlete community and they were very encouraged to see that. She thanked WADA very much for doing that.

MR POUND suggested making it clear within the greater sport community in particular that there would be responsible use of the information provided, and he thought that WADA could use that plank and platform, particularly if approving the policy, to indicate that it would have been reckless and dangerous to have provided the information first obtained from the Stepanovs. It would have put them at risk, so any suggestion that WADA should have acted three years before it had was way out of line.

It was more wishful thinking on his part but, in defending against whistleblowers, the organisations on whom the whistle had been blown had used the whole concept of whistleblowing in a derogatory fashion, so that a whistleblower was not regarded socially as somebody who had actually contributed to moving forward. WADA might try to get its people to see if they might invent a sport-related term of 'confidential informants', or whatever the terminology might be. He suggested getting out of 'whistleblowing', even though initially it had been a good concept, but usage had caused it to deteriorate.

THE CHAIRMAN said that there had been trouble with 'informant' the previous day as well.

MR PENGILLY observed that the programme was obviously highly necessary. In the consultation with the Athlete Committee, one of the suggestions touched on had been the name, the reason being that smaller reporting would probably not occur, because athletes in particular would not think the information was as significant as whistleblowing. That was one of the reasons. The other was a language cultural thing, in that, in some cultures, the term was very negative. By way of an example, a Russian colleague had said that the term in Russian equated to what one would call an informant who had been informing the secret police on their friends and neighbours. That was obviously highly derogatory and would not encourage somebody to want to do that. If the rationale behind the name could be explained, that would be helpful.

MR LIRA thanked Mr Younger for his presentation. He had been thinking about what had happened in his country, Chile over the past few months in relation to whistleblowers, and much had been said with the former president of the Chilean NADO. The NADO there was a small team that had resources at its disposal, but it was a team that was somewhat reticent about interviewing people, and it lacked experience in the field, in terms of contacting the police or interacting with the police, so it was important that WADA advise the stakeholders on the matter so that, for example, through Interpol, it could divulge information on what was being done in anti-doping, and he was talking about Chile but also included other countries in South America, as this was really necessary.

MR MOSES observed that a lot had changed over the past six months. At the previous Executive Committee meeting, the members had discussed whistleblowers and there had been a presentation. At that meeting, WADA being the unique organisation that it was, a lot had to be talked about: law and compliance, sport and medicine, politics and journalism. Over the past year-and-a-half, the things that WADA had gone through had sounded like a very intriguing spy novel and it was a lot for the members to deal with. He was very pleased to hear the presentation in relation to compliance and whistleblowers and investigations. Six months later, he thought that WADA had got to the point whereby it had been able to deal in a very positive way with whistleblowers, and he thought that the Compliance Review Committee was the right step for the organisation, as nobody had known what would happen six months previously. He thought that Mr Estanguet, Ms Scott and Mr Pengilly had been able to talk about the athletes and the break in trust, and Mr Younger had just spoken about the personal nature of the interactions in the future in relation to the whistleblowers (or whatever term would be used). It was very personal and detailed and he hoped that the members would not forget the trust that had been broken for the athletes and how much that really hurt. Athletes had been really stunned by the decisions taken by the IOC before the Olympic Games; they had been really taken aback by the allegations of systematic doping, and one of the things that the two committees would have to do would be to rebuild trust, educate the athletes and inform them as to what was going on at WADA. There could be news articles and revelations but, at the end of the day, the two committees would have to rebuild trust with the athletes from the top down. He was really glad that things were happening in that way. In relation to whistleblowers, how did Mr Younger think culturally that RUSADA would be able to build in that approach? How reasonable was that, that there would be a situation whereby Russian athletes would be able to talk about what had happened, and what was the probability of that happening?

MR SIEVEKING responded to Mr Pascual, whose question regarded retaliation. Obviously, there could be a situation if an employee of a NADO was denouncing misconduct in their organisation and then there was retaliation. He would have to check that with the Compliance Review Committee, but there was an obligation for the NADOs to promote a culture of anti-doping. He should liaise with the Compliance Review Committee, but he did wish to mention that there were three social science research projects that would specifically address whistleblowing and one would look at the policy in the financial and other industries, so that would also guide WADA in terms of what it could do and what was done in terms of retaliation.

He thanked Mr Agius for his comment.

In relation to the cultural differences mentioned by Mr Estanguet, he thought that most NADOs already had their own reporting system and hoped that they would take into account the cultural

differences. Mr Younger would have to look at how the system evolved and work out how to fine-tune it so that it would be as good as possible.

MR YOUNGER said that WADA would establish a database for investigation only; it would be completely separate and only his team would have access to it. It would be on a separate server. The whistleblower programme or application would not be within WADA and could not be tracked down by WADA, and it would be encrypted, meaning that not even the IP address could be tracked down. WADA offered various possibilities. That was the most secure one, but a whistleblower could send an e-mail to the investigation team asking them to get in contact, and they would find a way of communicating. He was currently establishing a secure method with every single whistleblower so that they would be comfortable. There were different ways of communicating with WADA via the Internet, but they would be tailored to the respective whistleblowers and what they were most comfortable with.

In terms of processing the information, he told Mr Kiliç that the biggest risk for an organisation was having information and not knowing about it, so all information with links to the investigation team would go through the investigations team. He had established one e-mail address, and his team would be the single point of contact for all stakeholders or whistleblowers, meaning that they would not have to go through the Communications or Legal Departments. For processing, every single case or report would be registered. There was a system, be it a request, case or project, so that, even after a year, if WADA were audited, it would be possible to see what had been done, in what timeframe, and the outcome. He wanted a transparent process in the event of questions by an independent person as to what had been done with a case or information. That was the process. He hoped he had answered the question.

He was happy that Mr Nicholson had mentioned that point. WADA had a memorandum of understanding with and was working closely with Interpol, and he had been the person in 2009 responsible at Interpol for that agreement. WADA had very strong partners. He hoped to establish something similar to the Interpol agreement with the customs authorities, because they were a very important partner, and he was thankful that Mr Nicholson wanted to help WADA and establish a relationship.

He told Ms Scott that he could fully support what she had said, in particular regarding the Stepanovs. With the exception of one journalist in the room, he had spent a lot of time with them, because it was an emotional approach at the beginning, and he had wanted to find out the reasons, and he had insisted that they needed to move from Berlin to another place, as he had been quite sure that they would not be safe once the report came out in the media. He had always involved them in any communication and told them what would be done, and that was one of his main responsibilities as the person dealing with whistleblowers, to give them the feeling that they were not alone, giving the clear signal that it was very important to have whistleblowers in society.

He told Mr Pound that it was necessary to avoid risk and he had had a discussion with the respective media person, as it would not have been his approach to expose the Stepanovs in the media, but it had been their decision. He would have advised them to keep it confidential because, as soon as the names were out, one could no longer protect them. His approach was to bypass whistleblowers, use the information and make sure that their identities were safe.

MR SIEVEKING told Mr Pengilly that he was not the first to mention the name. WADA had received comments on that, and USADA had commented on the fact that the term 'informant' had bad connotations. The drafting team had struggled on that point, and people had come forward with different proposals. It was difficult to find the right word, so he was happy to take any ideas. That had been discussed during the drafting team session, and Mr Peterson, an internationally recognised expert in good governance and whistleblowing, had been part of the team, but WADA had not got to a better name. Nevertheless, the policy would be reviewed regularly and, as soon as a better proposal was made, WADA would be happy to make the change.

MR YOUNGER told Mr Lira that WADA's investigation role in the future would be more of a coordination role, but WADA would investigate as well and would need strong partners. There were strong partners out there with investigative powers and they already had very good staff in place, and WADA needed to have that network. In that respect, he would be more than happy to help the region when it came to managing whistleblowers, and he told Mr Lira to feel free to contact him any time for support or advice. It was always a cultural matter, and WADA needed him as well, because he understood the cultural background of his people. That was what was needed: a strong relationship with partners, and WADA would link up to law enforcement authorities, as it had a very strong relationship with Interpol, and there were native Spanish speakers at Interpol, people who knew the police systems and had contacts with all of the national central bureaus (NCBs), so he

thought that WADA could link up with the police and different law enforcement bodies. Mr Lira should feel free to contact him at any time.

He thanked Mr Moses for his contribution. He needed to say for the Russian colleagues, because it was clear that the revelation of the Russian case had been based on Russians, that the whistleblowers had included people other than the Stepanovs, and he had been very touched by the fact that they had been providing the necessary information to move forward with the investigation. He would not disclose anything, from where or whom the information had come, but he was confident that there would be people in Russia who would help, once the trust was back, but he was more than happy to cooperate and build a bridge to RUSADA and the Russian friends.

MS BATTAINI-DRAGONI said that, since WADA knew that there was a lot of normative work that had been undertaken by national (member states) or international organisations, it was very important to be careful with terminology. There was a whistleblower terminology with an internationally accepted definition, so she asked the members to stop looking for new terms; otherwise, it would become confusing. The work presented on whistleblowing was extremely interesting, and she also congratulated all those involved, but the implementation of the policy, when connected to specific situations in different countries, would vary enormously. In a country with a normative, institutional and judicial framework, protection would work very well; but, in a country with no rules or framework or anything in place, it would be very difficult. The Council of Europe had a full text on the list of recommendations on the protection of whistleblowers and she would be happy to share it fully.

THE CHAIRMAN thanked Ms Battaini-Dragoni, and was sure that the text would be taken on board. He thanked Messrs Sieveking and Younger. Would the members accept the whistleblower programme, however WADA developed it (name/details)?

#### DECISION

Proposed whistleblower programme  
and policy approved.

#### **Way Forward V – Laboratory Accreditation**

Following the discussion on whistleblowers, THE DIRECTOR GENERAL referred to the next topic, laboratory accreditation, and said that it was probably time to have another look at how WADA was dealing with laboratory accreditation. There had been some issues with laboratories that had resulted in suspension, and the Executive Committee had agreed the previous day to put in place a group of experts to brainstorm on how things might be done going forward, and the group would report at the May meeting. That was pretty straightforward.

#### **Way Forward VI – Governance**

The next issue was a very important one and it had been discussed at length the previous day. There had been a lot of discussion about governance and how things could be improved in the current WADA governance. There had been an interesting proposal made at the think tank in Lausanne and, the previous day, the Executive Committee had agreed that the issue of governance (highlighted by the discussion that day) required a comprehensive discussion. It was not a piecemeal exercise. One needed to look at the overall picture and agree on how things could be done, and it was very important to make sure that it was well thought out, because changing the governance of an organisation could have difficult consequences. The Executive Committee had agreed to put together a working group to discuss issues of governance. The governments had requested one representative per region, meaning five government representatives, and therefore it had been agreed that there would be a maximum of five sport representatives. WADA wanted to engage the NADOs, which had been vocal, so there would be two NADO representatives and two athlete representatives, as they also had an interest in the discussion, and WADA would appoint three experts in the field of governance to be part of the discussion. That would be the composition of the group. WADA hoped to receive the names of the group members by 15 December. There had been some suggestions made by governments the previous day as to the mandate and the points they would like the group to address. That would be taken into account. If members of the sport movement wished to contribute their views by 15 December, WADA would include those. It had also been agreed that WADA would cover the cost of the athletes and the experts, and the other parties would cover their own costs. That was the way forward on that topic.

In relation to taking into account the costs only of the athletes and experts, MR MUYTERS observed that, when there was a working group, one should take into account the costs of everybody

or nobody. For example, why should those coming from the NADOs not be paid? It would be better to cover the costs of all or none.

MR MIZUOCHI apologised to the Foundation Board, as the Japanese Parliament was in session and he was required to be present. He had to catch a flight shortly and therefore wished to make observations on the agenda item, in particular governance and UNESCO and legislation, in advance. He thanked the WADA management for consolidating the various discussions held by various stakeholders on the reform of the anti-doping system and for presenting a future road map. He supported the notion that WADA should continue to be the sole organisation in the world that consolidated and monitored anti-doping activities throughout the world. He assumed that there was consensus among WADA governments, the IOC and ADOs that there was a need to reform the global anti-doping system, with strengthening WADA's authority as a prerequisite. He found it important that, by setting up a working group for the proposed items, there would be work on a united front to discuss and seek specific and forward-looking solutions. Japan intended to support the reform by nominating its experts to take part in the work of the working groups. As to the working group on governance, its membership should include representatives from all of the five continents. Also, a clear set of terms of reference for the working group should be established. The initiatives taken by Norway and the Council of Europe had resulted in ever-stronger relationships between Executive Committee and Foundation Board members on the government side. As the Executive Committee member representing Asia, he intended to work together with WADA, the IOC, the governments and ADOs to contribute to the discussion looking at establishing a highly independent, effective and efficient anti-doping system for the world.

In relation to UNESCO and legislation, with the Rio Olympic Games completed, the next Olympic Summer Games would be held in Tokyo. The pins for the 2020 Tokyo Olympic Games had been distributed among the members, and he hoped that the members liked them. As the host nation of the 2020 Olympic Games and Paralympic Games, as well as the 2019 Rugby World Cup, Japan would be working hard to make them clean games and, to achieve that, would continue to support the work under the leadership of WADA to reform the global anti-doping system, and would further enhance the national system in Japan as well. In Japan, a task force had been set up under his watch, and it had deliberated on the direction in which the domestic anti-doping system should evolve in the future with particular attention to the 2020 Tokyo Olympic Games and the 2019 Rugby World Cup and beyond. The task force deliberations had included legal and funding requirements. The final report had been made public on 8 November. The report should help accelerate the reform work in Japan, and the legislature was expected to launch work on the legal aspects of the anti-doping system. He hoped that the approach would serve as useful information to other signatories to the UNESCO convention. UNESCO should take note of the other countries' examples, which could then be shared among the signatories.

THE CHAIRMAN thanked Mr Mizuochi and wished him a safe return to Tokyo.

MS QUALTROUGH said that Canada wholeheartedly supported the review of WADA's governance structure, but should not go into the review presupposing that there was or was not a governance problem in WADA, so WADA should not let reports dictate any presumptions. The other really exciting opportunity she saw (putting on her hat as a Paralympic athlete) was the opportunity to formalise or infuse Paralympic representation throughout the organisation. There were certainly great relationships but, looking at the bylaws or the structures in place, she did not see systemic representation by the Paralympic movement, so it was a really great opportunity to make that a matter of course and not a matter of relationships.

MR POUND supported what the minister had just said about governance. He had been reading for months that WADA's governance was broken and, with the greatest of respect, it was not broken. It was doing exactly what had been intended when it had been set up. The stakeholders were all represented. Nobody was in a position to bulldoze anything. One could always improve such things, but he thought it was tinkering rather than major structural surgery that WADA was after. From a purely practical point of view, a committee of 17 was far too big to deal with something like that. Using his newly re-acquired presidential influence to get that to a manageable level, he thought that the Chairman would achieve a better product much faster.

THE CHAIRMAN noted that the thought had occurred to him, but the debate was out there.

MS TJONGARERO said that the laboratory issue had been mentioned and she had a question on the laboratories. In relation to the South Africa laboratory, Bloemfontein, what was the timeframe? How long would it take? There was no laboratory in South Africa, and she wished to know how long it would take before the laboratory in South Africa would be opened again. However, a laboratory could not precede the institutionalisation of a strong sample collection programme. If the programme was not strong enough, what would be analysed?

THE CHAIRMAN observed that it was not strictly a governance issue, but he would make sure that the comment was dealt with later in the meeting during the science report.

MS BATTAINI-DRAGONI referred to discussion about the governance group the previous day. She thought that a good understanding had been reached as to the importance of the group and the future strengthening of WADA. Indeed, the governments had made the point that they would like the five continents to be represented, not to make the group unworkable, but because the governance issue was the crux of the matter. It was as simple as that. The governments were taking it very seriously and she understood that people from other continents would obviously like to be represented. For the record, because she was prepared to discuss and find a solution, she attached a lot of importance to one point: the experts. Experts, in her view, should not be members of the group, but could be called in for the purposes of the discussions, and she did not even envisage an expert chairing the group. There were sport representatives and government representatives, plus NADO and athlete representatives, but she could not accept external experts who did not represent governments or sport chairing the meetings or imposing their views. She was aware of the need for scientific support, but that was their role, and it would be up to the group to decide whether or not they should come. She wished to make it clear so as to ensure transparency.

MR PENGILLY said that he obviously supported and had a keen interest in that area. Coming back to what Ms Battaini-Dragoni had said, WADA should remember the goal and outcomes sought, and it went back to what WADA was about: protecting clean athletes and having clean sport. Yes, there needed to be appropriate representation, but the group had to focus on the goals of the organisation, so the representation needed to be even, but it was not necessary to insist on certain things that might be unhelpful or mean that the outcome of the group was not about clean sport and clean athletes.

THE DIRECTOR GENERAL responded that there had been a long discussion about the group the previous day, and the Executive Committee recommendation had been to take into account the continental representation requested, then the sport side had clearly indicated their wish to have an equal number of representatives. WADA had to accept that reality, and it was important to have athletes and NADOs. That was the situation and WADA would work on that basis, and therefore WADA would have to manage that. That did not mean that WADA could not work with the experts on making sure that preparatory work was done with concrete proposals on the table and so that WADA did not waste time in a group that was too big. He told Mr Muyters that that was the only reason the proposal had been made; the experts could be put aside, but the athletes were often not supported by specific organisations, so were in a different position to the other group members. It was not always that clear-cut and there had been a situation whereby they had not known which organisation to turn to. There had been no wish for unequal treatment; it was simply a matter of practicality. He agreed with Mr Pengilly: the goal was to see what, if anything, needed to be fixed, and how that could be done in the best interests of clean sport.

MR MUYTERS suggested that the costs of the athletes and NADO representatives therefore be covered.

THE CHAIRMAN said that the Executive Committee had given a clear indication the previous day. He had always been sensitive to the fact that smaller committees did better work but, if that was a really important issue, it was on balance probably better to have a more representative group doing the work.

### **Way Forward VII – UNESCO Legislation**

THE DIRECTOR GENERAL said that he would cover the remaining points in one go, after which there could be a final discussion. There had been a request from the Olympic summit in particular to see what could be done to encourage the implementation of appropriate legislation. There had been a suggestion that WADA envisage a model law. That had been discussed the previous day, but had not been deemed to be a very realistic solution given the difference in legal frameworks in governments, so the recommendation had been for WADA to liaise with governments to see how to move the matter forward, be it with UNESCO or other intergovernmental organisations, and see what implementing the principles of the Code into legislation meant, but that was something WADA would have to keep working on, as there was no immediate solution.

### **Way Forward VIII – Funding**

On funding, it was pretty obvious that WADA had an increasing number of responsibilities, and the idea had been that the Finance and Administration Committee would be mandated to produce a budget for 2018 and going forward which took into account all the discussions. That would be done after the May meeting and a report, by which time WADA would have a better picture of the way forward. The new budget would come from a clean sheet of paper rather than being an increase

based on the current budget, but that would be discussed by the Finance and Administration Committee.

### **Way Forward IX – Security**

There had been a request about security, and he thought that had been addressed earlier. Security was of the utmost importance to the athletes. That formed part of the ADAMS development and would be at the heart of what WADA did with the new ADAMS, and would also be reflected in the new budget, because security costs were not negligible.

### **Way Forward X – World Conference Timetable**

Last but not least, there had been a discussion about the World Conference on Doping in Sport and the appropriate date for that. The agreement had been that it would be meaningful only if organised when there had been time for reform to be implemented and proper consultation to have taken place and, in the end, the Executive Committee had decided that the World Conference on Doping in Sport would be held in 2019 so that those ready to make a bid to host the conference would be aware, but WADA would be happy to re-discuss the matter, although the idea was that the initial plan for 2019 would be maintained.

MR MUYTERS wanted to say something about funding, and the two points raised by Mr Niggli were very important. The governments were asking the Finance and Administration Committee to give them a long-term perspective of the budget. The second thing that was very important was starting with a clean sheet, so that it was not an exercise in which extra money was needed but one in which tasks could be skipped, and there would be some scenarios on which tasks were less important and could be skipped. It was very important for him and for Europe that the exercise of the Finance and Administration Committee proceed like that.

Picking up on Mr Muyters' point, MR POUND stated that, if it was going to be a blank page, part of the element should be that, if WADA did it, it would not be doing A, B, C, D and E, because the expectations had grown around the table since the start of WADA but the financial commitment had not grown to meet the tasks.

THE CHAIRMAN said that there was no doubt that, unless WADA could increase the resources, it would be a question of priorities. He had some experience of that.

He thanked the members for their efforts that morning. The Foundation Board had moved things forward, concentrated on facing a major challenge, which was the compliance arrangements of the biggest country in the world, and had taken on major issues that affected the processes developed within the agency since WADA had been founded way back in 1999. He was grateful to everybody. He was grateful to the people who had made the presentations and to the members for the way in which they had received them and contributed their views. There was no doubt in his mind that the members could all go for lunch in the certainty that they had spent the past four-and-a-half hours seriously protecting clean athletes.

THE DIRECTOR GENERAL said that he had been approached during the lunch break by government representatives wishing for more clarity on the terms of reference before nominating members to the group, so had received a suggestion as to what they would like. If the Olympic Movement wished to provide some suggestions of what it would like the group to look at by the end of the following week, the management would consolidate that and send it to everybody. The terms of reference could obviously be discussed by the group and changed; they would not be written in stone. He would circulate the request from the governments to the Olympic Movement beforehand so that they could see it.

## DECISION

Road map and initial timelines for way forward noted.

### **6. Athletes**

#### **– 6.1 Athlete Committee Chair report**

MS SCOTT informed the members that her report would be quite brief, because the Athlete Committee last met in March and not since the previous Foundation Board meeting in May, and it would only meet again in December in Japan. Nevertheless, the Athlete Committee had been active throughout the summer and autumn, and had been diligent that spring in requesting that WADA carry out further investigation in relation to Russia. The Athlete Committee had been pleased to see that endeavour undertaken by the independent person, Professor McLaren, and had communicated

a fair bit in relation to the release of the McLaren report, and supported the outcomes of the report and WADA's position.

She would conclude by giving a list of the activities in which the Athlete Committee had been involved, including the Compliance Review Committee process, the whistleblower policy and development, the think tank in Lausanne in September, the Independent Observer team in Rio de Janeiro and Outreach work, and several members of the team had been directly engaged in fundraising for the whistle-blowers, the Stepanov family.

In conclusion, the Athlete Committee continued to be active, engaged and the voice of clean athletes worldwide. There was a high degree of surprise and discomfort with the level of criticism and public attacks that WADA had endured in the wake of the McLaren report. The criticism and backlash appeared to be quite misdirected and, instead of talking about the problems and doping in sport, people were talking about the reform of WADA and what needed to be changed or fixed at WADA. No organisation was immune to criticism and there was always room for improvement, but she was very concerned on behalf of clean athletes by what appeared to be an effort to destabilise and undermine WADA. She failed to see how that was actually working towards a better future together in the context of levelling the playing field. There was only one fight that should be taking place. That was the fight for clean sport and the fundamental right of every athlete to participate in doping-free sport. Strengthening and empowering WADA and a united effort to stand behind the athletes and the principles of clean sport was the only way. She appealed to the members to keep that in mind as they moved forward together.

THE CHAIRMAN thanked Ms Scott. He hoped the meeting in Japan in December would be a big success and looked forward to hearing the results.

#### DECISION

Athlete Committee Chair report noted.

### **7. Finance**

#### **– 7.1 Finance and Administration Committee Chair report**

MR RICCI BITTI informed the members that it was not the best item to deal with after lunch, but he would try to make his report as brief and to the point as possible. As the Executive Committee had already been informed, there had been a meeting of the Finance and Administration Committee on 19 July and the committee had dealt with various issues; reviewed the year-end accounts; accepted the internal control memorandum from the auditors, who had again found no control deficiencies (which was very good for the WADA administration); had a discussion about contributions, voluntary and non-voluntary; discussed different contributions; discussed the cost of the unexpected and unbudgeted investigations; and started drafting a 2017 budget, to be presented to the Foundation Board for approval. He had heard that morning that the Finance and Administration Committee had to look towards the long term, and he was somewhat surprised at what he had heard, as governments were not normally very long-term. The Finance and Administration Committee had produced a budget for another two years. He believed that it was enough, but another year could be provided if necessary. It would not be difficult to produce another column.

#### DECISION

Finance and Administration Committee Chair report noted.

#### **– 7.2 Government/IOC contributions update**

MR RICCI BITTI informed the members that, as at 18 October, WADA had attained 96.75% of contributions, one point lower than the previous year at the same time. Sadly, one of the outstanding contributions came from his country, and he would be approaching the authorities, because he had been aware only since the previous day. Italy owed 176,000 dollars. It was funny because they paid 85% of their dues but should pay everything. He mentioned Venezuela, Greece, Brunei and Peru, as it was a tradition to mention those that had yet to pay.

Additional voluntary contributions amounted to about 300,000 dollars, and he thanked as usual Japan, Kuwait, Australia and the City of Lausanne, as well as the Canton of Vaud for their contribution to the ADO symposium. Following the recommendation of the Finance and Administration Committee in 2015, WADA had declined the contribution from Russia, and that had been prior to everything that had happened, and had been a very wise decision. On the other hand, there were 300,000 dollars less in the account.

## DECISION

Government/IOC contributions update noted.

### – 7.3 Special Investigations Fund

MR RICCI BITTI referred to the Special Investigations Fund, which focused on some specific items. There were two, the most recent being the fund for investigations, and the contributions received to date from the governments amounted to 445,000 dollars, and WADA expected 50,000 dollars more, so the total would be in the range of half a million dollars, to be matched almost certainly by the IOC, the only two conditions being that WADA try to be more effective in accelerating the conclusion of the McLaren report and that it reinstate 80,000 dollars for the SportAccord unit, which did a great job for small and non-Olympic IFs, so the request was that such cost be reinstated in the budget. That was the situation in relation to the Special Investigations Fund, to be matched (hopefully) by the IOC for an amount of one million dollars, money that was very badly needed, as there were many expenses. He hoped that the money would go towards the new unit under Mr Younger in the future, as the Finance and Administration Committee believed that it was the best way of covering the permanent costs of the organisation.

Looking at slightly older funds, WADA had started using the research fund, but the amount was for a total of 11.678 million dollars, one million of which had been allocated by decision of the Foundation Board to social science research projects. WADA had started spending on some social science research projects, but there was still a lot to be committed over the coming year.

## DECISION

Special Investigations Fund update noted.

### – 7.4 2016 quarterly accounts (quarter 3)

MR RICCI BITTI said that, in relation to the quarterly accounts on 30 September 2016, WADA was really on budget, with some remarks to be made, but basically he wished to consider that item, more than the quarterly accounts, as a sort of provision for the end of the year. Looking at the attached paper, he wished to make a couple of remarks. WADA had 6.192 million dollars available. He hoped to receive in the range of 900,000 dollars so, for a total available of 7 million dollars, it looked good, but it was money that had to be spent, so he hoped that, with that 7 million dollars available, WADA would be close to its budget, which was a budget of a loss of 144,000 dollars. There were two items he should comment on: 91% already spent on legal costs, including investigations. There had been two independent investigations and one was still running, so 91% had been spent and more would have to be spent up to the end of the year. The second item was also important, and the members would see that 84% of the total budgeted had been spent, and that had to do with ADAMS, which was very important for the activity of WADA. There had been many changes in supplier, and also some unpredictable efforts to cope with cyber hacking, so that was the reason why WADA had spent much more, almost 200,000 dollars more, than it had had to spend on top of that, and write off some parts of the old ADAMS (not obviously in the expenses), but he believed that that was a duty, because ADAMS formed the core of the activity for athletes, the organisations and WADA itself, so the members had to accept that WADA had to be absolutely on time and spend what was needed. That was his report on the quarterly accounts. He had given an indication in relation to the end of the year and WADA should be more or less on budget, as long as nothing serious happened between then and the end of the year.

## DECISION

2016 quarterly accounts noted.

### – 7.5 Draft budget 2017

MR RICCI BITTI said that the Finance and Administration Committee, in response to requests from the Executive Committee, had carried out an exercise with three conditions: a 0% increase, a 3% increase and a 5% increase, and the 3% and 5% increases were supposed to include the reinstatement of travel expenses for Executive Committee and Foundation Board members, on top of WADA expenses. That had been the IOC's position. That had been postponed for two to three years, but the IOC believed it was time to get back to the right system of governance, to pay the expenses of the people, who were first and foremost WADA people, so he believed that the 2% was variable, as it depended on where the meetings were held. To cut a long story short, the Finance and Administration Committee had dealt with that issue, and the Executive Committee had twice considered the draft budget (in September and the previous day), and obviously unanimously concentrated on the 5% increase, including the 2% travel expense amount, and that was what was being recommended to the Foundation Board.

First, he wished to comment on the budget. There were many different costs coming, and he mentioned the reinstatement of the travel costs, at about 2%; the creation of the new Intelligence and Investigations Department, comprising up to six people (that increase in staff would obviously be gradual); an increase in science research; reinstatement of the support to SportAccord as required by the IOC; an increase in compliance monitoring activities; the ADO symposium (which was very successful and important to WADA activities); a TUE symposium in 2017 (not an annual activity); and, last but not least, continued development of ADAMS. Those were the items included in the budget that was in front of the members, and he believed that it had been recommended unanimously by the Finance and Administration Committee and the Executive Committee at its meetings in September and the previous day.

THE CHAIRMAN asked if the members had any questions.

MR MUYTERS thanked Mr Ricci Bitti and the Finance and Administration Committee for all the good work done concerning the budget, but he had to say that a mandate that CAHAMA had given in relation to the 2017 budget was that it would be possible to support only a 3% increase, which should be directed at WADA's operational activities, and travel costs should not be reinstated; but, given the Executive Committee recommendation, he could agree on the 5% for 2017.

Taking into account that funding was provided to support SportAccord's anti-doping activities and Mr Ricci Bitti had spoken about that, it would be desirable to make a similar provision for financial support to the activities of INADO.

As the Olympic Movement representative, PROFESSOR ERDENER strongly supported the proposal of the Finance and Administration Committee for at least a 5% increase, which was necessary for a strong organisation.

MS QUALTROUGH echoed her colleague's support for an ongoing INADO grant. It was extremely important to have support for the NADOs.

MR GENDALL stated that the New Zealand Government was comfortable with the reinstatement of travel costs and would support the 5% increase in WADA's budget. He wished to make an observation to illustrate the degree of funding that the governments had been putting into WADA. Attachment 3 item 7.1 showed that, in ten years, the money paid by governments to WADA, over and above the 100% that sport contributed, totalled 4.198 million dollars and, just in the year 2015, the additional amounts that governments had paid (104%) had been 716,000 dollars. That was not a criticism at all of the sport movement, which was required to match only 100%, but the reality was that the governments were shouldering a very substantial extra burden, as the figures showed.

MR GODKIN congratulated the Chairman on his re-election and the Vice-Chair on her election. He did not want to disappoint his good friend Mr Ricci Bitti by agreeing with him, but he was compelled to note that WADA currently had many challenges before it, an expanding work programme and high expectations. While he appreciated that the matter was being debated in the Finance and Administration Committee and there were many views around the room, he recorded that Australia supported a genuine 5% increase in funding to support WADA's operational priorities; i.e. it supported a 5% increase but not a reduction of 2% for travel expenses.

MS TJONGARERO stated that Africa's governments were well aware of their obligations and responsibilities in relation to WADA's annual budget. In that regard, and to augment the work done by the African regional office, which had been systematically and persistently following up with governments, the governments were considering ways and means to ensure that member states remitted their contributions fully and in a timely manner. The efforts included increased communication from the African Union to member countries and raising the matter at various levels within the African Union commission. The governments were currently also contemplating the development of a new or revised funding model for the region in the sport sector in particular, and that policy might be extended to cover WADA contributions as well.

MR RICCI BITTI responded to Mr Muyters. Effectively, a 3% increase was being requested because the 2% reflected the reinstatement of the travel costs, so there were additional reasons, but the requested increase was 3%.

Regarding INADO, the staff would have to review the budget, and that would be part of the exercise with the Finance and Administration Committee. He had nothing against that.

He took note of what his friend from New Zealand had said, but noted that ASOIF had issued a report the previous week during the IF forum (a very important conference in Lausanne) following a project undertaken the previous year in which it showed the costs and expenses of the 28 Olympic Summer IFs (not including the winter IFs), which had spent in one year more or less exactly the

same budget as WADA, so it was not a retort but information. The Olympic summer IFs alone spent 28 million dollars on anti-doping per year. Each side had its own additional expenses.

To his Australian friend, he thought it very generous to offer 5% without the reinstatement of the travel costs, which would mean a 7% increase, but he recommended that he accept the exercise for that year. He would soon say that WADA would have to be starting from a zero-based budget, as requested by everybody that morning, so he believed that there would be room to consider the proposal.

He could only agree with the African Union. The governments' payment scheme had been in place since the set-up of WADA; perhaps it was time to review that, but it was not WADA's problem to resolve. If the governments believed that they could reorganise the distribution, they could do so, and WADA would be available to help or support as necessary.

The final items he wished to deal with concerned the budgets for 2018 and 2019. Following that morning's discussions, he thought that some value had been lost, as it appeared that WADA would have to do many more things. In any case, he explained the Finance and Administration Committee's efforts. It had done two simulations, one with 3% and one with 5% and, again, the Finance and Administration Committee strongly believed that, with 5% in 2018 and 5% in 2019, it would be possible to save WADA's finances. In 2018, there would be two Olympic Games, the Olympic Winter Games in Korea and the Youth Olympic Games in Argentina, a large RADO conference, TUE symposium, a symposium on steroids and non-routine activities, and the objective was always to increase research, which had gone down dramatically the previous year due to lack of available funds. For 2019, additional activities that were not routine included a conference on education, and all the regional games, so there would be a lot to do on top of the routine and permanent activities.

Turning to figures, with the 3% increase only in 2018, WADA would require a reduction in activity of 900,000 dollars to comply with the reserve policy. WADA would be a little bit better off with the 5% increase but, again, that would require a reduction of 300,000 dollars. For either option, WADA would not be able to increase the restricted operational reserve as required by the Executive Committee and Foundation Board.

Moving to 2019, a 3% increase would require a reduction in activity of 221,000 dollars. With a 5% increase only in 2019 with those activities under consideration, it would be possible to deplete unallocated cash by 110,000 dollars, because of the rule of the 500,000 dollar reserve, which would enable WADA for the first time to increase the restricted operational reserve by 389,000 dollars. Only with two 5% budget increases would WADA be able to keep its head above the water.

He announced that, having listened that morning with great interest, if the members wanted a strong WADA, it would be necessary to consider the model, and he believed that what the Director General had recommended was very wise and timely. It was perhaps time to look at a zero-based budget. His experience as a businessman was that a zero-based budget helped but did not do miracles, because money was always needed. One could put it on top or start from the bottom, but it was always more or less the same. Nevertheless, he thought it was time to review the exercise and he would be pleased on behalf of the Finance and Administration Committee to do that.

Last but not least, he had a final point requiring a formal decision, the appointment of the auditors, and he asked the Chairman to proceed with the request.

MS BATTAINI-DRAGONI thanked the Finance and Administration Committee Chairman, and very much welcomed his last words, as she had heard the words 'revision of the system'. The revision of the system linked to the question of how resources were given to WADA to facilitate its work and in particular to make sure that whatever new structure was created would be taken care of by the ordinary budget and not exclusively voluntary contributions.

She asked whether, in the forecast, Mr Ricci Bitti had also taken into consideration to a certain extent at least what had been seen during the presentation on the compliance system, the indication that, if WADA had to spend money to get a country out of a situation of non-compliance, it would charge the country. Had that been taken into account in the projections?

MR RICCI BITTI responded that the Finance and Administration Committee had not taken that into account. That was the first time there had been a proposal that money should be taken from compliance activities, although of course the Russians were having to pay for the experts currently working with RUSADA. That was the idea, but the idea had been presented that morning, so it had not been included in the budget.

THE CHAIRMAN thought that the matter was clear and had been well expressed. The members were aware of the problems, which were not unfamiliar. He was impressed that Mr Ricci Bitti was

now dealing with 5% when he had dealt previously with only 1%. He formally put the 2017 budget to the members for approval. There was an indication for 2018 and 2019. Was that budget approved?

#### DECISION

2017 draft budget approved.

#### – 7.6 Confirmation of auditors for 2017

THE CHAIRMAN noted the formal proposal that WADA appoint PricewaterhouseCoopers as auditors for 2017.

#### DECISION

Proposal to appoint PricewaterhouseCoopers as auditors for 2017 confirmed.

### **8. Education**

#### – 8.1 Education Committee Chair report

MR MOSES said that a report had been given to the Executive Committee. He would be happy to answer any questions that day. The Education Committee was one of the most important committees, and one of the few that had direct contact with the athletes and was responsible for giving them critical information and, as the organisation continued to develop and WADA began to deal with some of the policies and procedures going forward, he thought that the Education Committee would have more information to communicate to the athletes and was willing to cooperate with the Athlete Committee to make that information as available as possible.

There had been progress in terms of soliciting more research in relation to information and prevention, and the research showed that doping was a complex behaviour and the new approach was to find out more about reinforcing values needed to reject doping, whilst at the same time recognising the athletes' desire to continually improve their performance. That involved targeting education throughout the athletes' careers, starting at a very young age and, critically, ensuring that it was delivered by the right people. The current focus of anti-doping programmes on detection and deterrence limited the ability to prevent doping in the first instance, and more financial and human resources had to be developed to have effective prevention programmes. People who influenced athletes should be very aware of the moments of vulnerability and make sure that they were giving the right messages to the athletes and the proper types of support at critical times, including when athletes were injured, in recovery periods, changing locations or clubs/teams, moving to a higher or different level of competition, and also failing to achieve a major goal, perhaps being defeated or disappointed. Those were very critical times. Athlete support personnel had a significant role to play, and research also showed a lack of education about some of those critical matters among parents, who were in many cases the one constant in an athlete's life. That was an area WADA would need to continue to target in order to better protect athletes. WADA had recently developed a tool to inform parents about the best ways to help their athletes embrace clean sport.

The education partnership consisted of WADA, UNESCO, the IOC, the IPC, the International Fair Play Committee, and the International Council of Sport Science and Physical Education, which were working together on developing a values-based learning tool for teachers. He was pleased to announce that an online education platform was being developed to consolidate WADA's e-learning tools in one specific location, and there would also be a translation platform to ensure that all the education tools could be translated into other languages.

Finally, he was pleased with the cooperation and support provided by the IOC in expanding the online sport physician's tool kit, which had been used at the Rio Olympic Games and Paralympic Games, at which most of the team doctors had been expected to complete several of the modules before being accredited to work at the Olympic Games. Over 1,500 team doctors, pharmacists, physiotherapists and other medical personnel had successfully completed the online module before the Olympic Games.

He was happy that the work of the Education Department had been successful; it was really starting to see the results of the extra funds received the previous year for social science research grants and would continue to move forward.

#### DECISION

Education Committee Chair report noted.

– **8.2 Education report**

DECISION

Education report noted.

**9. Health, Medical and Research**

– **9.1 Health, Medical and Research Committee Chair report**

MS FOURNEYRON informed the Foundation Board members that, since the meeting in May, a lot had happened in the Health, Medical and Research Committee and its related expert working groups. The increase in activities had occurred during the last semester of the year, but 2016 would remain memorable in terms of workload, as there had also been the first unexpected major scrutiny in relation to the laboratory accreditation process and the public leak of TUE information. Both issues had required particular attention and dedication of resources over recent months. There were reports on those issues and many more, so she would emphasise only a few major points in her report.

The Health, Medical and Research Committee had convened in August at the WADA headquarters in Montreal and worked on finalising the new Prohibited List, the selection of 2016 research projects, the review of technical documents and evaluating the performance of WADA-accredited laboratories. The Executive Committee had formally approved the changes to the Prohibited List for 2017 in September. The approved Prohibited List had been published on 1 October, and would come into effect as of 1 January 2017 as per the WADA statutes. As asked, Ms MacLean and the Communications Department had developed a special process to make it easier to inform the athletes, and that answered Mr Estanguet's question that morning.

She updated the members about two important debates, the first of which had been about glucocorticoid injections. Based on the work of the ad hoc working group, the Health, Medical and Research Committee had decided not to introduce changes to the Prohibited List. The issue was not closed. The Health, Medical and Research Committee would continue active discussion with a larger group, and would conduct additional research to distinguish between authorised routes of administration and prohibited routes of administration. The new timeline to introduce changes was the 2018 Prohibited List.

The committee also looked forward to hearing recommendations and guidelines from the IOC consensus meeting on pain management, which had taken place a few days previously in November. The committee had also discussed the issue of the unique List, which was the idea of having one single list, in which all categories of substances and methods would be prohibited at all times in and out of competition. The committee had analysed the advantages and disadvantages of such a proposal and had made considerable progress in cutting out the dead wood. There was consensus that agreement on a unique list was definitely achievable but required more time, effort and careful analysis.

In relation to research projects, on 21 September 2016, the Health, Medical and Research Committee had recommended, and the Executive Committee had approved, 21 projects with five proposed priority research themes, and eight of those projects would be funded with the special fund.

She also wished to highlight that WADA was making strong progress on developing routine testing for human growth hormone and gene doping. Human growth hormone was tested for routinely in an ever-increasing number of accredited laboratories and the method should be made available shortly to all WADA-accredited laboratories. In relation to gene doping, a method for direct detection had been successfully tested in Sydney and would be implemented shortly in other laboratories. There had also been an important scientific meeting recently to work on the development of the endocrine model of the Athlete Biological Passport and biomarkers. The meeting had been very fruitful, and could lead to considerable progress in the detection of different kinds of EPO and human growth hormone.

In relation to the accredited laboratories, the quality of the laboratories was essential to a high-performing anti-doping system and quality assessment procedures had recently been enacted by WADA to ensure that laboratories maintained the highest standards.

Suggestions to improve the process of suspension or revocation had been made at the WADA think tank in Lausanne in September and could be found in the meeting outcomes, and had also been developed in the way forward document as mentioned briefly by Mr Niggli earlier. Applying the principle of proportionality of penalties and sanctions, dissociating the accreditation of the

laboratories from NADO compliance and developing a strategy of super-laboratories were three proposals on which WADA needed to get working.

In relation to medical issues, the main activity lately had been related to the public leak of TUE information. She wished to emphasise that the very existence of TUEs was acknowledgement that athletes, like all human beings, had a right to medical care and that they sometimes had medical conditions that required the use of substances included in the Prohibited List. The people who talked about suppressing the system of TUEs were talking nonsense. She also wished to highlight the huge number of myths and fantasies and misinterpretation about TUEs that had been exploited, primarily by the Fancy Bears. The significant increase in TUEs in ADAMS had been misinterpreted as an anti-doping loophole, while in fact the phenomenon was a result of the increased use of ADAMS by ADOs, achieved through WADA's determined efforts to improve compliance and thus increase ADOs' and WADA's ability to monitor TUEs. She could also announce that the blood stability score, which was a new transport procedure for Athlete Biological Passport blood samples (up to 60 hours at approximately 4°C) had been validated and should enter into effect by the start of the following year. Education and communication on that were a top priority. An official WADA communication had been sent to all ADOs and laboratories in August, and questions and answers had recently been published on the WADA website.

In conclusion, she wished to say that chairing the Health, Medical and Research Committee for two years had been incredibly fulfilling and rewarding. It had been a pleasure and privilege to work with such distinguished world experts in the field of anti-doping, and she thanked in particular the Chairman, Mr Reddie, Messrs Howman and Niggli, and the WADA Science and Medical Departments, who worked beyond duty and whose professionalism, competence and dedication needed to be praised. That applied to the directors around the table of course: Dr Rabin, Dr Vernec and their teams were doing an amazing job in the background. Over the past two years, she believed that WADA had made some very solid progress, and had made some serious achievements in the development of the Athlete Biological Passport with the implementation of the steroid module since January 2014. It had proved to be a valuable tool for detecting cheats and the development continued with the addition of the endocrine module she had mentioned earlier. Progress in relation to the testing for gene doping was also further proof that, even though WADA was still playing catch-up with the cheats, it was closing the gap pretty quickly whilst respecting solid scientific protocols. The relationship strategy with the bio-pharmaceutical industry and the coordination of agreements with the main companies to identify and detect new performance-enhancing substances had proven to be very effective and a major step forward in the fight against doping in sport. She strongly advocated further strengthening the strategy and making it a priority.

She had said many times that WADA's credibility relied on its absolute scientific rigour, and memorandums of understanding and agreements with leading scientific organisations such as the ILAC, the Bureau international des poids et mesures and the UN Office on Drugs and Crime contributed greatly to WADA's scientific trustworthiness. They should continue to foster the status of WADA as a leading authority in the anti-doping field. Last, operational and strategic points and procedures applied within the Health, Medical and Research Committee and related WADA departments had greatly improved thanks to a more transversal approach and increased interface work and communication between the expert groups. Having said that, there were important challenges ahead, the most important being that science, like the rest of the anti-doping activities, was starved of cash. At the previous Executive Committee meeting in September, she had shown a screenshot of WADA science budgetary allocations and spending on anti-doping research. Since the start of the agency in 2001, the research budget had been significantly and constantly decreased over the past few years from almost 6.5 million US dollars in 2007 to only 1.8 million US dollars the previous year. The Special Research Fund had been a blessing to conduct innovative, bold anti-doping research, but one should not be mistaken: it would not last forever and it should not be the tree hiding the forest. It was necessary to think about a sustainable way of allocating more funds to research when the Special Research Fund was gone. She also hoped that the other issues she had raised earlier in her report in relation to glucocorticoids, the unique list, the development of the Athlete Biological Passport and a more systematic revision of TUEs would reach a positive conclusion. Her successor as chair of the Health, Medical and Research Committee would have some very interesting topics to deal with. She congratulated Professor Erdener on his appointment and wished him all the best in his future endeavour.

THE CHAIRMAN thanked Ms Fourneyron for her kind words. He asked Dr Rabin to speak in private to the colleague from Namibia to talk about her comments in relation to the Bloemfontein laboratory.

#### DECISION

Health, Medical and Research Committee Chair  
report noted.

– **9.2 Science report**

DECISION

Science report noted.

– **9.3 Medical report**

DR VERNEC recognised the passion and dedication that Ms Fourneyron had brought to her job. She had been much appreciated by all of the WADA management, staff and the many experts on all the different committees working under her. Because of time, he would gloss over the Athlete Biological Passport, but would say that it was progressing extremely well on all fronts. The haematological module was mature, was catching more cases, supporting and even directing investigations, and it was improving with the BSS, increasing studies on plasma volume, which would make it ever more effective. The steroid module, after a difficult period of growth, was starting to show some very interesting results. Lastly, there had been some very concrete steps towards the development of the endocrine module, with some longitudinal studies on IGF-1 to detect human growth hormone, and Ms Fourneyron had talked about some of the promising work being done with a new biomarker discovery group. The information was in the members' files.

Regarding TUEs, that had all started because of the cyber hack carried out by the Fancy Bears, a cyber espionage group, which had leaked TUE certificates from an ADAMS account. ADAMS itself had not been breached, but particular passwords had been phished that had allowed access to a Rio account. 228 certificates of 127 athletes had been leaked. The vast majority of those had expired and 18 had been fabricated. Of the 228 discussed in the media, in actual fact only 32 had been valid during the Olympic Games, and he would show more details about the Olympic Games shortly. That had led to a lot of media coverage and misinformation, and it could be easily speculated that that was probably a plot by the Fancy Bears, and a lot of athlete TUEs had been debated publicly with only partial and confidential medical information, which was a very unfortunate situation for athletes who had had to defend themselves in relation to a medical condition.

The leak had raised some very valid questions about the TUE process, about which many people were not aware. Athletes, like everybody else, had acute or chronic conditions that required treatment. For over 30 years, there had been a process in place for dealing with the medical conditions. The TUE programme that WADA had taken over was rigorous and a necessary part of elite sport, with overwhelming acceptance from athletes, physicians and anti-doping stakeholders. People often asked whether somebody could cheat using the system. That had been a concern from the beginning, which was why one of the first international standards had been the ISTUE, to make sure that the process was solid. The key criteria in terms of granting TUEs were those on the screen. Before granting a TUE, athletes had to fulfil all of the criteria listed. They had to have a significant medical condition that needed treatment. The treatment should produce no performance-enhancing effect, other than the return to the athlete's normal state of health, and there could be no reasonable permitted therapeutic alternative. The final one was more rare, that use should not be a consequence of prior use of a prohibited substance without a TUE. There were rules to make sure the system was fair across the board. National-level athletes had to apply to their NADOs. If the athlete moved up to international level, they would have to apply to the IF or, if their information was in ADAMS, the IF could then recognise that TUE, again providing a level playing field across the world of sport. All TUEs had to be entered in ADAMS, and that was critical to make sure that WADA had some oversight, and WADA did monitor all TUEs and would occasionally overturn a granted TUE upon review. It did not do that very often, and it might happen once or twice a year, mostly because the TUEs seen were quite legitimate and not something for debate.

He was always asked how many TUEs there were, and that was very difficult to assess because IFs and NADOs had different definitions of what an athlete was. WADA had taken a snapshot of the TUEs during the Olympic Games in Rio, at which there had been 11,303 athletes. Going through and throwing out all of the TUEs that had expired, there had been only 143 TUEs granted before or during the Olympic Games in Rio, so only 143 athletes had been competing with a TUE. Actually, there had been a few less because a handful of those athletes had had more than one TUE. There were not droves of athletes running around with TUEs cheating as some were suggesting. Approximately 1% of the 11,303 athletes competing had had a TUE. More important than the actual number was the fact that no evidence of abuse or wrongdoing had been noted by the IOC, TUEC or the WADA monitoring system and the substances had been necessary, not ergogenic and used to treat legitimate medical conditions; in other words, they fulfilled the ISTUE criteria.

The last point he wanted to make had to do with the business of transparency. He had heard a comment the previous day that people should be transparent and put all their medical information out there. That was something that WADA had looked at. Most people were appalled at the idea; but, to make sure that nobody brought any personal bias, whether from WADA staff or a TUE expert group, WADA had consulted some bio-ethicists, and pretty much everybody had been in agreement that that was not something that athletes should be subjected to, providing their medical information on the Internet and letting everybody debate that. Some athletes had actually suggested that they would not mind doing so and would be happy to show that it was legitimate. WADA did not recommend that. It was not something that everybody wanted to do, and then, if some athletes put the information out there, others might not feel comfortable doing so, for whatever reason, be it insurance issues or because their family did not know about their condition or they did not want their competitors to know. It was something that WADA did not advise. He was saying that WADA had a very rigorous, robust process. Did that mean it was perfect? Of course not. WADA was always looking to improve the process, and first and foremost it had to ensure that TUEs were entered in ADAMS and were available for scrutiny by WADA and the other appropriate ADOs. WADA had been successful at that because more and more ADOs had been entering their TUEs in ADAMS. WADA also had TUE physician guidelines, which it updated regularly and which were of great use to all the physicians out there. There were occasional symposiums on TUEs, and one was scheduled to take place in Helsinki the following year. Finally, in conjunction with the Science and Medical Departments, WADA continued to try and guide research to better understand the effect of medications in different sporting situations and with different specific medical conditions to better apply the ISTUE. That concluded his presentation. He wished to direct the members to a Q&A document on TUEs that was on the WADA website, and he would be happy to answer any questions.

THE CHAIRMAN thanked Dr Verneec for the very relevant and very interesting presentation.

MR ESTANGUET commented on two of the points raised by Ms Fourneyron in her report in relation to questions asked by athletes regarding laboratories, the number and the spread of the accredited laboratories around the world in favour of more effective anti-doping. The athletes were very concerned after the most recent disclosures, and there was of course some concern about the names of the athletes disclosed. It was the fourth time he had spoken about communication that day, but WADA really had to strengthen its communications to make sure that the athletes understood the procedures in force and the way in which the TUEs were granted, so it was a combination of education and communication that was necessary, and WADA needed to step it up.

MR MOSES stated that the Education Committee would have to figure out ways of making communications to the athletes about the whole scenario, because it had been quite embarrassing and he knew that several ADOs (including UKAD) had had to deal with several cases, as had USADA, whose response had been to go out directly and communicate personally with the athletes whose information had been breached, because it had happened during the Olympic Games and had been very much in the news. USADA had gone beyond what was thought necessary to communicate with people such as Serena and Venus Williams, Simone Biles, and one of the US basketball stars, to let them know that they should not be worried about whether or not they were being positioned in the press as using drugs, as some of the articles had alleged, and that the TUE process was a long-term process, which had been done for years, and was very well thought out. The athletes had been told that they had done nothing wrong and WADA and the doping agencies had their backs and it was really unfortunate that it had had to happen that way. He thought that the response had been good, and Ms Fourneyron and Dr Verneec had pointed out from a scientific point of view what actually happened during the process, and he was glad that the Foundation Board had had a chance to hear about the medical basis and background.

MR KRYUKOV noted that the statistics in the report were very interesting. It would be good to know how many athletes with TUEs at the latest edition of the Olympic Games had won medals. That would answer questions for many people who had questions about TUEs.

DR VERNEC responded to Mr Estanguet. He had heard the message and, to try and improve communication to the athletes and general public on TUEs, he would work with the Communications and Education Departments, and any input from the athletes would be welcome.

He thanked Mr Moses for his comments and appreciated his statements. He understood the grief some of the athletes had gone through due to the leaks.

As far as the number of athletes with TUEs winning medals was concerned, he did not have those statistics. The speaker was implying that TUEs were assisting athletes in winning medals, which he did not agree with. He could look at some of the numbers, and he knew it had been done in the past with beta-2 agonists. Dr Ken Fitch from Australia had described the fact that more athletes were winning medals, but there had been so many variables that eventually he had actually started to

deny his own hypothesis, saying that there were so many factors involved, including the fact that some of the athletes came from highly medicalised countries. What was interesting was that beta-2 agonists, which were supposedly providing a performance enhancement benefit, had for the most part been removed from the Prohibited List. The numbers could be looked at, but he did not think that anything interesting would be found.

THE CHAIRMAN noted that WADA had also been in touch with athletes when the Fancy Bears hacking had started.

On behalf of WADA and everybody who had been involved, he thanked Ms Fourneyron for all her work with WADA over the years. It had been an absolute delight to have her chairing the Health, Medical and Research Committee. She had done much good, and it was particularly nice when her colleagues, with whom she worked, volunteered such remarks as well. He wanted to back them up. Somehow, an intelligent way of keeping in touch with her should be found.

#### DECISION

Medical report noted.

### – 9.4 Athlete Biological Passport

#### DECISION

Athlete Biological Passport report noted.

## **10. Legal and investigations**

### – 10.1 Legal report

MR PENGILLY had a question about the ongoing whereabouts cases. There was one before the European Court of Human Rights. A decision was expected in the coming weeks, and he might hear about it in the news, but he wondered if Mr Sieveking might send the information to the Foundation Board members to keep them abreast of the news. He was also interested in the situation in relation to whereabouts in Spain. The question related to Operación Puerto, which had been discussed by the Foundation Board as long as he had been a member, for the past five years. The appeal had been upheld and the blood bags were currently in the possession of WADA and the UCI. That was all that the report said. Could Mr Sieveking explain the next steps and timelines?

MR SIEVEKING responded that, in relation to whereabouts cases, the first was a very old case. WADA had intervened in 2013 before the European Court of Human Rights, and had made an appeal against a decision by the French State Council. According to internal sources, there should be a decision in the coming weeks, but everybody knew it could take a long time, so he was unable to provide an estimate date, although hopefully the information would come soon so that the members would know the position of the European Court of Human Rights on that point.

In relation to the Spanish case, WADA had taken note and discussed the decision with the Spanish counsel. He was not very clear about its implication in practice. The Spanish Supreme Court had decided to cancel an annex of a resolution taken by the council for sport in Spain on whereabouts. The court had confirmed the need to collect whereabouts from athletes, but had not cancelled any part of the law, which was still in place in Spain and, although not compliant, had been compliant with the previous Code. He still needed to clarify that and, since Spain had a government and would be back on track, WADA would have to discuss that matter with the Spanish colleagues. He hoped to be able to provide more information later.

On Operación Puerto, he could confirm that samples of the samples had been collected following the green light given by the judge in June. They were currently at a WADA-accredited laboratory and WADA was discussing the matter with the UCI and starting sample analysis. He would keep the members updated as to next steps.

#### DECISION

Legal report noted.

### – 10.2 Whistleblowing programme and policy

*Refer above under Item 5.7 – Way Forward*

– **10.3 Intelligence and investigations report**

DECISION

Intelligence and investigations report noted.

**11. World Anti-Doping Code**

– **11.1 Compliance**

**11.1.1 Compliance Review Committee Chair report**

*Included below at 11.1.3*

**11.1.2 Consequences of non-compliance**

*Refer above under Item 5.7 – Way Forward*

**11.1.3 Declarations of non-compliance**

MR BOUCHARD wished to refer to the involvement of NFs in the implementation of national anti-doping programmes, and then the issue regarding the Compliance Review Committee spending more time on assessing compliance of IFs and NADOs. In some countries, it was felt that there were NFs conducting testing on their own and local NADOs did not test in those sports. In addition, in some cases, NFs often did not comply with the Code requirements in relation to result management. The Compliance Review Committee agreed with WADA's proposal to engage with relevant IFs to address the issue, and it was important to note that that concerned only a small number of IFs; nevertheless, the Compliance Review Committee had requested an update at its next meeting.

Over the past few weeks, concerns had been expressed to the effect that most organisations recommended by the Compliance Review Committee for non-compliance with the Code had been NADOs, and that to date no IFs had been recommended for non-compliance by the Compliance Review Committee. It was an important topic to discuss because it was not necessarily bad news, and he reassured the members of the Foundation Board that NADOs and IFs were and would be monitored in the same way. There had been a number of cases involving IFs discussed at the Compliance Review Committee. When WADA had been engaging with certain organisations, the issues had been raised, discussed and solved before any recommendations were made. He reassured the Foundation Board that there were no double standards.

He raised an issue discussed at the Compliance Review Committee meetings in October and November in relation to the IFs. The issue related to the IBU and the decision to award the 2021 world championships to the city of Tyumen in Russia in September that year. The reason he was raising that was because the Russian ADO was not compliant with the Code and two other candidates had submitted bids for the event. In relation to procedure, the case would be brought to the Compliance Review Committee task force for review if no explanation was provided by 14 January 2017. It was a serious matter and he thought it was important to raise the case as a point of information.

On non-compliance, a number of cases had been discussed at the latest Compliance Review Committee meeting. All relevant information could be found in the members' files. The Compliance Review Committee had been given a status report on the situation of non-compliance in relation to Russia and Spain. Mr Koehler had provided a summary on Russia, so he would focus more on Spain, as that issue had been raised that morning. The Compliance Review Committee had been briefed on the latest developments and acknowledged that progress was being made on the legislation front; that was encouraging, and long overdue. WADA was engaged with the public authorities and was starting to see light at the end of the tunnel.

The other cases of non-compliance discussed by the Compliance Review Committee no later than 10 November 2016 had involved Azerbaijan, Brazil, Greece, Indonesia and Guatemala. The Compliance Review Committee wanted to inform the members that significant progress had been made in two cases: the Guatemalan NADO and the Hellenic National Council for Combatting Doping, and he was happy to report that, in both cases, the issues leading to a recommendation of non-compliance by the Compliance Review Committee had been resolved. The Guatemalan NADO had addressed issues in relation to the shipment of samples and result management procedure. In Greece, outstanding issues such as the establishment of a new disciplinary panel and lack of

appropriate staff and resources for the NADO had been resolved, and the issues related to the out-of-competition testing programme had also been resolved, so the Compliance Review Committee was removing the two NADOs from the list of organisations it recommended be declared non-compliant.

The Compliance Review Committee was recommending that the Foundation Board declare the NADOs of Azerbaijan, Brazil and Indonesia non-compliant with immediate effect. In relation to Azerbaijan, the NADO had to modify its legislation and rules to meet the requirements of the World Anti-Doping Code. A number of communications, contacts and exchanges of correspondence had been made over the past few months. They had been given a three-month delay, which had expired on 6 July 2016, and the required amendments had not been made. Having said that, there had been intense communication over the past few days between WADA and the Azeri public authorities. A new draft law on the fight against doping in sport had passed first reading on 28 October 2016. WADA had been told two days previously that the draft legislation would be on the agenda for the plenary session for second and third reading on 29 November 2016. The Compliance Review Committee really commended the engagement and commitment of the public authorities of Azerbaijan; however, the Compliance Review Committee was not able to change its position or initial recommendation. It might be a very short-lived non-compliance status if the authorities did as they said they would, but the Compliance Review Committee was not changing its recommendation in relation to Azerbaijan.

In relation to Brazil, the NADO of Brazil had been given a three-month period to address three issues: the ratification by parliament of provisional legislative measures, the drafting of amendments to the NADO rules and the adoption of procedural rules for the new anti-doping tribunal. The Compliance Review Committee commended the Brazilian public authorities on properly addressing the first two matters. A recent meeting with the Brazilian sport minister gave the Compliance Review Committee confidence that the third issue would soon be resolved. Unfortunately, the third issue was still not resolved, so the Compliance Review Committee would not modify its recommendation of non-compliance.

In relation to Indonesia, the outstanding issues concerned the use of a non-accredited laboratory. WADA had not yet received confirmation of an agreement between the Indonesian NADO and the WADA-accredited laboratory confirming the use by the NADO of that accredited laboratory.

Those were essentially the reasons for which the Compliance Review Committee was recommending a declaration of non-compliance for the NADOs of those three countries with immediate effect.

PROFESSOR HENRIQUE DE ROSE explained that he was representing ANOC and the Americas and not Brazil, but the national secretary responsible for ABCD had asked him to present some information to the members. The information had been sent on 10 November and he understood that the document was being revised. On 28 November, the national council of sport would name the nine judges. That involved a long legislative process. There had been difficulties in Brazil in relation to legislation: three governments, one impeachment process and the Olympic Games. He asked the members to imagine passing legislation in the legislative houses given such events. Nevertheless, the process would be concluded on 28 November and he could assure the members that the period of non-compliance would be very short.

Brazil was in the middle of an education project recommended by the IOC-WADA task force to bring together the three groups of doping control officers in Brazil, one for FIFA, one for the Olympic Games and one for the NADO, and Brazil was in the middle of that process, so he wondered if it might be possible to finish that education programme or if Brazil should just cut it off in the middle.

MR LIRA said that, when reviewing such points and talking about the membership of governments, the consequences in relation to sanctions and proportionality had not been dealt with. He had been saying to Mr Díaz, who was an Executive Committee member, that the education or training programmes carried out by Brazil or the NADO or the laboratory in Brazil had also been affected by something that was not within their power and that was a legal matter. He supported the continuity of training and education programmes in Brazil in the fight against doping in sport.

THE CHAIRMAN said that the matter had been discussed by the Executive Committee the previous day and the pretty strong feeling had been to note that much work had been done towards achieving compliance in Azerbaijan and Brazil and, if Professor Henrique de Rose's dates were right, Brazil would be non-compliant for only nine days, and he did not think that that would affect an education programme under way. Therefore, the recommendation was to accept it as a Foundation Board because it was the Foundation Board's responsibility to declare the three NADOs non-compliant. He

noted that much work was being done and he looked forward to them resuming compliance at the earliest possible date. Were the members happy to accept that?

DECISION

Compliance Review Committee  
recommendations on non-compliance approved.

**11.1.4 Non-compliant countries status report**

**11.1.4.1 Russia**

*Refer between items 4 and 5 above; discussions on Russia moved up the agenda.*

DECISION

Compliance updates noted.

**12. Anti-Doping Administration Management System (ADAMS)**

DECISION

ADAMS report noted.

**13. Communications**

MR POUND asked the Foundation Board to consider being a little more responsive to some of the attacks WADA got. He thought it important to be out there pointing out what was misinformation and what was incorrect and providing the real story.

MR NICHOLSON added that the information that WADA did put out when correcting information was something that the athletes shared, and they really appreciated that information.

MS MACLEAN acknowledged that each situation would be assessed on the merits of communicating more and correcting information. Mr Estanguet had raised communications a number of times. WADA primarily communicated through its signatories and got to athletes through ADOs, and she was conscious of the fact that information was often not reaching the end target, which was the athletes, so her department was looking at ways of improving its ability to reach the athletes directly.

DECISION

Communications report noted.

**14. NADO/RADO relations**

DECISION

NADO/RADO relations report noted.

**15. Government relations**

THE CHAIRMAN said that WADA was very fortunate to have persuaded Mr Bouchard to give up his chairmanship of the Compliance Review Committee and take on the more straightforward business of government relations. His report was, as always very full. Were there any questions?

DECISION

Government relations report noted.

**16. International Federation relations**

THE CHAIRMAN said that Mr Donzé had moved from Lausanne to Montreal, and his successor, Mr Cohen, was with him. He had been pleased to catch up with Mr Cohen in Lausanne recently, and it was a very important office for WADA in how it related in particular to the IFs. Were there any questions of Mr Cohen?

DECISION

IF relations report noted.

## **17. Standards and harmonisation**

THE CHAIRMAN said that the item included the report of the Independent Observer at the Olympic Games in Rio. Mr Ricketts had been the deputy chairman of that and the previous day he had dealt with changes to the Technical Document for Sport-Specific Analysis. Were there any questions of Mr Ricketts?

### DECISION

Standards and harmonisation report noted.

## **18. Regional offices**

### **– 18.1 Lausanne**

#### DECISION

Lausanne regional office report noted.

### **– 18.2 Cape Town**

#### DECISION

Cape Town regional office report noted.

### **– 18.3 Montevideo**

#### DECISION

Montevideo regional office report noted.

### **– 18.4 Tokyo**

#### DECISION

Tokyo regional office report noted.

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

THE CHAIRMAN congratulated all his directors on doing so well. It was a little difficult to ask them to report as quickly as he had, but the quality of the reports actually allowed WADA to do that, and that reflected greatly on them. That probably applied even more to the regional directors, who came from even further than Montreal.

Looking at the programme for upcoming meetings, the Executive Committee and Foundation Board would be in Montreal in May the following year. September 2017 would be a rather complicated month with the UNESCO conference of parties on 25 and 26 September, and there would be a major IOC session and conference in Lima in the middle of the month, and WADA might have to be a little bit inventive in completing everything that it had to complete normally in September so that the Prohibited List could be completed and approved for the start of 2018. As yet, there was no venue, but he was hopeful that there would be one pretty soon. In November, WADA had accepted an invitation to go to PyeongChang, the host city of the 2018 Olympic Winter Games, and those members in the heat of Australia in November could look forward to going to PyeongChang and enjoying the occasion.

*[Post note: the meetings will now be held in Seoul, not PyeongChang]*

He thanked the hosts, Visit Scotland, Glasgow City Marketing Bureau and the Scottish Exhibition and Convention Centre. He actually thought it had worked pretty well indeed and the working conditions had been good despite his eyesight, and there had been a warm welcome from the people at the centre. He thanked the audiovisual providers, the interpreters and the staff of the centre. Finally, he thanked the Director General, directors and staff who worked wonders for all of the meetings. That had been a particularly heavy one, because of the work that the Foundation Board had to do, but the quality of the documents was not only outstanding but also with the members early enough for them to read and digest and to enable them to attend the meeting very well informed. He was really grateful to Ms Withers and the other members of staff for everything they did. He thanked the members for their attendance and work, and thought that they had helped to move things forward. He declared the meeting closed.

### DECISION

Executive Committee – 17 May 2017, Montreal, Canada;  
Foundation Board – 18 May 2017, Montreal, Canada;  
Executive Committee – between 22 and 24 September 2017, date and location to be confirmed;  
Executive Committee – 15 November 2017, Pyeongchang, Republic of Korea, date to be confirmed;  
Foundation Board – 16 November 2017, Pyeongchang, Republic of Korea, date to be confirmed.

The meeting adjourned at 16.15h.

FOR APPROVAL

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