

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

## **Minutes of the WADA Executive Committee Meeting 11 November 2020, via videoconference**

The meeting began at 7.00 a.m.

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

THE CHAIRMAN warmly welcomed all the Executive Committee Members and Observers to the meeting. This would be the third virtual Executive Committee meeting and he sincerely hoped that the next meeting would be in person. He knew he had said the same thing to the Members the previous time, but there was always hope.

The following Members attended the meeting: Mr Witold Bańka, President and Chairman of WADA; Ms Yang Yang, Vice-President of WADA; Professor Ugur Erdener, IOC Member, President of World Archery; Mr Jiri Kejval, President, National Olympic Committee, Czech Republic, IOC Member; Mr Ingmar De Vos, Council Member, ASOIF, FEI President, IOC Member; Mr Philippe Gueisbuhler, representing Mr Nenad Lalovic, Executive Member, GAISF Council, UWW President, IOC Member; Ms Danka Barteková, Vice-Chair, IOC Athletes' Commission, IOC Member; Ms Amira El Fakil, Commissioner for Social Affairs, African Union; Mr Marcos Díaz, representing Ms Andrea Sotomayor, CADE President, Ecuador; Mr Tanose Taïdo, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Alexandre Husting, representing Mr Dan Kersch, Minister of Sport, Grand Duchy of Luxembourg; Mr Richard Colbeck, Minister for Youth and Sport, Australia.

The following Standing Committee Chairs attended the meeting: Mr Ben Sandford, Chairman of the WADA Athlete Committee; Hon. Mr James Wood, Chairman of the WADA Compliance Review Committee; Ms Kady Kanouté Tounkara, Chairman of the WADA Education Committee; and Prof. Lars Engebretsen, Chairman of the WADA Health, Medical and Research Committee.

The following representatives of WADA Management attended the meeting: Mr Olivier Niggli, Director General; Ms Dao Chung, Chief Financial Officer; Mr René Bouchard, Government Relations Director; Mr Sébastien Gillot, Director, European Office and International Federations Relations; Mr Kazuhiro Hayashi, Director, Asia/Oceania Office; Ms Amanda Hudson, Education Director; Ms Catherine MacLean, Communications Director; Mr Tim Ricketts, Standards and Harmonisation Director; Dr Olivier Rabin, Senior Executive Director, Sciences and International Partnerships; Mr Julien Sieveking, Legal Affairs Director; Mr Rodney Swigelaar, Director, Africa Office; Dr Alan Vernec, Medical Director; Mr Gunter Younger, Intelligence and Investigations Director; Mr Tom May, Director of Programme Development and NADO/RADO Relations; Ms Maria José Pesce Cutri, Director, Latin America Office; Mr Rafal Piechota, Office of the President; and Mr Frédéric Donzé, Chief Operating Officer.

The following guest speaker was present during a relevant agenda item: Ms Diane Smith-Gander, Chair, WADA Nominations Committee.

The following observers were present: Michael Vesper, Richard Budgett, Hannah Grossenbacher, Andrew Ryan, James Carr, Laurent Deville, Machacha Shepande, Yewbzaf Tesfaye, Santiago del Pino Muriel, Sergey Khrychikov, Hiroki Toyooka, Tomohiko Arai, Michael Gottlieb, Jocelyn East, Clayton Cosgrove and Darren Mullaly.

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

THE CHAIRMAN asked the Members if they wished to disclose any conflicts of interest. In the absence of any request for the floor, he would continue.

## **2. Minutes of the previous meeting - 14 and 15 September 2020**

THE CHAIRMAN drew the Members' attention to the minutes of the previous meeting. Draft minutes had been included in the documents sent out before the meeting. Japan had requested a small correction on page 6 of the minutes as a result of incorrect interpretation. Were there any other comments or requests?

THE CHAIRMAN concluded that the minutes were approved.

### DECISION

Minutes of the meeting of the Executive Committee on 14 and 15 September 2020 approved and duly signed.

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

THE DIRECTOR GENERAL updated the Members on a number of points. He would not repeat the things written in his report but would be happy to take questions on them.

The Members would receive a more detailed presentation later on how COVID-19 was affecting the anti-doping system. As far as WADA operations were concerned, there was no change from what was in the report and what had been described at the previous meeting, although unfortunately the situation in Europe had somehow worsened, which meant that most people, in particular in the Lausanne office, were working remotely.

In 2021, the plan was to hold all WADA meetings in person and he hoped that that would be possible, but he was aware there had been discussion and a question as to whether at least one of the Executive Committee meetings should be held virtually, or whether there should be mixed formats, so he would be interested to hear the Members' comments on that. It might be possible to hold a virtual September Executive Committee meeting, as it was not linked with a Foundation Board meeting. That might enable WADA to save some costs.

He was sure all the Members were interested in the CAS hearing held the previous week in relation to the compliance of RUSADA. The hearing had taken place over four days from 2 to 5 November. Matters had been slightly complicated by the worsening of the COVID-19 situation in Europe which had resulted in the three arbitrators having to hear the case virtually. Some of the experts had also been heard virtually, as they had been unable to travel. Apart from that, the lawyers and a number of experts had been present in Lausanne. The technology had worked well and the hearing had proceeded as normal. He would not, of course, speculate on the result of the hearing. WADA had certainly invested all of its energy and all the necessary resources to defend the case and the recommendation from the Executive Committee. WADA had been told by the panel and later by a CAS press release that a decision should be issued before the end of the year, which was good news. As soon as he knew more, he would inform the Executive Committee.

On the topic of governance reforms, two important topics would be dealt with later in the agenda. One was the appointment of the new Working Group on the Review of WADA Governance Reforms, and the other was the discussion on the Code of Ethics, on which consultation was still ongoing. There were documents in the Members' files which he would not address specifically but they provided an update as to the situation.

WADA had progressed its discussions with the Swiss Authorities and hoped to finalise the wording of the Statutes in a manner acceptable to them. The issue for the Swiss Authorities had been about the fact that, under Swiss law, Members of the Foundation Board or Executive Committee should exercise their tasks personally, and so the Swiss Authorities had had some issues with the idea of having deputies. It had been agreed that deputies were necessary in the context of WADA; however, the Statutes would have to reflect the fact that deputies who were representing Members would have to have received instructions from the Members as to the positions they took around the table, and would only be allowed if the Member could not attend either in person or virtually in exceptional circumstances, so WADA was currently looking at that with the Authorities. It was really important

to insist on the fact that having virtual meetings or hybrid meetings implied that Members should be participating in person and, if they could not be there in person, they should attend virtually, and therefore deputies should be the exception in such cases. That would not fundamentally change what was currently being done but clarity had been sought by the Authorities. Once the wording was agreed upon by the Swiss Authorities, it would be sent again for final approval to the Foundation Board via circulatory vote, which he thought would come early the following year.

On the anti-doping rules review, the new Code would enter into force on 1 January 2021. The information was changing day by day and the numbers in the Members' documents needed updating. In relation to the IFs, and he was referring to all categories (Olympic, recognised and AIMS), 11 sets of rules out of 94 were still missing, and five of the 11 were for Olympic IFs, so it would be important to make progress. For the NADOs, 10 out of 54 were missing in Africa; all rules had been submitted or adopted in the Americas; three out of 44 were missing in Asia; 15 out of 52 were missing in Europe; and one out of 17 was missing in Oceania. In total, therefore, about 40 sets of rules out of 261 were missing worldwide. It was important for Members to push the organisations where possible to progress their rules before 1 January. For some of the NADOs, there might be some governmental processes underway, meaning that the situation was not really in their hands.

On the matching funding issue, he indicated that WADA had sent a letter to all countries to encourage them to provide extra funding for research and/or investigations in order to benefit from the offer made by the IOC President in Katowice to match the funds dollar for dollar. He was pleased to note that good news had been received that morning from Saudi Arabia, indicating that it would provide some extra funding for research, which he was sure would be most welcomed by the research people, and Professor Engebretsen in particular. That was very good news, and he would let the Board Member from Saudi Arabia announce the news the following day at the Foundation Board meeting.

He gave the floor to Mr Sieveking for the final update on the Puerto case, which had been an ongoing saga for WADA. The case had been concluded, and he would let Mr Sieveking provide a summary.

MR SIEVEKING informed the Members that the lengthy case was finally coming to an end. A total of 215 samples had been seized and then DNA-profiled by WADA. WADA had determined that the samples belonged to 35 separate DNA profiles. Following the DNA comparison, the WADA Intelligence and Investigations Department had confirmed the identity of 11 athletes, 10 male and one female, out of the 35 DNA profiles. There had been two sports involved. The identity of the 11 athletes was known only by some members of the WADA Intelligence and Investigations Department. Only three athletes were still active, and there were also two athlete support personnel. The other athletes were retired. The three active athletes had been and were regularly tested, given they were in the applicable IF registered testing pool, and all the tests had come back negative. Further to an in-depth legal assessment under the applicable data protection rules, only the names of the three active athletes and the two members of athlete support personnel would be shared by the WADA Intelligence and Investigations Department with the applicable IFs. That would be done verbally and under a strict protocol established and validated by external counsel. The information would be shared accordingly over the coming days. For data protection reasons, the information related to the non-active athletes could not be shared and would be discarded.

THE DIRECTOR GENERAL concluded his report, indicating he would be happy to take questions.

MR TANOSE introduced himself. He was the Japanese Minister in charge of sport and the 2020 Olympic and Paralympic Games, and he had taken over from Mr Kameoka in September. It was his first time attending an important WADA meeting and he looked forward to working closely with WADA to fight against doping in sport. He took the opportunity to take the floor because, in 2020, Japan had been chairing the Public Authorities' One Voice meetings, and he wished to make some comments on the management of the Executive Committee meetings. The other Public Authority Members had mentioned it, and he also believed it was important for everybody: the Public Authority Members wished to draw the WADA Management's attention to the fact that it was often unclear during the Executive Committee meetings what decisions were taken, how the views expressed by the stakeholders were reflected, and what follow-up was expected. That problem was particularly emphasized during virtual meetings. Accordingly, the Public Authority Members urged the WADA

management to make it clear after each item what exactly had been decided and what subsequent actions would be imposed to make sure that everybody understood. This was also important to facilitate further discussion and information for any relevant decisions at future meetings.

PROFESSOR ERDENER thanked the Director General for his very comprehensive written and verbal reports. On behalf of the Sport Movement, he wished to inform the Executive Committee Members on three matters.

As the Director General had mentioned, the WADA Management had proposed that the annual September Executive Committee meeting be held virtually. The Sport Movement always supported in-person meetings for good productivity. During the face-to-face meetings, there was a good social atmosphere for finding solutions, in particular in relation to critical matters, and then observers from both sides sat together and found compromise solutions one or two days before the meetings or at least during the meetings. For those reasons, he always preferred face-to-face meetings.

As to the proposed honorary president position for Mr Richard Pound, the founding president of WADA, the Sport Movement supported modifying the WADA Statutes to allow for the creation of that position. The WADA President might invite the honorary president to some specific meetings or events, whilst still respecting the partnership between the Sport Movement and the Public Authorities.

Thirdly, he mentioned that the period for matching IOC funding would be closing by the end of the year and the Sport Movement joined WADA in its call to the governments to contribute to the special fund before year-end.

MR HUSTING said that he knew that the Chairman had asked the Members to be brief, but he wished to apologise on behalf of Mr Kersch, who had been unable to attend the meeting. Attendance during the current period had been rather complicated.

In relation to the report by the Director General, the European side welcomed the idea of virtual meetings in the future but in the form of additional meetings, so that the in-person meetings would be less overloaded and perhaps limited to main points or points for decision.

MR COLBECK supported the comments by Mr Tanose. He welcomed the Minister to his first meeting and he looked forward to visiting Japan the following year for the Olympic Games. He supported the concept of virtual meetings but the comment about having some opportunity for face-to-face meetings was valuable. There was something to be said for the opportunity to develop a much more personal relationship than was seen in forums such as the current one, although he would foresee the opportunity to travel too broadly still being very difficult for some period of time, at least until there was access to a viable vaccine on a global level. That was going to be a very constraining factor.

With respect to the comments made on the topic of an honorary president, he was somewhat surprised to see the issue in the form in which it was presented on the agenda, which was why he supported the comments made by the colleague from Asia. At the previous meeting, he had expressed some concern about the imbalance that such a position might create on the Executive Committee. He had asked what alternatives had been considered and suggested that it be referred to the Working Group on the Review of WADA Governance Reforms to consider what alternatives might be available, so he was quite surprised to see it back in the current form, because that was not the position that he thought had been discussed at the previous meeting. He believed that the request he had made at the previous meeting was the appropriate one. WADA had been working to increase athlete representation; that had taken some time and would take priority, from his point of view, over creating an honorary president position. He would rather see those things proceed, not to diminish in any way the contribution or role played by Mr Pound. That needed to be recognised, but he thought that some more appropriate ways to manage that could be found.

THE DIRECTOR GENERAL welcomed the Japanese Minister, whose point was duly noted. The President and he would try to be as precise as possible when recapping the decisions taken or discussed.

He told Professor Erdener and Messrs Colbeck and Husting that he understood the wish to have in-person meetings for a number of perfectly valid reasons and would take that into account. That

did not exclude a few additional opportunities for virtual meetings to discuss specific topics throughout the year, which could be very beneficial. Depending on the agenda and the public health situation, WADA could always adapt. The plan for the following year was to have all the meetings in person or at least hybrid. Management would work on a mixed solution of meetings and would try to make it as efficient as possible. The idea was to have some cost savings by holding a virtual meeting, but he understood the benefit of in-person meetings, so the views expressed would be taken into account.

On the issue of the honorary president, he was a little surprised by Mr Colbeck's remarks, because he had tried to take into account precisely the remarks made at the previous meeting when Mr Colbeck pointed out the risk of having an imbalance where an honorary president be seated around the meeting table, and everybody had agreed that was a fair comment. Management had simply come back with a proposal to indicate clearly that that would not be the case; that the intention was not to have an honorary president around the table for meetings but simply to create the title. This was not an initiative that came from the Management or the President, so Management had tried to accommodate Mr Colbeck's comments by addressing the imbalance; but, if he did not think that there should be an honorary president, perhaps there should be a discussion between the Sport Movement and the Public Authorities to see what other ideas they had. He was not sure he grasped the difficulties that Mr Colbeck had with the title of honorary president. Was it because it was a concept not familiar to governments? What was blocking the concept, if it did not affect the dynamics of the meeting? He would be happy to put it to the Working Group on the Review of WADA Governance Reforms, although he was not sure that it should be the working group's priority, but perhaps its wisdom might be sought. He reaffirmed that the Management had only tried to accommodate Mr Colbeck's request, and not to address it again from a different angle.

MR COLBECK thanked the Director General. He thought that the Public Authorities and the Sport Movement should have that conversation, so that should be done. It would be possible to work out an appropriate form of recognition and come back to the Executive Committee after having had that conversation. It was an appropriate move. He understood the point about governance; the position was not to form a structural part of the organisation, so that was acknowledged and appreciated.

Before finishing his intervention, he wished to say one thing that went back to the agenda of the previous meeting. He had been talking to the Australian Foreign Minister that morning who was a very good friend of the Fahey family, and she had wanted him to pass on to all of the Members who had contacted the Fahey family following the passing of Mr Fahey, appreciation for the warmth from the membership of WADA and the movement more broadly on his passing. It had been very much appreciated. He should have raised that earlier and was sorry, but that very strong sentiment of thanks and warmth had been expressed by the Australian Foreign Minister.

THE CHAIRMAN thanked Mr Colbeck for his very constructive approach to the issue of the honorary president and also for what he had said about the members' attitude in relation to the former president of WADA.

#### DECISION

Director General's report noted. The Sports Movement and the Public Authorities to discuss the matter of Honorary President and to come back with a proposal in advance of the May 2021 meeting.

#### – **3.1 COVID-19 – Anti-Doping Impact Update**

MR RICKETTS shared a short presentation updating the Members in particular on the impact of the pandemic on testing and some outcomes from the recent Strategic Testing Expert Group meetings. In relation to testing numbers, the graph on the screen represented a comparison of samples collected in 2020 with 2019 for the period from January to September. The number of samples collected included urine, blood and Athlete Biological Passport samples, and they were represented by the columns in the graph. The numbers had been taken from the ADAMS database based on the number of doping control forms entered, and WADA was currently at over 99% as an entry rate. The graph also included the number of testing authorities that had collected the samples,

represented by the two lines on the graph. The green columns and green line were for 2019 data and the black columns and black line were for 2020 data. Since April, when testing had been at its lowest, a steady increase in samples collected had been seen through to September. Over 18,500 samples had been collected by 131 different testing authorities, 4,000 more than had been collected in August by 122 testing authorities. For October, WADA was currently at 18,000 samples and it was expected to exceed 20,000 samples, as many doping control forms had yet to be entered into ADAMS because the ADOs had 21 days from the date of collection to enter the forms. Overall, the anti-doping community had responded very well to the situation. Many were working hard to do what they could given the circumstances, which continued to evolve daily. The message continued to be that any anti-doping organisations had to follow national and local government regulations and that the safety of athletes and the sample collection personnel involved remained the highest priority.

The newly developed Strategic Testing Expert Group had met four times in October to discuss the short and long-term effects that COVID-19 had had on global testing programmes. He referred to an update to the guidance document for testing during COVID-19 published in May that year. The document had been enhanced by WADA and the Expert Group based on feedback from the ADO survey conducted in September, the results of which would be published early the following week, and also there had been input from the WHO and a group of testing experts from a number of NADOs. The document to date had enabled testing to restart and continue in a manner that provided athletes with confidence in the testing programme, protected their health and safety and was in compliance with the International Standard for Testing and Investigations (ISTI). The updated document further enhanced procedures around those areas and it would be published later that month in English and French.

The Expert Group had also discussed the use of alternative sample collection programmes, which five NADOs had piloted during the pandemic. Two of the programmes had been fully in line with the ISTI. One had used a mobile doping control station, which he had mentioned previously. The other three departed significantly from the ISTI in that there was no monitoring of the athletes when they were in the bathroom or witnessing of the provision of the sample, as would normally occur. That opened the ability to manipulate or tamper with the sample behind closed doors. The programmes involved the notification of the athletes at their home where the doping control officer provided them with sample collection equipment, the athletes went back inside the house and closed the door, the doping control officer maintained contact with the athletes by way of a video call or a phone call and then instructed the athletes throughout the process without actually entering the house. The Expert Group had considered monitoring the athletes when they were in the bathroom by having the athletes put the video camera inside the bathroom while they were in there rather than outside facing the closed door, as had been the case during the pilot programmes. The Expert Group had also considered the procedures put in place to try and mitigate some of the risks of manipulation and tampering, including the athletes providing a tour of the bathroom area prior to providing a sample and then putting the camera outside the bathroom door, measuring the temperature of the urine sample after it was provided when the athletes came back on camera, and the measurement of room temperature. One NADO had undertaken DNA analysis for athletes whose samples it already had in long-term storage. That had, of course, incurred additional costs. The Expert Group had also considered, given the exceptional circumstances of the pandemic, whether it would be acceptable for the athletes not to be monitored when in the bathroom, to at least enable some testing to occur despite it being in breach of one of the major aspects of the ISTI and sample provision. The outcome was that the Expert Group had agreed that further work was required to validate the virtual programmes and that a feasibility study was required to consider areas such as athlete privacy, IT security and technology advancements, as well as legal provisions and any changes to policy and procedures. It was an ongoing project and any recommendation would be circulated among stakeholders as part of a global consultation process.

MR TANOSE said that he really appreciated the significant efforts made by WADA to resume testing, such as by conducting the online survey to review the guidance document for further improvement. In Japan, the football league had restarted matches in July and, as sport activities had gradually resumed, the number of anti-doping tests had increased steadily in accordance with the WADA guidance document. For example, the number of tests in September had been 350. Currently, all doping control officers in Japan were required to undergo PCR (COVID) tests prior to conducting any testing-related activities to prevent COVID-19 infections. As the host nation of the Tokyo 2020

Olympic Games and Paralympic Games the following year, Japan was determined to work closely with the WADA Foundation Board members, the IOC and IPC members to make adequate preparations to ensure a good balance between taking precautions and conducting testing. He expected and encouraged WADA to continue to demonstrate robust leadership in that regard.

MR RICKETTS thanked the Minister for his comments and for outlining the measures taken in Japan. The revised guidance document he had mentioned did include information on the testing of sample collection personnel for COVID-19 as part of additional protection where those tests were available, so it was good to see that happening in Japan. He also looked forward to working closely with Japan, the Organising Committee and the IOC to make sure that the best protection measures for health and safety were in place for testing at the Olympic Games and Paralympic Games the following year.

#### DECISION

COVID-19 Anti-Doping Impact Update noted.

#### – **3.2 Signatory Expert Group – Appointment of Chair**

*[The Nomination Committee was still in the process of their review for this role, and therefore the item was deferred.]*

#### – **3.3 TDSSA Modifications**

MR RICKETTS informed the members that amendments to the TDSSA had been made primarily to bring the document into line with the changes to the 2021 World Anti-Doping Code and applicable International Standards. The TDSSA was part of the new Strategic Testing Expert Group's mandate. The Group had met in September to review its implementation and endorse the amendments to the document. He would not go into the detail of the amendments made but would be happy to answer any questions the members might have before they considered the approval of the revised TDSSA version 6.0.

PROFESSOR ERDENER said that the Sport Movement approved the proposed modifications.

MR COLBECK echoed Professor Erdener and indicated the Public Authorities' support.

THE CHAIRMAN asked the members if they approved the changes proposed. For the record, the Executive Committee had just approved version 6.0 of the TDSSA.

#### DECISION

Proposed TDSSA Modifications  
approved.

### **4. Governance**

#### – **4.1 General Governance Reforms Update**

*[Members received a written update only on this agenda item. Due to the format of the meeting being virtual and abbreviated, a number of items were not intended to be discussed unless Members wished to raise any points.]*

#### – **4.2 Members of the Executive Committee 2021**

THE DIRECTOR GENERAL said that, the following day, the Foundation Board would be presented with the regular Members of the Executive Committee. Approval would be sought via circulatory vote after the meeting.

WADA had received a list from the Public Authorities and the Sport Movement to be recommended to the Foundation Board for formal approval the following day. The list for the Sport Movement was Professor Erdener, Mr Kejval, Mr De Vos, Mr Lalovic and Ms Barteková. For the Public Authorities, the list comprised Ms El Fadil, Ms Sotomayor, Mr Tanose, Mr Kersch and Mr Robertson. As mentioned,

due to the large number of Board members, they would not be asked to vote during the meeting itself, but a circulatory vote would take place following the meeting to so as to properly record it.

MR DE VOS spoke on behalf of the Sport Movement to support the recommendation and noted that the documents circulated the previous day had been received, so he approved the proposal, including the staggered terms indicated by the Sports Movement.

THE CHAIRMAN concluded that the 2021 Members of the Executive Committee could be recommended to the Foundation Board for approval.

#### DECISION

Executive Committee Members for 2021  
to be recommended for approval by the  
Foundation Board.

#### – **4.3 Independent Members of the Executive Committee**

MS SMITH-GANDER apologised in advance for being unable to attend the Foundation Board meeting the following day due to a previously scheduled board commitment, but Ms Maja Makovec Brenčič, the public authority-nominated representative, would represent the Nominations Committee the following day.

The Nominations Committee understood the critical importance of the appointment of the first Independent Members and had worked very hard to design and execute an appointment process in which the members could have confidence and which external stakeholders would also be able to acknowledge as appropriate. As the background paper explained, it had not been a straightforward exercise. At the January meeting, the Committee had advised as to the process it would follow. Importantly, in January, it had been able to sign off on the role profile for the candidates, allowing the Committee to create targeted interview guides, so as to gather all the relevant information in a fair and comparable form from the candidates and their referees, and the Committee had shared some guides of that nature with the members. The Committee had also raised concerns about independence. Given that the Independent Members would be nominated by the Sport Movement and the Public Authorities, the guidance had been that having more than one candidate for each position would allow for greater confidence in the integrity of the process because, as had been discussed previously, with only one candidate, the role of the Nominations Committee became one of mere confirmation and background checking, and background checking was in any case an activity outsourced and conducted by the internationally reputable company Control Risks. It was that view, which remained unanimous and unchanged, that had led the Committee to be unable to make any recommendation in its report at the May meeting.

Following the May meeting, there had been several conversations and the Committee had very much appreciated the conversations and felt it had been heard by the representatives it had met. It had also appreciated the legal opinion from an independent firm about the difficult matter of independence. Of course, even after an exchange of views and understanding of the various positions, consensus might not be reached, and that had been pretty much the case.

In the end, the Nominations Committee had been presented with only one candidate from the Sport Movement, Dr Patricia Sangenis. As the members would see on the next slide, the Committee had advised that there were no concerns in the Control Risks background check and that, in the Committee's opinion, Dr Sangenis met the definition of independence by WADA. Therefore, in the Committee's opinion, there was no impediment to the Executive Committee appointing Dr Sangenis, but the Nominations Committee remained unable to offer a recommendation.

The Public Authorities had presented four candidates to the Committee, which had worked very hard with the collaboration of WADA, the candidates and their referees, to conduct a very thorough process, which was shown on the next slide. A great deal of enthusiasm had been shown by candidates for the process: they had made themselves available for interview at short notice, they had been very well prepared and had offered very strong benches of referees. They had been welcoming of a competitive process. The referees had also been well prepared, and they had understood the role quite well. They had been forthcoming and very balanced in their assessments, so the references had been balanced in that they had not presented in any way as cheerleaders for

the candidates. What was critical in allowing referees to act in that way was the promise of confidentiality, and they had also been impressed to be working with an independent committee and had expressed support of WADA's governance. In terms of the process, each candidate had been interviewed by at least two Committee members. The interviews had been overlapped across interviewers, making a circle of exposure to the candidates, allowing the Nominations Committee members to compare all the candidates even though they had not interviewed each candidate. The Nominations Committee had generally interviewed the candidates first, and had then had targeted questions for the referees coming from the interviews. The interviews themselves had used the targeted interview guide she had described previously to assess against that agreed profile, and there had been individual questions based on the candidates' resumés or the Control Risks background reports. After the interview, the specific areas to be probed in the reference checks had been agreed upon so as to get a full picture of the candidate. Each reference check had been documented in a file she held as the Committee chair. It was confidential, as promised, but available as evidence of the process should it ever be required. The notes in the candidate interviews had been treated similarly: there was an interview summary and scoring sheets. The scoring sheets were the final step in the process.

The next slide recalled the criteria that the Nominations Committee had identified with the agreement of the Executive Committee to assess the candidates. Then, the Nominations Committee had scored on a five-point scale against the criteria. The members would see an empty score sheet on the next slide to give them an idea as to how that had been done. That had generated a preferred candidate, which the Nominations Committee unanimously recommended for appointment to the Executive Committee.

It was really usual for such processes to be conducted in a remote format given that the market for talent was a global one, and the process had not in any way been negatively affected by the working environment necessitated by the pandemic. In relation to Ms Gabriela Battaini-Dragoni, unfortunately, due to an unforeseen extension of a current appointment, she had been unable to meet the independence test at that point in time, but she expected to become independent in February. The Nominations Committee recommended her, as she had a very strong strategic approach to decision-making, a strong ability to make positive relationships and was very forward-looking in her orientation in seeking outcomes. Other candidates had been able to demonstrate evidence of those qualities as well, but only that preferred candidate had demonstrated all of those and above expectations, and of course she would also add to gender diversity.

The WADA Executive Committee had entrusted the Nominations Committee with making the recommendation, and she thought that the Executive Committee could be comfortable extending the trust because of six factors. First, the Executive Committee had defined the terms of reference to mandate the Nominations Committee. Second, it had used a reputable global recruitment firm to help appoint a majority independent Nominations Committee. Third, the Committee had been constructed by the recruitment firm to the Executive Committee's specifications to bring all the relevant skills to the task. There was a strong human resources practitioner expert, people with executive management experience across many types of companies, including managing groups of more than 10,000 people, they had international exposure and knew about sport, compliance, governance and government. Fourth, the Executive Committee had agreed on defined criteria in relation to the role profile. Fifth, the Committee had built a robust process that had been followed rigorously without cutting any corners. Sixth, the Nominations Committee had come to a unanimous recommendation. All those things gave her the confidence that the Executive Committee had a strong basis to accept recommendations from the Nominations Committee and so the Nominations Committee was very comfortable to present the recommendation to the Executive Committee. That concluded her remarks in support of the report and she would be happy to respond to any interventions that the members wished to make.

MR HUSTING admitted that he had been a bit disappointed by the written report from the Nominations Committee, perhaps because he had really had such high expectations of the Nominations Committee, its members and its work. However, the concern was that the report did not really make it possible to clearly understand why some candidates proposed by the Public Authorities were not recommended. He understood that one candidate was proposed, but he still did not understand after having read the report why some others had not been taken into account. That

was absolutely not a negative comment in relation to the candidate from the Public Authorities who had been recommended by the Nominations Committee, but more a question in terms of understanding the analysis developed by the Nominations Committee. For one candidate, for example, the report stated that she did not currently seem to meet the independence criteria and that the Nominations Committee could later recommend another candidate if the situation of non-independence persisted. However, it was necessary to make a recommendation that day to the Foundation Board, which would have to decide the following day. He understood that the Nominations Committee had had to work to tight deadlines, but he really needed some clarification about the other candidates. That was why he wanted to see if it might be possible to postpone the decision until May the following year so as to receive a complete and detailed version of the report, which could then be discussed within each continent in order to reach a common position.

MR DE VOS spoke on behalf of the Sport Movement. He would not comment on the candidate and on the process regarding the candidate from the Public Authorities' side, but he believed that there had already been many discussions on the procedure and he welcomed the conclusions of the Nominations Committee. He thought, like the Nominations Committee, that it was time to move on and that the reforms should not be further delayed, and it was important to hold the election of the Independent Members the following day, at least for the one presented by the Sport Movement.

He repeated what he had already said at previous meetings: the comments from the Nominations Committee on the process were taken on board and should be considered and discussed by the Working Group on the Review of WADA Governance Reforms, which was also on the agenda. Therefore, in conclusion, the Sport Movement strongly supported the election of the candidate, Dr Patricia Sangenis, the following day by the Foundation Board, especially since she already met the independence requirements, as had clearly been illustrated.

THE CHAIRMAN thanked the Members for their comments. He respected the concerns of the Public Authorities. However, it seemed to him that the Nominations Committee had been set up for a reason. Its task was the comprehensive analysis of candidates for the most important positions at WADA. The Committee had been established because the process of assessing candidatures was very complex and required special skills. The Nominations Committee performed that task very professionally, hence his great confidence in the work of Ms Smith-Gander and her team; so, if each and every recommendation of the Committee was questioned, did it really make sense to keep it in the structure? The process of appointing the Independent Executive Committee Members formed the core of the first phase of governance reforms. Various stakeholders had continuously called on WADA to accelerate those reforms, which was why he could not agree to further postponing that decision. The process of appointing Independent Members had been going on for some time. It had given the Executive Committee Members the opportunity to get to know the candidates and the Nominations Committee's position on them. Three of the candidatures had been on the table for almost six months. Therefore, he proposed to support the two names recommended by the Nominations Committee and submit both candidatures for approval by the Foundation Board. Only if they were not appointed could there be another vote with all the candidate names; but, frankly, he thought that doing otherwise would be disrespectful to the Nominations Committee, so he hoped that the Members could all agree on that. In relation to the issue of Ms Battaini-Dragoni and her current mission not concluding before 1 March 2021, because there would not be any Executive Committee and Foundation Board meetings at the beginning of the year, he suggested that both candidates start their mandates as Independent Executive Committee Members on 1 March 2021.

MS SMITH-GANDER considered that the Chairman had said it all and she could not have said it better herself.

MS YANG supported the recommendation by the Nominations Committee and making a decision.

MR HUSTING understood that the idea of postponement until the following year was not unanimously shared around the table; so, for the sake of compromise and to be positive, Europe supported the recommendation by the Nominations Committee.

MS EL FADIL stated that Africa supported the position of the Nominations Committee and the proposal made by the Chairman.

MR DÍAZ also supported not interfering in the election process.

MR DE VOS thanked the Chairman for his intervention, which he supported. He sought clarification on the last point made by the Chairman in relation to the mandate.

THE CHAIRMAN repeated that his proposal was to solve the problem of independence by starting the mandate of both candidates on 1 March 2021.

Did the Members support recommending that the Foundation Board appoint the two Independent Members as recommended by the Nominations Committee, and that they start their mandates on 1 March 2021? He thanked them very much.

#### DECISION

Recommendation by the Nominations Committee to be put to the Foundation Board for approval.

#### – **4.4 Foundation Board**

##### **4.4.1 Memberships 2021**

*[Members received a written update only on this agenda item. Due to the format of the meeting being virtual and abbreviated, a number of items were not intended to be discussed unless Members wished to raise any points.]*

##### **4.4.2 Endorsement of Composition for Swiss Authorities**

THE DIRECTOR GENERAL said that the Foundation Board would be asked to approve its own composition. It was a requirement from the Swiss Authorities that it be done formally. The Foundation Board had the list of Members and would simply confirm that the list reflected the true composition.

#### DECISION

Executive Committee to recommend that the Foundation Board formally acknowledge the composition of the Foundation Board.

#### – **4.5 Composition of Working Group on the Review of WADA Governance Reforms**

THE DIRECTOR GENERAL informed the Members of the follow-up from the decision taken in September to create the Working Group on the Review of WADA Governance Reforms. The Public Authorities and Sport Movement had had time to propose members to be part of the Group and the WADA Athlete Committee had also been asked to propose a name for the athlete candidate. The Public Authorities had submitted nominations for Ms Maria Clarke from New Zealand and Ms An Vermeersch from Belgium. The Sport Movement had submitted nominations for Mr Romano Subiotto from the UK/Italy and Mr Michael Vesper from Germany, and the Athlete Committee had nominated Mr Adam Pengilly from the UK. He thanked everybody, because one of the important things about the Group was that it be a group of experts, since the task that they had to perform was one of expertise and not of representation. The Executive Committee needed to formally approve the composition of the Group.

THE CHAIRMAN understood the expectations of some of the stakeholders to include their representatives in the composition of the Group; the Members were aware of his exchanges with different athlete groups asking WADA to increase the number of athlete representatives on the Group to three. They might also be aware of a statement issued by NADOs calling on WADA to include a NADO representative on the Group. He stressed once again and repeated what had been expressed in his letters to the athlete groups: the Working Group should not be a representative body. Even if WADA were to follow the request made by the stakeholders he had mentioned, the Group would never be perfect in terms of representation. It would be a huge group, even larger than the previous one, setting WADA up for failure. WADA listened to the voice of its stakeholders, and the athletes in particular wanted WADA to quickly move forward on the implementation of governance reforms. So, bearing in mind that the first phase of the reforms had begun in 2016 and WADA had not yet implemented all of the reforms, their position was reasonable, but the governance reforms could not be expected to be accelerated and the group enlarged at the same time. The role of the future

Working Group would not be the same as that of the initial group involved in the first phase of the reforms. This new Group would act as a secretariat; it would not make decisions. Each reform proposed by the Group would be subject to consultations with stakeholders and WADA would ensure that the consultation process was very comprehensive. He would be interested to hear the Members' views.

MR DE VOS said that the Sport Movement could only agree with what the Chairman had just said. A clear decision had been taken at the previous meeting, and it had been a strategic choice to opt for a small working group that was not political, that was composed of experts and that could move quickly. The idea was not to create a new structure but to review the existing structure, and of course he could understand that there was some frustration about representation, but it was not a political body or a representative group, which would not be workable. On the other hand, in order to answer such concerns raised by the different stakeholders, including the athletes, it was very important to clearly underline the need for the Group to go through a thorough consultation process with relevant stakeholders, including athletes and other relevant parties. He suggested moving on. He fully approved the composition and advised that the Group go through a thorough consultation process with all of the relevant parties. If that were done, he thought that WADA would be able to look forward to the outcome of the work.

MR HUSTING said that he was pleased with the proposed experts and the two candidates proposed by the Public Authorities, ensuring an almost exact gender balance in the Working Group, something WADA was often asked to pay attention to. He thanked the Chairman for raising the request from athlete unions and other stakeholders. As the Chairman had said, the composition of the Group had already been agreed upon and it was not composed of representatives but of experts. However, if the stakeholders wanted another expert for the sake of equal representation, he would be open to discussing it on the strict condition that it did not delay the work of the Working Group, which had to start its work very soon.

MR SANDFORD thought that he would touch on the subject of having another expert nominated from athlete groups. That had been spoken about in the WADA Athlete Committee and he did not know if a consensus had been reached on that, but the Athlete Committee would definitively support, for the sake of balance, a second expert being nominated from among the athletes. The part where it got tricky (and he had received e-mails for and against that) was that the athletes were not quite sure which athlete group should be nominating, whether it should come only from the WADA Athlete Committee or from other athlete groups, so that would be the complicating factor. There was no consensus on that, although there was support for a second expert nominated by athletes, and the second part of that process could be worked through if needed.

MR DÍAZ said that, as a former member of the first governance working group, what he had heard from the Chairman was very important. The first group had been a very big representative group, trying to reflect as much diversity as possible, with representation from Public Authorities from each region. The new Working Group was a totally different Group. When the proposal for the new expert group had first been presented, CADE had thought that somebody from the Public Authorities was going to be left behind, because there were to be only two Public Authority members from the five different regions around the world, but then it had been explained that it was an expert group, and the way of making sure that everybody was covered was to create a Public Authority mechanism to ensure feedback from the two experts and cover the political dimension. As long as there was an explanation and representation was covered by way of a mechanism ensuring the proper feedback, the work of the Group would be more efficient if it did not get too big.

MR COLBECK thought that, in the context of some of the discussions held over the past few meetings, it was important to get the reform work under way, and the Members had heard him say that on a number of occasions. In the first instance, getting the Group working and started was important. He also reflected on the comments made by Mr De Vos in relation to consultation with other organisations. However, having said that, he would be very comfortable with leaving an option open to co-opting an additional athlete to the Group, because WADA was all about allowing athletes to compete against each other in clean sport. He would therefore be very comfortable with the concept of saying to the athlete movement to come back at the next meeting with a proposal for an additional athlete representative on the Group. It was seven people, it was not too big, and WADA

could move on, so WADA would be pointing a hand to the athletes, for whom WADA existed, but should get the process of reform under way which was very important and would be reflected in some of the conversations later in the agenda.

MR HUSTING said that, having heard from Mr Sandford, his opinion was that the nomination of any additional athlete should go through the WADA Athlete Committee; the only reservation was that he did not want any postponement of the start of the work of the governance group. The European public authorities would suggest giving 15 days for a second athlete to be proposed via the WADA Athlete Committee.

Having listened to all the comments, MR DE VOS confirmed his previous position. He asked the Members not to over-complicate things. The Executive Committee had agreed in September on the composition of the Working Group. It was very important that the Group carry out proper consultation with the stakeholders. Time should not be wasted on endless discussion about additional members and the procedures to find such additional members. The work had to start and the Working Group needed to deliver. Any other process would only delay it. He suggested sticking with the decision taken the previous time. He was in favour of the composition that was on the table.

THE CHAIRMAN thanked the Members for their comments and remarks. He suggested moving things forward and, if the Members were unhappy with the outcomes and the way in which the consultation took place, the Executive Committee could always come back and re-discuss the composition of the Group. He had heard the Public Authorities' views on having an additional seat for an athlete, but he suggested approving the proposed composition and, immediately after the meeting, so as not to close the door to the Public Authorities' and the WADA Athlete Committee proposal, continue the discussion on an additional athlete seat. That proposal could be re-discussed, but his request that day was that the Executive Committee approve the proposed composition and immediately after the meeting, ask the WADA Athlete Committee for a concrete proposal as to the choice of an additional expert from the athletes' side.

MS BARTEKOVÁ referred to the consultation with the Athlete Committee. Even if there had not yet been a decision to add a new member to the Working Group, she suggested that there be consultation with the whole WADA Athlete Committee.

THE CHAIRMAN asked if the Members agreed to the proposal in relation to the composition of the new Working Group on the Review of WADA Governance Reforms. After the meeting, the discussion with the WADA Athlete Committee on an additional seat for an athlete could continue. In relation to what Mr Colbeck had said, the Working Group would carry out a wide consultation process with various groups of stakeholders.

#### DECISION

Proposed Working Group on the Review of WADA Governance Reforms composition approved. Athlete Committee to come up with a consensus proposal on another athlete for the group.

#### – **4.6 Expert Groups and Working Groups Report**

THE DIRECTOR GENERAL said that Management had been asked by the previous governance working group to have a look at how the WADA Expert and Working Groups were operating and whether there was a need to streamline their work. The feeling from the working group at the time had been that it was a matter for WADA to review and assess whether the Groups were still relevant and whether there was a need to harmonise some of the structures. Consultation had been carried out with the chairs of the various groups, and of the standing committees and the WADA Directors supporting and working with the Groups. The result of this consultation could be seen in the Members' papers. There was nothing revolutionary in this undertaking. The aim was to streamline operations and harmonise the work of the various Groups. In the end, there was no suggestion that any of the Groups should be eliminated or suppressed. The Management was proposing four things, the first of which was to clarify the names of the different groups, because there were various names. The proposal was to have expert advisory groups with longer mandates and working groups established

for a specific task, so a distinction could be made between the two. That led to the proposal to rename three of the Groups to align them with the first proposal. The third proposal was to clarify the way in which the Groups reported. They would report either to the relevant Standing Committee or, if there was no Standing Committee with which they were directly associated, to the Management.

The process had also been clarified in relation to a number of other points such as appointments, number of members, terms of reference, potential remuneration of members and so on. That was almost a housekeeping matter. Management had done what had been asked of it by the previous governance working group, and was now asking the Executive Committee to approve the proposal. It was not written in stone and would evolve, but at least it created a bit of harmony and clarified a number of things in terms of how the Groups operated and their reporting lines. It would not change much in practice, but at least certain aspects had been clarified. His request was that the Executive Committee approve the proposal.

MR DE VOS thanked the WADA Management for the detailed review of the structures of the Expert and Working Groups. He had two concerns he wished to share and would like to see reflected in the documents in the form of an amendment. The first had to do with financial support. The document should be amended in such a way to ensure that any additional work by members of the Groups requiring compensation outside of the standard meetings would first be approved by the WADA Director General in order to avoid loopholes. It would need to fit in with the budget, because any deviations from the budget would come back to the Executive Committee.

The second comment was that it would be appropriate for the Strategic Testing Expert Group to report not only to the Management but also to the Health, Medical and Research Committee. Those were the two proposals, the first of which he thought was much more important than the second. He would be happy to approve the proposal taking into account these two amendments.

MR HUSTING said that the European public authorities had been wondering whether the decision should not be postponed, as it might be more appropriate for such analysis to be undertaken by the new Working Group on the Review of WADA Governance Reforms.

THE CHAIRMAN stated that he heard the comments (especially from Europe) but, frankly speaking, WADA had been asked by the previous working group to carry out that exercise and, because the newly established Group was chaired by the same person as the previous group, he would not expect a different recommendation. Again, WADA had an opportunity to close the chapter and demonstrate that one more governance recommendation had been implemented, but instead he was hearing a request to postpone the decision. He was confused. The governance reforms had begun four years previously. WADA had been criticised by its stakeholders, including the governments on how slowly it was progressing with the reforms, and he was hearing a proposal to again postpone a decision on one of the reforms. It was not appropriate, and he would accordingly encourage the Members to acknowledge the review carried out by the WADA Management and endorse the proposed modifications to the Expert and Working Groups.

THE DIRECTOR GENERAL referred to the point made by Mr. De Vos on the reporting line of the Strategic Testing Expert Group. He did not think it would be a problem as the Chair of the Group would be a member of the Health, Medical and Research Committee as of the following year, thereby ensuring a direct link between the two committees, and it did make a lot of sense in terms of the TDSSA work. However, regarding the testing component, it would probably make more sense to have it dealt with by the Management, given it mainly involved the COVID-19 situation and WADA providing guidance in relation to it. There was no problem with this "dual" reporting and in fact, it would happen naturally.

He also accepted Mr. De Vos' point about financial support. So that the Members understood, it concerned Group members who would go over and above in terms of the usual group member work. There were laboratory experts, for example, who were asked to do a lot of work in terms of assessing and interacting with the laboratories. They sometimes put a lot of their own time - considerably more than regular meeting time - into these tasks, and it is in such cases that WADA tried to modestly remunerate them to compensate them for the work that they did. He was happy to make sure that that was pre-approved so that it was harmonised across the board and, of course, that it was within

the budget that was available. That was a given and he would make sure that the document was appropriately amended.

To reassure Europe, as he had said, the review and streamlining of the various Expert and Working Groups was not written in stone, and it could be fine-tuned; but, as the President had rightly said, it was a task that had been given to WADA by the previous group and the same Chair would probably make the same recommendation again. WADA did not want to create a gridlock on the same issue with the new Group. The Group will have to look at a much bigger picture in terms of governance reforms and, when the time came, if there was a recommendation to change things, it would always be possible. He would suggest moving on, if Europe could live with that. It would make it clearer for everybody, improving the current efficiency of the system and, as WADA moved forward on the governance reforms, if there was a need to adjust, it would be done in due course.

THE CHAIRMAN concluded the item and asked whether the Members agreed to acknowledge the review conducted by the WADA Management and endorse the proposed modifications with the amendments proposed by the Sport Movement with a view to implementing them in January 2021. He thanked the Members.

#### DECISION

Proposed Expert Group and Working Group modifications approved.

#### – **4.7 Standing Committees 2021**

Before giving the floor to the Director General, THE CHAIRMAN thought that it was worth mentioning that, on each of the Standing Committees, there had been consensus among the Chair of the respective Committees, the WADA Director General and himself.

THE DIRECTOR GENERAL said that, on top of the of the committee compositions, the Members had been provided with the broader statistics: there were 54 Committee members from 33 different countries, 28 female and 26 male, 16 athletes overall and 10 NADO representatives. Every Committee had been confirmed in agreement with the Chair of the respective Committees and there had been consensus on all of the proposals, so it was up to the Executive Committee to formally approve the composition of the groups.

MR DE VOS noted that the Sport Movement fully supported the proposal and also welcomed the gender balance, which was of course fantastic.

MS EL FADIL supported the proposal.

THE CHAIRMAN concluded that the Members agreed to approve the composition of the Standing Committees for 2021 as outlined in the paper and thanked them very much.

#### DECISION

Proposed composition of Standing Committees for 2021 approved.

#### – **4.8 Code of Ethics/Independent Ethics Board Update**

MR SIEVEKING said that he would be very brief. The Members would recall the two options in the paper submitted at the September meeting: one in which the decision was to be taken by the Ethics Board and the other in which the deciding body was to be the WADA Executive Committee. The version had been circulated for consultation with the Executive Committee and Foundation Board Members and their immediate advisors. A second version was also being circulated with the option proposed in September by the Sport Movement which included using an independent ethics officer in place of the Ethics Board proposed in the first document. The consultation closing date was mid-September and a second consultation period had been planned to start in early February until the end of March with a view to having a Code of Ethics approved at the May 2021 meeting.

THE CHAIRMAN suggested not opening a discussion unless the Members wished to clarify something. They would have an opportunity to hear from the Code drafter, Mr Kaiser, to discuss the Code more extensively.

MR DÍAZ said that he had a consensus comment and position from the Public Authorities in relation to the agenda item. They welcomed the fact that WADA had launched a consultation process, but wanted to express their concern that the adoption of the Code of Ethics and the establishment of its supporting institutions had taken more than two years since the approval of the relevant recommendations by the Foundation Board. That was a comment on behalf of all of the Public Authorities.

MR GUEISBUHLER stated that he was honoured to be representing Mr Lalovic at the meeting on behalf of GAISF. Mr Lalovic apologised for not being able to attend the meeting that day and hoped that the Members would have a fruitful meeting.

In relation to the Code of Ethics and the Independent Ethics Board update, he thanked WADA and Mr Kaiser for taking account of the comments and developing model C. That pragmatic approach tailored to needs appeared to be very promising and, with the consultation process ongoing until December, the Sport Movement would continue to engage and provide more detailed comments and feedback through the consultation process.

THE CHAIRMAN thanked the gentlemen for their comments.

#### DECISION

Code of Ethics and Independent Ethics  
Board Update noted.

#### **– 4.9 Athlete Representation Model Update**

MR SANDFORD said that he would be very brief. He would be presenting more at the Foundation Board meeting because the Foundation Board had not been updated on the matter, so there would be a more thorough update the following day.

Since he had spoken to the Executive Committee Members in September, the athlete representation working group had continued to meet. It had had a constructive meeting with the Olympic Movement and been able to address a number of issues at the meeting. There was a meeting planned with the Public Authorities and, off the top of his head, he thought that there would be one with the Public Authorities in Europe and one with the Public Authorities in the Americas. The work was ongoing. He was always happy to take questions and the Members could always contact him outside the meeting if they had any comments on athlete representation.

MS BARTEKOVÁ said that the Sport Movement had been happy to hold a consultation meeting, despite it being during the IOC Commission week with some timing constraints. She wished to highlight a couple of issues that had been mentioned during the consultation meeting which would require some additional work: the clear model A preference from the Sport Movement, mainly because it built upon the existing network of the athletes' commissions and empowered the athletes' commissions in the NOCs and IFs. There had been some concerns raised in relation to models B and C in terms of representation of para-athletes and no security of in-house cooperation with NADO and NOC athletes' commissions, as the NADOs would be the organisations in charge of the election.

She welcomed a progressive discussion during the meetings and thought that what had made it possible had been the participation of many stakeholders, which brought her to her suggestion: for the next round of consultation, which would first take place with the Public Authorities, after which the Working Group would meet again with the Sport Movement, the entire Working Group should be involved in the consultations, which would also allow the Working Group members to hear all the concerns of the public authorities and the sport movement. The Working Group and WADA's Executive Committee were not currently united in terms of where they wanted to go and how to proceed, so it would be very beneficial to involve the Working Group members in the consultation process. She thanked Mr Sandford and mentioned the outstanding work being done by Mr Pengilly.

MR KEJVAL pointed out something that had already been mentioned during the consultation meeting. He reminded the Members about the important role of the NOC athletes' commissions, because he was present on behalf of the ANOC. In almost every country in the world, there was a NOC athletes' commission. If one wanted dialogue with athletes on the national level in their language and if one was seeking feedback at the national level, they were also very important. He thought it

made no sense to set up a parallel structure, because that was already done, so it might be taken into consideration when discussing which model to choose.

MR DÍAZ thanked Mr Sandford for his work and leadership. CADE looked forward to the consultation process and would make sure that there were enough representatives from the different sub-regions of the Americas to hear the athletes' position, as well as the explanations on the three models.

MR SANDFORD thanked the Members for the comments. There would be many more consultations with all of the stakeholders.

With reference to item 9.1 on the Foundation Board meeting agenda, the Members would see the Anti-Doping Athlete Ombudsperson discussion document. That was the second version, so the Members might remember the May meeting in 2019, at which a discussion document had first been presented. A working group had since been set up and was working hard to develop the idea. That was the second round. The idea had been developed and become more well-rounded and articulate, resulting in the second document. He hoped that the Members had had a chance to read through it. There had been a lot of consultation with athletes that year and he had been on a lot of calls with the WADA President. That was one of the topics that the athletes universally highly supported. Athletes really saw the benefit in having an independent office person to go to in order to seek advice when they were not sure where to go or how to navigate the anti-doping organisations. There had been many comments in the past from stakeholders about how complicated anti-doping was getting and how many rules there were and, considering that from an athlete perspective, it was even more so. Athletes were familiar with the rules that they had to comply with on a day-to-day basis in anti-doping; but, when things did not go quite right, when they had interaction with people or ADOs that did not feel so good, it was really difficult for them to find out where to go and how. He knew from other sport ombudspersons around the world dealing with anti-doping that there was a real need out there for that type of service. There was a range of issues that came up frequently on result management and just being pointed in the right direction, so that was reflected in the paper and what the ombudsperson would be doing (section 7): the person would be able to direct athletes to the relevant services and act as a back-up when the athletes did not have that type of service in their country or through the NOC or sport, so the athletes could use the anti-doping athlete ombudsperson. That person or office would also be there to look into issues for athletes and guide them and build capacity and cooperation with similar services of that nature around the world. The aim was to design that to fit into the current system, and that was one of the good things about fitting it into the anti-doping system, because there was already a global set of rules and structures in place. It actually helped a lot. If one tried to have an ombudsperson for corruption, corruption rules around the world were different, so that would be quite difficult. For anti-doping, however, there was WADA, which harmonised all the rules, so it made it a lot simpler to fit that type of system and office into the global system. It was obviously limited to anti-doping. A more regional approach was being looked into, which was why the idea was to have four regional offices, allowing for better athlete access. There were things that the ombudsperson would not do. The office would not be a place for athletes to report doping, and it would not be there to replace athlete committees or existing services. He thought that it would fit into the system and be a real benefit to athletes and anti-doping in general. He would be happy to take questions immediately or hear from the Members after the meeting. He would be presenting that the following day to the Foundation Board Members.

THE CHAIRMAN thanked Mr Sandford. He congratulated him and the team on the progress made with the concept. It was an important project for the anti-doping community. He supported it because he thought that it was going to be a game-changer for the athletes.

MR KEJVAL thanked Mr Sandford. He himself was a member of the Working Group, which had been working hard. The ombudsperson would represent a big change for athletes in terms of support and doping issues. He had one thing to point out. He requested that WADA ensure no duplication between the proposed ombudsperson and the remedies that already existed and urged WADA to conduct a detailed analysis of such existing remedies so as to ensure that there were no overlaps as the project developed.

MR SANDFORD apologised and thanked Mr Kejval for all his work in the Working Group which was greatly appreciated. He agreed. WADA did not want to be duplicating services. The aim was for

the ombudsperson to be a unique service providing particular services to athletes and not adding more of the same thing into the system.

THE CHAIRMAN referred to item 9.1.1 on the Foundation Board meeting agenda relating to Athlete Engagement Activities. It was his own point, so he would try to be brief. As the Members might remember from previous meetings, it was the additional report on athlete relations with the Foundation Board. It was a new initiative under his presidency, as it was his intention to listen and engage and build stronger relationships with athletes worldwide and to build bridges for future dialogue in relation to the diverse views of the international athlete community, and he wanted to hear the many voices that were out there. In the past few months, he had had an opportunity to host a number of meetings with athlete groups. The meetings had been priceless in terms of advising athletes that he wanted to hear from them and that WADA needed their ideas, support and views. Since the previous meeting, he had had an opportunity to host a virtual athlete round table with representatives of various athlete groups from around the world. He was happy to receive constructive solutions to improve the global anti-doping system, but he also wanted athletes and their representatives to be vocal when they supported WADA's efforts. The aim was to build on WADA's strengths, and athletes had to be a part of that. He would also be looking at how to engage and communicate with athletes in other more innovative ways. He welcomed the Members' suggestions in that respect, as they had experience in engaging athletes in their own countries or sports and many were current or former athletes themselves.

#### DECISION

Athlete Representation Model Update,  
Ombudsperson Update and Athlete  
Engagement Activities Update noted.

### **5. US Stakeholder Update**

#### **– 5.1 Update on Discussions with the USA (ONDCP Report)**

MR BOUCHARD drew the Members' attention to the written Report that had been provided. At the previous Executive Committee meeting, he had indicated that the WADA President and the Director of the ONDCP, Mr James Carroll, had expressed a desire to re-establish the dialogue between the two organisations, following up on the ONDCP Report to the US Congress and also on WADA's response to Congress. That meeting had taken place virtually on Friday 6 November. He would outline for the Members some of the points raised. Mr Carroll had reaffirmed the US Government's commitment to work with WADA from within WADA. He had stated that WADA was not an adversary, and its structure and DNA were sound. He had also indicated that the ONDCP intended to remain engaged with WADA and to pursue reform from within the Agency in a collaborative manner. He had said that the intent of the report mandated by law to the US Congress had been to give what the ONDCP believed to be an honest assessment of the WADA governance structure, the ultimate goal being to make WADA stronger. Mr Carroll had also indicated that it was important to see some additional governance reforms, in particular in relation to athlete representation. The desire of the ONDCP was to collaborate to do so. The matter of withholding funding, whilst still an option on the table, was a last resort mechanism for the US Government. He had indicated that it was not something that the US Government wanted to have to do. Mr Carroll had also indicated that, when the next ONDCP report was to be provided to the US Congress, probably in early 2021, the ONDCP wished to be able to report positive results in the following areas: progress and results of WADA's governance review, the role of independent athletes in WADA's governance, and US representation on the WADA Standing Committees.

In turn, the WADA President had indicated that he was pleased to hear the US Government's commitment to working with WADA from within WADA. He had also been pleased to see that the Agency was committed to moving forward and strengthening the relationship with the U.S., and was pleased that the meeting was a very good step in that direction. The WADA President had also noted the desire to have US representation on WADA's Standing Committees, had welcomed the strong US participation and involvement and, as had been the case for almost all of WADA's history, had indicated that competition for appointment was intense, that WADA had to be mindful of diversity at

all levels, and that the WADA Executive Committee would approve new members for the 2021 Standing Committees and that there were several US nominees. On governance reform, the WADA President had noted that changing the WADA governance process was an ongoing and democratic process. He had indicated that some changes brought to date had been quite significant in scope, and that WADA wanted to continue to make progress in relation to the implementation of the governance reform, especially with athlete representation and the creation of a new Code of Ethics. There had also been an exchange of views on how the two organisations could work together to strengthen and harmonise the anti-doping system in the US. There had also been a discussion on the impact of COVID-19 on the global anti-doping system. Finally, the WADA President had expressed WADA's willingness to work with the ONDCP to address the issue of college, university and pro sports, which currently operated completely outside the framework of the World Anti-Doping Code, despite the fact that they involved comprised by far the majority of US athletes.

In conclusion, the WADA President and Mr Carroll had been united in the view that it was an important meeting during which WADA and the ONDCP had been able to discuss a number of areas of mutual concern in an open and honest way. They had both agreed that the partnership between WADA and the US Government was vitally important for the protection of clean sport around the world and that a direct line of communication should be maintained to avoid misunderstandings in the future. As such, they had committed to strengthening the partnership, and saw the meeting as an important step along a renewed path of dialogue and cooperation. That was a summary of the meeting that had taken place on 6 November.

#### DECISION

Update on discussions with the USA noted.

#### – **5.2 Consequences of the Rodchenkov Act**

MR BOUCHARD informed the Members that WADA continued to follow developments in the US Congress. The bill required the approval of the US Senate and President. The approval of the bill was still a possibility and could happen quickly in the context of a lame duck session, as he had reported in September. Having said that, it could also take time considering the important issues which the US Congress was dealing. It was expected that the US Senate would focus on COVID-19 and the rescue package over the coming days and weeks and, generally speaking, it was expected that there would be little legislative activity. WADA had expressed concern about the potential extraterritorial implementation of the bill; but, at the same time, had indicated a willingness to cooperate with the US Government and to provide any explanation or advice to ensure that the bill was complementary to WADA's efforts to better protect clean athletes worldwide. That completed his report.

THE CHAIRMAN stressed that working hand in hand with the stakeholders was very important to him and that was why he was very glad that his meeting with Mr Carroll the previous Friday had been very positive. They had both agreed that the partnership between WADA and the US Government was extremely important. They had also agreed to continue their open, bilateral communication. As indicated by Mr Bouchard, a number of issues had been discussed, including the ongoing WADA governance reforms, US Government and athlete representation within WADA, and ways of strengthening the anti-doping system, including in the US. He had mentioned his concern about major leagues and college sport and had offered assistance in developing further cooperation with the relevant stakeholders to encourage them to finally sign the Code. He had indicated that education was a good starting point. Again, it had been a friendly and productive meeting.

MS EL FADIL thanked the Chairman for taking forward the proposal. She had a question about the impact of the US situation on the budget or on the US contribution to WADA. Had it already been affected or would it be affected?

MS BARTEKOVÁ shared the athletes' concerns about the Rodchenkov Act. The athletes all wanted the system to be strong and legislation to work or be valid for everybody. She was a little concerned about the undermining effect of the Rodchenkov Act on the strength of WADA as the global manager of the anti-doping system. She wondered whether efforts to harmonise the fight against doping in sport would still be possible if the Rodchenkov Act were to be adopted and encouraged discussion with the US counterparts on that. She also shared the concerns mentioned by the WADA President

in relation to the professional leagues and college sports and asked what athlete groups would be covered by the Act should it be adopted. She had already shared the concerns related to the US athletes concerning the possible non-payment of dues: it was necessary to make sure that the athletes would continue to be protected and be part of the anti-doping system and not be affected in terms of participation in competitions.

PROFESSOR ERDENER thanked Mr Bouchard for the updated information. He had two brief comments to make. The Sport Movement of course fully supported an open dialogue with the ONDCP and looked forward to receiving an update on the discussion of 6 November. In relation to the Rodchenkov Act, while the Sport Movement supported initiatives that could help strengthen anti-doping investigations and the sanctioning of the athletes' entourage, the Olympic Movement reiterated its concerns about the potentially damaging effects of the extraterritoriality of the Rodchenkov Act on the global efforts to fight doping in sport.

MR DÍAZ thanked Mr Bouchard for his report. CADE had taken the matter very seriously; it was in close contact with the US, involving many leaders from the sub-regions, as well as presence and collaboration from Canada. He understood that it had been a very big challenge and it had taken WADA by surprise, because the past representative of the US Government who had sat for many years on the Foundation Board had never presented anything close to what was currently the case. The involvement of the various Foundation Board Members could help WADA reach consensus in relation to the current challenges.

THE CHAIRMAN underlined that he wanted to continue dialogue with the US friends. He thanked the Members for all their remarks. In relation to the budget, the US had underlined that they considered withdrawing funding to be a last resort. WADA had already received the contribution for that year, so that was a discussion about the future. He truly believed that the dialogue could be continued with respect and understanding.

MR BOUCHARD told Ms El Fadil that the US had indicated that it wanted to collaborate, it wanted dialogue to take place and it wanted to be part of WADA. The possibility of funding being withdrawn was still a possibility. The ONDCP would have to report to the US Congress once again the following year, probably in the first quarter of 2021 or early in the second quarter. When it reported, it would report on three things: the results of the WADA governance review, the role of independent athletes in WADA's governance, and US representation on the WADA Standing Committees. He thought that the ONDCP wanted to collaborate, but the Members would see what the end game was in terms of the report. He thought that that addressed the first point put forward by Ms Barteková.

He wished to make a point of clarification: the Act did not target athletes per se. It targeted those around athletes and the games sponsors, organisers, broadcasters and those organisations that helped support or fund major sport events. He was concerned about the extraterritoriality of the bill for the same reason alluded to by Ms Barteková, which was that it put a second layer of legislation on top of the World Anti-Doping Code, and that could become complex and convoluted in terms of legislation, rules and policies. It could even be worse if other countries imitated or introduced similar pieces of legislation. It was a concern, also because of the impact that it might have on whistleblowers and the capacity of the WADA Intelligence and Investigations Department to conduct investigations. Dialogue was important, and that was why WADA continued to engage with the US Congress. WADA would continue its efforts, but the jury was still out there and the Members would see if the legislation was adopted in a lame duck session. He thought that that also covered the point made by Professor Erdener.

#### DECISION

Consequences of the Rodchenkov Act noted.

## 6. Finance

### – 6.1 Government/IOC contributions update

*[Members received a written update only on this agenda item. Due to the format of the meeting being virtual and abbreviated, a number of items were not intended to be discussed unless Members wished to raise any points.]*

### – 6.2 2020 quarterly accounts (quarter 3)

*[Members received a written update only on this agenda item. Due to the format of the meeting being virtual and abbreviated, a number of items were not intended to be discussed unless Members wished to raise any points.]*

## 7. Legal, Code and Compliance

### – 7.1 LIMS Cases and RUSADA Update

MR SIEVEKING said that WADA continued to provide assistance where required to follow up on the status of the work done by the IFs. The number of decisions taken and the number of pending cases changed on a daily basis. The number that the Members had in their files had changed. The number of decisions was currently 133. A certain number of cases had been closed. It was important to underline that WADA monitored the situation very strictly and any decision to close a case by an IF was duly reviewed by the WADA Legal Department together with the WADA Intelligence and Investigations Department, and also with external legal counsel to ensure that everybody agreed and that no case was closed unduly. WADA would continue the very close monitoring to ensure that any potential cases were duly assessed and dealt with and that the conclusion was compliant.

MR TANOSE said that should the CAS decide to dismiss the appeal by RUSADA, he wished to comment on the process and conditions for granting neutral athlete status to clean Russian athletes. As the Members knew, clean Russians with neutral athlete status would be allowed to take part in the Olympic Games and Paralympic Games and it would be the first time that the process and conditions for granting neutral athlete status were implemented through the application of the WADA ISCCS, which had entered into force in April 2018. Therefore, it was quite important to implement that without any confusion to ensure confidence and understanding on the part of the international community with regard to the anti-doping system. He asked the WADA Management to push forward with adequate preparations so as to implement the process and conditions smoothly without any confusion as soon as the CAS issued its decision, including identifying and articulating the required doping tests for clean Russians to acquire neutral athlete status prior to Tokyo 2020 the following year. He appreciated the Members' understanding in that matter.

THE CHAIRMAN thanked the Minister. His point had been taken.

MR MAY reminded the Members that, on 28 August, the founders of RUSADA (the Russian Olympic Committee and Paralympic Committee) had dismissed the Director General of RUSADA for loss of trust based on a recommendation from the RUSADA Supervisory Board. At the same meeting, the founders of RUSADA had appointed the head of legal affairs who had been working at RUSADA as acting Director General for a period of six months. Around the same time, the Deputy Director General and the independent international expert on the RUSADA Supervisory Board had both resigned, and all of that had raised some concern at WADA and among the anti-doping community. To monitor the situation and try to gather as much information as possible, WADA had ensured continuous communication with the RUSADA Supervisory Board chairman, the acting RUSADA Director General and heads of key departments within RUSADA, including testing, legal and investigations, as well as trying to gather information from other relevant parties and the authorities within Russia. WADA had recently received a full management report from the acting Director General in October with an update on the strategic, management, staffing and governance plans and issues in terms of some of the areas that WADA sought to continue to monitor on a regular basis. The report had been compared with the information WADA had been able to gather from other sources to get a full picture of what was currently happening at RUSADA. In addition, WADA continued to receive a detailed monthly report from RUSADA on all of its activities and programmes, including testing,

Athlete Biological Passport profiles, result management, TUEs, investigation activities and education. WADA took all of that information and compared it to the information it was able to gather through its regular activities (monitoring the data in ADAMS, the cases and decisions provided to the WADA Legal Department), providing a full picture on what was happening at RUSADA on a day-to-day basis in terms of its programme activities. Finally, WADA was providing regular updates on a bi-weekly basis to the internal Compliance Task Force and the independent Compliance Review Committee, with regular reports to ensure that they were fully aware of what was happening in Russia in relation to RUSADA.

Having said that, the next steps included continuing to monitor the situation whilst respecting the processes in place within the World Anti-Doping Code and the RUSADA statutes. RUSADA had agreed to share with WADA any proposed changes to its governance documents, including the statutes, prior to anything being finalised. WADA was starting a process to identify a new international expert to be part of the RUSADA Supervisory Board, to be recommended to RUSADA in accordance with the statutes. RUSADA had also invited WADA to be a part of the commission that it had created to recruit and appoint a new permanent director general, and WADA was developing a plan for the post-CAS decision period, to include a way forward should the CAS accept the Compliance Review Committee's recommendation that, as a condition of RUSADA's eventual reinstatement, WADA remained satisfied as to RUSADA's independence and that there was no improper outside interference from the authorities in terms of its operations.

THE DIRECTOR GENERAL addressed the remarks made by Mr Tanose. Everybody wanted clarity for the Olympic Games in Tokyo, not only the organisers but also the federations, etc. The reality was that it was one point discussed during the CAS hearing and, until there was a decision from the CAS, he did not know the extent and the conditions that would apply to the Russian athletes. The good news was that the CAS decision would be made by the end of the year, giving everybody six months to implement whatever decision was taken. The mechanism to deal with neutral athletes had been discussed at length and proposals made during the hearing, so there were already several elements on the table, but it remained to be seen what the CAS decision would be. WADA, of course, would be ready to support and help once it knew all the parameters, which would happen by the end of the year.

#### DECISION

LIMS Cases and RUSADA Update noted.

#### – **7.2 & 8.2 International Weightlifting Federation Update & Investigation Report**

THE CHAIRMAN referred to the complex agenda item requiring an update from more than one person.

MR SIEVEKING said that the Members would have seen the highlights from the WADA Intelligence and Investigations Department and the interim report on the IWF highlighting the importance of extending the storage of negative samples so that they could be used for DNA testing. Another point had been the ability for WADA to access or request documents relating to systems managed by signatories. WADA was looking at that and would come back with some proposals, but was obviously aware that there were several legal constraints in relation to data protection in particular. Due note had been taken and WADA had started working on that matter and would get back to the Executive Committee at a later stage with some proposals.

On pending cases, the Members would see the numbers in his report. Since he had drafted the report, the ITA had sent on behalf of the IWF another update on pending cases. Based on that new update, it had been possible to close 18 more pending cases. The ITA had also provided several updates on other cases for which no decisions had been received. The ITA was still looking into those and was keeping WADA regularly updated and would continue to do so, and WADA would relay any information to the Members.

In relation to Dr Aján, WADA had written twice to the IWF to find out if there could be some action taken against the former IF president based on the applicable anti-doping rules of the IWF at the time. The IWF and the ITA were looking into that. There would be a virtual meeting with them the following week on that point. WADA was waiting for an opinion on a legal basis on any of the

applicable IWF rules at the time (the anti-doping rules or even the statutes or other internal rules in force) of Dr Aján's presidency. That was still ongoing work.

MR YOUNGER said that he could not add much more at that stage of the investigation. Everything he was able to say had been highlighted in the interim report. WADA had been investigating and cooperating with law enforcement agencies since the beginning of 2019 on that matter. The enquiries were still ongoing and his department stood ready to provide any support that might be necessary. WADA worked closely with its trusted partner, the ITA, and had already shared intelligence reports with it and worked hand in hand to make sure that all allegations mentioned in the report were investigated thoroughly. That also included managing the outcome of Operation Arrow. Interviews were still being conducted with athletes and officials, but he was confident that WADA would be able to hand over the evidence to the ITA very soon to discuss possible result management processes. From 59,000 samples looked at, WADA had identified 130 very suspicious ones, and unfortunately 99 samples had not been available as they had been destroyed on a regular basis after three months. Considering WADA's success rate above 50% the Members could just imagine how many cases WADA would have been able to disclose had it had the samples available.

He hoped that the Members would understand that he could not share any more details about the Arrow methodology at that time. It was necessary to make sure that the overall objective to apply the successful methodology to other sports and identify more doppelgangers would not be endangered. In that respect, it was first necessary to assess whether the cases were legally strong enough to establish anti-doping rule violations or whether the investigative strategy needed to be adjusted for other sports. In the next step, the evidence for all the other targeted sports would be collected and secured, after which it would be possible to disclose the strategy and methodology. He was confident that he would be able to share more outcomes on Operation Arrow with the Members at the next Executive Committee meeting.

MR DONZÉ thought that it was also important to give the Members some information and clarification in terms of the compliance situation of the IWF and what WADA had done on that particular front over the past few months. Since the publication of the McLaren-IWF investigation report in June that year, the compliance team had carefully reviewed all available elements from a compliance perspective and provided regular updates to the independent Compliance Review Committee. In order to open a compliance procedure, it was necessary to take into account two particular elements. WADA could open a compliance procedure only under the ISCCS, based on evidence. Currently, there were allegations that were being further investigated by the WADA independent Intelligence and Investigations Department and also a number of law enforcement agencies that had started criminal investigations based on the work of the Intelligence and Investigations Department. That meant that WADA needed allegations of breaches of the World Anti-Doping Code by the IWF or any other anti-doping organisation to be translated into evidence. The second element was that the ISCCS, which had come into effect on 1 April 2018, did not apply retroactively. That had been confirmed by external and internal legal advisors, but also by the way in which WADA had had to address the non-compliance of the Russian Anti-Doping Agency. At that stage, WADA did not have evidence that non-conformities from the IWF or any other ADO in relation to weightlifting, or wrongdoing by officials who might still be in place, had occurred after 1 April 2018. That had been discussed on a number of occasions with the Compliance Review Committee. The Compliance Review Committee supported that position unanimously and its members had asked the WADA staff to continue to review all new elements that might come from various WADA departments or external sources and update them regularly. That was what was currently being done, and he could assure the Members that WADA would continue to monitor the situation very closely from a compliance perspective.

MR GUEISBUHLER said that the Sport Movement thanked the Intelligence and Investigations Department for sharing the detailed interim report, and welcomed the wish to initiate reflection as to how access to critical information could be facilitated beyond the cooperation of the signatories. The Sport Movement understood that the proposal would be to empower WADA under the Code to compel access to information. However, before taking any further position on that topic, it would be appreciated if certain concerns could be clarified. For example, everybody was aware of the growing importance of the GDPR regulation, which had entered into force in May 2018 and had also affected the Sport Movement. What measures would be required to comply with the GDPR regulation, as

private information might also be affected? Would it be possible to access information without it being overburdensome for the entities that needed to comply with that new regulation? Understanding that a certain level of consent would be required from a private organisation, would that also be possible when a NADO was registered as a governmental organisation? Considering the potential complexity of the proposal, would there be any other ways for WADA to achieve the same results? Those were just some reflections that he had wanted to share with the Executive Committee and the Intelligence and Investigations Department so that they could be taken into consideration. The Sport Movement would be available to provide any input or further detail on the matter.

MR SANDFORD welcomed the really helpful reports. He commented on a footnote (7.2) in Mr Sieveking's report, saying that WADA had been aware of the issue of the IWF delaying result management since 2010. He was quite surprised that WADA had known about the issue since 2010 but that he had learnt about it only through the McLaren report. He wondered if, in hindsight, there was more that WADA should have done earlier to try and rectify the situation. He understood that WADA had not had the International Standard at the time, but he was also wondering if there were other ADOs of which WADA was aware that had also adopted the slow-down in result management to allow athletes to continue competing and which the Members would find out about in the future.

MR SIEVEKING responded that WADA was monitoring all the cases so was aware when adverse analytical findings were reported by laboratories, and WADA had been extensively and constantly following up the cases for years since the date mentioned by Mr Sandford, but unsuccessfully. First, because there had been a total lack of legal basis until 2017, so WADA had had no legal basis to act on that issue. As indicated in the footnote, abundant correspondence had been sent to the IWF following up on cases, including hundreds of follow-up e-mails generated by the database, and there had been specific meetings, so the issue was well known but it was difficult to act without legal basis. Given the entry into force of the new Standard in 2018, WADA had asked the IWF to deal with all the pending cases within six months. The clock was ticking. The ISCCS would be applied in the event of any further delay. As indicated in the McLaren report, when following up on delayed cases by the IWF, WADA had received on three occasions answers that unfortunately the IWF records might be incomplete for the period before 2014. WADA had tried to gather as much information as possible, and had learned from the McLaren report that information had been withheld on purpose, but at the time there had been absolutely no reason to believe that the information was being deliberately hidden from WADA. When there was only a sample number reported by a laboratory with a substance detected, it was difficult to bring a case before the CAS on that sole basis, without even the athlete's name, and doping control forms had not been required at the time in ADAMS. All those circumstances had prevented WADA from doing more in terms of bringing the matter forward. In the Code and the ISCCS, there was the appropriate legal basis to ensure that WADA would not face similar situations in the future.

MR YOUNGER informed the Members that the reason that it had been put in the report was that WADA was facing the situation of limited investigatory power. WADA could do open source and interviews but, to get hold of evidence, it was sometimes necessary to go into the infrastructure of an organisation, and he gave the Members an example. He had been an investigator for the IAAF. The evidence found had been in the organisation, so it had been necessary to go to the organisation. Also, there had been no access for Professor McLaren, which had then been the key for all the evidence. From his point of view, there was some information, but it was necessary to go into the organisation. The IBU and the IAAF had asked external experts to investigate their cases afterwards, and then they had corroborated the findings. WADA wanted to initiate that discussion, as the only avenue in the event of such allegations was to consider police involvement or prosecution, which was a line that WADA did not always want to cross, because it would criminalise the organisations. The idea was for WADA to gain access to information that would also exonerate the organisation or the people in the organisation. The objective had been to initiate the discussion without going further into the rules and the consequences.

THE DIRECTOR GENERAL responded to Mr Gueisbuhler. He agreed that there were several legal questions that had not been answered and that it would be necessary to look very carefully at the GDPR and other issues in terms of accessing documents. WADA was far from having evidence from a legal standpoint. The other point made total sense. If WADA applied a system, it would have to apply to all signatories and not only to IFs. Applying the system to NADOs would probably raise other

issues, given that they operated under national law. Those were very fair questions which WADA would look into, and hopefully he would have more answers in May. As Mr Younger had pointed out, it was pretty obvious why that would be extremely useful to have, but how WADA achieved that remained to be seen from a legal standpoint.

#### DECISION

IWF Update & Investigation Report noted.

#### – **7.3 2021 Code Article 20.7.1 – Roles and Responsibilities of WADA**

MR SIEVEKING said that WADA could not be a signatory, as it was monitoring signatories' compliance, but WADA was an anti-doping organisation and had responsibilities under the Code, so the new article 20.7.1 of the 2021 Code required that WADA accept the Code and commit to fulfil its roles and responsibilities under the Code through a declaration approved by the WADA Foundation Board. The Members would have seen the declaration in the file which was submitted to the Executive Committee to be recommended to the Foundation Board for approval the following day.

THE CHAIRMAN asked if the Executive Committee agreed to recommend that the Foundation Board formally approve the document as required by the Code itself.

#### DECISION

Executive Committee to recommend formal approval of Code Article 20.7.1 to the Foundation Board.

#### – **7.4 Possible Sanctions due to Unilateral Withdrawal of Funding**

MR SIEVEKING said that the US situation had flagged an issue of a possible weakness in the rules, so the Members would have seen among the papers some avenues that WADA had started to explore. He wished to make it clear that it was not a proposal, just some thoughts that were being explored and shared with the Members. He would be grateful for feedback and support in relation to the work that obviously needed to be continued. The Management was looking at all the options, and there was no decision as to how that should look in the end. It was clear that something should be done. It was still work in progress and the Members' feedback would be required, as well as liaison with external counsel to ensure that the proposal to be put forward in the papers in May 2021 answered the question in an acceptable manner. If the Members had any particular questions, he would be happy to hear them.

THE CHAIRMAN reassured the Members that the discussion was not directed at the US. The recent US threat to withhold funding had exposed the fact that WADA's rules did not currently address the potential risk. It was a weakness in the system. If stakeholders were able to withhold agreed funding due to WADA decisions, it would cause a lot of instability for WADA and the global anti-doping system. Imagine a country being unhappy with WADA's decision on other steps taken against its top athletes. It was not so hard to imagine. WADA's responsibility was to protect clean sport and make sure that justice was served. If the country decided to retaliate and withhold its funding, what tools did WADA have to protect the organisation and ensure the stability of the system? As the global regulator, WADA needed to address such risks and ensure that its funding was not put at risk as a result of the decisions it took. That was why he wanted to initiate a discussion on possible consequences that could be triggered by a stakeholder withdrawing agreed funding. He was not pre-empting any decision; it was prudent to seek legal advice. WADA's intention was to . continue and explore different mechanisms and tools to address the issue and come back with a proposal in May 2021 to be approved by the statutory bodies.

MR SIEVEKING pointed out that the intention was not to sanction any country that delayed its payments to WADA for any reason. The intention was to find a solution in the event of a country withholding funding to put pressure on WADA to get a certain result, and not to sanction a country that was due to circumstances needed to delay payment of its contribution.

MR KEJVAL said that the Olympic Movement shared the concern that it was still a challenge to ensure the commitment of states under the UNESCO Convention, and the Sport Movement also

questioned what was being done by UNESCO to ensure that governments paid their contributions to WADA as stipulated by the Convention. The issue of potential sanctions due to the unilateral withdrawal of funding needed to be addressed, as it was not covered by the current Code; however, the Sport Movement had concerns about the proposed wording and would like to see further discussions taking place and consideration given to other potential sanctions that perhaps did not place an additional burden on signatories. The Sport Movement would also welcome suggestions from the Public Authorities in that respect.

MR HUSTING made some points on behalf of Europe and the Public Authorities. They wanted to stress the importance of every stakeholder fulfilling their financial commitments to WADA. They also thought that the proposed 'thoughts', as Mr Sieveking had called them, did not currently seem to be adequate and could even raise some legal issues. They did not think that introducing new changes in a Code that had not yet entered into force was appropriate. As raised by the previous speaker, the Public Authorities' view that a more suitable solution within the UNESCO framework could be found, so would see if in-depth reflection could take place at UNESCO in the near future to find a solution in relation to the issue of financing.

MR DÍAZ sought to answer the questions in relation to UNESCO. He appreciated WADA taking into consideration what CADE had expressed at the previous Executive Committee meeting and its proposal or request to find a mechanism to exert some pressure in the event of anybody unilaterally deciding not to pay its contributions. As mentioned in the report, that was still a possibility and, if one took into consideration all the decisions in relation to multilateral organisations, such as UNESCO, if the US decided not to contribute economically, it was a concern for his region which was taking the matter seriously and wanted to let everybody know that it would be responsible because of the way in which the formula worked for the regions. However, putting on his hat as a UNESCO Bureau member, the solution would not be found through the framework of consequences, because the nature of the framework of consequences in a multilateral organisation such as UNESCO was more of a diplomatic or symbolic sanction. Therefore, it would have absolutely no impact in terms of putting pressure on a country withdrawing contributions. That should not be relied upon at this stage. WADA was the organisation that had stakeholders from both the Sport Movement and Public Authorities, which was not the case for UNESCO who had no commitment or responsibility to anybody from the Sport Movement, so WADA was the only body that would be able to place pressure on a stakeholder in relation to sporting events, taking into consideration the Code signatories, and not UNESCO. Of course, within the process of the framework of consequences, UNESCO would be able to approve the first stage and then perhaps add significant pressure in terms of commitment from the governments in the coming years. At this stage, he would not recommend relying on the framework of consequences providing any kind of solution.

MR COLBECK said that he had expressed concern at the previous meeting in relation to that particular approach, and his concerns had not been diminished. He agreed with some of the other Public Authority representatives who had spoken about potential legal issues that existed in particular between NADOs and their governments. The suggestion that a NADO should be putting pressure on a government to do something was quite problematic and would potentially place the NADO at risk. The approach was problematic, so there was plenty of work to be done in that regard. He congratulated the WADA President on his conversation with the US the previous week; it was a very pleasing development, but he did remain concerned that the public discussion referred to the US and, while the Management of the organisation obviously felt some level of exposure in relation to the US (threats, and they could be put in that context), he thought it was necessary to be very careful about that and, regardless of where it sat, it would be perceived to be in a particular space, particularly with respect to the US. If anything occurred, it should occur through all the proper governance processes. There had just been a conversation about a particular sport that had had no action taken against it for a decade. Those were the issues that had raised that concept in the first place. WADA should focus on dealing with its issues and problems and not get caught up in the fight. Largely, WADA had moved on from the fight, and he was pleased to hear that, but that matter needed to go through all the proper processes if it was to progress, and not through a makeshift process with proposals based on a conversation held at the previous meeting. He could not support a variation such as that to the Code unless it went through a proper consultation process in which everybody involved had an appropriate voice and opportunity to consider it. He reflected on earlier discussions about some of the legal issues, particularly in the light in which it was currently framed.

THE CHAIRMAN thanked the Members for their comments. He could not agree more with Mr Colbeck. WADA would follow the process and would do that with the stakeholders. Again, he reassured the Members that the discussion was not directed at the US. As the person responsible for the Agency, he observed that there was a weakness and the aim was to protect it and avoid any potential consequences. Something needed to be done. In relation to what Mr Husting had said about UNESCO, he agreed with Mr Díaz. The framework for consequences of non-compliance being developed by UNESCO was not considered to be sufficient to address the risk of unilateral withdrawal of funding. WADA would continue to facilitate work on the issue.

#### DECISION

Discussion on Possible Sanctions due to Unilateral Withdrawal of Funding noted. Discussions between Stakeholders to take place, facilitated by WADA.

#### – **7.5 Signatory Compliance Prioritization Policy**

MR DONZÉ said that the item dealt with the policy for WADA's initial application of the International Standard for Code Compliance by Signatories. Those Members who had been in Seoul in November 2018 would remember that the Foundation Board and Executive Committee had approved the ISCCS and a number of related amendments to the Code, and had also adopted the policy for WADA's initial application of the ISCCS. The purpose of the policy was to give the WADA Management the ability and opportunity to prioritise its resources and focus in terms of the enforcement of compliance by Code signatories that presented a higher risk of doping. That was why signatories were internally placed in different tiers and why WADA opened priority compliance procedures in relation to higher tiers of signatories. In terms of history, the policy had been approved for a two-year period starting on 1 April 2018, the date on which the Compliance Standard had entered into force; and, at the Executive Committee meeting in Lausanne in January that year, the Executive Committee had approved an extension of the validity until the end of that year, to 31 December 2020. The WADA Management and independent Compliance Review Committee were proposing a further one-year extension of the policy until 31 December 2021. There was a strong belief at WADA and within the Compliance Review Committee that in order to further enhance the anti-doping programmes worldwide, the prioritisation policy should be amended to increase compliance requirements by signatories, but there was also a strong belief that it was not the right time given the negative impact of COVID-19 on the signatories' anti-doping programmes and on the WADA compliance monitoring programme. Therefore, to ensure that any increase in the compliance requirements would be manageable by signatories and WADA, the proposal by WADA and the Compliance Review Committee was to extend the current prioritisation policy until the end of the following year, to review the situation the following year in light of the evolution of the pandemic and come back to the Executive Committee in May or September with a proposal for an amended policy for approval.

THE CHAIRMAN said that the Executive Committee was being asked to endorse the recommendation by the Compliance Review Committee to extend the validity of the current policy to 31 December the following year and acknowledge that the Compliance Review Committee would present a revised policy to enter into force on 1 January 2022.

#### DECISION

Proposal to endorse the recommendation by the Compliance Review Committee to extend the validity of the current Signatory Compliance Prioritization Policy to 31 December the following year and acknowledge that the Compliance Review Committee would present a revised Policy to enter into force on 1 January 2022 approved.

## **8. Intelligence and Investigations**

### **– 8.1 Intelligence and Investigations Audit Report**

MR SIEVEKING said that the WADA Intelligence and Investigations Department was audited every year by an independent supervisor, as set out in the WADA Investigation Policy. The 2020 Audit Report had been made available to the Members and, as required under the Investigation Policy, was being submitted to the Executive Committee for approval.

THE CHAIRMAN asked if the Members approved the report.

#### DECISION

Intelligence and Investigations Audit Report approved.

### **– 8.2 Investigation Report – International Weightlifting Federation**

Item dealt with under 7.2.

### **– 8.3 Amendments to WADA Investigations Policy**

MR YOUNGER said that the Investigations Policy had been amended for two reasons: first, in response to discussions that WADA should publish more investigative results, but to ensure no damage to confidential sources and witnesses should the reports be leaked to the public, the Intelligence and Investigations Department had developed a procedure together with the WADA Legal Department allowing WADA to publish a summary of investigative results, as had been done recently with the IWF investigation. Secondly, as a result of a wider discussion, the policy had been amended so that, in exceptional cases and under strict conditions, interim reports could be provided to the Director General. That would be done only if critical non-compliance or severe anti-doping rule violations were detected during an ongoing investigation. Those were the proposed changes in a nutshell. He would be happy to answer any questions.

THE CHAIRMAN asked if the Members agreed to recommend the amendments to the Foundation Board for approval.

#### DECISION

Executive Committee to recommend that the Foundation Board approve the proposed Amendments to the WADA Investigations Policy.

### **– 8.4 SpeakUp! Logo Policy and MoU with International Federations**

MR YOUNGER announced that the good news was that the SpeakUp! programme had been a great success over the past four years and that more and more whistleblowers and informers trusted in WADA's ability to investigate their doping allegations. The bad news was that the administrative workload to process all of the reports had increased significantly. WADA shared more than 90% of its cases with its stakeholders but covered most of the administrative work for those cases. In addition, WADA sometimes faced a situation whereby stakeholders did not have sufficient investigative capabilities or resources, which sometimes put WADA in a difficult position when responding to its whistleblowers. Therefore, it had been deemed necessary to set up strict conditions for when an IF could use the SpeakUp! programme, so as to ensure that they were in a position to adequately follow up their cases. Consideration had also been given to extending the programme to NADOs; however, that had been decided against because it was expected that the national athletes would first approach their respective NADO and the NADO would then be the best recipient anyway. It was also anticipated that national whistleblowers would want to communicate in their mother tongue, and WADA currently offered only two languages. WADA was already stretched in terms of workload, and extending to NADOs would increase rather than decrease its administrative workload. A demand had been seen for a Spanish speaker for the SpeakUp! programme, and the Management was currently working to prepare the Department with the necessary infrastructure, for instance,

Spanish-speaking investigators and source analysts. He hoped that his explanation had been sufficient.

MR SANDFORD raised one possible concern about having the SpeakUp! platform appearing in exactly the same format on the WADA website and IF websites. If he were an athlete with concerns about his IF and how it was conducting itself, or if he believed it was corrupt or not running its investigations correctly and he went to the IF website and saw the SpeakUp! platform there, he would obviously have concerns about reporting doping to the IF. If he then went to the WADA website and saw exactly the same platform on the WADA website, his initial belief would be that all the information would be shared between the two organisations and his issue might not be looked into sufficiently. His understanding of how that operated was different (and perhaps Mr Younger might want to clarify it) and was that, even if one went to the IF, all the information went to WADA in the first instance anyway before going back to the IF, but he wanted to raise the concern about athletes not trusting reporting because of perceived issues with their anti-doping organisation.

MR YOUNGER thought that Mr Sandford had made a very good point and he would take it on board, in particular with the new Policy in place in relation to SpeakUp! properties, and there would be a condition not to use the WADA logo on IF websites.

THE CHAIRMAN agreed that Mr Sandford had made a good point. He asked the Executive Committee if it approved the MoU template .

#### DECISION

Proposed Memorandum of Understanding approved.

### **9. Science and Medicine**

#### **– 9.1 MoU with the United Nations Office on Drugs and Crime**

DR RABIN said that he was pleased to present two Memoranda of Understanding for approval by the Executive Committee.

The first was with the UNODC, a branch of the UN that dealt more specifically with controlled drugs, and with which WADA had developed over the years a mutual interest for emerging drugs and drugs of abuse. WADA had been working informally with the UNODC on various subjects related in particular to identification, detection and quality of detection of emerging drugs in laboratories, and both the UNODC and WADA wished to formalise their relationship under a Memorandum of Understanding, so the agreement would allow WADA to more formally dedicate collaborative time to that issue of emerging drugs, in particular concerning doping in sport. The text of the Memorandum of Understanding was in the Members' files and he would be pleased to answer any questions.

MS EL FADIL said that having a partnership with the UNODC would be very useful for WADA. Her department in the African Union was responsible for drug control and crime prevention, and had a very good working relationship with the UNODC. She thought that having that Memorandum of Understanding with the UNODC would make WADA part of the global policy. Africa therefore very much supported this .

THE CHAIRMAN asked if the Members were happy to approve the proposed Memorandum of Understanding.

#### DECISION

Proposed Memorandum of Understanding with the UNODC approved.

#### **– 9.2 MOU with Partnership for Clean Competition**

DR RABIN noted that the Members might also know the Partnership for Clean Competition as the PCC. It was an organisation involved in anti-doping research and received funding primarily from USADA, USOC, the NFL and MLB. It was an active player in the field of anti-doping research with which WADA had already had an agreement and jointly funded selected research projects in the past

and present. The previous agreement had expired, and the PCC and WADA considered that a renewed agreement would facilitate the assessment and funding of projects of mutual interest. The PCC had also indicated an interest in expanding its research activities into social science research, which was of course of high interest to the colleagues in the Education Department. The text of the Memorandum of Understanding was in the Members' documents.

THE CHAIRMAN asked if the Members were happy to approve the proposed Memorandum of Understanding.

#### DECISION

Proposed Memorandum of Understanding  
with the PCC approved.

#### – **9.3 Technical Documents and Technical Letters – upcoming Circulatory Votes**

*[Members received a written update only on this agenda item. Due to the format of the meeting being virtual and abbreviated, a number of items were not intended to be discussed unless Members wished to raise any points.]*

#### **10. Other Business/Future Meetings**

THE CHAIRMAN recalled that the Executive Committee had confirmed its recommendation for the Foundation Board to approve the draft 2021 budget at the September meeting, so the item had not been included on the agenda that day; it would be presented to the Foundation Board the following day for approval.

He thanked the Members for their contributions that day. He looked forward to seeing them the following day at the Foundation Board meeting.

#### DECISION

Executive Committee – 20 May 2021, Montreal,  
Canada;  
Foundation Board – 21 May 2021, Montreal, Canada;  
Executive Committee – week of 13 September 2021,  
Istanbul, Turkey;  
Executive Committee – week of 15 November 2021,  
Brisbane, Australia;  
Foundation Board – week of 15 November 2021,  
Brisbane, Australia.

The meeting adjourned at 10.40 a.m.

#### **FOR APPROVAL**

MR WITOLD BAŃKA  
PRESIDENT AND CHAIRMAN OF WADA