



**Minutes of the WADA Executive Committee Meeting
13 May 2006
Montreal, Canada**

The meeting began at 9.00 a.m.

1. Welcome, Roll Call and Observers

THE CHAIRMAN welcomed everybody to the first set of meetings for 2006. There was an interesting agenda for that day and the following. There were some new faces around the table: the Hon. Michael Chong was the new Federal Minister in Canada responsible for sport; Mr James Cameron was representing Senator Kemp, the official delegate from Australia; Mr Omi, from Japan, was representing Mr Hase, who was otherwise occupied; and Ms Julie Carter was the new Director of Education.

He would circulate the roll call for those who were members or attending formally, and those observers who wished for their presence to be recorded were welcome to sign as well.

The following members attended the meeting: Mr Richard Pound, President and Chairman of WADA; Mr Brian Mikkelsen, Minister of Culture and Sport, Denmark, and Vice-Chairman of WADA; Professor Arne Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Ms Rania Elwani, Member of the IOC Athletes' Commission; Mr Natsuki Omi, Director, Competitive Sports Division, representing Mr Hiroshi Hase, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Vyacheslav Fetisov, Chairman of the WADA Athlete Committee and the State Committee of the Russian Federation for Physical Culture and Sport; Mr Scott Burns, Deputy Director of the ONDCP; Sir Craig Reedie, IOC Member; Rev. Makhenkesi Arnold Stofile, Minister of Sport and Recreation, South Africa; Mr James Cameron, 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 Gian Franco Kasper, IOC Member and President of FIS; Mr Mustapha Larfaoui, IOC Member and President of FINA; Hon. Michael Chong, Minister of Sport, Canada; Mr David Howman, WADA Director General; Mr Rune Andersen, Standards and Harmonisation Director, WADA; Ms Elizabeth Hunter, Communications Director, WADA; Dr Alain Garnier, WADA Medical Director, Lausanne Regional Office; Dr Olivier Rabin, Science Director, WADA; Ms Julie Carter, Education Director, WADA; Mr Olivier Niggli, Finance and Legal Director, WADA; Mr Kazuhiro Hayashi, Asia/Oceania Regional Office Director; Mr Rodney Swigelaar, Africa Regional Office Director; Mr Diego Torres Villegas, Latin America Regional Office Director; and Mr Jean-Pierre Moser, Director of the Europe Regional Office.

The following observers signed the roll call: Peter Schonning, Torben Hoffeldt, Christophe de Kepper, Ichiro Kono, Valéry Genniges, Dmitry Tugarin, Joe Van Ryn, Brian Blake, Elizabeth Ferris, Michael Gottlieb, Mikio Hibino, N. Zinganto and Michael White.

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

THE CHAIRMAN asked whether the members had any comments regarding the minutes of the Executive Committee meeting on 20 November 2005 in Montreal. Unless

any comments or corrections were made by noon that day, he would assume that the minutes had been considered approved as circulated.

DECISION

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

3. Director General's Report

THE DIRECTOR GENERAL informed the members that a few issues arose from his report due to more recent activity, which he would like to elaborate on, so that members would have the benefit of the updated information as well as the written information in his report.

The first item was UNESCO, which was a full agenda item. WADA now had 13 ratifications, a little shy of the 30 required, but at least some progress had been made.

The second item was FIFA. Since WADA had received the CAS advisory opinion, members had been sent copies, along with a brief analysis of the opinion by WADA showing the differences between FIFA and the Code. Mr Niggli would comment further on the legal advances made by this opinion, as many were significant in the way in which the Code had been reviewed and accepted by the advisory panel. Since receiving the opinion, WADA had made offers to assist FIFA at each level (President, legal adviser and chief management at WADA). Nothing had been heard for some time but, the previous week, Mr Niggli and he had been invited to a meeting in London convened by Minister Caborn. This meeting had followed a meeting that Mr Caborn had had with the FIFA President, Mr Blatter, and WADA had been asked to attend to see whether some advances could be made quickly by the changes that FIFA needed to make to its rules. WADA had notes and information from the meeting, including letters that Mr Caborn had written to WADA's President and Mr Blatter. The outcome of the meeting was that FIFA had indicated in London that it, like WADA, agreed to abide by and accept the advisory opinion of the CAS, and that it would undertake to change its rules and statutes so that compliant rules and a compliant statute would be in place prior to the World Cup. The steps that needed to be taken by FIFA included amendments to disciplinary regulations and an amendment to the statute. The latter was the crucial one for the power of appeal to be given to WADA in doping cases.

Since returning from London on Wednesday night, WADA had had further communications with the legal director of FIFA, who had sent some suggested changes that FIFA wished to put into place. He had to say, from where he sat, that WADA was not entirely comfortable with those changes, but had convened a teleconference with the FIFA legal director for Monday morning. That was the progress in terms of FIFA. There were obviously a lot of other matters to discuss in the legal report in relation to the opinion; he could say that the opinion substantially favoured the position held by WADA over past years. There were only one or two small areas in which the panel had given advice to WADA where WADA needed to consider change in the future, and those changes would be considered by the Code Project Team.

With regard to baseball, members would remember that, at the beginning of 2006, the IBAF, in partnership with the Major League Baseball people from the USA, had run a World Classic Tournament. WADA needed to advise members that the lead-up to the tournament had involved many months of correspondence between WADA and the IF, seeking two things. One was a continuation of the out-of-competition testing contract, and WADA had advised as to the need to renew that as early as January 2005, as it expired in December 2005. WADA had not received a signed copy of the contract until after the event. Upon receipt of the contract, he had been intrigued to note that it had been dated 3 January 2006, but somehow, between the IBAF office and the WADA office, it had taken three months to reach his desk.

The second part of the issue was that WADA had never been told of the anti-doping rules or regulations to prevail during the tournament. WADA had subsequently been given some information about the doping controls that had been taken, and read in the media from time to time that there had been some positive cases, but did not have a full report that was sufficient for WADA to say that the programme during the classic had been Code-compliant. This raised an issue that had been discussed at management level, which was that the IBAF had done everything to ensure that it would continue to be a WADA partner but, during a three-month period, which had covered a very important tournament, the IBAF had been, essentially, non-compliant. WADA did not have any mechanism for declarations of non-compliance in such situations. The matter had been discussed internally and he thought that an urgent decision would be required by the Executive Committee in such situations, and proposed that such decisions be made through the use of electronic voting, provided WADA prepared and circulated sufficient information to allow the Executive Committee to make a decision of non-compliance. He asked for this to be discussed and, if the Executive Committee agreed with the management, that there be a protocol whereby the management could give 15 days' notice of these issues and ask the Executive Committee to vote on them so that declarations of non-compliance could be issued for such important and urgent events. Otherwise, WADA would have no teeth, and would have to wait every two years to consider issues of non-compliance.

The Independent Observer reports were not yet available. He had been hoping that they could be tabled at the meeting; regrettably, that was not the case. It was nobody's fault; it was just a question of time. The Independent Observer reports had been circulated, and WADA was receiving comments on them. WADA now had to ensure that the teams incorporated the comments in the reports before publication, and he hoped that that could be done within the next two or three weeks.

He had mentioned some issues stemming from many of the meetings that WADA had attended over the past few months, and he wished to publicly record WADA's thanks to Mr Reddie for his help in Seoul, at which there had been a vast number of meetings with many sports bodies. Some of those issues were contained in his report for information and possible discussion. He wished to highlight two matters that had been learned. One was that, of the NOCs, 90 were still not compliant with the IOC Charter. This was of great concern to the IOC, which had set up a special group to attend to it and guide those NOCs to better constitutional documents. Because those 90 were also not Code-compliant, WADA had asked the IOC if it could partner it on this exercise, so that the new documentation provided for NOCs was both Charter- and Code-compliant. Mr Andersen was working with Mr Miró at the IOC in that respect.

The second issue that still concerned WADA, and Mr Niggli would discuss it further in his report, was that, of the decisions that WADA was receiving, there were still many from NFs where the NFs had not changed their rules to be compliant with the IFs, and WADA needed help from the IFs to ensure that their national bodies were Code-compliant.

WADA had attended a meeting of CAS arbitrators, and was impressed by the growing body of jurisprudence coming from the CAS that supported the Code and, again, Mr Niggli would highlight some of the recent cases that showed the direction in which the cases were going. With regard to the Hamilton case, the decision had taken a long time to reach, and had been made in February that year. Regrettably, from the point of view of media information, it had come out on the opening day of the Winter Olympic Games in Turin, and had therefore been a little submerged in other highlights, which had dominated the world press at the time. Nevertheless, the case was notable for a number of aspects. First of all, WADA had partnered with USADA and the UCI in the way in which the appeal had been conducted, providing resource by way of expertise, and money in terms of hard dollars to the lawyers who had been presenting the case for USADA. He had been present through much of the hearing, which had taken place in Denver. There had been two parts to the hearing. The athlete had had every opportunity to present

every detailed argument that he could produce. All of his arguments had been dealt with in a very professional fashion by the panel; the decision had covered every aspect, upholding the tribunal that had laid down the original sanction, and had been totally unanimous. It highlighted the advances that had been made in science, confirmed that the approach taken in WADA's Science Department and through the introduction of the test in Athens had been correct, and confirmed the process of sanctioning. From a legal point of view, this was a major highlight and a major decision, which showed increasing support for the Code and the way in which WADA was monitoring.

As to the professional leagues, WADA had had further correspondence with each of the professional leagues in the USA. WADA was now looking to hold meetings in New York with each of them on a management level to discuss ways and means to make sure that they would continue along the path towards Code-compliance. WADA was encouraged by the willingness of those bodies to meet; some members would remember that the past two years had provided some sticking points and, at times, WADA had not even been blessed with the courtesy of responses to correspondence. This seemed to be changing, and he hoped to report at the September meeting with some further advances.

As far as ADAMS was concerned, the system would not progress unless everybody worked together. WADA had only limited staff resources to make sure that people would put ADAMS into place. WADA had trained, held discussions and given many presentations, and now needed action from all partners to ensure that they would implement ADAMS. It was a wonderful and simple computer operation, but WADA needed everybody to help. WADA needed people to spread the word amongst all the people that they represented to ensure that it filtered right down. WADA could do only so much; it then relied on others to do the work for it. If they did not, WADA could not do any more. There was no point criticising WADA and saying that ADAMS was not being introduced. WADA staff members were flying all round the world to all sorts of meetings and conducting all sorts of training with experts, and he hoped that everybody would therefore support ADAMS and put it into operation.

WADA's programme development, run by Mr Koehler, was also making significant advances. He wished to thank everybody who had been involved, from governments to NOCs to sports federations, for getting involved in this project. It showed how WADA could make its dollars go further with partnerships and assistance.

From a staff point of view, WADA had ever increasing workloads, high expectations of how to deliver professionally, and high expectations of making sure that WADA delivered to everybody when asked for help and assistance. He would venture the opinion that WADA was achieving significantly, and that WADA wished to progress even further. He was aware that the time of volunteers was very precious and that, to a degree, WADA could rely on volunteers only for a certain amount of their time, so it was continuing with a lid on staff, needed partnerships and help, would not expand the staff, as it could not afford to, but did have the possibility of evolving some commissioning and payment for services, which was something that it had tried not to do in the past. He was very thankful and grateful for the professional approach that the staff members were making, but WADA could only do so much. He was neither complaining nor asking for any personal assistance, but wished to record the issue so that WADA would continue to receive help in the way of partnerships.

THE CHAIRMAN said that it was very disappointing to note the rate at which governments had submitted their instruments of ratification in relation to the UNESCO Convention. It was now six months past the time this Convention had been adopted at the General Conference, and there were only 13 ratifications, not even half the number required in order for the convention to come into effect. He had had representations from the sports side expressing disappointment and concern that this was progressing so slowly.

MR MIKKELSEN said that it seemed as though there were some difficulties in understanding that there might be some difficulties in reaching the ratification of the 30

nations required before the end of May; nevertheless, it was his opinion that everybody was doing whatever possible and that ratification processes like this, according to legislation processes in the different countries, could take a considerable amount of time, and there was no way that governments could or would disrespect this.

The ratification processes took time and he had absolutely no doubt that the governments and parliaments were working as hard as possible. He had sent out a number of letters to government colleagues in order to encourage them to make a rapid ratification; most of them had answered that they were doing their utmost, but that such things simply took time. Not all countries had easy ratification processes, and his country was an example of this. He was sure that everybody who knew how parliaments worked in practice would understand this. All the countries were committed to the ratification process.

MR LARFAOUI noted that the representatives of the Olympic Movement were disappointed, and recalled all the pressures that had been exerted on the IFs to approve the Code. Mr Mikkelsen was saying that these things took time, but how long did he intend? One month, two years, ten years? The Executive Committee should set a timeframe, and the governments should do their utmost in order to ratify the Convention.

MR STOFILE said that he wanted to share the concern expressed by the Chairman and Director General about the number of ratifications taking place but, as he had said previously, this would happen. Mr Mikkelsen had correctly pointed out that it took time, and his compatriot wished to know how much time. This depended on the constitution of a particular country and the parliamentary processes. He had raised this previously; everybody wished to see democracy throughout the world, but democracy entailed time; the countries that had been able to do this without going through their parliaments had done it. In his country, the cabinet had already endorsed the Convention, but that was not enough; it still had to go to Parliament. The two houses were looking at it, and he had no doubt in his mind that it could be endorsed by the end of that month. That was what time meant; it meant going through the democratic processes that legitimised the outcome of the process, because a legitimate process was what was required, so that the governments of the world could make sure that it was justiciable. It would happen; he shared WADA's concerns, but it would happen.

MR REEDIE said that, filling in for the Chairman at the meetings in Seoul of the NOCs and the summer IFs, he had to say, and governments had to understand this, that the sports movement was irritated. Time limits of acceptance of the Code had been set before the Olympic Games in Athens for the IFs, and before the Olympic Games in Turin for the governments and, for whatever reason, it had not been possible to deliver. He thought that there had to be some kind of public relations effort here. Somehow, the government representatives in WADA had to tell the sports movement when, not if, it would happen. Whatever government processes needed to be put in place to do that, he did not know, but perhaps the European sports ministers could come up with a list saying that they would ratify on such and such a date. Anything like that would help. Sport was not foolish, and understood that this was a complicated procedure, but sport had delivered all of the IFs by a certain date and, at the moment, governments were needed to deliver rather more than 13 out of 30 instruments of ratification. The sports side needed rather greater evidence of activity.

MR MIKKELSEN noted that everybody round the table was intelligent, and knew the difficulties that changing laws in countries posed. He could promise that all the countries were doing whatever they could to meet the requirements and speed up the ratification processes, and all of the representatives at WADA were doing their best to put pressure on the countries. He could ask the sports movement about the process involved.

He said that, in 2005, WADA had published a report in connection with Anti-Doping Norway entitled "What is Efficient Doping control?" According to this report, few of the IFs had functional anti-doping units and the work that they performed was far from

sufficient. There were 35 IFs that, according to the Code, had to meet the requirements of adopting and implementing anti-doping policies and rules that conformed with the Code. According to the report, only about 15 of these IFs actually had working anti-doping programmes, which left 20 sports. Was this really the case? Before the representatives of the sports movement began to criticise the public authorities, they should consider their own work. Was the sports movement living up to what it was supposed to according to the Code? And how many of the IFs were involved? One of the cornerstones of anti-doping was out-of-competition testing and, if the athletes of the IFs never met Doping Control Officers, there would be a huge problem. There was a need for the sports movement to focus on this issue.

THE DIRECTOR GENERAL noted that WADA management had been very busy approaching all of the countries, and WADA had produced a full report of country-by-country process in relation to what had been done in respect of the Code and the knowledge that WADA currently had as to when ratification would occur. This was a very full report, and WADA had provided a similar report to the IOC prior to the Olympic Games in Turin. It had been updated, and was accompanied by a report from Ms Jansen, which set out some other relevant information, including the fact that, at that time, 38 countries in the world were in a position of political instability, including civil unrest and changes in governments, etc. WADA had also provided a report showing what had been done at the WADA office. WADA was doing its level best to provoke, promote and cajole governments to ratify the Convention, but he thought that the report gave some details as to where the countries were currently positioned for ratification.

THE CHAIRMAN thought that part of the anxiety arose from the fact that, at the time of the World Anti-Doping Conference in Copenhagen, the Olympic Movement had said that it would do what it had to do within 15 months, before the start of the Olympic Games in Athens; governments had said that they would not be able to do it that quickly, indicating instead that they could do it by the start of the Olympic Games in Turin, but they had not done this. That was the problem, and it was necessary to do something more than say that "it" would happen; the onus was on the governments to indicate when it would happen and that they remained committed to this undertaking.

MR BURNS thought that it was frustrating; it was like FIFA. FIFA was a perfect example. How many times had the members sat there and set a deadline? Then WADA had said that it would go to the CAS, and now, here they were, and this was his third year on the WADA Executive Committee, and they were still talking about FIFA. The message had been received by the governments; they had met that morning, and had known that this was going to happen. They would take it well, and would sit up and nod their heads and say that they would continue to work hard, and they would but, at some point, enough was enough. It was a complicated process in some countries. In some countries, it was not when, it was if. It was difficult. The governments had brought some of this upon themselves. If WADA had become so sports-orientated and so sports-dominant, and the personalities around the table were so associated with the sports movement, that was why, but, at some point, one lost one's juice with the governments, and then to turn around and say that WADA was waiting for the governments, it was systematic of what WADA had become. These were all great issues to discuss, and governments understood how important this issue was, and were on board and wanted to help.

PROFESSOR LJUNGOVIST said that this was an interesting discussion, but was repeated over and over again by governments at almost every WADA meeting, which created a problem of the credibility of WADA in the public eye, as a deadline had been set and accepted by the governments, but it had not happened, and WADA would have to explain why, and when it would happen in the future.

Mr Mikkelsen unfortunately mixed up two things, in his view. All the sports federations had ratified the Code in time. Mr Mikkelsen spoke about the implementation of the Code, which was a totally different matter, and he hoped that, once the governments ratified the Code, they would find ways to implement it. It was quite

difficult for the sports side to implement it, but it would certainly be the case for the governments in the future with respect to implementation. The first step was to have it adopted, and this was where they were at the moment.

MR MIKKELSEN noted that 184 countries had signed the Code. That was impressive, showing good work from the sports movement and the governmental side, and he thought that that was the greatest success that had been achieved to date. The governments were currently working very hard to implement it and ratify it, but the processes in each country were very different. He could only repeat that representatives were doing all that they could do to put pressure on the governments, and were committed to the partnership and fight against doping. He insisted that 184 countries had signed the Code.

MR CAMERON said that, in relation to the comment about implementation, it was certainly true that there was work to do on both sides in terms of implementing the Code. It needed to be acknowledged that, often the ratification process, particularly where it involved legislation going through parliaments, was effectively a process of implementation of the Code, and not simply the ratification, although, in some cases, that was relevant as well, so the process of ratification was something that took time. In the Oceania region, five countries had ratified the Code, and he was very supportive of the efforts that had been made in other regions. Everybody wanted to see the outcomes achieved as quickly as possible, but there was work required by all of the organisations around the table.

MR LAMOUR stated that it was important to note that never before had a convention been drafted to apply anything like the World Anti-Doping Code. The timeframes had been extremely short, and the work done to draft the Code should be commended, as should the work carried out by UNESCO. Ratification for the sake of ratification was easy; it was necessary to implement in order to be effective. France was having problems as it had to study the text, and had not yet been able to ratify the Code, although it had changed its legislation. He understood that some people were impatient, but this did not mean that WADA was weak. He was certain that the necessary 30 countries would ratify the Convention. The governments were trying to ratify as quickly as possible.

Rather than focusing solely on ratification, he thought that ADAMS was another priority issue to be dealt with.

THE CHAIRMAN did not think that anybody had thought that all of the problems would be resolved in the course of that day's meeting, but he did think that it was healthy to have the discussion, so that it stayed at the front of everybody's agenda. There was nobody without sin in this matter. The Olympic Movement had its own problems in terms of making the Code applicable throughout the system; notably, there were scores of NFs that had not changed their rules to comply with the IFs, and the IFs had not been as diligent as they should be in following through on that.

This was a family discussion, and was not taking place in the public domain; he did not propose having the same kind of discussion the following day when the meeting was open, but he did not think it was necessary to worry; this did not affect the prestige and reputation of WADA. WADA was regarded as an organisation that was operating effectively and professionally. The governments were paying their share of contributions whether or not the Convention had been adopted, so all that was going better and better, but it certainly made it easier in the application of the Code if everybody was on the same legal page. That was what WADA was hoping to achieve.

The discussion had been healthy; the sports side would certainly increase its efforts. When he had reported to the IOC Session in Turin, he had made the observation that, of the 35 IFs on the Olympic programme, only 13 had effective out-of-competition testing in place. This was not an impressive record. This was a monitoring year, and there were probably going to be some IFs and NOCs that suddenly found themselves declared non-compliant. That said, he suggested pressing on; any efforts that could be made would

be appreciated. More than 13 governments could ratify the Convention without legislation. Once the initial meeting to get the Convention formally adopted was held, with 30 ratifications, WADA would be off and running.

With regard to FIFA, WADA had already come to the conclusion, and recorded it, that FIFA was non-compliant. In the interests of dealing with the largest and most important sport in the world, WADA had given FIFA every opportunity to become compliant without polarising the debate. The most recent accommodation had occurred after the FIFA Congress in September 2005, when FIFA had made some rule changes, sent them to WADA and declared that it was now compliant. WADA had said that it did not believe this to be the case but, instead of having an argument between lawyers, had suggested seeking an independent opinion from CAS. The independent opinion had confirmed, in all material respects, that FIFA had been wrong and that WADA had been right. FIFA was now in the process of recognising that. WADA could not expect FIFA to do anything until the FIFA meetings in June, but the latest state of play was that FIFA would make the changes at its Executive Committee meeting on 4 June and at the Congress on 7 June so that, when the World Cup began on 9 June, FIFA would be Code-compliant. WADA had continued to work with FIFA; he thanked Mr Caborn and Mr Reddie for setting up a process that had enabled FIFA to talk to somebody other than WADA, because FIFA did not appear to want to talk to WADA.

He thought that there was a path through the forest. WADA would have a teleconference with FIFA on Monday to say that, if FIFA put certain rules into place, WADA would be satisfied, and would not have to declare FIFA non-compliant. If, at the end of those meetings in June, amendments satisfactory to WADA were not adopted, he proposed giving notification that had already been decided upon and, if the fallout happened, it happened. Without that particular endplay available, WADA effectively faced the prospect of the process being dragged out even more. That decision would be an outcome that he would like from the meeting.

MR STOFILE thought that WADA should be congratulated for taking the right decision. The discussion of the WADA/FIFA misunderstanding had not been easy, but WADA had taken the correct decision to take the matter to arbitration, and those involved in the negotiation should also be congratulated, as the report appeared to be saying that WADA and FIFA now agreed that the arbitration was correct and that they were prepared to accept the outcome of the arbitration. That was a good foundation upon which to build the steps through the jungle, so to speak. WADA should ask the legal team to continue, together with the FIFA team, to look at the amendments to be effected, and not wait for the FIFA Congress. The teams should continue to look at the steps of the amendments and the meaning of the amended versions, as the problem had always been one of interpretation and, if this were sorted out before the Congress, the load would be much lighter at the time of the Congress. He did not want to speculate whether the Congress would ratify the proposed amendments or not, but WADA's position was very consistent in this respect. If FIFA were not in compliance, it would be declared as such. He thought that energy should focus on working with FIFA to put in place the kind of amendments that would lead to compliance.

THE CHAIRMAN noted that this was the process in which WADA would engage that weekend. WADA would send FIFA drafts and explain that, if FIFA could express its rules in such a way, WADA would be happy and would not have to act; if FIFA did not express its rules in a way that was satisfactory to WADA, WADA would have no alternative. It was not in a position, philosophically or otherwise, to make an exception, and have a different Code for FIFA.

MR REEDIE thought that, between then and 8 and 9 June, there was a public relations element in how the matter should be dealt with. He believed that the top end of FIFA wanted this problem resolved, and one of the difficulties was dealing with the detail of the legal advice. He was comfortable with the decision requested of the Executive Committee, but was not sure that he would make that the first thing expressed in a press release; he would let FIFA do what had to be done, without warning what would happen

if it did not do this. If FIFA did not adopt the appropriate rules, then WADA should state the consequences.

THE CHAIRMAN noted that he was prepared to give out medals and candies if FIFA did what had been requested, but WADA had already said what would happen if FIFA did not comply. This did not have to be made an essential portion of the press communiqué. What FIFA did not understand, or chose not to, was that it did not matter whether or not FIFA thought that its rules worked, it was whether WADA thought that they did, and it made sense to talk to the people who decided that.

The decision of non-compliance still stood and, if that roadblock was not done away with by the end of the FIFA Congress, WADA would make the declaration of non-compliance.

The baseball matter was a very interesting situation, and WADA had to be in a position to be able to act, in cases where IFs chose not to apply the Code in some of their major events (and this had been baseball's major event for 2006) and then came back and were compliant just before the Olympic Games, so that there was no overall penalty to be paid. The suggestion on which approval was requested was that, if WADA saw something like this happen, WADA could consult, on an expedited basis, with the Executive Committee to get a declaration of non-compliance. Mr Howman had suggested a 15-day prior notice.

MR LARFAOUI thought that the timeframe should be increased to a month.

THE CHAIRMAN noted that this would happen only if, after all of the discussions with the IF in question, WADA was not getting a satisfactory response. The time Mr Larfaoui was worried about was the time for the IFs to fix the problem. If the IFs refused to fix the problem, WADA had to be able to act and, frankly, he did not think that 15 days were needed to decide that. He thought that seven days' notice gave everybody a chance to consult if necessary, and then WADA would make the declaration. This was a last resort; WADA would do this only if it were unable to resolve the problem in the normal ways.

MR BURNS was curious; had baseball not been taken off the Olympic Games programme?

THE CHAIRMAN replied that baseball had not been taken off the programme for the Olympic Games in Beijing. Baseball and softball were not on the programme for 2012, but they were on the programme for the Olympic Games in 2008. There was still an Olympic-related issue, but there could be other issues as well, in terms of government financing and so forth. In his country, it would be an issue; if a sport was removed from an Olympic programme, there were numerous spillover effects. Expedited communication with the Executive Committee and a vote within seven days was the proposal in the event of non-compliance being noted.

With regard to the doping cases, there had been a number of very significant cases decided by the CAS, and the Executive Committee would hear about them in more detail when Mr Niggli gave his report. The CAS had proven, certainly in the post-Code phase of its decisions, to be very understanding of the text of the law and the underlying rationale for it, and the decisions had been uniformly well reasoned and correct.

PROFESSOR LJUNGOVIST referred to the Hamilton case. It showed the importance of having the methodology very clearly validated. He was talking about the science behind the analytical procedures, which had fortunately been the case in this particular matter, because the Hamilton side had recruited highly-ranked scientists to challenge the science behind the methodology that had been used in this particular case, and it showed the problems that WADA would face and the risk that it would run if it introduced methods and technologies that were not properly validated beforehand. Fortunately, WADA had been in a position to reject all those scientific arguments, which had been very strong; WADA had succeeded in convincing the panel that the science was safe and proper.

MR LAMOUR noted that Mr Howman had asked for help in relation to ADAMS. What kind of help was requested of the governments so that the programme could be operational? He had carried out a review of elite athletes before attending the meeting, and had discovered that ADAMS was not very well known among the majority of them. Perhaps one out of 50 was aware of the system. What kind of help and support could the governments offer to strengthen the ADAMS programme?

THE DIRECTOR GENERAL responded that WADA would be travelling to Paris to work with the NADO to ensure that there would be implementation at the national level in France, and he hoped that the government could encourage the NADO to adopt ADAMS so that it would then filter through to the elite athletes. That was the level of encouragement he asked the representatives to take back to their countries. WADA would train, but it could not implement; it then relied on those who had been trained to make sure that the system was implemented. WADA would be going to Paris to undertake the training.

MR REEDIE said that, in Seoul, great prominence had been given to the fact that the computer web-based system was there, it could be obtained for nothing, and WADA could train people. In practice, governments should say to their NOCs that ADAMS was something that NOCs could operate that would make their lives easier. It was like leading the horse to the trough before it started to drink. Anything that WADA could do to get NOCs and IFs to sign up, the better. There had been a lot of success with IFs, which clearly saw the advantage, but the NADOs and NOCs needed to be encouraged.

MR LARFAOUI referred to the NFs that were not yet Code-compliant. Whatever decisions were taken by NFs, the IFs were entitled to put forward their decisions and regulations so that, if an NF was not Code-compliant, the IF would take whatever decision needed to be taken.

THE DIRECTOR GENERAL noted that FINA was an IF that was an example of how a good IF should work; however, there were other IFs that were not as good as FINA, and these were the ones that WADA needed to work with a little more. It was certainly not the large IFs represented around the table; it was the smaller IFs that did not have the same liaison with their national members.

MR NIGGLI noted that the problem often arose when a decision referred to a national athlete and an NF's regulations did not include the possibility of appeal by WADA.

THE CHAIRMAN said that WADA had gone through a number of phases with the Code: conceiving it, drafting it, then getting it approved and adopted. Once it was in operation, the next phase was testing whether WADA had got it right, and that was the legal phase in which WADA was now involved. There were challenges to the tests and science, and questions as to whether the sanctions and penalties were appropriate in the circumstances. The whole question of proportionality that had now been definitively answered by the CAS was another issue, as was the issue of significant fault or no significant fault, and it was necessary to have a number of cases argued and decided in order to find out what those limitations were. That was the phase in which WADA currently found itself, and he thought that it would continue for a number of years. From a WADA perspective, it was necessary to be alert to identify cases in which these issues needed to be decided. The IFs, for their own implementation of the Code, also needed to be alert to those cases and know when to appeal and when not to appeal decisions.

PROFESSOR LJUNGVIST referred to the importance of the Code and its adoption by the IFs at the national level. The Chairman had pointed out that only 13 IFs performed out-of-competition testing, which was a very low figure. When WADA had been created in 1999, there had been 11 IFs conducting out-of-competition testing, so only two more IFs had come on during an eight-year period, which was very frustrating. In 1999, 50% of the IFs had not even had rules allowing for out-of-competition testing; now, at least, they had adopted the Code, so WADA could enforce out-of-competition testing. WADA simply had to provide the means. The possibility and expectations were there.

THE CHAIRMAN noted that this helped WADA to appreciate the difficulties of governments.

DECISIONS

1. Decision of non-compliance in relation to FIFA to stand until FIFA Congress in June, after which WADA will take a decision as to whether or not FIFA is Code-compliant.
2. Proposal for expedited communication with the Executive Committee and a vote within seven days in the event of non-compliance approved.
3. Report by the Director General noted.

4. Operations / Management

4.1 Strategic Plan and Performance Indicators Update

THE DIRECTOR GENERAL said that the Strategic Plan was a document that went through until 2009 but, as a prudent organisation, WADA looked at improving it from time to time, and was undertaking that exercise at that moment. WADA would be in a position to provide an update to the Executive Committee in September, so this was just a matter of information to alert members to the fact that reports were not just written and then left to one side. WADA was constantly reviewing in order to achieve better professionalism.

As far as operations were concerned, the papers in the members' files contained the Performance Indicators for 2005. There was only one small correction, and that was that, under Government Performance, the report noted that WADA would be conducting a monitoring of compliance of governments in 2007, which was wrong. The correct year should be 2008. This was a two-yearly compliance report review; the first was due in 2006, and would cover all the signatories, which included, of course, the Olympic Movement, the IFs and the NADOs, so it was a vast number that would be looked at that year in terms of compliance. The Performance Indicators were there for anybody to comment on, ask questions, or ask him where WADA was heading post-meeting. They were interesting, and WADA tried to use them as techniques to ensure that WADA was retaining a good eye on what it was doing under the Strategic Plan.

MR MIKKELSEN remarked that there was no mention of the plans or performance of the IFs, which surprised him somewhat, because there were 13 out of 35 IFs conducting out-of-competition testing, and he wondered whether or not it would be suitable to mention the work being done by the IFs.

MR LARFAOUI thought that there were more than 13 IFs conducting out-of-competition testing.

THE CHAIRMAN replied that 10 Summer IFs conducted out-of-competition testing and three Winter IFs conducted out-of-competition testing.

THE DIRECTOR GENERAL noted that WADA was working closely with the IFs and had a meeting in Lausanne on 14 June. WADA had received a lot of response to the suggestion made that IFs link together in the same way as countries had to form RADOs and that there be a collective approach made by some of the IFs to deal with this very issue. To be fair to the IFs, they had agreed in concept to the meeting, and he hoped that the meeting would bear fruit and that it would be possible to look at establishing an office under which a number of IFs could conduct programmes. This was the only way in which it would be possible to look at limited resources and money being put together in a way that might be effective. He expected that, after 14 June, a project team might be established with the idea of setting up an office of that collective nature. To reach that

stage, WADA had conducted a number of surveys amongst the IFs, and the significant response was that they wanted some kind of office.

Many of the smaller IFs thought that the out-of-competition testing that WADA performed under contract for them provided a programme. That was a point of difference. That was an issue that WADA needed to address.

THE CHAIRMAN noted that 2006 was a reporting year for monitoring for the Olympic Movement, so that was ongoing.

DECISION

Strategic Plan and Performance Indicators
update noted.

4.2 World Conference 2007 – Planning Update

THE DIRECTOR GENERAL said that this was a matter noted in the members' files. WADA had a conference team at management level; it had liaised with the Spanish people responsible for hosting the conference, and would prepare some ideas that WADA wished to discuss in September as to what should be on the conference programme. WADA had foreshadowed the fact that there should be an Executive Committee meeting on the day prior to the conference, and a Foundation Board meeting to cover the various things to be covered on an annual basis at the end of the conference. That would provide the Foundation Board with an opportunity, if there were amendments to the Code, to pass those amendments.

He would report more fully in terms of ideas for the programme. WADA was working closely with the IAAF, which was holding a world conference on doping in athletics in late September this year. WADA would be participating in that conference, and there might be some helpful ideas coming from that that WADA could incorporate into what it did the following year. If members had any ideas or topics that they felt should be considered, they were invited to submit them.

DECISION

World Conference 2007 update noted.

5. Finance

5.1 Government / IOC Contributions Update

MR REEDIE informed the members that there was some good news, and asked Mr Niggli to provide further details.

MR NIGGLI noted that there were some rather encouraging numbers in the documents in the members' files; they would see that, in 2005, WADA had collected about 93% of its budget, a little less than in 2004 but, given the number of countries that had contributed, it was still a good performance. It was obvious from the numbers that Oceania, Europe and Asia had been delivering their share; Africa and the Americas remained an issue. The amounts remained tiny in Africa and, for the Americas, unfortunately, despite the fact that the USA and Canada were now paying 75% of the contributions for the region, it appeared that the remaining countries had been unable to deliver in terms of contribution. He had been in Rio de Janeiro some weeks ago at the meeting of the governments of the region, and the problem in the region did not appear to be a WADA-related problem, but one of getting organised and determining who should pay what. There seemed to be huge disagreements between countries, which had not put into place a mechanism for splitting the share, the end result being that WADA did not get paid. He did not know how the governments would resolve the matter, and hoped that those countries that were protesting that they were being asked to pay too much would rediscuss the matter with the others, but he had not seen that happen.

The other good news in terms of contributions was that the timing of payments had greatly improved which, for WADA, was tremendous in terms of cash flow and the way in which it could operate. In 2003, at this time of the year, WADA had collected only 28% of contributions. In 2004, WADA had collected 56%; in 2005, it had collected 60%; that year, WADA was above 75%. This meant that payments came much earlier, enabling WADA to start its programmes much earlier on in the year. WADA was grateful to the governments for having set up a mechanism.

MR REEDIE agreed that this was encouraging and, for the first time, WADA had not needed to ask the IOC for a preliminary payment in January for cash flow purposes.

DECISION

Government / IOC contributions update noted.

5.2 2005 Accounts

MR REEDIE noted that the 2005 accounts would go to the Foundation Board the following day, and he would be happy to propose that they be adopted.

He wished to speak to attachment 2, which was the 2005 Management Report. The accounts were prepared under the IFRS, which had one mechanical problem that WADA was having great difficulty in getting round. Unless WADA actually spent the money in the 12 months of the accounts, it could not show it in the accounts, and WADA had a very large balance of commitment, particularly to research projects. He had discussed the matter with Mr Pound and the auditor, to see if there would be a way around that by using an escrow account, but apparently this would not work. The only way in which this would work would be by completely disbursing the money, and he did not wish to be in the business of giving a research laboratory two million dollars without having any control over it and hoping that, at some future date, there would be a result.

He thought, therefore, that the way forward consisted of simply explaining to people through a management report and at the Foundation Board meeting exactly what WADA was doing. That was covered in the third bullet point in attachment 2, where it said that WADA had shown an excess of income over expenses of about US\$ 3.6 million. This did not account for any of the previous year's research money, but it would be paid over future years. It took quite a long time to get the peer group review and the ethical review, as well as to get the contracts in place. WADA made the decisions, but might not have actually signed cheques to any of those research institutions within the period of accounts, and that was why he showed the members, under Budget and Actual Comparisons, a detailed statement of what the total research commitments were.

The accounts were pretty strong; it had been necessary to change the way in which WADA expressed cash holdings but, in general, the accounts were healthy, and Mr Roth, of PricewaterhouseCoopers, would be at the Foundation Board meeting the following day to present his auditor's report and answer any questions.

If members turned to attachment 3, which was the Actual vs. Budget, they would be able to look through and see how relatively efficient WADA was becoming at getting an accurate guess of what WADA's expenses would be. There were none that he would particularly like to draw to the members' attention other than the question of ADAMS, on page 4. WADA had budgeted in the year that it would spend US\$ 1.5 million on the project, and had brought it in at US\$ 1.18. Some might recall that, some years ago, when they had begun to look at the cost of the project, they had all been horrified about going into an open-ended arrangement on a computer system where everybody's instincts were that this was a bottomless pit and that money could be thrown into it but it might not be possible to make the system work. He thought that the WADA management had handled that extremely well. A cap had been put on it in terms of the work done to date, and WADA had brought it in below the budgeted figure.

The next page showed that WADA was slightly ahead on Athlete Outreach costs, but he thought that this was a positive thing to be ahead on. WADA was actually teaching young people that being involved with doping in sport was not a good thing and, if WADA was going to go over the top on anything, it seemed to him that this was a reasonable one to go over on.

Page 6 was the Research Overview, where members could see details all the way back to 2002, and the amount of money that had been spent and the amount that was committed and, unfortunately, WADA could not simply put this into the accounts as accruals because the IFRS system did not allow this.

DECISION

2005 Accounts to be submitted to the Foundation Board for approval.

5.3 2006 Quarterly Accounts (Quarter 1)

MR REEDIE said that the next item that he wished to look at was basically the good work of Ms Pisani, who was an absolute wizard at producing accurate month-by-month financial comparisons. There was a balance sheet as of 31 March 2006. That looked hugely strong, and so it should, because governments had been paying contributions in advance. Members could also see the normal detailed balance sheet of profit and loss accounts, which had been produced for some years. Again, that time, it was possible to see an actual against budget for the period ending 31 March 2006, and it was possible to do this month-by-month, to enable comparison on a very regular basis. This was a very substantial help to the management.

The research overview was also brought up to date, so figures on the research commitments were always being updated. Again, the figures were interesting, and showed that WADA was in reasonable control of what it was doing.

DECISION

2006 quarterly accounts update noted.

5.4 Draft Budget 2007

MR REEDIE said that this was a first draft, and basically assumed that there was no increase in the rate of contribution for 2007 as opposed to 2006. There were certain problems in preparing a budget like this, as there was quite a lot that the Finance and Administration Committee or the WADA management could not control. It was not possible to control, for example, the rate of contribution. If governments simply did not pay, there was not a lot that WADA could do, but WADA could try very hard to make sure that they did pay and, clearly, all the indications were that that was becoming less of a problem, but it was still a question mark. It was not possible to control the amount of money necessary for research, but it was possible to make the budget balance. WADA could control things such as operational costs, and he gave Mr Howman and the management full marks for running the agency extremely well.

One of the things that it was not possible to control involved litigation costs. Members would see in Mr Niggli's report that the number of cases increased yearly so, almost inevitably, the costs were going to go up as well. It was a real guessing game, and the Finance and Administration Committee could produce a budget on one of two bases. The Finance and Administration Committee could either guess what it thought the additional costs were likely to be and then tell the members how much was needed to pay for them, or it could turn round, particularly to governments, and say that there should be a regular increase, perhaps at an agreed rate of inflation in 2007 or, if there was to be no increase in 2007, there would certainly have to be an increase in 2008, because operations were going to get more expensive. He sought guidance from governments on the system that they would prefer, and he would then prepare a very detailed budget in Lausanne in August and bring it back to the Executive Committee in September and the Foundation Board in November for approval.

What Ms Pisani had done extremely well was produce some detailed cash flow figures and, on certain assumptions, the basic one being that WADA did not spend any more on research in 2006 and 2007 than had been agreed, he estimated that the cash flow position at the end of 2006 would be somewhere just short of US\$ 4.5 million, which was free money (everything else was committed to research or WADA's own capital) and, for 2007, that came down to about US\$ 4 million. That represented less than three months' operating costs of WADA, and that was the effect of not increasing contributions. The Finance and Administration Committee could try to run it efficiently but, if something went wrong, WADA would get fairly tight on cash.

That was the situation and, on balance, the Finance and Administration Committee would probably hope that governments would say that it was better for their budgeting purposes to look at a steady inflation-linked rate of increase but, if they did not, it would be possible to go ahead for 2007 on the existing rate of contribution but with the clear note that 2008 would have to show an increase. He had discussed this with the IOC President and he thought that it was fair to say that the Olympic Movement would contribute on a dollar for dollar basis.

One final word of warning was that the US dollar was currently on a slippery slope; in the first quarter, WADA was well over US\$ 100,000 the wrong way, as WADA paid its salaries in Canadian dollars and got its income in US dollars.

THE CHAIRMAN noted that members had the summer to think about the budget. Inflation was something that should be recognised as recurring; it had to be dealt with, but he did not wish to get tied down with budget increases that were solely inflation. The more people wanted WADA to do, the more it would cost to do it, and he thought that WADA should be looking at the desirability of the particular activity before determining whether or not the budget would support it.

DECISION

Draft budget 2007 noted.

5.5 Working Group on Anti-Doping Costs Update

MR NIGGLI said that the files contained the report from the chairman of the group, and, as indicated, a number of questionnaires had been sent out at the start of April. The rate of return had been extremely low, to the point where the chairman of the group had called an emergency conference call for the following week, to discuss how to handle the matter. The work was in progress but, at that point, he was not sure what kind of outcome would occur.

DECISION

Working group on anti-doping costs update noted.

6. Legal

6.1 Legal Update

MR NIGGLI said that WADA had received more than 300 decisions to look at since 2005, about 70% of which had been Code-compliant. The remaining 30% had not been Code-compliant to various degrees. A number of the non-compliant decisions had been from national cases in which WADA had been unable to appeal. For the others, WADA had acted every time that the decisions had been deemed not in compliance with the Code, and thus far WADA had been successful in obtaining what it had been asking for in all of the cases appealed.

The first two cases in the report, the Lagat and Beke cases, were two cases that WADA had before the civil courts. These were not the usual CAS cases; they were two cases about EPO that WADA had to defend, one in Germany and one in Belgium. It was important for the Executive Committee members to realise that there was a trend among

defence lawyers to try to undermine the EPO test, and they were relying on two German experts who came back time and again with the same arguments for all of the cases. Although the cases did not have the same lawyers, the same affidavits from the same doctors were being seen.

The good news was that the CAS had issued a decision the previous week on an IAAF matter, which had dealt mainly with the question raised by the two experts in the civil litigation, and had rejected their arguments. The decision was on the CAS website and would be helpful in dealing with the issue.

The next case involved a basketball player and a specified substance. There had been a tendency at the start to consider that, if it was a specified substance, it was automatically a reduced sanction. That was not what the Code stated; the Code stated that the athlete had to prove that he or she had not taken the substance to enhance performance. In this case, WADA had felt that this was not the case and the athlete had not shown that the intention had not been to enhance performance, so WADA had appealed it and won, and the sanction had been revised.

The Hamilton case had already been discussed. He briefly mentioned a refusal case where a two-year sanction had been confirmed in cycling.

The Coetzee Wium case was more interesting; this was a case in which the DCO, after having taken the sample during an out-of-competition test, had forgotten the sample at the athlete's house. After 45 minutes, the DCO had realised that he had left without the sample, so he had returned to retrieve the sample and had sent it to the laboratory. The federation had followed the argument of the athlete's lawyer that there had been a violation of the regular procedure and that there could therefore be no sanction. WADA had disagreed, believing this to be a minor departure, which was foreseen in the Code, and had appealed the decision on that basis, saying this would not have changed the results, the sample had not been opened or tampered with during that 45 minute period, and WADA had won the case. The procedure could not be perfect every time, but it did not mean that it would not be possible to do something about the case.

The fifth case was just to show that WADA sometimes acted on the other side, and was not always trying to get the sanction to be stronger.

The members had probably heard about the Zach Lund case, which had occurred just prior to the Olympic Games. In this case, WADA had disagreed with the sanction, which was obviously outside the range foreseen by the Code. It had been very important to act very quickly, as the athlete had been about to go to the Olympic Games and would have competed, so WADA had gone to the CAS and the special ad hoc division set up for the Olympic Games, and had won the case, thus preventing the athlete from competing.

The seventh case had been about the entourage rather than the athlete. WADA did not get so many of these cases but, in this particular case, WADA had felt that the entourage had not been sanctioned sufficiently by the federation and had gone to the federation, which had changed its decision.

The eighth case was more of a concern, as it was the first time that WADA had been confronted by an athlete claiming that he had been contaminated, not by a food supplement, but by medicine bought in a pharmacy. WADA was looking into the case and had contacted all those companies producing the substance to see if it was true, and had contacted the agency in Belgium that dealt with making sure that pharmaceutical products were tested and validated, and would see how it would be possible to explain that and whether the athlete's story was credible (it had been believed by the Belgians at the time, but he still had his doubts) and, if the medical substance had been contaminated, what the industry would do about it.

Danilo Hondo was another point on his agenda about which he would talk later; he just wished to mention that the CAS decision, which WADA had won and as a result of which Danilo Hondo had been given two years, was a very good decision in terms of

proportionality. It also dealt with suspended sanctions and clarified that suspended sanctions were not foreseen.

With regard to the ITF, a minor had been trying to get away from a doping infraction by claiming that, because he was a minor, he had not submitted to the rules as he had not accepted them and his parents had not signed, etc., and the ITF had done a good job and managed to get some jurisprudence saying that it had clearly benefited the minor to participate in all of the tournaments and then, upon testing positive, there was no excuse to claim that he was no longer bound by the rules.

His final remark was that there were three cases of finasteride doping, and there had been one important remark throughout the cases, which was that the List was the List and there was no way of challenging the List in court. Once a substance was on the List, there was no way that somebody could go before the CAS and start claiming that the substance should not be there.

There was a new section on the website, on which all of the decisions in which WADA had been involved were posted, along with links to other organisations that put decisions online, so a fairly comprehensive view of jurisprudence in relation to doping could be obtained by going there and checking out the various websites. If any organisation wanted WADA to post its case on the WADA website, he would be more than happy to do so.

MR LAMOUR emphasised the need for the NFs to respect the Code.

PROFESSOR LJUNGOVIST said that the issue of the List had been discussed previously but, when discussing the criteria for including substances on the List, it had then been argued that the criteria as such had also been open to legal challenge, which was why the three current criteria had been introduced, namely, health risk, against the spirit of sport and performance enhancement. WADA had an image problem, and there was also the fact that one could argue that any substance could be placed on the List, because any medication or drug could be said to be against the spirit of sport, and any drug intake by a healthy athlete could imply a health risk. One could introduce substances that did not enhance performance on the List. The general perception was that doping was an unfair attempt to enhance performance, so did the CAS decision mean that WADA could review the criteria for placing substances on the List and trust that the List was the legally binding document? If that was the case, then it might be possible to review the criteria in terms of making the performance enhancement criterion compulsory in order to include a substance on the List.

MR NIGGLI said that, in relation to the decision in question, luckily the issue of criteria had not been questioned. WADA would want the List to be respected by all, rather than have a scientific discussion on a substance and whether or not the criteria were met every time WADA went to court. There was already the discussion on related substances, and that was more than enough. As for whether the criteria should be changed or not, this was more of a scientific/political question rather than a purely legal question.

In relation to ADAMS, the documents in the members' files included a note prepared at the request of the Council of Europe to explain the situation regarding data protection. As far as he was concerned, he was satisfied that everything possible had been done to make sure that ADAMS was compliant with data protection legislation. He had heard that there had been some concerns, but thought that the majority stemmed from a lack of understanding as to how ADAMS functioned, so he thought that the best thing to do in this case would be to liaise with Mr Birdi or attend an ADAMS training session to make sure that the philosophy was understood. If there were still legal issues subsequently, then he would certainly be willing to work with those with issues to try to resolve them, but the questions had to be very specific. There was a system that worked but, if there was a particular element that anybody thought did not comply with the law, he would try to address the issue.

His last point concerned laboratory insurance. A lot of work had been done over the past few months to try to help those laboratories that had had difficulties finding an insurance policy. Through WADA's brokers, it had been possible to put into place a common policy that was open to laboratories anywhere in the world. A number of laboratories had already signed up, and more would do so over the coming months. This was going to be a requirement in the International Standards; the laboratories had to be insured in the event of any false positives or mistakes by the laboratories. In order to set up this programme, WADA had had to put up some of its own money to offer the laboratories an alternative and get the programme started, and WADA would hopefully have enough laboratories in the programme over the coming months to make sure that costs were fully covered by the laboratories.

MR MIKKELSEN said that ADAMS did indeed sound like a huge system and he was impressed that one programme could hold all the necessary information for all the involved parties and still remain secure. Some representatives of the Council of Europe had expressed concern as to whether ADAMS complied with the special European Data Protection Legislation, both in the European Union and the Council of Europe. He was aware that the document addressed the question of applicable law and different legal systems, and he was confident that the Legal Department had analysed this question. Therefore, he just wished to ask whether the Legal Department could confirm that the European data protection rules had also been taken into account.

MR NIGGLI confirmed that, in the opinion of WADA, ADAMS was compliant with the European Directive. This directive had to be implemented in the legislation of every country, and each country might have implemented the directive with slight variations. He could not state that there were no specific points, but he thought that ADAMS had no issues in relation to European law and that nothing in ADAMS infringed such law. He did not know who the author of the paper in question was, but the author had not contacted WADA prior to writing the paper and had obviously misunderstood some of the ADAMS applications. He had seen from the minutes of the Council of Europe meeting that the legal group of the Council of Europe would be discussing the matter, and WADA would certainly be willing to discuss the matter with the Council of Europe legal group to see if any issues could be resolved.

DECISION

Legal update noted.

6.2 Working Group on Legal Matters Update

MR NIGGLI said that the working group had met the previous Monday. The meeting had been very good, and most of it had been dedicated to a discussion on the Code with a view to revision. This had been an open discussion, enabling the group members to offer opinions as to how to improve things. The group would work closely with the Code Revision team, and would certainly be interacting as far as legal issues were concerned.

Other topics discussed at the meeting had concerned the re-testing of samples and, under item 9, the members would see a paper relating to the issue. A paper for discussion would be put together by the group for the meeting in September, as there were a few things for the members to decide regarding how to operate where re-testing was concerned.

The group had discussed FIFA, the List, and there would be a number of comments going to the List Committee, particularly regarding the stimulants section and T/E ratios, and there would also be a recommendation made regarding how elevated T/E ratios were to be handled. Finally, the group had discussed the Lund case and, in particular, the question of whether it was still worth asking athletes to disclose medicine on the Doping Control Form when WADA had realised that most NADOs did not appear to look into which substances were declared on the forms, which had had serious consequences in the Lund case. The opinion of the group had been that this section of the DCF should be suppressed, as the laboratory did not need it any more but, before doing anything, the

group would hold discussions with the Laboratory Committee to ensure that everybody agreed.

PROFESSOR LJUNGOVIST referred to the possible suppression of information on any drug intake. He supported the idea of looking into this matter, and hoped that such a decision could be reached. He recalled that this was exactly what had been found as an inconsistency in the Independent Observer report from Turin, when the Doping Control Officers had apparently behaved very differently in different situations with respect to asking for drugs, and what had come out of the doping control stations had not been very informative to the laboratory.

He also reminded members that the reason this section had once been introduced on the DCF was to give athletes the opportunity to state whether or not they were taking a substance that could be questioned. If athletes deliberately provided such information, it could serve as an argument to their advantage in any further legal proceedings. Now, however, the proper TUE mechanism was in place and, hopefully, since this was the case, the conclusion would be that such section was no longer needed.

DECISION

Working Group on Legal Matters update noted.

6.3 FIFA Update

MR NIGGLI wished to go into greater detail regarding the legal arguments for the decision. The decision was a very good one, and had been well written, and would help WADA with FIFA and in many other future cases, particularly where the Code was concerned. The opinion was divided into two. The first part talked about the difference between the WADA rules and the FIFA rules, and the second part focused on Swiss law and whether or not the Code was valid under Swiss law. FIFA's excuse for not changing its rules had been to say that the Code was against Swiss law and that, therefore, Swiss law had prevented it from changing its rules. The decision of the CAS was crystal clear on that matter; this was not the case, and there was nothing in the Code against Swiss law. Therefore, WADA could only infer that the legal advice that FIFA had been getting had been wrong on that point.

The decision clarified a number of important issues, the most important one being proportionality. The decision clearly set forth that proportionality was not an issue and was guaranteed by the Code and the mechanisms within the Code. This would be of great use in other cases, including the Hondo case.

The other important point was certainly the fact that the two-year suspension had been upheld and considered by the panel to be a credible deterrent to doping, and the only way of having an efficient fight against doping. This had contradicted the minimum six-month suspension put forward by FIFA, which had been deemed as not having such a deterrent effect.

The decision had also highlighted that the principle of equality of treatment was respected by the Code and therefore required that every sport apply the same rules. There should be no differences between one sport and another in terms of sanctions applicable. That was very important, and answered the arguments that had been heard many times about some kind of an exception for a sport because players were better paid or had a shorter career, etc.

The differences between the FIFA and WADA rules had not surprised anybody at WADA, as these had all been identified. Everybody had to realise that, apart from the TUE section, all of the differences related to the mandatory provisions of the Code, and there was no great mystery surrounding what needed to be done for FIFA to be compliant.

The panel had used the words 'materially different' in the decision, rather than insisting on the fact that some of the text needed to be adapted verbatim. This was

regrettable. WADA had said that it would respect the decision, but would have preferred alternative wording in the decision.

One other item that would be looked at in the revision of the Code was the duration between the first and second offence. Overall, this was a fairly easy to read decision, and was very clear, and would be very helpful in other cases. WADA had already filed it in a few cases that were ongoing.

THE CHAIRMAN said that all the members had had a chance to read the decision. The panel charged with the matter had clearly thought very carefully about all of the issues. With regard to page 2 of the document, number 8, was the FIFA period not 20 years rather than two? That was a typing error.

MR MIKKELSEN said that there was one point in the CAS decision about which he was in doubt. That was the question of a period of limitation for when a doping offence was regarded as a second or third offence. The CAS said that the WADA Code should contain such a rule. In Denmark, there had been a case where an offence 11 years after another offence had not been regarded as a second offence, but the decision had been taken with a lot of doubt due to the silence on this question in the Code. He was convinced that the only way of making sure that ordinary courts did not invalidate the sports rules and the decisions by sports courts was by having rules that complied with fundamental rules and principles in civil law and criminal law. He therefore proposed that the Legal Department of WADA look into this question and find out about the normal rules in the international society on the period of limitation if a criminal offence was not to be regarded as a repeated offence that bore an additional punishment. In his country, it was typically ten years, sometimes five years. Nevertheless, a study on this as part of the Code revision process should be carried out.

MR NIGGLI replied that this was something that would certainly be looked into. Part of the answer was in the decision itself, with the suggestion of eight years as a reasonable time, but this was something that would be debated. He did not think that there was one rule in criminal law; it depended on the offence. The more serious the offence, probably the longer the time spent between the two. This would be looked into. Eight years had been suggested, which was the time that was in the Code for going back to test samples, and it probably made sense, but this would be debated by the Code Project Team, which would also look at comments received in relation to that.

THE DIRECTOR GENERAL noted that the FIFA decision showed that the legal advice that WADA had obtained had been considerably better than the legal advice that FIFA had got and perhaps those around the table should recognise the quality of the legal work done by and for WADA, as the FIFA opinion fell totally in line with the way in which WADA had proceeded with the Code and the arguments put on the table by WADA and those supporting WADA had all been upheld. That was of considerable note, particularly when there had been notable jurists around the world arguing against WADA. Hopefully, they would no longer argue as a result of this opinion, because some of the issues such as proportionality had essentially been put to rest. That was of great significance.

DECISION

FIFA update noted.

6.4 Constitutional Amendments

THE DIRECTOR GENERAL said that the issue of constitutional changes was very important. In November, WADA management had taken note of various comments made at the Executive Committee and Foundation Board meeting regarding the possibility of improving the Statutes, essentially to ensure that governments might fully explore the opportunity of persuading somebody to take on the very onerous job of WADA President and be able to do that from outside Foundation Board membership. The WADA management had left the meetings with no precise instructions as to what to do to prepare possible amendments, but had received in January 2006 from Mr Caborn a report that he had commissioned from the European ministers. There had been

subsequent discussions from an informal group that governments had put together in terms of looking at appropriate changes to the Constitution and, as a result of all of that, the WADA management had felt it appropriate to engage the IOC in similar discussions to try to come up with some proposed changes that met with consensus.

From the Olympic Movement side, WADA had been asked to look at the restrictions placed on membership of the WADA Foundation Board by the Constitution. An opinion had been obtained from WADA's Swiss lawyers. The restrictions of three terms of three years pertained only to individual membership, and did not pertain to country membership, so there was rather an unusual situation of an inequality scenario, where both sides of WADA's stakeholders should be the same but, on one hand, a person on the Olympic Movement side could serve for a maximum of nine years before stepping down, whereas a country could serve ad infinitum. From a principle point of view, the management had felt that it was strong enough to prepare an amendment for that reason. Those who were affected from the Olympic Movement were Professor Ljungqvist, Mr Reedie, Mr Pound, Professor de Rose, Mr Besseberg, Mr Larfaoui and Mr Aján, all of whom had been Foundation Board members since the inception. On the countries' side, those that had been members since WADA's inception were Canada, the USA, Japan, China, the Council of Europe, South Africa, Australia and New Zealand. WADA had discussed with the Olympic Movement the possibility of changing that rule; if that were changed, there would be consensus as to the change in providing an extra seat for the chair and vice-chair on each side of the chamber. He had drafted amendments to fit what he had assumed would be a consensus approach so that, if passed, these changes could be implemented immediately, therefore providing for an extra seat immediately. There would therefore be the provision for governments, if they were to look for a person to fill the post of vice-chair at the end of that year, to do so in November and have that person from outside. That would be the outcome of the passing of the amendments immediately. He wanted to provide the background, as it was more of a political background in which the management had engaged as a result of the instructions from the governments in November. Mr Niggli could explain the legalities of the options that were on the table, but he thought that the background was important to enable everybody to understand.

MR NIGGLI did not think that he needed to go into the proposed wording. The Statutes allowed for an increase in the number to 40, so there would be no breach by bringing the Foundation Board to 38 members. The fact that WADA would take away the limitation of nine years was a sovereign decision by the Foundation Board, as there was no legal issue in relation to doing that.

MR MIKKELSEN stated that he had to admit that he had been surprised to see point A, about the term of membership, on the agenda. The reason for the present provision was probably that an organisation would continue to be part of an everlasting society and reflect this by adding new members to the Foundation Board. He knew that very competent people, good friends, were being dealt with, and they presented a united front against doping. He was not necessarily against alternative one or two, but, to be honest, there had been no real reasons or arguments for re-election without any limitation or a waiting period of only one year.

Because of this, and because the proposal came without any kind of warning or preparatory debate, he thought it was too early to take a decision on the proposals in A at the meeting.

As members knew, a working group among governmental members of the Executive Committee members had been active for quite some time. The Chair, Michael Gottlieb, from the USA, had recently sent a document to WADA regarding the view of the working group on some of the important issues. One of these was the principle of rotation for the post of chair and vice-chair of WADA. There had been a meeting that morning, and he spoke on behalf of all of the governments when he said that this was of utmost importance for the governmental side, and the governments expected that members would agree that this rotation principle be reflected in the Statutes, and he was a little bit

surprised that the WADA papers did not contain such a proposal when it had been proposed by the working group in line with what had been decided by the Executive Committee and the Foundation Board in November the previous year.

At a meeting during the Olympic Games in Turin, Mr Rogge had confirmed directly to him that the Olympic Movement had entered a gentlemen's agreement regarding this rotation principle. The governments needed to have this principle stated explicitly in the Statutes. The governments wanted to have the rotation principle reflected explicitly in the WADA Statutes for several reasons. Politically, it was important to show the world, and not least the parliaments, that WADA was a true partnership, not only regarding payment but also regarding leadership. Besides, in the long term, it was of course not satisfactory that such an important principle was confirmed only orally and not stated in the formal and legal documents. The governments were willing to look into solutions if, in the future, one of the sides could not propose a candidate. There should be a discussion about that before the next meeting.

Regarding point B, he supported the idea that the number of members on the Foundation Board be extended from 36 to 38, with 19 from each side, one more than at present, as had also been discussed during the meetings in November the previous year. He thought it should be clear who represented whom. That was why he supported alternative 1.

There was one further issue that he wished to address. It related to the period the chair and vice-chair could hold their seats. He wished to suggest that WADA state that the chair and vice-chair could be re-elected for one further three-year period so that the seat could be taken by the same person for a maximum of six years. He believed that this was in line with the rotation principle that he had just mentioned before.

In general, he had to say that he thought that the changes in the Statutes about membership should be balanced between the two equal partners in the partnership. Due to this necessary balance, there was a link between the question of the term of membership, the number of Foundation Board members and the rotation principle. It was a package that had to be delivered at the same time.

PROFESSOR LJUNGOVIST said that Mr Howman had referred to conversations that he had had with the Olympic Movement among others, and that was true. He had not been involved personally, but he was speaking on behalf of the Olympic Movement. The Olympic Movement felt that, in a body such as WADA, composed of two sets of partners, the partners should be on an equal level and equal terms and conditions. If one side had unlimited mandates on the Foundation Board or the Executive Committee, the other side should have the same. He thought that it was a matter of fairness. The Olympic Movement therefore supported the proposal, alternative one, as it felt that the second alternative complicated matters. Alternative one under item A was supported, and the Olympic Movement also supported alternative one of the constitutional amendment under B, which was the better guarantee than alternative two with respect to the equal partnership, whereas, under the second alternative, both the chair and the vice-chair could come from the same side, which would cause inequality between the two partners, and equal partnership should be maintained where possible. The Olympic Movement therefore supported alternative one A and one B.

MR LARFAOUI totally supported what his colleague, Professor Ljungqvist, had stated, but wanted to know the purpose of the proposed one-year interim period.

MR NIGGLI replied that there was nothing in the Statutes about what happened to a member after nine years. To date, if somebody had been on the Foundation Board for nine years, that person could never return. The IOC Executive Board had a rule stating that, once a member had been on the Executive Board for a certain amount of time, that member had to leave the Executive Board for a minimum of two years before being eligible to sit on the Executive Board. The idea of the proposal was not to exclude somebody indefinitely.

THE CHAIRMAN asked what the members wished to do.

MR BURNS had thought that the government committee set up to make the recommendation had a rotation requirement. There was nothing about the rotation in the proposal. The matter had been discussed for a long time. As far as he was concerned, Mr Pound should be Chairman for life, as he represented sport and governments, and it was hard to distinguish Mr Pound's biases and preferences, and he thought that he would rule and interact with an even hand, but he thought that the governments' position, and he was probably stating the obvious, was that there were great people from the Olympic Movement side who had been there from day one, and people from the government side who barely made it to one meeting, and, if something happened with their governments, sometimes in a month there could be three different faces. He served at the pleasure of his president and, if his president woke up not pleased, he would be gone, along with his aides. It sometimes took government people a month to figure out what TUEs were (until the third meeting, he had thought that people were talking about Tuesday!). That said, he had grown fond of the Olympic Movement members, and thought that there was great value in having people who understood the issues and had been around for a long time. He hoped that it would not be necessary to make an immediate decision. As Mr Mikkelsen had pointed out appropriately, it was important to the governments that there be a mechanism for rotation, and that, at some point, for the love of whatever, the governments would have a chance to chair WADA. Otherwise, at some points the governments would become window dressing. It took away from the credibility, professionalism and brotherhood of WADA in the spirit of sport.

MR REEDIE thought that Mr Mikkelsen had dealt with the rotation issue in conversations that he had had with the IOC President. He personally had a clear feeling that the IOC was struggling with the question of limitation of periods of service and the insistence that members must move on. It was a very big debate, and he thought that the situation had crept up on the IOC, which had now found out that, within a period of a few months, under the Statutes, everybody from the Olympic Movement would be cleared out, when they had actually helped drive the organisation and bring it to the place that it was. He did not think that that was particularly helpful for the Olympic Movement, and hoped that it would not be very helpful for WADA, but he did not think that there was anything else more sinister in it than that. There was a slight difference between an individual position and a country, except that a number of people represented sports movements; he represented NOCs, and representation in sport tended to be for a longer period. Here, the major countries were represented, and that was right. He did not think that WADA was far away from having the correct situation but, he thought, from the Olympic Movement's point of view, there was a significant problem under the rules.

MR MIKKELSEN said that the governments all had great confidence in the sports movement representatives, who were frontrunners in the fight against doping. Mr Pound was doing a fantastic job; Mr Larfaoui, Mr Reddie, Mr Kasper and Professor Ljungqvist were doing a great job; everybody was doing a great job, and the governments would like to cooperate in the future for many more years. Nevertheless, it was a matter of great importance to the governments that the rotation principle be included in the Statutes. This would send a very important signal and, as Mr Burns had been saying, would show that WADA was a true partnership. The governments all believed in the Olympic Movement representatives, who were all doing a great job. He knew that they had great struggles within their own movement about this, and they were the frontrunners, but changes in the Statutes were needed to show the political world that WADA was a true partnership.

MR CHONG said that he also supported Mr Mikkelsen's position in this regard, thinking that it was important to give the organisation long-term legitimacy among the two key groups, the public authorities and the sports movement, that the Statutes reflect the fact that the position of chair should rotate between those two stakeholder groups. He

thought that Mr Pound had done a fantastic job as Chairman, and shown a lot of leadership, so he did not think that this had anything to do with the Chairman in the position, and he very much agreed with the comment made earlier that many would like to see Mr Pound stay on in this position, but it was necessary to reflect the reality that governments needed to buy into this and one way to do that was to have governments have a representative as chair going forward, and one way to accomplish that was to have that included in the Statutes. He also thought that it was a good idea to limit the term of vice-chair and chair to two three-year terms, as that would allow for somebody to be vice-chair for up to six years, which was a good amount of time, and then, subsequent to that, in the position of chair for an additional six years.

MR LARFAOUI thought that the rotation issue had already been raised and that some kind of consensus had been reached not to write such a clause in the Statutes. When there was a change in government, this would be reflected in a change in the vice-chair of WADA, with newcomers potentially having no experience of WADA issues. Another problem concerned the permanence of the chair of WADA. These issues should be carefully considered.

THE DIRECTOR GENERAL noted that the amendments had been prepared on the basis that it had been assumed, obviously wrongly, that there would be consensus from each side, as the governments had wanted an extra seat, and the IOC had wanted a removal of the restriction, so these had been presented as a package, and he had assumed that it would be accepted. This had not been done under instruction from the November meeting, as there had been no approval for the management to do so. It had done it off its own bat, and had perhaps made a mistake. On the other hand, if these things were going to go forward, they needed a 66%, or two-thirds, majority of the Foundation Board the following day. If there was no consensus among the Executive Committee members, there was not likely to be consensus at the Foundation Board meeting, and he was left seeking some instructions on how to proceed further. He had dealt with a government report; there had been no WADA or IOC report, but he and his staff members had worked on the basis of consensus. If that was a mistake, there needed to be further consideration as to whether there should be amendments and, if so, how the instructions were given to the management to prepare them.

MR BURNS asked whether the IOC was opposed to ever allowing a government to chair WADA.

THE CHAIRMAN replied that the IOC was absolutely not opposed to allowing a government to chair WADA.

MR BURNS asked how that would happen.

THE CHAIRMAN replied that not everything had to be written down in a partnership agreement, and the IOC President had made it clear that, if the governments came forward with a good candidate, the IOC would be very happy to support that candidate, as it had recognised the fact that the idea of rotation was perfectly acceptable, but to enshrine that in the Statutes was something that would make the IOC very uncomfortable. It was certainly prepared, as a cooperative partner, to give the opportunity of rotation, and assurance had been given by the IOC President to Mr Mikkelsen and been stated generally. One of the reasons he thought that the management had brought the issue forward was that, if there was going to be a change when his term expired, the governments needed to find somebody that year and, if WADA were to make the changes then and there, it would give governments an opportunity to find somebody by the end of November, perhaps install him or her as vice-chair then, ensuring at least one year's experience before he headed to the great round-up in the sky at the end of 2007. That was the timing, but it would be like WADA saying that the Olympic Games would be awarded on a continental rotation basis; it was a very dangerous concept, and he thought that the flexibility needed to be preserved.

MR LARFAOUI asked what would happen if a governmental chair suddenly no longer represented his or her government. What would be against WADA keeping such person

as chairperson? The sports movement would have nothing against the person continuing at WADA, but he did not think that the government of the country in question would be in agreement.

THE CHAIRMAN replied that WADA was considering the possibility of trying to withdraw the chair and the vice-chair from the regular change that occurred within the sports movement and on the part of the governments. If individuals were identified as being representatives of a body, but not necessarily ministers, etc., then they would not be affected by these changes. The term limits that would be a package, as the Olympic Movement saw it, were that everybody sitting around the table represented one of the stakeholders. The government members represented countries, so, if the countries could stay forever, it did not make sense for the countries that stayed there forever to say that they could do so, but the other representatives of stakeholders could not. There was no right or wrong answer to this, but he thought that that was the position.

MR BURNS asked whether the IOC was opposed to the term limits on the chair and vice-chair being in the Statutes.

THE CHAIRMAN replied that he did not think that it had ever been discussed, so probably the answer was that the IOC was not opposed.

MR BURNS clarified that there was no rule regarding rotation, terms, and nothing in the Statutes regarding the chair or the vice-chair. Was this just an agreement?

THE CHAIRMAN replied that it was an empirical agreement. When WADA had done this, the only rule had been the three times three rule, and there had been no concept of a vice-chair; in fact, it had been so rigid at the time that unanimous approval had been required to change the Statutes. This feature of the Statutes had been a government request. It had been later decided that it would be good for governments to have a vice-chair and add another representative; now, there was an effort to raise this partnership concept to the level of entrenching it in a constitution, and that was an example of the flexibility necessary in a hybrid organisation such as WADA. The IOC President was quite happy to have an informal understanding, if there was a candidate with whom the governments were happy to run WADA, and knowing what the demands for the position were, then the governments could come forward with that person.

MR BURNS thought that it would be good to sit down and discuss these things without the personalities attendant there too. He did not think that there was anybody who wanted to see people who had put in long years of good service and who had institutional knowledge gone; that would be a disaster. On the other hand, with all due respect to the IOC, there was an old saying that one could gild the lily. If the IOC squeezed too hard and WADA's chairman and board members were there for ever, and the government side became so weak, governments would not be motivated to get the UNESCO Convention signed and would have difficulties going back to their congresses and getting money and, when ministers changed every six months or every year, interest dwindled, and the sports side would have become so super-dominant that it would have defeated the very purpose for which the two sides had come together, which was a partnership. Messrs Mikkelsen, Chong and others had been trying, very openly, to work out the point at which a formula could be determined whereby governments some day could chair WADA, and how long the terms would actually be. That was the spirit that the governments were trying to express, and he thought that it was a reasonable one.

THE CHAIRMAN said that he fully agreed that these things ought to be discussed. Had Mr Burns dealt with the fact that the USA had been represented on WADA since the very beginning and would expect to remain, even though the person sitting in the US chair would change?

MR CAMERON wished to start by endorsing the comments made by the other public authority representatives, and he thought that one of the points made by Mr Mikkelsen was that that was a new issue that had come up, and it seemed to him that the comments made previously by Professor Ljungqvist that this was an issue of equality and

fairness and partnership was something that crossed all the issues that were being discussed; it did not seem to him that there was necessarily any underlying difference in relation to the principle, merely how those principles were given effect. He wondered whether Mr Burns' suggestion of a further discussion of these issues would actually get WADA to the point where these problems could be solved at the next meeting. In the end, the underlying principle of the partnership and equality did seem to be something that crossed all of these issues and, rather than the two stakeholder groups talking independently between meetings, if a discussion could be held between the two in between meetings, perhaps it would be possible to reach a solution.

MR LAMOUR said that a point had been reached that would require more in-depth work. He thought that some people did not understand what rotation meant and represented, in terms of the members and the concept of chairmanship. It was necessary to go into the matter further to determine the role of each person around the table, so as to avoid any opposition between the sports movement and the governments. The partnership was what made WADA strong, and WADA should continue to do things as had been done under Mr Pound's chairmanship. Mr Howman had made a good attempt at making some proposals; unfortunately, they were not sufficient, so he proposed setting up a joint working group. How much time was remaining so that it would not be necessary to change the Statutes in November and choose a vice-chairman? Over the summer, and following the September meeting, could the Statutes be amended if work were to commence immediately? What did Mr Howman propose in terms of amending the Statutes?

THE DIRECTOR GENERAL said that, if the Executive Committee could not put the proposed amendments to the Foundation Board the following day, it would have to put them to the Foundation Board in November, but WADA could have a process whereby there was a group to look at amendments, although there needed to be some policy decisions before setting up a group, because there was no point drafting amendments if there was major disagreement on the policy side, which seemed to him to be the case at the moment. If there was agreement, a drafting committee could be set up, and that was easy, but this was more of a policy nature, and he thought that provided more difficulty to the management. But, if the policy decisions were agreed, the management could draft the amendments and put them to the September Executive Committee, so that at least there would be a recommendation to the Foundation Board that WADA could count on being passed in November. That would be the only suggestion that he would have in order to accelerate the process, but it was necessary to have a Foundation Board meeting to determine constitutional amendments, and he repeated that a two-thirds majority was necessary, with one half of each side of the chamber forming part of that two-thirds.

MR BURNS thought that push had come to shove because, if WADA did nothing, the nine-year terms would be up.

THE CHAIRMAN clarified that this would happen in 2008 or 2009, depending on the individuals concerned.

MR BURNS thought that something needed to be done, if this was an issue that was causing concern. If WADA did nothing, what would happen?

THE DIRECTOR GENERAL replied that, if WADA did nothing, the next chair would have to be chosen from amongst the Foundation Board, and there would be no extra seat and the members he had mentioned previously would go off never to come on, as the current statute was drafted.

MR STOFILÉ thought that, first, the areas of agreement should be recorded, as the Executive Committee kept returning to things that it had already resolved. The Executive Committee had already resolved the issue of what WADA meant by government representatives. A government representative meant any representative identified by the public sector to represent it. That should be recorded, as it was an area that had been dealt with. The second area of confluence already resolved was the

principle of rotation. It had been raised at the Foundation Board meeting, and nobody had disagreed with it. That was an area never to be revisited. The first area that seemed to be creating problems was the term of office. The proposal was for three years, renewable. He thought that that was necessary. The purpose of the Constitution was to give guidelines to delegates. When all the ministers were gone, the successors should not grope in the darkness as to what was happening in WADA; they should be guided by the Constitution, which was very clear on these points. WADA should never find itself in a FIFA/WADA situation, with disagreement ending in a CAS opinion. There was currently no agreement, and that was one area that needed to be cleared up. The area that seemed to be the most difficult was whether or not to entrench these decisions in the Constitution; again, as a good Christian, he always went back to the Bible, where it said that Pharaoh, 'who knew not Joseph', had come to Egypt, and things had changed. WADA did not want to leave these things to good faith. WADA should put down clear guidelines for its membership, present and future. There should be absolute clarity. A gentlemen's agreement was a statement of faith, and he did not agree with relying on that, because of what he had just quoted from the Old Testament.

MR MIKKELSEN proposed sitting down in a working group with government and sports representatives to find a solution. The goal was to formulate a proposal that would also be acceptable for the sports movement. It was very important for the governments to explain that this was a true partnership with a principle of rotation in the Statutes. The governments were willing to discuss how to formulate that, and could do so by means of a working group, and have a formal decision in November. Nobody wanted sports movement members to have to leave the Foundation Board, but the principle of rotation had to be in the Statutes some way or another.

THE CHAIRMAN sensed that the idea of establishing such a working group appealed to everybody. It was important that WADA not pre-judge the answers, but identify the questions to ask the working group to consider. There were five that seemed to him to be very clear. The working group should be asked to report in time for the September meeting, so that the Executive Committee could approve the changes made, on the understanding that each stakeholder group would be able to make sure that its representatives on the Foundation Board would be able to do so in November, and then the formal changes could be made in November. The issues that he thought he had identified included the question of the membership limits. Was that to be maintained or changed in some way? Number two was the issue of formalising the rotation of the chair and vice-chair. Number three was the period of chairmanship and vice-chairmanship and the number of terms that either could serve. The issue of the equality of status of representation of the stakeholder groups was another issue. Was Canada, for example, to be seen in the same way as the representation of the NOCs? And, fifthly, the separation of the chair and the vice-chair from the regular rotating membership; should that be established so that there would be at least some stability in those two offices?

MR CAMERON wished to clarify in relation to issue number four, concerning the status of representation. Was the issue beyond the three by three limits?

THE CHAIRMAN replied that the issue was whether or not the three by three applied, for example, to Australia. After Australia had served three by three terms, even though there had been many different Australians sitting round the table, did that term limit of three terms apply to Australia, in the same way as it seemed to apply to the individual representatives? He did not know what the answer was, but he thought that it was a legitimate question. Within 15 days, the governments would inform WADA who they wanted to form the working group. There would be three working group members from each side.

DECISION

Proposal to establish a working group,
composed of three members from each side,

to discuss various issues relating to constitutional amendments, approved.

6.5 Danilo Hondo Case

MR NIGGLI said that this was a matter that Mr Mikkelsen had asked to be put on the agenda. The Hondo case was now before the civil (regional) court of the Canton de Vaud in Switzerland. A decision had been taken by the Swiss Olympic Committee, WADA had appealed the decision before the CAS and had won, and the athlete had been given a two-year sanction. The athlete had appealed the decision before the Swiss courts but, rather than going to the federal court, which was the usual procedure, the athlete had gone to the regional court because, in this particular case, all of the parties were domiciled in Switzerland. The rider was domiciled in Switzerland despite being a German rider, as he cycled for a Swiss team; the UCI was in Switzerland; the Swiss Olympic Committee was in Switzerland; and WADA was in Switzerland. The athlete had had access to another procedure and had therefore been able to go before the court in question. The confusion had been triggered by the lawyer of the athlete (the same lawyer as in the Lagat case), who had asked for a provisional suspension of the CAS decision, which had been granted. That was very unfortunate, but was not anything unusual in terms of procedure. The only difference was that he had claimed in the press that the athlete had won the case, whereas nothing had been submitted on the merit of the case, and the court was looking as to whether or not the appeal had been manifestly unfounded from the start. The athlete had been granted a suspension of the CAS decision, and there was nothing that could be done about it, as there was no appeal against such a decision. WADA had already asked the court to reconsider the first decision by filing a second brief, and had been rejected a second time, on the grounds that there had been no new elements to justify a second request, but at least WADA had a guarantee that the file was on the top of the pile and WADA constantly liaised to make sure that the file would not be forgotten under a big pile of other appeals.

Everybody was uncomfortable with the situation; the rider was competing, although the UCI was pretty confident that no major team would want to hire the cyclist following the CAS decision. The other disadvantage was that, when the appeal was rejected or lost, and the decision of the CAS confirmed, there were obviously going to be many results cancelled, with a re-ranking of riders and so on, and that was very unfortunate in the world of sport. The court had realised the impact of the decision upon taking it, but WADA had to live with it.

It was an issue that had also been raised with the CAS; WADA had informed the CAS that there was some kind of a different treatment when all parties were based in Switzerland. In theory, the concern was that many athletes would move their domiciles to Switzerland before appealing; WADA did not think that this would happen, but that was an issue. The CAS had promised to raise it with the Swiss court after the case in question, as it would be improper to go and discuss a pending case. It was not specific to Switzerland; there were many countries that had different legislation for international and national arbitration.

DECISION

Danilo Hondo case noted.

6.6 Austrian Inquiry Commission

MR NIGGLI informed the members that, following the Olympic Games in Turin, a number of inquiries had been launched: a disciplinary commission by the IOC, an inquiry by the ski federation of Austria, an inquiry by the Austrian Olympic Committee, and, apart from the ski federation, none had completed its task. WADA had been contacted by the Austrian Olympic Committee to provide further information on what had happened in Turin and the work conducted by the DCO prior to the Olympic Games. After liaising with the NOC and ensuring that it was independent and would publicly report its results,

WADA had agreed to collaborate, and had twice answered questions sent in relation to the inquiry. If anybody wished to see the correspondence, he would make it available. WADA had, at the same time, copied the IOC's disciplinary commission with any correspondence, so that it would be aware of what WADA had been asked.

THE CHAIRMAN said to the members that the question of term limits and alternance for the President and Board members might become academic, since Dr Rogge and he had apparently been criminally charged in Austria for daring to report what they had thought and found.

PROFESSOR LJUNGQVIST informed the members that the IOC was also awaiting the necessary information from the Italian authorities. A disciplinary commission meeting would take place should the information be made available.

DECISION

Austrian inquiry commission information noted.

7. World Anti-Doping Code

7.1 Activity Update

MR ANDERSEN said that some of the issues to which he had been intending to speak had already been mentioned by the Director General; these regarded the compliance of NFs and cooperation with the IOC in terms of Code compliance for NOCs. WADA had a good cooperation with the IOC in order to have the Code implemented in the NOCs' rules.

WADA had already submitted to all stakeholders (2,648) the letter from the Chairman inviting comments on amendments to the Code, regarding what was functioning well and things that needed improvement. The Code was working well, and no big changes were foreseen, but he knew that improvements were needed. One had been mentioned earlier concerning the CAS opinion regarding certain topics.

Members had the Code plan in their files; there would be three consultation periods, each lasting for two to three months until August 2007. WADA would present a draft of the amended Code to the World Conference in Madrid in November 2007.

A communication plan had also been suggested, so that there would be a similar process to that used for the creation of the Code. This meant that there would be meetings with stakeholder groups in order to consult on certain topics with regard to the Code.

In terms of the monitoring of Code compliance, a tool had been created and would shortly be available on the website. A questionnaire, made up of 24 different questions and multiple-choice answers, had been created, and he would elaborate on this the following day. The signatories would need to respond to the questionnaire, and WADA would measure and review responses in order to report back to the Executive Committee and Foundation Board on Code compliance.

THE CHAIRMAN said that he thought that the process that had been followed when the Code was being developed had been particularly good in the sense that every stakeholder had been given every opportunity to submit comments, get a response to those comments, and see and deal with three different iterations of the draft Code. He thought that the same process would be applied this time; WADA probably did not need as much time as had been set out, but it was better to give too much time than not enough. Those who had any interest in improving the provisions of the Code and how it was applied should take advantage of that.

DECISION

World Anti-Doping Code activity update noted.

7.2 Non-Compliance

MR ANDERSEN said that the Director General had also mentioned this issue in his report, and a decision had already been taken on how to follow up on the matter.

DECISION

Non-compliance update noted.

8. Departments / Programme Areas – Decisions and Key Activities

8.1 Communications

MS HUNTER said that she would be giving the full Communications Department report the following day, but there was one project that she would like to introduce to the Executive Committee. She was sure that members would not be surprised when she said that there were several communications challenges facing an agency such as WADA. WADA was relatively young, still establishing its brand, and therefore needed to work hard in educating people about WADA and, more generally, the harmonised approach to anti-doping. WADA's field of play was the world, and it needed to reach out to as many countries, in as many languages, as possible. The technical aspect of anti-doping did not lend itself to quick and easy communications solutions. When people heard about WADA and anti-doping, it was usually when a famous athlete had been caught cheating; therefore, in many cases, there was a negative context associated with anti-doping.

In January, WADA had approached nearly a dozen major advertising agencies and presented them with the goal: to communicate the essence of WADA while taking into consideration all of these challenges. She had not been certain that this could be done well, given WADA's limited resources. Of all the agencies that WADA had met, one had stood out above the others. The people at TAM-TAM/TBWA had showed a genuine understanding and enthusiasm for WADA's mission. Brigitte Mittelhammer was the agency's president, and Hugues Choquette was the vice-president and creative director, and they had brought an unparalleled level of energy to the discussions. To top it all off, when it had come to talking about how to fund the project, the agency had offered its services pro bono. This was an offer that WADA had not been able to refuse. She invited Ms Mittelhammer to talk a little bit about the project.

MS MITTELHAMMER said that, once in a while, her agency took on a mandate for one reason only: shared values. Her agency strongly believed in WADA's mission, and had understood that the task was paramount. The more people who embraced the WADA vision, the easier it would be to accomplish the mandate. She believed that a new weapon in the fight against doping was needed: emotion. To date, WADA's vision had been carried out in a very rational manner. By adding emotion, the potency of the message would be increased. One should never underestimate the power of emotion. Human beings reacted to emotion. To inspire people, one had to make them think, and to make them think, one had to make them feel. The objective of the film was to inspire athletes and their entourage to support the fight against doping in sport.

THE CHAIRMAN thanked Ms Mittelhammer and her agency for the video.

MR CAMERON wished to take the opportunity, on behalf of Australia and the new Australian Anti-Doping Agency, to present the Australian Rugby World Cup team shirt.

THE CHAIRMAN thanked Mr Cameron and encouraged others to contribute memorabilia to be displayed at the WADA offices.

MR STOFILÉ thought that the video shown was beautiful, but the athlete's voice was that of a pathetic little girl begging for help, which was perhaps a correct reflection of the situation, and then WADA appeared as an authoritarian male. He did not know what effect that created as to the perceived relationship between the athletes and WADA; it seemed like a rather skewed relationship between the child and the ogre, who was ready

to kill people if they did not comply. He would rather have a more sympathetic face for WADA.

THE CHAIRMAN asked Ms Hunter to talk to Mr Stofile about his observations.

THE DIRECTOR GENERAL noted that the video was a corporate presentation that WADA thought corporately represented WADA. It could be adapted to any language by way of voice-overs, so anybody who wished to use it in his or her own country could do that and choose people to deliver the voice-overs. That might answer Mr Stofile's point, because, in his country, he could choose the people he wished to make the statements and who might be more suitable to his culture and his people. That was a significant issue that needed to be addressed in other countries as well. The WADA management had thought that the video was a very decent way of presenting the concept of WADA and the level playing field so that everybody could then see the task of WADA to ensure that cheats would not prosper, and that those who wished to play fair could do so.

THE CHAIRMAN thought that the video was visually quite effective.

DECISION

Communications update noted.

8.1.1 Athlete Committee Chair Report

MR FETISOV presented the report of the Athlete Committee.

The Athlete Committee had discussed many issues at its meeting in Moscow on 24 and 25 April. He thanked WADA for giving the committee the chance to invite athletes to Moscow. WADA had made the right decision in creating the committee at such an important time. There had been long discussions about many issues and, after the two working days, there had been a press conference involving the Russian media. There had been suggestions to be tougher on a number of issues.

The committee encouraged the players in the American professional leagues to encourage their unions to adopt the World Anti-Doping Code. Noting that clean athletes had nothing to hide, the committee members believed that there was no reason not to adopt and comply with the Code. There had been a good discussion about this issue.

The committee suggested that there be consideration of financial penalties for those who violated anti-doping rules, including penalties for those responsible for teams, federations, or organisations in which doping cheats participated.

The committee wished to see the CAS increase its powers to allow clean athletes to claim damages or lost prize money from doped competitors who cheated them to be a further deterrent to doping in sport.

The committee welcomed the 24 April CAS advisory opinion in respect of FIFA rules and looked forward to the full acceptance of the Code by the football players including their participation in clean athlete activities such as the WADA Athlete Committee. Interesting comments had been made by the athletes in relation to the FIFA issue, and they had suggested inviting FIFA representatives to a committee meeting for a discussion.

The committee looked forward to advancing education programmes for young athletes, including innovative methods such as music, books, brochures and comics, with the involvement of elite athletes to promote the programme.

The Director General and his staff members had been very professional, working together with his staff members in Moscow to enable further discussion and work to be carried out at the meeting.

THE CHAIRMAN thanked Mr Fetisov and encouraged him to keep up the good work.

DECISION

Athlete Committee chair report noted.

8.2 Science

8.2.1 Health, Medical and Research Committee Report

PROFESSOR LJUNGOVIST referred the members to the extensive report in their files; it would be wrong for him to waste their time by reading it out or commenting on every point. He was there, along with Dr Rabin and Dr Garnier, to respond to any questions that the members might have. He did wish, however, to raise some important issues.

The work with the List for 2007 was ongoing. There had been several meetings, with a final meeting in September, well in time for preparing the final proposal to be delivered to the Executive Committee and Foundation Board to have the List officially announced for 2007.

The report gave a description of ongoing research projects. Mr Reddie had already commented on the research budget, which amounted to more than 30%, for which he was very happy, and major progress had been, and was being, made in the fight against doping by the fact that WADA did have a research budget for conducting the necessary research into anti-doping. Priority areas had been defined by the Executive Committee, and they were related to finding the necessary analytical methods for the determination of doping substances. Unfortunately, new substances continuously came along, and WADA needed to be very attentive and have the most recent and sophisticated methods in place. One example of that was under point 3.3, which described the various meetings that had been taking place with respect to finding the necessary methods for the analysis of certain difficult substances and methods. The Gene Doping Symposium had taken place in his own city, Stockholm, in December, and had been very successful. It was the second meeting to have taken place on that subject, as a first meeting had taken place some years previously. He had been impressed by the progress made in developing methods for the future determination of gene doping, once it was there. WADA's Chairman had given a speech at the symposium; the IOC President had also been there, and the Queen of Sweden had actually concluded the meeting, so it had been a high-level meeting from a formal and a scientific point of view. In a sense, he could say that WADA was no longer in a situation whereby he feared that there would be difficulties or that WADA would not be able to detect any future misuse of gene technology for the purpose of doping. It was no longer a question of whether, but one of how and when the means would come along. Scientists were further ahead than he would have expected, so it had been a very constructive and positive meeting, and was being followed up by the collection of information from research centres around the world. This was a good example of having a research budget in place, as WADA had attracted research institutions, which had joined the fight against doping and were now conducting the necessary research.

There had been some problems in Turin with respect to the various blood analysis procedures taking place at the Olympic Games, some of which had been conducted by the IFs for the purpose of the non-start rule, which meant that, if people had blood parameters that were above certain threshold levels, they were not allowed to start. Despite the ongoing efforts to try to explain what this was all about, the general public and media did not fully understand the difference between those analyses and doping. This had caused confusion. The IFs, WADA and the IOC understood that something had to be done to find ways of making the approach to blood doping more united based on modern science. A meeting had been convened and organised by WADA on 8 April, and there would be further meetings on the matter, the aim being to arrive at a general ruling to be encompassed within the WADA anti-doping rules. The present confusing situation was not satisfactory and could be detrimental to the understanding of what the various parties were doing, or trying to do.

DR RABIN said that, with regard to Hgh testing, there had been a meeting over the past three days with USADA, as USADA and WADA were the two main sponsors of Hgh testing. The good news was that science had delivered, in the sense that the two hypotheses in support of testing for human growth hormone, the isoform approach and

the markers approach, had been validated by the working group. He believed that the pure science phase was almost over. There had been a lot of effort made in that area on both approaches, and it was clear that science was ready. The main issue that was being faced regarded access to the antibodies used to test under those methods for this substance. This was where there was a lot to do, also for the isoform approach method, which had been implemented in a very limited number of laboratories, based on the stock of research antibodies, and it was believed that this was no longer acceptable, as there were issues of quality controls that could not be requested from a research laboratory, and needed to be requested from a company operating under good manufacturing practices. The disappointing part was that the company with which WADA had been working in the USA had not delivered the antibodies as expected, one year previously, mainly due to the fact that the company had been acquired by a larger company, so the project had not received due consideration. Anti-doping was a very minor issue for those companies developing kits, as they were mainly into the diagnostic area, which was where their business was, and WADA was, in a sense, asking them a favour to work with WADA. The issue was more on the commercial side than on the research side. There would probably be a moratorium on Hgh testing by the few laboratories that were involved, to make sure that access could be gained to the commercial antibodies and kits in order to implement the method full-scale in all of the anti-doping laboratories. It would be an effort from WADA to work again with the company involved, and maybe other companies, to make sure that the kits were delivered.

There was a similar conclusion regarding the markers approach; the method was based on the analysis of two markers, and those markers were followed in the same way, with commercial kits. There were quality issues with the commercial kits; some of them had been suspended, so it was necessary to talk to the companies involved to try to secure the commercial production of those antibodies in line with the specific anti-doping needs.

Members should note that there were a few copies of the 2005 statistics, which compiled the results of adverse analytical findings by the 33 anti-doping laboratories. The copies were at the end of the room for those members who were interested. In 2005, there had been an increase in the number of tests conducted; significant progress had been made with respect to 2004. There had also been an increase in the number of adverse analytical findings reported by the laboratories, mainly due to two elements: the implementation of glucocorticosteroid testing in the laboratories, and the follow-up of T/E ratios. T/E ratio follow-up was now well established in the practices of the anti-doping laboratories and NADOs, and there was a report on the follow-up of those cases.

Finally, it was obvious that WADA was gaining a lot of credibility at the international level for the proficiency testing programme that it was running for the laboratories, as well as the accreditation process, and WADA had very good collaboration with ILAC (the International Laboratory Accreditation Corporation). Very recently, WADA had made a presentation to the International Bureau of Weights and Measures, and had been congratulated on the quality of the certified reference materials developed to control the quality of the anti-doping laboratories. WADA was really gaining credibility on the international level with the main bodies involved in laboratory accreditation and control.

DECISION

Health, Medical and Research Committee
report noted.

8.2.2 Hypoxic Chambers

PROFESSOR LJUNGOVIST referred the members to the attachment in question. A decision was required on the status of artificially induced hypoxic conditions. This was a matter that had been debated over a period of ten years or more. The IOC had first addressed the issue and had been unable to reach a conclusion. WADA had had the issue on board for many years, and had now arrived at the stage whereby it could

provide the necessary background for a decision to be made with respect to the status of the hypoxic chambers. The Health, Medical and Research Committee, based on the three criteria (health risks, performance enhancement and the spirit of sport) for the possible inclusion of a method on the List, had provided the members with the scientific background from the point of view of performance enhancement. Hypoxic chambers could be performance enhancing, depending on the individual reactions to them, and therefore would meet one of the necessary criteria. It could not be determined that there was a general health risk in using the chambers; if they were properly used, under medical conditions and supervision, WADA could not state that they constituted a health risk. Therefore, the committee had had to find out the extent to which hypoxic chambers might violate the third criterion regarding the spirit of sport. The WADA Ethical Issues Review Panel had looked into the matter and submitted a report, which he thought was very interesting. He commended the panel on arriving at such a clear and important report and conclusion, which was that the panel felt that the use of hypoxic chambers did violate the spirit of sport, providing the arguments. In a sense, the panel compared the use of hypoxic chambers to other artificial means of training, but made a clear differentiation between the use of sophisticated equipment for strength training and the chambers since such equipment interacted with the athletes in training, whereas hypoxic chambers were a passive form of activity (if indeed their use could be called an activity).

This was a highly controversial matter; some felt that hypoxic chambers could not be banned as their use could not be policed. More or less the same effect could be obtained by high altitude training, and people born at high altitudes did have an advantage over those living at sea level. The conclusion was not to decide whether to include hypoxic chambers in the List, as that would be a decision for the September meeting, but to have them incorporated in the consultation process to take place over the next couple of months and provide the stakeholders with the necessary information. It should be emphasised that the fact that a substance or a method required two of the three criteria did not automatically mean that it should be included in the List; it meant only that the substance or method could be considered for inclusion. It would be premature for the Executive Committee to take a decision to include hypoxic chambers in the List, but it should decide to have the issue circulated together with the proposed List for 2007, along with the necessary information and the statement of the Ethical Issues Review Panel.

MR OMI said that, if WADA were to include hypoxic chambers in the List of Prohibited Substances and Methods, other methods, such as heat chambers or saunas, would have to be considered. In the case of heat chambers, heated environments had been shown to increase the maximum oxygen intake; in other words, if WADA were to ban artificially induced hypoxic conditions, the question arose as to whether or not other methods, such as heat chambers, should also be banned.

The degree of use had not been considered. What if the chambers were used as part of scientific research? The definition of artificially induced hypoxic conditions had not been made clear. There seemed to be many issues that had not been clarified, and this would directly affect the athletes and their conditions. These aspects would have to be clarified before rushing to make any conclusions. Further studies and discussions on the issue needed to be carried out. Certainly, the issue should not be decided on immediately.

MR CAMERON expressed similar concerns about making a decision at that point in relation to the decision about hypoxic chambers. Some of the points raised by Mr Omi were well made in relation to comparisons between hypoxic chambers and other sorts of passive methods that might potentially improve performance.

He had also had other concerns that some of the issues addressed by the ethics paper did not appear to fully explore certain ethical issues; for example, it was not entirely clear why a train low, rest high method was not necessarily something that also fitted within the category of activities that the ethics panel had suggested were of concern. Probably the most important issue of concern was that of policing; it seemed to him that there were significant difficulties and a big issue for WADA to suggest the possibility of

including a method on a list when there did not appear to be any clear method of testing and policing its use, and why one would go through a process where the outcome might well be a reduction in the credibility of WADA as an organisation with certain methods on the List that could not be effectively policed in any way. If, in the end, the decision was to include this method on the draft List, then he certainly thought that it would be important to have some of those issues explored further, and for all the scientific evidence in relation to the impact on performance enhancement to also be released at the same time.

MR KASPER wanted to explain why he was strictly in favour of prohibiting hypoxic chambers. It was nothing to do with the possibility of policing or controlling, but it was a question of credibility, reputation and the image of WADA and the IFs. Looking at his own sport, in the past, there had been five to fifteen mobile homes that were hypoxic chambers at the finish area, and the athletes, who used to live in these like animals in cages, would come out, compete and immediately run back to their cages. It had looked ridiculous, and had not set a good example to the public. He agreed that it was perhaps not scientifically enhancing, but it looked terrible, which was why it had been forbidden in skiing, and he thought that this had helped the image of his federation and its reputation. He was aware that it could not be controlled; if athletes had the chambers in their hotel rooms, they could not be controlled, but he believed that it should definitely be forbidden when it could be seen by the public and on television, so perhaps WADA could at least make a strong recommendation that the IFs not allow the use of hypoxic chambers.

MR FETISOV said that the Athlete Committee had also discussed hypoxic chambers and how their use affected performance. Many of the committee members had not thought that hypoxic chambers were of great benefit to performance, and had suggested that more attention be paid to areas where a significant impact could be made.

MS ELWANI noted that she had also been present at the Athlete Committee meeting, and some of the athletes had wanted to continue using the tents; when they had been asked why they used them, they had said that these tents, or hypoxic chambers, were not performance enhancing. She wondered why the athletes needed to use them if they were not performance enhancing. The committee had agreed that athletes were not ready to give up using these tents, but some of the members still wondered why the athletes needed them. Perhaps they used them because, psychologically, their performance was improved.

THE CHAIRMAN said that WADA was now fixed with advice from the Health, Medical and Research Committee to the effect that hypoxic chambers were performance enhancing. There was no consensus that the practice was dangerous, and the Health, Medical and Research Committee had not expressed an opinion on the ethical side of the matter. This had been turned over to the Ethics and Education Committee, which had provided a very clear report that the use of these chambers was contrary to the spirit of sport. Thus, there were two of the three elements that would normally be considered as part of the criteria for including something on the List. WADA was in the process of looking at the List for 2007, and needed to decide whether or not to put the idea out to the broader community. There was an awful lot of heat, and not much light, that would be put on it. There was a very highly organised group of people who believed that it was unthinkable to include these things on the List and that the credibility of WADA would be irretrievably lost if it did that. It would be very difficult to enforce; there was, however, the possibility that the use of these devices could be used other than by haematocrit levels. [Check the tape, since this sentence does not make sense.] It was an issue for WADA. He did not know if WADA had the resources to go out and find all these things. The data should be circulated. The opinion was short and clear. Professor Thomas Murray was one of the most respected ethicists in the world, and had signed the report. What did the Executive Committee want to do with this information? Everybody knew that WADA would be considering it. Should the information be sent out to the stakeholder group, maybe not as part of the List but as part of the process, to see what

response was obtained? Or should WADA say that it ought to go onto the draft List for 2007?

MR REEDIE thought that WADA had a fairly good record of being prepared to consult. There was a series of comments, a very good report, and sensible, practical observations. He had been interested in Mr Kasper's description of what, presumably, used to happen in skiing. He assumed that it was at its worst in competition. He thought that WADA should try to deliberately encourage comment. Was it not possible to package in a short statement the issues and the fact that WADA would be happy to receive comments prior to making up its mind?

MR LARFAOUI noted that, in his federation, a lot had been heard about hypoxic chambers, which, for some, appeared to enhance performance. Professor Ljungqvist had not requested a decision immediately, if he was not mistaken, therefore there should be consultation prior to decision.

MR LAMOUR pointed out that including the issue of hypoxic chambers in the procedure made it official.

MR LARFAOUI said that he understood that the matter became official only when it had been included on the List.

MR LAMOUR said that he thought that he and Mr Larfaoui were saying the same thing in a different way. The consultation would be in the framework of introducing hypoxic chambers in authorised procedures. The decision would be taken in September. He did not think that anybody was ready to decide, as members were divided on the matter. He was not certain that consultation would shed any more light on things. He understood the arguments made, but still thought that there was no certainty.

DR RABIN said that the issue had been on the table for some time. It was quite clear that no scientist disagreed with two of the three criteria. These methods could increase performance. Everybody agreed on the perception of the criteria. The debate had shifted to the ethical side of things. The WADA Ethics and Education Committee had used the Code as the basis for discussion, but many others had given their opinion without referring to the Code. There was clearly a great deal of controversy surrounding the issue, but he did not want this to prevent members from seeing things clearly. The debate was more one of perception.

PROFESSOR LJUNGOVIST clarified that he had tried, in his presentation, to avoid expressing any personal opinion. His recommendation was that WADA should not express an opinion until September, after the consultation process. He thought that, in conjunction with the circulation of the List, which was a proposal, WADA should add the matter and seek opinion rather than expressing an opinion immediately and taking a premature decision. WADA would then have the necessary material to take a final decision in September.

THE CHAIRMAN wished to note that, if the members added it to the List, WADA would be expressing an opinion, whereas WADA could present the List and another issue on which, as part of the process, WADA sought advice, because it might decide to add it to the List. The issue could not be ducked, as WADA would look very bad if it avoided it. Then, in September, the Executive Committee would decide whether or not it had enough advice to reach a decision. WADA would say that it was a parallel consultation process with the larger group of stakeholders, but not yet part of the draft List.

MR OMI wished to clarify whether or not WADA was taking a decision on the inclusion of hypoxic chambers on the List.

THE CHAIRMAN replied that WADA had decided to send out the issue for consultation; WADA had not decided and would wait until the consultation process had been completed.

THE DIRECTOR GENERAL said that, if the issue was going to be included and WADA was going to ask for consultation in relation to a separate topic, the consultation should

be reported to the List Committee as opposed to the Executive Committee, so that, if the List Committee determined that the method ought to form part of the List for 2007, it could make that recommendation. If the consultation were to come directly to the Executive Committee, it would be the wrong process, and he did not think that WADA could include it for 2007. There should be a recommendation from the List Committee following consultation.

MR CAMERON repeated Australia's concerns about the limited timeframe between the point whereby the List Committee was likely to make recommendations to the Executive Committee and the time when decisions would be needed in September. Where there was the potential for reasonably significant new proposals to be made, he thought that the Executive Committee should make sure that there was an adequate timeframe for members of the Executive Committee to consider those issues.

DECISION

WADA to submit the issue of hypoxic chambers as part of a parallel consultation process with the larger group of stakeholders, not as part of the draft 2007 List of Prohibited Substances and Methods, for advice to be given to the List Committee prior to taking a decision in September 2006.

8.2.3 Draft 2007 List Update

DR RABIN noted that the Draft 2007 List was being circulated, as WADA tried every year to give as much time as possible to the stakeholders to provide comments, which were usually received towards the end of July and the beginning of August for consideration by the members of the List Committee. That year, there would be two and a half months of circulation before comments were received, which was more time than ever before.

DECISION

Draft 2007 List update noted.

8.2.4 Re-testing of Stored Samples

PROFESSOR LJUNGOVIST noted that the issue had been discussed previously, and members would be informed later in the year subsequent to a review of the issue.

DR RABIN said that the objective was to insert at least part, if not all, of it, in the new version of the International Standard for Laboratories.

THE CHAIRMAN informed the members that, as they knew, the Code enabled WADA to go back for a period of eight years, but there was no protocol for this. Normally, what happened was that there was urine left over from a test in which the A sample had been negative, and there was only one container left. The question was how to test the remaining sample and still provide the necessary checks and balances. This was a very important issue, and WADA had operated for several years without a rule in place. He asked members to have a look at the report and, if there were any issues that needed to be explored or clarified, let the Secretary General or Dr Rabin know what they were.

MR MIKKELSEN still had some questions about blood testing. According to information given to him, it was relatively rare that there were cases regarding EPO, especially when comparing it to unconfirmed reports from some of the sporting environments. From these, people were aware that the way athletes used EPO these days was that they took intensive treatment out of competition and then followed up with micro-doses during days in the season but when they did not have competitions. This was extremely hard to detect with the methods that were currently used. However, it could be detected.

He was starting to think that it might be possible to use analysis of blood to a better degree than previously. He knew that several of the IFs (FIS, UCI, IAAF and others) were performing blood tests, but there were some uncertainties that needed to be solved prior to moving on.

He had seen that members of the WADA staff had met with the IFs in the beginning of April, and had agreed to start looking at blood, but he thought that there was a need to intensify these efforts and, therefore, felt that there could be a need for WADA to make a timeframe for the process to come.

He suggested that WADA begin this, so that an estimate could be obtained as to when it would be possible to use blood (together with urine) samples in anti-doping work. Was this possible?

PROFESSOR LJUNGOVIST stressed that one should not mix EPO testing with blood testing, as EPO was identified through analysis of urine samples. It was believed that EPO was being used in the way that Mr Mikkelsen had said; therefore, the ideal way of dealing with EPO misuse was to increase out-of-competition testing on urine samples and analyse for EPO.

The blood problem was totally different and related to the fact that certain federations conducted their own blood testing, not for doping purposes, but to analyse whether there were deviations or aberrations in the blood parameters that violated competition rules and would ban athletes from competition for health reasons, not for doping. Athletes would not be punished in accordance with any doping rules; they would simply be barred from participating in competition at that particular time if their blood parameters were abnormal, which was judged as a health risk phenomenon. That was totally different from blood analysis for other doping substances or methods, which included blood transfusion, growth hormone and artificial oxygen carriers, but not EPO. This demonstrated the confusion that existed with blood analysis, blood doping analysis and EPO analysis on urine samples. What WADA had tried to achieve with the federations concerned was joint efforts in blood analysis for the purpose of identifying whether people were using any form of blood doping, possibly including EPO, which would require a urine analysis. The extent to which it would be possible to reach the situation whereby all analyses were covered under one and the same regulation, namely the anti-doping regulation, was being discussed, and further consultation was necessary in order to avoid the confusion that was being seen.

DECISION

Re-testing of stored samples update noted.

8.2.5 Accreditation of New Laboratories

PROFESSOR LJUNGOVIST referred the members to the report in their files, which was more a matter of information.

DR RABIN said that there were 33 WADA-accredited laboratories in the world and, now that the Code and International Standard for Laboratories were being used as the references for anti-doping testing, several countries had realised that WADA accreditation was absolutely mandatory for them in order to maintain or develop the testing capacity of their existing laboratories or future laboratories. The consequence was that WADA was seeing increased interest and urgent requests for the accreditation of those laboratories coming either from the laboratories or the countries. The current accreditation structure at WADA at the level of the Laboratory Committee and the staff in the Science Department involved in the accreditation and reaccreditation of laboratories was limited and, despite the fact that the Laboratory Committee had one of the heaviest agendas, there was an estimated capacity for the committee and staff to have three laboratories simultaneously in the probationary phase. The objective was to receive guidance from the Executive Committee to decide how WADA could best respond to the expectations of the laboratories or countries seeking accreditation, and several proposals had been made in the document in the members' files for discussion in order to shape

future rules and policies on laboratory accreditation and to allow WADA to respond consistently and fairly to numerous requests received for future laboratory accreditations. This was not a definite proposal; there were elements and criteria that would probably need to be established based on the discussion to be held that day, but a few key points had been given as to how WADA could have an active role in order to facilitate and optimise the accreditation of laboratories and select those laboratories to come forward into the accreditation process, bearing in mind the limited capacity that WADA had. Another solution would be to increase the capacity of laboratory accreditation and include all laboratories as they came, but that was an issue to be discussed.

THE CHAIRMAN noted the personnel, cost and service implications, all of which needed consideration.

MR LAMOUR thought that part of that discussion had already been held at a previous Executive Committee meeting, and it was necessary to incorporate all of the work that was being asked of the laboratories, which included analysis as well as research. The table showed the 33 accredited laboratories, but he did not know the status of these laboratories. Did they have public or private funds? Was financial balance required in terms of operation? He drew attention to the overall testing capacity worldwide. WADA should always give priority to those laboratories that performed testing and research because, otherwise, who would do the research? It was necessary to consider the matter before deciding whether or not to accredit more laboratories.

PROFESSOR LJUNGOVIST noted that the research capacity needed to be incorporated in the accreditation process, and the fact that there was governmental support for basic research. This should be a requirement.

MR REEDIE had a feeling that, when speaking with NOCs, as countries became modestly organised in the anti-doping, if they could set up their own NADOs, the next thing they wanted to do was have their own laboratories. It was a bit like having a national airline; it was a sign of responsibility and that a country was achieving something in the world. He would have thought that WADA would want to encourage that. It was not a clear answer.

His second comment concerned the map in the second attachment: it might make life easier if Toronto were moved from Europe back into Canada. There were a number of things that Europe was prepared to do to help, but taking Toronto to Europe was not one of them!

THE CHAIRMAN said that one of the areas in which direction was being sought was in having different requirements, or a two-tiered system of accredited laboratories. He would be very reluctant to do that unless there was no alternative because, once a laboratory was a WADA-accredited laboratory, it would tell the whole world, but would not say that it was actually a second-class WADA laboratory.

PROFESSOR LJUNGOVIST agreed. This had been his feeling since the idea of accreditation of laboratories had been instituted. There should not be two levels of laboratories. They should all meet the basic criteria. It should also be understood that there would be laboratories that were more specialised in certain areas, and there might be laboratories that did not have the necessary capacity for doing anything in a particular area. That did not mean that they should be classified as A, B and C laboratories. There were specialists in certain fields; that was normal.

THE CHAIRMAN sensed there was consensus around the research capacity as fundamental to a laboratory. WADA should think about the RADO concept, as that became more developed. It could be helpful to the concept for there to be a laboratory in the area, but not necessarily in each individual country. One of the priorities should be perhaps to consider the RADO areas, and whether there were laboratories in the line-up that could help service those areas. He was not too worried about the capacity to deal only with three at a time and getting it right, rather than giving out wholesale accreditation. If a city or country were to get some major event, that was something to

consider; whether or not it was a determinant remained to be seen. If it were something like the Olympic Games, perhaps it would be worth having a laboratory; if it were a world championships of a single sport, maybe it would not be worth having one. It would be necessary to be satisfied with what the legacy would be and whether the laboratory would be able to continue at that level subsequent to the event.

MR CAMERON had a question in relation to matters being considered in terms of reviewing the standard for the accreditation of laboratories. He understood that a proposal had been raised that there should be a clause in the accreditation arrangements preventing accredited laboratories from testing sport supplements. Could some clarification be given to the purpose behind that? He had some reservations about that proposal, but was interested in understanding why it was being proposed.

DR RABIN noted that the elements of research were embedded in the accreditation process. It was clearly written in the Standard for Laboratories that the laboratory needed to dedicate a minimum of 7% of its total budget to research. That was absolutely clear. What was less clear was what happened after accreditation, but this was being cleared up with the new version of the Standard for Laboratories.

There was a very heterogeneous situation with the laboratories. Some were completely public entities; others were semi-public and semi-private; some had more support from the private side, but still needed to get some money from their testing. Thus far, WADA had always resisted getting into the issue of financial support for the laboratory. WADA had wanted to remain on the quality aspects of the laboratory and its capacity, and make sure that the laboratory was scientifically valid and properly organised to be able to fulfil all the requirements at the different levels of the ISL and related technical documents.

Regarding the last point about supplement testing, at the end of 2002, there had been a great deal of discussion on the involvement of anti-doping laboratories in the testing of dietary supplements. A working group had been established at the time, and the conclusion had always been that laboratories should not be involved in such testing, except when there was an adverse analytical finding, which had to be investigated by the NADO or the testing authority. The reason was that the laboratories had been involved by default. It was not up to the anti-doping laboratories to test the quality of products produced by private manufacturers. It was an issue of quality control by the companies, and what had been achieved by WADA through two symposia on the subject was that manufacturers had been made aware of the issues that WADA faced and had been asked to take the proper dispositions to make sure that their products were not contaminated with prohibited substances. Again, the anti-doping laboratories had been involved by default; it was not their role to test dietary supplements. It had been clearly established by committees that had been involved in the issue.

In the past, an anti-doping laboratory had tested a dietary supplement and had made information available to the NADO as to which substance had been tested and which batch. Some athletes had tested positive for anabolic steroids, and had shown that this anabolic steroid had been contained in this supplement in trace concentrations. In fact, it had not been possible to sanction the athletes because it had been considered that the information had been made publicly available and the athletes had not been responsible for not paying attention to the batch number. The other element was that several manufacturers were using the fact that their products were tested by the anti-doping community to publicise them; occasionally, it was necessary to state that no mention should be made of this fact. The decision had been clear on the WADA side and this had been mentioned to the Executive Committee in the past. This would make its way into the new version of the ISL, and the anti-doping laboratories had been informed of this in February 2005 and would be informed again at the meeting in June in Strasbourg.

MR CAMERON thought that the concern was that Australia's testing laboratory was a fully commercial operation and its capacity to operate relied on its ability to undertake work in addition to anti-doping testing. He would be concerned about any measures that

might prevent testing laboratories from developing a commercially viable business model by undertaking other work. He certainly acknowledged and understood the concerns of people who had had supplements tested by accredited laboratories or the accredited laboratories themselves suggesting that those tests might be directly related to or based on some accreditation from WADA, but would want to make sure that any solution to that problem would be achieved in such a way that it did not prevent the capacity of testing laboratories where they were commercial operations from undertaking commercial activities.

DR RABIN said that the anti-doping laboratories were not the only anti-doping laboratories in a country, so there were many other opportunities to have other laboratories involved. WADA would be more than pleased to have a transfer of knowledge and technology between those anti-doping laboratories that had developed capacity and anti-doping laboratories that would be, in a sense, acknowledged by anti-doping organisations or governments to continue this activity.

THE CHAIRMAN thought that a commercial operation should find some way to spin off its commercial testing from its anti-doping activities, but it was better if it was entirely separate. That was one of the prices that a laboratory paid for being a WADA-accredited laboratory: it did not do such things.

DECISION

Accreditation of new laboratories update noted.

8.3 Education

8.3.1 Ethics and Education Committee Chair Report

MR CHONG said that he had been in his role for some three months, and had been very happy to take on this role as the chairman of WADA's Ethics and Education Committee. Education was a very important part of the anti-doping strategy, and the committee had been tackling issues and challenges regarding education around the world. One of the challenges facing WADA in terms of education was the diversity of the target groups out there and the diversity of the various stakeholder groups to which WADA had to reach out. The committee had given its attention to trying to focus the educational agenda of WADA. He thought that this was a very good approach to take, and something that was very worthy of study, and something that he very much supported.

He congratulated Ms Carter on being appointed to her position of Director of the Ethics and Education Department; he thought she would do a fantastic job.

The committee had met the previous month on 27 and 28 April in Montreal, and two major initiatives had been discussed. One was the digital library. WADA had created an online, Internet-based digital library that could be accessed from any Internet point in the world. Its primary purpose was to share information among stakeholders and to encourage the various stakeholders to submit their educational information, documents and proposals. For all those around the table, when they went back to their respective organisations and jurisdictions, he would encourage them to raise awareness about this very exciting initiative. WADA was accepting documents and educational materials for the site, and he strongly encouraged them to make that known.

The second initiative about which the committee had talked concerned the educational symposia that WADA had been organising. These were also a very important part of the strategy to build support among various stakeholders, and build capacity in the anti-doping strategy around the world. That year, there were three, possibly four, symposia planned. One was in Athens at the end of that month, on 25, 26 and 27 May; one was in Kuala Lumpur at the end of August; one was in India at the end of September; and he believed that WADA was planning a fourth one in French-speaking Africa.

Another initiative that the committee was looking at was how to align the educational strategy with the World Anti-Doping Code and the UNESCO Convention that had yet to be ratified, but to which WADA was committed.

MS CARTER did not wish to talk too much about what the department was doing, as there would be a more lengthy presentation the following day, but perhaps she would pick up on a couple of issues; in particular, the team that was in place had been doing some good work, despite the lack of a director, and had been using current tools to keep on building on the momentum. The department was currently compiling the results of a questionnaire that had been circulated to stakeholders, and those results would be used to inform action going forward with respect to target groups, content of materials, means of communication, and the research to be carried out.

WADA had an ongoing education symposia programme; one of the recommendations that had come out of the committee meeting had also been to the effect that follow-up on the symposia that had taken place the previous year should be developed and then used to inform how these symposia should be carried out.

In addition to the digital library tool, WADA was piloting an electronic forum, which, in relation to the symposia, was destined to promote communications between the participants and help the mentors of the symposia to follow up with participants. That electronic forum would be piloted with the upcoming symposium in Athens, and would be an 18-month pilot. It had been designed not only with education projects in mind; if successful, it could be used for other WADA projects and departments.

Social science research was one of the aspects of the education team's work. The next call for proposals was going out at the end of May; she would give a few more details on that the following day.

A number of workshops had been piloted over the past few months, and model curricula were being developed. The results from the workshops were being assessed to see what could be done with curricula going forward. The outcomes of the Ethics and Education Committee's recommendations were to try and use what had been worked on to date and to try and reach as many stakeholders as possible by using these tools and established communication channels such as UNESCO programmes, the RADOs that had been established, and channels as already established by Olympic Solidarity.

DECISION

Ethics and Education Committee report noted.

8.4 Governments

THE CHAIRMAN thought that the matter had been discussed that morning.

DECISION

Governments update noted.

8.5 Independent Observers

8.5.1 Turin 2006 – Winter Olympic and Paralympic Independent Observers Reports

8.5.2 Independent Observer/Audit – Future Approach

THE CHAIRMAN said that the issue had been mentioned by Mr Howman in his report. WADA's practice with the client for an Independent Observer mission was that it did not release the report until the client had had an opportunity to consider it and respond to any contents that might be perceived as inaccurate or incomplete. WADA hoped to receive a response soon with respect to the two Independent Observer reports.

THE DIRECTOR GENERAL said that there was a third Independent Observer report to be submitted in relation to the Commonwealth Games. He wished to put on record the expression of gratitude that WADA had for the organisers of all three events. The

Independent Observer teams had been treated very well by all of the organisers and all those involved.

DECISION

Winter Olympic and Paralympic Independent
Observers Reports to be presented
subsequently.

9. Other Business / Future Meetings

THE DIRECTOR GENERAL said that Mr Lamour wished to record that on 14 and 15 June in Paris, there would be a seminar on trafficking, hosted by Mr Lamour with the Council of Europe, and WADA would be participating in that. There were several other events in which WADA would be involved over the coming months, and most of these were on the WADA calendar. He encouraged members to ensure that they looked at the calendar.

The dates for the meetings for 2007 had been included in the calendar.

THE CHAIRMAN noted that the November meetings would be held in Madrid.

DECISION

Future meetings to be held as follows:
Executive Committee – 16 September 2006;
Executive Committee – 19 November 2006;
Foundation Board – 20 November 2006;
Executive Committee – 11/12/13 May 2007;
Foundation Board – 12/13/14 May 2007;
Executive Committee – 15 September 2007;
Executive Committee – 14 November 2007
(TBC); 2007 World Conference – 15, 16 and
17 November 2007; Foundation Board – 18
November 2007 (TBC).

THE CHAIRMAN thanked the members of the Executive Committee for their participation, and declared the meeting adjourned.

The meeting adjourned at 3 p.m.

FOR APPROVAL

RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA