

**Minutes of the WADA Executive Committee Meeting  
12 May 2007  
Montreal, Canada**

---

The meeting began at 9.00 a.m.

**1. Welcome, Roll Call and Observers**

THE CHAIRMAN welcomed everybody to the first meeting of the Executive Committee in 2007. He was delighted to see so many old friends back and looked forward to a couple of days of productive meetings. There had been one addition to the WADA family since the Executive Committee had last met, and that was young Malik Elwani; he was being tended to by his mother, who would be at the table shortly.

An agenda had been circulated; also circulating was the attendance sheet, so those at the table were asked to sign, and those observers who wished to be recognised as having attended the meeting were also asked to sign.

The following members attended the meeting: Mr Richard Pound, President and Chairman of WADA; Mr Brian Mikkelsen, Minister of Culture and Sport, Denmark; Professor Arne Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Mr Valéry Genniges, representing Mr Jean-François Lamour, Minister for Youth and Sports, France; Ms Rania Elwani, Member of the IOC Athletes' Commission; Mr Toshiaki Endo, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Sergey Gorokhov, Senior Consul, Montreal Consulate General of the Russian Federation, representing 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; Mr Makhenkesi A. Stofile, Minister of Sport and Recreation, South Africa; Mr Trevor Mallard, Minister for Sport and Recreation, New Zealand; Mr Gian Franco Kasper, IOC Member and President of the FIS; Mr Mustapha Larfaoui, IOC Member and President of FINA; Mr René Bouchard, Director General of International Affairs, Department of Canadian Heritage, representing Ms Helena Guergis, Secretary of State (Foreign Affairs and International Trade) (Sport), Canada; Mr David Howman, WADA Director General; Mr Rune Andersen, Standards and Harmonisation Director, WADA; Mr Jean-Pierre Moser, Director of the European Regional Office; Mr Rodney Swigelaar, Director of the African Regional Office; Mr Diego Torres Villegas, Director of the Latin American Regional Office; Mr Kazuhiro Hayashi, Director of the Asian/Oceanian Regional Office; Ms Elizabeth Hunter, Communications Director, WADA; Dr Alain Garnier, WADA Medical Director, European Regional Office; Dr Olivier Rabin, Science Director, WADA; Ms Julie Carter, Education Director, WADA; and Mr Olivier Niggli, Finance and Legal Director, WADA.

The following observers signed the roll call: Torben Hoffeldt, Patrick Schamasch, Ichiro Kono, Hajira Mashego, Joji Sakamoto, Vuyo Nghona, Joanne Butler, James Cameron, Iain Cossar, Jens Eval, Christophe De Kepper and Andrew Ryan.

**2. Minutes of the Executive Committee meeting on 19 November 2006 in Montreal**

THE CHAIRMAN asked whether the members had any comments regarding the minutes of the Executive Committee meeting on 19 November 2006 in Montreal. Unless

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

### DECISION

Minutes of the meeting of the Executive Committee on 19 November 2006 approved and duly signed.

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

THE DIRECTOR GENERAL referred to some of the key aspects in his report.

The first item was UNESCO; there were now 52 countries that had submitted ratifications to UNESCO in Paris. This was a sign of considerable movement on the part of the governments. WADA was working hard with all the countries, with particular assistance from the WADA regional directors to increase the number, and WADA needed to keep the pressure on or provide incentives for those countries that had not yet ratified to do so. He reminded the members that 187 countries had signed the Copenhagen Declaration, and had therefore committed to ratify the UNESCO Convention. If one reflected and went back to May 2003, when WADA had been in crisis, and only 16% of WADA's funds had been received from governments, one could see that progress had been made in a very positive way by governments in general. Something he thought that people forgot from time to time was that the NADOs, or the regional anti-doping agencies, were connected with countries, chiefly funded by governments, and were all subject to the same reporting and compliance issues as IFs, as they were signatories and were responsible for the anti-doping programmes within countries. He thought that it would be handy to remind members of that fact.

The Vrijman report was a report that WADA continued to discuss with its lawyers, notably those in the USA, where WADA was receiving significant guidance on what it should do in relation to the report and the issues raised within it. He had nothing extra to put on the table but, should there be any need to discuss the issue, he suggested that the Executive Committee do so in camera.

As to the CAS, it had invited him to address it at its seminar in Nairobi in June. Again, this was a sign of good relationships. WADA continued to be provided with a series of decisions from the CAS, giving WADA a useful precedent base in most of its Code-related cases.

In relation to the major leagues, there had been some progress, but more was needed. With regard to baseball in the USA, a recent enquiry had been conducted through one of the enforcement agencies in that country which had revealed more doping issues in baseball. It was presently subject to an enquiry conducted by Senator Mitchell, and WADA had been told that, until that was complete, those responsible would prefer not to discuss issues with WADA. On the other hand, his invitation to provide a submission in relation to the Code review had been taken up. Baseball happened to be the only major league that had done that. Members would see his comments in relation to the others. WADA had been hopeful that golf would come out with a unified approach after the meetings held in March, but that was yet to come. WADA had written to all of the major leagues asking to continue discussions with them in the hope that they would get closer to Code processes.

Interpol would be dealt with under a separate agenda item, as would the issue relating to investigations.

With regard to ADAMS, WADA was achieving some momentum in implementation. He could not stress how important it was for those who had been trained (and WADA had put a lot of resources into training all around the world) to implement ADAMS. If everybody were on ADAMS, issues such as those that had recently occurred in relation to confidentiality would be removed. Sharing of information in the proper way would be

achieved. All the stakeholders needed to realise the importance of this and implement it. As far as the management was concerned, WADA had hired a special project manager on a commission basis to follow up all those people, associations and federations that had been trained to ensure that they achieved implementation quickly.

He commented briefly on four major countries in the world where WADA would be conducting visits later that year: India, China, Russia and Brazil. There was no emergency in any of those countries, but WADA was trying to ensure that their programmes were Code-compliant and the numbers that they served were up to the expectation of what was in the WADA models.

As to statistics, WADA had published the 2006 laboratory statistics in the normal way, and had added comments in relation to these statistics to ensure that all those ADOs involved in anti-doping programmes would realise that these were just laboratory statistics; they did not include the result management processes, the ADO processing of findings from the laboratories that might include TUEs, for example. WADA had written to all the ADOs the previous year to remind them of their responsibilities under the Code to provide WADA with statistics. A number had afforded them, and those statistics had been posted on the website.

WADA was incapable of producing any statistics other than those given at present. Once everybody was on ADAMS, it would be a different story. Until that occurred, it was a situation whereby each individual laboratory reported to WADA only what was reported to the laboratory by sport or the doping control officers (DCOs). For example, a doping control form (DCF) might have the sport designated as football, but football could mean Australian football, the NFL, the "real" football, rugby football, and Gaelic football. He thought that there were seven different varieties of football that could come under this description. It was necessary to be alert to the fact that laboratories could report only what they received and WADA could report only what the laboratories reported to it, and it might not bear a relationship with the individual IFs. This was why WADA was publishing the IF statistics, in order to show, IF by IF, NADO by NADO, what occurred in each of the ADOs.

With regard to the other issues in his report, the IF Anti-Doping Organisation (IFADO) project had been put back on the table for discussion following meetings in Beijing, and he looked forward to having useful conversations with those responsible to help the smaller IFs achieve compliance through the operation of such a venture. This was similar to the RADO project, where WADA facilitated, but did not own, manage or fund, apart from funding resources of a human nature, the RADOs, and he felt that this would be a similar successful operation for IFs.

The operation in Spain was in a separate agenda item. He asked the members to make comments when Mr Niggli delivered his report.

The issue of Thorpe had also been on WADA's table for some months. The matter was still the subject of litigation before the CAS. Until that litigation was complete, and it related only to result management, WADA was not in a position to intervene or enquire, as it had a responsibility to monitor the decision and see if it was Code-compliant and, if not, WADA might appeal. If asked, either to be part of the proceedings or undertake an enquiry, WADA had to reflect on what it could or could not do. If asked to be a party to a proceeding, it would therefore be fully engaged in the proceeding itself as a party, and it would not be in a position to monitor or oversee the proceedings. WADA had been asked by FINA and ASADA to join the proceedings, and had advised both that it could not because of its monitoring responsibilities. If asked to undertake an investigation as to how a leak or a supposed leak had occurred, WADA had to reflect on what it might achieve in undertaking such a task. First, WADA had no jurisdiction to compel anybody to talk to it. Past enquiries had been done on the basis of goodwill and people being prepared to talk to WADA. It had no power of subpoena and no legal status as an investigator. Everybody knew that one would never get sources from a journalist. A good journalist would not use one source to get all the information. A good journalist

formed a jigsaw through obtaining pieces from various people, one confirming or corroborating the other, and so on. He believed that, if WADA were asked to conduct an enquiry into this matter or any other matter, it would end up with a list of people who could possibly have information that could possibly have been forwarded to the journalist. If WADA were to publish that list, it would put all those on the list under some form of suspicion. He did not think that was the way in which WADA should carry out its responsibilities.

The Landis hearing would commence on Monday. The previous year, he had said that he was not happy with the way in which a trial had been run through the media and public perception. That feeling continued. He was not at liberty to discuss the matters, but these could be discussed if the Executive Committee were to sit in camera, but WADA had to be very careful not to prejudice the proceedings themselves. WADA had maintained the protocols of not commenting. The athlete had issued close to 40 separate press releases, alleging all sorts of things about the anti-doping process, USADA, the French laboratory, WADA and so on. WADA was looking at how to change the Code, whereby the gag order would be removed in future cases.

Bribery and corruption he raised because WADA had seen the introduction of these in the fight against doping. This issue was of concern, and WADA did not have protocols to deal with it. WADA was looking at creating a new standard to ensure that DCOs were not isolated where they received brown paper bags or brown envelopes. WADA worried about the alleged murder of a coach in cricket, and knew full well that this was something that might be on WADA's doorstep, and it should look at ways of confronting it. If WADA were not alert to this matter, there would perhaps be a controversy.

He mentioned the IOC disciplinary hearings as a result of the Olympic Games in Turin. The members would recall the cooperation between the IOC and the Italian public authorities through information that WADA had been able to pass to the IOC in Turin. It was now 15 months after the Olympic Games in Turin, so there had been a considerable period of time before the IOC had been able to take steps.

The members would see the staffing report in their files. The WADA management had looked at how to staff under the ceiling given. He knew that there were new responsibilities as WADA went forward, and he had listed some of them. He endeavoured to restructure the way in which the management team covered the responsibilities. That included regular reviews. He knew that the priority activities were still those that had been in existence in early 2000, but the activities in support of the priority activities had changed and would heighten as WADA went forward, notably compliance, but also science, education and the new topic of investigations. He was looking at ways and means of confronting these issues so as to maintain the staff ceiling whilst providing the service or activity that the management was being asked to do by the Executive Committee. He was considering a couple of initiatives, including the training of laboratory directors to give evidence. This was a topic he thought merited close attention, so that WADA might look at a programme of witness training. Another initiative concerned commissioning an investigator or a person competent at obtaining sworn statements from those who wished to provide information. There had been several examples recently whereby WADA had been able to obtain the statements and pass them on to the relevant result management organisation. The third initiative was to conduct an audit process for the laboratories in addition to the processes in place at present, which would involve the commissioning of outside people to assist WADA. Those were the three initiatives that the WADA management was looking at pursuing over the coming years.

That really detailed his report, and he was happy to answer any questions.

THE CHAIRMAN suggested starting from the top. In relation to the UNESCO Convention, he thought that WADA was at 52 countries and counting. It was really important that that momentum be continued, and, as the Director General had mentioned, there were about 187 countries that had signed the Copenhagen Declaration,

which was the statement of political commitment to doing this. 50 was less than a third of that, so he hoped that each member, in his or her respective areas, would continue to urge faster action on ratification of the Convention. It was a very important tool in the fight against doping in sport and, without the complete partnership between the sport movement and governments, WADA would not be as effective as it should be. Were there any comments or observations in that area? WADA had a little plaque for the first 30 that had ratified and made it possible for the Convention to come into formal effect, which had occurred on 1 February 2007.

In relation to the Vrijman report, if anybody wished to discuss it, there should be a separate in camera session. If not, WADA did not need to do anything more at that stage.

MR MALLARD sought an indication as to whether there had been anything since the previous meeting that should be known. If there was, he thought that the Executive Committee should hear it and, if not, there should not be an in camera session.

THE CHAIRMAN said that WADA did not think that the Vrijman report was the final word on all the matters that it purported to deal with.

MR MIKKELSEN declared that it was necessary to have a discussion in camera, as WADA being in conflict with one of the IFs on a hot topic such as this one was not a good situation and, as a member of the Executive Committee, he would like to hear what was going on beneath that.

THE CHAIRMAN therefore announced that, immediately after lunch, there would be an in camera session.

As to the CAS and related developments, perhaps any discussion could be deferred until Mr Niggli had reported on the most recent decisions. Generally speaking, there was a fairly consistent set of results coming out that were supportive of the Code and its basic principles and the process included therein.

With regard to the major leagues, this was a work in progress; the report highlighted the US professional leagues, but WADA's efforts were not confined to the USA, although the leagues there were important and well known and what happened with them would have some impact on other leagues around the world. Like it or not, the US professional leagues were leaders in this field.

MR BURNS asked who was leading the discussions with the professional leagues in the USA. Was it the Director General? He hoped to coordinate better with the Director General. He had met with the heads of all the leagues about a month previously, and had met with all their lawyers and security people the previous week, and thought it would be helpful to coordinate the message and efforts.

THE CHAIRMAN thought that, at that point, they did seem to be on their back feet and there was an opportunity for progress.

As to the investigations, this was an area that everybody had identified as being perhaps the most fruitful in making major progress, especially with respect to the upstream, the suppliers and enablers and those encouraging doping in sport. The key for WADA was to work with the public authorities and try and find ways of having access to information for sport disciplinary purposes without compromising the administrative or criminal aspects of any investigations that might be going on. WADA should work to develop those kinds of protocols.

MS ELWANI said that she had been present at the European Union Athletes' Commission meeting, and a major concern of all athletes in the EU was that the whereabouts information caused problems when it came to updating and use to make sure that they did not miss tests. Some countries in the EU did have a system whereby they could text in their whereabouts. Could that model be used and incorporated into ADAMS so that athletes had a better way of letting WADA know about their whereabouts? She also wished to know when WADA thought that all the IFs would be using ADAMS.

THE DIRECTOR GENERAL replied that that was the very issue WADA was trying to deal with in relation to the IFs, because they all received training, and then they went home and forgot about implementing, which was why WADA had to go to the IFs and cajole, encourage or persuade them to implement. This was why WADA had commissioned an extra person to do that. As to the whereabouts situation, WADA was looking at the whole whereabouts system, and was producing a new standard for testing that included a whereabouts process, which would be complementary and would be possible to run through ADAMS. Nevertheless, WADA could not compel people to use ADAMS; it had to persuade them to do so, and this fell to the ADOs themselves. A lot of money had been spent on this project.

MR REEDIE said that, during the ASOIF meeting held in Beijing, one or two IFs had said that there was so much work involved in anti-doping. His response had been that one of the tools that WADA thought should be looked at very closely was ADAMS. At the end of the meeting, one of the executive directors of a major IF had said that ADAMS was too complicated so, rather bravely, he had taken it upon himself to show the man how the system worked next time he went to Lausanne. It could be a matter of the blind leading the blind, but WADA did need to engage with the IFs and kill that impression that ADAMS was too complicated. The IT people at WADA said that it was not complicated. Saying that it was too complicated was an easy way of making excuses. With some effort, WADA could convert those IFs having difficulty. One of the useful parts of ADAMS was the whereabouts information about which Ms Elwani had been talking.

THE DIRECTOR GENERAL said that the Asian Olympic Committee had introduced ADAMS at the Asian Games in Doha. He and Mr Koehler had been in Doha with Dr Kim, one of the foremost members of the OCA Medical Commission. Dr Kim had mentioned how complicated ADAMS was, and Mr Koehler had sat down with Dr Kim, who was in his seventies and, ten minutes later, he had worked it out. People were putting objects in the way because it was change, not because it was complicated. If only people could understand the simplicity of the process, WADA would get somewhere. Any persuasion that Mr Reedie could use would be greatly appreciated.

MS ELWANI said that the athletes said that they had a lot to worry about and might not always have time to get online to submit a form, so they needed access to the system through something as simple as a mobile phone.

MR BIRDI noted that WADA was already looking into that.

THE CHAIRMAN said that WADA had spent a lot of time trying to decide what ADAMS could do and had spent a lot of money on it. Was ADAMS mandatory under the Code?

THE DIRECTOR GENERAL said that it was mandatory for WADA to provide a clearinghouse, which had been called ADAMS. WADA had responded to its responsibility; it now needed responses from everybody else.

THE CHAIRMAN thought that what Ms Elwani was suggesting was a good idea. Perhaps some statistics would be useful. Who was using ADAMS and who was not? WADA would have to start crossing off names.

MR NIGGLI said that it was now mandatory to use ADAMS under the revised version of the Code, unless use was impossible for technical reasons.

THE CHAIRMAN referred to the visits to China, India, Russia and Brazil; these were important. He had reported in November to the Executive Committee and the Foundation Board about the visit to China the previous month. He would go back to China that year to reiterate WADA's offers of help and the importance of China making even greater efforts, not only in relation to the Olympic Games, but also for the future. India was another country in which WADA thought that considerable improvement needed to be made and could be made, and it would require a visit of the highest level of WADA with the authorities of those countries. The same applied to Russia and Brazil. The aim would be to have those visits done by the time of the World Conference on

Doping in Sport in Madrid in November. Some of this was symbolic; it was a way of signalling that efforts needed to be improved.

As to meetings and presentations, it would be helpful if stakeholders involved in meetings and who made presentations on the subject of anti-doping could share those presentations so as to have a real database of this kind of material that could be used for the future.

The statistics were out. WADA had responded to concerns that IFs and others had expressed, in that it looked as though there was a high number of doping cases, although some of these were simply adverse analytical findings (AAF) that could be explained by therapeutic use exemptions (TUEs) or minimum thresholds or other aspects of result management. WADA had not received the kind of response from ADOs that it had hoped for, but it did publish those statistics (as required under the Code) and would also publish any responses from IFs and others so that the full story was available, but it was very hard to reconcile some of the raw data with the result management process.

The IFADO project was something that was back on the table and that WADA was prepared to kick-start, as it did have some experience in setting up the RADOs, and believed that this was a service WADA could offer to get them up and running, after which, of course, it became the responsibility of the IFs involved. If IFs were to have an IFADO organisation, that would save a lot of small IFs having to set up their own organisations. Overall, there would be huge potential savings in the costs of doing this.

MR KASPER said that the reason why the IFs had rejected the idea was that they believed that all IFs should be treated in the same way, and had not agreed to the construction of a bureaucratic institution for a few small IFs. The goal should be to try to find a solution to fulfil the requests and wishes not only of the 22 non-Olympic IFs, but also of all the IFs, so he suggested that GAISF invite WADA and its stakeholders to a meeting on the future of IFADO. WADA should provide an initial push for those small IFs. Another thing was the 5,000 US dollars that had to be paid, and he thought that WADA should find a solution and either delete or reduce this amount. There were 22 federations in total, which meant approximately 100,000 dollars, and he thought that WADA should help them a little bit. Then he would convene a special meeting, to which he would invite the Director General, ASOIF, AWOIF and GAISF.

MR MIKKELSEN hoped that a solution would be found, and he hoped that WADA would emphasise and recommend that the IFs intensify out-of-competition testing. He had an example whereby he thought that some IFs were not doing the job they were supposed to do. In March, he had been informed that the International Handball Federation performed tests only once a year, during the world championships. Fortunately, this IF had got in touch with his NADO and was currently negotiating how to solve the problem. He did not think that all of the IFs were interested in solving the problem of the lack of out-of-competition testing. Once a year was not sufficient if WADA wanted to catch the cheats and protect clean athletes. He asked the IFs to take out-of-competition testing seriously. This was why it was important to have some kind of solution also for the smaller federations.

MR REEDIE said that, during the presentation to the summer IFs in Beijing, it had been made quite clear that, if the individual IF did not conduct its own out-of-competition testing programme, it would be non-compliant with the Code. There was time to do this, the IFs knew about it, and he assumed that the IFs would be taking it on board. The issue raised with GAISF was that, in all honesty, some of those IFs had such limited resources that the first thing was to indicate to them that there was a problem and tell them how they might go about trying to solve it. Part of that was saying that, if they were going to do this exercise and undertake testing, they should think seriously about this, as the average cost of a test was 500 or 600 US dollars. Creating an office in Lausanne and saying that there was an IFADO was all very well, and that was the first step, but thereafter it was a matter of educating the smaller IFs as to the scale of the operation. One of the problems would be getting them to understand the challenge that

they faced, and the long-term knock-on effect of that was that some would find that they would never be in a position to obtain full Olympic recognition. WADA should start and try, however.

MR BURNS thought that this had been addressed a couple of meetings back. It would be helpful to have a list so as to know which IFs had testing procedures, as he did not know the status of any of the IFs, and it would be nice and helpful to know that.

MR REEDIE completed the picture: it was fair to say that WADA did about 3,000 out-of-competition tests and tried to spread these around to help those IFs struggling to do that. It had been encouraged to do so by the IOC, and it helped, but it was really only a stopgap, and it did not solve the problem for the IFs. They really had to take this on themselves.

THE CHAIRMAN noted that 3,000 tests a year was roughly 1.5% of the tests done. It was not very much. WADA was perhaps responsible for the slowness of the process, as WADA, at the request of the Executive Committee and Foundation Board, had decided the previous year not to provide a compliance report based on the enquiries made. The concern had been that, had WADA done so in 2006, it would have been a very embarrassing percentage of IFs, particularly the Olympic ones, that were Code-compliant. WADA had pushed this off now until 2008. Had WADA persisted, it would probably have had exactly the kind of statistics Mr Burns had been asking for and the ability to go to the IFs and tell them that they were not Code-compliant and not eligible to go to the Olympic Games in 2008. For better or for worse, WADA had not done that, and he thought that it was paying a price for that now. 2008 would be a compliance year, and he thought that everybody present should understand that, this time at least, WADA meant business, and that there would be implications.

PROFESSOR LJUNGQVIST apologised for his late arrival, as he had been stuck in the lift. As to out-of-competition testing, WADA had been very successful during its seven year of existence, but had failed a little because one of the reasons WADA had been very much supported by the IFs and the IOC was the need to expand out-of-competition testing throughout Olympic sport. In 1999, only 19 had been conducting out-of-competition testing, and only 18 had had rules. Now there were rules, but he was afraid that there was still not very much activity compared to 1999, and it was certainly one of the issues WADA had to look into very carefully. Not only the IFs, but also the NADOs should conduct out-of-competition testing at the national level.

THE CHAIRMAN suggested asking the WADA management to provide the Executive Committee in September with the information available so as to have a picture of what was out there. It would not be the formal compliance information, but was just to know the scope of the challenge.

THE DIRECTOR GENERAL said that this could be provided for IFs and NADOs. The second comment was that the RADO concept was exactly the same as that suggested for IFs. WADA was setting up the RADOs in countries with very little money, so it was a very similar concept to those IFs with very little money. The countries were responding, and WADA was working out ways and means of establishing that resource within those scantily resourced countries and parts of the world in which resources were needed for other important issues in society. WADA had been doing this successfully since 2005 with governments and NOCs working together. He thought that it was quite an easy concept for WADA to sell and have with the IFs. He thanked Mr Kasper for his suggestion and looked forward to the meeting accordingly.

THE CHAIRMAN referred to the FINA ASADA issue.

MS ELWANI noted that a similar thing had happened before, where an athlete's name had been out before it should have been, and she wished to know what WADA was going to do about athlete confidentiality in the future. She knew that everybody was doing his or her best not to give the names out, but something was happening and names were coming out. Did WADA need stronger or stricter rules for laboratories? A laboratory that

had leaked something was a laboratory in which she would not want to have her sample tested. WADA needed investigations into every case to know who was responsible for the leak. If an employee at an IF leaked a name, WADA could not blame the entire IF, but at least the employee should no longer be in that position. There were things WADA could do to make people understand that it was important to keep the athlete's name a secret until it should be made public. She was not talking about penalising an entire organisation or laboratory, but at least the person responsible for the leak should be punished.

THE CHAIRMAN said that WADA should be careful about putting this in perspective. There was a very small percentage of so-called leaks that could be traced to laboratories. The overwhelming majority of names coming out before the completion of the result management process came from athletes or their entourages. At least in theory, a laboratory could leak only the fact that there had been an AAF. The laboratory had only a code number and did not have the name of the athlete. There was some protection there. Obviously, if there were a leak that said that there had been positive findings, that would not be good, but it would not involve the name of an athlete. In fact, the process, including arbitration, was essentially a private process, and it was private at the request of athletes, but some went public, and WADA had seen an example of that recently, where there had been a tremendous amount of publicity surrounding the name of the athlete. WADA could certainly look at the International Standard for Laboratories (ISL) and see whether that could be tightened up, and he did not know whether there was something that should be looked at in the Code revision process. The problem was, where people were involved, it was almost impossible to legislate for 100% compliance with anything. That was why WADA was in existence.

THE DIRECTOR GENERAL stressed that WADA respected the basic integrity of the system for athletes, and the confidence of athletes was vital. There were a couple of suggestions in relation to the Code review process and, as the Chairman had pointed out, a change to the ISL would help, but that would not stop the odd case coming out in a certain way. If WADA were to have investigatory and punitive powers, these would have to be funded, and would cost a considerable amount of money that, as he understood, people were not willing to put into the operation, so WADA needed a priority list, because he would be very happy to hire investigators and conduct a disciplinary process, but it would be a considerable expense. One could not instruct that something be done without reflecting on the cost.

THE CHAIRMAN thought that the Director General had reported as completely as possible on the Landis matter, which would start on Monday, almost a year after the event during which the alleged offence had occurred. This was something that WADA had to address: those periods between the finding of a doping violation and the disposition of a case had to be more in real time without prejudicing the right of the person concerned to be able to mount a defence.

Bribery and corruption would be a growing concern. After the Olympic Games in Athens, when WADA had gone to test some athletes in a particular country, DCOs had been threatened and harassed. There had been issues in other parts of the world, in which the stakes were big in some sports and there was a lot of money involved; there was the increasing involvement of organised crime in the distribution of doping substances, and it would be necessary to sit down and work out how to protect the integrity of the process and also if necessary physically protect the DCOs who were trying to do their job. He did not want to minimise the seriousness of that problem, nor the extent of it. It was something that really did require some work, and perhaps the Executive Committee should think about constituting a working group to try to analyse the problem and think about what the solutions might be.

MR GENNIGES asked how many cases had been resolved. As to the protocols and procedures to be improved, were there any ideas as to how this would be done? Might it perhaps be possible to link this to the future drafting of the Code?

THE DIRECTOR GENERAL replied that the WADA management was expressing a concern that it had, which first had to be supported by the Executive Committee as a policy issue. Once it had been supported, and the idea that the President had put forward to set up a working group was excellent, these issues could be addressed. He had some personal ideas, but did not think it would be responsible of him to table those until some more work had been done. WADA could be benefited in this work by governments, which had issues in relation to this throughout public service, but also by sport, which had had similar issues within sport and had had similar working groups look into this. Therefore, it was not necessary to reinvent the wheel, but it was necessary to be alert to the issue, which was starting to pervade the territory. If WADA had a direction to set up a working group, it might be a step in the right direction.

THE CHAIRMAN asked whether the members favoured the idea of a working group to look into this and report back.

In relation to the Olympic Games in Turin, there were still some ongoing activities arising out of the combined operation, and WADA could not talk too much about them, but the fact of the matter was that, even though it had taken longer than he would have hoped, WADA had had cooperation from the Italian authorities, which had enabled the IOC Disciplinary Commission to act. If the media reports were right, some of the athletes involved had proposed to appeal to the CAS against the findings and/or the suspensions. This was not unexpected, but meant that WADA would have to wait longer for a final outcome and, as he understood it, there were other cases that were ongoing.

PROFESSOR LJUNGOVIST said that the presentation was correct. Further hearings were scheduled for early May, but they would certainly go on for a longer period of time, possibly throughout 2007. There had been reports that some of the athletes banned by the IOC Executive Board would appeal to the CAS, although he had no official information on the matter. Nevertheless, the matter would be ongoing way beyond May, certainly towards the end of the year, or maybe even longer.

MR KASPER noted that this was exactly why it took so long. It would now take the IOC about two years to have a verdict, and then the IFs would have the possibility to discuss the matter, have their own hearings, and then decide on sanctions; that meant about three years until a verdict was issued. This was ridiculous. Not only did world championships take place in between but, in the Turin case, if it were necessary to wait for two years and then decide on a ban, and if the ban were to start on the date on which the doping violation had taken place, the ban would be over anyhow.

MR BURNS said that he was curious. As many knew, in the USA, great strides had been made bringing government law enforcement (the FBI, the DEA, the US attorneys) along to investigate government criminal cases. Was that occurring in Europe? If it was, good; if not, was there something WADA could do to encourage and assist Europe in participating in what he thought was pretty crucial?

THE DIRECTOR GENERAL replied that this was a subject being looked at in the investigation symposia and the ongoing work on which he would report later. It was a very vital area; as was the sentiment expressed by Mr Kasper, as it was a major part of the timeliness of the whole process. The WADA management was trying to work out models whereby the government agencies could work alongside sport and share information so that things could be done faster.

He had received a letter from the WADA Athlete Committee, asking him to refer to the IOC President and Disciplinary Commission the WADA Athlete Committee's support for the strong measures taken by the Disciplinary Commission against those athletes involved in the Turin matter. He did not know whether the Executive Committee wanted him to forward the letter to the IOC President and Disciplinary Commission, but he was raising it as it had crossed his desk.

THE CHAIRMAN saw no reason why the Director General should not accede to the request to forward the letter. WADA had to make the sports side of this more of a real-

time issue. One could not wait three years for a sports sanction to be imposed or confirmed.

PROFESSOR LJUNGOVIST fully agreed with Mr Kasper. The concern had been expressed at the last meeting of the Executive Committee and the Italian authorities had been asked to speed up their investigation as much as possible. When it came to non-analytical cases, WADA was in the hands of the investigators and the law of the country and the way in which it wished to deal with this. He was still in steady contact with the Italian authorities on this matter. He had seen somewhere in the legal details of the Director General's report that the verdicts on those cases had been the first non-analytical cases, but he did not think that this was true. There had been such cases at the Olympic Games in Athens as well.

THE CHAIRMAN noted that the Montgomery and Gaines cases had been non-analytical positives.

THE DIRECTOR GENERAL said that what he had been trying to express was that this was the first case in which public authorities had gathered the evidence that the IOC had been able to use. The other cases in Athens had been cases in which the IOC had been able to gather the evidence itself.

PROFESSOR LJUNGOVIST added that it had then moved faster.

THE CHAIRMAN said that the Youth Olympic Games was a matter that would be discussed at the IOC Session in Guatemala, possibly with a decision to proceed with them. If this were the case, the games would clearly provide an opportunity for WADA to continue its educational efforts.

On the issue of staffing, with respect to the Strategic Plan, this was something that was ongoing. The Strategic Plan in the members' files was a description of what WADA was doing. It was not a complete about-face. It would be a summary report of the impact of all of the decisions made, budgetary and otherwise, over the past few years. These things were always works in progress, to be reviewed annually, and perhaps even more often, to make sure that WADA was on the right track. He hoped that members would go back to their constituencies to see if there were improvements that could be made to the document to tweak it or to move in different directions, or more radical surgery if the members thought it appropriate. The Strategic Plan was what WADA was doing, and the budget reflected that.

Were there any comments on compliance? There would be the informal report as suggested, and 2008 would be a compliance year. He believed that that would be the first compliance year for the Convention as well.

THE DIRECTOR GENERAL was not certain yet about UNESCO, as the next Conference of Parties would not be convened until November 2009. WADA was in frequent contact with the members of staff at UNESCO to look at the programme that they would introduce for compliance in order to help them and ensure that there would be no duplication of questionnaires.

THE CHAIRMAN said that the RADO programme had been successful thus far. Obviously, the ongoing maintenance of the RADOs needed to be followed with great attention. WADA hoped by 2010 to have the planet covered by RADOs, which would be a huge accomplishment, and he hoped that that example would commend itself to the IFs as well.

There would be a separate report on science; WADA was continuing efforts in the accreditation of laboratories, and maintaining the accreditation by tests. This was one of the next frontiers to be dealt with; the challenges seen in recent years had been whether the laboratories had done the work properly and whether the science underlying the tests was reliable. Members would probably see a fair amount of that over the next two or three weeks coming out of Pepperdine University.

Were there any other comments or questions arising out of the Director General's report? He thanked the Director General for his excellent report.

#### DECISIONS

1. Invitation from Mr Kasper on behalf of GAISF to discuss the future of IFADO accepted.
2. WADA management to produce an informal report on Code compliance for the Executive Committee meeting in September.
3. Proposal to set up a working group to analyse the problem of bribery and corruption approved.
4. Report by the Director General noted.

#### **4. Operations / Management**

##### **4.1 Interpol Memorandum of Understanding**

THE DIRECTOR GENERAL said that discussions had continued with Interpol since November 2006, and there was now a draft memorandum of understanding being looked at and discussed with the Interpol lawyers. He had a copy of it with him, although it was not yet ready to be published. The process was that, once there was agreement as to the final terms (which should take only a couple of weeks), Interpol had to have the document approved under its constitution at its meeting in early November. It had been anticipated that that would be done without difficulty. Interpol would invite WADA to go to the meeting to present if necessary, and then it had been anticipated that WADA and Interpol would sign the document in Madrid, and WADA had invited the Secretary General of Interpol to attend the World Conference on Doping in Sport in Madrid to make a brief presentation during one of the sessions. That was the process. The outcome as a result of it really still depended on countries having rules and laws in place with appropriate penalties, and advising the membership that each country had to inform Interpol of those laws and rules so that information could be shared through Interpol and Europol. That was another part of the investigation symposium being looked at, whereby WADA would come up with a model, suggesting to countries that, if they were going to participate in this fight to the degree that they had committed under the UNESCO Convention, they might look at a model law covering a list of the banned substances and penalties for trafficking and distribution. As the BALCO case had shown, the penalties needed to be significant for enforcement agencies to show interest in them. That was another project linked to the whole progress in the investigations area. If anybody wished to look at the draft memorandum of understanding, he had a copy.

THE CHAIRMAN said that WADA should have a final text by the time of the Executive Committee meeting in September. It was an interesting opportunity for WADA and the public authorities to do something at the World Conference on Doping in Sport in Madrid to show worldwide progress in the fight, and the involvement of Interpol would be useful.

#### DECISION

Interpol memorandum of understanding update noted.

##### **4.2 Operational Performance Indicators Update – 2006 and 2007**

THE DIRECTOR GENERAL said that the Performance Indicators were linked to the Strategic Plan and the budget. He wished to emphasise that WADA reviewed its whole activity plan at the commencement of each year for the following year. During the first few months of 2007, WADA had already reviewed the activity plan according to the strategy for 2008, and was looking at going into 2009, as it had to plan that far ahead,

particularly if there was going to be a new Code, rules, models of best practice and so on. The second component was that the Performance Indicators were linked to the budget and subject to the whole process with the Finance and Administration Committee and the Executive Committee in September for allocating funds to various activities. With that in mind, he asked the members to look at the report for the previous year. The report was thorough but, if there were any questions related to the process, members could ask. This was not something that was thought about during the process of the year. It was something that was put into place at least 12 months in advance of the following year. He would be happy to receive any questions or queries in relation to any part of the process.

MR REEDIE thought that it was a pretty fair effort; looking at the 2006 figures, the Performance Indicators tended to indicate that a decision could be taken in any one day, but the kind of business in which the agency was involved meant that it was a longer period than that. The only thing not done had been the development of the IFADO arrangement, and that had been resolved that morning so, if members could look at a whole year and see that everything requested had been done or was in progress, it was a pretty fair effort.

THE CHAIRMAN asked if members found this a helpful summary. He encouraged the Director General to keep doing that.

#### DECISION

Operational Performance Indicators update noted.

### **4.3 Strategic Plan Amendments / Changes**

THE DIRECTOR GENERAL informed the members that the current Strategic Plan had been approved in 2004, and had built on an earlier plan written in 2001 and updated in 2002, but it was already outdated because, since 2004, WADA had had to go through many new responsibilities and conducted many new activities. When preparing the activity plan for 2008 late the previous year, he had realised, from a management perspective, that it would be irresponsible and probably careless to continue to operate with a Strategic Plan written and approved in 2004. WADA had thus engaged two outside experts, both of whom had been involved in anti-doping and international strategies, and had asked them to separately review the present plan. WADA had also engaged the management in a number of meetings in Montreal, and had then engaged the experts with the management, and started preparing drafts for discussion with the individuals concerned and then the management team. It was not a new strategy; it was essentially a refinement of the current strategy.

Members would be able to see on the screen that, in 2003 for 2004 onwards, WADA had prepared a strategy (which the members had approved) with five objectives: compliance, education, the need to establish effective programmes, the need to increase capability of ADOs, and for WADA to be a leading organisation with best practice models. WADA was doing it all. Under effective programmes, that specific objective in 2004 had covered science, laboratories and research. WADA was increasing capability, and that was the objective of the RADO and IFADO projects. He thought that WADA was achieving and doing what it had been asked to do as a leading organisation. In the refinement process, if members looked from one side to the other, compliance was there, but it was increasing. Compliance did not include only the compliance reports that had been discussed earlier that day on a biannual basis; it included daily compliance, the review of rules to see that they were Code-compliant, the review of cases to see that they were Code-compliant, and the decision to appeal. WADA had appealed three cases the previous week. This was an increasing area of work, not only on an annual basis, but also on a daily basis. WADA was improving education, and the arrival of Ms Carter as Education Director was showing the direction that WADA was taking which was right in the way in which WADA ought to be operating, facilitating and assisting rather than

imposing. WADA was improving and had work to be done in the laboratories, but he had included in the new plan a separate objective for laboratories. It had been felt that laboratories were so important that they needed a separate objective, and should not be lumped under the effective programme objective. The same applied to research. WADA had been told consistently over the past five or six years that research was a priority and that a certain amount of funding should be set aside on an annual basis for research. The medical area was new, as there had been no commitment to medical matters under the objectives in the past Strategic Plans, but he knew that this was an area that should be highlighted. Programme development referred to the RADO and IFADO concepts, and this would increase. It was not just putting these into operation; it was then a matter of maintaining them and ensuring compliance. WADA continued to be a leading organisation with best practice, and had in place methods to achieve that, including the report on Performance Indicators.

He thought that WADA had a duty as the world authority on anti-doping to ensure that it provided information, direction and education on emerging issues relating to anti-doping. This included the investigations component in the module that had been included on the agenda for later discussion. The management had not created a new strategy, but had refined it according to what the activities currently were. This was why it had been put on the table, and why he suggested that it be looked at very seriously and, hopefully, approved. He had tried to do this in a simple fashion, rather than going into detail in terms of the respective strategies, but he thought that it was sufficient to see that this was not a radical change; it was refinement and progress.

THE CHAIRMAN said that it was not new or radical; it was what WADA was doing, and the members should think about it and if, by September, they thought that there were changes that should be considered, they should be considered, which would be of great assistance to the Finance and Administration Committee in planning the budget for the following year and the first rough drafts of the budgets for succeeding years.

MR BURNS said that, at the governments' meeting that morning, a number of issues had been discussed, but this was probably the issue that had received the most attention. The governments believed that this should be done sooner rather than later, as there was always the ability to amend, but it should be passed, enacted and in place.

MR BOUCHARD echoed the comments made by Mr Burns. The document was a good one, with good performance indicators, and gave a good indication of the way forward. He was quite happy with the results.

PROFESSOR LJUNGOVIST said that he would be happy with the possibility to review the document and come back in September. He had a question in relation to the medical objective. He had not been involved in that discussion, so he wished to know what was to be covered under that objective.

THE DIRECTOR GENERAL pointed out that this was objective number five in the proposed plan, and he read out the objective, which was to "promote universal awareness of the ethical aspects and health risks of doping so that stakeholders, with a particular focus on medical practitioners and other members of the athlete entourage, use that knowledge in their interaction with and education of athletes for the purpose of preventing doping and protecting health". That included in the strategies the development of the biological parameters, the Athlete's Passport and so on. That was the concentration, which was a new objective, but a sensible one in terms of the way in which WADA was going forward.

PROFESSOR LJUNGOVIST had nothing against it at all and thanked the Director General for the explanation. Were TUEs to be dealt with under that objective?

THE DIRECTOR GENERAL replied that TUEs were an ongoing activity, and therefore not a new initiative; they fell under that category, although the work was done by the Medical Director.

MR BURNS asked why it was necessary to wait if everybody was satisfied.

If THE CHAIRMAN had understood the sense of the discussion, it was that this was a statement of WADA what was doing, it should be looked at regularly, and there was no reason to suggest that nothing should be done for six months. This was the plan as it stood, and WADA wished to reassure all stakeholders that it could and should be regularly reassessed. He sensed that the WADA Executive Committee was happy with it, although in September the members might have some proposed changes. He hoped that he had adequately summarised the situation.

MR BOUCHARD asked whether the Strategic Plan would be reviewed every six months.

THE CHAIRMAN replied that if the members were not reviewing the Strategic Plan every six months, then they were not doing their job.

THE DIRECTOR GENERAL said that, from a management perspective, it would be useful if the members could approve the Strategic Plan. If there were amendments required, they could be raised at any time. It was a subject that was part of WADA's regular operations. The WADA management looked at it annually. He thought that the management had behaved responsibly in terms of bringing it forward for any review if required, and it could be amended. If anybody had any suggestions for amendment or any issues to raise, he would welcome them. The WADA management had never received any suggestions in the past, and WADA had operated under a Strategic Plan since 2000. There had been no suggestion that WADA should deviate. The aim was to operate as management under a current plan, and not one that had been written four years previously when things had been different. If the Executive Committee wanted the WADA management to work in limbo for the next three months until the approval of the plan, it would be necessary to work under the old plan. If the Executive Committee wanted the management to work under the new plan, he asked the members to approve it.

On behalf of the Olympic Movement, MR KASPER thought that a final decision should be postponed until September, giving the stakeholders a chance to come forward with new ideas or simply approve it. As it was being introduced as something new, the stakeholders should have the possibility to think it over.

MR MIKKELSEN said that he supported the suggestions of the Director General, as the Strategic Plan was supported by the governments and the IOC, and he thought that the members would be dancing backwards and forwards if the plan were not approved immediately.

MR STOFILÉ thought that it made no sense to postpone a decision. If anything had to be reviewed in September, WADA could put forward new ideas. Because there were no fundamental changes to the Strategic Plan, why wait another six months to reaffirm it? The old Strategic Plan was being amended by the inclusion of three additional points, and it constituted no fundamental change to the framework. Why delay it? If there were new ideas in September, by all means they should be submitted as part of the ongoing process review. He fully supported endorsing the Strategic Plan immediately.

THE CHAIRMAN asked whether it might be possible to satisfy everybody by having an interim approval of the plan, with a review by the Executive Committee in September. He would be very uncomfortable not having something that WADA was following.

MR BURNS moved for adoption.

MR LARFAOUI said that he saw no reason why the decision could not be postponed. On behalf of ASOIF, he proposed that the decision be taken in September.

THE CHAIRMAN said that he did not want to end up with a standoff. What was awkward was that all the public partners thought that there should be a plan and the Olympic Movement partners did not think that there should be a plan. That was not a comfortable situation. If people wanted to have a vote, that would be fine, but he thought that an interim approval with subsequent review might be more appropriate.

MR REEDIE suggested having a coffee break.

MR STOFILÉ said that perhaps there should be an explanation as to what the issue behind the proposal to postpone the decision was.

PROFESSOR LJUNGOVIST thought that this had become an unnecessarily big issue; nevertheless, it was very simple, as Mr Kasper had explained. The Olympic Movement representatives thought that it would be fair to give the Olympic Movement stakeholders an opportunity to respond and react to a proposal that was not yet a decision. If this were decided upon and comments afterwards were requested, that would be fine, but he wanted the stakeholders to understand that this was a working document to be decided upon formally in September, giving them an opportunity to provide comments.

MR MIKKELSEN objected that this plan had been known all the time. There were simply minor revisions and no major changes to the plan. He did not understand why it was necessary to go back to the stakeholders.

MR STOFILÉ highlighted the value of consulting the constituency. However, this had been done for many years already, and there no fundamental changes to the plan. If, every time the Strategic Plan had to be reviewed, WADA had to give notice about the possibility of a review, and then go back to consult and come back after another 18 months, from the perspective of his government, this was irresponsible planning. When he went back to report on the activities of WADA, somebody would ask about the Strategic Plan for the coming years. Should he say that WADA was still working on it and there might be one in September? It became very difficult to operate with no Strategic Plan, as then WADA would not be funded. What was the basis of obtaining money if the framework of what WADA wanted to do was not clear? That was the dilemma.

MR GENNIGES said that the new Strategic Plan contained a large proportion of elements from the previous plan, so perhaps members could agree to implement those and then any substantial changes made to the smaller proportion of new elements could be discussed further in September; this would avoid the WADA management waiting for three months. Perhaps the members could agree to the implementation, and any differences of opinion in relation to the new elements could be discussed specifically in September.

THE CHAIRMAN thought that the Executive Committee was making a mountain out of a molehill. From a perspective of ten thousand metres, the Executive Committee could not leave this room without giving directions to the management as to how it would operate. He could not imagine not having a Strategic Plan, and that was the position in which WADA would be if no agreement were reached.

MR MALLARD thought that everybody was close to the same point, and the suggestion of something provisional, subject to confirmation in September, but with a direction to the management to work on the assumption that it would be approved, could well be a formula for getting WADA through the problem. It was not taken as absolutely final. The management would be instructed to work in the way in which it needed to do and, if there were new methods or some specific changes that were not supported in September, an adjustment would be required, but he thought that there was a mid-point that could get the members through this problem.

THE CHAIRMAN asked whether this sounded like a way through the jungle. He thanked the members for their provisional approval, which would be of great assistance to the WADA management.

#### DECISION

Strategic Plan as presented to the Executive Committee provisionally approved; WADA management to operate on that basis on the understanding that, at the September Executive Committee meeting, any

suggestions for changes by stakeholders will be considered.

#### **4.4 World Conference on Doping in Sport 2007 Update**

THE DIRECTOR GENERAL said that the report before the members was reasonably thorough, but he wished to encapsulate a number of important parts of it. WADA had been involved with the Spanish authorities in considerable logistical planning for the World Conference on Doping in Sport in Madrid. WADA was keeping to the budget of 250,000 US dollars approved by the Executive Committee the previous year. The Spanish Government was providing 1.6 million euros. WADA was very grateful for that considerable commitment. The planning had essentially been completed, and WADA was now in a position to send out invitations with the accompanying material, depending on the direction received from the Executive Committee as to the agenda, and those invitations would provide incentives to register early, because there could be a number of observers in a separate room, and he wanted to make sure that those positions were allocated appropriately.

#### DECISION

World Conference on Doping in Sport in 2007 update noted.

##### **– 4.1.1 Draft Programme**

The agenda itself was one that had been tabled in November but had been refined since that time, following some discussions with Executive Committee members. Essentially, there would be reports from each of the chairs of the standing committees, as each had information to provide to the attendees that they would not otherwise receive. It would therefore be possible to discuss issues that had arisen over the past few years and hold discussions on the way forward. There would be a special session on the Thursday in relation to the future landscape of anti-doping, to be presented by the WADA management, engaging others such as the Secretary General of Interpol. The rest of the formal session was devoted to the Code review, and concluded with a Foundation Board meeting, at which he hoped the Foundation Board would approve the final Code. He was not asking for discussion on logistics, but he was asking for discussion on the draft agenda. He was happy to receive suggestions or make changes as directed by the Executive Committee.

THE CHAIRMAN asked whether there were any comments or questions in relation to the proposed agenda for the World Conference on Doping in Sport in Madrid. Assuming the agreement with Interpol would be finalised, where would that come in?

THE DIRECTOR GENERAL said that he would look for an appropriate moment for that document to be signed; the only issue for WADA was that it would need to follow the Executive Committee meeting, so that the Executive Committee could approve the document for signature.

THE CHAIRMAN said that, assuming that all that would be done, and there would be a signing ceremony, where was that planned?

THE DIRECTOR GENERAL replied that it would take place at the end of the day on 15 November, which was when the Secretary General of Interpol would be present. The Secretary General of Interpol would make a presentation on the future of anti-doping at that time.

MR REEDIE asked whether it was deliberate that the finance element was to be the warm-up session of the conference. He would be presenting to the Executive Committee in September and finally to the Foundation Board in November, to give all of the governments of the world and all of the sports interests a clear and detailed view of what contributions were likely to be over a five-year period. Was the timing right to do that at

the start, or should this be done at a later moment? He had no strong views one way or the other.

THE CHAIRMAN said that he did not think that the intention was to have the World Conference on Doping in Sport in Madrid approve the budget; it would be Mr Reddie's discussion of how the finances were raised and applied. There would be an Executive Committee meeting first, followed by the Foundation Board meeting, at which WADA business would be conducted.

There was not much room in the venue so, especially from the public authorities side, since they travelled in small herds, it would be necessary to make early arrangements to be sure that they had a limited number in the room itself and then, if spaces were required in the adjacent rooms, they should get in early.

MR BOUCHARD noted that he had no strong views on this point but, looking at the agenda for the Monday, he thought that the future landscape of anti-doping could cover a lot of elements. Was an hour's discussion long enough to cover such a topic? He did not have any strong views one way or another, but suggested devoting a little bit more time to the topic.

THE CHAIRMAN thought that that was a perfectly good observation. Could that be changed from 4.30 p.m. to 6 p.m.? If there were to be a full report on where WADA was going, followed by any audience interaction, an hour and a half could easily be used.

#### DECISION

Comments by the Executive Committee members on the draft programme for the World Conference on Doping in Sport in 2007 to be taken into account.

### **5. Finance**

#### **5.1 Finance Update**

MR REEDIE said that, from a financial point of view, the relative constancy in employment was beneficial. WADA had run into a little bit of maternity leave, which seemed to be the flavour of the month, and that did have a slight knock-on effect. Despite his direct appeals to Mr Burns, the US dollar was still depreciating regularly against the Canadian dollar; this was terrific when one went on holiday to Florida, but it made it hard to balance the budget figures.

#### DECISION

Finance update noted.

#### **5.2 Government / IOC Contributions Update**

MR REEDIE said that the contributions figures changed so rapidly that the papers in the members' files had been replaced by a second paper. The figures were very encouraging.

MR NIGGLI said that the members had the latest figures on the table; the timing of contributions had been excellent, and he thanked the governments for that. WADA had achieved 88% of contributions, which was more than 10% of what had been achieved the previous year at the same time. That was very useful in terms of operations and cash flow. There was a new agreement with the IOC where the IOC paid three equal instalments in January, March and June, so the IOC would have paid 90% of its contributions by June, and the governments would also probably be at 90% by June, which was very good.

The following day, the regional directors would probably provide detailed regional reports, but he wished to note that the situation in Africa had improved a lot and

governments had exceeded 100%. WADA still had an issue with the Americas region, and more specifically with Latin America. The USA and Canada were paying 75% of the regional contributions; the remaining amount was to be divided among the Latin American region, but there was still no agreement among these countries as to how the formula should work, which resulted in the contributions not being paid. There had been a meeting of the region recently; the item had been discussed and the position was that there would be an informal group working on the regional split and a formal decision in Rio in July at the Pan-American Games. He was hopeful that the countries would solve the issue and that WADA would get full payment from this region. In Asia, the figures had gone down every year since 2004, the reason being that the philosophy had been that the initial country would not increase contributions but would rely on new countries coming in to make up the difference. The reality was that there had not been enough new countries contributing, hence the decrease in the overall payments from the region. This was something to be addressed with the region at the meeting of Asian governments at the end of May and he was hopeful that there would be 100% in 2008.

The governments had paid a total of 95% the previous year, which was good, but he hoped that it would be possible to improve on that over the coming years. He was grateful for the good timing of payments.

#### DECISION

Government / IOC contributions update noted.

### **5.3 2006 Year End Accounts**

MR REEDIE said that these accounts were prepared under IFRS, the system that the Olympic Movement had asked WADA to adopt some years ago. They were in a very different format from the regular format, which was much simpler and easier to understand. The accounts were prepared by PricewaterhouseCoopers, with the assistance of the WADA in-house team, and Felix Roth, the auditor in charge, would speak to them the following day. They showed a reasonably satisfactory financial outcome, in that income had marginally exceeded expenditure, and much of that was due to a good interest income, which he would deal with in a moment.

The one specific item to which he wished to draw the members' attention was note 6a on page 12. The Finance and Administration Committee had had to take out of the accounts the provision for bad debt, which was because WADA had lost its argument with the Government of Canada and now had to pay GST (general sales tax), which would actually increase expenditure by 7% on any money spent in Canada, but it had been specifically taken out of the annual accounts.

He asked the Executive Committee to formally adopt the accounts, so that they could be formally presented to the Foundation Board for adoption the following day.

THE CHAIRMAN asked whether the members were in favour of approving the accounts for presentation to the Foundation Board the following day. As requested, the Executive Committee would unanimously recommend the accounts to the Foundation Board.

MR REEDIE said that the next item was the actual against budget result for 2006. It showed just how accurate (or inaccurate) the assumptions made had turned out to be. There were relatively few points to which he wished to draw the members' attention, other than that, if they looked through the costs department by department, the members would see that they were all in excess of 90%, so the overall effect was that WADA had achieved about 95% financially of what it had thought it was going to achieve.

On the income side on page 1, members would see that the assumption on budget of 400,000 US dollars of interest had been grossly exceeded by the final figure of well over one million dollars. This was the direct effect of having contributions paid earlier to WADA and by paying, in the main, research grants a little more slowly than initially assumed. The end result was that WADA had the money for longer, and was quite

aggressive in how it handled its money to get the maximum rate of return, but it had done rather well on interest. WADA had spent a little less under *Information Technology* on the IT costs and website maintenance, saving a bit of cash there, and that reflected the good work done by the IT Department. In relation to *Health, Medical and Research*, he had to congratulate the Health, Medical and Research Committee, which had substantially underspent on travel and accommodation by intelligent organisation of meetings. The *Research Overview* showed that there were total outstanding commitments of 9.5 million US dollars, to be paid upon proper request.

Looking at the document on a page-by-page basis, he hoped that the members would see that what WADA had thought would happen had pretty well happened, and that the budgeting process was working reasonable accurately. This could be done on a monthly basis, so he could be told month-by-month where WADA was, and he had to say that all the information that anybody would want was available.

#### DECISION

2006 year end accounts approved  
unanimously for presentation to the  
Foundation Board on 13 May 2007.

#### **5.4 2007 Quarterly Accounts (Quarter 1)**

Taking the members on to the first quarter figures, MR REEDIE noted that WADA had collected extremely well in the first quarter of the year in terms of contributions, and expenditure was very roughly in time, as was to be expected.

#### DECISION

2007 quarterly accounts noted.

#### **5.5 2008 Budget and Five-Year Plan**

MR REEDIE said that this item dealt with how the Finance and Administration Committee produced the 2008 budget and how it tried to do this with an indication, particularly to the public authorities, of what increase, if any, in the rate of contribution might be expected over the next five years. This was a complicated exercise, and the committee had started some very detailed work. The previous year's projected cash-flow statement had been expanded upon, and certain assumptions had been made that contributions would increase at different rates to see how the figures would work out. One of the complicating factors was that WADA had collected, saved or accumulated by the end of 2007 approximately 7 million dollars of what had been described as uncommitted funds, which would be used as a means of subsidising the budget going forward. Members would recall that it had been decided that roughly 3 million dollars of these initial funds would be used to operate WADA in 2007. How WADA would bleed out the accumulated money into annual budget was an issue. WADA also had to determine what kind of reserves it wanted to have. It cost 1.6 million dollars per month to run WADA. If the members wanted three-month reserves, it would be necessary to keep 4.8 million dollars. Most commercial organisations with a reserve would probably be slightly uncomfortable with a relatively tight margin such as that one, so the decision on what the reserve would be was a complicating factor as far as all of that was concerned.

The last item in the whole quite complex scenario was to look very hard at the costs of the agency, and he had before him what he had politely described to the Director General and the management as their first wish-list of what the management wanted to spend in 2008. What he thought they should spend and what they thought they should spend was very different. It was not up to him entirely to make those decisions, however. The proposal had to go to the Finance and Administration Committee and then the Executive Committee members, and this would be done in September. In Lausanne in the middle of August, the Finance and Administration Committee would try to pool all

these factors into a coherent programme, so that, at the World Conference on Doping in Sport in Madrid, the Chairman might make a statement to the world as to how WADA wanted to proceed. He hoped that the Executive Committee would have a very clear idea as to what it wanted to do and that that would eventually be picked up by the Foundation Board. He had to stress, in doing all of this, that the accumulated funds had been built up by good management, good investment, and receiving (in the main) contributions from previous years from governments that had come into the contribution payment system; there were very few additional payments still to come, so WADA could not rely on these as an additional source of income. WADA would use up uncommitted cash pretty quickly, and there was no doubt at all that contributions would have to go up at some rate. He did not want anybody to believe that, by pushing figures around, WADA could come back with a piece of paper that said that contributions would remain as they were for the next five years. That could not happen and, if those contributions could not go up at the proper rate, the Executive Committee would be faced with the decision as to which activities should be reduced or changed, or abandoned. Since there was a lot to do, he hoped that WADA would not reach such a situation.

The final thing was that he would have to look at the Strategic Plan and see what priorities there were in that and, if there were to be any major suggested changes to the Strategic Plan, it would greatly help him if he could know about them by 23 August, when the Finance and Administration Committee would meet to put the budget together. As WADA ate into its reserves and physically created an agreed and specific level of reserves, contributions were likely to have to go up at some rate, and he could not yet provide the rate. Colleagues had suggested that it be the rate of inflation, and he had asked whether he could choose which nation's rate of inflation he could apply. His request had been denied!

THE CHAIRMAN asked members to comment.

PROFESSOR LJUNGOVIST asked what *Medical Monitoring*, on page 6 of attachment 2, 5.4 referred to.

DR RABIN replied that this referred to the Athlete's Passport.

THE CHAIRMAN asked whether the diligent stakeholders could try and meet the date mentioned, 23 August, which would be very helpful. At some point, the Executive Committee and Foundation Board would have to decide on how much WADA would be able to do. There were more and more people wanting WADA to do more and more, and none of that came without expense. If WADA were to do it, it would have to be funded, and if WADA were to fund it, it meant that the stakeholders were going to have to increase whatever it was they put forward.

#### DECISION

2008 budget and five-year plan approved.

### **5.6 Working Group on Anti-Doping Costs Report**

MR NIGGLI stated that the report from the working group had been sent to all the chairs of the various committees so that they could bear it in mind when doing their work. The working group that was most concerned was the Finance and Administration Committee, which was to meet in August, and this would be studied by the group in August, after which it would probably be able to report further in September.

#### DECISION

Working group on anti-doping costs report noted.

## 6. Legal

### 6.1 Legal Update

MR NIGGLI said that the members had his legal update in their files. The Working Group on Legal Matters had met in Beijing during the Sport Accord meetings. The entire meeting had been devoted to the Code, about which he had another report under item 7.1.

The ADAMS issue was still ongoing; he had met with the Council of Europe Data Protection Group during the second week of March, and WADA's experts on data protection had presented to the group the way in which ADAMS had been set up. The Council of Europe Data Protection Group had not yet made any recommendations or drawn any conclusions. His understanding was that they would reconvene in September, at which time WADA might have further discussions with them, and then hopefully after that some conclusions would be reached. This was a fruitful and ongoing discussion on a rather complex issue.

The amendments to the WADA Constitution were on their way. As soon as they were approved by the Swiss supervisory authorities, the new version would be available.

He drew the members' attention to the summary of legal cases. As far as pending cases were concerned, WADA was awaiting a decision on the Carmona case; a hearing had taken place and WADA was waiting for the decision. WADA was awaiting a decision on jurisdiction in relation to the cricket case; only the preliminary matter had been dealt with, as to whether or not WADA had a right of appeal, and the decision should be made known any day. The Assis case, which WADA had won at the CAS, had been appealed to the Swiss Federal Court; it was ongoing. As to the other cases, Beke was pending and ongoing in Belgium, with a hearing set for September. In relation to the Danilo Hondo case, he could inform the members that Hondo had tried to go back to the civil courts, and the matter had been dismissed; therefore, this matter was now over, and the athlete's ban had been extended to cover the duration during which he had been allowed to compete by the court. WADA was helping the UCI in a case in Spain whereby the rider was trying to question the whereabouts system, claiming that whereabouts were against the Spanish constitution. Mr Andersen would be testifying before the courts as an expert witness in one week's time. He had been interested to hear Mr Mikkelsen's comments on handball; as members would see, there had been a few handball cases in which WADA had had to appeal, and it had been successful in all the appeals. He hoped that this particular federation would look at the cases a little closer, so that WADA would not have to intervene in every case. A case that WADA had fought with FIBA that had subsequently gone to the CAS had been dismissed by the CAS to WADA's satisfaction. Interestingly enough, this was a case that dealt with intent and the fact that the rule on specified substances could not be applied in this particular case. As for case number 17, which was also a handball case, members would probably be interested to see that this was probably one of the first cases in which there had been a non-compliance issue from a government. This was a problem in which WADA had been unable to do anything, as it had ended up before the Greek courts, and neither the federation nor WADA had been able to try to appeal the case. This was something that would have to be addressed with the Greeks. He drew the members' attention under *CAS Case Law* to case number 20, which was a cycling case involving Landaluce, in which the CAS had accepted that there had been a deviation from the laboratory standard and that, therefore, the athlete could not be convicted. The deviation was that the same technician who had performed the A sample analysis had also been partly involved in the B sample analysis. This was a case that was unfortunate for two reasons, firstly, because the athlete had pretty clearly had the substance in his body and, secondly, because the departure did not seem to have any effect on the outcome of the analysis, but the court had been pretty rigorous in its interpretation, and that had resulted in a modification in the new draft of the Code, which clearly indicated that the departure, in order for any decision to be cancelled, would have

to have an effect on the AAF. A simple departure was not enough; somebody would have to prove that this had an impact on the end result, because it was very important.

There had been a decision from the Swiss Federal Court on the tennis player Cañas. To his knowledge, this was probably the first time that the Swiss Federal Court had actually sent back a decision to the CAS. The decision dealt with two matters: first, it confirmed that the arbitration clauses by reference were perfectly acceptable, and dealt with the IFs, which had a so-called monopolistic position, and the Federal Court provided a good discussion on that; but, on the other hand, it also clearly indicated that, when both parties were outside Switzerland, they could choose not to appeal to the Federal Court, and the Federal Court had clarified that this could not be in the IF rules but had to be the subject of a separate agreement once the conflict had started, so it would not be possible to have something in the general IF rules saying that, every time there was a case, the appeal would be renounced to the Swiss Federal Court. That would not be acceptable. The Federal Court had overturned the decision as it felt that the athlete had raised subsidiary arguments before the CAS, none of which had been written as having been looked at by the CAS in the decision, so the Federal Court had said, without taking any position on those arguments, that it did not know whether the CAS had looked at all of the arguments raised by the athlete, and that formed part of the right to be heard; therefore, the Federal Court had upheld the athlete's appeal. It was an interesting decision; if anybody wanted the text, he would be happy to provide it.

He thought that that concluded his report. He would deal next with Puerto and the FIFA rules.

MR LARFAOUI asked about cases 16 and 17, which dealt with Jacobus Roux and Elena Botsman respectively. He was somewhat surprised to see that retroactive TUEs were being discussed. In the case of Botsman, the government did not allow for these decisions to be appealed. Could Mr Niggli provide an explanation?

MR NIGGLI said that case 17 was indeed problematic, as the Greek regulations did not allow for an appeal. This was probably a flagrant case of non-compliance with the Code rules, and it would be necessary to discuss the matter with the Greeks. In relation to case 16, there were two issues. One of the reasons for which there had been no appeal was because it had been decided that there had been no fault on the part of the athlete. Then, there was the fact that there had been a retroactive TUE, and this was something that France had done and continued to do, and WADA had said to the French NADO that this practice was not in compliance with Code. Such matters, if not corrected, would be reported in the context of WADA's monitoring activities.

PROFESSOR LJUNGQVIST thanked Mr Niggli for his excellent report. It seemed to him that the Beke case and Belgian law was a similar problem to the Greek one, namely non-compliance with the Code. The second question was related to the case being referred again to the Swiss Federal Tribunal, the Assis case. Did WADA face many such cases in which a CAS decision went further to the Swiss Federal Court? Based on the Cañas decision, would the Federal Court look into the merits of the case? What could be expected from the Swiss Federal Court in the future?

MR NIGGLI said that the aspect currently being dealt with was totally outside the doping issue, as it was a civil claim against the laboratory, asking for damages, so this came under the normal legal system. It had not been possible to appeal the decision issued by the Belgian authorities clearing Beke, as this had been done under Flemish law. This situation had since changed but, at the time of the Beke case, it had not been possible. It seemed that more athletes were trying to go to the federal courts, maybe because the sports in question involved richer athletes who could perhaps afford to hire lawyers. The appeal to the Swiss Federal Court was on limited grounds. It would not look at the merits, but it would make sure that fundamental rights, such as the right to be heard, had been preserved. The Cañas case was an exceptional decision, and it told the CAS how to better draft its decisions and make sure that every aspect raised by the athlete had been looked at so that, when revising it, the Swiss Federal Court could be

confident that the athlete had had every opportunity to be heard. As far as the Assis case was concerned, he was rather optimistic about the outcome, and did not think that the Federal Court would deviate from its current position, which upheld the CAS position, but every time there was one, it meant more cost and more time. It was an issue for WADA and the CAS probably had to make sure that the work it was doing was passing the quality test from the Federal Court.

MR REEDIE observed that it would cost more money. Looking back, in the 2005 budget, WADA had provided 150,000 US dollars. In 2006, this figure had been increased to 400,000, but WADA had actually spent 430,000, so the more access people had to the CAS or courts of law, the more expensive it was.

THE CHAIRMAN thought that it was in the public interest that lawyers be well paid, but not with WADA's money! It would be an increasing budgetary concern over the coming years. Particularly in the professional sports, where there was a lot of money involved, the effort would be to try and bankrupt the anti-doping system before the courts.

MR MALLARD asked for an assurance that, where possible, WADA worked to recover costs, as sometimes it could be that, where was an attempt to recover legal costs from people who were trying to slow processes and spend other people's money, that could provide an incentive for a quicker resolution.

MR NIGGLI assured Mr Mallard that WADA did everything possible to recover costs when costs were allocated, but the reality was that, before the CAS, a minimal amount of costs were allocated. Every time WADA won, it recovered those costs, but these came to 500 Swiss francs, which did not cover WADA's prosecution costs.

THE CHAIRMAN said that the award of costs was discretionary and, where WADA thought that it had been faced with an abuse of process, where the courts were being used to drag things out and increase expenses, WADA should aggressively seek recovery of those amounts, and it might have to go against the lawyers, as most athletes did not have any money. It should be part of WADA's policy to make it clear that it would recover as much as it possibly could.

## DECISIONS

Legal update noted.

### **6.2 Operation Puerto (Spain) Update**

MR NIGGLI said that this case was still ongoing. There had been a decision from the judge to close the case; at the same time, WADA and the UCI had tried to get admitted as other parties in the case. The UCI had been admitted in an appeal about one month previously, and WADA had been admitted three days previously on appeal as a party to the Puerto case, which was good news. The current situation was that, against the decision by the judge to close the file, there had been a number of appeals, one from the prosecutor, one from the Spanish Government, and so on. WADA would file its own appeal against the decision to close the file on Monday (the deadline given to WADA), and would see how this was dealt with. Now that WADA had access to the case, it had access to the file. The next step would be to get the file, and get the lawyers to read it, and see whether it might be possible to work together with the UCI to save costs and time and, going through the file, try to identify those elements of the file that could be used for disciplinary purposes, and then get the judge to agree that these elements could be used by sports for disciplinary purposes. The first step had been done; the next step was to identify the appropriate material, which would also give WADA some indication as to whether or not there were other sports in the file and, as soon as WADA had those elements, it would try to convince the judge to let WADA have the relevant part of the file to be used for disciplinary purposes. WADA was working closely with the UCI on that and wanted to see what the best strategy would be. If the appeal were to prevail and

the file not closed, WADA and other bodies would probably make suggestions on further investigation to be conducted.

PROFESSOR LJUNGOVIST congratulated Mr Niggli on the work conducted that had resulted in WADA being involved in the whole affair. Did Mr Niggli have any idea about the timeframe? Everybody had an uncomfortable feeling about this cloud hanging over the upcoming World Conference on Doping in Sport in Madrid.

MR NIGGLI replied that he had no idea about the timeline for the judicial process in Spain. He did not know when the appeal would be dealt with by the court in Madrid; WADA had received no indication on that, and WADA's lawyers had been unable to say when this would be dealt with. In November, there might be a resolution and a decision as to whether the enquiry would continue or not, or it might be that the matter remained pending. As far as WADA was concerned, it would go through the file as quickly as it could. It was a matter of photocopying 6,000 pages and getting people to read through them. WADA would proceed with the UCI on that basis as quickly as possible, but the judicial aspect was unknown to WADA.

MR MIKKELSEN emphasised that it was important that cooperation with the UCI be as close as possible. WADA and the UCI were close partners. He thought that the UCI thought that Puerto and the doctor involved in the case had also had dealings with other sportsmen, and WADA was interested in investigating how many people had been involved in this case and whether other sports had been involved. WADA should also help economically from the UCI's point of view.

MR REEDIE said that, on financial cooperation, he had authorised Mr Niggli to be in touch with the UCI and, if WADA had to make a contribution to costs to find out the details, it would make that.

THE DIRECTOR GENERAL noted that he had spoken to President McQuaid over the past two weeks about that very issue. The UCI had already joined up with the pro tour and the Tour de France in terms of committing resources to have a translator and a lawyer in Spain. WADA already had its own lawyers in Spain and did not want a conflict between lawyers in that respect. He had asked President McQuaid to let WADA know if there was any way that the UCI saw that WADA could help it financially or in terms of other resources. The ball was in President McQuaid's court.

MR KASPER referred to the cloud hanging over WADA in Madrid. The IFs were used to blackmailing governments by saying that they could not hold major events in a country that had not signed the UNESCO Convention; on the other hand, WADA was going to hold its largest event in a country that did not stick to the WADA Code and rules. He was sorry to mention this, but he thought that this should at least be discussed by the Executive Committee.

THE CHAIRMAN replied that it was clear that the Spanish Government knew that, if this had not been resolved by the time of the World Conference on Doping in Sport in Madrid, there would be a cloud hanging over it and other initiatives that Spain might wish to be pursuing in sport, so it was in Spain's interest to accelerate this as quickly as possible. The division of powers existed as well, and the courts were quite prepared to take their own time, which was why WADA had to find a way of getting the court to agree that the sport authorities could use at least some of the information for disciplinary purposes rather than waiting until the end of the court proceedings. WADA could probably get the cooperation of the UCI, the professional cycling association and almost certainly the Spanish Government in that respect.

THE DIRECTOR GENERAL pointed out that Spain had ratified the UNESCO Convention.

THE CHAIRMAN noted that it was not as if Spain were not compliant. Spain's hands were tied to some degree. WADA should also recognise that, as a piece of investigation and work, it was very good and had the potential to break open and demonstrate some of the difficulties everybody faced in sport. It was good news that WADA was into the

case; one of the great worries had been that the documents might disappear, especially if the case were shelved.

#### DECISION

Operation Puerto update noted.

### **6.3 FIFA Rules Update**

MR NIGGLI said that he had little to add to the written report. As members would recall, the issue discussed previously had been that FIFA, in order to be fully compliant, had had to change its rules so as to appeal decisions from NFs. WADA had asked FIFA to confirm that it was progressing in this matter, and had received a letter from FIFA indicating that this would be done at its next congress, to take place in two weeks' time, and that the amendment would be made. He had not seen any draft, so could rely only on information from FIFA that this would be done at the next congress.

THE CHAIRMAN said that the impression was that FIFA recognised the problem and wanted to solve it.

MR BOUCHARD said that Canada was proud to host the men's Under 20 World Cup and invited everybody to attend that summer, and was confident that the doping control service would be in complete compliance with the Code.

#### DECISION

FIFA rules update noted.

### **6.4 Investigations Symposium Update**

THE DIRECTOR GENERAL repeated the presentation he had made at the previous meeting. It was being described as the new paradigm in anti-doping and WADA reflected back on the fight against doping and its traditional model and the way in which WADA had approached it with elements of testing, education and research. WADA knew that that was not sufficient on the way forward because of the various influences of which WADA was aware; not only did these include trainers and coaches, but they also included peers, medical practitioners, lawyers, administrators and sponsors. In addition to that, there were other influences of what was going on in society, which was the underground manufacture and counterfeiting of banned substances, the production of veterinary products, which many athletes were now using to get an edge, and the use of the Internet, which was frightening, and he really had to emphasise this. Those members who had wanted to look on the Internet to see whether it would be possible to purchase hGH or steroid would know that it was very easy, and there were very significant and complicated ways and means employed by suppliers to avoid detection. Then there was trafficking and the introduction of what was considered as organised crime because, in many countries, this was legal, so there was no risk on behalf of any organised syndicate.

The way forward involved reflection on the big breakthroughs in anti-doping over the past years. Some of these had been seen before, but there was a new one on the slide, the Signature Pharmacy 2007, which was another bust in the USA carried out by the DEA (Drug Enforcement Agency). It had involved a number of pharmacies and a number of potential athletes. There was an additional one that had just been broken through BALCO; a second enquiry had led to a guilty plea by the supplier in the federal court, subject to a plea agreement in which this individual, who had worked for one of the major baseball teams, had agreed to supply all his information to the enquiry team headed by Senator Mitchell. Dozens of names of major league baseball players were involved in this enquiry. Even in the weeks leading up to the Executive Committee meeting, there had been further progress in terms of these breakthroughs, and others were ongoing.

He had told the members about the Colorado Springs Symposium held in 2006 in November; there had been further follow-up to this in London in April, sponsored by UK Sport, attended by almost all the people who had gone to Colorado Springs, so WADA was trying to keep together a group of experts, some management, some legal, to look towards the future with some degree of expertise. There had been presentations in London by the Council of Europe, the Government of Finland, UK Sport and the US DEA. At the end of this symposium, a working group, which he would lead, had been formed, comprising Hugh Roberts, the former counsel for the IAAF, Jonathan Taylor, a lawyer associated with UK Sport and the International Tennis Federation, Stan Froissard from the Council of Europe, and a representative from the DEA, about whom he was waiting to be informed. The objective was for the group to look at providing models of best practice to advance investigations and the sharing of information. This would not be confined to governmental agencies alone; it had to include IFs and international organisations, because international organisations such as the IOC were responsible for gathering evidence in relation to non-analytical cases, as had been pointed out earlier that day. WADA was looking at models from this group. The intention was for it to report back to the group as a whole with the idea of presenting something to the Executive Committee in September.

Interpol could be engaged only if countries were engaged with Interpol. It could be engaged only if laws were in place and if there were sufficient penalties involved to have the enforcement agencies prioritise the activity. There was no point having a law where, as a result of a penalty, one received a slap across the wrist with a wet bus ticket. There had to be sufficient penalty to warrant the intervention of the agency. He did not want to over-emphasise that, but it was most important that countries understand it.

The way forward was what he had described earlier. WADA still looked at the normal method of sample collection, with more intelligent testing, longitudinal follow-up, research and forensic science. The investigations would form a very important part as WADA went forward. They would come chiefly through governments, but also through NADOs. WADA knew that the way forward was through fostering appropriate relationships. He was currently engaged in several enquiries on a very confidential basis, in which WADA was sharing information with agencies involved in conducting global investigations. He would provide the model of best practice to the Executive Committee members in November, at least in draft form. This would include not only models for IFs and NADOs, but also suggested regulations or laws for governments. Obviously, it was necessary to coordinate, as the necessary sharing of information in a timely fashion was essential. He thought that this was a very significant venture, and that it required priority. It would be given priority now that the Executive Committee members had approved the Strategic Plan, and he would report back in September.

THE CHAIRMAN asked if the members wished to make any comments.

MR REEDIE asked whether it was the view that, if a proper system and investigations were to be set up, these would be helped by the existence of legislation in the countries concerned. Was that something that the Director General thought it would be easy to convince the public authorities to do on a worldwide basis?

THE DIRECTOR GENERAL replied that the short answer was yes, but the long answer was that the countries needed to consider this in terms of the fight against doping under the UNESCO Convention, where there was an obligation to address the issue of trafficking and distribution. That was somewhat different from anti-doping offences committed by an athlete and returning a positive sample. The enforcement agencies were not interested in the end-user or the person who committed an anti-doping offence at a sporting event, but they were interested in the Mr and Mrs Bigs of the world involved in major trafficking. In doing that, their relationship with WADA was such that they would pass on the information that WADA needed for sport to provide sanctions, but they would go after the Mr and Mrs Bigs in the appropriate court systems. This was where there had to be guidelines, and where WADA had to respect the national legislation of the countries that provided the funding for the enforcement agencies, and this was where

WADA had to develop these relationships, most of which would be built on trust, most of which could be looked at from the US experience and BALCO in particular, and he congratulated the USA as there had been a considerable amount of cooperation with a number of authorities in the USA, and WADA could see that progressing and engaging other enforcement agencies in other countries, provided there was a law in place.

MR REEDIE said that he had been talking about the more serious issues as far as legislation was concerned. He assumed that all the operations conducted in the USA had been based on legislation allowing the authorities to conduct them.

MR BURNS pointed out that the job in the past had been to determine who was bringing in drugs to the USA, to find these people, put them in jail, take their money and dismantle their organisation. Now that there were links to BALCO and other cases in the USA, there was a great deal of interest in saying that not only should these people be locked up and their money taken away, but also, if this was helpful to the sporting movement, relationships were now being established and now there was a relationship, which was leading to new things and new ways of cooperation.

THE CHAIRMAN said that, generally speaking, the more developed the country, the more developed the machinery to allow these kinds of things to happen under existing legislation. There were some countries that were thinking of adopting specific sport laws, similar to those in Italy and France, for example, but in most cases one did not actually need such laws in order to do the investigations. The legislative machinery was already there.

## DECISION

Investigations Symposium update noted.

### **7. World Anti-Doping Code**

#### **7.1 Code Review Update**

MR ANDERSEN gave the members an update as to the current situation, and would also ask for direction and opinion on specific issues that had arisen based on input from stakeholders, meetings with stakeholders and discussions in various groups. He would take them through some of the feedback received from stakeholders and Mr Niggli would go over some of the issues upon which feedback would be required.

The current phase was phase two, 2007, and the job now was to update the members on certain issues and seek clarification from them. He hoped to post the next version of the Code, version 2.0, on 1 June, and then give stakeholders two months to provide feedback on the latest version, which should be posted on the website in mid-October, well in time for the World Conference on Doping in Sport in Madrid in November.

Some 80 submissions had been received from a range of stakeholders, as could be seen on the slide, divided between governmental organisations and various sports bodies. The general feedback from stakeholders had been complimentary in terms of the process itself and, as had been said many times, the process was probably as important as the content itself, as it involved all the stakeholders. Positive feedback had been received on the issue of flexibility in sanctions, and there had also been feedback that more organisation and coordination was needed in several areas, such as provisional suspension, whereabouts information and missed tests. The new IST (International Standard for Testing) had been sent out for consultation and he would get back to the members in September to provide them with more information on that.

As to TUEs, there had also been substantial feedback on the need for harmonisation. Obviously, the List criteria and some input on the weight for the performance enhancing criteria had been important feedback from stakeholders, as well as reasons for the inclusion and exclusion of substances on the List.

There had been feedback on data protection and the definition of athletes. Some ADOs were also conducting tests on non-elite athletes, and some people had felt that it was important to clarify this in the athlete definition.

WADA had received feedback from governments on Article 22, which was on the involvement of governments, and the general feedback had been that the governments showed their commitment through the UNESCO Convention.

There had also been feedback on the strengthening of the confidentiality requirements for ADOs and laboratories, and this had been included, and there had been quite a bit of input and requests for minor changes regarding language, legal issues and clarification.

The paper in the members' files showed that there had been numerous meetings. The group had tried to gain opinions on the Code by attending all sorts of different meetings, be these educational, governmental or other types of meetings, to spread the message that the Code was out for consultation. Stakeholder feedback had also been requested.

MR NIGGLI began with what was probably a side issue. He would give the presentation in two parts.

In relation to team sports, there had been a meeting in Zurich organised by FIFA with most of the team sports present, and a full Code review had been carried out, and WADA had clearly asked team sports to come forward with some concrete proposals regarding whereabouts and missed tests and the consequences to the team if a number of people in the team tested positive. The team sports had replied that WADA would receive feedback on the first issue by the end of May and on the second issue by mid-June. The previous week, WADA had received a letter from FIFA, which, he supposed, was not on behalf of the team sports, indicating that FIFA thought that its rules might be a good model for dealing with the second question. The FIFA rules of which WADA was aware stipulated that, if more than one player tested positive, there could be consequences for the team. He thought that it was important that the Executive Committee have a stand on that. It was his understanding from previous discussions, especially in light of other sports, such as rowing, which was always used as an example, that WADA did not want a "may" in relation to consequences for the team; WADA would want some rules that would have consequences if something occurred. A "may" that did not end up having any consequences might be somewhat lenient. He still hoped to get a common position from team sports, or at least some kind of proposal. It had been made clear that, if no proposal or position were received, the Code Project Team would make some proposals in the draft of the Code. The ball was therefore in their field.

Moving on to the next issue, he went over the main proposed changes from version 1.0 to version 2.0 of the Code. There had obviously been great confusion as to the meaning of Article 2.1.2 on B sample testing. The article would say that if the athlete wanted to have the B sample tested, he or she could and, if the ADO wanted to have the B sample tested, it could, even if the athlete did not request it. If neither the athlete nor the ADO wanted to have the B sample tested, the A sample alone could be relied upon.

He had mentioned previously that some wording had been changed regarding the departure from the International Laboratory Standard, especially in light of the Landaluce case. It would now be clear that only those deviations that might have caused the AAF would be a matter for invalidating a result.

As to the reason for a substance to be on the List, the point had been raised by some stakeholders as to whether or not the List should be published with a full explanation as to why substances were and were not on the List. This issue had been addressed at the meeting of the Legal Committee, and the strong view of the Legal Committee was that this should not be done. The Code clearly indicated that what was on the List was on the List and that this was not a matter to be challenged. It was felt that, if WADA started to give more explanations regarding the scientific reasons behind substances being included

on the List, there would always be experts trying to challenge that view, so the proposal for more explanation was clearly being rejected.

In relation to whereabouts and missed tests, the standard was out for consultation until the end of May. The main principles had been put in the Code, which were that there would be an infraction if there were three missed tests or a combination of a missed test and whereabouts failure within 18 months. That was the basic principle. All the details were in the standard.

THE CHAIRMAN asked if a refusal counted as a missed test.

MR NIGGLI replied that a refusal was a separate infraction.

There had been a question about no significant fault or negligence. As to whether this provision applied to all anti-doping infractions or a limited number of them, in the current version of the Code, it applied only to certain infractions and mainly to the presence of the substance. In the revised version, it would be made clear that this applied to any doping infraction. There would always be a possibility to bring a case for no significant fault, whatever was being pursued.

With regard to aggravating circumstances, what had been in the first draft, the possibility of going up to four years, had been maintained, but one violation that would bring it to four years had been added. This was the violation of a provisional suspension. It had been realised that there was no sanction for somebody competing whilst provisionally suspended, and it had been felt that this would be a good way to address it, so, if an athlete did that, by the time the athlete got to the hearing, he or she would risk a much stronger penalty.

The rule in the first draft about the violation of the prohibition to participate during ineligibility stipulated that the ban started all over again. There had been a number of comments saying that this might be too harsh if somebody violated it two days before the end of the ban or by mistake. This had been addressed so that the no significant fault concept would apply to every doping infraction, meaning that, if somebody violated the ban, that person might have a case to reduce the new ban and not start all over again. That would give a little bit of flexibility there, as the rule appeared to be slightly too rigid.

A clear statement had been added in that, for a situation in which no decision was taken, one would want to have a right of appeal, so at some point one would give notice to the ADO dealing with the matter that no resolution within a certain deadline would be taken as a decision that no doping offence had occurred and it could be brought to the CAS. The aim had been to close a loophole, as the Code had not been too clear in that respect.

As to out-of-competition testing, there had been a discussion the previous time regarding the fact that there was currently a definition that the IF defined the in- and out-of-competition period but, when testing was in-competition, only the IF could test. There were some situations in which athletes arrived at the hotel for the event a week prior to the start of the tournament, and nobody was testing them during that week, so they were free to do whatever they wanted during that week prior to the start of testing. This had been deemed inappropriate, so the rule had been changed in the first draft to say that out-of-competition testing could be done until 12 hours before and after the start of the event. This had led to a subsequent problem, which was that, for some events, especially team sport events, the first team started on the Monday but the other team did not start until the Friday. The other team would therefore have a week during which it would not be tested. The dilemma was that, on the one hand, one wanted to ensure harmonisation, but on the other hand, one wanted to make sure that proper testing occurred. This had been addressed by stating that, once the event started, or once this twelve-hour period was under way, if some teams were not yet in competition, out-of-competition testing by some other body was possible but it had to be coordinated by WADA, which would liaise with the organisation in charge of the event. The aim was

to harmonise but avoid having a period during which it was too easy to get away with doing what one wished.

Finally, he wished to talk about athlete definition. The definition of athletes had been expanded to take into account the concern expressed by a number of stakeholders that, for certain categories, such as junior or masters, it was difficult to apply all the principles of the Code, including TUEs, etc., so the Code would now really address that point, stating that ADOs could define, on a national basis, that for masters, for example, they would apply the principles of the Code, but could accommodate another TUE process and whereabouts to deal with the millions of people that this might concern.

PROFESSOR LJUNGOVIST strongly supported what was being suggested, namely that WADA should not invite people to argue about why substances were placed on the List, as it would result in endless and not very fruitful discussions. The present definition meant that things could be put on the List for two out of the three reasons, which meant that they might not necessarily be performance-enhancing substances, provided that they were against the spirit of sport and could be harmful. He had said so many times that, if one took something that one did not need, it would result only in the negative effects, because no positive effects could be expected. Any drug taken for medical reasons did have side effects and, if one had no medical indication for taking the drug, one would experience only the side effects. So anything could be harmful, and therefore anything could be placed on the List, because it was against the spirit of sport to take a drug without needing it. This was where the List Committee had a problem, and it was necessary to exercise some common sense. The performance enhancing aspect was a number one issue, despite the way in which it was phrased. He knew that there were many stakeholders out there who wanted the potential of performance enhancing to be compulsory, as one of the three components; in other words, performance enhancing plus one of the other two criteria. If one went out into the sports world one would find that a majority would probably welcome change, meaning that performance enhancing or performance enhancing potential plus one of the other two would be appropriate. Probably it was politically wiser to keep the definition as it was. He believed that the decision was right: no discussion with regard to why substances were on the List should be invited.

As to the issue of aggravated circumstances, the Athlete Commission had made it clear that it wished to have an increase to a four-year ban as a standard ban for a serious doping offence. He knew again that there was a wide notion out there; whether that had been reflected in the answers from the stakeholders he did not know, but he thought that everybody knew: whatever the athlete commission, the athletes asked for stricter penalties and a four-year sanction. That was why he believed that the door had been opened to make it possible in aggravated circumstances to expand the penalty to four years. When lawyers and friends of his had looked at this, they had felt that it would be very difficult to impose the four-year ban based on the way in which version one of the Code was phrased. The criteria for expanding from two to four years should not be too restrictive. The aggravating circumstances should be made use of more easily than seemed to have been the case in version one of the Code. He had mentioned recent research into anabolic steroids, whereby one benefited way beyond two years from the steroid regime that may have taken place over a period of time. He hoped that the team would accommodate the possibility of giving obvious steroid users more than a two-year ban.

MR LARFAOUI referred to the B sample issue. He thought that the B sample should be carried out by a laboratory other than that which carried out the A sample analysis. He believed that B sample results never differed to the A sample results. Should the B sample be examined by the same laboratory and the result differ to the A sample result, this could mean that the laboratory had made a mistake during the A sample analysis; therefore, what measures should be carried out in relation to the laboratory? Should the B sample be tested by the same laboratory? Missed tests had been discussed, but what

about refusal on the part of the athletes to be tested? A total of 19 IFs had responded to the questions; had this number changed since March?

MS ELWANI thought that the athletes had wanted four years to start with and then wanted to help those who assisted WADA in its investigations by enabling them a reduced sanction. The athletes had wanted to go from four to two years if possible, and not two to four years. The reason was that athletes did not want those concerned to compete in the next Olympic Games. A two-year sanction meant that banned athletes could continue to train and could attend the next edition of the Olympic Games with an edge.

MR KASPER had a general question concerning procedure. Who decided if a proposal should be taken into consideration or not? What made it a major proposal? He noted that there had been several comments from people and many proposals, but nobody appeared to have taken any notice of them.

MR NIGGLI replied to Professor Ljungqvist that there was a problem regarding the issue of performance enhancing because, if one had to demonstrate performance enhancement, for example for designer drugs, one would not be able to do it for years, or maybe never, depending on the studies that had been done and so on, so he was very reluctant to have that as a mandatory criterion, as he thought that WADA would lose a lot of cases by not being able to demonstrate any performance enhancing effects, especially for new drugs that suddenly appeared on the market and had never been tested in clinical trials, etc. He thought that the three criteria should be maintained as they were, and that there was some consensus on that point.

As to aggravated circumstances, the team was working on changing the wording so that the second condition, which was somewhat restrictive, would be a list of examples, leaving it open to the reason for justification.

To Mr Larfaoui, he said that the testing of the B sample in another laboratory had been done previously; the system had been changed to enable the same laboratory to perform both the A and B sample tests. From a legal point of view, the danger of performing the B sample analysis in a different laboratory was that the references would be different, so there would be differences in results between an A and a B. The fewer the differences between an A and a B sample, the fewer the questions to be answered. The idea was that the technician performing the sample analysis would be different, so that, if a routine error had occurred, it would not occur twice, but changing laboratories would not occur.

To Ms Elwani, he noted that two years had been the consensus, and WADA had had that approved by the courts. WADA was now trying to have aggravated circumstances and some people had raised doubts as to whether a civil court would uphold a four-year ban. He thought that WADA was moving in the right direction, and it might be possible to achieve that goal in the future, but it would be premature to have the four-year sanction as standard at present. The idea was that WADA would maintain the two-year sanction with the possibility to go up.

To Mr Kasper, he pointed out that the Code Project Team analysed all the proposals received, and tried to make proposals based on what was received and reflect that in the appropriate wording, but the Executive Committee was asked to make decisions on going in one direction or the other when there was no consensus, and this was what was happening at the moment.

MS ELWANI said that she understood that four years all of a sudden would not be possible, but WADA should not make the four-year ban so hard to achieve that nobody ever received it.

PROFESSOR LJUNGOVIST echoed what Ms Elwani had said. WADA should make sure that the four years' aggravated circumstances provision could and would be used in cases involving clear-cut cheats who had committed serious doping offences. With respect to the List, he would welcome help from the lawyers. He was not saying that the

performance enhancement should be scientifically proven before being accepted as a compulsory component; simply, the potential of the drug to be considered to be potentially performance enhancing should be an obligatory criterion, together with one of the other two criteria, because what was on the List was legally binding, not how or why it had come to be on the List. When he had spoken to Mr Young about this point, Mr Young had said that WADA need not argue whether or not substances were performance enhancing or considered to be performance enhancing; it was WADA's business to use the criterion as one of those for placing substances on the List but, once on the List, that was the legally binding document. He got different opinions from legal people, not only in WADA, but when he talked to other people as well. How did WADA really need to prove that a substance was performance enhancing in order to put it on the List? He knew of only two drugs that had been shown scientifically to be performance enhancing: steroids and amphetamines. He was sure that EPO was, but there was no scientific evidence. If WADA thought that the substances were potentially performance enhancing, based on scientific experience, the chemical structure, similarity with other substances, for example, then they could be put on the List, which was the binding document. He felt that the potential of performance enhancing should not be open to legal challenge. It was WADA's view that counted when it came to having a substance on the List. Could this be clarified from a legal point of view?

MR MALLARD added to that by saying that the phrase "in the view of the committee" could also be considered. Having said that, and he had no doubt that the following day, and possibly later in the year, some stronger comments would be made, there was an old saying in New Zealand about slow horses, fast women and lost causes, and he thought that this might well apply here, so he would not push at it at this point in time. He did have a procedural question, however, which regarded the revised draft to be tabled at the meeting. He did not appear to have a copy of that in his folder, and it was quite hard to say yes to things that were supposedly non-controversial when one could not read them.

MR NIGGLI said that the draft was in process, and was being worked on. The Executive Committee would have an opportunity to comment on it before publication. The group had worked on an initial draft, but it was still a work in process. Mr Young, the main writer of the Code, was slightly busy with the Landis case. WADA had to cope with reality.

MR MALLARD stated that he found this quite unsatisfactory, as the Executive Committee members were being asked to put their names to something, and were being asked to approve things. He did not want the whole draft, but he would at least like the wording of the changes the Executive Committee members were being asked to approve.

THE CHAIRMAN pointed out that the Executive Committee members were not actually being asked to approve wording; they were being asked whether the directions in which the Code Project Team was going were the right or wrong directions. The wordsmithing would come later. He was confronted with people every day about the Code and doping matters. There was quite a broad perception out there that the flexibility about which the members were talking was a weakening of WADA's commitment. It was not perceived favourably other than by sports organisations that wanted to impose lower penalties. WADA had a bit of a communications issue to deal with there. The research showing that there was a four-year benefit from steroids needed to be vulgarised somewhat and out in the public, as it was something that people could understand, and therefore they would understand the four-year ban. When WADA had worked on the Code back in 2003, it had done a lot of research, as members were aware. The feeling had been that the world had been ready for two years at that time, but not more. So this would really help. If WADA got the aggravated circumstances and applied that, there would certainly be an appeal. If the CAS would uphold it, that would be good; if somebody went to a state court and the state court upheld it, that was a sign WADA might be able to get a new base and move forward but, until WADA convinced people that that was the right thing to do, he was not sure that it would be possible to go straight to

four years, other than for really bad cheats. One of the legal questions members might ask themselves was the following: why did they put in the Code what the criteria were in the first place? If WADA simply said that something on the List was non-appealable, did WADA have to say what the three criteria were? If it were possible to obtain some strong legal advice about that, he could see WADA having a policy as to how the List Committee would work. He posed that as a question, not as a considered opinion.

Those were the easy ones. He asked Mr Niggli to continue.

MR NIGGLI added to what the Chairman had just said. If WADA agreed that what was on the List was on the List and would not be challenged, which should be the case, for everything that was a related substance, WADA would never get it, because the name would not be on the List, and WADA would not be able to prove that it was performance enhancing. The Calle Williams case was an example. It became very tricky once one got into that grey area of related substances. The List Committee could basically make its decision on any criterion it wished but, as soon as one of them was made mandatory, this opened the door to having to prove that the mandatory criterion had been fulfilled and began a great deal of discussion in court.

THE DIRECTOR GENERAL informed the members that WADA had run a communications programme on the issue of flexibility and strict liability, and there was a series of questions and answers on the WADA website. WADA looked at these things pretty regularly so that there were answers in advance of issues arising.

MR NIGGLI specified that nothing had been drafted for those issues, as the team wanted some instruction from the Executive Committee.

The first issue in the next section concerned the timing of analyses between the A and the B samples. Many stakeholders felt that the time between the A and the B samples was way too long. There had been some examples whereby substances had disappeared in the B sample if the time between the two was too long. It was felt that there should be a mandatory rule saying that the B sample needed to be tested within whatever time the Executive Committee members felt appropriate and, if the athlete was not available, he or she could send a representative and, if he or she did not do so, the laboratories would appoint an independent expert to witness the opening. It was thought that that would also take away the issue of whether a mandatory provisional suspension should be after the A or the B sample, because the time between the two would be short. He wondered whether the Executive Committee members would be comfortable with such a rule making it mandatory to test the B sample within a certain period of time unless, of course, everybody was in agreement that there should be no B sample testing.

PROFESSOR LJUNGOVIST supported this in the sense that it would be operational in the ideal world, and would take away the issue of provisional suspension, to some extent at least, and the issue of substance stability in samples, etc., but what did the laboratory people say about this? It was their job. Could they cope with it? The experience was not very encouraging in his view. Had they commented on this possibility at all? Had this been discussed with the accredited laboratories?

MR NIGGLI replied that he had discussed the issue with Dr Rabin and some other people, who thought that this would be doable for the laboratories. He thought that it was a matter of deciding on the policy, and the laboratory would have to adapt; so, if the members felt it was in the interest of the fight against doping, that was something that should be put forward.

THE CHAIRMAN knew that, in 99 cases out of 100, the B sample was eventually requested. If there was a positive A sample test, the B sample should be tested, and WADA knew that there were forms of manipulation that caused urine to degrade faster than it would otherwise do; so, whether it was 48 hours or 72 hours or a week, in the interest of all of this, it would be advisable to get it done right away. WADA was seeing adverse analytical results in only 2% of cases, which was not that many.

PROFESSOR LJUNGOVIST said that there was one question: what was meant by the seven, ten or more days? Was this after the decision to analyse the B sample, or after the A sample?

THE CHAIRMAN replied that this was after the A sample.

PROFESSOR LJUNGOVIST asked whether, if it took a week for the athlete to decide whether or not he or she wished to have the test done, there would be only one week left for the laboratory to adapt to this decision.

MR NIGGLI replied that, supposing the period were set at 10 days, the laboratory would have to plan on 10 days and be ready to do the analysis on the tenth day. In the meantime, if the athlete said that he or she did not want the test to be done, and the ADO did not wish the test to be carried out either, WADA could tell the laboratory not to perform the test. Otherwise, the laboratory would have to plan and perform the analysis 10 days after.

PROFESSOR LJUNGOVIST pointed out that it was somewhat complicated for the laboratory to organise a B analysis and, if that resulted in no B analysis being conducted, the laboratory would have made arrangements for something to be done that was not going to be done. This was something for the laboratories to comment on.

THE CHAIRMAN said that, if there were any practical problems, these would be identified by the laboratories.

MR NIGGLI asked if there were any views on the number of days.

THE CHAIRMAN suggested a week.

PROFESSOR LJUNGOVIST thought that a week was too short.

THE CHAIRMAN reminded the members about sample degradation, which was a concern.

PROFESSOR LJUNGOVIST replied that degradation was not the big problem; it was a matter of logistics. He thought that the laboratories should respond to this question. Obviously, the shorter the period the better.

THE CHAIRMAN suggested trying seven days and seeing how the laboratories responded.

Coming from a sport that had its main activities during Christmas and the New Year, MR KASPER said that he knew the laboratories: they closed for a week during this time, and there was nothing one could do. He suggested a period of ten days.

As far as THE CHAIRMAN could tell, there was nobody in Europe from 15 June to 15 September either. He suggested trying a period of seven days and seeing how the laboratories responded.

MR NIGGLI thought that, in relation to the question of ATUEs, everybody agreed on the aim, which was to reduce the administrative burden. That was the purpose that everybody was trying to achieve. There had been two proposals, one from the TUE Committee, which was to change the situation, so that the athletes would have to notify in advance that they were taking a substance, but the document would no longer be a document signed by a doctor; the athletes themselves would declare that they were taking the substance. The ADO would have to maintain the database and, in the event of an adverse result, there would be a full review of the medical file and a decision as to whether or not it was justified. The Code Project Team had suggested that the athletes declare the substance on the DCF and, upon an adverse result there would be an investigation of the entire medical file to decide, but there would also be the possibility for the athletes to ask in advance for ATUEs, because it was important for athletes who wanted to be certain that their ATUEs had been accepted. The difference between the two was that, in the first case, the ADO had to maintain a database of all the ATUEs and, in the second case, unless the athletes had asked in advance, there would be action only

once there was an adverse result, meaning that one would never hear about all those athletes who were never tested. A third way had come up very recently, which would be to maintain the current system, as it might be possible to technically reduce the administrative burden with an easy-to-use system, but this was still something that had to be investigated further. He asked what the Executive Committee would prefer in terms of a declaration on the DCF or maintaining a database of declarations.

MR LARFAOUI asked whether it might not be a good idea to review the TUE system. He had noticed that, over the past few years, the number of TUEs granted was increasing year after year and he wished to know the annual increase in TUEs. Perhaps the Executive Committee should think about a reform, although he did not favour the TUE procedure personally.

PROFESSOR LJUNGOVIST said that he preferred the last two bullet point options, but had a question relating to the retroactive ATUE. Was that really a necessary part of the proposal? A knowledgeable athlete should know and declare it on the form, and that was what the first sentence said. Why open the door to carelessness and manipulation?

MR NIGGLI said that the idea was to declare it on the form and then the ADO had a right to request the medical file and decide whether or not it was acceptable. The decision as to whether it was acceptable or not would be made.

PROFESSOR LJUNGOVIST said that he would go along with the last two bullet points.

THE CHAIRMAN noted that the only exposure there would be a manufactured medical file. That was the difficulty with that. He appreciated the administrative result. Maybe this would have to be tried. There was no question that the number of courageous asthmatics seemed to be increasing every day. WADA had met with the French APLD on Thursday, which had said that there was a tidal wave of these applications.

MR NIGGLI observed that the second proposal reduced the administrative burden, but meant that an overview of the situation was lost, as one did not receive notification every time; however, in both cases one faced the risk of falsifications, etc. It would be for the standard to clearly define the requirements. The aim would be to try to close the door as much as possible.

THE CHAIRMAN asked whether the idea was that the Executive Committee should leave the possibility of simply putting it on the form and getting a retroactive TUE, whilst the option of getting a formal TUE was still available.

MR NIGGLI said that it had been the strong feeling of the Legal Committee that WADA could not deprive the athletes of the possibility of knowing in advance whether the TUE would be accepted or not; those who took the risk of writing the substance on the DCF took the risk of a positive case. If athletes wanted to be certain, they had to have a possibility to ask and follow the process in advance.

THE CHAIRMAN understood that the members would be happy to try that.

MR NIGGLI said that the next item was a deletion of an article in the Code, to deal with any of the substances that could be produced androgenously and would require further investigation. The proposal was to change the system because an elevated T/E ratio was currently considered to be an adverse result, which triggered the entire resource management process and should, in theory, trigger the possibility to test the B sample and notification to the athlete, and so on. The proposal was to change that so that, once there was an elevated result, it would be reported by the laboratory as an abnormal result (if confirmation by IRMS were not possible), and not as an adverse result, to the anti-doping organisation in charge and WADA. The ADO in charge would do the further investigation and, once completed, would decide whether or not there was an adverse result. If the result were adverse, the normal result management process would begin. If the ADO decided that it had no adverse result, it would notify the IF and WADA as to the decision not to proceed further with the case. At that stage, WADA and the IF would have the possibility to appeal the decision not to proceed further, or the IF might

have an internal process enabling it to bring the case within its jurisdiction. If something happened and an appeal ensued, the athlete would be notified immediately. The advantages of the process were twofold: one was confidentiality, as only one organisation would know what was going on while the further investigation was being carried out, and that limited the number of people with access to the information. Once the decision to proceed further or not was taken, people would be notified and, if there were an appeal, the athlete would have to know what was going on. This would require changes to the List and the ISL and technical documents, and would result in the deletion of the relevant article in the Code. He guessed that that was probably a simplification of the process and would be interested to know whether or not people were comfortable with that approach.

PROFESSOR LJUNGOVIST thought that this was a clear improvement and clarified the various steps to an AAF much better. Anything before the AAF should be treated in the way that had been described and it was much better to call it "abnormal" as opposed to "adverse".

THE CHAIRMAN understood that the members were content with the proposal.

MR NIGGLI said that a number of comments had been received on the topic of marijuana. Based on the current situation, it was clear that marijuana would stay on the List and there was certainly no consensus to take it off. Was there a way of dealing with that in a different fashion to what was currently being done? Perhaps it might be possible to say that, before a first offence, there should be one chance or one strike that did not count as an offence; the second time would be considered a first positive and the third time would be considered a second positive. Perhaps there was another way. The Code Project Team had tried and discussed with many stakeholders as to how the matter could be dealt with, and everybody had very different views. Was it worth trying to do something else? There were different feelings as to whether it was appropriate or not.

MR BOUCHARD asked whether there would be cause to adopt special treatment for other substances if cause to adopt special treatment for marijuana were admitted. Were there any other substances that were similar to marijuana?

MR NIGGLI replied that marijuana was the only social drug for which there were strong feelings that it should not be on the List. There was nothing else on the List that triggered the same kinds of comments.

MR MIKKELSEN said that everybody knew that this question was political and very sensitive in some countries, so the best thing would be to keep it as it was.

MR REEDIE observed that, based on the argument made some paragraphs previously on a movement from two to four years, it was an indication that WADA might be moving in a certain direction. He thought that the introduction of the first strike, first positive and second positive concept would be interpreted as a movement towards the removal of marijuana from the List. If there were no consensus to do that, the sensible thing to do would be to leave it exactly as it was.

THE CHAIRMAN certainly agreed that marijuana should stay on the List. He sensed discomfort out there among the public that putting somebody who had smoked a joint out of competition for two years in the same way as somebody loaded to the gills with stanozolol did not seem right. On the other hand, it was necessary to do something.

MR BURNS thought that this depended on a number of factors. The UK was currently in the process of increasing penalties. The debate was back because of the higher potency and because of crimes associated to marijuana. He had just returned from a conference in Scotland. The UK ACPO (Association of Chief Police Officers) had devoted the whole three-day conference to cannabis and trying to determine the fact that it was not the drug it had been some years ago. He proposed a first and second strike for each time this was brought up at a meeting and, upon the third strike, something should happen!

THE DIRECTOR GENERAL clarified that cannabis was one of the specified substances, so the penalty for taking cannabis was not a two-year sanction; it fell under an inadvertent use category, in which there was a range of penalties from a warning to two years. Therefore, it was already in that category of being dealt with alongside the specified substances, which was perhaps the no change that people were suggesting.

MR NIGGLI pointed out that the difference between the two was that there would be a first offence in this case.

MR KASPER cited the example of ski jumping or snowboarding; if he were an athlete, he would probably not care about the first strike; so, the day before the Olympic Games he would smoke all he could. That was very dangerous, and he thought that cannabis use should be treated like any other infraction.

THE CHAIRMAN asked Mr Niggli to continue with the next point.

MR NIGGLI said that the next point concerned a debate as to whether or not WADA should give ADOs and the athletes the possibility to agree that they could go straight to the CAS instead of having a first instance and then an appeal to the CAS. The advantage and the reason proposed obviously related to cost. The disadvantage was that it deprived the athletes of two instances and, for WADA and IFs, for example in cases dealt with by national federations or NADOs, there was an obligation to jump into the case from the beginning; otherwise, there would be no other opportunity to do anything. In that sense, and from a WADA perspective, there would probably not be any cost reduction for WADA, and it would probably take WADA out of its monitoring role and cause it to intervene in a first instance; nevertheless, the proposal had been made and it was up for discussion. He understood that those who had proposed it were a little frustrated at having to defend the same case twice.

MR MALLARD said that it would probably be a slower process to a first result and, if WADA was worried about athletes who were competing until there was a decision, that would presumably extend that period in a number of sports. His understanding was that, normally, the first determination came more quickly than a CAS process would on its own.

THE CHAIRMAN noted that this was not necessarily the case in his part of the world and certainly not in the USA. Landis had not even gone to trial.

MR MALLARD objected that there would not be an agreement.

THE CHAIRMAN said that that concerned the national process; that was the traditional first instance. It was tougher for WADA and did not allow WADA to ensure that the right evidence was led. There could be a really shoddy prosecution where there was no real desire to have a sanctionable outcome, and WADA would then have to step in and do it later. He did not know what the answer was.

PROFESSOR LJUNGQVIST said that he had a gut feeling that this was not a good proposal, but he did not know why exactly. Was it not very unusual not to have an appeals mechanism? This meant only one deciding instance.

MR NIGGLI replied that it was somewhat unusual. It might not be a legal obstacle to do it once the athlete had agreed to it, but it was unusual and certainly there were disadvantages to doing it. It had been raised but he was not particularly in favour of it.

MR REEDIE had a slight feeling that if, in other areas of the fight against doping in sport, WADA was telling its stakeholders to be responsible for their own sport and then allowed a situation whereby it intervened in a legal case at the earliest opportunity, was WADA not saying to the stakeholders that this was a way of getting out of some of their responsibility? He did not think that WADA should do that, as he thought that WADA would end up with an enormous legal burden and would be dealing with lots of issues that sport should be dealing with alone.

THE CHAIRMAN understood that the sense of the Executive Committee was that WADA should not agree with the proposal.

MR NIGGLI informed the members that, in relation to the issue of substantial assistance, everybody had agreed that it was important to obtain information from the athletes, so WADA had built in a provision in the Code of possible reduction if the athletes cooperated. He was concerned about a certain scenario. If an athlete received a six-month ban for steroids and WADA disagreed with that and went to the CAS, following which the athlete received a two- or even four-year sanction, then went back to his country and, under the substantial assistance clause, got half of his penalty suspended the following day for whatever reason, WADA would end up going back to the CAS again to fight the decision. Did WADA want substantial assistance to be permitted only before sanctions were issued (implying that athletes had to cooperate beforehand in order to receive a partially suspended sanction), or should WADA allow for substantial assistance to take place once athletes had been sanctioned, with the risk of multiple appeals to the CAS on the same case, which might add to the cost? Of course, there was an interest in gaining information from athletes even after their sanctions, and sometimes they might realise that they had lost the case and be more willing to cooperate once they had received the four-year sanction. It was not easy to assess what was in the best interest of the system.

MR MALLARD took the point of view of a devious athlete who thought that he or she might win the case and would therefore be very unlikely at that stage to make an early call to give the evidence that would help in other cases. So what would the incentive be to confess early if one knew that one could get one's sentence reduced afterwards? Having said that, it might be that there were classes of substantial assistance, such as two years beforehand and one year afterwards. He did not know.

PROFESSOR LJUNGOVIST asked about the support for this concept among the stakeholders.

MR NIGGLI replied that WADA had not received many comments addressing this point. There might be an issue with the risk of numerous appeals to the CAS if this occurred. There had been great support in terms of substantial assistance and possible reduction for this. He did not think that the stakeholders had realised that there was a difference between providing substantial assistance before and after, and what the consequences might be.

THE CHAIRMAN agreed that it would be pretty hard to provide substantial assistance if one thought one had a good defence. Was there some way of drafting a rule that said that, if it were done afterwards, there could be a reduction but that reduction would require the consent of both the IF and WADA? Maybe that was a way of avoiding that issue. Realistically, there would not be too many people willing to cooperate before somebody told them that their defence did not stand up.

THE DIRECTOR GENERAL said that one of the comments made at the Athlete Committee meeting had been that WADA did not want to encourage athletes who were cheating to run around getting information on others so that, when they were found to be cheating, they had a whole dossier to put on the table and expected only a slap on the wrist. That was the sort of component to build in to the approach, so as to avoid encouraging cheats to build up these so-called dossiers to enable them to compete again quickly.

THE CHAIRMAN pointed out that WADA was trying to look at the greater good, which was to get doping out of sport, and WADA needed help to do that. Whatever evidence athletes might come forward with would have to be credible, which was why, if WADA did not agree that it constituted substantial assistance, athletes would not receive reduced sanctions.

THE DIRECTOR GENERAL stated that the view that he was expressing was not a view that was personally held; this was the view of some of the athletes, who did not want WADA to give too much credit to those who had cheated.

THE CHAIRMAN said that WADA was certainly not prepared to say that, even though an athlete was a cheat, he or she was not allowed to help. He suggested going along with the proposal and seeing what happened.

MR NIGGLI said that the issue of specified substances had been discussed with the List Committee. The idea in the revised version of the Code was to give the athlete the possibility to demonstrate, for certain substances, that he or she had had no intent to enhance performance and therefore might receive a reduced sanction. This proposal had been triggered by past cases; the vast majority of comments received were that one could not give a one-year sanction to somebody who was clearly not a cheat. The idea had been to try to find a way to open the door, but not too much. The proposal was that this would be possible for all substances except steroids, hormones, methods and amphetamines. In reality, the concept of specified substances in the revised version of the Code had nothing to do with the previous one; it was everything except for the substances mentioned. The List Committee was somehow reluctant, because the distinction was not scientific, and felt in particular that amphetamines were not a category and would therefore lead to difficult cases in which it was not clear what this would encompass. There had been discussion between Professor Ljungqvist and Mr Young, and one proposed compromise was to keep the system as proposed for steroids, hormones and methods, but amphetamines, which were not a category and were part of the stimulants category, would not be mentioned like that (there would be a sentence stating that, as far as stimulants were concerned, the List would define which stimulants gave the possibility to bring this defence of no intent to enhance performance and which stimulants were considered to be strong stimulants, therefore providing no possibility to bring such a defence).

Therefore, the proposal was to maintain the system as it was for steroids, hormones and methods; comments received after the initial draft had been favourable, and people thought that this was a good way of addressing greater flexibility without opening the door too much. Then, for stimulants, the List would define which stimulant went where. A provision had been added in the Code that, in the event of the appearance of a new substance category, the process would be for the Executive Committee, upon recommendation from the List Committee, to decide where this new category of substances would go. That was the picture, and he wondered if this would be acceptable.

PROFESSOR LJUNGOVIST said that Mr Niggli had given a correct summary and had expressed the concern correctly. The first three categories were identified, and they would not appear in the Code by name but in reference to category. He was concerned about the steady inflow and outflow of substances from the pharmaceutical industry, and WADA had to be able to update these matters every year. The List Committee would have to look into this. For the stimulants, there was this particular problem. Amphetamine was one of the strongest stimulants that existed, and one of the few that had been clearly demonstrated to be performance enhancing, but there were so many different forms of amphetamine, and the legal and scientific people would have to help each other out to keep the categories updated every year in the right fashion. He thought that a solution would be possible, although there was currently no final solution.

THE CHAIRMAN surmised that the message was that, if one was using steroids, methods or hormones, one should not try to talk to WADA about a reduced sanction. The same applied to certain stimulants, as WADA had always had trouble with stimulants. For those that were identified, no reduced sanction would be possible; as for the rest, if one wanted to make a case for diminished responsibility and penalty, one would be able to do so.

MR REEDIE said that this was music to his ears. Did Professor Ljungqvist have enough time to do this and get it right? It concerned List issues and Code issues, and WADA did not have much time.

PROFESSOR LJUNGOVIST replied that this was the intention.

DR RABIN stressed that it was absolutely vital to maintain the possibility for the Executive Committee to add classes of substances, as there were classes in the pipeline that had the potency of certain steroids, so it was vital to maintain this flexibility.

THE CHAIRMAN summarised that there had to be a Code provision to enable the Executive Committee to do this.

MR GENNIGES said that he would act as the devil's advocate in this case. WADA was trying to give an athlete the opportunity to defend him or herself, and that would affect the sanction issued. For the first three cases, the situation had been established but, for the last case, if the athlete managed to prove his or her innocence, and if one multiplied the number of substances that could change and the potential of the athlete to defend him or herself, would all athletes be treated equally or not? Perhaps this was purely theoretical.

MR NIGGLI replied that the situation remained the same with specified substances so that the athlete could prove that there had been no intent to enhance performance. It was necessary to understand that the athlete would not be treated better for those substances unless he or she could prove that there had been no intent to enhance performance. The issue was that it was necessary to draft the article in the Code in such a way that the evidence submitted must be sufficiently restrictive so as not to open the door too wide. There would be decisions not in line with this. WADA had appealed a number of decisions in which a panel had said that the athlete had not intended to enhance performance; WADA had won. This would be the only way to give those athletes who had not intended to enhance their performance the possibility of having a reduced sanction. The situation would be increasingly complex with the new system, but perhaps it would be fairer.

PROFESSOR LJUNGOVIST said that this discussion had taken place in the List Committee. The issue had related to the requests to differentiate between certain categories of substances with respect to intent and no intent, which was very difficult. The List Committee felt that the provision for the reduction of the penalty based on no fault and no significant fault was already there. It did not fully understand the reason for the introduction of something that appeared to be very simple.

MR NIGGLI stated that there was a major difference here. No intent to enhance performance did not mean that an athlete had not been silly and should not have been more careful. The no significant fault clause had been flawed, and this was where there was now a bit more flexibility.

PROFESSOR LJUNGOVIST thought that this was a very interesting discussion, because Mr Niggli was talking about no intent to enhance performance, but how did the athlete know whether a substance had been put on the List because it was performance enhancing, since that was not a compulsory requirement? It could be that it was considered to be against the spirit of sport and detrimental to health. Then there would be no basis for arguing no intent to enhance performance.

MR NIGGLI thought that there was no argument on the real effect of the substance. The substance might well be performance enhancing, but what was important was the intent of the athlete. If the athlete could demonstrate that he or she had taken the substance because he or she had been receiving medical treatment and that the intention had really not been to enhance performance, whether or not the substance had enhanced performance would not be the point; the athlete would lose his or her results and be disqualified, but he or she would get less than the recommended two years or one year, because the true intention of the athlete had not been to cheat.

THE CHAIRMAN thought that Professor Ljungqvist had a point, and maybe it should be expressed as having to prove that the athlete had had no intention to commit a doping infraction.

THE DIRECTOR GENERAL reminded the members that athletes could eat sweets thinking that they would enhance their performance. They did not have to be on the List at all. That fell into the category of proof, about which Mr Niggli had been talking. It was a separate burden of proof and was quite distinct from all the other elements. Legally it was sustaining, but he thought that there was a different perception, and WADA had to look at perception as well as reality.

MR BURNS said that his concern was that WADA was drafting a new legal code as opposed to trying to keep it simple. If WADA were to start getting into actus reus and mens rea, and now there were defences of diminished capacity or necessity, WADA might as well draft an entire criminal code setting forth determinate and indeterminate sentences, those things that would mitigate intent as opposed to just saying that this was the List and, if athletes wished to participate in these activities, they had to be bright enough to understand what substances were on the List and not take them or, if they felt compelled to take a particular substance, there were mechanisms in place whereby they could seek an exemption, but otherwise WADA would be trying cases non-stop. He thought that WADA was opening up something that would be really big and really expensive.

THE CHAIRMAN noted that it was there already to some degree. That was the specified substance rule as it existed. He did not get the sense that anybody wanted WADA to take that away. The disturbing thing, and Richard McLaren had written a paper on it, was that appeal panels had an observed tendency to "reward" an athlete who made this appeal by reducing the sentence. Very few panels looked the athlete right in the eye and said that there was no way or reason to reduce the two-year sanction.

What decision was needed?

MR NIGGLI said that he understood that the system as such was acceptable and the wording of the section on no intent to enhance performance should be looked at.

In relation to the final point, regarding the role and responsibility of IFs, an initial proposal had been that no bid should be accepted by an IF from countries that had not ratified the UNESCO Convention or NADOs that were not Code-compliant. Some IFs had insisted on the fact that this should not be included. Others had asked for clarification that this would concern only flagship events and not junior or senior world championships. Some IFs were opposed to that, and some were requesting that only flagship events be affected. The initial proposal had been for every world championships to be affected. The Executive Committee had to see which direction to take.

MR MIKKELSEN said that one was either pregnant or not. World championships, in his view, were world championships, whether these involved juniors or seniors. WADA needed to give a strong signal that it did not accept high-level competitions in countries that did not comply with the Code and had not ratified the UNESCO Convention. In his view, there was no compromise.

MR KASPER spoke on behalf of GAISF and not only his own IF. He did not think that the IFs liked to be reduced to blackmailing governments. He could not imagine that governments liked being blackmailed, but this was one way of doing it. The main problem for the IFs was that, if they did go through with that, it would stop the activities of many sports federations almost completely, as they were incapable of holding their world championships only in those countries that had signed the UNESCO Convention. The winter sport federations had to go to certain cold countries that had not yet signed. This would mean, for his sport, cancelling about 75% to 80% of major competitions. The IF would have to continue or stop its activities. He had discussed this with GAISF and the IOC Executive Board members, all of whom had unanimously approved. He knew

that there was no unanimous support among ASOIF members, but those IFs he had spoken to fully supported this proposal.

MR REEDIE said that there had been quite a lot of debate on this issue at the ASOIF meeting in Beijing. The IFs did not operate on their own in this particular area, as there were other restrictions placed on IFs by other bodies, and there was a very complex set of rules that affected IFs depending on which city or country was bidding to host an edition of the Olympic Games. He had some considerable sympathy with the plight of IFs when they looked around the various organisations of which they were members and said that they could not go to certain places for certain reasons. WADA would need to speak in detail, particularly to the summer IFs, as these were the only ones he knew about, although he had to say that he agreed logically that, if there were difficulties in summer IFs, they must be multiplied any number of times for the winter IFs. He suspected that WADA would have to find some compromise that said, for a certain period, it would be grateful to the IOC for obliging cities bidding to host an edition of the Olympic Games to have ratified the Code. For the next few years, WADA should ask the IFs to say that they would hold their world championships in a country but suggest very strongly that such country ratify the Code and then, by a future date, state that the Code had to be ratified, thus producing a timetable that allowed governments to meet their obligations and IFs a certain degree of freedom, as WADA was not operating on its own as far as ratification of the UNESCO Convention was concerned.

MR MIKKELSEN explained that this was not the reason; the reasons were that stakeholders had to have ratified the UNESCO Convention and be Code-compliant. All the other reasons spoken about by Mr Reddie had nothing to do with WADA. The Executive Committee was discussing the fact that WADA had to send a signal and give countries incentives to ratify the UNESCO Convention because, if WADA allowed the IFs to have world championships in these countries, they would not sign the Convention. The incentive to ratify the UNESCO Convention was very marginal. If WADA were to put pressure on important events, the countries would have great incentives to ratify the Convention. He understood the practical problems, but it was necessary to make sure that countries had ratified the UNESCO Convention, and this was one of the things that could convince them to ratify.

MR BOUCHARD said that, if this condition existed, countries would have an incentive to ratify the Convention; however, the approval mechanisms for the Convention differed from one country to another, and some countries took longer than others because of the governmental structure. Would it be possible to establish a timeframe for ratification? Could WADA not stipulate that, as of such and such a date, the Convention had to be ratified?

MR KASPER asked Mr Mikkelsen if he honestly believed that the government of a big country would sign the UNESCO Convention just because the Luge Federation wanted to hold its world championships in that country. He did not think that these sports were so important that governments would change their procedures. He did not believe, for example, that the Swiss Government would change its parliamentary procedures just because of a ski race.

THE CHAIRMAN said that these things were given out two, three, four or five years in advance. WADA could certainly stipulate that everything granted to date would be excluded but that, on a going forward basis, one of the criteria would be whether or not this had been done or whether, within a reasonable time and in accordance with parliamentary procedures, it would be done. It was also wrong to say that WADA was blackmailing governments. 187 countries had promised to do this. It was important that these anti-doping rules be in place. There could be a sliding scale, with world championships followed by world cups or whatever, but he thought that this was an area in which sport could encourage governments to get this higher on the radarscope.

MR MALLARD thought that the Chairman was getting close to it with a timeframe; he would go further and say something like: bids that had to be lodged in 2010 or some

date further out for implementation. For example, he understood that the cricket world cup already went through to about 2019, and those decisions had already been made, so he would not suggest reversing out of any of those; but, in order to reasonable, a date should be picked, for example, decisions would have to be made at a certain point, and that should be put a couple of years out, as that would really give public authorities the chance to give proper consideration as to whether or not they wanted to host a sporting event.

MR REEDIE thought that he was right in saying that the new Code would not come into effect until 1 January 2009, and he was in favour of sending messages to public authorities, but he would rather send this one slightly more gently. He thought that WADA was in danger of making the conduct of international sport more complicated than it needed to be. The message could be enunciated loud and clear that this needed to be done without saying to major IFs that they could not take their world championships to where they wanted to go.

THE DIRECTOR GENERAL informed the members that WADA had regional directors and staff working full time trying to persuade governments to ratify the Convention. It was working well, and 52 countries had ratified. He very much recalled being criticised heavily at international sports meetings the previous year about slow process. Now that momentum had been achieved, there was an opportunity to advance, and he would not want the management to lose that, working very closely with governments such as Mr Mikkelsen's to persuade those governments that were slow. He would like to receive from the IFs a list of countries that would benefit them if WADA had them on the fast-track process. This would help the management on a practical level. The sooner the management received that list of countries, the sooner it would be able to go and tell them that this was a possibility during the next six months, so, by the time something was in place at the World Conference on Doping in Sport in Madrid, WADA might have covered many of the countries about which people were concerned. He would like to be able to achieve that if it were at all possible. Some kind of clause, as suggested previously, would help the management team and the governments trying to encourage the 187 countries to ratify the UNESCO Convention.

THE CHAIRMAN suggested floating a draft that said that bids deposited one year after the coming into force of the new Code would have this rider attached. It was a good opportunity for sport to demonstrate its commitment. His guess was that there might be some legal language to be added to it subsequently, but he suggested putting it out there to see what would happen.

MR ANDERSEN asked if this would be for all world championships.

THE CHAIRMAN replied that this would apply to all world championships and major events.

He asked that members be given a copy of the presentation.

PROFESSOR LJUNGOVIST had a question related to the Code review process for the future. What was foreseen in Madrid? WADA would be producing a proposal for a final Code, but he believed that the situation was different to that in Copenhagen. People had experienced four years of the Code being in operation, and there might be more comments on the final Code proposal. He believed that WADA had to be ready to organise it in such a way that there would be possibilities to have the Code amended following the World Conference on Doping in Sport in Madrid. If not, there might be a problem. He thought that a different procedure to that in Copenhagen had to be foreseen.

THE CHAIRMAN replied that he thought that there would be the same procedure, which comprised three periods, with increasing focus. There would be something set out as the final draft, and there would be some discussion. WADA would listen to that, then retire for an hour (as set forth on the schedule) during which the Foundation Board meeting would take place, and the members would decide whether or not they were

content with the draft. He did not want to have to go through the whole thing again. The idea was that the Code would be approved, and there might be things to think about for the future but, as of 1 January 2009, this was what it would be. This was why it was really important that the next draft be as close as possible and then, by the time of the third draft, all the major issues should have been identified.

MR REEDIE said that that was the logical conclusion to reach from the complex consultation process through which WADA had gone this time, which followed in many ways the complex consultation process that had taken place before the conference in Copenhagen. He thought that it would be necessary to structure the September meeting very carefully, and a lot of the other things that were normally done might have to be missed out. WADA would have to get a final version of the Code to the members of the Executive Committee within a very short timeframe; it would be necessary to decide on a final version of the Code, produce a budget, produce a List, and it would really be necessary to stage manage the September meeting very carefully indeed so as to come out of that with practically everything done before going to Madrid.

THE CHAIRMAN suggested considering a two-day meeting.

THE DIRECTOR GENERAL said that the meeting had been scheduled to take place over a weekend, so the meeting could be started and completed on the Sunday. He would be happy to accommodate that, and finish on the Sunday.

MR MALLARD said that, in addition to that, by that stage, the members would be down to just a few issues, and it would be important to actually have the text drafted beforehand. He would not rule out, even for Madrid, if WADA sensed that there was still a live issue, having alternatives available. He thought that it was dangerous to have ad hoc off-the-floor amendment approaches but, if there were real choices, it would be better to have them drafted beforehand. They would be useful, just in case the World Conference on Doping in Sport in Madrid went in a way that had not been anticipated.

THE CHAIRMAN pointed out that WADA did not want to put itself at the mercy of some barrack-room lawyer who really did not have an interest in improving the Code. Those who wanted it to work were not going to ruin it, but somebody who did not want it to work would raise his or her hand. The World Conference on Doping in Sport in Madrid itself was a consultative meeting. The Foundation Board would adopt changes to the Code.

MR REEDIE asked what WADA intended to do with the Foundation Board the following day. Would Mr Niggli take the Foundation Board through the issues that had been discussed by the Executive Committee? He assumed that it would be an information session only.

MR MALLARD thought that it would be better to make a recommendation.

THE CHAIRMAN said that the Executive Committee was the coordinating group in this process. The Executive Committee had received the input; the Code Project Team had isolated the issues and come to the Executive Committee for guidance; the Executive Committee had given the guidance; the next version of the Code would be out in June and it would deal with these issues in this general direction. The Foundation Board members would not sit around that huge table and draft.

#### DECISION

Code review update noted.

## **7.2 Code Implementation and Compliance Status Report**

MR ANDERSEN gave a short report on Code compliance monitoring. As the members could see on the slide, there were some figures relating to the number of signatories and from how many of these WADA had received anti-doping regulations that had been approved as Code-compliant (97). There would be further information made available in terms of the out-of-competition testing status of IFs and NADOs. He would not comment

on the specifics of how far each of the signatories had come in terms of acceptance and implementation. The figures would be made available to the members, but there were some figures that could have been better in terms of implementation of the Code. The first slide referred to the Olympic Movement, the second referred to acceptance and implementation outside the Olympic Movement. There was quite some ground to cover in this area. He had reported to the members in November 2006 on the monitoring article in the Code; he had presented the monitoring system, the monitoring timelines and the implementation status. The agreed outcomes had been that the official Code-compliance review would be completed by the end of 2008. The challenges faced in compliance reporting were that rules had not yet been implemented, programmes were not in place and, where programmes were in place, there was an absence of out-of-competition testing, target tests, and process for missed tests and whereabouts; there were questions about the reliability of the result management process, and an absence of mutual recognition of hearing results from other ADOs. There were major differences in this picture. It might not look as black as he was presenting it. Many IFs and NADOs were fully compliant and were doing a great job, and it was necessary to build on those experiences. In order to assist national and international anti-doping systems, WADA had developed model rules and guidelines for many parts of the doping control process. WADA was continuing to develop those guidelines and had just received a request from ASOIF for assistance in implementing rules in national federations. WADA had also developed the RADOs and proposed the development of IFADO.

WADA was now planning to create a thorough process to assist all stakeholders and signatories in Code compliance, involving a review and assessment process, assistance with rule implementation, audits where warranted, and assistance with programme implementation and compliance through the WADA regional offices and resources at the WADA headquarters. WADA was in the process of assisting through quality assurance programmes, and he would report back by the end of 2008 on compliance. There had been a great deal of progress, but there were many things to be done.

THE CHAIRMAN asked if there were any comments or questions on what was being done or how it was being done. It was understood that the 2008 compliance review would not be just one of happy little generalisations. It would name which federations were compliant and which were not.

MR ANDERSEN replied that that was the plan and, prior to deeming an organisation to be non-compliant, this assessment was necessary, with the possibility of assisting signatories to be compliant.

THE CHAIRMAN asked whether there was any plan to have an interim report card.

MR ANDERSEN replied that this was being done with the stakeholders. Obviously, it took some time to do this, but WADA was in the process of giving that one-by-one feedback to all 572 stakeholders.

THE CHAIRMAN assumed that WADA knew that there were signatories and there were signatories, and some were more important than others in the great scheme of things. The Olympic IFs had to be WADA's first priority, followed by major NOCs and major NADOs. Because all of these decisions would be appealable to the CAS, it would be nice to give some advance warning as to what needed to be done.

MR ANDERSEN added that that was why it was so important that, when the Executive Committee decided whether or not an IF or any other signatory was non-compliant, it needed enough background to be able to say so. That was his job, to state the areas in which the signatory was non-compliant. The Executive Committee would then take a decision, which would be appealable before the CAS.

MR REEDIE hoped to see that information at the Executive Committee meeting in May 2008. There would be far more impact when people could see who was compliant or not. As far as the Olympic parties were concerned, he could only assume that non-compliance would have pretty major implications for them.

THE DIRECTOR GENERAL informed the members that there was no right of appeal on non-compliance decisions in 2008. The new Code, if approved, would have the right of appeal to the CAS. Under the old Code, WADA had to be very careful. Any decision had to be approved by the Foundation Board at a meeting after which the government or signatory had been given an opportunity to submit written arguments to the Foundation Board. Mr Reddie was right; WADA needed to be very well prepared so that, if it did make a decision in November 2008 that some signatory was non-compliant, such signatory would have been given advance notice.

THE CHAIRMAN asked whether the Director General had just said “governmental signatory”.

THE DIRECTOR GENERAL replied that, at the moment, the Code stated “government signatory”, which was incorrect. Signatories needed to be advised as to their non-compliance so that they could present an argument to the Foundation Board. The meeting in November 2008 could be a long one.

THE CHAIRMAN hoped that it would be a very nice weekend.

#### DECISION

Code implementation and compliance status report noted.

### **7.3 Non Olympic Movement International Federations – Fee for Compliance Review**

MR ANDERSEN referred to the process to be put in place in order to measure and monitor Code-compliance. This question was about how much, how many and to whom WADA should provide services relating to Code acceptance on implementation and compliance monitoring and the consequences of that. These tasks required a great deal of resources. The question was whether or not WADA needed to prioritise between the various signatories. Did WADA discriminate between various IFs, national bodies, Olympic sports, non-Olympic sports, GAISF sports, and so on and so forth? He had tried to outline the tasks in the paper in the members’ files. These tasks included what had to be done on a biannual basis through Code-compliance monitoring reports, but also on a daily basis on implementation and the question of appealing cases, which could require a great deal of resources on WADA’s part. He asked the Executive Committee how many organisations to include in the full scale of Code-compliance monitoring. Should everybody be included, or should this be limited to some? For those that were not included, should WADA charge for services?

THE DIRECTOR GENERAL said that this was a matter that involved the management and a lot of soul searching in relation to the points set out on the last page of the document. An approach had presently been adopted whereby anybody who wished to accept the Code and sign as a signatory would be accepted by WADA. There was a policy that stipulated that, should it not be a sport under the umbrella of the Olympic Movement (and that included recognised federations), a fee would be charged for implementation along with an annual fee for compliance. These fees were currently set at 5,000 and 2,000. Some had paid, but there had been resistance, and WADA was prepared to consider a different fee. There was a category of signatory or body wishing to be a signatory that was a federation in opposition to an Olympic Movement sport. He had received a request that week from an international body purporting to be a federation in relation to volleyball. There were several applicant signatories in relation to kickboxing. The WADA management needed direction on where the line stopped, or perhaps there was no line. He could go on in terms of the number of requests from organisations wishing to be told by WADA that they were Code-compliant. The Canadian Sports Medicine Association was one that sprang to mind. Where there was no umbrella from a governmental or an Olympic Movement approach, the WADA management was in a quandary as to what to do. The list of questions posed by Mr Andersen really needed some discussion and response so that the WADA management could move on in its work.

PROFESSOR LJUNGOVIST had a request. He thanked Mr Andersen for the paper and the explanation; he understood the logistic and financial problems that might arise from the large number of organisations that wished to be assessed in terms of Code compliance and the financial burden that that could entail. Nevertheless, in order to be able to have a good idea, one would need some sort of list of the organisations being talked about and a proposal as to where the line should be drawn. It was difficult to understand from the document the precise detail. The Director General had given one or two examples of organisations that might be under consideration but, in order to be able to have a good idea, it would be easier to have a clear picture of what was being talked about and a proposal as to the dividing line between one and the other category.

THE DIRECTOR GENERAL observed that it was difficult to put forward a proposal or start excluding organisations and, if WADA started excluding, it would be a different sort of body to the one he thought WADA had been set up to be. A policy needed to be set so that WADA could follow it, receive the money and get about its business.

MR REEDIE said that this was an issue that had been going back and forward from his desk to the Director General's desk for quite a prolonged period of time. He thought quite rightly that the original thinking from the management had been that it would provide the same level and quality of service to everybody on whatever list. There was a whole raft of small organisations out there that would simply be unable to receive the quality of service that WADA was prepared to deliver. His information from discussions with people, for example at the Sport Accord meeting in Beijing, was that there were many small federations out there that were so far away from first base on anti-doping that, quite honestly, providing this kind of service was an impossibility, because there would be nothing to monitor. There was a real problem when it came to deciding how to divide things up. In the non-Olympic recognised federations, there were some that were small and a long way away, and there were others that were actually quite big and pretty well organised. It was almost impossible, unless WADA were to produce a complicated fee scale, to charge accurately. He thought that WADA should, upon an increase in demand, try to help the smaller federations, and say that it would charge a reduced level fee to everybody under a certain level of recognition, and the level of recognition was the Olympic IFs and the Olympic recognised IFs. The problem he had was the GAISF members, which were not recognised federations; there were 22 members of GAISF, all under the general sports federation level although not specifically recognised by the Olympic Movement. The question was whether or not to deal with them. To make this go away, his guess was that WADA should say that it would deal with Olympic IFs, recognised IFs and GAISF IFs at no charge and charge all the others 2,000 dollars for doing it and 500 dollars thereafter. He wanted to have the right to review that after setting up an IFADO and actually working out how many of the 22 federations were a problem to WADA or not. Actually, there was no perfect answer to this question. In all honesty, he thought that WADA should simply take that on board and do it, and not charge. Having said that, he came back to the point made that morning, that if more work and more operations were needed, they would have to be financed by somebody, and that meant the two contributory partners in WADA. This could not simply be done by saying that contributions would go up by 1% per annum. It was not on. In practice, he thought that WADA would find that a lot of the smaller federations did not give it all that much of a problem, and at least it would have some form of categorisation.

MR KASPER suggested waiting until the meeting between the non-Olympic federations, the summer sports, the winter sports and GAISF before taking a final decision.

THE DIRECTOR GENERAL said that he would be comfortable with any direction given, but the WADA management needed direction. If WADA were to provide services or resources to members not covered by the Olympic Movement umbrella at the moment, members should be aware that that was a service that would be given for free. There was a list (World Croquet, World Bowls, Canadian Scottish Athletic Federation, etc.), of an additional 50 sports that wanted to be recognised in one way or another. The WADA

management would be able to advance through the preliminary meeting with the GAISF members on IFADO, and come back to the Executive Committee in September. Could there be a decision to provisionally put into place a principle to charge 2,000 dollars for the sports not included in the category mentioned by Mr Reddie and 500 dollars for an annual compliance fee? That would at least enable the management to get on with its work.

THE CHAIRMAN thought that maybe this should be expressed as not less than 2,000 and not less than 500 dollars, as there were some big organisations that could certainly afford it and should pay. This was WADA's quasi-charitable operation but, if the NFL came along, there was no reason it should not pay.

THE DIRECTOR GENERAL said that he did not mind doing what the WADA management was told to do, as long as he knew the bounds of the discretion and, if there was some discretion that said from 2,000 to 5,000 dollars at the discretion of the Director General in consultation with the Chairman of the Finance and Administration Committee, that might be sufficient direction.

THE CHAIRMAN thought that that sounded fine.

MR REEDIE thought that the Executive Committee had to recognise that, if WADA started doing this for all the smaller federations, the likelihood was that a large number of them would be non-compliant, and it would be necessary to work out the implications of that. It might well be that there were no particular implications at all.

THE CHAIRMAN said that there was a tremendous amount of information available on the website. WADA should try and do as little hands-on work as possible.

MR ANDERSEN said that the question of who WADA accepted to be parties to the Code was also relevant.

MR MIKKELSEN said that he did not really understand the discussions because, if a body was in compliance and WADA's costs were covered, he thought that anybody should be allowed to be a member.

THE CHAIRMAN said that it was necessary to keep the W in WADA.

#### DECISIONS

1. Provisional decision to charge federations other than Olympic IFs, recognised IFs and GAISF IFs no less than 2,000 dollars and no less than 500 dollars for compliance review (at the discretion of the Director General in consultation with the Chairman of the Finance and Administration Committee).
2. Code implementation status report noted.

### **8. Departments / Programme Areas – Decisions and Key Activities**

#### **8.1 Communications**

##### **– 8.1.1 Athlete Committee Chair Report**

MS HUNTER reported on behalf of the Athlete Committee. Since the Executive Committee meeting in November, the Athlete Committee had had one meeting, which had been held in April by the Portuguese Government. This was the first meeting in the two years of the committee's existence in which all of the committee members had participated, which was very encouraging. The committee had welcomed a new member, Kalusha Bwalya, from Zambia, who was a FIFA athlete, and there had been a number of fairly significant meeting topics. She went over them briefly. First, on the question of confidentiality, the athletes had felt it very important that anybody involved in the anti-

doping and results management process maintain absolute confidentiality of athlete information. The athletes needed to have absolute confidence in the anti-doping system. As far as the List of Prohibited Substances was concerned, the committee had felt that the current criteria for determining whether or not a substance or a method should be on the List should be maintained and, in the particular case of cannabis, it should remain on the List, as removing it would send a very bad message to athletes around the world. The committee members had reiterated their position on sanctions for first-time doping offences, calling for stronger sanctions from two years to four years, so encouraged those involved in the Code review process to incorporate that into their considerations. As far as incentives for cooperation with investigations were concerned, she knew that this was part of the Code review currently under way, but the committee members had agreed with the principle of considering incentives for cooperation, but had wanted to stress that, out of fairness to the clean athletes, incentives should not encourage a rapid and easy return to competition, and they wanted to make sure that any potential loopholes be seen to prior to promoting any type of incentive programme. They had asked that the issue of financial penalties be considered or discussed again so that clean athletes who lost would be able to recover awards lost to cheating athletes who were found to have cheated after the event. Whereabouts and missed tests had been discussed at length; the Standards and Harmonisation Department had provided the committee with a long list of questions to talk about the practicalities of whereabouts and missed tests in the context of the revision of the International Standard for Testing. The committee had provided some very specific feedback, and that was being incorporated into the Code consultation process. The committee had also visited the laboratory in Lisbon and raised a number of questions regarding chain of command, out-of-competition testing from IFs, etc., and so, at the next meeting in August, there would be a little more in the way of education for the athletes so as to follow up on these issues.

There would be another meeting on 27 August in Montreal, focused primarily on the final review of the Code from the athletes' perspective, so they would have a chance to provide their input prior to the next meeting of the Executive Committee in September.

MR LARFAOUI asked if the report was available.

MS HUNTER replied that it was in the files.

#### DECISION

Athlete Committee Chair report noted.

## **8.2 Science**

### **– 8.2.1 Health, Medical and Research Committee Chair Report**

PROFESSOR LJUNGOVIST had no particular matters to discuss in addition to the report in the members' files except for an amendment to the EPO procedure. The Health, Medical and Research Committee had released the invitation for the application for research grants, and the deadline was in one week's time; this would be followed by the normal peer review system, and a meeting of the Health, Medical and Research Committee to finalise the proposal for decision by the Executive Committee at the September meeting as usual. There had been a one-day meeting in January and a two-day meeting a few weeks ago with the List Committee, and the committee was finalising a proposal to be circulated to stakeholders over the summer for their comments, and would have a proposal for the Executive Committee in September after the Health, Medical and Research Committee meeting early that month. He thought that the members would find the remaining information in their files. He would come back to some items as they appeared on the agenda.

THE CHAIRMAN reported that he and Mr Niggli had had a very interesting meeting in Paris on Thursday with the AFLD, a very impressive group of senior people from a cross-section of the country interested in increasing research activities, some of which would be funded elsewhere; but, with respect to proposals submitted from French researchers,

they had undertaken to do a pre-peer review of proposals coming forward, which would be helpful, but particularly helpful was their new and more active interest in research from France.

## DECISION

Health, Medical and Research Committee Chair  
report noted.

### – 8.2.2 Draft 2008 List Update

PROFESSOR LJUNGOVIST said that the List Committee was supposed to give comments and suggestions based on purely scientific bases and paid no attention to political aspects, as clearly instructed by the Chairman, and it respected that. Usually, the List Committee came up with more drastic proposals that could be achieved at a particular moment, and he had to balance that out. For instance, it had come back with a proposal to move finasteride to the specified substances list again but, after some discussions with the WADA leadership, it had been determined that this was probably bad timing for various reasons, and a more fundamental change for the List would be prepared for in the Code review, so it would probably be more appropriate the following year.

Science had moved in such a direction that it was now felt that it was time to do away with the 1:4 T/E ratio as the sole triggering mechanism for conducting further investigation into a testosterone case. There had been so much discussion about the T/E ratio, and the move from 6 to 4 had been opposed. This discussion had been ongoing for some years. Science had moved in such a direction that the T/E ratio should probably no longer be the sole important information; rather, there should be other parameters in the urine sample, and the committee was talking about an abnormal steroid profile as the basis for going into further investigation into a particular case. The laboratory people felt that they were ready to identify abnormal profiles for the purpose of going further and that it was time to do away with the T/E ratio. This was probably again not the right time, for various reasons, and again it might be better to postpone a full decision in that respect until the upcoming Code review procedure, but those were the ways in which discussions were being conducted. WADA should be prepared and be ahead, and he could advise laboratory colleagues to work further on the identification of abnormal steroid profiles so that they would stand alone legally and indisputably. Nothing had been finalised, but the committee would issue, after consultation with the WADA leadership and legal experts, an appropriate suggestion with respect to the List to be circulated for stakeholder comments that year. For those innovations that it might not be possible to incorporate in 2007, the committee would come back again the following year.

One final comment he had was that WADA had done away with pseudoephedrine some years ago, and there had been a debate as to whether it should be put back on the List or not. The laboratory people had a problem, as pseudoephedrine was the parent compound of a substance that was on the List (cathine, another stimulant), and it had caused analytical problems to have a substance on the List that was a metabolite of another substance not on the List. The suggestion was a consequence of the first suggestion, namely to remove the metabolite and not just the parent compound from the List. Such proposal would be circulated for comment, as it was known that there were different opinions out there. The committee would accommodate all those opinions and take note of them, coming back with a final proposal after the stakeholder consultation.

Those were the two major aspects discussed: the T/E ratio and the pseudoephedrine matter. This was the way in which the committee had decided to present it to the stakeholders for the summer season, although the testosterone matter had not yet been finalised.

THE CHAIRMAN thought that that was actually quite encouraging. He did not think people understood clearly. It was not that WADA would be doing away with the T/E

ratio, but the committee was simply saying that it would be possible to use that and something else. That would be even better. A lot of people thought that, if WADA moved to a steroid profile, it meant that WADA was saying that the T/E ratio was unreliable. This was not the case. The T/E ratio was reliable, but WADA was adding another arrow to the quiver. If that was out there and, from a scientific point of view, if the committee was satisfied that the steroid profile was defensible on all of the legal standards, that sounded very encouraging.

#### DECISION

Draft 2008 List update noted.

#### – **8.2.3 Athlete Passport / Blood Parameters Update**

DR GARNIER quickly reviewed the situation regarding the Athlete Passport, which had been presented the previous year and reactivated subsequent to the Turin Olympic Games, which had generated something of a confusing situation. WADA had thus taken the initiative to invite those IFs already involved in similar blood testing programmes to plan a harmonised approach. During the two symposiums organised in September 2006 by the IAAF and USADA in Lausanne, all the experts and participants present had confirmed the benefit of longitudinal follow-up and blood monitoring. At the first meeting, WADA had been asked by the IFs to lead the process. WADA had subsequently organised several meetings with the IFs concerned, as well as external experts in the field to discuss and define the best approach. The most recent meeting had taken place on 11 April 2007 in Lausanne. The main outcomes of the meetings were that there had been a general agreement to consider the practice as part of the anti-doping process itself (to be considered within the framework of the current Code review). WADA had been mandated to achieve the goal of harmonisation and give guidance for implementation. General principles had also been defined for a haematological passport. At the latest meeting, experts had agreed on the scientific approach.

The general principles included increasing anti-doping efficiency and improving health protection concurrently. Certain relevant parameters should be monitored to establish the athlete's individual profile. Samples should be collected in and out-of-competition with standardised protocols. All of the results should be registered in a database. Result analysis should be done on an individual-based reference as opposed to a population-based reference. All of the participants had also agreed that doping prevention rules should be established and that abnormal values should lead to provisional suspension, according to the specific rules of the relevant ADO.

WADA's strategy was to continue the process by coordinating meetings with legal experts and those in charge of implementation, to facilitate the implementation of the proposed model with a pilot project, to establish models of best practice and, in parallel, to continue to support the technical and legal feasibility studies (AFT programme, Lausanne laboratory).

In conclusion, the scientific consensus was significant, as there was now evolution from a population reference to an individual reference approach. It was necessary to update the model following the results of all the work in progress. Legal validation was also needed, and it was necessary to organise and facilitate the implementation with appropriate tools.

THE CHAIRMAN congratulated those involved in the initiative. He was glad that it had moved along so far so quickly. There would be an in camera session at 1.15 p.m. for the members of the Executive Committee to discuss the Vrijman report and anything else requiring an internal session.

#### DECISION

Athlete Passport / blood parameters update noted.

– **8.2.4 Accredited Laboratories**

8.2.4.1 Development of Regional Anti-Doping Laboratories

DR RABIN said that WADA was aware of the existence and development of regional anti-doping laboratories in some countries. It believed that such regional laboratories created a serious breach in the harmonised anti-doping system being developed under the umbrella of the World Anti-Doping Code. Not only did such laboratories operate outside any international quality control system, particularly for analytical performance, but also there were no ethical obligations, which the other laboratories had under the International Standard for Laboratories (ISL), which could potentially lead to questionable results. It was believed that this could create confusion, not only among the athletes, but also among the public. There was therefore a strong message to be passed on by the public authorities to ensure that only WADA-accredited laboratories were used for anti-doping analysis, and consideration should be given to adjusting the resources of the laboratories that were already accredited. This was simply a point for information.

THE CHAIRMAN asked whether the members might think about this issue. The problem had been clearly expressed. There were some pretty far-reaching consequences to what was being proposed and he could see why there might be no easy answer; it was an issue, it had been raised in the meeting materials and at the meeting, and he asked the members to be ready to answer in September.

DECISION

Members to consider the issue of development of regional anti-doping laboratories for discussion at the Executive Committee meeting in September 2007.

8.2.4.2 Perspectives on Accreditation of Anti-Doping Laboratories

DR RABIN believed that this was an important point, and had tried to compile and brainstorm on the accreditation and reaccreditation model and potential improvement for the future. WADA had inherited from the IOC the laboratory accreditation role. The IOC system had been mainly based on the proficiency testing (PT) programme to assess laboratory performance. He believed that there had been some improvements, in particular, the samples were prepared independently from the currently accredited laboratories, both for the preparation and distribution of samples; there was an increased number of PT rounds every year, there were four sample rounds annually, and then there were the educational samples and the double-blind samples that gave the flexibility to provide feedback to the laboratories as part of a real proficiency test or as part of an educational test. The results from the laboratories were analysed by the Laboratory Committee with some external experts (which had already been the case at the IOC), and WADA was currently using diverse statistical models to analyse the results and provide the information back to the laboratories.

The major improvement made over the past three-and-a-half years had been to provide information to the laboratories based on their performance. He knew that the laboratories really appreciated this information. However, after three-and-a-half years, WADA had to acknowledge that there were some limits as to what WADA had been able to achieve under the ISL and the World Anti-Doping Code. First, it had been realised that the system was based mainly on the results from the PT programme, and WADA had very little control over the routine activities of the laboratories. He realised that it was sometimes difficult to impose sanctions on the laboratories because, even if WADA advised or demanded corrective action, the sanctions ranged from these corrective actions to the suspension of the laboratories. There was a big gap and no intermediary sanction that could easily be applied. That was not a general trend for WADA, but for all the organisations in the world controlling analytical laboratories. One of the obvious conclusions that had been drawn over the past three-and-a-half years was that, when

there were deviations from the rules by the laboratories, because they were perceived as WADA-related laboratories, WADA had suffered from those deviations. It was not uncommon to read in the press what WADA was doing about the laboratories or what it was planning to do about the laboratories. Obviously, he would like to consider, since WADA was looking at all the regulations under the World Anti-Doping Code and the related international standards, looking to the future and trying to adjust the fight against doping at all levels, including the analytical level, which was an essential part of the system. He had tried over the past month to obtain a very objective assessment of the situation and the overall performance of the laboratories, and had established a grid to look at the performance of the laboratories and to maintain and control the corrective actions put in place by the laboratories, including site audits.

He would like to propose some novel and pragmatic solutions as a result of the past experience of the IOC and the three-and-a-half years' experience under the ISL. There were three models out of the various models under consideration that had been maintained. Model number one was a scale extension of what WADA was currently doing so, knowing that WADA was currently being approached by 40 or more laboratories that had expressed interest in gaining WADA accreditation, there was a huge potential for growth in the number of laboratories. This explained why he was talking about the scale increase in current activities; he reminded the members that, because of WADA's current resources, it was limited to a maximum of two or three laboratories at the same time in the accreditation process. There were some advantages to this model, as it was well established and had a well-established process and procedures. The laboratory performance was well assessed by the WADA Laboratory Committee; there was now an extremely well established system and the laboratories were well used to the system and benefited from the advice of the committee. The current ISL rules were favourably perceived by international bodies. Over the past three-and-a-half years, WADA had established strong ties with other international bodies in charge of laboratory accreditation, the International Bureau of Measures and Weights and the International Laboratory Accreditation Corporation. There was excellent exchange on how WADA ran the proficiency testing programmes and accreditation of the laboratories. There were also some disadvantages to the system. There was currently a lack of control in the routine practice of the laboratories; WADA was aware that not all of the laboratories applied all of the WADA rules. There was also a strong association between WADA and laboratory performance. There was also an issue in that nobody had any control over the expansion and geographical distribution of the laboratories. There was a cluster of laboratories in Europe; in some countries, there were laboratories barely performing the 1,500 mandatory tests per year, and there was huge diversity between laboratories performing 1,500 and others performing 30,000 and more tests per year. There was a delay between the identification of issues in laboratories and decisions that could be taken by the Laboratory Committee and advising the Executive Committee of issues involving the laboratories. There had been issues experienced when developing and implementing the WADA double-blind PT, sending samples included with the other samples coming from athletes so that the laboratories did not know that the samples were in fact proficiency samples from WADA.

The second model was the two-tier system. He believed that this system would give WADA more control over the number, quality and resources and routine performance of the WADA-accredited laboratories, and this two-tier system would consist of a group of laboratories that would provisionally be referred to as screening laboratories (although such terminology was not greatly appreciated by other international bodies), where only screening tests would be conducted, and anything resulting in an AAF would be sent to the reference laboratory, which would do the A sample confirmation and the B sample confirmation. This system would have the great benefit of more consistency and reliability in the performance of the reference laboratories. There would be a reduction in analytical errors and mis-reporting of AAF, as there would be more consistency with the higher quality he believed the reference laboratories had. He believed that the pool of screening laboratories would be easier to access for some new laboratories, rather than

having to jump to the high technical level of the reference laboratories. That could be a model for consideration. There were of course some limits. There would be an additional cost for shipment of samples between the screening and the reference laboratory; the chain of custody of the samples, which was key to the legal process, would be slightly more complicated, although still doable; a major concern was the risk of increasing the number of false negatives because, of course, not all of the laboratories, particularly the screening laboratories, would be able to achieve the level of performance of the reference laboratories, which meant that some samples could be misrecorded as negatives when they could, in fact, contain some positive substances.

The third model entailed limiting the number of laboratories to a number of well-trained, well-equipped and experienced laboratories that WADA could refer to as laboratories of excellence in anti-doping. Obviously, there would be much higher, more consistent and more reliable reporting from those laboratories, as performance would be much more consistent among them; there would be improved compliance with the WADA rules, as it was much easier to control a limited number of laboratories and give them feedback than having an expanding number of laboratories in the four corners of the earth which were far harder to control. There would be a reduction in the risks of false positive and false negative tests. It was obvious that, with a group of higher-performing laboratories with better interaction with WADA, it would be easier for WADA to discuss and implement rules, and also investment in technology would be concentrated on those laboratories. There was a limited number of disadvantages but, as with model two, there would be an additional cost for sample shipment, as those samples would have to be shipped to the laboratories; and, something that was probably more of a political issue than a scientific issue, there would be extremely limited access and it would be far harder for new laboratories to join this group of laboratories. There had been other models considered, but he believed that these three were the most important, and he asked the members to consider the models and provide feedback.

PROFESSOR LJUNGOVIST said that he would of course look into this more closely at the Health, Medical and Research Committee meeting in September, and would be happy to receive comments on the matter. This was not the first time that this had been debated. The IOC had previously looked at the possibility of the first model, with a screening laboratory, which had been rejected because a major disadvantage was the delay in getting the samples analysed if they had to be transported from one laboratory to another for confirmation. It also involved a great deal of transport, so that was a significant disadvantage. There were also further alternatives beyond those three models, and one was very realistic. This was that methods might arrive for which it would not be possible to analyse in today's laboratories. He was talking about gene doping and the possible need for genetically experienced laboratories for gene analysis. The laboratories today were chemical laboratories, and gene doping could be analysed by chemical methods, but there might be further, more genetically-based methodologies. There would be a need to have laboratories specialised in various fields; not screening laboratories and confirmation laboratories, but laboratories specialised in various fields. Not all laboratories were currently equipped to analyse for EPO; not all laboratories had IRMS techniques to determine the intake of exogenous testosterone, so there was already some form of specialisation, and this would probably have to be developed further in the future. WADA had to look into the set-up of the laboratories and the responsibilities that were being allocated to them. There were various models that needed to be looked into. He would be happy for any advice or reactions.

MR REEDIE said that he was impressed that the business was sufficiently attractive that there was a queue of around 40 laboratories wanting to join in. That immediately gave WADA a problem if its resources allowed it to accredit only three per annum. Whatever the decision taken, it would be necessary to look at that particular angle. If WADA were to split laboratories into different categories, in an ideal world, this would be done on the basis of technical competence to do certain things. He had a terrible feeling that, if WADA were to start doing this, it would come across problems of national pride and one would interfere with the upgrading or downgrading of a national laboratory at

one's peril. He stressed that, if WADA really wanted to move this forward, it needed more people to do it.

MR BOUCHARD wished to make a similar point. He believed that the issue of resources was an important one. The cost involved in choosing one or the other option would be difficult to determine with precision, but having an assessment of the cost implication of each model would help in the assessment of each of the options. He asked for a ballpark figure for each option and the implications of choosing one over the other. It would not be the only factor, as there were many things to be taken into account, but it was an important factor.

MR MALLARD also requested details on the cost of accreditation and the continuing work, as well as the limitations.

PROFESSOR LJUNGOVIST noted that one further consideration to be taken into account was that the proliferation of laboratories was not necessarily a good one, and Mr Reddie had mentioned national prestige. This was already an issue. Some applications were certainly based to some extent on national prestige. Others were based on the distribution of major competitions, where the nation or host city wished to show its importance and competence. That had been the case in Turin, but the problem had been solved by temporarily moving the Rome laboratory to Turin. There was a critical minimum of samples to be analysed by the laboratory to maintain the standard and quality. The number of laboratories had increased considerably over the past few years, but the number of samples had not. It had been surprisingly stable. That was also an aspect to be taken into account when considering this.

THE CHAIRMAN suggested thinking about how the determination would be made, whether on competence, geography, research support, government support, etc. There would have to be some objective determination made, rather than just throwing darts. This was a pretty important issue. The members would have noted the recent attacks on the quality of the laboratories. It was necessary to be responsive to that and to the issue of advances in doping, and also to the fact that WADA was going to have to defend the science and the performance in some doping cases.

DR RABIN said that WADA was facing a whole range of new technologies in the future; the question was whether WADA would incorporate those technologies into the already existing WADA-accredited laboratories or whether it would have to expand accreditation, which was possible under the ISL, to laboratories with specific competence, and that was an open question, because there would be a cost. New technologies were costly, and this was a reality that WADA would face. The other issue was that of an abundance of laboratories. WADA knew that running an anti-doping laboratory was not a profitable business. The survey carried out by the Working Group on Anti-Doping Costs had been a clear reflection of the reality. There had been private companies approaching WADA thinking about anti-doping laboratories as a means of expanding their business. Having met with WADA to find out about the matter, they had never come back. This was a sign that this was not a profitable business. There was a cost, not only to the laboratory, but also to WADA for accreditation. It was one of the rare areas in which WADA was receiving money: there was an accreditation fee of 45,000 dollars paid by the laboratories upon entering the process. Having said that, there was a huge heterogeneity in the quality of the laboratories joining the probationary phase. Some laboratories had been disqualified right at the start, and others had been disqualified at the end of the process, because it was very stringent and highly demanding in terms of quality. This element certainly had to be taken into account. There was pressure on all sides in terms of the number of laboratories and where to put the bar in terms of quality and what could be allowed in terms of resources to achieve that goal. The Laboratory Committee was probably one of the committees with the hardest agenda to fulfil, as there were so many issues to consider at every single meeting that even sometimes three days of meetings were not enough to cover the agenda.

THE CHAIRMAN guessed that this group would be looking for a recommendation at the end of this rather than trying to choose between alternatives on its own.

DR RABIN said that the Laboratory and Health, Medical and Research Committee could work together to provide a recommendation to the Executive Committee.

#### DECISION

Perspectives on accreditation of anti-doping laboratories noted.

#### – **8.2.5 EPO Technical Document**

DR RABIN said that a couple of adjustments to the technical document issued back in 2005 had been requested by some experts in the field to open the door for improvements on the methodology and also clarification on the positivity criteria for recombinant EPO. He knew that the document was very technical, but it required Executive Committee approval. For complete information, he informed the Executive Committee that, earlier that week, WADA had been informed that new EPO profiles to which the criteria of the technical document did not strictly apply had been detected, so WADA was currently working with the experts in the EPO field to find acceptable additional criteria to be included in the new version of the technical document to be able to cover those new profiles. Now that the EPO patterns were falling, the traditional EPOs with which WADA had been faced would be swamped by different EPO profiles that would probably make WADA's life harder in terms of EPO detection. He was trying to find solutions before coming back with concrete proposals, but the technical document was currently the best that could be offered with the improvements he had mentioned.

THE CHAIRMAN noted that the members accepted the recommendation.

#### DECISION

EPO technical document approved.

#### – **8.2.6 TUEs for Asthma Medication at the Olympic Games in Beijing**

THE DIRECTOR GENERAL asked for the document in the members' files to be amended, as the document came from the WADA management and not the Health, Medical and Research Committee as a result of an issue that had come to his attention and he had wished to table it to make sure that WADA was not hitting in a direction that would put the IOC in non-compliance. The document spoke for itself. He had spoken to Professor Ljungqvist, who had some ideas. WADA was very alert to the issue and might have sensible ways of dealing with it.

PROFESSOR LJUNGOVIST thanked the Director General for the clarification, as it would have looked awful for him as Chairman of the Health, Medical and Research Committee to express concern about himself as Chairman of the IOC Medical Commission.

The document related to a problem that had been in existence for a long time, namely the use of anti-asthmatic drugs by athletes who did not necessarily need them. This had been discussed for the first time by the IOC during the Olympic Games in Lillehammer in 1994. The IOC had, in the nineties, recognised an overuse of beta-2 agonists and other substances to treat asthma, and had decided to institute a procedure to make sure that athletes at the Olympic Games really did need the medication. A full programme of that type had first been implemented in 2001, before the implementation of the WADA Code, and it had been used for the Olympic Games in Salt Lake City in 2002 and the Olympic Games in Athens in 2004 and in Turin in 2006. Beta-2 agonists had indeed been found to be overused. These were substances that had come onto the market some decades previously and had become very popular, hence the discussion in Lillehammer in 1994. It had since become clear that the chronic use of beta-2 agonists could be detrimental to the health of those taking them. The preferred treatment of

asthma or asthmatic situations (bronchoconstriction, for instance) in sport was the use of inhaled corticosteroids, and that was what had been determined by international medical society. Exactly the same TUE procedure was being used at the Olympic Games for glucocorticosteroids as the WADA ATUE procedure required. There was no discrepancy about the main treatment of asthma. The sole discrepancy was that use had been made at the Olympic Games of a procedure by which the athlete should demonstrate a need to use beta-2 agonists. It now appeared that the WADA ATUEs also included beta-2 agonists, and this was where there was a discrepancy. ATUEs were just a notification that an athlete needed beta-2 agonists, whereas he felt that Olympic athletes needed to protect their health and should not take such substances if they did not need them. Hence the procedure he had mentioned, which consisted of advising all Olympic Games participants that, if they needed beta-2 agonists, they should come to the Olympic Games with the necessary documentation. If they did not have the documentation because they were not in a city or country in which this could be obtained, athletes were offered an opportunity to take the necessary respiratory tests at the Olympic Games themselves. If it could be found, through documentation brought or confirmed at the test on site, that the athlete did not need to take beta-2 agonists, the TUE request would be rejected. That was the discrepancy, because the WADA TUE mechanism meant that it was simply necessary to notify that one took beta-2 agonists, following which permission was automatically granted, and there was no follow-up of this with respect to the WADA TUE.

There was a medical document in the members' files containing medical guidelines for the treatment of asthma in athletes. This was essentially fine, and the guidelines were followed. The sole discrepancy, as he had said, was that justification for the use of beta-2 agonists was required by the IOC, whereas WADA stipulated only that notification of use was required. It was necessary to find a solution. A lot of interesting information as to the use of anti-asthmatic drugs in athletes had been acquired at the 2002, 2004 and 2006 Olympic Games. Athletes who were not asthmatic had been found at the Olympic Games to be taking beta-2 agonists, and had been advised not to take them. This had resulted in a series of scientific articles. The latest one, which he had with him, had been very well received by the scientific community, which applauded what was being done at the Olympic Games. This information was very important to WADA.

His proposal was that it was in WADA's interest that the IOC and other federations continue to conduct this quality control of the intake of asthmatic drugs at major competitions. His own federation had followed suit; he knew that FINA was on the verge of doing the same, as was the FIS, and WADA had to find a solution to allow IFs, despite the stipulation in the WADA ATUE protocol, for certain competitions to do these things in order to acquire more data and protect the health of the top athletes. If WADA were to demand a full TUE, which was being done at the Olympic Games by asking for justification and verification of the need, and if that were applied to all those taking anti-asthmatic drugs throughout the sports community, WADA would end up in a mess, as it implied a burden of TUEs with which it would be impossible to cope. He was asking only for those IFs or organisations that wished to do so at particular high level competitions to do that, and he was sure that, if he were given the mandate to look into this and if necessary consult experts, a solution that would satisfy both WADA and the IFs could be reached easily and quickly, as it would be good for both organisations. If the Executive Committee allowed the Director General and him to be given the mandate to solve the problem, which was a technical protocol problem, and come back with a solution to the Executive Committee in September, he was confident that it would be possible to find a good solution that would satisfy all those concerned.

THE DIRECTOR GENERAL said that he had some ideas on the way forward. It was necessary to look at the Code and make sure that harmony prevailed for the athletes. That was the end result that WADA needed to achieve.

PROFESSOR LJUNGOVIST said that, if an athlete was on beta-2 agonists and had to undergo the control as to whether it was really necessary to take them or not, it was not

a matter of abstinence for four days, it was a matter of four hours for short-lasting beta-2 agonists and eight hours for long-lasting beta-2 agonists. There were some mistakes in the paper. Nevertheless, the ultimate message was that the problem would be solved in the way in which he had proposed.

THE CHAIRMAN stressed that these papers were drafts.

MR BOUCHARD understood that harmonisation and consistency were also being looked at.

#### DECISION

Proposal to resolve the issue of discrepancy regarding TUEs for asthma medication approved.

### **8.3 Education**

#### **– 8.3.1 Education Committee Chair Report**

MR BOUCHARD said that he represented the Canadian Sports Minister, Ms Guergis, who had been unable to attend the meeting. She had been very pleased to take on the responsibility of chairing the Ethics and Education Committee. He delivered the report on her behalf. The meeting of the Ethics and Education Committee had been held on 19 and 20 April. It was the first meeting that had been chaired by the minister, but also the first meeting attended by new committee members. The committee had exchanged views on a number of topics, including the Social Science Research Programme, the Code review process, the travelling seminars, and so on. The committee members had clearly demonstrated their respective countries' commitments to promote education as a key tool for fair and drug-free sport.

During the discussions, a number of recommendations had been put forward, the first being that the education seminar content and format should be kept flexible, so as to best adapt to local circumstances and for optimal outcomes. The committee had also recommended that WADA's Digital Library be expanded by developing contact with stakeholders requesting additional or updated material. The third recommendation had been made with respect to social science research. It was to implement an essential database of social science research results relevant to the fight against doping, to include projects funded under WADA's Social Science Research Programme, but also other projects not funded by WADA. Another recommendation had been to the effect that the WADA Communication Department have regular features on regional education initiatives and increase the use of outreach programmes in relation to educational activities. The committee had also recommended that WADA offer the use of its eForum to the Council of Europe Education Advisory Group as an anti-doping education communication and information tool. Finally, the Ethics and Education Committee had also invited the WADA Education Department to coordinate the committee members' review and comments on the education provisions of the next revised version of the Code. The Ethics and Education Committee had also recommended that the Education Department develop a systematic monitoring and evaluation process for educational activities and tools. Surveys should be used on a regular basis to determine the extent to which WADA was making a difference and whether or not the WADA message was getting across.

On a final note, the Ethics and Education Committee had recommended that, in order to use current resources to maximum effect, the WADA Education Department should favour assessment of current activities over proceeding with additional new projects. In a nutshell, this was what had been discussed at the previous meeting of the Ethics and Education Committee.

#### DECISION

Ethics and Education Committee Chair report noted.

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

### DECISION

Executive Committee – 22 September 2007 in  
Montreal, Canada;  
Executive Committee – 14 November 2007 in  
Madrid, Spain;  
2007 World Conference – 15, 16 and 17  
November 2007, in Madrid, Spain;  
Foundation Board – 17 November 2007, in  
Madrid, Spain;  
Executive Committee – 10 May 2008;  
Foundation Board – 11 May 2008;  
Executive Committee – 20 September 2008;  
Executive Committee – 22 November 2008;  
Foundation Board – 23 November 2008.

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

The meeting adjourned at 5.15 p.m.

### FOR APPROVAL

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