
Minutes of the WADA Executive Committee Meeting

3 June 2002, Montreal, Canada

The meeting began at 9 a.m.

1. Welcome

THE CHAIRMAN welcomed the members to the first official meeting of WADA's Executive Committee in the new headquarters in Montreal. A fine job had been done by Montreal in equipping WADA to do its work. There are no conference room in the headquarters that are be big enough to hold Foundation Board meetings, but there are rooms which will enable WADA to hold all of the working group and Executive Committee meetings at its headquarters.

There was a full agenda, and he hoped to combine a full treatment of all of the items by the Executive Committee with a thorough review.

There would be a signing ceremony that afternoon with the Government of Quebec regarding the negotiated tax-free arrangements, and dinner that evening at the Faculty Club of what he considered to be one of the finest universities in the world.

2. Roll Call

THE CHAIRMAN noted that H.E. Mr Balfour was being represented by Mr Swigelaar, and Senator Kemp was being represented by Dr Stretton. Mr Kishida was being represented by Mr Uehara, and Ms Lindén was being represented by Mr Haukilahti. The Prince de Merode had asked Dr Schamasch, the IOC Medical Director, to represent him at the Executive Committee meeting. All those unable to make it to the meeting had sent their regrets, however they were all ably represented.

3. Minutes of the Executive Committee meeting in Lausanne on 2 December 2001

THE CHAIRMAN said that the minutes had been distributed to all of the members for their consideration and review. He asked if anyone had any comments to make regarding the minutes of the Executive Committee meeting in Lausanne on 2 December 2001.

Unless, by noon that day, anyone wished to make any comments or amendments, he would consider the minutes approved as distributed.

MR HOWMAN referred to page 3 of the minutes of the informal meeting of the WADA Foundation Board in Salt Lake City in February 2002. He pointed out that Senator Kemp had been referred to as speaking for New Zealand. The reference was Senator Kemp, which ought to have been Minister Mallard.

DECISIONS

1. Minutes of the Executive Committee meeting on 2 December 2001 in Lausanne approved and duly signed.
2. Minutes of the informal meeting of the WADA Foundation Board in Salt Lake City in February 2002 (as amended by Mr Howman) approved and duly signed.

4. Observers

THE CHAIRMAN invited any observers to make their presence known for official purposes.

5. Code

THE CHAIRMAN noted that the Code was the major project that WADA was currently undertaking, and excellent work had been carried out. He hoped that WADA would be in a position to release a public draft by the end of that day or the following day, in order to continue the consultation process that had been started.

It remained his hope that the Code would be adopted in time to be applicable at the Olympic Games in Athens in 2004. He asked Messrs Andersen, Figved and Young to bring the members up to date with the work on the Code.

Referring to one of the documents in the file, MR VERBRUGGEN asked whether the term 'endorsement' meant 'approval'.

THE CHAIRMAN replied that, with regard to the draft Code, a conclusion would be reached by the end of the following day that WADA was satisfied that the document could go forward as a draft for discussion. It was not the endorsement of a final Code by any means.

5.1 Update

MR ANDERSEN noted that the Code Project Team had held twelve meetings since the WADA meetings in Tallinn. He would give the members a brief update on the framework, and would then discuss the process and the main issues of the Code itself.

By the following day, after the draft had been finalised, he did not think that the team would have agreed on everything, but it would be necessary to send out an acceptable document which would constitute the start of a process by which input would be received from all of the stakeholders.

MR FIGVED gave an update on the Code process and the World Anti-Doping Programme as an overall structure. The members had before them the first complete draft version of the Code (Annex).

The main focus when working with the Code had been on three areas. The team had first of all tried to put in place an overall framework: the World Anti-Doping Programme. The key words here were consistency, coherence and comprehensiveness.

The second focus area had been the content, or what should be included in the programme. The Code was talked about as the main document, but international standards should be used as reference documents on level two.

The last part was the process of developing a new Anti-Doping Code. The process was of vital importance when doing this kind of work.

The overall structure had been organised into three levels: the Code, international standards and models of best practice within different areas of anti-doping. The Code was the fundamental and basic document, to focus on the most critical issues within the international anti-doping work. It should be acceptable and applicable to all stakeholders, and it was the main tool for achieving harmonisation.

The second level concerned international standards. There would be some more technical, or operational, documents referred to in the Code, which were not part of the Code but were important within the overall programme.

The final level was what was known as models of best practice, where state-of-the-art solutions within different specific areas could be presented. These would be optional for all of the stakeholders.

The Code would be mandatory, some of the standards would be mandatory, but all of the models would be optional.

The focus of the work carried out over the past five months by the team had been on levels one and two.

With regard to the process of developing and producing the Anti-Doping Code, there were three main phases. The first phase was about the development of the overall structure and the content of the Code. That phase had begun in September 2001, and the plan was to finalise the development of the content by December 2002. The second phase would be the acceptance and adoption period. For some, it would start in January 2003, whilst other stakeholders would need more time to adopt the different principles in the Code. The final phase was the implementation of the principles set out in the Code. Implementation would depend upon each individual stakeholder.

The team had tried to set up some key-words for how the process should be conducted. It needed to be open and transparent. It needed to be pro-active and inclusive. Consulting and cooperation with the stakeholders would also be necessary. It would be necessary to stick to time-frames and be result-oriented throughout the process.

There had been a relatively broad consultative process since December 2001 in the drafting of the first complete version of the Code. There had been 35 experts from different areas involved in the drafting. The team had also tried to obtain feedback from the various stakeholders involved, and then use the comments and include those that it had considered appropriate.

In March, April and May that year, the different draft sections of the Code had been presented to 500 to 600 people, including representatives of governments, IFs, the IOC, NOCs, NADOS, CAS arbitrators and athletes.

All of the WADA working committee members had also received drafts of the Code, and had been invited to comment, but it was not possible to satisfy everybody.

The process from June to December 2002 (from January to June, some key stakeholders had been selected and invited to provide input) would allow all of the stakeholders to give feedback and review and comment on the first draft of the Code. There would be two review periods, the first from mid-June to mid-September for the first draft (coordination of the process) and the second from mid-October to mid-December for the second draft. All of the stakeholders would receive the second draft of the Code, which would be based on the comments received on the first draft. The team also hoped to include circulation of the other international standards referred to in the Code, laboratory standards and standards for sample collection. The main idea was that all of the stakeholders provide feedback, comments and concrete proposals.

During the first review period, the first draft was to reach the stakeholders by 10 June, both on paper and by e-mail. All Code-relevant documents would also be published on the WADA website, along with explanatory documents and the comments received from the different stakeholders. There would be a specific e-mail address for feedback on the different Code issues at any time. The website would therefore be an interactive arena.

With regard to the concrete plan to be followed from December 2001 to March 2003, the members would recognise the first three bullet points. Code framework documents had been developed and circulated in December, and important comments had been received from about 40 stakeholders. These comments had been used when revising and developing the first draft. A complete first draft of the Code had then been developed in May 2002. The work was on schedule according to the project plan presented in August 2001. The final deadline for providing comments would be around 9 to 10 September 2002. The draft Code would be revised and the international standards would be finalised by September 2002, and the second draft version of the Code would be circulated in October. The second review period would result in comments from stakeholders by December 2002, and then the plan was to present the final draft version of the Code, as well as the three main international standards (the list, the laboratory standards and the standards for sample collection) at the World Anti-Doping Conference in late February/early March 2003. There would then be a final approval by the WADA Foundation Board before the beginning of the acceptance period.

MR YOUNG said that, before pencil had been put to paper, the team had looked at the OMADC, the IOC Medical Code, the Olympic Charter against Doping in Sport, the anti-doping rules of virtually all of the

IFs, government statutes and regulations, NOC policies and rules, CAS decisions and decisions from national tribunals. The team had tried to take the best of all of these and incorporate it into version one of the first draft of the Code. This first draft version had evolved into version 15, which the members had before them. There was no time to discuss every article in the Code, however he wished to highlight certain areas. Article 8 was what was traditionally included in a set of anti-doping rules and regulations. The sub-parts of Article 8 included virtually everything included in a set of government or IF rules and regulations. How was this similar to, how did it differ from, and where had it gone beyond, the OMADC? A lot of things in the document came directly from the OMADC. Article 2, the Definition of Doping, was based on the same principles as the OMADC, but the principles were put together in a stronger manner.

Another principle carried on from the OMADC was the important principle of strict liability. If an athlete tested positive, the positive test would invalidate the athlete's competition results.

The World Conference in Lausanne in 1999 had led to the basic two-year sanction for a major violation such as use of steroids, and life for a second violation. The one possibility for exceptions was found in Article 8.8.9, which allowed stakeholders to adopt rules with regard to increasing sanctions. If a stakeholder, such as an NOC, did this, an athlete could still compete in international events. The concept for a potential for lesser penalties for over-the-counter stimulants had been carried forward, and the concept of exceptional circumstances had also been carried forward from the OMADC. Strict liability would apply and an athlete would automatically lose the results of the competition at which a substance had been detected, but before a sanction could be applied, there was an opportunity to look at the facts and circumstances of the case. This had been in the OMADC and the CAS decisions, but this was a door, or a way in which somebody might not be sanctioned, but the team had carefully crafted what the door meant. In order for exceptional circumstances to apply, the athlete would have to demonstrate how and why he or she had tested positive for a prohibited substance and that it had not been the athlete's fault. The concept of the list of prohibited substances and methods was similar, but there would be one document for all of the different sports, all in one place.

Areas in which the Code took the OMADC further included Article 8.1.1 (a list of prohibited conduct) and Article 8.3.3, regarding how substances got on the list. There was also a new concept. The old list had included heroin, cannabis and anabolic steroids. Heroin was not a performance-enhancing substance, therefore it was not included on the list of doping substances. On the other hand, stakeholders had implied that they wanted to be able to test athletes for heroin and other substances, so these non-performance enhancing substances would be put on a separate conduct list, with a positive test to be addressed by the Code of Conduct and dealt with accordingly.

The issue of violations in one race meant that an athlete's results would be wiped out in prior and subsequent races.

With regard to minor irregularities in the doping process, the clause had been improved and clarified.

In order to avoid overlapping responsibilities between the stakeholders and potential conflicts (such as multiple organisations conducting tests for the same events), there would be one agency to carry out the testing, and this agency would be bound by the Code; there would be uniform standards and sanctions within a transparent process; with the possibility to appeal to the CAS.

There had been conflict over which of the different potential agencies should perform the results management and which should conduct the hearing. A simple rule had been set forth in the Code: the rules of the party initiating the test should be consulted in order to find out who should conduct the results management and the hearings.

With regard to inconsistent sanctions, this issue had been dealt with by having uniform sanctions.

In order to deal with the issue of mutual recognition, the Code provided that, if the parties had accepted the Code and if their conduct was consistent with the Code, the different decisions should be recognised, or if the parties did not like the decisions then they could appeal them.

There was a new clause that stated that if a party followed the Code and acted in good faith, then it would not be subject to damage claims. This might not be enforced by every court but there was a reasonably good chance that it would be enforced by most.

The OMADC did not address the entire results management and hearing process. The stakeholders were given considerable flexibility in how they should do that, but they should be consistent with the minimum standards set forth in the Code.

With regard to the issue of medical exemptions, greater harmonisation was necessary.

Athletes' whereabouts was a new concept. The Code would require athletes to give their whereabouts to the relevant anti-doping organisations, which would have to share this information with each other.

A lot of the detail of laboratory accreditation and sample collection had been taken out of the Code itself and moved to the standards category.

The Code was somewhat unique in that it dealt with education and research, something that had not been addressed in the past.

With regard to the acceptance process of the Code, the first point detailed the list of those stakeholders expected to accept the Code. The method for most stakeholders for accepting the Code would be signing a common declaration. For governments, this was a work in process. This had been the subject of the IICGADS discussion in Kuala Lumpur, and the direction in which this was going was at a minimum: a memorandum of understanding followed by a form of international instrument. This was something that IICGADS would be reporting back on.

Article 5 dealt with implementation and discussed the roles and responsibilities of the stakeholders.

The deadline for acceptance of the Code would be the Olympic Games in Athens 2004. The deadline for implementing, for everybody except governments and NADOs, would be Athens 2004, and for governments and NADOs, the deadline for implementing the Code would be the Olympic Games in Turin in 2006. The consequences of not accepting, implementing and being in compliance with the Code were very significant. Both the NOC and government of a country would have to have accepted, implemented and complied with the Code in order to be able to host an Olympic Games or world championships. In order to participate in an edition of the Olympic Games, the NOC would have to have accepted, implemented and been in compliance with the Code. If a party missed the deadline, it could come into compliance, but would not compete until it had done so. The process was not entirely inflexible. With regard to the requirements in Article 5, the team had been conscious of the differences between countries when drafting these and had tried to ensure that the different countries would be able to meet the requirements. There had been a broad consultation process, and if a stakeholder did not like the result, it could withdraw.

THE CHAIRMAN asked if anybody wished to make any comments or questions.

MR DEVILLERS welcomed the members to Montreal on behalf of the Canadian Government.

With regard to government involvement, he thought that it was safe to say, on behalf of all of the governments present at the IICGADS meeting in Kuala Lumpur, that there was a strong government commitment to work with WADA to develop the Code. The governments needed flexibility regarding the implementation and ratification stages. He would update the Executive Committee shortly on the status of IICGADS.

MR LARFAOUI noted that the working method of the Code was good, but he wondered what the working method was with regard to the content and reality of the Code.

THE CHAIRMAN asked whether the members could maintain the level of discussion to comment on the process, as he did not want this meeting to become a drafting session. The members could give specific comments that they thought would improve the draft to the team after the meeting unless they had any important issues to note.

MR LARFAOUI said that many people were concerned by doping, including the parents of athletes.

With regard to giving permission to an organisation to withdraw from the Code, he thought that all bodies should adhere to the Code and not withdraw.

As for the issue of exemptions, he advised caution, as these should be checked to ensure that they were justifiable.

The issue of financing of IFs and NOCs had nothing to do with anti-doping tests.

PROFESSOR LJUNGQVIST said that he had told Mr Young the previous day that he was impressed with the work conducted: the team had almost reached the stage of producing the final version of the Code.

He would discuss some ideas with the group, but wondered whether the need to test athletes during a disqualification period before their re-entry into competition should be included. This matter had not been addressed in the draft. He thought that athletes should be tested in such a situation, so that they did not feel that they were immune to testing.

THE CHAIRMAN referred Professor Ljungqvist to Article 8.8.7, informing him that this issue had been covered.

MR VERBRUGGEN congratulated the team on the Code work. What had been achieved was fantastic.

He wanted to know whether all of the governments would have to adapt their national laws to the Code. Would this also apply to all professional sports (referring specifically to the situation in America and Canada). Also, would the governments guarantee that their civil courts would accept everything that was in the Code?

MR YOUNG replied that the governments would need to make sure that their laws were consistent with the Code and not inconsistent with the Code.

With regard to professional sports, the Code would not go so far as to say that every government had to adopt a complete set of anti-doping rules that would apply to all of the sports within their jurisdiction.

With regard to courts, the governments would need to do what they could to establish laws that would allow any conduct consistent with the Code to be consistent with their laws and therefore not sue-able under their laws. As a general proposition, there would be a consensus among all of the sports bodies and governments that this was the way to go and that, if they followed this, they would not have any liability to an athlete who wanted to sue.

MR HOWMAN referred to the process. Very strong measures would be taken against countries and federations if they did not implement and adhere to the Code, so had the team thought about the compliance process and factored it into what would have to be part of the implementation, and would there be an appeal in relation to that? If so, would that also be an appeal to a CAS operation or something of that sort, bearing in mind the footnote about the CAS?

MR YOUNG replied that, at the end of Article 4, there was an express monitoring provision, where stakeholders were to report every two years on compliance. WADA would review this, so this was built into the Code, although the administrative details of that monitoring process had been thought about but had not been built into the Code. Decisions on compliance or non-compliance would be appealable to the CAS or whatever body was in place.

MR HAUKILAHTI thanked the team for the excellent presentation on the Code, but noted that the governments in Europe were experiencing some difficulties in accepting the Code, due to the legal status of WADA. He stressed the importance of developing WADA into an international organisation, as it would be very difficult for the governments to adopt the Code if WADA was still a foundation. The same thing applied for the funding challenge in Europe: he was sure that all of the governments would contribute to WADA, but certain countries would have problems if WADA's legal status remained as it was.

THE CHAIRMAN asked why the legal status of WADA would create a problem for the governments to adopt a Code which contained a set of anti-doping rules. The governments had known the legal status of WADA when they had joined.

MR HAUKILAHTI replied that the governments had always said that the aim was for WADA to be an international organisation, as this would make things easier for them.

THE CHAIRMAN expressed his desire to return the serve and asked the governments, if they were having problems with an organisation that they had joined, knowing what sort of an organisation it was, to help WADA with some suggestions as to how WADA could help the governments solve their problems

without making it impossible for the Olympic Movement and the sports movement to be part of such an organisation. With the greatest of respect, it was not enough to come forward at this stage (almost three years after the WADA statutes were prepared) with a problem. He asked Mr Haukilahti to come forward with a solution.

DR STRETTON congratulated the team on the hard work and creative thinking that had gone into the draft Code.

With regard to the process from then on, obviously the workload would not fall; if anything it would increase over the next few months in terms of the consultation, and it would be important that the resources be made available for that so that the deadlines could be met. In terms of how best to effectively consult with governments, the efforts made thus far had been appreciated, but it would be necessary to talk to all of the governments and not just those that were interested in the issue. At their meeting in Kuala Lumpur, the governments represented in WADA had committed to help to coordinate responses from other governments in their regions.

It was also important that the Project Team think proactively about particular events which might be coming up over the next few months, for example the Commonwealth Games, at which key government players would be present and to which the team could go to discuss the Code with these government representatives. It would be useful to get some sort of idea of what was proposed in that respect so as to identify and fill in any gaps.

There was some uncertainty as to how the Code process fitted in with the laboratory accreditation and prohibited substances list processes.

DR SCHAMASCH congratulated the team on the huge amount of work done since the last meeting.

There was IOC concern as to the three different lists, but he would not discuss this issue at the meeting.

Mr Young had said that most of the definitions had been taken from the previous code, but all of the parameters had been reversed, and this was a new thing.

After appeal, would all of the different parties be able to appeal directly to the CAS?

If a body was recognised as not complying with the Code, would the CAS have the right to discuss the matter with WADA and have the right to a final decision?

MR YOUNG replied that the decision to reverse the order and definitions had been intentional. He pointed out that 99.9% of doping cases were the result of a positive test from banned substances in an athlete's urine.

The *and/or* term had led to some confusion.

In the case of the interested parties, they would have the right to appeal, and could do so directly to the CAS.

With regard to the compliance decision, WADA would make the initial call, and if the country did not like this, then it would be able to appeal to the CAS.

In response to the second question made, which was typical in an arbitration process, the general rule would be that an athlete would be expected to follow the internal process of the body first and, at the end of that process, the athlete would then have the right to go to the CAS.

MR KOSS congratulated the team on the excellent and promising work.

With regard to participation, would IFs not be able to participate in an event if they did not sign the Code?

Secondly, would an athlete not be allowed to participate in an event if his or her country had not adhered to the Code?

Finally, would this be a treaty, a resolution or a declaration? What would be the best process to move this forward within the governments?

THE CHAIRMAN noted that the final question would be answered in the IICGADS report.

MR YOUNG referred to the question about participation. A country would not be able to host an edition of the Olympic Games unless its government and NOC had adopted, implemented and were in compliance with the Code. A country and its athletes would not be able to participate in an edition of the Olympic Games unless their NOC had adopted, implemented and was in compliance with the Code, and an IF would not be able to participate if it was not in compliance with the Code. Also, if an IF decided to withdraw from the Code, then it would not be able to attend the Olympic Games.

On behalf of the NOCs, MR REEDIE pointed out that 198 out of 199 NOCs had met in Kuala Lumpur the previous week, and Mr Andersen had made a WADA presentation, principally on the Code, following which the NOCs had signed up to a declaration, which would be passed around the table (Annex).

The original resolution had been prepared by Norway's NOC, but it had been written in a legally unacceptable form so it had to be modified. MR. REEDIE noted with interest the extent to which the resolution, as accepted by ANOC, complied with what had been said by the Executive Committee members that morning.

It was excellent that 198 NOCs thought that the Project Team was on the right track. The NOCs had also asked the their representatives on the WADA Foundation Board to establish some form of connection with the NOCs for purposes of distribution. In Europe and Oceania this would be done by the continental bodies. He could not speak for Africa, Asia or the Americas, but certainly, distribution and the request for comments would be done through the European office in Rome. It was encouraging to note that one group seemed to be getting closer to singing from the same hymn sheet.

THE CHAIRMAN thanked Mr Reedie and all those involved in achieving this resolution.

MR VERBRUGGEN said that he did not think that it was enough to say that the IFs should be sanctioned if they did not comply with the Code, because only 35 out of 80 federations participated in the Olympic Games. He thought that WADA should come up with something that applied to the other 45 federations.

Another matter that needed to be clarified was that he had seen no mention of a common declaration of acceptance. Why had the individual acceptance been dropped?

MR YOUNG noted that the Code would be a single document, stating that *we, the undersigned, hereby accept the World Anti-Doping Code*, and it would be individually signed by the federations and other parties.

He thought that the notion of a common declaration was that it would be the same piece of paper, but there would be individual acceptance.

He understood the separate processes that each party would go through before being authorised to sign the declaration. The only piece of the puzzle that was still up in the air was which document the governments would be signing.

MR VERBRUGGEN referred to Article 4.1.2, saying that this might need some clarification.

THE CHAIRMAN replied that the text referred to a uniform undertaking rather than a single document.

MR VERBRUGGEN noted that Article 5.12 referred to overlapping responsibilities. Article 5.12.5 stated that *other anti-doping agencies may conduct hearings and impose additional optional sanctions as authorised in Article 8.8.9*. This meant that, for IF competitions, if the IF did not perform controls on a certain day, then the NOC might step in and perform the controls. It was important to know how this worked, in other words, would there be different procedures and different hearings for the same event?

It would be particularly interesting to know the consequences that this might have with regard to exemptions, as the team left interpretation up to the stakeholders as far as exemptions were concerned. Was this in line with the harmonisation that WADA was seeking?

MR YOUNG explained that, because there was a much higher level of harmonisation on sanctions, process and hearings, the historical differences over which body conducted the process were not so important, because everybody was starting from the same page.

The status quo was that many organisations might want their own hearings, and the rule was that the party to initiate the test would be the party whose procedural rules should be looked to on whether or not there was going to be a hearing, for example, if the UCI were to initiate the test, the UCI rules would apply. Only one organisation would conduct the hearing, but there would be a right to appeal.

An optional sanction meant that if, for example, Australia had a positive test result of a swimmer in a domestic event and, after a full hearing, decided to impose a two-year sanction, FINA would recognise the decision but could choose to impose, for purposes of its world championships only, a four-year ban, although the athlete could challenge this decision and appeal to the CAS.

THE CHAIRMAN thanked the team for the very helpful update. He congratulated the Project Team on a terrific job. This had been a good start, although there were six or seven months of hard work ahead.

MR LARFAOUI agreed that a great deal of work had been achieved.

He asked why, for the NOCs and organisations, Athens 2004 was the date for adoption and implementation of the Code, whilst the date for the governments was to be Turin 2006.

THE CHAIRMAN replied that the governments had indicated that they did not think that they would be able to get their act together in time to adopt and implement the Code for the Olympic Games in Athens 2004.

MR WALKER told Mr Larfaoui that, inevitably, the legislative process for the governments would take a lot more time than it would within the confines of the sports organisations.

On behalf of the Code Coordination Committee and the Standards and Harmonisation Committee, he echoed the Chairman's kind remarks to the Project Team. What the members saw before them were the combined results of the various committees, and he was confident that this was a good draft for the consultative process, where the detailed reactions to the proposals would come in. He thought that the draft decision should include the fact that it was also the Code Coordination Committee and the Standards and Harmonisation Committee which sought endorsement

The Code Coordination group had been set up to ensure that all of the appropriate elements from within the WADA family would be incorporated into the structure of the conception of the Code, and the group now felt that its main task had come to an end, and that the detailed looking after of the next phases and the re-draftings of the Code could be taken over by the Standards and Harmonisation Committee. He thought that this might give some pleasure to Mr Reddie, and in that sense he commended it to the Executive Committee for the Foundation Board the following day.

DECISIONS

1. Code update approved.
2. Members to submit comments to the Code Project Team.
3. Proposal to be made to the Foundation Board that the Standards and Harmonisation Committee take over the work of the Code Coordination Committee.

– **5.2 IICGADS update**

DR GARNIER passed on Mr Devillers' apologies: Mr Devillers had had to go to Ottawa but, if possible, would be back in Montreal later that day.

He informed the members that 44 governments had been represented in Kuala Lumpur for the IICGADS meeting, and referred them to the report in their files (Annex), which detailed the government commitment to the international fight against doping.

THE CHAIRMAN asked if anybody wished to make any comments or questions.

He had the impression that the governments were genuinely interested in moving forward as quickly as possible, but that they were searching for a way that would allow them to do so within a timeframe which approximated that of the sports movement side more closely. In real politics, it just would not be possible to have a formal international instrument in anything like the timeframe being considered. In the

interest of moving it forward, the Memorandum of Understanding arrangement was one that was understood by the governments, and that was probably the best way of doing it. The IICGADS members would be meeting at the end of 2002 to try and come to a conclusion amongst themselves as to the content of the Code, so that, at the World Conference in February 2003, there would be no need to reinvent the wheel, as there would be a document on which there was already a broad consensus amongst governments. In the sense of being helpful and understanding the full implications of having a Code adopted by WADA, this was very positive. The Code, once adopted, would make a real contribution to the fight against doping in sport, and if it took a little time to be implemented at the government level, it was a trade-off that was well worth making in order to have government participation in the adoption of the Code by WADA.

DR SCHAMASCH noted that there was a problem within the IOC regarding one government's rules (Italy), which were totally in contradiction with the current anti-doping code. It would be a good idea if the governments could try to move as quickly as possible, because the definition of the Host City for the Olympic Games in 2010 would be defined shortly, and there would be discrepancy between the adoption of the Code by the government and the decision of the IOC to have the city and the country hosting the Olympic Games in 2010. Even within WADA, if all the stakeholders could adopt the Code as soon as possible, that would be a good incentive for the governments to speed up their processes.

THE CHAIRMAN thanked Doctor Schamasch for his helpful suggestion. The practical answer to his problem was that a country might end up being a host country on a technical basis but its athletes might not be able to participate, so there was every incentive to move forward quickly.

The declaration was in the members' files, and was a reflection of the genuine desire to move forward.

DECISION

IICGADS update approved.

– **5.3 List update**

MR WADE noted that there were three important level 2 documents in the members' files: the prohibited list update; the laboratory standards and the status on the development of those standards; and the international standards for doping control.

He gave the members a brief overview of the current situation. WADA had agreed the previous year to commit to taking over from the IOC and to assume responsibility for the development of the list. The working group was in place and had been working hard. It was important to note that there had not been a great deal of change with regard to the content of the list, however there would be a proposal on the structuring of how the list was presented so that WADA would be able to better manage the consequences of positive findings. This was unique in terms of the timing of the Code versus the timing of the list, as the group had committed to having this in place for 1 January 2003.

PROFESSOR LJUNGQVIST referred to the three categories looked at, or the splitting into three of the current list. The philosophy behind this was the relation to the definition of doping. One aspect introduced was the health aspect, and it had been felt that there were substances on the present list with no place on a doping list. There was also a situation regarding a pharmacological development. Everybody was aware that substances came on the market very quickly, and WADA needed to cope with this in some way, so had introduced the concept of a waiting-room for observance of new substances on the market. The waiting-room list would give WADA an opportunity to evaluate a substance before reaching a final decision as to whether a substance should be included on the list.

With regard to the other two lists, the social drugs list and the banned substances list, taking substances from both of these could result in disciplinary procedures and sanctions, but for different reasons. Once the doping list was decided upon, it would form a real legal basis for action if substances on the list were detected.

MR YOUNG totally agreed with Professor Ljungqvist.

MR WADE said that there was the perception that the content was being changed; in fact the content was being reconstructed for better management, therefore there was a need for consultation. There

would be some consultation going on over the next few weeks, leading to a meeting in the middle of June of the committee. A week to ten days after the Code went out, the list would go out for formal review among the sports community.

MR KOSS praised the work carried out. There were different parts of the new list, which had been discussed in the IOC Athletes' Commission in December and during the Olympic Games in Salt Lake City, and had been well received by the athletes. He therefore supported the future of this development from the perspective of the athletes.

He asked about the waiting-room concept. Nothing had been heard about it until then, and there was some confusion as to how this would work.

PROFESSOR LJUNGQVIST said that the waiting-room list was for information to WADA and the sports community regarding new substances, but these should not normally lead to sanctions as they would either be dropped or included on a proper list. The idea was for this to be an information list, but it would not result in sanctions, however the contravention of the code of conduct might result in sanctions.

THE CHAIRMAN asked whether the idea of a separate list could be re-thought, as it would be immensely confusing for the public. The mere fact that something was on a list would cast a great deal of suspicion. The scientific community could simply advise that it was testing for certain substances. Three different lists would be a mess and a nightmare. He thought that the scientific committee could get to where it wanted by doing the testing and advising, but it should not be in the form of a list. The IOC President also held this view very strongly.

PROFESSOR LJUNGQVIST said that he had discussed the issue of the waiting-room list with Dr Rogge and knew his thoughts on this. He would take the suggestion on board. He was simply informing the members what was being done with respect to certain substances that were under debate. If, in the end, there was the feeling that there should not be an official list, he would not mind.

THE CHAIRMAN advised that this be left in the area of scientific inquiry and not on a list, so as to avoid confusion.

DR SCHAMASCH wished to clarify the matter. Where would the current so-called list of prohibited substances for one sport only be?

PROFESSOR LJUNGQVIST replied that the mechanism would be that WADA should know what went on in different sports, and should decide and coordinate everything in this respect. There would be different banned substances for different sports. There was a basic list of doping substances and, should a sport wish for additions to the list, it would have to apply to WADA, but this would not form part of the general list.

MR KOSS said that the medical review list would clarify approval for the exemption of prohibited substances, but he was still not sure about the waiting-room part. It would be necessary to be clear on what was prohibited and what was not prohibited.

DR STRETTON asked whether the new list was to be approved in September by WADA. How would this happen? The list would be one of the international standards under the Code framework, and was meant to come into effect in January 2003. The Code was meant to come into effect a few months later, and he was wondering what would happen in between these two dates.

THE CHAIRMAN replied that, until the new Code was in place, the OMADC would apply. It had been thought important that the list be updated as soon as possible.

If DR STRETTON had understood correctly, the list, which would come into effect from January 2003, would replace the current IOC list and would do so under the IOC banner until the Code came into effect.

THE CHAIRMAN confirmed this.

MR WADE referred to the comments made by Professor Ljungqvist regarding the restricted categories. The idea was that there would be one complete list of banned substances, but there would be a section within that list that would identify banned substances in certain sports, so there would be one single document to clarify and simplify the whole process for the athletes and the laboratories.

MR HOWMAN said that, if the new list would be in force from 1 January 2003, WADA should make a recommendation to the IOC Executive Board so that the Executive Board could put this into place, and WADA would need to work in advance of 1 October to have its decision so that the IOC could make its recommendation and changes to the list, so it would be necessary to hold meetings to coincide with the IOC some time in or before September.

THE CHAIRMAN said that this would be organised.

MR WALKER noted that he was not a lawyer, but his understanding was that this would be the first WADA list, adopted under the full authority of WADA, so WADA should be fully involved and concerned by it, in the same way that the Monitoring Group would be. The timetable of this new list enabled the Monitoring Group to approve it in November 2002 for entry into force on 1 January 2003. His understanding was that the Monitoring Group of the Anti-Doping Convention would be approving the first WADA list of prohibited substances and methods and, in that sense, the list was independent of the Code. It was a series of previous decisions coming into effect.

DECISION

List update approved.

– **5.4 Laboratory accreditation update**

MR WADE referred to the report in the members' files (Annex), which included the document detailing the WADA Laboratory Standards Concept and Approach (Annex).

The group was optimistic that, by the end of December, it would have a good draft of the WADA laboratory accreditation system in place. In the short term, it was looking at implementing proficiency testing (working with the IOC and the laboratories) so that, when the system was in place, it would be possible to hit the ground running.

MR WALKER noted that the timeline for developing standards on laboratory accreditation had always been extremely tight, partly because of the difficulties involved in getting the Accreditation Committee off the ground, and partly because of the very complexity of the situation, along with the difficulty of having appropriate WADA staff recruited. This was a highly complex technical area, which he very much hoped would be resolved shortly. He thought that WADA could just about keep to the deadlines. In theory, level 2 standards should go out with the second draft of the Code in October or November. He would have much preferred that this go out at the end of year, but there were a number of decisions taken two weeks previously in the Standards and Harmonisation Committee which would speed up this process, within the budget granted for this and notably with regard to the question of working on the development of the Standards for Analyses of Doping Samples. These would be the essential new part of the WADA system which, like the list, would be very much based upon the existing IOC system, but would have independence and transparency incorporated into it.

WADA needed to get ahead with the work with the Standards Council of Canada and also with the provision of the proficiency testing samples for the proficiency testing system. The proficiency testing samples would either come from the Cardiff biological laboratory (which was the option he would prefer, as this laboratory was independent and outside of the existing system) or from the ALADIN project, which was based on cooperation with the existing IOC-accredited laboratories and in particular with the laboratory in Cologne. Altogether, the work would be extremely tough, but he thought that it would be possible. It might well be that what would be seen in level 2 for the laboratory accreditation standards in October would be more in the form of a draft, but the rest would be pretty much the definitive list. For this question, it would be foolish of him to say that the ultimate definitive text in all of its respects would be completed as early as October.

On behalf of the Executive Committee THE CHAIRMAN accepted Mr Walker's undertaking to meet the deadline, however difficult the struggle might be.

MR ANDERSEN said that he could see Dr Stretton's point that a master plan would need to be made with regard to timelines, so that everybody knew the timeline for the Code, the laboratories, the list and so on. This would be forwarded to the Executive Committee and the Foundation Board.

MR KOSS noted that the IOC had implemented a laboratory quality standards system. Was ISO 17025 very different to the existing ISO standard? With regard to the NOCs' role in the approval of the laboratories – for a laboratory to be accepted by the IOC, there had to be some kind of NOC relation or approval. Did this still apply? Finally, could any laboratory apply for this recognition?

DR SCHAMASCH said that, whatever the WADA norm was going to be, he thought that it would be important for the laboratory to be aware of it as soon as possible. The normal process would continue until the end of 2002, but the following year, the laboratories should know of potential modifications with regard to new WADA norms in order to avoid another gap as far as the transfer of responsibilities was concerned.

PROFESSOR LJUNGQVIST agreed; the same thing applied to the list. The laboratories should be made aware of those substances to be analysed.

MR WADE replied to Mr Koss's questions. With regard to ISO 17025, the laboratories were compelled to obtain this accreditation, which was very important in terms of independence. The problem was that there was inconsistency in the application of this standard, so his group was looking to have an amplification document called the WADA Standards for Analyses for Doping Samples, and using the ISO 17025 as a quality management process. There would be a management system of accreditation, which would include one or two people from WADA, one or two companies which would be identified as accreditation or certifying bodies, plus the body within that particular country to go in as a team and do the accreditation using the ISO 17025 as a quality management system and WADA's own standards system as the standards against which to receive WADA approval.

With regard to the third question about the laboratories, as part of the management system, WADA needed to look at the criteria and needs of the sports community.

As for the second question about NOC approval of laboratories, he wished to defer it as he did not know the answer to this.

In response to Dr Schamasch's comments about the transition from the current system to the future system, this new system would be fully operational in 2004. It would not be operational in 2003.

MR REEDIE responded to Mr Koss's comment regarding NOC approval of laboratories. With laboratories being accredited under the IOC's authority, an applicant laboratory needed "the support" of its NOC, however it did not need the NOC's technical approval. This did raise the issue that, if approval of laboratories was to move outside the control of the Olympic Movement, which agency would be involved in the approval process? This would have to be thought through.

THE CHAIRMAN pointed out that one of the perceptions that WADA was trying to overcome was that of the "chummy" procedure of accreditation. There might be, as a result of this new system, competition within certain territories amongst laboratories to be accredited.

MR REEDIE said that a complicated question had been asked several times in Kuala Lumpur. There was a quite legitimate demand for laboratories to be accredited as soon as possible in different parts of the world. One of the end results with which he would be very happy would be a faster approval and accreditation process.

PROFESSOR LJUNGQVIST thought that it was vital that a laboratory accredited by WADA have the support of its government.

THE CHAIRMAN asked whether accreditation was to be regarded as a standard of technical competence or as a franchise that WADA would be giving out in a particular territory. He thought that this needed to be thought through and that Professor Ljungqvist should come back with a recommendation.

DECISIONS

1. Timelines for the Code, list, laboratories, etc. to be forwarded to the Executive Committee and Foundation Board members.
2. Professor Ljungqvist to come back with a recommendation regarding laboratory accreditation.

– **5.5 World Conference on Doping in Sport**

THE DIRECTOR GENERAL informed the members that WADA was currently seeking expressions of interest for the World Conference on Doping in Sport on its website. The deadline was 14 June 2002. He referred to the documents in the members' files (Annex).

The Executive Committee needed to propose to the Foundation Board the establishment of a sub-committee, chaired by the President, with one member from the Olympic Movement side and one member from the governments' side, to make a decision as soon as possible but before the end of July 2002.

THE CHAIRMAN asked if anybody had any comments or suggestions.

MR WALKER pointed out that, on page 2 of the tender document, the suggestion of 1,500 attendees seemed to be an enormous number. He trusted that, when the applications came in, a close eye would be kept on the realistic amount of participants.

He also wished to rule himself out as any possible representative of the public authorities. He understood that there would be a candidature from Europe and therefore there would be a conflict of interest.

THE CHAIRMAN assumed that this was a decision that the Executive Committee would like the Foundation Board to make. From the Olympic Movement side, his guess was that it might be possible to dragoon Mr Ctvrtlik into forming part of the sub-committee, as he had headed up the Evaluation Committee for the headquarters and therefore had some experience. The government members might think about who would be willing to do this and who would be available. This would be a short-term project. He asked the Executive Committee members to think about this issue, as he would like to have a committee in place the following day.

DECISIONS

1. Members to think about sub-committee members for a decision to be taken by the Foundation Board.
2. World Conference on Doping in Sport report approved.

6. Independent Observers

6.1 Salt Lake City Olympics report

MR HOWMAN tabled the Independent Observer report on the Salt Lake City Olympic Games to the Executive Committee (Annex). As background information, he informed the members that he had been privileged to head a very experienced team of Independent Observers. He wished to make mention of his Vice-Chairs, Messrs Walker and Andersen; his manager, Mr Wade; and some of the experts who had been part of his team, including Mr Ichiro Kono, who was present. The net result was a report which he felt was an appropriate document to table to the members.

There were a number of recommendations made, most of which were directed to those responsible for carrying out the anti-doping programme at future Olympic Games. If the report was accepted by WADA, the Independent Observer team had, in his view, a responsibility to follow up on the recommendations made, many of which were pragmatic, whilst others were more legal in significance in view of the blood testing issue. A copy of this report had been made available to the IOC and the IOC Medical Commission in case they had any comments to make regarding the accuracy of the report prior to its publication. There had been no comments.

The IOC Medical Commission's post-Games report had recently been received, and before publishing this report in any form, the team would like the opportunity to make observations and report on the document in the final publication.

There were five cases still pending before the CAS. The Salt Lake City Independent Observer team had been invited to attend the hearings as observers, and needed guidance from the Executive Committee members as to whether they wished for Independent Observer observation at these particular hearings.

There were some jobs to carry out before publication of the report, including translation, which was under way. It gave him great pleasure to table the report and ask the members to observe it appropriately.

PROFESSOR LJUNGQVIST noted the excellent cooperation between the IOC Medical Commission and the Independent Observers. He had no problems with the report as such, and thought that it properly reflected the work conducted in Salt Lake City.

The IOC President had asked him to assume the responsibility as acting Chairman of the IOC Medical Commission at the Olympic Games in Salt Lake City.

He wondered whether such a report needed to be so very detailed for outside use. It had already been misused by the media (*L'Equipe* newspaper) to highlight the numerous dysfunctions that were mentioned in the report, but the newspaper in question had actually twisted the facts.

The overall function had been very much supported by the Independent Observers and the media had simply disregarded this. It had been embarrassing for the IOC to see the article in *L'Equipe*, for which of course the Independent Observers had not been responsible.

Some basic facts should, however, be pointed out. There had been obvious conflicts between the Guide for the Olympic Games and the Code. He personally thought that the Guide should be the valid document for the Olympic Games, and that the relevant parts of the Code and any additional related facts should be properly incorporated.

There had been an unfortunate case that had not been sanctioned: the improper sealing of a transport bag, which should not have invalidated the test result. This was the sort of issue that needed to be reviewed.

With regard to the blood analysis issue, there was something in the report which had not come through clearly enough: the confusion that had been created between the two sets of rules, one related to three IFs which had blood testing as a reason for a no-start, and the IOC rules with respect to blood testing for the analysis of doping substances. It seemed that this could have been regulated by the IOC. The no-start rule had been a rule for three IFs only, and the IOC had had nothing to do with this, but the IOC had used their blood samples for screening in order to avoid taking a second sample. The facts could have been made clearer.

There had also been criticism regarding the way in which the Independent Observers had been treated in the laboratories. It was important to note that the head of the laboratory had not been there as a member of the IOC Medical Commission.

In the article in *L'Equipe*, something had been made of the cases of the two Russian and the Spanish/German skiers. It had been said that the Independent Observer report had suggested that the IOC could have acted much earlier and prevented these athletes from participating as a result of their behaviour prior to the event. He did not think that this was correct, but unfortunately, it looked as though the IOC had not acted at the necessary stage and had therefore allowed doped athletes to compete.

Nevertheless, PROFESSOR LJUNGQVIST thought that the report properly reflected what had gone on at the Olympic Games in Salt Lake City. There had been one further complaint made: the Independent Observers had not been invited to the hearing concerning the speed skater from Belarus who had left the Olympic Village. She had previously been exonerated because of the breach of chain-of-custody mentioned earlier (the label on the transport bag) and had therefore been targeted for an out-of-competition test in the Olympic Village, but she had not been there, which was against the IOC rules, so a disciplinary procedure had been initiated. The Independent Observers had complained because they had not been invited to the hearing, however neither had he been invited, as it had been regarded as a different disciplinary procedure.

He thanked the Independent Observers for a very helpful and correct report, but stressed that such a detailed document should not be made available to the general public so as to avoid misinterpretation.

DR SCHAMASCH thanked the Independent Observer team for their excellent collaboration.

The confidentiality of the document needed to be maintained; he wished to know how *L'Equipe* had got hold of it, as he thought that the document had not been made public. It was very important that the

confidentiality be conserved, as the article had led to a misunderstanding of the good cooperation that he had seen.

MR REEDIE said that a WADA representative had been present during the inquiry and disciplinary hearings which had taken place in Lausanne after the Olympic Games.

This was one of the best reports he had ever read and he thought that it should go to the people in charge of the anti-doping work at the Commonwealth Games in order to provide them with an idea of the standards required.

MR HOWMAN thanked Professor Ljungqvist, and agreed entirely with him as to the cooperation in Salt Lake City.

There was a confusing aspect of blood testing as it was currently implemented, and the confusion between the health component and the no-start, and the use of the same samples for some anti-doping aspects later on created that confusion in itself. The Independent Observers had recommended that this be got rid of as it had created confusion amongst the athletes. There had been no criticism, as the Independent Observers had understood the timelines to which everybody had been working, as well as the separate IF rules.

There had been no criticism of the quality of the laboratory analyses, and he accepted wholeheartedly that the laboratory director had not been working for the IOC Medical Commission and had been employed by SLOC in his capacity as director of the UCLA laboratory.

He had no idea about the newspaper article. The Independent Observer report had not been published by the Independent Observers. It had been sent to Foundation Board members only, and was to be posted on the WADA website at some stage.

He had been disappointed not to have been invited to the Belarus hearing. The group had been told that this was not a doping issue, but begged to differ. The group had, however, been invited to enquiries of a similar nature.

MR WADE said that the decision had been made to post the report on the WADA website one week after the document had been sent to the IOC, the WADA Foundation Board and Executive Committee and SLOC.

DR SCHAMASCH asked whether this had been posted on the website before the approval of the Executive Committee and the Foundation Board.

THE CHAIRMAN asked the members to bear in mind that the report was from the Independent Observer team. WADA was not in a position to tell the Independent Observers what they had and had not observed. WADA had waited a week before posting the report on the website, and since no comments had been received from any of the parties to whom the report had been sent, the report had been posted.

The questions raised recently could be helpful in putting together a final report, but the concept of putting information out in detail went right back to the very beginning of WADA, which was that WADA was going to be fully transparent.

He was inclined to agree with the approach that Mr Reddie had outlined. This was a very helpful document, so if the Executive Committee had to err he would prefer to err on the side of giving all of the details.

DR SCHAMASCH asked whether the final IOC Executive Board decision concerning the Austrian case had been received.

THE CHAIRMAN replied that he had seen the press release issued by the IOC.

MR HOWMAN said that he had received all of the IOC Medical Commission and CAS information on cases that were pending after the Olympic Games.

Part of the report on the German/Spanish and two Russian skiers in relation to action that might have been taken by the IOC referred to the power that the IOC had through its disciplinary bodies to suspend athletes pending investigation. All that the report said was that the IOC had not exercised that power.

The Independent Observers had simply reported that the discretion had been there, but had not been exercised, and that the two Russian athletes could have been suspended from competition.

THE CHAIRMAN noted that there was consensus that a detailed report was more likely to be helpful than not.

Mr Howman would review the IOC report of 29 May to see if there were any issues arising out of that.

Did the Executive Committee think that WADA should recommend that the Independent Observers attend the CAS hearings on the outstanding cases?

MR HOWMAN recommended that the Independent Observers choose to attend if the matter was of great moment to the anti-doping issues, and there might be only one case which would prove to be more interesting than the others, which was the application made by two NOCs to have medals removed from athletes for previous competitions. He was confident that the CAS would follow the procedures properly. This was a new challenge and it might warrant WADA's being there to observe the way in which it was undertaken.

THE CHAIRMAN said that it would be up to Mr Howman to decide which hearings, if any, to attend and, if so, Mr Howman should do so in a budgetarily efficient manner.

DR SCHAMASCH informed the Executive Committee that, that morning, the FIS had decided to suspend Larissa Lazutina from 8 December following the two positive tests she had undergone.

PROFESSOR LJUNGQVIST said that the Independent Observers were very helpful in making the procedures transparent and open to scrutiny. The details were fine but he became unhappy when they were misused, although some of the members were used to this.

The laboratory had found three cheats using substances that had been on the market for only a few months. The Spanish/German athlete had behaved in such a way that he had been targeted and caught.

THE CHAIRMAN noted that there was some element of counterterrorism in all of this.

MR REEDIE said that this was an ongoing issue, and he was in favour of transparent procedures, but WADA needed to understand that it needed an information/communication/press strategy that dealt with positive cases, in particular at the Olympic Games. The more open that WADA was and the better it was in handling the issues, the more respect it would gain.

THE CHAIRMAN asked the members to bear their particular roles in mind. The Independent Observers observed, kept their mouths shut and then reported. WADA was in the late throes of looking for somebody to head up its communications department, and should definitely work together with that person to develop the appropriate strategy for whatever it was doing.

DR STRETTON asked whether the Executive Committee was endorsing the recommendations in the report, or merely passing them on to the appropriate people to think about and possibly implement.

THE CHAIRMAN thought that the report should be passed on to those who should see it unless the members were radically upset by it. The Executive Committee and the Foundation Board were not reporting on the Independent Observer mission at Salt Lake City.

PROFESSOR LJUNGQVIST asked whether the two-step procedure (inquiry and disciplinary commission) was supported or not, because this had been very complicated from an IOC perspective. Some had thought that it would be better to have just one commission.

MR HOWMAN replied that the Independent Observers had said that they felt that the improvement with the new system was very good, but that it could perhaps be fine-tuned.

THE CHAIRMAN said that it was very important that the full report and comments on the inquiry phase be there in front of the decision-making body before the involvement of lawyers.

MR HOWMAN specified that the recommendation had been made under Recommendation 11 of the Independent Observer report.

THE CHAIRMAN thought that Mr Howman and Professor Ljungqvist should discuss the issue together.

DECISIONS

1. Mr Howman to decide which hearings to attend, if necessary.
2. Mr Howman and Professor Ljungqvist to discuss the issue of the two-step procedure (inquiry and disciplinary commission).
3. Salt Lake City Independent Observer report to be made available to those concerned.

6.2 Salt Lake City Paralympics report

THE DIRECTOR GENERAL said that he had received the first draft of the report from the Chair of the Independent Observer team at the Paralympic Games. He had been told that the team had received the full support of the IPC and the organisers. The final report should be ready within two to three weeks. He had not been present at the Paralympic Games in Salt Lake City and could not, therefore, comment on the Paralympic Games.

There had been a suggestion to develop a template for each Independent Observer team.

He told Dr Stretton that there had been an agreement with the IOC Olympic Games Knowledge Services, with the aim of passing on knowledge to future organisers.

THE CHAIRMAN said that the same procedure would be followed with respect to the Independent Observer report for the Paralympic Games.

DECISION

Salt Lake City Paralympics report to be submitted to the Executive Committee and Foundation Board upon completion.

6.3 Mediterranean Games report

DR GARNIER thanked his fellow team members for their excellent cooperation.

The cooperation with the CIJM (the international committee of the Mediterranean Games) had not been transparent at the start, and had it not been for the intervention of IOC President Dr Rogge, the Independent Observers would not have been able to carry out their mission.

No comments had been received regarding the report.

There was some difference in weighting between the technical part (which had been very well carried out) and the results management, in particular the handling of positive cases. The simple explanation for this was that there had been a lack of basic reference texts for the organisers. The results management would have been very untransparent had the Independent Observers not been present. He was confident, however, that the new Code would resolve any similar problems arising in the future.

THE CHAIRMAN asked if anybody had any questions or comments to make.

MR WALKER congratulated Dr Garnier and the team members on their work. He thought that the report deserved even more careful reading than the Salt Lake City report. It was extremely valuable reading for the organisers of a less high-profile event, although the Mediterranean Games was one of the biggest events on the international calendar. There were a number of major ad hoc events (Commonwealth, PanAmerican and Asian Games) at which the baton was passed every four years to a new team, so the report would be extremely useful.

It was vitally important to have pre-established rules and regulations and, without the presence of the Independent Observers at the Mediterranean Games in 2001, none of this would have been discovered, and none of the organisers of similar events would have this kind of checklist and 'aide-mémoire' to go through, so he thought that this was one of the most important things that WADA had ever done from the point of view of harmonisation of anti-doping rules and regulations in an everyday context. He repeated

his congratulations to the team involved and encouraged WADA to take some decision and try to identify similar events at which an Independent Observer presence was absolutely necessary.

THE CHAIRMAN agreed that WADA needed a very clear agreement with the organisers of events at which WADA was going to provide an Independent Observer team. This had been learned the hard way in Tunis, but WADA had ended up with a very valuable report.

MR LARFAOUI said that he had observed the problems experienced at the Mediterranean Games, but wished to underscore that this had been the first time that the Tunis laboratory had had such an experience. Despite the failings, he thought that the outcome had been very positive.

One swimmer had tested positive and had been suspended in accordance with FINA's rules. The athlete had then appealed before a state court, which had overruled FINA's decision but, fortunately, FINA's rules stipulated that FINA could study the case again, which was what it would be doing. Such procedures cost a great deal of money, but he did not think that they should be carried out at the cost of the athletes and the federations. He highlighted the importance of good testing procedures and the need to make the necessary arrangements with the organisers.

DR SCHAMASCH told Mr Walker that many of the recommendations from Sydney had been taken on board by the IOC, which would also take on board a number of Independent Observer recommendations from the Salt Lake City Olympic Games.

A transition phase was currently under way, and he was sure that all the problems and discrepancies observed (particularly with regard to results management) would disappear once the Code was in force.

MR SWIGELAAR congratulated all of the Independent Observer teams.

He stressed the need to ensure that WADA express the 'W' in WADA when putting the Independent Observer teams together.

On behalf of the Executive Committee, THE CHAIRMAN thanked Dr Garnier for having done so well under some occasionally adverse conditions.

DR GARNIER responded to the comment made by Mr Larfaoui. He emphasised that, had the Independent Observers not been present, the legal aspect would have cast some doubt on the validity of the results obtained at the games.

Also, with regard to the report, WADA could aim to establish a standard report which would allow for a better comparison of reports.

DECISION

Mediterranean Games report approved.

6.4 General update

THE DIRECTOR GENERAL summarised the report in the members' files (Annex), noting the importance of the support given by the organisers and the federations involved.

He thanked FINA, the UCI and the IAAF for their excellent cooperation with the Independent Observers.

A system had been developed whereby an agreement would be sent to the organisers for signature before the Independent Observer mission was carried out. FIBA had invited an Independent Observer team to its men's and women's championships, and an Independent Observer team had been invited to the Commonwealth Games, which would provide WADA with the perfect opportunity to promote the athletes' passport and e-learning projects.

WADA had a pool of over 50 Independent Observers.

Now that WADA had some seven or eight reports, it could develop a template or a standard report, and it also intended to invite all of the Independent Observers for training. The EU funding for this project would continue until the end of August 2002.

WADA had tried to obtain an invitation to the FIFA World Cup, but had been told by the Secretary General of FIFA that an Independent Observer team would not be necessary. It was only fair to point out that FIFA would be coming to Montreal in August to sign an out-of-competition testing contract, including cooperation in the fields of education and research.

THE CHAIRMAN said that it had been a little disappointing to hear about FIFA, and FIFA's attitude was exactly why Independent Observers should attend the event. He hoped that the problem could be solved but, to be fair, the senior management of FIFA had had a lot to think about recently.

DR SCHAMASCH referred to the report and asked why the Commonwealth team had been described as experienced and the others had not. Perhaps this was a translation error.

THE CHAIRMAN replied that all of the Independent Observer teams were experienced.

MR WALKER said that the Standards and Harmonisation Committee thought that the Independent Observer programme was going ahead well, and had been one of WADA's major innovations.

With regard to reports, the committee agreed that some kind of Independent Observer report template should be set. What was done with the reports? They seemed to fall into a vacuum, and he thought that this was a pity.

He was glad to hear that some kind of model agreement was being prepared so that the organisers and Independent Observers would know exactly what was expected of them. This was good news.

At an event which had taken place earlier on in 2002, the Independent Observers had noticed a consistent deviation from the procedure, although no major irregularity. It was something which the Independent Observers had felt that, had they been able to intervene, they could have helped. Nevertheless, the rules of the game were such that it was very difficult to intervene, and there was no channel of command or existing structure as there was at the Olympic Games, for example, where it was possible to think of ways of overcoming obstacles. This was something that should be considered, and should be discussed at the seminar mentioned in the Director General's report, as it also led to psychological frustration on the part of the Independent Observers.

With regard to the Olympic Games, the Standards and Harmonisation Committee could see that there was some kind of follow-up process although, even in the case of the Olympic Games, it was not quite clear how this happened. Bearing in mind the autonomy of the sports bodies and the IFs, it was probably quite difficult to envisage a systematic or legal process. It did seem to the committee that, when WADA and the Independent Observers put in such investment and effort, it would be useful to implement some kind of system to obtain feedback on what went on.

The Standards and Harmonisation Committee was ready to draw up a list of events at which it thought that an Independent Observer presence would be desirable.

THE CHAIRMAN thought that it would be a good idea to draw up such a list.

He noted that each of the reports made to date was somewhere on the WADA website.

DECISIONS

1. Standards and Harmonisation Committee to draw up a list of events at which an Independent Observer presence would be desirable.
2. General update approved.

7. Legal

7.1 General update

MR HOWMAN said that his group had met in Singapore on 23 April 2002, and the notes from that meeting were in the members' files (Annex).

DECISION

General update approved.

7.2 Board renewal (2003)

MR HOWMAN noted that the Legal Committee had been asked to put together a draft formula that would allow them to implement the policy that the Foundation Board and the Executive Committee had put into place in Lausanne, which was the rotation formula, and so the paper (Annex) had been prepared with that in mind. It was not something that the committee was saying needed to be done; it was simply a draft document for discussion and, if agreed to, implementation. This was a paper which, if acceptable, needed ratification by the Foundation Board the following day so that a change to the constitution could be made. The proposal was there so that there could be this rotation policy implemented within the constitution itself. If this process was not accepted or acceptable, then the committee would need to look at a different one, so he was asking for a recommendation from the Executive Committee for the following day's meeting.

THE CHAIRMAN asked the members whether they were content with the recommendation.

MS GOSSELIN agreed that some kind of a formula was necessary but thought that each region should be asked to organise and decide who should have a two- or three-year mandate within each region. This could be done by way of a formal decision.

THE CHAIRMAN said that, if all the regions could agree, this would be fine, but if they could not agree, WADA would have a default provision.

MR HAUKILAHTI asked what he should do regarding the issue of an extra seat for Europe.

THE CHAIRMAN noted that there was certainly a desire to solve the European problem and the sports side's problem of having an IPC member, which would mean that there would have to be an extra member on the governments' side. He did not know whether the governments had decided amongst themselves that the extra seat would be in Europe. At one point, before the Board meeting the previous December, everything had been organised, but the representative of the European Commission had not allowed it to happen. He believed that there was a strong argument to be made for the extra member to come from Europe, and he was quite ready to consider this at the Foundation Board meeting the following day. Perhaps the governments could decide what they wished to do.

MR HOWMAN referred the members to page two of the report: *When dividing the members the proportion of representatives for each category/region will be respected in the best possible way.* This gave the region itself the ability to determine which member fell into category *a*, *b* or *c*, therefore the committee was certainly not precluding that possibility by the way in which it had drafted the motion.

THE CHAIRMAN confirmed that there did not have to be a draw. He thought that a dispute resolution mechanism was needed, which would be a draw. In the absence of an agreement, it should be determined by a draw.

DECISIONS

1. Executive Committee to recommend that the Foundation Board approve the draft formula regarding Foundation Board renewal as proposed.
2. Governments to discuss the issue of an additional WADA member.

7.3 Exclusion / sanction for default of contribution

MR HOWMAN said that the committee had been asked at the meeting in Lausanne in November 2001 to consider whether there should be a change to the constitution, allowing for the expulsion of a member or a representative who did not pay the membership dues. Before drafting a suggested amendment to the constitution, the Legal Committee had outlined in the document (Annex) some matters which might be considered before expulsion, without making any recommendation at all. This paper was not to be seen as any recommendation coming from the Legal Committee; rather the selection of some items for discussion.

He understood that the Olympic Movement was considering a position that would contribute the same amount of money as the governments. If this were the case, then this entire issue might be a dead duck, which would avoid the need for any further discussion. If the Olympic Movement's position was so, then it

ought to be tabled, and the Legal Committee would not need to look at pursuing the issue in its current form.

There was currently a clause in the constitution which stated that there could be a loss of a seat, so that the Olympic Movement or the governments could have one seat more than the other if there was no equal contribution to the budget. It mentioned only the loss of one seat.

MR KOSS asked for clarification. He had thought that the IOC would provide 50% of the budget.

THE CHAIRMAN said that the IOC position was that it would pay as the governments paid. This issue needed to be clarified. Did anybody not understand what the requirement was? The contribution to the budget for the following year was to be made by the end of the previous year. This was the statute. Did everybody agree?

MS GOSSELIN said that governments could not legally do this in some cases (Canada could not), so they needed to find a way for WADA's financial year to run on a different cycle to the governments' financial years.

In the Memorandum of Understanding, the governments had wanted to look at this issue and try to clarify or simplify their own procedures, but at the moment the Canadian Government could not advance the money at the end of one fiscal year for the next fiscal year.

THE CHAIRMAN said that he did not wish to sound unsympathetic, however the IOC had covered the full rate for two years so that the governments could solve these delicate problems.

MS GOSSELIN replied that, when the government made payments to other international organisations, the organisations did not necessarily receive the entire payment at the same time. Each government Executive Committee member had to figure out how to make this work. Thus far, no solution had been reached, and she was not sure that the Canadian Government would be able to function in accordance with the statute as it currently existed.

MR VERBRUGGEN asked what the government did if it had to buy aeroplanes for its air force.

MS GOSSELIN replied that purchase agreements were different. The laws of the country had to be respected, and she thought that many governments were in the same situation.

THE CHAIRMAN said that the five-year budget with the guaranteed maximum amount had been put together to enable governments to deal with the issue of funding. The governments had had two years to figure out how they were going to pay. WADA was being put in difficulty because of this.

MS GOSSELIN stated that there were two different issues. There were some governments that had committed to paying their share, such as Canada, which would pay a certain amount in one fiscal year, but it would have to make two payments, because WADA's fiscal year went over two of the Canadian Government's fiscal years. One payment had been made, and the other one was on its way. Secondly, the governments still needed to discuss how to find funds for some regions. The first issue was a question of bookkeeping, the second was that the governments still needed to figure out how to collect the contributions for some regions.

There would be a ministerial meeting in October 2002 for the Americas, and the issue of funding would be on the table. The commitments to WADA were being honoured.

MR UEHARA said that Japan was experiencing the same problems as Canada. In Japan, the budgetary process began in April, and the fiscal year ended in March, so it was possible that Japan would have to make two payments to cover one fiscal year. Japan had made a payment on 1 May for the period up to June. There was a set period in Japan for budgetary processes, and budgetary allocation requests had to be submitted to the Ministry of Finance no later than 31 August, and he thought that this applied to other countries. This meant that he would need the budget plan and amounts no later than August, otherwise Japan would not be able to make its contribution.

Korea had also encountered similar problems due to the lack of information as to the exact amount in time for its budgetary allocation process and, because of this, might not be able to pay the full amount.

His country, like many other countries, had experienced a very serious economic downturn and would not be able to commit to paying the incremental portion of the contribution within the five-year plan. He therefore urged WADA to find other sources to fund the incremental portion of future budgets.

MR REEDIE said that, while he did not think that anybody on the sports side underestimated the government complexities, he rather agreed with the Chairman that there had not been very much progress. Governments had insisted that a budget be produced, having agreed on a Strategic Plan, which had been put together. Having decided strategically what WADA was going to do, a price had then been put on it. Part of that exercise was to employ staff on contracts which allowed WADA to retain good staff. If the governments could not pay at the right time, or if they could not pay at all, then WADA would have to reconsider the Strategic Plan and be able to answer the questions already being asked out in the marketplace as to why WADA was not doing more.

In all honesty, the problem of fiscal years could be got round, perhaps by WADA members being slightly more sophisticated in how they drafted their Foundation Board charter. If there was an issue that two payments would have to be made rather than one at a certain date, then from a financial point of view, he thought that this could be got round, but there was quite a marked reluctance to make payments, and that was an issue.

MRS MALLIARAKIS said that the governments had been telling WADA of their plight for two years. WADA would receive the government contributions on behalf of the USA in October 2002. Chastising the governments for being late with their money would get WADA nowhere, so perhaps the members should talk about what had to happen in order to help the organisation.

THE CHAIRMAN noted that time could be bought with interest. That was easy enough, but he did not think that WADA could go out to the private sector to ask for contributions until it could be shown that the stakeholders were committed. If one side was not willing or was unable to pay for some reason or another, it would be very difficult to persuade anybody else that WADA was serious. The amount was less than US\$ 10 million for the whole world. WADA was not the IMF or the World Bank; it was supposed to be a concerted effort to stop doping in sport. A very good Strategic Plan had been put together, in which everybody had participated, and everybody had helped to set the budget and decided how to share the amount. Nevertheless, it was disappointing to be here, two-and-a-half years later, really not much further advanced in principle than before. WADA could deal with the issues of timing and fiscal years, but needed to have some sense that the entire budget that had been agreed upon, and upon which plans had been made, would be paid. WADA was not a very credit-worthy organisation; he could not imagine a banker on the face of the planet that would lend WADA a penny, therefore WADA would have to find some way of paying for itself. The process needed to be accelerated. The Olympic Movement could do this, and had a mechanism to make payments, but the governments did not. He knew that the governments were working towards this, but there was a sense of urgency which was not fully apparent to them.

MR HAUKILAHTI thought that the Chairman was right, and he understood the disappointment of the Olympic Movement. At the European Union sports ministers meeting the previous month in Almeria, it had been decided that approximately 72% of the European funding would be paid before the IICGADS meeting. At the Council of Europe Monitoring Group meeting the previous week, he had asked whether the delegates of the various countries would pay. Nobody had said that they would not pay. He thought that Europe would take care of its contribution to WADA.

MR WALKER noted that this had been a frank and difficult discussion. He certainly agreed with his colleagues from Canada and Finland that there was no plan, desire, intention or prospect of the governments reneging on their agreements, but he did think that WADA should bear in mind the real problems, which included the sheer time that it took to legislate. The Code had a provision under the compliance section which talked about the difficulty of a supervening law. There were some requirements which, however well-intentioned governments might be with regard to WADA, could not be got over. WADA was not going to change the fact that the financial year for the USA began in October. It had been a difficult year for Europe, what with the uncertainty as to whether the European Commission would make a payment on behalf of the 15 governments that were members of the EU. In light of the difficulties surrounding that uncertainty, which had continued right up until the end of the year, Europe had responded quite well, and he understood that 22% of the European contribution had been paid already, and there were other substantial contributions on the point of being paid.

WADA members should look and see if the statutes were realistic. With hindsight, he could see from a governmental point of view that the requirement in the statutes that the payment for the next year should be paid by the end of the preceding year was pretty much an impossibility. From that point of view, the public authorities side was different to the Olympic Movement side. As he understood, only the IOC was paying on behalf of the Olympic Movement, but some 200 individual governments were contributing to the public authorities side, each of them with their own rules and constraints. He thought that a strong dose of reality was required, but this did not call into question the goodwill of the governments.

With regard to the Strategic Plan, a limit for the five-year budget had been agreed at the Foundation Board meeting last December, but this did not mean that the governments had agreed to pay the amounts that had been stated. The Committee of Ministers of the Council of Europe had asked him to report the feeling that the amounts that had been stated were on the high side, and that, if WADA hoped that the public authorities side would contribute to that kind of amount, there would need to be detailed and precise expenditure proposals.

In all realism, WADA might need to review not the Strategic Plan but the budgetary forecasts for the next five years. These were difficult questions, but he asked the members not to interpret the difficulties which the governments had as a question of an absence of goodwill. Much of it was due to the implacable processes of governments, which were extremely difficult.

Each minister who tried to deal with his or her finance minister went through an interrogation process which was absolutely pitiless.

These were difficult questions. It was not a problem of getting the agreement in principle; it was a means of ensuring that the implementing proposals and suggestions and financial proposals were in harmony with the general will.

THE CHAIRMAN said that he did not want to leave unchallenged a historical revision of what had been decided with regard to the budgets. The members had decided on budgets and had guaranteed that those budgets would not be exceeded.

As to the difficulties, this was the reason why the governments had asked for the Olympic Movement to pay 100% of the cost for all WADA operations for two years. The Statutes had been negotiated in large measure by government representatives, including the European Commission.

Finally, it was not just the IOC paying WADA. There were 199 NOCs paying their share, along with 35 IFs, as well as the IOC. All of these bodies happened to have an efficient collection mechanism.

WADA simply needed to do better. By the end of the year, and in preparation for the following year, there had to be something in place to take the worry out of being unable to fund agreed-upon programme activities. It would then be possible to go to the private sector to ask for additional funds. WADA would not be able to do this, however, until it could demonstrate that its own stakeholders were fully committed.

Going back to the very beginning, WADA had gone to the governments, who had wanted a 50% stake at the table. The Olympic Movement had said that the governments could have a 50% stake as long as they paid 50% of the costs. This was the real politic of the beginning of WADA.

It was up to the continental representatives there today to find some way to make this work, and he knew that some continents seemed to be further along this road than others.

DR STRETTON said that WADA obviously needed some certainty as to when the annual contributions would be made, so that Mr Reddie and the other finance officials could manage the cash-flow issue. He wondered whether all of the governments could inform WADA exactly when they would make their payments.

THE CHAIRMAN replied that this would be a help, as long as it amounted to commitment as well. The government representatives were depended upon to organise their continental organisations.

WADA would need to wait and see when everybody would have their money in before deciding what would happen if somebody did not. If there was a default in contribution, then there would have to be some kind of price for failure to perform.

DECISION

Decision regarding exclusion or sanction for default of contribution to be postponed.

7.4 Quebec tax agreement

MR NIGGLI said that the document in the members' files (Annex) was an agreement to be signed between the Government of Quebec and WADA (the original had been written in French). The agreement reflected the commitment undertaken by Montreal International during the bid for the WADA headquarters.

DECISION

Quebec tax agreement approved.

7.5 Legal liability for Board and Executive Committee members

MR NIGGLI said that the issue of legal liability had been raised some time ago. The document (French original) (Annex) dealt with the issue of WADA being a foundation under Swiss law. WADA was not a commercial organisation. It was governed under the general provisions of the Swiss Civil Code. The members of WADA were not personally liable for their actions as they would be if WADA were a commercial entity, unless serious negligence could be established. In case of any legal action taken against the members, they were insured by WADA.

THE CHAIRMAN noted that the insurance included the costs of defence against any action taken.

MR HAUKILAHTI asked about Article 2. WADA was recognised as a non-governmental organisation by the Government of Quebec, but he thought that WADA was partly governmental.

MR NIGGLI said that WADA was not a governmental organisation, although it was partly composed of government members.

MR LARFAOUI referred to the Ministry of International Relations. Some members of WADA found it very hard to obtain visas for travel.

With regard to insurance, health insurance was required in order to obtain visas for entry into some countries.

MS GOSSELIN said that the Canadian federal government was responsible for issuing visas. This issue could be sorted out for future visits by members.

The Ministry of Finance had written to WADA regarding the amendment of the statutes for WADA's tax status.

THE CHAIRMAN said that WADA had had trouble attracting the attention of the federal departments responsible.

DR SCHAMASCH thought that the members represented their respective bodies and should be covered by them.

THE CHAIRMAN suggested that the members take the bird in the hand and rely on WADA.

MR NIGGLI said that all of the WADA members, and all those attending the WADA meetings, were fully insured by WADA.

DECISION

Report on legal liability for WADA Foundation Board and Executive Committee members approved.

8. Finance and administration

8.1 2001 audited accounts

MR REEDIE said that the shortened version of the annual accounts for 2001 (Annex) had been prepared by PricewaterhouseCoopers, and the Foundation Board would be formally asked to approve these the following day. Because the form was so concentrated, it had been decided to expand on the accounts prepared by PricewaterhouseCoopers by also providing a very detailed set of accounts in the format produced quarter by quarter, so that everybody would know exactly what each committee had spent and every penny that had been raised and spent.

The more detailed accounts for 2001 were in the form that the Executive Committee normally received (Annex).

In conclusion, WADA held some substantial funds in reserve, principally the research fund, of which US\$ 1 million of the US\$ 4.5 million had been allocated and paid, and the balance would have to be paid at the earliest possible date.

If everybody was happy with the accounts, he would suggest taking forward the full accounts in the PricewaterhouseCoopers version to the Foundation Board the following day for formal approval.

THE CHAIRMAN asked whether the members supported submitting the audited accounts for approval. Did anybody wish to comment on the expanded accounts for 2001?

DECISIONS

1. 2001 accounts, as audited by PricewaterhouseCoopers, to be submitted for the approval of the Foundation Board.
2. Expanded accounts for 2001 approved.

8.2 2002 quarterly accounts / budget update

MR REEDIE said that, during the first quarter of 2002, there had been relatively little income, most of which had come from the public authorities side, in particular from the Canadian Government. There had also been relatively little expenditure and, overall, a modest level of activity up until the end of March 2002. He referred the members to the report (Annex).

THE CHAIRMAN asked whether anybody wished to ask any questions.

With regard to the budget update, MR REEDIE said that he could tell the members what he thought it would have been had all subscriptions and payments been received, or had there been the flow of money that had been anticipated. He thought, with regard to expenditure, that the employment costs were likely to be less than anticipated, because it had taken a little longer to bring people on board. Because of the relative lack of committee meetings in the first half of the year, he thought that the committee costs might be slightly less. The Youth Awareness project should run pretty well to budget. The Health, Medical and Research budget should be correct, and it was thought that the cost of the Banbury Conference would be less than originally budgeted. The cost of the Independent Observer Programme was principally allocated to the specific project finance given by the EU. The Out-of-Competition Testing Programme ran well and routinely on a financial basis.

There was one issue of likely additional costs. The cost of kitting out the office in Montreal in the form of computers and technology had been more expensive than the amount budgeted.

Secondly, there was the issue of the protection of the logo. Some way of protecting the logo needed to be found. There was, through the Madrid Convention, a means of obtaining, in practical terms, good protection. This would have to be extended to the USA and Canada, and he estimated that the cost of doing that might be between US\$ 35,000 and 50,000. This was an increase in cost, but one which, he suspected, WADA was going to have to bear.

Finally, the cost of creating the offices had been budgeted at somewhere just over US\$ 2 million, and due to the considerable cooperation of the public authorities in Canada, and a lot of work by the staff and

consultants, the splendid offices had been delivered on time and within budget, so WADA was about US\$ 100,000 better off than anticipated. He thought that this reflected a pretty good effort.

He was pleased to hear that there was a government commitment to the organisation. Some idea would have to be given as to when that commitment would be converted into money. The only way in which it would be possible to run WADA properly in the absence of funding would be to defer programmes. He thought that the practical effect of the fiscal difficulties that people might have in delivering resources was that WADA might not be able to do everything in 2002 that it wanted to do. If that was reality, then it would be reflected in the budget that the Finance and Administration Committee brought to WADA at the end of the year.

DECISION

2002 quarterly accounts (balance sheet as of 31 March 2002) approved for submission to the Foundation Board.

8.3 IICGADS / government funding

THE DIRECTOR GENERAL said that it had not been possible to follow the constitution and ensure that payments were made before the end of the previous year. The IOC had not been willing to do that either. With all due respect, he thought that it might be a good idea to consider setting a realistic date so that the payments could be made.

Africa had promised in Kuala Lumpur to pay its share over the coming weeks. The USA would be paying in October 2002, and a payment had been received from Japan, covering almost the entire Asian contribution. The Korean Government had informed WADA that it had budgeted less than US\$ 85,000, but he did not think that this would cause a major problem. Promises had been made by the EU member states at the meeting in Almeria that they would pay their share. He did think, however, that the process would have to be facilitated from the office point of view, which was why a government liaison officer was to be recruited. WADA needed to make sure that it was doing its fair share of the work as well, and he would be happy to know if there was anything else WADA could do to make the process easier.

DECISION

IICGADS / government funding update noted.

8.4 WADA financial policies

THE CHAIRMAN informed the members that this item was to ensure that WADA's governance was both responsible and transparent. Mr Reddie and his committee had been working on policy and procedure.

MR REEDIE said that the committee would have a complete policy and procedure manual; the financial aspects were probably the most important of them. The Finance and Administration Committee had received comment internally from the auditors on the processes which, in the main, were acceptable. The auditor was reasonably happy, but did want to have systems in place which would allow WADA to be clear on how the funds were handled.

Mr Niggli and his department had produced the document (Annex), which stated quite clearly what the rules and regulations were as far as members of staff were concerned. The document gave signing authorities and talked about various payments to members of the Foundation Board, goods and services, bank accounts, petty cash, etc. It was a pretty comprehensive document and, unless there were any major objections to it, he would like the Executive Committee to approve it so that it could come into force the following morning.

THE CHAIRMAN asked whether these policies and procedures conformed to best practices for international organisations.

MR REEDIE confirmed that the policies and procedures did indeed conform to best practices, and they certainly conformed to the requests from WADA's auditors, who audited international organisations.

DECISION

WADA Policy and procedure manual, as proposed by the Finance and Administration Committee, approved.

8.5 Staffing update

THE DIRECTOR GENERAL said that the staffing issue was related to the relocation process, and referred the members to the documents in their files (Annex). He noted that Ms Tornare and Ms Christopoulos would be leaving WADA for personal reasons. He would be presenting all of the staff members at the Foundation Board meeting the following day. There were six members still in Lausanne, although there would be only three once the transition period was over.

DECISION

Staffing update approved.

8.6 European office update

THE DIRECTOR GENERAL noted that there would be six people at the Lausanne office during the transition period, following which there would be three.

The European office was still at the same address, but WADA was now sharing the facilities with the IOC OGKS services, thus paying half the original rent.

DECISION

European office update approved.

9. Regional offices

THE DIRECTOR GENERAL referred to the decision taken at the Foundation Board meeting in December 2001 to establish three regional offices: one in Lausanne, one in Africa and one in Asia/Oceania. The proposal was to establish a sub-committee of three members with representatives from the public authorities side and the Olympic Movement side to study and report to the Foundation Board on the proposals received to host WADA regional offices.

The WADA website advertised for expressions of interest, and applications were to be in by 30 June 2002. The final decision would be made at the Foundation Board meeting in November or December that year.

MRS MALLIARAKIS asked whether there was an anticipated cost for the setting up of these offices.

THE DIRECTOR GENERAL replied that the cost would depend on the proposals received.

It was anticipated that the bid countries would be willing to participate in the cost, therefore the overall cost should not be too much.

THE CHAIRMAN said that, in other words, they were not yet sure how much the cost would be.

DR SCHAMASCH asked whether the set-up would be the same as the one in Lausanne.

THE CHAIRMAN replied that this had not yet been fully decided. There would not be the same degree of IF relations as in Lausanne, but the regional confederations and regional NOCs, along with the NFs and the governments, would require some contact.

He asked the Executive Committee members to think about who should be on the sub-committee so that a decision could be taken the following day.

DECISION

Proposal to establish a sub-committee to evaluate possible regional office proposals approved

10. Updates and reports

10.1 Health, Medical and Research Committee report

PROFESSOR LJUNGQVIST informed the members that he could be very brief, and referred them to the documents in their files (Annex).

DR SCHAMASCH asked what the status of current research was. It seemed that there had been a delay for the completion of the review process because of the relations between the Health, Medical and Research Committee and the Ethics and Education Committee.

Had the research funds been paid? Would the relations between the Ethics and Education Committee and the Health, Medical and Research Committee change in order to speed up the process?

THE CHAIRMAN replied that, as soon as WADA had a research director, there would be a huge difference. The first time round, WADA had not ensured that all of the ethical reviews had taken place before the applications had been made, however this would not be the case the next time. WADA would love to pay the money out, but simply could not be identified with projects which had not had an ethical review.

MR LARFAOUI asked where WADA was with regard to EPO research.

PROFESSOR LJUNGQVIST referred Mr Larfaoui to document 10.2. A report on the matter was expected by September. This situation was progressing rapidly. The pharmaceutical industry was competing for products which were identical to human EPO and, once these were on the market, there would be difficulties with the urine test which was based on the difference between artificial and human EPO, therefore it was necessary to go ahead with the parallel studies to see whether other analytical procedures could be improved. For the time being, this test involved a combination of blood and urine analyses. The present application procedure contained a number of EPO-related projects that took into account the problems that he had mentioned. In September, he would be able to tell the members which research projects on this matter would be supported.

DR STRETTON said that this constituted one quarter to one third of WADA's overall budget. The way in which the system had been performed the previous year had not been best practice, and WADA really should do better next time, otherwise it would undermine WADA's credibility in the research community.

MR WALKER referred to the Banbury Conference on Gene Therapy. There had been a recommendation that the governments institute regulatory frameworks for this question. The Council of Europe had adopted various conventions on gene therapy, bioethics and human rights which, in part, covered these questions. They were open conventions and were of potential interest.

THE CHAIRMAN said that the initiative of the Health, Medical and Research Committee to hold the conference should be applauded. WADA now had geneticists thinking about the sport-related issues of their work, and would publish a report of the proceedings.

DR SCHAMASCH referred to 5.3.8 of the Code. It was very difficult to ask a government to prohibit the use of gene therapy solely for the purpose of enhancing performance. He would write this comment down and submit it.

PROFESSOR LJUNGQVIST referred to the genetics aspect. The Code should include the prohibition of sports performance enhancement.

The Banbury Conference had led to interest from geneticists worldwide. Following the conference, he had been invited to speak at the annual meeting of the US Society of Gene Therapy, and this was very encouraging.

DECISION

Health, Medical and Research Committee report approved.

10.2 EPO report

DR GARNIER said that he thought that the item had been covered under item 10.1 of the agenda, however referred the members to the document in their files (Annex) for further information. The independent review process was such that WADA would not intervene in the expertise currently under way.

DECISION

EPO report approved.

10.3 Standards and Harmonisation Committee report

MR WALKER said that he had no report as the committee had met only a fortnight previously.

The committee members had discussed what he very much hoped would be the penultimate draft of the test results management document.

The members had also discussed the question of athletes' whereabouts. He thought that it was going to be very difficult to put into practice the coordination of whatever system was decided, as there were many partners interested in and needing to know the information, the generation of which the committee did not want to duplicate, so it was more a question of putting it all together.

The committee had discussed the WADA role as a clearing-house; had wondered whether it was time to look at what the CAFDIS project was doing; and had tried to produce the elements of an answer to Mr Verbruggen on the cost of laboratory charges for doping analysis.

The next meeting of the Standards and Harmonisation Committee would be from 22 to 23 October 2002 and would be largely devoted to the Code.

DECISION

Report by the Standards and Harmonisation Committee approved.

10.4 Ethics and Education Committee report

MS SCHNEIDER said that Dr Vereen had stepped down from his position as deputy director at ONDCP. She thanked Dr Vereen for his time and enthusiasm. There would be a meeting of the Ethics and Education Committee on 3 July 2002 in Montreal.

The document in the members' files (Annex) listed the issues and topics to be discussed.

The ethics review process had already been covered, and there was a brief attachment on that (Annex).

Also included in the reports was an attachment on the Tour de France (Annex), at which WADA would be represented.

At the meeting, the Ethics and Education Committee would be dealing with budget issues, the new proposals for the EU coming up for the 2002-2003 year.

She wished to thank Mr Koss for his leadership with the passport, as well as ASDA for its services related to the passport.

She gave an overview of where WADA was with respect to its ethics strategy. This was a draft strategy which the management committee had received for feedback and which would be taken to the Ethics and Education Committee meeting. It was an outgrowth of the work of the committee the previous year and a sub-group. The primary purpose for the education programme was prevention and to make information available to the athletes; to build partnership with the athletes and other partners; and to provide leadership in the areas of education. Education was an essential part of the anti-doping programmes, and was a dynamic process that needed to be consistently reviewed. The context for the planning for the education strategy contained two main parts: for the longer term, the research and

development side, and for the short term, to provide some client services in the area. There were several factors influencing the planning, such as multiple target audiences, different cultures, the WADA Strategic Plan and the development of the World Anti-Doping Code. The basic principles for the education activities were that they be evidence-based; that they develop partnerships, collaboration and stakeholder involvement; that they use best practices; that they involve a comprehensive approach to preventing doping; that there be an ethical basis for them; and that there be global and cultural adaptability. Other principles for the education activities were those of social change; target group sensitivity; the significance of the impact of the particular programme; using a positive approach; consistency with the goals and WADA directions; and evidence of independence. The overall strategy was, in conjunction with relevant partners, to develop and promote education programmes that were ethically based, comprehensive and based on sound social change models.

DR STRETTON asked whether Dr Vereen would need to be replaced as chairman of the Ethics and Education Committee.

THE CHAIRMAN replied that he thought that WADA would need a new chair of the Ethics and Education Committee, but this would be decided by the Foundation Board.

THE DIRECTOR GENERAL informed the members that the White House had appointed Mrs Malliarakis to represent Dr Vereen on the Executive Committee and the Ethics and Education Committee.

THE CHAIRMAN thought that the Foundation Board should decide as to Dr Vereen's replacement on the Ethics and Education Committee.

DECISIONS

1. Foundation Board to decide as to Dr Vereen's replacement as chairperson of the Ethics and Education Committee.
2. Report by the Ethics and Education Committee approved.

10.5 Athletes' passport

MR KOSS said that the passport had been successfully launched at the Olympic Games in Salt Lake City. He referred to the report in the members' files (Annex). The budget for the passport project for 2003, 2004 and 2005 would be presented to the Executive Committee at the next meeting. He thanked the NOCs for having endorsed the passport at the ANOC meeting in Kuala Lumpur.

DR STRETTON asked whether there was a process in place to support the athletes if they had any queries regarding the passport.

With regard to the tender for global IT support, how did WADA decide whether it had sub-committees to make that tender? Was this the standard way in which major contracts were decided?

MR KOSS replied that ongoing support was being given to the athletes in the form of the communications strategy, as well as the educational component.

With regard to global IT support, the passport was a part of that.

THE DIRECTOR GENERAL said that there would be tenders in June, July and August 2002 for the passport, e-learning, extranet, and website and the intention was that the decision would be taken mid-October 2002.

The process was that the tender would be prepared at the WADA office, then the Legal Committee and the Finance and Administration Committee would have their say, following which a decision would be taken.

THE CHAIRMAN said that he would consult the Executive Committee if he thought it necessary.

DECISION

Athletes' passport report approved.

10.6 EU projects

MS SCHNEIDER referred the members to the report in their files (Annex). She commended and thanked Ms Ebermann for her management of the E-learning project. The project was progressing very well, and the Ethics and Education Committee was currently finishing the last module, which was the content, and she hoped that everything would be up and running (as a pilot run) for the Commonwealth Games.

DECISION

EU projects report approved.

10.7 Youth Awareness

THE DIRECTOR GENERAL informed the members that this item would be dealt with the following day by Ms O'Neill. He referred the members to the various documents in their files (Annex).

WADA had been invited to take the awareness team to the Commonwealth Games. He thought that the WADA Awareness Programme was very important for young athletes.

DECISION

Youth Awareness report approved.

10.8 IADA / WADA

MR ANDERSEN referred the members to the document in their files (Annex). There had been excellent WADA / IADA cooperation, and he thought that WADA should be grateful to IADA for their efforts in this respect.

DECISION

IADA / WADA report approved.

10.9 USATF and USOC

MR REEDIE informed the members that he had been asked to formally declare that Mr Howman had left the meeting for this item.

THE CHAIRMAN referred to the scandal during the Sydney Olympic Games regarding Mr Hunter's presence in the Olympic Village with an athlete accreditation (Annex). Mr Howman, who had been appointed the fourth member of the independent commission established to investigate the affair, was owed US\$ 76,000 of professional time and expenses. It was not fair that Mr Howman should have to carry the economic burden of his expenses, therefore he proposed that the Executive Committee agree to reimburse Mr Howman and renew its efforts to get the money back from USOC or USATF. There had been a clear breach of an understanding as the basis upon which WADA would contribute somebody to the commission.

MR LARFAOUI asked who had invited WADA.

THE CHAIRMAN replied that the CEO of USATF had invited WADA to appoint a member of the independent commission, and USOC had said that the costs would be covered by them.

MR REEDIE seconded the Chairman's proposal. Perhaps Mrs Malliarakis could help to settle the matter.

MRS MALLIARAKIS said that she would be happy to see what could be done and would get in touch with Mr Reddie once she had some information.

MR KOSS agreed with the Chairman's proposal.

He asked whether there was any news regarding the athletes who had tested positive in Sydney.

THE CHAIRMAN noted that the most pressing case (which was reputed to involve a gold medal) was now before the CAS but USATF would still not release the name of the athlete. Having called for an

independent report, USATF had said that the report was terrible. There was a serious USATF problem and USOC had given it until the end of August 2002 to come into compliance with disclosure and other requirements, otherwise USOC would form another track and field federation and seek affiliation to the IAAF.

MR LARFAOUI thought that WADA should do everything that it could in order to recover the money spent, but he agreed that Mr Howman should be reimbursed in the meantime.

MR HAUKILAHTI said that WADA needed to think about learning from this episode for future decisions.

PROFESSOR LJUNGQVIST gave the members an update on the case. The IAAF had agreed with USATF to go to the CAS but were negotiating the terms of reference. It was not easy for the IAAF to deal with USATF.

There was still an ongoing debate involving Mr Masbach. There had been an article on the case in a well known US periodical, *The American Lawyer*, and Mr Masbach had consequently written to the periodical to give his interpretation of the McLaren Commission report, which had made Mr McLaren send a letter to *The American Lawyer* to correct Mr Masbach's misinterpretation. Mr Masbach was still going around the world saying that the McLaren Commission had exonerated USATF of any wrongdoing. The IAAF had received a copy of the letter from the McLaren Commission to *The American Lawyer*, which was why he knew what was going on.

DECISION

1. Mr Howman to be reimbursed by WADA.
2. WADA to continue to seek reimbursement from USATF/USOC for Mr Howman's expenses.

11. Out-of-competition testing update and future testing

MR ANDERSEN referred the members to the documents in their files (Annex).

The main challenge involved athlete whereabouts information, and would hopefully be taken care of when the Code was in place.

MR LARFAOUI said that, for the out-of-competition tests, WADA should exercise caution when asking NOCs and IFs for information as to athlete whereabouts.

If his federation did not find the athlete at the third attempt, the athlete was considered doped.

MR REEDIE referred to the in-house fee request from the IFs. He suspected that some IFs viewed WADA as an easy way out of fulfilling some of their responsibilities.

He would like to become involved in the decision on whether WADA should seek further tenders for out-of-competition testing programmes after the end of the current contract in 2003. The intention had been to bring as much control of that process as possible in-house, and he would like to look through the cost implications before a decision was taken.

DR STRETTON said that the September meeting had dealt with athlete whereabouts, and WADA's options in terms of getting the information to the appropriate people. There had been mention of a pilot project which WADA was going to undertake with some IFs. There was obviously a role for at least some governments which funded national sports organisations. It seemed to him that the two sides of the table should work together and look at the options available.

WADA should also discuss the apparent lack of coordination among WADA, the NADOs and the IFs with regard to out-of-competition testing. A number of high-profile Australian athletes had raised this issue in public debate, and it seemed to him that this public debate should not be lost in terms of the credibility of WADA and the testing programme.

With regard to the paper for the 2003 contract which stated that the aim was to have testing completely in-house for 2004, WADA would need to go through the benefits of this as opposed to extending the current type of arrangement.

Could the members have a paper on these issues?

MR WALKER said that, with regard to the paper on the in-house fee for services, he entirely agreed with Mr Reddie, and thought that WADA should think a lot more about the implications of such a proposal before coming to any decision.

THE CHAIRMAN said that, if WADA provided in-competition services, it would need to think about dealing with its possible role as Independent Observer, as there would be an evident conflict of interest with WADA observing its own work.

DECISIONS

1. Members to have a paper on these issues.
2. Out-of-competition testing update and future testing report approved.

12. Other business

– CONI

THE CHAIRMAN said that Mr Howman had made a preliminary report on his investigation of the Italian conundrum that had arisen following the Sydney Games as to whether or not Italian athletes had been using human growth hormone. Mr Howman had visited Rome to investigate the situation and would report on it the following day at the Foundation Board meeting.

The difficulty with the process was that there were a number of criminal proceedings going on in and around this issue, and the public prosecutors had possession of a lot of the documents that one would need in order to give a full and complete report on this, so anything that WADA said would be based upon incomplete evidence. The concern he had was that WADA should not be seen to whitewash anything when it did not have enough facts to know whether it should be doing that or not. Perhaps an interim report would be a good idea. WADA could give a final report after obtaining the evidence that was in the hands of the prosecutors.

DECISION

Final report on the CONI issue to be made only after obtaining the necessary evidence currently in the hands of the Italian public prosecutors.

– Meeting format

DR STRETTON said that he had some issues regarding the fact that WADA held two meetings (the Executive Committee and the Foundation Board meeting) on the same matters. Perhaps the meeting format could be changed so that the members could get more out of having a group around the table. He wondered whether he should send the Chairman a paper on his ideas. If the Chairman thought that his proposals had legs, then the matter could be discussed.

DECISION

Dr Stretton to submit a paper regarding the format of the WADA meetings.

13. Next meeting

THE CHAIRMAN suggested a meeting of the Executive Committee on 1 October 2002 in Montreal.

DECISION

Meeting of the Executive Committee to take place on 1 October 2002 in Montreal.

THE CHAIRMAN thanked the members of the Executive Committee for their contribution to the meeting. At 4.30 p.m. the signing of a fiscal accord between WADA and the Canadian Government would take place, and the members were welcome to attend.

The meeting adjourned at 4.15 p.m.

FOR APPROVAL

MR RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA