



**Minutes of the WADA Executive Committee Meeting
20 November 2005
Montreal, Canada**

The meeting began at 9 a.m.

1. Welcome, Roll Call and Observers

THE CHAIRMAN welcomed everybody to the final meeting of the Executive Committee for 2005; he hoped that almost everybody would be able to stay for the Foundation Board meeting the following day.

There were two new people to be introduced: Mr Jean-Pierre Moser, who had been appointed Director of the WADA Regional Office in Lausanne, and Diego Torres Villegas, who had been appointed Director of the WADA Regional Office in Montevideo.

Mr Wade, the Director of Ethics and Education, had tendered his resignation, as he wished to be closer to his family in Ottawa, and WADA would miss him greatly. He had contributed a great deal to WADA and carried out some excellent work in ethics and education and helping WADA to articulate the Strategic Plan.

He would circulate the roll call for those who were members or attending formally. Those observers who wished to be noted as having participated were welcome to sign as well.

The following members attended the meeting: Mr Mikkelsen, Vice-Chairman of WADA; Mr Lamour, Minister of Sport, France; Mr Owen, Minister of State (Sport), Canada, and Chairman of the Ethics and Education Committee; Professor Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Ms Elwani, Member of the IOC Athletes' Commission; Mr Nishisaka, Deputy Director General of the Competitive Sports and Youth Bureau, representing Mr Hase, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Gottlieb, representing Mr Burns, Deputy Director of the ONDCP; Mr Fetisov, Chairman of the WADA Athlete Committee; Mr Reddie, IOC Member and Chairman of the National Olympic Committee of Great Britain; Mr Stofile, Minister of Sport and Recreation, South Africa; Mr Lyons, Acting Chief General Manager, Arts and Sport Division, Department of Communications, Technology and the Arts, representing Senator Rod Kemp, Minister for the Arts and Sport, Australia; Mr Kasper, IOC Member and President of FIS; Mr Larfaoui, IOC Member and President of FINA; Mr Moser, Europe Regional Office Director; Mr Hayashi, Asia/Oceania Regional Office Director; Mr Swigelaar, Africa Regional Office Director; Mr Howman, WADA Director General; Mr Andersen, Standards and Harmonisation Director, WADA; Ms Hunter, Communications Director, WADA; Dr Garnier, Medical Director, Lausanne Regional Office; Dr Rabin, Science Director, WADA; and Mr Niggli, Finance and Legal Director, WADA.

The following observers signed the roll call: Peter Schonning, Torben Hoffeldt, C. de Kepper, George Walker, Ichiro Kono, Alastair Mullin, Nikolay Durmanov, Kwanele Mashiyi, Pumla Nene, Patrick Schamasch, Valéry Genniges, Dmitry Tugarin and Brian Blake.

2. Minutes of the Executive Committee meeting on 20 September 2005 in Montreal

THE CHAIRMAN asked whether the members had any comments regarding the minutes of the Executive Committee meeting on 20 September 2005 in Montreal. Unless any comments were made by noon, he would assume that the minutes had been considered approved as circulated.

DECISION

Minutes of the meeting of the Executive Committee on 20 September 2005 approved and duly signed.

3. Director General's Report

THE DIRECTOR GENERAL informed the members that they would have had the opportunity to read his report, but there were a number of matters to which he wished to speak that had arisen over the past few weeks.

The UNESCO report spoke for itself. He wished to congratulate the governments for finalising the Convention in Paris in October. The ratification process had commenced. Although the timelines were tight, he was optimistic and WADA was supportive of those who needed help.

He briefly mentioned the Italian national laws and their effect on the Winter Olympic Games in Turin in 2006. The IOC had never asked the Italian government to soften, reduce or waive the laws during the Olympic Games. WADA had no role or statement in relation to the laws; WADA's concern was that the World Anti-Doping Code be complied with during the Olympic Games. The Independent Observer team would report on that compliance. WADA would behave in the same way as it had during previous Olympic Games; on the other hand, WADA also supported all the national laws of all of the countries in the WADA family.

With regard to the issue of FIFA, WADA had filed its request for an opinion with the CAS. Should members wish to see the request containing all of the information and appendices lodged with the CAS, they simply had to ask. One of the major components of the document was a very thorough opinion from a retired judge of the Swiss Federal Court. This opinion would be published in due course. WADA did not want to publish it until the CAS had had an opportunity to consider it and give its opinion; however, WADA felt that it was a significant document and one that should be made available to others. FIFA had always known that WADA would lodge a request for opinion. The Chairman of WADA had rung the FIFA President and informed him personally following the previous Executive Committee meeting and, prior to such meeting, WADA had written to FIFA to inform FIFA that this was a possibility. Just a few days ago, WADA had learnt that FIFA had applied to the CAS for an advisory opinion. This had been learnt from a presentation made by one of the FIFA lawyers to a Council of Europe Monitoring Group meeting in Strasbourg. WADA had immediately written to FIFA and asked for a copy, bearing in mind that WADA had given FIFA a copy of its documents. FIFA had responded and refused. Copies of the correspondence were on the table. The WADA President had written to the FIFA President indicating his concern, and no response had yet been received. There were some matters that arose from there being two specific requests for opinions, the first being that the questions could be different. If the questions were different, the answers were going to be different, and WADA would therefore be in a quandary. WADA hoped that wise heads would prevail at the CAS and that the two applications would be combined and dealt with as one. This was outside WADA's hands. WADA did not want any interference with the CAS; nor did it wish to influence the way in which the CAS conducted its business.

With regard to *L'équipe* newspaper, WADA had received materials and responses in relation to its inquiries, and it had engaged local counsel to assist it to complete and compile a report. WADA had not been asked for any further information by any other person conducting any other form of inquiry. WADA had been sent a letter by a lawyer who had said that he was authorised to conduct an inquiry, but there had been no mandate or official document to show that such lawyer had been properly appointed. The lawyer had indicated in the letter that he would be writing to ask for further information. WADA had suggested that he ensure that his certification and mandate were official and wished to see it, but had not heard from the lawyer since.

WADA was now regularly receiving e-mail requests for information from individuals, who later turned out to be lawyers representing athletes subject to sanction processes without identifying themselves as such. This was not behaviour that was condoned, but it seemed to be practice that lawyers got away with in some countries. Therefore, he had had to advise his staff to ask for substantial backup before sending a response to such seemingly innocent inquiries, because this information could be used in hearings.

WADA was trying to help both International Federations and developing nations to ensure that they had anti-doping programmes. That year, progress had been made by Mr Koehler and his team with regard to the RADO concept, and WADA hoped that such progress could also be made by the Federations, and would be sending a joint letter from GAISF and WADA to all of the International Federations, seeking their response to a concept of establishing an office where resources were pooled in order to serve the smaller International Federations in a responsible fashion.

WADA has been asked to enquire further about leaks to the media. Investigation had been undertaken in relation to certain doping cases that seemed to find their way into the newspapers before they ought to, and the initial research indicated that more than 90% of the information given to the press came from the athlete or the athlete's entourage. WADA needed to expand the way in which it spoke of the entourage to include athletes' agents. This seemed to be another source of information for the media. WADA could not do very much about leaks except bring them to the attention of those concerned.

The recent symposium on supplements held in Leipzig was reported in the papers. There had been a consensus there that both the industry and the governments would take the responsibility of ensuring regulation of the manufacture and proper labelling of products. However, there was not much that could be done (except on a policing level) about piracy. The recent indictment of Patrick Arnold, the chemist allegedly responsible for the manufacture of THG, revealed that the product obtained had come from China. WADA knew from information given to it by those who were more experienced that there was a considerable "industry" of pirated drugs in China, and would talk about it with the Chinese representatives over the next day to see if there was something that could be done together to prevent such industry or at least be more aware of it.

With regard to baseball, the major league baseball people in the USA had reached an agreement with their players' association to improve and increase their scrutiny of drugs in that professional league. They had not gone as far as accepting the Code or the way in which the Code operated, but significant advances had been made. For example, a player would be sanctioned for 50 games (3 months) for a first offence; for 100 games (6 months) for a second offence; and for life for a third offence, although that could be commuted to two years upon application by the player. Amphetamines had been included in the list of substances to be tested for, thus advances had been made in the right direction. Mr Gottlieb would update the members in greater detail, but this had meant that the pressure from Congress had been taken off, and there was not likely to be legislation passed in relation to baseball.

In relation to professional leagues, the Australian Football League, the equivalent of the NFL in Australia, had signed the Code and was fully Code-compliant, and should be

applauded for taking that step. The Australian Government should also be applauded for its strength and guidance.

As for tennis, the WTA was accepting the Code, and WADA was expecting to receive due notification. The ITF had taken over the men's tour testing programme, so the ATP was now under the guidance of the ITF. He knew that Mr Ricci Bitti hoped that similar strides would be made with the women's tour.

He commented briefly on the CAS seminar to be held in January 2006. Mr Niggli and he would attend to raise concerns in the most diplomatic fashion regarding perceptions that could be made as to the way arbitrators sat on various cases, to ensure that full independence would be achieved, particularly in doping cases. Some CAS members were advocates one day and arbitrators another, and WADA had concerns that expanded beyond that about some arbitrators who might sit at first instance on some cases and then as appeals judges in other cases, and there could be perceived conflicts in that regard as well. There were others who wore different hats, including people with prominent positions within the sports movement who were sitting on sports movement cases. WADA wanted to prevent any perception that might be held by members of the public if they were to look too deeply into these compositions. WADA had the utmost respect for the CAS and many of WADA's activities depended on its independence, judgment and integrity. Therefore, WADA wanted to support the CAS as much as possible.

THE CHAIRMAN asked if anybody had any comments.

MR MIKKELSEN thanked the Director General for his comprehensive report on WADA's activities. He would have liked to comment on many issues, but would focus on the Italian anti-doping situation. He regarded the issue as a case between the IOC and the Italian Government. He could not deny that he had been surprised to see Mr Pound quoted in the press as declaring his support for the IOC's demand that Italy suspend its tough anti-doping legislation during the Olympic Games, and that he was against the fact that athletes should be met with criminal charges. He had since been in contact with Mr Pound and thought that the misunderstandings had been cleared up.

He simply did not agree that anybody should support the idea that Italy should suspend its anti-doping legislation for interim periods. All people involved should stand for a clear and firm fight against doping with deterrent enforcement methods. National anti-doping national legislation had a close relationship to national narcotics legislation. In some countries, not only trafficking but also possession and use of narcotics were criminalised. In such cases, it was also natural to prohibit possession and use, as many substances on the Prohibited List were also narcotics. In his opinion, each country and each government should determine its legislation in this field. Such approach was foreseen in the newly adopted UNESCO Convention, according to which trafficking rules could be implemented through legislation.

It could be argued that sports rules were not sufficient to combat doping. This was shown by the fact that athletes could often be cleared in a doping test although it later turned out that they had been doped, and the Kelli White case was a perfect example of this. The fight against doping would be efficient only if it was combined with public law, solid border controls, police investigations, etc. He believed that the World Anti-Doping Code dealt with the sports side of the fight against doping. Countries could then supplement the World Anti-Doping Code with criminal law rules, and it was quite normal to do this; in some countries, even the use of doping was prohibited according to criminal law. In his view, such an approach should not be criticised WADA should endorse it, as public law in anti-doping supported the general anti-doping fight.

As for athletes, a two-year suspension was often more severe than a month in prison; therefore, he did not think that athletes might be afraid to travel to Turin because they were afraid of wrongful imprisonment. Clean athletes did not have to worry about WADA rules or public rules. He proposed that WADA seriously consider a policy to the effect

that WADA supported public anti-doping law and actively promoted such legislation as an important supplement to the World Anti-Doping Code.

MR OWEN said that he had been disappointed that the US Congress had stepped back from its intention to legislate with respect to doping and professional teams, as it would have been timely and a good step forward with the UNESCO Convention coming forward as a demonstration of a way in which a national government could respond in a responsible manner to the heightened awareness and rising state party obligations to deal with doping in an effective way. While Italy, in its own democratic wisdom, was perhaps going further than most countries, it seemed to him that WADA should take the opportunity with the UNESCO Convention to provide models and create discussion among the International Federations and governments to provide advice to governments that were parties to it as to how they might approach it with national legislation, whether this was general prescriptive legislation with respect to professional sports teams or whether it was under the criminal law (and he could not see it going much further than it was going under the criminal law in Canada). However, he wondered if, given the unique composition of the group of sports federations and governments, there might be some discussion and provision of state party advice as to what sort of domestic legislation would be helpful in countries meeting their obligations under the Convention. His reading of it was that that area was left a little hazy in terms of permitting, but not requiring, a state party to legislate domestically in order to adopt the Code and make it a prescription for professional sports and other organisations. Within the Olympic Movement and the international sports movement, sufficient sanctions were available by restricting participation from teams and countries that did not comply, but he wondered to what degree the matter of advice to be provided to countries as they ratified the Convention had been internally discussed.

On behalf of the Olympic Movement, PROFESSOR LJUNGOVIST conveyed his gratitude to the governments and their representatives for successfully concluding the UNESCO Convention. He hoped that it would be ratified and implemented correctly. He was pleased to note that his government had been the first to ratify the Convention, and he hoped that others would follow and implement it soon.

With regard to the Italian domestic law, he agreed that this was a matter between the IOC and the Italian Government. It was not the first time that there would be competitions under sports rules that might seem to come into conflict with national laws. In 2003, an agreement had been reached between the IAAF and France in order to deal with the national law and sports regulations, and he was confident that the IOC would also find a diplomatic solution for the current conflict in Turin in order to have efficient anti-doping control during the Olympic Games.

He wanted to raise the matter of the frustration that sports people might feel when they saw athletes who had tested positive continuing to compete. He considered that this should be looked into, particularly with respect to the 2007 Congress, because one of the main ideas of the anti-doping philosophy was to make sure that athletes who did not dope should not have to compete with those who did. The issue of people who had tested positive continuing to compete until their case was legally solved had to be looked into, because it should be prevented by all means.

He was pleased to hear that there would be a seminar with CAS arbitrators. An important aspect that should be dealt with was the CAS tendency to delay cases over and over again. It had been criticised for being slow at deciding, and the slow procedure had become increasingly slower, with high-profile cases delayed over and over again. WADA had to address this issue.

He also commented on the incident in China, which had been resolved through an exchange of letters between the IAAF and WADA. It raised an interesting issue, which was that the China Games were a national event, but the marathon had been an international event within which the China Games marathon had taken place. Therefore, the IAAF had become involved as the body sanctioning the competition and a body with

some responsibility regarding the competition, one of its responsibilities being to make sure that proper doping controls were in place. There had therefore been a joint IAAF-Chinese venture to conduct the controls.

He noted that there was an error on page 2 of the Director General's Report. The Swedish Government had not been involved in the Gene Doping Symposium; the Swedish Sports Confederation had received government money to be one of the three hosts of the symposium.

MR GOTTLIEB said that he was pleased to report, on behalf of Mr Burns, that the US Government had passed an appropriation bill the previous Friday that contained just shy of US\$ 3 million to WADA, and the government would work to get that money to the Swiss bank account as soon as possible. The appropriation contained the US Government's payment for 2005 and 2006, and would solve the timing issue that had bedoubled it the previous couple of years with the discrepancies in budget years.

MR STOFILÉ supported the view in respect of the IOC/Italian Government negotiations regarding the Olympic Games in Turin. He had been quite concerned with the media reports, as they had indicated that WADA had been showing concern about Italy's laws and had been very uncomfortable with how the Italian Government was dealing with the question of criminalising doping and linking it up to criminal cases. He was pleased to hear from the Director General that WADA continued to support national laws in this respect because, in his view, public law complemented the anti-doping stance. It could not contradict it and, of course, it went much broader than an anti-doping stance as it applied to the athletes as well as all sectors of society in the country in question. For this reason, WADA should not be surprised that all of the countries of the world had endorsed the UNESCO Convention, as it was not just a sports issue for the public entities; it was a citizens' issue, it was about the lives of people. He was very pleased with the stance taken by WADA. The IOC and the Italian Government would continue to find a way to cooperate on how to reconcile the IOC regulations and the Italian laws.

The other issue was the FIFA report. He wanted to share his sense of disappointment at the way in which the matter was being handled by the FIFA lawyers. It took WADA back to what had been raised when the matter had first been discussed the previous year. He was not worried about FIFA taking the matter to the CAS, as WADA had considered the fact that there was discord in the interpretation of the law between the WADA lawyers and the FIFA lawyers and, as such, it had been agreed to take the matter before the CAS for arbitration, but all in good faith, with the spirit of wanting to reach unanimity in understanding. It seemed to him that a conflictual relationship was developing, and that was not very good for sport. He wanted to propose that WADA keep to its decision of September that, as far as it was concerned, FIFA had still not complied and, because WADA thought that FIFA was not in compliance and FIFA thought that it was in compliance with the World Anti-Doping Code, the matter should remain with the CAS. He wished to agree that the CAS should not file the case for years in its cupboards, because it defeated the very purpose for which the matter was being taken to the CAS.

Linked to that issue, he had a question with respect to the Director General's report on US baseball. The body had not ratified the Code, but had tightened its testing rules and penalties. Did this make the body compliant?

THE CHAIRMAN said that the UNESCO Conference of the Parties on 19 October had unanimously approved the International Convention against Doping in Sport. There had been 120 sponsors, and another 71 countries had adopted the Convention without reserve or comment, but it was not over until it became an official convention, and that would occur only when 30 instruments of ratification had been delivered to UNESCO. The critical timing in that for WADA and the Olympic Movement and governments was that, at the Copenhagen Conference, it had been a government undertaking that their response and adoption of the World Anti-Doping Code would occur in time for the Olympic Games

in Turin. For that to happen, at least 30 countries had to ratify and deposit their instruments of ratification by the end of December this year. The UNESCO rule was that the Convention would come into force on the first day of the month following the month in which the thirtieth ratification had been deposited. So, to be in effect on 1 February 2006, which was the month in which the Olympic Games would begin, it meant that the instruments would have to be filed by the end of December 2005. In some countries, it was easier than in others to get the ratification, and he hoped that the governments would identify those countries that could do this by executive act as opposed to by legislation, and encourage them to make sure that at least 30 countries would have done this by 31 December. WADA had announced that it would have a wall of fame for the first 30 countries to ratify the Convention, and for all those countries able to do so by 31 December. He hoped that the government representatives would encourage all countries to do this as quickly as possible. He thought that it would be a matter of great disappointment to the sports movement if the Convention were not in place at the time of the Olympic Games in Turin. That said, he thought that UNESCO had done a better job than most had thought it would be capable of doing in putting the job on a fast track and getting it done in less than two years. This was a very fine piece of work.

With regard to the Italian laws and the Olympic Games, WADA and he had issued cautious support for the IOC position on this, and the IOC's position was that, when the IOC had given Italy the Olympic Games in 1999, Italy had not had this statute in place, and Italy had given certain undertakings to the IOC as to how the Olympic Games would be organised. The law had subsequently been changed and certain practices related to doping had been made a criminal offence. That was a matter for the IOC to work out with the Italian authorities, and WADA had made that very clear. He had also said, and he believed that it was generally WADA's view, that he did not think that an athlete who cheated in the form of doping should necessarily go to jail. WADA wanted to deal with cheats, as it was absolutely opposed to doping, and get the cheats out of the competition for whatever period was appropriate. WADA had been put in a rather difficult position, as harmonisation was not being achieved if there were different rules, and part of the point of having the World Anti-Doping Code and the Convention was to have the same rules adopted and applied by different states and sports authorities. An example of the kind of danger about which it was necessary to be careful in criminal legislation was if an athlete was in danger of beating another athlete and somebody called the police to tell them that this person had drugs in his or her room in the Olympic Village and had been using drugs, and the police came and searched the premises, and the athlete was taken away and questioned by the police overnight, how would that athlete perform the next day? That was not the sort of thing that would happen in a non-criminal environment. WADA had made it very clear that it thought that the situation was quite different for drug traffickers, suppliers, etc., and he had no problem with that at all and certainly supported every bit of the Italian law in that respect. The other thing of course was that, when one of these cases was turned into the criminal justice system, it took a long time. As far as he knew, under Italian law, three cases had been decided late in 2005 relating to offences that had occurred in 2001. That was four years. Of course, there had been no imprisonment; he thought that there had been a fine. When a criminal law overlay was placed in the sport system, it could create delays and difficulties that could actually impede in dealing with the sport offenders. That said, there was nobody there (including him) who was trying to say that the WADA rules should be superior in any way to the right of a country to legislate in whatever way it wanted, even if this was not the harmonisation that WADA sought.

The FIFA matter was troubling, and he thought that the comments made by Mr Stofile were very appropriate. WADA had acted throughout with FIFA in the utmost good faith. WADA knew that it was a complicated sport; it knew that football was the most important sport in the world; and recognised the complications that existed there. WADA had been very careful in what it had done and how it had dealt with FIFA. When WADA had looked at the legislation adopted by FIFA in September, the conclusion had been that FIFA was not compliant, and the decision taken by WADA in May should have been continued as it

was but, because there were huge implications that came from WADA declaring FIFA non-compliant, which spanned on the Olympic side of things to the tournament in Beijing and on the government side to the World Cup the following year, WADA had decided to avoid a battle of lawyers, suspend the operation of its decision and seek an opinion from the CAS. WADA had announced that, advised FIFA of that, and encouraged FIFA to participate in that process. The President of FIFA had replied that he had thought that FIFA was compliant but would be happy to participate in the process that WADA had initiated. WADA had then found out in a very indirect way that FIFA had launched its own process, but did not know what the questions or submissions were; nor did it know the circumstances in which the request had been made. WADA had therefore asked for a copy of the questions that FIFA had posed to the CAS, but FIFA had refused. That was a big problem for the CAS as well as for WADA, and he hoped that the CAS would understand that it should deal with the two requests together and, also, when it appointed a panel, it should make very sure that there was no connection between any panel member and football. This would be a high profile opinion, and he thought that the reputation of the CAS was very much up in the air upon that. It was a big disappointment to see WADA's good faith treatment of FIFA dealt with in that matter.

As to the Armstrong matter, WADA had taken it upon itself to try to get at the facts. WADA had asked questions of all the principal actors and organisations; it had received some replies and no replies from some of the parties, which would not, of course, be a surprise to anybody around the table. The UCI investigation was particularly troubling; WADA did not know the circumstances of it. It did not know how the particular lawyer had been chosen for this; it did not know as much as it would like to about the lawyer selected; it did not know the terms of reference; and it could not get any answers to its correspondence on this, so WADA did not know whether or not it was a real investigation, and it did not know whether there was any interest in a full investigation. Therefore, WADA had decided to do its own investigation and take some counsel on that. It was very interesting that the announcement of the UCI investigation had been received about six hours after WADA had sent a list of questions of its own to the UCI, which had said that the investigation had been turned over to a lawyer as of 30 September. As a matter of fact, the UCI had been writing to WADA with no mention of this well into October, so it was a little murky. It was an important case, and WADA would keep members advised as to what was going on.

The initiative with the International Federations was based on the Regional Anti-Doping Organisation model that WADA had already implemented. He thought that it was a very important initiative and he hoped that the International Federations would respond. WADA's work showed that, of the 28 International Federations on the summer Olympic Games programme, only 10 had out of competition testing programmes. That meant that 18 of them did not, and the only testing being done for those International Federations was the WADA testing. On the winter Olympic Games programme, only three International Federations had out of competition testing programmes. There was a long way to go before there was adequate coverage in most of the Olympic sport International Federations and, as WADA did its compliance with the Code reviews, he was afraid that, if these programmes were not in place, WADA was going to have to say that 18 of the summer International Federations were not in compliance with the Code. There were serious implications to that. The same was true with the winter International Federations.

The US situation regarding baseball was interesting. He did not think that it was an accident that the Congress had taken an interest in professional leagues. The amount of attention that, through combined efforts, WADA had been able to bring to the question of doping had raised this to a level that had never previously existed in the USA, and the review of professional sports by the Congress had not been restricted to baseball. Baseball was the lightning rod because it had been the most obstinate about denying that there was a problem and the most difficult about having a doping programme in place. A 50-game suspension was about 30% of one season. A 100-game suspension was not even two-thirds of a season. It sounded as though the baseball organisers were

serious, but they were not and, depending on the position played, that level of sanction might involve missing perhaps only 10 games. This was a step that had been forced on baseball by congressional and public opinion; he thought that WADA had to recognise that it was a step forward from the ludicrous policy that had existed previously, but it was not, at least in WADA's view, sufficient. One good thing that had been done was that it looked as though the programme would be administered by a third party, which was not a major league baseball or the major league baseball players' association, and he thought that that showed recognition that there was not much credibility at all. He did not know what was going to happen with the legislation, as only baseball had done this, and the legislation had been directed at all of the professional sports, so WADA would see whether the Congress would persist with the legislation.

Members should be aware that, in an effort to try and see if it would not be possible to do something voluntarily, he had written to all of the commissioners of major sports, asking them whether they did not think that it would be worth a final effort to try to avoid legislation, so that they would not be seen as being dragged kicking and screaming to the table by reason of the law. Baseball had said that it would be interested in discussing this at the end of the season; ice hockey had said that it did not really have a problem in hockey but had reached an agreement with its players, and it sounded as though those involved had taken an old copy of the baseball policy and used that, apparently oblivious to the fact that legislation might be coming down the road but, if all of the other sports were going to get together with WADA, ice hockey would come too; basketball had not answered; football had said that it would like to talk to WADA, but he had tried several times to reach the lawyer whose name had been given to him, and they had played telephone tag, so he did not know what was going to happen with that. WADA was going to continue trying to persuade the professional leagues that this was the right answer to their doping problem and, he thought, once the USA had implemented the International Convention against Doping in Sport, maybe there would be another plank to the platform.

He thought that Mr Owen's idea of model legislation was a terrific one, and perhaps something could be put together with the Legal Committee. It was very hard for the sports movement itself to start suggesting model legislation to governments, but it sounded like a very helpful idea, because there were many countries that did not have an understanding of what this legislation ought to be.

With regard to the CAS situation, the points made by the Director General were really important. WADA had a lot of its own credibility tied up in the CAS; it had made the CAS the forum in which all doping disputes were to be resolved, so it was important to WADA that the public understood that the decisions to be made by the CAS in doping matters would not be tainted in any way, either by actual conflict of interest or by perceived conflict of interest, and WADA certainly had concerns about some people in senior sports positions sitting on doping cases involving their own constituents or organisations that might have to make subsequent decisions or had made prior decisions on those. WADA would find some way to bring that to the attention of the CAS in an official way. The whole point was that the cases should be referred to arbitrators who had some experience in sport. That was the advantage, in addition to speed, of not going to the ordinary courts. He thought that there had been some very unfortunate decisions coming out of the CAS; the decision regarding the athletics relay team in the 2000 Olympic Games had been inexplicable. The effect of that decision was that there could be three slavering, drooling beasts in a relay and one person who was not, and the three who made it possible for the win to occur would get disqualified, but the result would stand and the fourth one got to keep a medal. He could not understand how anybody could reach such a decision, and that was a terrible blow for the credibility of the doping effort. WADA was going to find some way to bring that to the attention of the CAS as well.

He thanked Mr Gottlieb for the excellent news on the Congress. He knew that it had not been easy to get that done, and the fact that the Congress had doubled up to bring

the USA ahead of the curve instead of playing catch-up was terrific and, because it was such an important contribution and was immediately matched by the Olympic Movement, it made an enormous difference to the WADA cash flow and the ability it had to manage its business.

THE DIRECTOR GENERAL congratulated the US Government; the contribution made a huge difference to what WADA had to do from a management perspective, as cash flow issues would be resolved, enabling the management to work on a 12-month basis with total certainty. He was very pleased with that.

Professor Ljungqvist had raised a couple of very helpful comments. The slowness of the CAS decisions concerned the IAAF as well as WADA, and he thought that that combined with the issue that some sports had a provisional suspension, and some did not, which would lead to some major legal issues. He could foresee tennis players suing a player who had beaten them after a positive doping offence because they had been cheated out of prize money. One did not have to be a very clever lawyer to realise that one could make a lot of money by suing players in that respect, and it would take just one case to start it off.

He told Mr Owen that WADA had looked at a model of best practice process for governments, but might have to write about 17 different models for the various jurisdictions in the world. WADA did not have the resources itself, so any help that it might be able to get from government departments or lawyers would be welcomed. WADA did not have the experience of writing legislation, and he knew that the drafting of legislation was very complicated. If WADA could join the countries that had developed legislation appropriately, and post the legislation on the website so that it could be used as models for others, this would be the most helpful way in which WADA could be involved. If there could be a government working group that might steer WADA in regionalised processes, that would be helpful; WADA had asked Spain for its legislation for use in Latin American countries. WADA was working on that.

The WADA management team had been working for the entire year on the process to ensure ratification of the International Convention against Doping in Sport. WADA was supported by all of its Foundation Board members and the IOC to try to obtain the 30 instruments of ratification. Time was tight in the countries in which legislation had to be passed; it was not so difficult in countries in which the stroke of a pen could achieve ratification. The regional directors in particular had been mandated to go back to see that they could find the countries to ratify quickly.

He told Mr Stofile that the International Baseball Federation was in compliance with the World Anti-Doping Code. He was referring to the private Major Baseball League in the USA, which was a private enterprise and was not in compliance with the Code. Any person from the major leagues participating in international baseball tournaments was subject to the processes of the Code.

MR MIKKELSEN agreed on most of the comments made, but wished to talk about the Turin situation. He did not agree with the view that doping in sport should be dealt with exclusively by special sports rules, as it should be recognised that sports in general were an integral part of society. Doping in sports had two sides: a sport side, dealt with by WADA, and a public side, regarding health, drugs, etc., which was dealt with by criminal law. He thought that WADA should send out a signal that it would support tough governmental laws against doping, and there should be no misunderstanding about that. He thought that WADA should not be seen as an organisation that thought that governmental laws were below sports laws. There were some tough laws in European countries and WADA should support that fact.

Regarding the International Convention against Doping in Sport, he agreed that UNESCO had done a better job than anybody had expected. The governments had now delivered a very important contribution to the fight against doping. The Copenhagen Declaration had stated that governments should seek to have the International Convention against Doping in Sport implemented into national legislation before the

Olympic Games in Turin. This was not easy. Normally, ratification in countries took one or two years. It did not make things easier that the official UNESCO documents had been finalised the previous Friday. There was 100% commitment from the governments, an impression that had been confirmed when he had spoken to his minister colleagues in other countries. He had urged, and would continue to urge, that as many countries as possible ratify the International Convention against Doping in Sport before the Olympic Games in Turin so that the Convention would enter into force on 1 February 2006. He thought that a number of countries would certainly meet that deadline, including his country, which would deposit its instrument of ratification within one or two weeks. He appealed to his good friends from the sports movement to show a little bit of understanding. All of the countries were doing their utmost but, for some countries, it was simply impossible to ratify the Convention with a couple of months, not because of a lack of will, but because the constitution of the country made it necessary to involve parliament in a much larger and longer process. During the General Conference in Paris, he had proposed that all countries inform the Director General of UNESCO as soon as possible about the expected date of respective ratifications, or at least about the ratification process and when it would start. He urged all countries to provide such an information letter, with a copy to WADA, to demonstrate their willingness to ratify the International Convention against Doping in Sport as soon as possible, which should be acceptable to the sports movement as a proper fulfilment of the Copenhagen Declaration.

MR LAMOUR said that it was necessary to exercise caution with regard to the criminal aspect of national law application. There would be nothing worse than a difference between the sports sanction and the civil sanction. WADA had been created to give coherence to the fight against doping worldwide. The sports sanction could result in a two-year suspension but, on the civil side, it had been seen that a fine had been applied in very few cases, and there was nothing worse than a law that was not applied. It would be difficult to explain such differences in sanctions between the sports side and the civil side. It was hard to convince governments and International Federations to move towards convergence. He thought that WADA should convey a message and assess the laws and their application, defining conditions and possibly giving models. An in-depth debate was necessary, and WADA should seek harmonisation, not lowering its standards, but seeking consistency. He fully agreed that tougher sanctions were needed for traffickers and dealers. Without them, there would be less doping. WADA would be meeting with the Secretary General of Interpol shortly to discuss government action. It was necessary to avoid the two-fold sanction from the sports side and the civil side, which could result in additional problems for the athletes and in matters of public opinion.

MR LARFAOUI noted that Mr Mikkelsen had asked WADA to support national laws. The objective of WADA was to harmonise laws governing anti-doping. How could WADA support national laws that were not in accordance with the WADA Code? National and international laws should be harmonised.

MR LYONS referred to the FIFA request. Had FIFA been consulted by WADA on the terms of its request for a legal opinion?

In relation to the suggestion for a working party, it had not been clear whether the working party would be looking at legislation adopted by different countries to implement the World Anti-Doping Code or whether it would be covering legislation for criminal sanctions to supplement the Code. On the first one, it would seem to him to be a matter for the different constitutions of the different countries about how they would do that; on the second one, he was just a little concerned about the independent sovereignty of a state to make those decisions about what criminal sanctions it should apply in its jurisdiction.

MR KASPER said that he did not think that WADA could wait very long for a CAS decision with regard to FIFA. In most appeals that he saw to civil courts, every second word was FIFA. The second thing was, within the International Federations, with regard to sanctions, his own International Federation thought that it should adapt its rules to the

FIFA rules. This was dangerous, and he was quite sure that many International Federations had the same problem. He urged WADA to push FIFA to take the necessary decision.

MR OWEN noted that he had not been suggesting looking at criminal legislation that might be common across jurisdictions, but rather regulatory legislation that would require professional sports teams, in particular, to introduce a system such as the World Anti-Doping Code. He suggested that Canada, as it ratified the International Convention against Doping in Sport (without breaching confidentiality of cabinet agendas, Canada was very keen to ratify and might be involved in an election within the next week or so, and the next cabinet meeting would be on Tuesday, so he thought that Canada was moving at a good pace), prepare an opinion on what domestic legislation under the common law might be effective in supporting the International Convention against Doping in Sport, and share that in a way that might be useful to others, and countries might also contribute to that. Because of the need to get the 30 ratifications before the end of the year, WADA should not misunderstand the objective and suggest to countries that might be able to ratify by executive order (as Canada could) that they might need legislation before ratifying, because WADA did not want countries for which that was not a necessity to think that it might be.

MR REEDIE noted a number of detailed issues on a whole range of fronts. He thought that the CAS dealing with the FIFA issue was the leading one facing sport and WADA should make sure that that got resolved at the earliest possible moment.

As far as the International Convention against Doping in Sport was concerned, as he understood it, acceptance and then ratification was a clear statement of intent that countries were in favour of the fight against doping in sport and along the lines of adoption of the World Anti-Doping Code. He could understand why not every country could do that immediately, and he thought that a piece of draft legislation that could be made available to other countries would be a useful thing. He could see an absolutely wonderful debate at the next conference in 2007 to say that governments had come a very long way towards harmonisation but had not yet got it right for the following reasons, and this was how they might be able to resolve those issues. He did not think that WADA could deal with that in ratification terms before the opening day of the Olympic Games in Turin; he thought that WADA should concentrate on ratification by as many people as possible as a clear declaration of intent, as that was what WADA had asked the governments to do, and then it would go into rather substantial and complicated refinement in the way that Mr Lamour had pointed out. He thought that this was going to have to be a step-by-step process, and WADA was not going to be able to get the harmonisation that everybody had wanted as early as had been intended.

THE DIRECTOR GENERAL said that 182 countries had signed the Copenhagen Declaration, in which they exhibited a commitment to the International Convention. Governments had already taken that step, and he thought that that was very significant because the absentees were very tiny countries in very remote parts of the world. So WADA did have that statement of commitment through the Declaration, and was working to ensure that each of the signatories took the next step, which was ratification of the International Convention against Doping in Sport.

As to the models of best practice and guidance in relation to governments as to how they could conduct harmonisation, he thought that WADA would be able to consider a symposium to which lawyers would be invited, in order to have the legal and constitutional input necessary to get a helpful output. It was a government responsibility in which WADA needed to step cautiously; otherwise, WADA would be criticised for interfering in constitutional matters for each individual state.

THE CHAIRMAN agreed that the CAS application was very important. There was no *lex FIFA*. The Code was the Code was the Code; either FIFA complied or it did not. All of the International Federations should understand that.

The whole point of WADA was to try and get state legislation and sport legislation in the area of doping as close as possible.

The sport movement, based on what the governments had said in Copenhagen, would be very disappointed if ratification did not happen in time for the Olympic Games in Turin. He did not think that a lot of the sports organisations had figured out the difference between ratification of a treaty and the implementation of whatever domestic legislation might be required, but he thought that they would be satisfied with the ratification, and would understand that the legislative process was more complicated. This was a date that the governments had given to WADA. He asked the government representatives to do whatever they could to get 30 of their colleagues to ratify the International Convention against Doping in Sport.

There were a lot of issues with which Mr Howman and his team were struggling with on a daily basis, many of which were vital to WADA's success in the fight against doping in sport.

DECISION

Director General's report noted.

4. Legal

4.1 Legal Update

4.1.1 Working Group on Legal Matters

With regard to FIFA, MR NIGGLI said that, in terms of process, WADA was now in the hands of the CAS, which would decide on the appointment of the arbitrators and the timing; however, WADA hoped to receive an answer from the CAS by early 2006.

In answer to Mr Lyons' previous question, WADA had been liaising with FIFA on the issue and had been receiving correspondence from FIFA since September. WADA had copied FIFA on the entire brief and all of the appendices, so that FIFA would be fully aware of the process. This was slightly different from FIFA, which had specifically requested that the CAS keep the matter submitted by FIFA secret.

He drew the members' attention to the Lagat case. A hearing had taken place on 2 November; since then, members might have read a number of comments in the press from Lagat's lawyers saying that he had won the case. He did not wish to go into detail, because what had really happened at the hearing was that the IAAF and WADA had managed to get a transaction but, under German law, the athlete could get out of the transaction until 1 December, so WADA did not wish to compromise in any way the possibility. He reassured members that there was nothing in the transaction involving money being given to the athlete and nothing that would question the validity of the EPO test, so the transaction would be very favourable to the IAAF and WADA and he hoped that the athlete would stick to it on 1 December.

With regard to the CAS decision on the Calle Williams case, WADA had found it very disappointing. There was some reasoning in the decision that WADA found particularly difficult to understand, particularly the interpretation that the stimulants under the List formed a closed list and not an open list. He was not sure how to understand that. That being said, WADA had always said that it would respect the CAS decision, which led to a number of consequences with regard to the List. The first one was that the CAS had ruled that substances that were mentioned in the Code were not subject to challenges, as per Code provision 4.3.3; however, substances under the "related" category could be challenged by athletes and, obviously, the natural reaction to that was to say that the more substances mentioned by name, the less risk of challenges, and this was a point that would have to be raised with the List Committee to see how to handle the matter to keep a comprehensive list but also minimise the risk of challenges in the light of this decision.

The other implication arising from this decision was the fact that, whenever a question was asked as to whether a substance came under the List or not, it would, apparently, not be satisfactory for WADA or WADA management to answer alone and, therefore, a consultation process of the List Committee would be necessary. This would be done; the process had been put into place, but the consequences were that it would take some time, because reaching all of the members of the List Committee and obtaining an answer was not something that could be done within a couple of hours. The issue in the decision would be addressed as quickly as possible, but it would be necessary to follow the process, which was rather unfortunate.

The members would find in their files the various contracts related to ADAMS; these could also be seen on the WADA website and used as models if necessary.

A Working Group on Legal Matters had been created; the list of members could be seen in the members' files, and WADA was pleased to have a number of the most knowledgeable lawyers when it came to doping who would give some of their time on a voluntary basis to WADA to provide advice on various documents and in the lead-up to the World Conference in 2007.

PROFESSOR LJUNGOVIST referred to the Lagat case. Reference had been made to the IAAF position on it, and he fully confirmed what Mr Niggli had said. It was rather frustrating to see comments in the press. It had been decided that the IAAF would keep a very low profile and say nothing in order to avoid inviting the party to come up with new ideas before 1 December. It was true that a fortunate agreement had been reached.

The other issue was the List and the Calle Williams case. He did not know whether members remembered, but the List Committee had foreseen the problem regarding the group of stimulants, and the original proposal tabled to the Executive Committee had been a closed list for stimulants and an open one for other substances, but that had been rejected. The original idea had been to have the stimulants as a closed list, and one of the experts had worked out such a list. It had, however, been felt necessary to reject this and have the clause of related compounds within the list. This was the second time that a CAS decision did not accept the clause of related compounds (the first case had been at the Olympic Games in Atlanta). He could see that WADA would probably have to come back to the idea of having a closed list for stimulants, but not for the other groups. WADA had been able to make use of the related compounds clause in cases of THG, for instance, which had come up as a new designer steroid. The List Committee was prepared to take the issue on board again based on the new experience. Even if WADA arrived at a closed list for stimulants, cases could still come up with respect to similar substances, so a mechanism should be in place. He thought that a 72-hour delay was a bit too much and that a quicker mechanism should be devised to respond quickly to that. There had been a system used by the IAAF in Paris, whereby a quick decision had been given with regard to the modafinil matter, but that had been before the adoption by the IAAF of the WADA Code. He did not think that the full List Committee needed to be consulted, but a small expert group should be standing by to deal with this.

MR OWEN assumed that there was no appeal beyond the CAS other than a country dealing with a case within its own legal jurisdiction. He was disturbed by the FIFA case, where it would seem to be a fairly basic rule of procedural fairness that, whether or not each brief had been received separately, the other side to the dispute should have access to the brief of the other side. Was there a written set of arbitration rules? How would that breach of procedural fairness be challenged?

MR LYONS asked whether the list of similar substances for stimulants being referred to the List Committee was for some sort of urgent amendment to the List or for looking for amendments to the List for 2007.

MR LARFAOUI asked, with regard to the question asked by Mr Owen about FIFA, whether the CAS would have to decide on the matter. Would the CAS come up with a ruling or an opinion? If the decision were in favour of FIFA, would WADA lose?

MR NIGGLI noted that WADA had consulted the List Committee on the Calle Williams case, and had received an expert opinion from two of the relevant experts in the field. It seemed that this was not enough for the CAS. He did not think that only a small group of experts would be sufficient.

The process in the CAS for this case was not an arbitration or litigation; it was an advisory opinion. He did not know what the questions from FIFA were, but certainly there were no rules requiring one party to disclose something to the other; it was each party going to the CAS and asking for an independent opinion. It was not like a normal procedure.

MR OWEN asked how the CAS could go forward to give an opinion without asking the opinion of the party involved.

MR NIGGLI replied that it was up to the CAS President to decide how he wished to conduct the procedure in such advisory opinion, and that no rules requested that the CAS ask the other party for comments. If the arbitrators appointed felt that this was appropriate, he was sure that they would do it.

In response to Mr Larfaoui's question, since WADA did not know what FIFA had written in its document, it could not decide what to do. If FIFA did not give WADA the opportunity to look at its brief, it would be up to the CAS to decide.

A process would be in place to address the question of related substances for 2006, but the 2007 List was under discussion.

DR RABIN referred to the open and closed list issue. When reviewing the 2004 List, the question had been before the Executive Committee to decide on an open or closed list. This issue was that the List Committee had come forward with a list of about 40 named stimulants, to keep the List manageable in terms of size and accessibility to the non-experts. Members had previously seen a list of about 300 or 400 possible stimulants and, if WADA wanted to list all of them, it would have to add a number of names. An issue that would not be addressed was designer drugs. It was easier to twist an existing stimulant to make a new designer drug than it was to make anabolic steroids. Members should be aware of the issue.

PROFESSOR LJUNGOVIST said that there was a fast-track mechanism to add substances to the List; it did leave a three-month gap, but the mechanism did exist.

THE CHAIRMAN thought that the open and closed list issue should be looked into more closely. He was reluctant to close any list; he would rather have it out there creating uncertainty for the cheats. WADA now had some experience in terms of what the CAS looked for. The problem with scientists was that they were all born with egos, and he was concerned that, if the entire List Committee was not on board, somebody on the List Committee might get offended. WADA should bear in mind the human frailties as well as the scientific factor.

DECISION

Working group on legal matters update noted.

4.1.2 BALCO

THE CHAIRMAN said that Mr Madden, the head of USADA, would be giving a presentation on the BALCO case.

THE DIRECTOR GENERAL noted that the content of what Mr Madden would be telling the members was confidential.

MR MADDEN informed the members that there had been 15 cases brought by USADA; 13 had been resolved. What members could see up on the screen were the non-analytical positives, the cases brought with the assistance of the US Senate. Over 9,500 documents had been delivered to USADA and, along with the testimony of people like Kelli White and experts on blood and urine, it had been possible to bring the three cases

plus Gaines and Montgomery. As the members could see, Alvin Harrison had received four years, Kelli White² two years and Michelle Collins² four years (the ² meant that the case had been decided by full-blown CAS panels, where full hearings and the athletes with the advice of counsel had either accepted the recommendation or not); Kelli White had also tested positive for modafinil.

Those sanctioned for THG positive results were Kevin Toth (two years), John McEwen (two years), Dwain Chambers (two years), Regina Jacobs (four years), and Melissa Price (two years). Again, Toth and McEwen had tested positive for modafinil, a stimulant. Apparently, the sprinters had been falling asleep in the starting blocks and needed that. There were two cases outstanding with regard to the non-analytical positive results: Chryste Gaines and Tim Montgomery.

There was no doubt that the CAS had the finest and most distinguished jurists in the world deciding the cases; the problem was with their case management. USADA had been promised a decision on Gaines and Montgomery in July, then September, then October, and had recently heard that the decision might not come until December. Criminal matters in the USA moved rather slowly, but it was necessary for the CAS to manage its system better and possibly refer cases to jurists who had time to hear the cases and then deliver a decision. Case management had to be improved by the CAS. The Dwain Chambers case had been an IAAF case that had been prosecuted by UK Athletics, assisted by USADA. Three parties had been working on that case together.

Those athletes testing positive for modafinil were Eric Thomas, Calvin Harrison, Sandra Glover, and Chryste Gaines (for whom a decision was still expected).

The closed criminal cases had involved Victor Conte, Jim Valente, Greg Andersen and Remy Korchemy (Remy Korchemy had not yet been sentenced). Victor Conte had received four months in jail, four months in a half-way house; Jim Valente had received probation; and Greg Andersen had received three months in prison. Victor Conte began his sentence in 11 days, starting in a federal prison in Northern California on 1 December. He knew that there had been criticism by some about the weak penalties these gentlemen had received. USADA was working with the Department of Justice and the Federal Sentencing Guidelines Commission within the government to strengthen the penalties for steroid possession, distribution and trafficking, so he did believe that, in the near future, the USA would strengthen the penalties with regard to steroids in the criminal area.

The criminal indictment handed down a few weeks ago had been in relation to Patrick Arnold, who was a chemist located in central Illinois, and was the producer of tetrahydrogestrinone, the basis for all of the BALCO cases. He had also produced norbolethone, which had been used in the Tammy Thomas cycling case, resulting in a life sanction for this athlete, as this had been her second offence. Patrick Arnold had been going back to old pharmaceutical company documents, which were now on the Internet, picking out an old steroid that had never been commercially produced but had been tested by pharmaceutical companies, tweaking the molecule, producing the substance in his garage or small business, and then distributing it to athletes or customers. He had a supplement manufacturing company. There was no doubt that, with all of the information on the Internet, the bad people like Patrick Arnold were getting their information and just tweaking the molecules. His case would probably be heard some time towards the middle or end of the following year.

With regard to the US Attorney for the Northern District of California, San Francisco and the Department of Justice, this was an active, ongoing investigation. BALCO had been reported in the media in the USA and abroad; it had been assumed that the case was over. In fact, the case was far from over, and the conclusion was a long way off. The USADA relationship with the Department of Justice in Washington and the US Attorney in San Francisco was very good; in the Gaines and Montgomery cases heard in June and July, the lead federal investigator in that case had testified for USADA. This was a very rare circumstance. The investigator had testified in a CAS hearing before the

criminal case had been concluded by the Federal Government. This had hardly ever been done; in fact, it had not been possible to find this on record in the Western States in the Federal Court. Due to the subpoena power, the Federal Government might be thought to have more information than USADA; however, information that USADA garnered was used to actively assist and aid in the federal investigations and, where possible, the Federal Government put forward information to USADA. Coaches and athletes and athlete support personnel were involved in the matter. Where the federal investigations went would in some ways dictate where USADA's investigation would go. In other words, if more indictments were brought out and if those people indicted cooperated with USADA, USADA would be in a position to bring more cases. Again, information was being given where possible, but the Federal Court was prohibited under US laws from informing as to grand jury testimony.

With regard to Victor Conte, he had appeared on ABC television in the USA some 11 months previously, on the programme called *Twenty Twenty*. In the past two and a half years, USADA had had three private confidential face to face meetings with Mr Conte, who had provided information over that period that had led USADA's investigation in different directions. At the moment, as he began to serve his time in prison, he had been asked by his counsel to go quiet on USADA. USADA had made contacts with his attorneys, seeking more interviews with Mr Conte and seeing in which direction he wanted to go in the future. On the courthouse steps, as he left after being sentenced for his crime, he said that he wanted to help level the playing field and assist in developing better anti-doping programmes. It remained to be seen whether he would testify on behalf of USADA; the ball was in his court, and USADA had made continuous contact with his attorneys.

The USADA investigation continued, involving athletes, coaches and support personnel. USADA continued to collaborate with the IAAF; the IAAF had joined USADA as a party in the Gaines/Montgomery case. The two bodies had a shared interest, including documents that USADA had forwarded to the IAAF with regard to the Greek sprinters; those documents had been received from the US Senate through the Justice Department.

USADA had spent over US\$ 2.5 million on its investigations, prosecutions and lawyers. It had been a lot of money; USADA was willing not to stop and to see it through to the end no matter what the cost. He thanked WADA for its support in the Tyler Hamilton case, the last hearing day of which was to be 10 January; this had been an extremely difficult case and USADA appreciated WADA's support.

DR RABIN asked whether DMT had been part of the substances prepared by Mr Arnold. WADA knew that DMT had been synthesised back in the sixties.

MR MADDEN replied that he did not know for sure, but USADA was looking into the matter.

PROFESSOR LJUNGQVIST confirmed the cooperation between the IAAF and USADA. He wished to commend USADA on what it was doing and had been doing for a long time. He thought that USADA was doing a great job. Of course, it had been a disappointment to many that the penalties imposed on the people who had been distributing the substances had not been as great as many had wished. This reminded him of one case back in the seventies, where a former British quarter-miler had distributed doping substances on the US sports market and had been in prison for quite some time. Could any explanation be given for this totally different sentence?

MR MADDEN said that this had taken place before his time.

THE DIRECTOR GENERAL confirmed that David Jenkins, the quarter-miler, had been given a seven-year sentence for smuggling drugs. He had served only a number of months in relation to that sentence and had been released. He was now a well respected manufacturer of supplements and was a multi-millionaire living in California. He had a lot of information about him, because WADA was looking carefully into the supplement business to see who was making money out of whom. He thanked Mr Madden for

partnering with WADA on another symposium that would be held the following year regarding investigations, because WADA knew that only one or two anti-doping organisations had the power to conduct investigations and inquiries; the new body being set up in Australia was going to have similar powers, and WADA wished to learn in order to provide a model of best practice for others to follow. There was a serious shortage of expertise and jurisdictional power to undertake the sort of work that USADA and the US Government had done. It required partnership with policing components of governments; it was not normally within the power of sporting bodies to be able to do the work that was required to bring the cheats to heel. WADA was going to hold the conference of experts in Colorado Springs in early June 2006.

MR MADDEN said that, in defence of the US Attorney in San Francisco, he had been well within the guidelines as dictated by the US Government; the BALCO case had brought this to the attention of the American people, and that was why the Federal Sentencing Guidelines Commission was reviewing and trying to strengthen those standards.

THE CHAIRMAN noted that a lot of people had been disappointed in the sentence but he understood that, if you were a prosecuting attorney, you had to balance what you were likely to get if you went through a full-blown trial with what you could agree to with the accused. More frustrating to those in the anti-doping field was that, there not being a trial, it had not been possible to see all of the evidence that would have come out. Was USADA in possession of the evidence that would have come out had there been a trial?

MR MADDEN said that he had been disappointed that there had not been a trial as well. As far as evidence that had not come out, USADA was in possession of evidence. He was sure that the government had more evidence than USADA did. He asked everybody to hang in there, as he thought that there was more to come from the federal side and hopefully from the USADA side. There were athletes' names that had appeared in BALCO documents but had not yet been made public.

THE CHAIRMAN said that, to the extent that USADA was dealing on occasion with non-US athletes, WADA would very much like to take advantage of what information was and could be made available.

MR MADDEN replied that USADA was working on that.

THE CHAIRMAN asked USADA to keep at it; it had been an important breakthrough and it was in everybody's best interest to take advantage of whatever could be done. It had had a very salutary effect in the USA in terms of raising the profile of all of this.

DECISION

BALCO update noted.

4.2 Constitutional Amendments – Foundation Board Membership

MR NIGGLI said that the document in itself was self-explanatory; the matter was for debate and for the Executive Committee to give instructions as to what constitutional amendments, if any, it wanted the management to look at.

THE CHAIRMAN noted that this was a proposal put to the Executive Committee by the European Government representatives. There were two issues: the first was whether those in his and Mr Mikkelsen's position should be taken out of the normal quota of representatives from each side and made separate positions. He supposed that it also meant that the Chair and the Vice-Chair need not necessarily be members of the Foundation Board, which was the current rule as he understood it. The second point was the consideration of the principle of alternate chairmanship between the sports movement and the governments, and whether that was a principle that the Executive Committee thought should be embedded in the WADA Statutes. The matter had been sent to the members to think about and discuss at the meeting if the occasion was right, or it could be left to mature.

PROFESSOR LJUNGOVIST said that he understood the background to some extent and had discussed the matter with the Olympic Movement, and respectfully asked that the matter be referred back if so and more explanation provided as to why an increase in number should occur at all. It felt a bit premature at that stage, based on available information, to take a decision then and there. With respect to the second point, the Olympic Movement had no real objections.

MR MIKKELSEN said that the history was that there was a working group with representatives of six countries from the Executive Committee, and they had made the recommendation that was being discussed, first of all, that the principle of rotating the chair and the vice-chair every three years between the sports movements and public authorities should be respected in the WADA Statutes, as he thought that that would reflect the true partnership in WADA. Second, there was the process of finding a governmental chairman of WADA. In November 2007, WADA would vote for a new WADA chairman coming from the public authorities side. The working group had been working on the profile of such a chairman and how to find a person with the right qualifications. There were, of course, many splendid candidates among the members of the Foundation Board, but the idea was to have as broad a candidate group as possible, meaning that the incoming chairman should not necessarily be a member of the Foundation Board and, as a consequence, the Statutes had to be changed and the number of members of the Foundation Board had to be increased.

With regard to the recommendation and advice from the Chairman and Professor Ljungqvist, he would not mind discussing the issue in May 2006, but this recommendation had come from all of the governmental representatives and, if his colleagues did not disagree with him, he thought that it could be discussed at the May meeting.

THE DIRECTOR GENERAL added to Mr Mikkelsen's eloquence by saying that one of the issues was that the government representatives on the WADA Foundation Board were effectively government representatives, ministers in particular. It was obvious from what the working group had undertaken that no present minister would have the ability or the time to be able to run as a future president of WADA and so, in looking for a person from the government side, the working group wanted to look at seeing people who were not currently part of the WADA Foundation Board. He thought that the way forward was that the working group should probably develop a better discussion paper (and the WADA management would be quite happy to work with the group) so that, before there were any suggested amendments, the paper would have been fully discussed. There was no urgency, but it was part of the total search that needed to be considered as a matter of principle; otherwise, it would not be possible to get a government person sitting on the Foundation Board as an eligible president.

MR LARFAOUI did not think that it was an urgent matter; he also thought that the two points raised should be examined carefully. He did not see why the number of Foundation Board members needed to be increased. As to alternating chairs, experience had shown that it was not a good idea to stipulate this in the Statutes. It could be done through a gentlemen's agreement, or by consensus of all the parties involved. It was in the interests of WADA to have the right chairman. He did not wish to put the principle of alternating chairs within the WADA Statutes.

MR OWEN thought that the constitutional structure that WADA represented, of parity between governmental institutions and sports bodies, was a very good one, and it would be a shame if WADA could not continue that into the president's role on an alternating basis. He wondered if the working group had considered having a minister on the governments' side having an alternate, reflecting the fact that it could be very hard to schedule with any certainty far ahead; however, if the alternate was sufficiently senior, such as the deputy minister or permanent secretary to that minister, with the relevant mandate, that might be a practical solution, rather than looking outside. If that option had been considered and rejected, and people were intent on looking outside, he would be interested to know the profile of the person that the working group had in mind. It

would have to be somebody with governmental experience, but also with sport experience, and he was not sure if that properly reflected the reciprocal nature of the alternating chair.

MR MIKKELSEN supported the Director General's suggestion to have a discussion paper ready by the next meeting, so that a discussion could then take place at the next meeting. He had been looking at his colleagues, who had agreed with him.

With regard to Mr Larfaoui's comments concerning the changing of the chairman of WADA, as far as he knew, there was a gentlemen's agreement between the sports movements and the governments, whereby all had agreed to change the chairman, because WADA was a partnership between governments and the sports side. Of course, it was always important to choose the right chairman, and the governments had been very satisfied with Mr Pound's service, which was why they had agreed to elect him again two years previously. It was, however, very important, as a signal from the governmental side, that the governments be prepared to take over the chairmanship of WADA to show that this was a partnership between governments and the sports movement. The governments had the obligation to find the right candidate. They had not yet decided whether that person should come from among the ministers present, but had looked at the time to be spent as a chairman and the obligations, and thought that perhaps they would have to find a chairman outside the Foundation Board, although they had not yet decided upon this. It could be a good idea to find a chairman outside their own ranks. In each of the five regions, the governments would proceed with their own nominations process, based on the profile described in the working group paper, to find a suitable candidate, if, of course, that particular region was interested in seeking its own candidate for the position. In Europe, there was a special working group, which had just been set up to find the right profile and come up with some suggestions. All had agreed that Mr Howman and his team should provide a discussion paper that could be discussed in preparation for the next meeting in May.

MR LARFAOUI stressed that he was not against the principle of alternating chairmanship of WADA; he had simply said that it would not be a good idea to write this in the WADA Statutes.

MR REEDIE was happy to hear the suggestion that more work be done on the matter because, in general terms, he would like to see a paper that argued a case and was decided, followed by legislation, as opposed to legislation starting and a paper coming along in six months' time to explain what that legislation was supposed to do. He thought that a clear statement of what the public authorities wanted to do was necessary; if that was agreed around the table, then WADA would change the Statutes to accompany it in whatever way was agreed, rather than what Mr Mikkelsen was currently suggesting, which was two statutory changes, which seemed to him difficult to justify without the background information.

THE CHAIRMAN said that it sounded like the matter was not urgent; there were two important questions, which were put as though they were accepted principles as opposed to mere proposals, and he thought that maybe a thorough study of the pros and the cons of each of those would be helpful to the Executive Committee and the Foundation Board. The necessary preparation would be made for the next meeting with the idea to put the matter to the Foundation Board in May if consensus was reached in the Executive Committee.

DECISION

Proposal to prepare a discussion paper to be put to the Foundation Board in May 2006 regarding the constitutional amendments for Foundation Board membership and alternating chairmanship of WADA approved.

5. Operations / Management

5.1 2006 Activities Calendar

THE DIRECTOR GENERAL informed the members that this was the first publication of a WADA calendar, for the sharing of information and to indicate to everybody how WADA conducted its activities and how it ensured that it was doing this in a global manner. The calendar was for information; there might be matters in it that were of interest to members or in which members would like to be involved, for which WADA would, of course, be grateful. The Chairman, Vice-Chairman and Mr Reddie had all given of their time that year to partake in and provide presentations on WADA's behalf at conferences and seminars, for which it was much easier from a resource point of view for WADA to engage them. He thanked the three men for their assistance. He hoped that it would be possible to continue with their goodwill in the future to do the same; he knew that the Chairman was very busy in terms of the commitments that were imposed upon him by WADA; he knew that he had to stand in for the Chairman from time to time; however, if there were other Executive Committee or Foundation Board members who, when looking at the calendar, could say that they would be able to make a presentation on WADA's behalf, WADA would be very grateful, and would obviously cover the expenses and provide the presentation.

THE CHAIRMAN thought that perhaps WADA should think about the matter so that the Executive Committee and the Foundation Board would get some idea of the volume of the occasions on which WADA was asked to speak. He probably did 30 or more speeches and conferences a year, and senior WADA staff did far more than that. Maybe for the next occasion, WADA could show what had gone on over the past six months, as it was a huge volume of opportunity, but also work.

DECISION

2006 activities calendar noted.

5.2 Turin 2006 Winter Olympic and Paralympic Games Update

THE DIRECTOR GENERAL said that this was for a matter of information; the teams that WADA had put together for the Independent Observer and Outreach programmes had been finalised and were listed in the files. There was one correction to the team of observers to the Olympic Games, and that was that John Miller, who happened to be a laboratory expert, was English, not Irish, although he lived in Strasbourg. He was the laboratory expert and served on WADA's Laboratory Committee, and was very well respected in that area. He was not a director of one of WADA's accredited laboratories, and it was important to avoid engaging directors of one accredited laboratory to observe on another.

DECISION

Turin 2006 Winter Olympic and Paralympic Games update noted.

5.3 2006 Standing Committee Memberships

THE DIRECTOR GENERAL said that there was only one spare position on one of WADA's standing committees, and that was the Health, Medical and Research Committee. It would be necessary for Professor Ljungqvist, the Chairman and him to speak later in the day to determine which of the eleven applications should be selected to fill that vacancy. This issue would be reported on the following day.

DECISION

Selection of new member of the Health,
Medical and Research Committee to be
reported on at the Foundation Board meeting.

5.4 2006 Foundation Board Memberships

THE DIRECTOR GENERAL informed the members that the papers in their files contained the renewal dates for their terms; each of the terms was for a period of three years and, when that three-year period was completed, a new representative needed to be sought, or a resumption of that membership. The members could see a list of those who had been reappointed. He understood that there had been an agreement in terms of European representation for 2006, so that Mr Mikkelsen would be a representative from Europe on the Foundation Board and that the troika arrangement would be suspended for the last six months for the terms of the UK and Austria to allow that to occur.

The WADA management had prepared for Foundation Board members an information package, which it had felt necessary for the purpose of recording but also to offer some help to those coming onto the Foundation Board to see the tasks that they had been set and the logistics provided to them by WADA to help them to carry out those tasks. If anybody had any comments or additions to make to that bundle of information, they would be gratefully received. It was important to give more information to new members.

DECISION

Foundation Board memberships update noted.

5.5 Appointment of Executive Committee for 2006

THE DIRECTOR GENERAL noted that nominations had been received for the Executive Committee for 2006, and those sitting around the table had all been renominated, so the Executive Committee could be reaffirmed the following day in the current composition.

DECISIONS

Current Executive Committee members
renominated for 2006.

5.6 Election of WADA Vice-Chair for 2006

THE DIRECTOR GENERAL informed the members that one application had been received for the position of Vice-Chair from Mr Mikkelsen; obviously, the process that had to be followed the following day was for Mr Mikkelsen to be confirmed as a Foundation Board member, and that had been done in the way in which he had just described, and then there would have to be a vote for the position. He asked that the Executive Committee consider the Foundation Board recommendation so that that recommendation could be put to the Foundation Board as a matter of protocol and process. He was assuming that that recommendation could be made without any comment.

DECISION

Recommendation to be made to the Foundation
Board that Mr Mikkelsen be appointed WADA
Vice-Chairman for 2006.

5.7 World Conference 2007 – Host City

THE DIRECTOR GENERAL said that, initially, there had been more than ten interested cities and countries. When it had come to filing the final documentation in the package, there had been three cities: Bangkok, Kuala Lumpur and Madrid. In terms of following the process that the WADA management had been directed to follow by the Executive Committee in September, such process had been completed, and all of the information

had been received and included in the report with the appropriate management comments. Madrid had also sent in the booklet that was on the members' table. This booklet had not been requested; therefore, it was an additional item, and he asked for direction as to whether that should be made available to all Foundation Board members the following day when they voted. He raised the matter as a question of fairness, since WADA had not requested any such booklet, nor had it requested any additional information from the other bid cities.

The timing for the conference had been considered by those bidding, and each was prepared to have it at a time that suited WADA. The management would prefer it if the conference could be held in November; the later in the year, the better, so that the management could complete any consultation or amendment process.

PROFESSOR LJUNGOVIST had thought that it would be preferable to hold the conference earlier in the year, in order to have any amendments clear and well circulated before the Olympic Games in Beijing. Also, the Copenhagen Conference had taken place in March 2003, so he thought that the early option would be preferable.

THE CHAIRMAN said that, in this case, it would be necessary to accelerate the consultation process. Timing was one thing; the result was actually more important and, if WADA went rushing into something where there was no consensus established, it risked an unsuccessful conference as opposed to a successful one. WADA had had one conference that had been pretty successful in 1999 considering what had been going on at the time, and another very successful conference in Copenhagen. WADA would have had experience with the Code and some experience with the International Convention against Doping in Sport; it would have collected comments and experience with respect to issues and recommendations for the Code. The reason for which WADA had been so successful in Copenhagen was that there had been a very good consultation process. He could see the utility of both dates but, if it made the difference between a good conference and an average one, he would prefer to take a chance with the later one. When did this have to be decided?

THE DIRECTOR GENERAL replied that it would be preferable if the Executive Committee could make a recommendation to the Foundation Board so that a decision could be taken the following day. As a matter of pure logistics, if WADA were to hold a conference in March 2007, that gave less than 15 months to undertake a consultation process. At that stage, WADA did not even have half of its stakeholders signed on with the ratification process of the International Convention against Doping in Sport, so would be embarking on a process before having the governments on board. It might be that there would be no amendments to discuss at the 2007 conference; there might be issues for further consultation. He did not know what the result of the consultation team efforts would be. Mr Andersen had set up a very detailed project approach, which would mirror the approach that had been adopted in 2001 and 2002 before the Copenhagen conference.

MR MIKKELSEN thought that it was important to be sure of the success of the conference, and 15 months was not a long time to consult with all of the stakeholders. He thought it would be wise to recommend to the Foundation Board the following day that the conference take place in November 2007.

MR LYONS endorsed Mr Mikkelsen's comment. He agreed that there was a need to have a project plan and ensure the right outcome.

PROFESSOR LJUNGOVIST noted that, if the conference were to take place in November, the Executive Committee should be aware that any new amendments would not be applicable at the Olympic Games in Beijing, which would be very unfortunate, since that would be the perfect moment to launch the new Code.

THE CHAIRMAN pointed out that things could come into effect when WADA decided that they came into effect.

PROFESSOR LJUNGOVIST disagreed. There was a practical matter with respect to arrangements. The agreements would need to be clarified to the organising committee well before the Olympic Games and, if a new Code was decided upon at the conference in November, it would be too late for the Beijing Organising committee for the Olympic Games to adapt to that.

THE CHAIRMAN thought that, if it was too late, it was too late, but he did not want to mess up WADA's process and do a bad job.

MR REEDIE noted that, as always, there had to be some form of half-way house in terms of planning a consultation process. It seemed to be entirely wrong because, when WADA had looked at a Code, it had said that it would come into force at the Athens Olympic Games for the sports bodies; when it had looked at a Convention, it had said that it would come into force at the Turin Olympic Games for the governments; and then WADA planned to hold a conference just before the Olympic Games in Beijing and none of its major decisions would come into place for those Olympic Games. He agreed that things could be implemented at any stage; however, there would be a public perception out there that WADA was concerned about too much or could not get its act together. If it meant that WADA had to go to one of these cities in July, then this should be studied, as he believed that whatever was decided at the conference had to come into play before the start of the Olympic Games in Beijing.

THE CHAIRMAN said that the IOC Session would be in mid-July.

THE DIRECTOR GENERAL noted that it was not intended to write a new Code; it was intended to look at the way in which the Code was operating. There might not be any suggested amendments. There might be simple amendments required that everybody would be able to implement in a very simple fashion. He would beg to suggest, having looked at comments submitted by stakeholders, that there were some slight tweakings required, not major overhauls, but slight tweakings that would provide a better, serviceable, practical document. Unless something dramatic happened over the next six to nine months, he could not see that changing, and he knew on a daily basis what WADA had to deal with in terms of complaints, criticisms or difficulties. He did not see that there would be major changes to the Code. Obviously, this was in the hands of the Code project team and the way in which the consultation would proceed, but WADA could not look at a major document and think that there would be major changes. The governments had just signed a treaty endorsing it. WADA had to look at this in a very sensible, practical fashion, and he would hope that those in the federations would look at the Code in the same fashion that they amended their laws from time to time, which was without too much complication. He thought that, if everybody worked together, they would achieve what they were trying to achieve. A conference could be held in July; however, WADA knew that there were many things that happened in the summer, including the shutting down of some countries, which had posed problems in the past when WADA had considered running symposia.

THE CHAIRMAN asked whether there was a consensus.

PROFESSOR LJUNGOVIST said that it would be difficult to foresee any major contributions being made by stakeholders in the consultation process but, if the Director General did not foresee any major changes, that was also an argument in favour of a fairly quick consultation process, because there would not be a great deal of input. This was a good argument for holding the conference at an early stage. He had seen that some cities had been prepared to hold the conference in April. He wished to express his strong wish that a new Code be in place for the Olympic Games in Beijing. If WADA took decisions too late, he saw a clear risk of this not being possible.

MR ANDERSEN noted that the plan before the members was based on three consultation periods, based on the process carried out for the Code. If members wished to reduce the consultation period, they could do so; however, he thought that those three consultation periods were necessary. Another thing was that the consultation periods coincided with the Executive Committee and Foundation Board meetings. Unless

the dates for the Executive Committee and Foundation Board meetings were changed, it would not be possible to run the process with three consultation periods.

MR NIGGLI said that the anti-doping rules for the Turin Olympic Games had been approved by the IOC Executive Board three months prior to the Olympic Games. If the Code were to be amended in November, there would be six months prior to the Olympic Games during which the IOC Executive Board could approve the rules and put them into place.

PROFESSOR LJUNGOVIST stated that any new List would have to be clarified before 1 October to be in place before 1 January the following year.

THE CHAIRMAN pointed out that that was a detail; it was not a structural change that was required. If WADA anticipated that anything had to be done formally by the IOC, that would be at its Session in July. He thought that the IOC Charter simply said that the Code needed to be applied on the occasion of the Olympic Games. He sensed two different concerns here: the Olympic Movement seemed to think that the conference should be held sooner, and the governments were a little more concerned about the time necessary to consult among their side of the stakeholders.

THE DIRECTOR GENERAL said that WADA envisaged business as usual throughout 2007. It would do the List so that it was published on 1 October 2007. By then, if there were going to be significant changes to the way in which the List was put together or published, the List Committee would be well aware as the consultation process would have been completed for the papers to be prepared for the conference, if it were to be held in November. However, the List would be the List, and WADA had to have that done by 1 October for all sorts of reasons, including the International Convention against Doping in Sport, so he could not see that WADA would be changing the process or the work, unless there was a significant alteration in thought processes.

PROFESSOR LJUNGOVIST suggested that, since this had come as a surprise to some members, some discussion take place and a conclusion be reached after lunch.

THE CHAIRMAN said that, following discussion during the lunch break, it had been decided to stick with the November date for the World Conference in 2007, and try to make any arrangements that might be necessary depending on how things developed.

He asked if there were any recommendations on that issue from the WADA management on the basis of the review, or whether the management would leave this to the full and unfettered exercise of democratic voting.

THE DIRECTOR GENERAL replied that he felt that he had been appointed to manage and not offer political decisions. The evaluation had been prepared in such a way that there was a subtle suggestion within it that there was a city that might offer more to WADA than the other two. That city had a little more substance and financial backing than the others, in the view of the management.

MR REEDIE said that he had had the opportunity to look at the papers, and the costs involved were not insignificant costs. There was a clear advantage in moving the people from Montreal to one city as opposed to the other two. There was a financial implication beyond what was written in the submissions.

DECISION

World Conference on Doping in Sport 2007 to take place in November.

6. Finance

6.1 Finance and Administration Committee Chair Report

MR REEDIE said that there was not a great deal to report since the previous Executive Committee meeting; the committee was still keeping an eye on the decision it had taken

to consider a different range of methods of investing WADA's reserves or capital, and had decided to wait until the dollar strengthened. Lo and behold, the dollar had strengthened. Now that WADA had a guarantee of contributions, and quite substantial ones, from the USA; all or part of which would be met by the IOC, there was a greater degree of certainty, and the committee would look and see if it could get a slightly higher return from investments.

The Finance Department was ever more skilful and he could now get, if he wished, monthly reports on expenditure to date against the annual budget, so the quality of information was very high.

DECISION

Finance and Administration Committee report noted.

6.2 Government/IOC Contributions Update

MR REEDIE noted that, among those countries that had not paid their dues, there were a number of significant countries in the Americas that did not contribute, and WADA would continue to make efforts to try to encourage those payments to be made.

DECISION

Government/IOC Contributions update noted.

6.3 2005 Quarterly Accounts (Quarter 3)

MR REEDIE said that notes to the quarterly accounts had been added. If members looked at the detailed income under *Operating Expenses*, they would see that, in the third quarter, WADA had not collected all that many contributions. This was because WADA had collected most of them in the first two quarters of the year. The expenditure followed a much more regular quarter by quarter description. Members had a very clear statement of where WADA had stood at 30 September.

Referring to the notes to the two accounts and the two appendices, he emphasised that, despite the fact that WADA held very substantial amounts of money in the bank, much of that money was committed to research projects, and WADA had contracts in place whereby it had to pay those funds, and also keep its own capital as a foundation under Swiss law.

As at 30 September, the end result of all of the funds in the bank less the liabilities that WADA had, had indicated that WADA had US\$ 3.9 million to run WADA until the end of the year and, excluding research, it spent about US\$ 1.5 million per month on the routine operations of the agency so, what looked, at the start, as being a very happy situation with US\$ 25 million in the bank, was actually not quite so high in terms of spendable income.

The second attachment showed that, at that time, the year would show a slight loss; this was clearly overtaken by the news from Washington that the double contribution would be paid.

He moved on to discuss the document showing what the committee thought would happen in 2005 and what had happened. Under the *Legal and Finance* section, he was very sorry that the finance meeting had exceeded its budget by 1%; he would investigate why that had happened, because the finance group was usually within the budget as it tried to set an example to everybody else.

Under the *Information Technology* heading, the costs for ADAMS were substantially lower than the original budget. Members should also take into account that, due to the skills of Mr Birdi, WADA had been able to renegotiate all of the IT services for the office at a reduction of around 50%. The committee had tried, where possible, to make sure

that WADA was not profligate with the agency's money in the area of information technology, which could cost large amounts, as everybody realised.

Under the *Health, Medical and Research* heading, the Prohibited List Committee was up to 94% of its budget; this was because it had completed all of its meetings for that year and would not have any more.

On page 7, members could see all of the research commitments plus funds allocated out of additional income in 2004, around US\$ 13 million worth of commitments that had been approved by the Foundation Board, which WADA would meet quarter by quarter, month by month, year by year, as the contracts were completed properly.

Moving on to *Standards and Harmonisation*, and the question of out of competition testing, it had been mentioned the previous time that the figure looked low; in his view, it looked a little low again (46%); he could tell the members that the October figure took WADA up to 72%, and just over US\$ 2.2 million would be spent to fulfil the total number of tests that WADA had been asked to do by the International Federations and which the Foundation Board had decided to undertake.

The details of all of the costs for the *Regional Offices* were also shown; he had noticed that the Director General had produced a statement of the duties of the regional offices.

DECISION

2005 quarterly accounts noted.

6.4 2006 Budget

MR REEDIE said that the issue of most importance to the Foundation Board would be the budget summary for 2006. Once again, rather than produce blunt figures, the committee had put together budget notes for the 2006 draft budget, which set out what WADA would spend the agency income on in 2006, so that people could see exactly why money was being spent in all of these areas. He drew the members' attention to the very first page, which said *Budget Increase*. The Executive Committee had agreed to recommend to the Foundation Board that, after the relatively substantial increase the previous year, the increase for that year would be modest. The total increase was just over US\$ 650,000 which, divided equally between the Olympic Movement and governments, was a relatively modest amount of money, and he hoped that the Foundation Board would accept that.

The committee had highlighted four particular items where there were increases with regard to the 2005 figures. First of all, the estimated costs of litigation had been taken up on advice from the Director General, Mr Niggli and the Chairman. Clearly, WADA was involved in much more litigation and had to deal with the lawyers of the world much more often than it had previously, which had an effective cost. The cost of going to an Olympic Games could be seen, and the costs of attendance and everything that WADA had to do were high and could be seen in the documents. The Montevideo office had been brought into play. The costs of ADAMS had been increased by an estimated US\$ 500,000 for the following year. It was hoped that all would work well; however, there was a certain amount of guesswork in all of the helpdesk costs and work to be done to deliver the complex system to all of the people WADA wanted to use it all around the world.

Going through the notes, the committee explained the costs of the intergovernmental meetings; why WADA spent money on Independent Observers; it showed the meeting costs, etc. as clearly as possible. He hoped that all of this information would be of value to the Foundation Board. On page 5 of the notes, under *Health, Medical and Research*, he was very pleased to say that the committee had been able to agree to a contract for laboratory supervision reaccreditation performance management with the existing provider in Spain, and had been able to reallocate US\$ 400,000 that had been provided for buying that service elsewhere back to research. Everything else set out pretty fully where WADA was spending its money.

He would try to answer any questions; if there were no questions, he would ask that the Executive Committee recommend that the Foundation Board approve the budget for 2006.

He noted that Mr Belton, who had been a leading member of the finance team, would be leaving WADA to return to Switzerland. He passed on his thanks and WADA's thanks to Mr Belton, and wished him every possible success dealing with the Swiss franc.

THE CHAIRMAN thanked Mr Belton for his assistance.

DECISION

Executive Committee to recommend to the Foundation Board that the Budget for 2006 be approved.

7. World Anti-Doping Code

7.1 Activity Update

MR ANDERSEN said that Code acceptance was now well under way, with a total of 582 organisations having accepted the Code. In addition to the almost total support from the organisations in the Olympic Movement, there were also ten major games organisations that had accepted the Code, 45 additional International Federations, 19 national Commonwealth associations and 68 NADOs.

WADA received Code acceptances almost daily and was doing a great deal of work to help organisations implement the Code.

Another important task that WADA would be undertaking was Code compliance monitoring, which was checking whether or not organisations were following their rules and if the rules were in compliance with the Code. WADA had close to 600 signatories and would have a web-based system that would be easy to use and would provide alternative answers. The questions and answers would be weighted in terms of importance; for instance, there was a condition in the Code to have WADA-accredited laboratories used for analysis of samples. This was important, and would be weighted as important. Whilst suspensions were more flexible and would be weighted differently. WADA had had great support from the CCES in Canada, and Mr De Pencier had provided expert advice.

WADA had to report to the Executive Committee and stakeholders before 13 August 2006, two years after the Olympic Games in Athens. He expected that the system would be available on the website in spring 2006.

As to amendments to the Code, plans to have the programme for amending the Code, starting in March 2006 and ending in 2007 at the World Conference, were in place. The Executive Committee and Foundation Board would be closely linked to the process and, as members would see from the plan, a process was in place to enable updates to the Executive Committee and Foundation Board accordingly. A small internal project team had been formed to work on a daily basis with some external expertise linked to the internal group.

WADA did not plan to totally revise and change the Code; amendments to the Code would be sought, and this was something that WADA would submit to the stakeholders.

WADA was also putting in place a system to assist building and improving NADOs. Nations wanting to establish a NADO often lacked the tools to do so. This also related to NOCs, which were seeking advice and tools to guide them through the process. The countries were asking what should be done, how it should be done, the resources needed, legislation, personnel, organisational structure and so forth. The process had begun, and WADA had started writing a "cookbook" as a help tool for countries and

NADOs and NOCs. It was to be a practical tool for the country at any stage it might be at. It should also be finalised in late spring 2006.

MR LYONS wanted to confirm or clarify that there would be reporting on the outcome of the consultations on Code revision to the Executive Committee on each of the three rounds of consultation, and that the work of the working group on anti-doping costs would feed into this overall Code review.

MR ANDERSEN replied that the Executive Committee would be the main Code group; everything submitted in the process would be discussed by the Executive Committee before moving forward and making versions available to outside stakeholders. The Foundation Board would also be updated.

As to doping costs, everything would be taken into consideration when the small project team received contributions from stakeholders, including cost, scientific elements, and so forth.

DECISION

World Anti-Doping Code activity update noted.

7.2 Costs of acceptance and monitoring of anti-doping rules for organisations outside the scope of the Olympic Movement

MR ANDERSEN said that the implementation process of the Code was quite a comprehensive matter, and WADA management had been discussing internally whether the implementation phase and Code compliance phase should also comprise organisations outside the Olympic Movement. He knew that implementing the Code created a lot of work, because for each sports federation and organisation that wanted to implement the Code, quite a bit of correspondence was required in order to get it right. This was an ongoing process that took some time. How should this be done? Should all sports federations wanting to implement the Code be included, and did the Executive Committee want the administration to do so? If so, should WADA charge something for doing the service for outside organisations?

MR LYONS referred to the cost recovery: would that be just the direct costs or the full indirect costs of performing these functions for bodies outside the Olympic Movement?

MR STOFILE said that perhaps the WADA management could assist the Executive Committee by giving an opinion of its own evaluation of the process. Was it cost-effective? Was it worth the while in terms of the participants in those federations? What was their recommendation?

MR ANDERSEN replied that WADA was not seeking to make money from this. WADA had to get some outside assistance; there could be some law firm taking on the task on behalf of WADA but paid through the contributions of those not belonging to the identified organisations. This was to take the workload off the WADA staff.

THE CHAIRMAN added that this was the incremental cost as opposed to the fully loaded cost.

THE DIRECTOR GENERAL noted that WADA did not have the internal resource to do all of this extra work for federations that were not part of the Olympic Movement family; the only way in which this could be done would be by hiring outside assistance. To do that, WADA had to recover the cost that it would need to pay. In terms of the value to the federation, many federations were now on the world stage trumpeting that they were WADA members or WADA-compliant. WADA had not even seen their rules. WADA wanted to make sure that the organisations were given the right seal of approval, if they deserved it, by inquiring and investigating their rules. Several examples of some sports that were saying things about which WADA knew nothing could be given if the members so desired. This way, at least WADA could keep an eye on them.

THE CHAIRMAN said that the figure proposed was probably low, and that perhaps it should be studied carefully. He thought that the strong consensus at previous meetings had been that WADA should charge to monitor Code compliance for those organisations outside the scope of the Olympic Movement, and the management should be authorised to proceed as proposed.

DECISION

WADA to charge to monitor anti-doping rules and Code compliance of those organisations outside the scope of the Olympic Movement and WADA management authorised to proceed in accordance with the proposal made to the Executive Committee.

7.3 Working Group on Anti-Doping Costs Update

THE DIRECTOR GENERAL said that the working group had been formed and the names of those willing to serve on it could be seen in the members' files. The first teleconference of the group would take place over the following two weeks. Anybody who wished to contribute to the group was welcome. WADA certainly needed as much information as possible. It might involve invitations to partake in teleconferences or provide information that stakeholders had, and as much information as possible was needed. He knew that there were people out there who would like to give such data, but there were not enough positions in the small group to be able to expand it. He thought that the idea was that the group would proceed and report to the Executive Committee in May 2006, and whether it continued beyond May would depend on the content of the report.

THE CHAIRMAN asked whether there were any comments on the terms of reference.

DECISION

Working group on anti-doping costs update noted.

8. Department /Area Reports

8.1 Regional Offices

8.1.1 Strategic Approach

THE DIRECTOR GENERAL said that the WADA management had put together some papers in relation to the WADA Regional Offices and the roles that were expected of each office. The previous Friday, all of the WADA Regional Office directors had been brought together for the first time, so that each could reflect on the individual regional requirements and needs and input regional strategies within the general strategy. Mr Torres had not yet taken up his position; Mr Moser would not be on board until February; but Messrs Swigelaar and Hayashi were working on their regional strategies so that they could be published and used as operational plans for the coming years in order to report on outcomes achieved by the WADA Regional Offices. It had been thought appropriate to report on outcomes to enable members to see the advantages and benefits of being involved regionally as opposed to running everything from Montreal. He knew only too well from the meeting held on Friday that there were needs in some parts of the world that were quite different from others. Those strategies would be developed in the coming weeks; they would be published and circulated to members of the Executive Committee so that they would have them well in advance, but there would be reporting points from a performance and strategy point of view at the end of the following year.

The Montevideo Regional Office would be opened in a formal sense on Thursday to coincide with a meeting of the South American Sports Ministers in Montevideo. On a physical basis, there was a space, but it was not yet outfitted or furnished, and there was

a director without a house to live in yet. WADA was moving on all of those matters so that Mr Torres would be able to oversee the proper furnishing of the office and appoint an assistant. The Uruguayan Government had requested that WADA pay for a person to act as a liaison person between the Uruguayan Government and WADA. He had said that that would meet neither WADA's mandate nor the approval of the Executive Committee, because WADA could hardly start paying a person who was also paid by the government. The Uruguayan Government would respect that decision if it were the wish of the Executive Committee, and WADA could proceed accordingly on Thursday with all of the other formalities. It was thought that the cost of running the office would be below that originally put on the table.

DECISION

Regional offices update noted.

8.2 Science

8.2.1 Health, Medical and Research Committee Report

PROFESSOR LJUNGOVIST referred the members to the detailed report in the files. Some US\$ 6.5 million had been allocated to research projects recently, which was about the same as had been allocated for all of the preceding years, so a fair amount of progress had been made. The Health, Medical and Research Committee was happy to note that increasing numbers of research institutes were coming along with their applications, which meant that WADA was no longer limited to those traditional accredited laboratories, which had been WADA supporters for such a long time. This meant that the mission or message had spread outside the more internal family to research institutes in general, some of which were quite prestigious.

Another matter to be highlighted was the discussion regarding EPO testing, which had been somewhat misunderstood or miscommunicated (sometimes deliberately, in his view) by the media. Those allegations were unfair and unsupported. The basic science related to the method as such had already been reported some ten years previously, so it was an old well-established method that had been modified by the French laboratories in order to be suitable for the practical anti-doping work. Originally, those out in the International Federations who had taken this technique on board had felt that the EPO urine tests had had to be supported by blood parameters, which was why a combined EPO detection method had been used at the Olympic Games in 2002. Later on, a CAS decision had clearly stated that the urine method could stand alone. The problem that had come up was related to the use of the method rather than the method as such. Laboratories had come along wanting to use the method without the necessary expertise to make the proper evaluation of the analytical result. Unlike most, if not all, of the other traditional doping analyses, by which one could tell from a chemical analysis whether or not a substance was present, the EPO test required an evaluation of the analytical data obtained, which required a certain amount of expertise. That had apparently not been fully at hand when various reports had been given. Therefore, the workshop, led by the French laboratory, had been organised in early November for laboratories that did, or intended to do, EPO testing. There were still laboratories out there that did not intend to perform such tests for the time being. He believed that the workshop had been quite successful; people had understood the message and it had been communicated in the correct manner. The meeting had been interior; WADA had not gone out to give information to the media. He believed that the EPO test was safe and well taken care of and that the laboratories understood the importance of being extremely careful with the evaluation of data results.

A TUE committee had met and discussed the possibility of modifying the TUE process in order to simplify it, as dealing with TUE matters made for a rather heavy workload. It had felt, however, that this was probably not the right time to make another modification, since people had only fairly recently adopted the TUE procedures, and to come up with further instructions might be confusing rather than helpful. The committee

had therefore decided to wait until the Conference in 2007 before taking any such measures to make modifications.

Details to his verbal report would be found in the extensive documents in the members' files.

DECISION

Health, Medical and Research Committee
update noted.

8.2.2 Accredited Laboratories Update

DR RABIN wished to elaborate on a couple of points. With regard to the EPO seminar organised by WADA in Paris with the support of the French anti-doping laboratory, there had been some very important outcomes. The EPO test was valid and was a solid method when conducted and interpreted appropriately. Also, the experts had agreed to stick to qualitative criteria to interpret the method with the idea that there were some very good initiatives, in particular the "discriminant" approach put in place by the French laboratory in Chatenay-Malabry to move to a quantitative approach, which would provide a more discriminating approach with regard to the EPO profile. That was certainly a very interesting move. To help laboratories with less experience with the EPO method, there would be a slight adjustment to a WADA technical document to provide more guidance.

There was also a very important decision that had been taken to put WADA in the position to finalise a proficiency test for EPO, which would allow WADA to test all of the laboratories currently conducting the EPO method with proficiency samples and based on the results of the laboratories to provide WADA accreditation for the EPO method. Those laboratories failing to analyse the samples properly and report some of the more difficult EPO profiles to analyse would be suspended for the EPO method. That was an important decision.

WADA had agreed to try to publish a letter to the editor of a journal that had published some speculations as to why the EPO method would not be valid. There was a lot of knowledge in anti-doping laboratories about the EPO method that had not been published, as it was sometimes a small piece of information that would be very difficult to publish in international peer review journals. A decision had been taken to combine the information from several laboratories and publish it in the form of a letter to the editor. That was an interesting way to convey some of the good work conducted in the laboratories.

Following the seminar, positive comments had been received from the laboratories, saying that it would be a good idea to hold other seminars on other issues being faced by the laboratories.

He reported briefly on the Laboratory Committee meeting that had happened earlier that week to review the 2005 performance of all of the accredited anti-doping laboratories, as well as three laboratories currently in the probationary phase of accreditation. There were still some corrective actions that had to be received from some of the laboratories before the full review process was completed, and he hoped to do that by the end of December, to allow for attribution of the accreditation status for 2006.

In 2004, there had been 13 corrective actions requested for 11 anti-doping laboratories and, in 2005, 16 corrective actions had been requested for 13 anti-doping laboratories. Corrective actions meant complementary information, sometimes a review of an analytical process or a review of documentation.

The experts of the Laboratory Committee had agreed that there had been significant improvement in 2005 in the way in which the laboratories reported and performed the anti-doping analyses; however, as usual, there were still areas for improvement. The

Laboratory Committee was also currently working on a new version of the International Standard for Laboratories, which formed the cornerstone of the assessment of the laboratories and was an extension of the IOC rules for laboratory accreditation and, although the ISL was highly considered by a lot of external experts, in particular the experts from the ISO environment, there were some areas that WADA wished to improve to reflect some recent needs, such as the possibility to retest some samples, the prohibition of the testing of dietary supplements, the issue of insurance liability for the laboratories, and several more technical comments that should be taken on board in this new document. In addition, the Laboratory Committee had agreed that there should be more stringent rules to monitor the laboratory performance; this was obviously needed and was something that had to be envisaged, and there were some proposals currently being drafted to be more drastic in the way in which laboratory performance was assessed and, in particular, in the way in which WADA could continuously monitor the way in which the laboratories performed. This was based almost exclusively on the WADA proficiency testing programme at the moment; what WADA wished to do was expand this to all of the reports that had happened to the clients so that the Laboratory Committee could review all of this information and include this in the way in which the laboratory was performing. That was a very good step in the right direction. He believed that it would be possible to finalise a new draft version of the International Standard for Laboratories by the beginning of 2006. This document would, of course, be circulated.

He informed the Executive Committee formally of the growing number of laboratories interested in obtaining the WADA accreditation. A total of 29 laboratories had approached WADA with various degrees of interest; WADA estimated that, for the Laboratory Committee and the WADA staff, it would not be possible to take on board more than two or three laboratories at the same time. As members might be aware, three laboratories were currently in the pre-accreditation process: Jakarta, Indonesia; Salt Lake City, USA; and New Delhi, India. It would be very difficult to take in additional laboratories over the next few months without seriously risking compromising the quality of the work that was done both by the Laboratory Committee and the WADA staff.

The Laboratory Committee had also agreed that some discussion needed to occur within the committee and with the staff in order to develop a more efficient network of anti-doping laboratories. It had been agreed that some concrete proposals would be prepared for discussion at the next Executive Committee meeting in 2006.

MR LYONS asked about the changes to the TUE process; were these changes that could be put in place immediately before the 2007 World Conference or in 2008? It would seem that, if changes were to be warranted, three years was a fairly long time to wait.

MR LAMOUR asked whether it might be possible to consider waiting before certifying other laboratories so that conclusions could be given by the cost and analysis working group. He thought that questions might be raised if too many laboratories were accredited.

PROFESSOR LJUNGOVIST said that the TUE Committee had felt that it was too early to complicate the situation with amendments at that stage, and would come up with suggestions as to alterations during the course of the following year, which meant that these would be proposed as amendments to the International Standards at the 2007 Conference. It was a fairly long time, he agreed, but it was better to have a well considered suggestion than a hasty one.

With regard to the laboratories, WADA had to take into account the fact that an increase in the number of laboratories should also mean an increase in the number of samples taken throughout the sporting world, because there needed to be a critical minimum of samples for each laboratory to take on board in order to maintain the necessary competence and standard; that was an issue about which WADA should be very careful in not establishing too many laboratories in relation to the actual sampling

going on. An increase in laboratories should be parallel to an increase in sampling activities around the world. Certainly, this was an important issue to keep an eye on.

DR GARNIER said that the TUE Committee should not amend the standard with regard to the Abbreviated TUE procedure. Most of the negative comments received had concerned the workload; therefore, the committee had felt that the ADAMS implementation would improve the situation. It was too early to change the standard.

MR LARFAOUI noted that there were more than 10,000 TUEs. Did WADA have an idea as to how long the TUEs were granted for? Did the committee follow up on those who made use of TUEs (for example, performance, etc.)?

DECISION

Accredited laboratories update noted.

8.3 Education

8.3.1 Ethics and Education Committee Chair

MR OWEN noted the tremendous work carried out by Mr Wade and the effectiveness of his support to the Ethics and Education Committee. The Ethics and Education Committee had had three meetings in 2005, two of which had been in person, and an interesting progression had developed, with the Ethics and Education Committee first identifying the usefulness of a framework of mission statement and guiding principles to be able to show all of the activities of WADA in these fields and how they related to time and each other. That had been very effective in demonstrating to the committee the high importance of its work to the overall mandate of WADA, but also to help keep track of that work in a logical way in order to report to the Executive Committee.

One of the most important aspects of WADA's work in this area was the international symposia, under the Play True banner, and there had been meetings and symposia in 2005 Montevideo, Moscow, Macao and Cairo (to take place at the end of that month), and similar symposia planned for Senegal, Athens, somewhere in India, and a fourth in Oceania or the Caribbean/Central American regions for later in the year. This was a major aspect of activity of WADA out in the field. One of the most important aspects of any policy implementation of any organisation was the preventative side of whatever the objective was, and it was not always easy to get activities and fund them in a preventative way. Organisations usually reacted better to a calamity having occurred and rushed in to spend money and be active but, of course, the high impact of preventative activities should be foremost in the members' minds as they tried to take the messages forward. In that regard, the inextricable links between the educational symposia and the partnership and mentoring programmes were incredibly important so that those could reinforce each other. Mr Fetisov had demonstrated that in Moscow with the Play True symposium in September, whilst bringing in a strong mentoring message to that group.

The partnership with UNESCO through the International Convention against Doping in Sport had also led to the conclusion that that tremendous network in schools around the world that UNESCO had developed was a key partner opportunity.

The Nutritional Supplements Symposium in Leipzig in October had been interesting and underlined a point of caution, as WADA was attempting to engage the nutritional supplement industry in developing self-regulation, and perhaps nothing was as elegant as self-regulation, but it had to be properly motivated and overseen, and the story of Mr Jenkins in California should be a cautionary tale to WADA in making sure that that self-regulation was actually effective and honest. He was sure that various countries were weeding into the regulation of nutritional supplements in a variety of tentative ways. Best practices and the sharing of information was another area that should be looked at.

The youth programmes were being informed by some focus groups, which the department and the Ethics and Education Committee had commissioned to try and

ascertain for different regions of the world what might be the most effective messages in the context of youth, depending on the different ages and local customs. The aim was to tailor messages so that they would be culturally and contextually relevant, and the results of the focus groups would be reported at the next meeting, which would be in April in Montreal. The next meetings would be 27 and 28 April 2006, and 12 and 13 October.

THE DIRECTOR GENERAL said that Mr Owen had summed it up very well. WADA was making strong headway on the programmes described, and looked to building on that, particularly with the youth programme, to ensure that what it was doing was effective. On the logistical side, WADA had posted an advertisement for Mr Wade's replacement. The applications for this position would close on 12 December, and WADA anticipated shortlisting people and conducting interviews as soon as possible in order to have somebody in place by the beginning of the following year. There was the Ethics and Education Committee meeting on 27 and 28 April, and that formed a focus point.

MR GOTTLIEB thanked Mr Wade for all of his efforts and help to the US Government in developing a variety of anti-doping and education initiatives. The US Government wished him nothing but the best in his new endeavours.

THE CHAIRMAN said that, in supplement regulation, there was a private initiative that was likely to catch the attention of the industry more than kind words from governments. Athletes who had tested positive after having taken contaminated supplements were suing the manufacturers, and there had been judgments rendered against the supplements manufacturers for several hundred thousand dollars in the USA. That was the kind of thing that got their attention. It looked as if the courts were reasonably sympathetic to those kinds of cases. Progress was being made on all fronts but, clearly, proper labelling requirements, whether imposed or self directed, were going to be crucial to that industry and the possible accidental taking of tainted supplements, but WADA should be fairly clear: most doping cases were not accidental. There were a few cases where that might happen, but most cases were planned programmes of systematic cheating, and he thought that the supplement industry was important, but WADA's job was to get at the really bad people, not the ones who were accidentally taking things.

DECISION

Ethics and Education Committee update noted.

8.3.2 Social Science Research 2006

MS NEILL noted that there were five social research projects for approval, and these could be seen in the members' files. A call for projects had been submitted to a budget item of about US\$ 100,000. Twelve projects had been received, eleven of which had been considered eligible. These projects had been submitted for a peer review, and the peer review comments had then been considered by the Ethics and Education Committee. The five projects were before the members for their approval, and totalled US\$ 98,900.

THE CHAIRMAN asked where WADA stood with the hypobaric chamber investigation or survey.

THE DIRECTOR GENERAL replied that the issues had been put to the Ethics and Education Committee; the committee was seeking a time and date in Montreal to meet physically in order to complete debate and then provide a report to the Executive Committee the following May. If something urgent came from it, the urgent processes could be used to put something in place.

THE CHAIRMAN thought that the issue had been out there for a long time. He did not want it to appear as though WADA could not make up its mind.

MR LYONS had a question in relation to the social research projects. Was there a risk of duplication between the WADA grants for social research projects and grants at the

national level and, if so, was there a mechanism in place for coordination to make sure that there was no duplication?

THE DIRECTOR GENERAL replied that WADA was to carry out a project in Cyprus in order to look at the overall rules and processes and protocols for research so that it would be coordinated in a better fashion. He could not give the exact date of the conference, for which WADA was to partner with the Council of Europe, but it would be taking place some time in April.

DECISION

Social research project proposals approved.

8.4 Communications

8.4.1 Athlete Committee Chair Report

MR FETISOV said that the second Athlete Committee meeting had taken place in Toronto; he thanked Ms Hunter and Ms Spletzer for their organisation, and Mr Howman for his assistance.

The committee was made up of 14 retired and competing athletes, who were concerned about what was going on in the fight against doping.

With regard to the issue of storing samples, the committee had supported the keeping of samples for eight years, stating that clean athletes had nothing to hide. They had also supported the application of this policy to other international events.

The committee had also fully supported the use of samples for research; stressing that doping control forms should provide an opportunity for informed consent. The committee recommended that WADA provide more education to the athletes about what informed consent meant, highlighting the fact that involving clean athletes could only help advance the fight against doping in sport.

The committee had agreed to releasing some statements soon, as athlete leadership was important in the development of anti-doping policy.

The current two-year sanction for a first doping offence was only a minimum standard and this minimum standard should be implemented by all stakeholders without exception as an important first step in harmonisation. It had been interesting to hear the discussion of the athletes, who were very tough on cheats. They had pushed to increase the two-year suspension.

The Athletes Committee was united in its support for the harmonised fight against doping in sport. The main outcome of the meeting was that clean athletes had nothing to hide. Representatives of the IOC Athletes' Commission had also been involved in the discussion. The committee had also stressed that any whereabouts system adapted by an anti-doping organisation should be easy and economical for the athletes; athletes should be allowed to nominate a representative to update that information. Committee members were pleased to see the incorporation of this function in the ADAMS system. There was very strong momentum behind the Athletes Committee. It had already made plans for 2006. The Athletes Committee would be meeting in Moscow in April 2006, and he looked forward to hosting the meeting in a city that had 600 Olympic champions living in it.

DECISION

Athlete Committee update noted.

8.5 Event Audit / Independent Observers

8.5.1 Future Programme Approach

THE DIRECTOR GENERAL informed the members that this was a forewarning paper to relook at the way in which WADA conducted its Independent Observer missions.

Stakeholders had been spoken to as a result of missions conducted that year, and WADA knew that it was necessary to look at future reports from the point of view of their merit and cost-effectiveness, and also bearing in mind the changing responsibilities of WADA under the Code. When WADA went to events, it was effectively monitoring either IDTM or a NADO conducting the collection processes; WADA was reporting on that and had that duty anyway. WADA was then monitoring the laboratories, which happened to be WADA accredited laboratories, and it had the responsibility of doing that anyway. Finally, it was monitoring the result management processes as seen by the event organiser, and it had the responsibility of doing that and determining whether it should appeal. WADA was reaching the stage where, in conducting Independent Observer missions, it was effectively carrying out some of the more general WADA responsibilities of auditing and monitoring what was going on in the doping control programmes. Against that, it was necessary to balance the fact that it was a responsibility to which WADA had committed under the Code, and, in conducting these tasks, WADA was effectively the eyes and ears for the public, and did not wish to lose sight of the importance of that. He thought that, as a result of that year and, having looked at what happened following the reports from Turin in particular, WADA should revisit the whole way in which it conducted the programmes and look at the questions that he had succinctly outlined in the paper in the members' files. The WADA management idea would be to run another meeting (similar to the one held in February that year) of the respected Independent Observer team leaders, or some of them, to provide some comment to the questions and put together a proposed paper for the Executive Committee members to consider in May or September. Any preliminary comments that anybody had in relation to the paper would be welcome. He knew, from discussion with some people, that they felt that WADA was spending much too much money on the matter; certainly, if members looked at amount that came through the budget, it was quite a big lump, and it was necessary to ask whether it was worth it or whether such a task could be carried out in another way. He was very keen from a management perspective not to have to ask those questions. He would prefer to say that it was worth it, with good background data and good reports. Unless anybody had any comment to make, the intended process would be to look at the matter again in May in order to provide a little bit of backup to the missions in Turin.

DECISION

Event audit and Independent Observer update noted.

9. Suggested Policy Issues for Discussion

MR NIGGLI referred the members to the paper regarding the retesting of urine samples that had been stored. The paper was for discussion. There were three possible scenarios: some urine was left in the A sample after the first analysis and what was left in the A sample and the unopened B sample was stored for re-analysis; nothing was left in the A sample after the first analysis and only the B sample was stored for re-analysis; and the A and the B had both been open (because there had already been an adverse finding) but there had been some urine left in the B sample and it had been kept for re-analysis. The third scenario would apply only if, in the first case, there had been a specified substance, but the next time the sample could be retested and something that was not a specified substance could potentially be found, leading to different sanctions.

This was a procedure that would require circulation and consultation, but the paper set forth the initial ideas on the matter.

THE CHAIRMAN said that this was an issue that would arise increasingly as WADA got better with its testing and because of the eight-year reach-back period that had been incorporated into the Code. It required careful thought and, obviously, consultation among the broader group of stakeholders. He hoped that members would go back to their particular constituencies and make sure that they understood what this was

designed to do. There would be many legal attacks, as members could imagine, on subsequent analyses, both on the scientific and legal basis, as well as the chain of custody, and so forth. It was important to get this right, otherwise WADA's ability to reach back and catch people who had doped, based on newer technology that had not existed at the time the sample had been given (as had happened with Mr Armstrong), would be badly compromised. If the members had had the opportunity to consider the issues and had some comments, that would be helpful for Mr Niggli in putting together the next draft; failing that, the members' homework for the next meeting was to make their way through these issues.

PROFESSOR LJUNGQVIST noted that this raised the question of who decided upon the re-test, and who was the owner of the sample. These were legal matters that also needed to be clarified. He also believed that a similar document would be produced with respect to possible re-testing of blood samples.

MR LARFAOUI asked how it would be possible, if an A sample had been negative, to re-test later on. How would the samples be stored? If they were to be stored for scientific research, the numbers and names would have to be removed from the containers to avoid any problems. If the A sample had been deemed negative, then no more should be said about the matter and testing should not be performed later on.

MR LAMOUR pointed out that the Code, which had been approved by all of the stakeholders, made it possible to test a sample eight years after it had been taken.

MR LARFAOUI said that there was a contradiction in the Code.

MR LAMOUR gave the example of the Armstrong case. This had not been a doping test; it had been anonymous research.

THE CHAIRMAN said that there were two different levels of research. Providing a sample in the context of an anti-doping regulation to confirm whether or not an athlete was in compliance with the rules, was one, and any further research on that, which involved simply a method to determine whether or not there had been a prohibited substance in the sample, was not research in the generic sense; it was research on a test to see whether the athlete was in compliance with the rule that he or she had held him or herself out as observing. That was quite different from general research; if a researcher was trying to see whether athletes were more likely to develop a certain disease than other groups of people, for example, that was anonymous research, and all possible identification would have to be removed. If a researcher was testing to see whether or not there was EPO in a sample provided for competition that could not have been identified in 1999, but could be identified in 2005, that was not research. It might not be possible to use that result or analysis for the imposition of a doping penalty, but it did not diminish the fact that a researcher was identifying something that had been there at the time the sample had been provided within the context of the applicable sport rules. The hole in WADA's rules was that it had not thought about the A and B samples when WADA had included the eight-year period. This would have to be thought about now; otherwise, WADA would look pretty stupid. There were different ways of getting around that, some of which had been identified in the paper, but it was necessary to think strategically. Members should not forget that one of WADA's principal objectives was to identify people who had cheated, either in competition or out of competition, by the use of these methods or substances and, if WADA was going to stick with the A and B model, maybe there should be an A, a B and a C sample. Alternatively, WADA could have a rule that said that if it was to test the B sample, that sample should be opened in front of the athlete and split into two parts. One part could be sealed; the other analysed and, if a positive test result was obtained, the other half should be analysed. That was the sort of thing that members had to think about.

MR REEDIE said that, if WADA was successful in persuading the other 18 Olympic sports that did not perform out of competition testing at the moment (he did not know the figures for the winter sports), but, if there was more testing done, if the IOC had an eight-year rule, and WADA had an eight-year rule, was WADA confident that the

accredited laboratories could actually store all of these samples? If they could not, WADA would have to accept that only some laboratories would store them or change its accreditation procedure to make it a condition of accreditation that the laboratories have the facilities to store the samples, otherwise there would be a sort of first division and second division situation, and that would not be the best way. Again, there was a knock-on effect here for the laboratories.

MR LYONS wished to endorse what Mr Reddie had said. Were there related technical issues with the storage of samples to ensure their integrity? He supposed that WADA would need to make sure that any technical issues were fully worked through, as well as the logistical issues.

THE CHAIRMAN said that WADA had to make sure that it could do it. He thought that the events of that year showed exactly why it was necessary to have procedures in place.

PROFESSOR LJUNGOVIST said that he could not believe that a rule would be put in place that obliged everybody to store samples for eight years. If that were the case, WADA would have a storage problem, with 170,000 samples each year over a period of eight years. He thought that the idea was rather to make the possibility available for those who wished to store samples to have them analysed within the eight-year period, for the purpose of being re-tested for possible detection of new substances. This meant that the samples would not be available for research. There were certainly safe ways of storing them for more than eight years. He did not think that there was a technological problem related to this. It was a matter of principle whether the intention was to make it compulsory to have all samples stored for eight years, as he did not see where in the world it would be possible to store them all. There were countries that had legislation with respect to how long one was authorised to store biological samples.

THE CHAIRMAN said that members had all agreed, for good reason, that there would be a reach-back period of eight years. Some countries had wanted more years, but WADA had settled on eight as something reasonable. WADA's job now was to make that work rather than find reasons why it would not work.

MR STOFILÉ said that, if the primary purpose in testing was to catch out those who cheated in competitions, eight years had nothing to do with that. After eight years, they would have cheated for seven years, and they would have been tested over a period of seven years, so testing for cheating was not contingent on how long the sample was kept; it was contingent on how efficient the testing was and how frequently the testing took place, as well as how efficient the analyses were. In his view, the eight year storage period was relevant only for research and evaluation purposes. As to the extent to which the technology improved in detecting what could not have been detected in 1999, then the eight-year storage period was relevant. For preventing cheating, he did not see how it was relevant.

THE CHAIRMAN replied that the theory was that it would be an additional deterrent if an athlete knew that, if a substance being taken was found later on, he or she would be exposed as a cheat. WADA's job was not to provide samples for basic research; WADA's job was to test in and out of competition, and the stakeholders tested for that purpose. WADA should not lose sight of its focus, which was doping in sport.

MR STOFILÉ said that WADA did not prevent cheating by exposing cheats post factum.

DR RABIN said that WADA knew that there were athletes using substances because they knew that WADA could not detect these substances at the moment. Human growth hormone was one of them, and there were new forms of EPO; it would probably take WADA some months before it could put in place some reliable tests for these substances. Keeping the samples for a longer period of time made it possible to WADA to put the test in place. Just to illustrate, WADA suspected that there was a new form of EPO being used by at least two athletes who were gaining access to the reference material from the industry; with a little more time, it would be possible to address those cases.

MR LAMOUR said that, if WADA had not kept the samples after the World Athletics Championships, it would not have been possible to retest samples for THG. Eight years seemed to be a long time, but this really offered possibilities to detect new substances and test for them. An important issue regarded ownership of the samples. Keeping so many samples would be difficult; therefore, it would be necessary to make choices. Who would decide to maintain or store the samples? Who was the owner and who could decide? The procedure was good, but WADA should discuss the issue and put forward proposals.

THE CHAIRMAN said that the issue had a number of interesting challenges, all of which WADA had to resolve in a way that would promote the fight against doping in sport. Any ideas would be welcome.

DECISION

Debate as to the issue of storage and retesting of samples by WADA in accordance with the World Anti-Doping Code to continue.

10. Other Business / Future Meetings

MR GOTTLIEB said that, with regard to distribution of materials from the bid cities for the 2007 World Conference, WADA should summarise the bids and give perspective and input; however, he wondered what message would be given if WADA were to selectively distribute the material. It might be more transparent to provide everybody on the Foundation Board with copies of what had been submitted by all three cities or summarise the submissions. He thought that consistency was important.

THE DIRECTOR GENERAL replied that this was what had been done within the papers, and WADA had been given the brochure as an extra document by the bid city. The WADA management felt somewhat uncomfortable about it, but had felt that it was appropriate to put the matter to the Executive Committee. Unless he was told otherwise, he would not make the brochure available to the Foundation Board members the following day.

THE CHAIRMAN noted that it was better to avoid a problem that to have to solve it. As to meeting dates, he asked the Director General to discuss the matter.

THE DIRECTOR GENERAL said that, after some consultation, the management had been asked to change the dates in May to 13 and 14 May 2006. The management had also been asked to consider a change of the Executive Committee meeting in September from 19 to 16 September. It would require a little more logistical thinking; however, he thought that it would be a possibility.

Some members had asked the management to provide the papers even earlier than two weeks in advance of meetings. WADA would try to do that for the May meeting, bearing in mind the commitments that WADA had in April. It effectively meant that WADA would have to have its papers completed internally by 8 or 9 April for a meeting on 13 May, as it was necessary to review all of the documents, make sure that they were consistent and have them translated. In advance of 8 or 9 April, there were the Olympic Games in Turin, the Paralympic Games, the Commonwealth Games, the Sport Accord meetings and various government meetings. The management would do its best to make the papers available a little earlier, but members should be aware of the consequences.

In addition, he informed members that full reports would not be prepared for the September meetings in the future; the September meeting would be used to ensure that the List, research projects and the budget were the key items, and would raise other strategic items for discussion, but no directors' reports (apart from his own) would be provided. That might be a better way of proceeding for the November meeting to avoid duplication of content.

MS NEILL put on the table for discussion at a future meeting whether it was really necessary to have three Executive Committee meetings per year. She understood that some changes were being made to the format to avoid repetition; it simply seemed that the September and November meetings were very close together.

THE CHAIRMAN noted that the List was probably one of the most important things that WADA did on a regular basis; the budget was certainly vital. He thought that, given the breadth of the mandate, and the importance of the work, three meetings a year was a minimum. Nevertheless, everything could be discussed and the issue would be put on the list.

THE DIRECTOR GENERAL said that he had understood that members preferred to meet during the weekends.

MR REEDIE said that it appeared that the public authorities representatives preferred weekends, and the sports representatives did not really care that much so, on balance, it appeared that meeting on weekends would make more sense.

THE DIRECTOR GENERAL said that the third meeting date could not be changed.

PROFESSOR LJUNGOVIST asked the Director General to look into the consequences for the List Committee meeting.

THE CHAIRMAN thought that the effect of this was that it backed the meeting right on to the List Committee meeting. It should not affect the List Committee meeting.

THE DIRECTOR GENERAL said that the question was the circulation of papers to the members to give them an opportunity to read them before their arrival. If the meeting was moved to 16 September, members would have less time in which to see the List in its final form.

MR MIKKELSEN asserted that weekend meetings would be best from a minister's point of view.

THE CHAIRMAN noted that there had been a request for papers to be distributed three weeks ahead of time; that sounded like it was doable, but members would receive a document that was more dated, which meant that there would be more verbal updates at the meetings and members would have to be prepared to respond to issues even if they had not had a chance to study them. As to the List, it was absolutely imperative that members come to the September meeting ready to make a decision based on whatever recommendation was made, as the List had to be approved in September in order to have it posted prior to 1 October. That was an unchangeable deadline.

MR LYONS said that the Australian Government was concerned about making sure that there was an appropriate period of time before the final recommendations of the List Committee and the deliberations of the Executive Committee. It was necessary to make sure that there was enough time to come to the meeting with a considered view.

THE CHAIRMAN warned that the members should be careful what they asked for.

MR REEDIE thought that this could be done. It did stop the same people flying around the world weekend after weekend to do the same thing.

PROFESSOR LJUNGOVIST asked when the List Committee meeting would be taking place.

DR RABIN replied that the meeting would take place between 5 and 8 September.

THE CHAIRMAN said that it might be necessary to work off what the List Committee sent to the Health, Medical and Research Committee.

MR LYONS said that his concern was that, if there was a variation between what was originally sent out to governments for comment as a draft List and what the List Committee finally recommended, this left very little time for considered government views to be made.

THE CHAIRMAN asked whether the members agreed to the proposed meeting dates.

DECISIONS

1. Executive Committee meeting to take place on 13 May 2006; Foundation Board meeting to take place on 14 May 2006; Executive Committee meeting to take place on 16 September 2006; Executive Committee meeting to take place on 19 November 2006; Foundation Board meeting to take place on 20 November 2006.
2. WADA management to submit working papers and reports to Executive Committee members more than two weeks in advance of meetings where possible.

THE CHAIRMAN thanked everybody for their participation in the meeting.

The meeting adjourned at 3.15 p.m.

FOR APPROVAL

RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA