

**Minutes of the WADA Executive Committee Meeting
22 September 2007
Montreal, Canada**

The meeting began at 9.00 a.m.

1. Welcome, Roll Call and Observers

THE CHAIRMAN welcomed everybody to the penultimate Executive Committee meeting of the year; the next one would be in Madrid immediately prior to the World Conference on Doping in Sport. He would circulate an attendance sheet, and asked the members to sign it and pass it on, and then those who wished to be recorded as observers could also sign.

The following members attended the meeting: Mr Richard Pound, President and Chairman of WADA; Mr Jean-François Lamour, Vice-Chairman of WADA; Mr Peter Schonning, representing Mr Brian Mikkelsen, Minister of Culture and Sport, Denmark; Professor Arne Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Ms Rania Elwani, Member of the IOC Athletes' Commission; Mr Satoshi Tanaka, Deputy Director General, Sports and Youth Bureau, representing Mr Kenshiro Matsunami, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; 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; Ms Larocque, representing 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 WADA European 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: Patrick Schamasch, Stanislas Frossard, Huw Roberts, Michael Gottlieb, Brian Blake, Shin Asakawa, Nompumelelo Sibila, Harija Mashego, Idee Inyangudor, Katherine Seymour, René Bouchard, John Fahey, Mikio Hibino, George Brandis, Torben Hoffeldt, Andrew Ryan and Valéry Genniges.

2. Minutes of the Executive Committee meeting on 12 May 2007 in Montreal

THE CHAIRMAN asked whether the members had any comments regarding the minutes of the Executive Committee meeting on 12 May 2007 in Montreal. As far as he knew, there had been no comments on those. Unless any comments or corrections were made by noon that day, he would assume that the members were satisfied with the minutes as distributed and would sign them accordingly.

DECISION

Minutes of the meeting of the Executive Committee on 12 May 2007 approved and duly signed.

3. Director General's Report

THE CHAIRMAN said that two days had been scheduled for the meeting; he did not insist that the members take two days, but he had wished to make sure that there would be sufficient time to discuss all matters of policy that were of interest to the Executive Committee. He had no objection whatsoever to spending Sunday with his family, so that matter was in the members' hands.

THE DIRECTOR GENERAL said that he had provided a full report for the meeting because the members did not have reports from each of the directors as usual, so that he could attend to the big issues to which the president had referred. He would carefully go through some of the items about which he had written to the members.

The UNESCO Convention continued to increase in terms of the number of ratifications; 65 countries had now ratified. There was a list that he would circulate so that members could see the countries that had ratified; it was one of the priority activities, and Anne Jansen worked tirelessly with the regional directors on approaching countries that had not yet ratified, first to find what process they were following and then to find out how long the process would take. WADA kept a monthly review, was in constant communication with the countries and regions for which each regional director was responsible, and would continue that process until every country that had indicated that it would ratify did so. He reminded the sports movement that the NADOs were signatories to the Code; they were aware that the anti-doping programmes were carried out within countries and the NADOs were subject to the compliance report due in November the following year. The sports movement should be confident that the countries conducting anti-doping programmes would be subject to the same scrutiny as them when it came to compliance in 2008. Mr Andersen would give an informal draft compliance report later that day, because that did cover the NADOs.

He reminded members that there were some countries with complex processes in place, and he needed only to mention Switzerland in that regard because, before Switzerland could ratify the convention, each of the cantons had to make a decision, and it filtered upwards, not downwards. It was a time-consuming process.

WADA would be signing an MoU with Interpol in Madrid. Beforehand, Mr Niggli would attend the Interpol annual congress in Morocco. He was satisfied with the progress made in relation to this partnership, but it could be enhanced only when countries had laws in place to allow Interpol to share information. If there was no law in place relating to the banning of steroids and other serious prohibited substances, there was nothing for police or other agencies to do, and he would come back to that when he referred to investigations in his report.

ILAC was the independent agency responsible for assisting WADA with accreditation and reaccreditation of WADA laboratories, and WADA would be signing an MoU with this body also in Madrid during the science presentation.

Investigations comprised a major project, and WADA had a paper in progress upon which it was working before tabling it before the members; it would be circulated amongst most of those who had attended the first two symposia. A small working group had been established, and WADA would then seek comments from the other 20 to 30 people who had been involved in assisting the project, and finalise a document, which would be a best practice model, not a standard, which fell into the third tier of the anti-doping programme.

This remained a high priority area for WADA. There had been, since May, another major investigation in the USA, which had led to the arrest of a major league baseball batboy, who had provided information in relation to his criminal proceedings, which WADA understood might be helpful to Senator Mitchell and his baseball enquiry.

As to legal issues, members would see a list of cases taken to the CAS and a list of cases appealed at national level. There was one case on that list about which the members might wish to ask Mr Niggli, and that referred to Beke. Beke was suing WADA; this was not a case that WADA had initiated. Beke was suing WADA and the laboratory in Ghent for what he had described as a wrong decision in relation to EPO. This dated back a few years; the proceedings were still under way and, if anybody wanted an update, Mr Niggli could provide it.

That led nicely to Puerto. This was still a very major exercise for WADA and the UCI and Spain. He told a little story about Puerto, which Mr Niggli could expand on. Basso, the Italian cyclist, had initially been sanctioned in relation to information coming from Puerto. He had successfully got that sanction removed on appeal. Further enquiries had revealed that Basso's dog was the code name used by the doctor in correspondence with the cyclist and others. Having broken that code, more evidence had come to light, and Basso had faced another charge and had been sanctioned on the basis of that evidence. There were other riders who had dogs who were likewise referred to in the papers that WADA had, and the dogs were the trigger of the evidence being taken further.

A current case involving a cyclist and a dog was Valverde; that would go to the CAS the following week. It was a situation about which the UCI had become aware, and had declined to allow Valverde to compete at the world road race championships in September. Valverde had appealed and it would be going to the CAS under the CAS emergency processes, but it was quite clear that Valverde's dog was named in the papers to which WADA had access. WADA had written to the UCI to support it in the process that it was adopting. WADA had informed the Spanish authorities that they should be alert to this. It was also known from the material that had come out of the Puerto enquiry that there had been exchanges of money from cyclists to Dr Fuentes; this had surfaced in the enquiry relating to Ullrich in Germany, and there were other cyclists implicated in that exchange of money, but what he was really saying was that, when judicial authorities conducted investigations, they would get evidence that might not be as direct as WADA could interpret. Experts were needed to be involved in the interpretation of the evidence gathered; WADA and the NADOs were not experts, but the governmental agencies were, and WADA needed to get right alongside them in such cases to ensure that correct evidence was given to the sporting movement people.

Regarding the World Conference on Doping in Sport in Madrid, Ms Withers had just returned from a few days in Madrid to take further steps in relation to the logistics but, for the sake of the members around the table, and before they received their information pack, he told them a couple of things. WADA had increased the number of delegate positions available to those who had registered early. There had been a deadline of 15 August, and WADA had been able to allow further delegates from governmental and International Federation delegations to go from two to three, and had informed each accordingly. There were currently 1,100 registrations, some of which were obviously observers. As to conference timelines, the Executive Committee meeting would commence on 14 November at 2 p.m. He was aware of other meetings that UNESCO, for example, was running on the morning of 14 November. WADA was not partaking in the organising of those meetings or in the transmission of information in relation to them. On 15 November, the official opening would take place, then the presentations, as seen in the draft programme in the papers, would be given by each of the committee chairs. Only on the stage that day would be the WADA President and each committee chair with the accompanying director or individuals to provide assistance with the presentation but, on the following day, 16 November, there

would be a seat for each Executive Committee member during the discussion of the Code review. That would mean that, if they were not sitting on the stage, the members' absence might be noticed. WADA would be arranging an informal Foundation Board meeting on the morning of 16 November so that all Foundation Board members would be fully briefed about the major changes to the Code in advance of the meeting. On 17 November, in the morning, the World Conference on Doping in Sport would be concluded, and there would be a small formal Foundation Board meeting to approve the revised Code and then, in the afternoon, the normal November Foundation Board meeting would take place. Finally, the Spanish hosts were offering to all Foundation Board members a partner or spouse programme for those partners or spouses of Foundation Board members who wished to come to Madrid. WADA could not pay for those people, but they could share the members' accommodation in the hotel that had been set aside for the Foundation Board members. If the members had any other questions in relation to the World Conference on Doping in Sport, he asked them to intervene. He would try to answer the questions, although the members would receive a package in early October with all of the details.

Regarding standing committee vacancies, he thanked the members for assisting and ensuring that there were nominations. Five nominations had been received for the vacancies in the Finance and Administration Committee, 14 for the Ethics and Education Committee, 15 for the Health, Medical and Research Committee, and 31 for the Athletes' Committee. He was pleased that there were sufficient nominations from which to choose standing committee members for 2008, and he would work with the WADA President and chair of each standing committee to have those finalised and presented to the Foundation Board in November. There had been one nomination for Vice-President and two for President.

Accompanied by the management team, the President would be going to China the following week to follow up on the visit made the previous year. WADA continued to work very closely with the Chinese Government and those responsible for anti-doping in China to ensure that the run-up to the Olympic Games in Beijing would be as smooth and proper as possible.

India had been singled out by WADA for special attention. He would be taking a team in early October and conducting a two-day symposium involving governmental and sporting officials to kick-start an anti-doping programme in that country. India would be hosting several major events in the coming years and really needed help to ensure that its programmes for those events would be Code-compliant, effective and efficient and involve the Indian laboratory, if it was lucky enough to achieve accreditation.

He had mentioned the case in Japan to alert the members to an issue that he knew Professor Ljungqvist would refer to when discussing the List. Intravenous IVs were prohibited but, if they were medically legitimate, they were admissible. The question confronted in Japan was who decided whether they were medically legitimate, and one could not expect such a decision to be made when an athlete was lying on a bed with a tube fast approaching his or her body. WADA had talked about it internally; every doctor agreed that intravenous infusion was not really an acceptable medical practice in sport, but there could be emergency situations that required it. His experience in Japan and discussions with experts revealed that putting the word "acute" back in front of the term on the List could be an answer. He was raising it because it was a big matter in Japan involving different medical views, and he did not want a system whereby there were arguments with doctors to decide whether an anti-doping rule violation had occurred, but he did want a system where doctors who breached the prohibited method process were sanctioned by appropriate authorities.

He raised the issue of Stuttgart and the UCI because there had been some very helpful and fruitful correspondence with the German Government; shortly after the Tour de France,

WADA had been invited to attend a steering committee meeting in early August and Mr Andersen had represented WADA at that meeting, offering to the organisers the possibility of an Independent Observer programme for the event, and offering perhaps to run a pre-games testing programme similar to the one WADA ran with the IOC for the Olympic Games. WADA had received no invitation to participate further, and could participate in these events only if it was invited by the body in charge, in this case the UCI. WADA had urgently rung around to see if it could put together a small expert group of observers, because at short notice one could imagine that this was not easy. WADA had done that and had been ready to go, but had not been invited, so would no longer partake any further in relation to that event.

He had mentioned Brussels in his report. He had learned the previous year that Brussels was effectively a doping-free zone; it was not easy to have jurisdiction to conduct anti-doping testing in Brussels. WADA had been liaising with the very kind help of the Danish Government with people involved in Brussels to see that this matter was appropriately addressed and dealt with. There were current difficulties in Belgium, which were obviously getting in the way of a resolution. Nevertheless, he thought he should table this because WADA endeavours to date had not provided a resolution and this was a major concern.

FIFA had been very helpful in progressing the partnership relations, and he had met with the FIFA Medical Commission in Shanghai the previous week. He had met with President Blatter. FIFA had agreed to help WADA in its endeavour to obtain ratifications of the UNESCO convention and Mr Blatter had said that he would raise the issue when he visited countries that had not ratified. WADA was now talking with FIFA about appropriate partnerships so that, in the future, WADA would be able to rely on FIFA resources for activities for which WADA did not have money in the budget.

The communication report had been provided in précis form by Ms Hunter; WADA continued to do the things that the Executive Committee had asked it to do, including developing for IFs a model of communication practice to follow when an anti-doping rule violation was found by an IF, and he noted with some satisfaction that this had been followed already by several IFs over the past few months, and he mentioned in particular the IAAF and FISA, which had followed the model. WADA would finalise that once it received further input from the collectives, and he knew that Ms Hunter would take the opportunity to talk to Mr Ryan over that weekend. The Outreach model had also been used by many IFs and NADOs, and he was pleased to see the continuing progress in that project.

With education as well, huge steps had been made since the Executive Committee had last met in conducting programmes in countries that had never heard of WADA before. Ms Carter's team had been to many countries, and the members would see that in the attachment to his report, where there had been effective and good response to date to the delivery of those programmes. Regrettably, Ms Carter had been pulled to Ottawa for family reasons and would leave WADA in December; there was a process currently in place for the selection of her successor, and WADA would be interviewing a shortlist for her position the following week, so he hoped that the transition would be a smooth one. He took this opportunity to record WADA's thanks to Ms Carter and wish her well.

Independent Observer missions had been conducted at the All African Games and the Pan-American Games, and those reports would soon be finalised and sent out. The audit content of the programme had been well received by the hosts. This was no longer an observe-and-report process. If the observers saw something that required attention, they would talk to the anti-doping officials at the event just to make sure that they did not make a major mistake.

The RADOs were one of WADA's most successful projects in ensuring that the 'W' was in WADA. By the end of that year, 119 countries that had not been formerly engaged in any

anti-doping programme in 2004 had become engaged. He thought that was a remarkable record to have achieved for the cost of about 1.6 million dollars. If ever members wished to carry out a study on value for money, they should have a look at the RADO programme.

Another major project for WADA was the athlete passport, and he knew that some of the members would remember the discussions that had taken place on the matter when Mr Koss had been on the board in early 2000. The project had developed to the stage where WADA was hopeful that it could run a pilot the following year in relation to the blood parameter component of this biological parameter project. This was not just blood; this was a project that would hopefully end up with information about athletes and their hormonal composition, blood composition and so on, so as to look at a "normal situation" for an athlete, to see if there were changes in those biological parameters. Such changes might be reported to lead to sanctions under rules put into place by WADA. He had spoken as a layperson in relation to this project. Dr Garnier and Dr Rabin had been involved in this development and would be able to answer questions more thoroughly than he could.

WADA would be meeting IOC members that day to talk about the use of ADAMS in Beijing. It had been fully and successfully utilised at the Pan-American Games. WADA was gradually getting people to use ADAMS, but needed a big push. WADA was waiting for all of the laboratories to come on board as one, because WADA was dealing directly with the world anti-doping laboratory collective. This was a simple project that could be simply implemented. It was not rocket science. The Japanese anti-doping agency had trained 100 people in the use of ADAMS in the lead-up to the World University Games so that every athlete involved in that event from Japan was on ADAMS. The agency had done that in a couple of weeks, which was quite a remarkable achievement that just showed how it could be done with a degree of commitment.

In relation to interviewing protocol, over the years, WADA had been approached by many people who had said that they had information for WADA that they would like to share. Some of this came from athletes, who might or might not be involved in a sanction process, some from coaches, and some from other members of the entourage, including chemists and doctors. WADA worked on the basis of trying to respond to every request, but needed a protocol to follow so that it could deal with these matters on a case-by-case basis, following a protocol that WADA was asking the members to approve. Therefore, attached to his report was a paper that gave the background to the request for the protocol contained within the paper to be approved. He asked that it be approved, as he did want to have a process in place, because some of the information that WADA might get from conducting these interviews would be required for hearings. WADA did not have trained staff capable of receiving the information and noting it so that it was good and proper evidence. WADA had staff members who would be happy to do it, but it would not be appropriate so, each time these things came up, WADA would have to engage outside people, either those who had been versed in criminal processes, such as investigators or former police officers, or lawyers. There was therefore a cost attached, and WADA did not want to receive every one, it might have to divert some of these people to the anti-doping organisations responsible; however, if WADA did not receive it, then one was likely to read in the front pages of the newspaper that somebody had offered information to WADA and had been turned down. There were some attention seekers out there who would love to say that.

As to other issues, WADA had shelved the IFADO concept, as it did not have the budget for that in 2008; he would be quite happy to talk about it further. Mr Kasper had been most helpful in assisting with the furtherance of it when they had met in Lausanne earlier in the year; WADA was simply not in a position to be able to take it further, and he could say that this was not a project that had been picked up with a lot of enthusiasm by any of the IFs WADA had thought might benefit from it (Olympic Movement or Recognised Federations), although it had been looked at quite favourably by the non-recognised federations.

The Landis decision was a very thorough one; the majority opinion was 84 pages long, and there was a minority opinion of 23 pages. This was available if anybody wished to have a copy. Members would already be reading in the newspapers many comments from the Landis team complaining about the process. WADA was not commenting until the 21-day period of appeal had elapsed because, if Landis appealed, WADA would be involved in the appeal in one way or another. If there was an appeal, it would mean a new hearing, and Landis would have the opportunity to make a new case. He would have a fresh start and would be able to raise new arguments. WADA did not want to create arguments. One thing was absent from all of the reports that had been delivered in relation to this case. Landis had been found through the scientific machinery, the IRMS, at the French laboratory to have synthetic testosterone; he had to emphasise the term "synthetic", because it meant that it was not physically produced testosterone. Landis would not have been found under IRMS unless he had taken something intentionally. This had been omitted from all of the press releases and coverage thus far, and this was a little disappointing because it was the substance of the charge. He had been charged with taking a prohibited substance: synthetic testosterone. It may have been a patch, or something else. The majority decision said that the machinery used to detect it was faultless, and not one piece of evidence had been delivered to say that the IRMS process was incorrect. He emphasised that this was synthetic testosterone and asked the members to be alert to that when discussing it. Landis's last day for appeal was 30 October so, on 31 October, it might be possible to make some comment.

In relation to the Tour de France, the French minister had agreed, or offered, to host a summit on the issue of doping in cycling in Paris on 22 and 23 October. WADA had been invited, and he would take a team consisting of Mr Niggli and Dr Garnier, with Mr Lamour as head of delegation. There would be two days of meeting, one day consisting of more technical issues, and the other day consisting of more political issues, and he was hopeful that there would be some positive outcomes.

The Marion Jones case was a case about which the members had asked to be updated, and was a subject of considerable correspondence, because EPO had been found in the A sample, but not corroborated in the B sample. WADA had wanted to know why. The outcome of the enquiry had led to the perplexing situation whereby WADA did not know why. The Lab Committee had suggested that the laboratory take corrective action in relation to the EPO analysis, and this had been implemented by the UCLA laboratory.

Finally, he reported on two matters that dated back to the May meeting. One was the Working Committee on Cost; the members had asked him to report as to whether this committee ought to be continued. The Finance and Administration Committee had looked again carefully at the report, and the WADA management had ensured that each of the working groups had copies in order to consider the matter in their deliberations. Management and the Finance and Administration Committee felt that it was not necessary to reconvene or continue this group, so he asked that it be formally disestablished.

Secondly, he had raised the issue of corruption and bribery in May, and he had asked some of the federations involved in programmes looking into corruption and bribery to liaise with him. He would follow up in the coming months and report again in November on that item.

That concluded his report.

THE CHAIRMAN asked whether there were any comments or questions.

MR LAMOUR brought up the issue of ADAMS, and asked about the scope of this in terms of games preparations, not the period for the IOC, but the period as of today until the IOC took on responsibility for testing, including out-of-competition testing.

As to the issue of Puerto, could one say that, following the examination of the case in full by WADA's lawyers, the information received mainly through the press, and also through a document that had been sent to members after the Puerto issue and before the Tour de France, the athletes identified were the same, and there was nothing new, since no other sports had been involved, as revealed by the press?

In relation to the Valverde case, the Spanish Government was anxiously awaiting the CAS decision, and the case should be dealt with urgently by the CAS.

MR KASPER had one question related to IFADO. In August, there had been an agreement on the matter, but now it was a question of finance. It was not an IFADO as such, but a coordination group, and he wondered how much money had been calculated so that WADA could not afford it. It had been agreed at the previous meeting that all GAISF members should be treated in the same way, be they Olympic or non-Olympic. At least that part had been approved by the Finance and Administration Committee, if he was not mistaken.

PROFESSOR LJUNGQVIST noted that he was happy with the fact that more and more countries were signing the UNESCO convention; however, he still felt that it was a very slow process. There had been some explanation as to why this might be, for example, in countries such as Switzerland, but he still felt that WADA should push the fact that it was important for governments to sign the convention. He welcomed the draft paper on investigations, and felt that it was very important and took it for granted that the relevant anti-doping authorities would be involved in the production of a final recommendation, and also the interview protocol was quite interesting. He thought that these were good initiatives on behalf of WADA.

With respect to ADAMS in Beijing, it should perhaps be clarified that, until then, the use of ADAMS had been limited to whereabouts information, and there would be further IOC-WADA discussions as to the extent to which ADAMS could be of further use for forthcoming games, so it would be a gradual transition from the IOC procedures to ADAMS, starting with the whereabouts information in Beijing.

Regarding ILAC, he was happy that WADA had the ILAC people with it to guarantee the credibility of the WADA accreditation system, as ILAC was an important external body.

In relation to the Japanese case, he had recently been confronted with this very interesting topic; it was quite an interesting case and he would come back to the principles when discussing the List; however, he thought that there was probably a simple solution to the matter.

As to the Landis case, he fully agreed that it was very frustrating to read all those comments totally disregarding the simple fact that it had been a positive case determined by the most advanced method available, IRMS, which stood for Isotope Ratio Mass Spectrometry. The IRMS had been triggered by an abnormal finding with respect to the T/E ratio, and that was a debatable parameter, as everybody knew; but, once an IRMS verified a finding, there should be no more discussion. A negative IRMS might well be a false negative, but a positive IRMS could hardly be a false positive, because it simply stated that synthetic non-endogenous testosterone had been found, so that should be clarified.

He had two questions regarding reports that appeared to be missing. Did WADA have any follow-up on the BALCO affair? Also, to what extent did WADA follow the new disclosures from the University of Freiburg in Germany, where some doping procedures appeared to have been ongoing for quite some time?

THE DIRECTOR GENERAL told Mr Lamour that the ADAMS project was being used for pre-games testing by the team that Mr Andersen would head together with Dr Schamasch from the IOC, so WADA would use it from its point of view. What Professor Ljungqvist had said

from the IOC point of view was absolutely correct, and there would be a meeting later that day to try to finalise that so as to broadcast it to ensure that everybody had good warning, which he thought was most appropriate.

As to the Puerto matter, and Mr Niggli could say more if necessary, the WADA legal study thus far (and he was not sure whether the lawyers had looked for code names for all dogs or all cats or whatever) revealed only cyclists. In relation to the Valverde case, WADA awaited the outcome of this, and should not say anything in advance; but, on the information WADA knew, from the dog, he thought that there was evidence, which should be determined by the panel, but there was sufficient evidence to go to the panel. That was the position that WADA had adopted.

He responded to Mr Kasper about the IFADO project, and again he thanked Mr Kasper for his help. WADA had originally thought that this would cost IFs some money and WADA some money. How much would depend on the number of tests that the body could conduct, so there had been some unknowns. WADA had been prepared originally to provide an office, at the Maison du Sport, which it had leased and was currently sub-leasing (and would now sub-lease on a longer-term basis), and provide sufficient funds to pay for the administrator. That person would not have been a WADA employee, but would have to have been an employee of the group coming together as a collective. WADA had thought originally that this would cost much more than 200,000 dollars in terms of WADA commitment (lease, individual, and some testing), but it would be higher than that when the numbers were involved in terms of the testing and partnership. That was what had been tabled in late 2005/early 2006, so now WADA did not have the money and Mr Reddie would explain why, one of the reasons being the Canadian dollar, and WADA had just lost 5% of Canadian funds because the exchange rate had gone from 92 cents to nearly a dollar that week. He accepted that GAISF members were now being included as members of the WADA family, and they were now on WADA's mailing list to ensure that they would receive information from WADA as the Executive Committee had agreed in May. That meant that the non-recognised sports that did not fall under the Olympic Movement umbrella were now covered by WADA if they were members of GAISF. Mr Andersen had the exact number, but he thought it was 29.

He thanked Professor Ljungqvist for his comments in relation to processes. WADA was constantly speaking with USADA and other officials in relation to BALCO. Trevor Graham, the coach of several of the athletes implicated in BALCO, was currently due to go to trial in November, and Marion Jones in October. Pre-trial discussions revealed plea-bargaining. WADA did not know what those outcomes might involve, but it did involve BALCO; therefore, until it was complete, the files were being kept open, and he could say no more on that, nor could USADA.

He noted what had been said in relation to Freiburg University, and could give a little more detail, but that was another issue that WADA was trying not to lose sight of. It was typical of WADA's daily business; members of staff arrived at the office and things happened, to which they would react, this was yet another example of having to use resources to immediately respond to information received.

The Finance and Administration Committee had asked him to look at ways of obtaining extra resources, money, partnerships, or abilities to conduct activities with another body's money, and in that request had been a request to open up immediate dialogue with the Canadian Government about the lease for the WADA office in Montreal. A ten-year contract had commenced in April 2002 with an option to extend a further ten years should this be offered by the Canadian Government. He had immediately undertaken communications with representatives of the Federal Government who, in turn, had engaged the Quebec Government. The response had been positive, and the matter was ongoing, but there was

certainly a desire from the Canadian perspective to exercise that option so that WADA would be able to stay at the premises beyond 2012.

THE CHAIRMAN had a letter, which had been received from the French minister of sport, with the nomination of another member for the Athletes' Committee. On the UNESCO convention, the chair of the Athletes' Committee, Mr Fetisov, was the chair of the UNESCO bureau for purposes of the convention, and that was a good connection for WADA to have.

As reported by the Director General, there had been two seminars on the matter of investigations; WADA did not yet have the perspective of the entire world; for example, it did not have the entire perspective of continental Europe, Asia, and so on, and these were clearly important areas that needed to be consulted as WADA moved forward to having some kind of a draft policy or best practices.

On the issue of Puerto and Valverde, members should also know that he had written to the Spanish minister, saying that it seemed pretty clear to WADA and the UCI that there was an issue, and WADA thought that the Spanish federation should be investigating that rather than simply going to litigation. The response had been to go directly to litigation, but WADA had supported the UCI in saying that it did not know the final answer but there was clearly enough for the federation to have a look at.

He would be going to China with Ms Hunter and Mr Andersen to have meetings with the chairman of the organising committee for the Olympic Games and the minister of sport, who was also president of the NOC, and with the anti-doping committee of the NOC. The idea was to follow up on fairly productive meetings the previous year, and this would be an opportunity for Beijing to tell WADA what it had been doing since WADA had last been there and for WADA to provide observations and guidance.

The symposium in India was very important, and anybody round the table who had followed the media reports of the serious problems in India in terms of getting an effective anti-doping programme in place would understand the importance of being in India that year.

On Stuttgart, he had been in Berlin and met the minister prior to the creation of the working group. The situation in Germany had been so serious that the German Government had been giving serious consideration to pulling the event; he had said that he hoped that a solution might be found and that WADA would do whatever it could to help, and that had led to the invitation to a preliminary meeting, which had been attended by Mr Andersen. The German Government had wanted WADA to be involved in the event itself but WADA had said that it could not do that without an invitation from the UCI, but that the government could encourage the UCI to invite WADA. He assumed that the German Government had made such overtures to the UCI, but the UCI had refused to issue an invitation, so WADA had done everything possible.

Brussels was not quite a doping-free zone; it was a zone in which there were no anti-doping rules, so it was quite the opposite, and this was a fairly serious situation for Belgium and the European Community, which was based in Brussels.

The Director General had wanted an approval with respect to the interviewing protocol; this was something that would evolve, but at least it would help the Director General and the staff if the Executive Committee were generally comfortable with the direction of that; so, unless somebody was not happy with that, he assumed it could be taken as an approval.

As to the other decision requested in relation to the Working Group on Cost, were the members content to let this group become part of WADA's glorious history and not keep it in place?

The bribery and corruption issue was increasingly important in a number of parts of the world. There was one federation from which WADA had been trying for months, if not years, to get sensible responses to some questions regarding the existence of bribery and corruption and manipulation, and that IF, which was the International Weightlifting Federation, had not answered. Between then and the next meeting in November, the Executive Committee would have to decide what, if anything, WADA might wish to recommend with respect to that federation, but it had been stonewalled as far as he was concerned.

MS LAROCQUE reiterated Canada's commitment to renewing its partnership with WADA beyond 2011. Canada intended to pursue negotiations with the Government of Quebec and in accordance with the agreement between Montreal International and WADA to renew the financial commitment and support of WADA beyond 2011.

THE CHAIRMAN said that he hoped that the dossier would be advanced sufficiently by the time the Executive Committee met in November to have a more definitive position. It was a very interesting contract. WADA had an option to require the Canadian Government to renew, and the Canadian Government had an option to require WADA to continue. This was not an agreement drafted at his firm. It was pretty clear, when the initial agreement had been negotiated and approved, that it would be a longer period than ten years, but WADA would certainly not force an unwilling government to take it for another ten years.

DECISIONS

1. Proposal regarding interviewing protocol approved.
2. Proposal to disestablish the Working Group on Costs approved.
3. Report by the Director General noted.

– **3.1 Olympic Council of Asia – Office Proposal**

THE CHAIRMAN noted the offer from the Olympic Council of Asia. WADA should decide the manner in which it would approach dealing with that offer.

THE DIRECTOR GENERAL noted that this was not a regional office; it was a sub-regional office; so, if it was an offer that the members agreed should be accepted, it would come under the auspices of the Asia-Oceania Regional Office in Tokyo. The offer was pretty simple: the OCA, a very substantially financially endowed organisation, was building a new head office in Kuwait, which would be opened in November 2008. The OCA had been working with Messrs Hayashi and Koehler in assisting, in every one of the RADOs through Asia, the development of those organisations, the education programmes that went alongside them and so on. The OCA had been an extraordinarily good partner. The OCA had proposed that WADA have a free office in its new building; not only had it proposed that but, if WADA agreed to take it and have a staff person there, the OCA would grant certain benefits to a staff person. It was a five-year proposal. He was not asking for approval of a new staff position, as this was something that should be considered subsequently; nevertheless, he was asking that the Executive Committee accept the office, because it might be something that WADA had at its utility to use from time to time, for the RADO purposes and others. So he was not asking for approval of an additional staff member, nor was he suggesting that the Executive Committee even consider that. It might be that somebody from Montreal or Mr Hayashi and his team could go there from time to time; that was a management decision about which he would get back to the members if it involved further finance. This proposal involved no financial commitment, but the acceptance of what he would describe as a very generous offer that was not likely to come from any of the other Olympic confederations, and he said that because none of the others had the same financial background as the OCA, and WADA already had assistance from the Oceania confederation,

which hosted the RADO office in Fiji. In terms of PASO and ANOCA, they did not have substantial buildings or the ability to host WADA in the same fashion. This might be a one-off, or it might be something that the Executive Committee decided WADA should not take on a matter of principle, but it was something he would like the Executive Committee to seriously consider, and he would like to see it accepted.

MR TANAKA said that he thought that the proposal appeared to be a good one; however, at the same time, it would be necessary to discuss several points with his colleagues. The reason he said this was that he had received the information only a few days previously, and there had been no time to discuss the matter, so it would be necessary to discuss the responsibility of the Tokyo regional office and the role of the staff. Mr Hayashi and his colleagues were making a huge effort to conduct WADA's activities in the region, and Japan, as a representative of the Asian Foundation Board members, needed time to discuss the issue. He thought that he would be able to report on the results of discussion among the Asian countries at the next Executive Committee meeting. This was not an appropriate time to make a final decision to accept the proposal.

MR STOFILÉ said that he was glad that he was speaking after Japan, because his question would have been to ask what kind of discussions had taken place between the OCA and the regional office in Asia. Obviously, Asia was a very big continent, and WADA would welcome as many offices as possible. He thought that, if the resources permitted, it would be a good idea, but it was very important that the OCA first discuss the matter with the regional office so as to put a joint proposal to WADA. In this way, the Executive Committee would know that there was no problem at home.

THE DIRECTOR GENERAL said that Mr Hayashi had been part of this proposal and a regional directors' meeting had been convened in Tokyo the previous week, and all of the regional directors had been present. Mr Hayashi had been part of all the activities in Asia and all of the activities surrounding the OCA and the RADOs; so, from his point of view, of course WADA should ensure that Mr Hayashi understood what was happening and that he had been engaged and involved. WADA had not discussed with other governments in Asia; however, regarding what it had discussed, and Mr Stofilé would appreciate this, he was under strict guidelines from the chair of the Finance and Administration Committee to look at various avenues and different resources for finance. This was free, and it was also in a part of the world in which there might be access to considerable funding. It was certainly a part of the world in which WADA had not really engaged in its anti-doping activities, and he said no more other than to draw attention to the fact that the price of oil was now well over 80 dollars a barrel, so that was another reason for WADA to consider. He was asking only for the space, and WADA could always turn it down; WADA did not need to go there, and he was not suggesting that WADA put a person there, but it did provide WADA with facilities that were free of charge for WADA to conduct its RADO meetings and, if WADA did not have it, it would be paying for space for those meetings. It would be of financial benefit to WADA and had certainly involved the Asian regional director. He would not do anything in the regions without engaging the regional directors of those regions.

MS LAROCQUE asked whether the acceptance of free office facilities in any way impeded or affected WADA's independence or relationship with the OCA. Was this a question of principle that WADA should discuss as to whether or not anything was ever really free? Was there any concern at all, or did it not in any way affect the relationship that WADA would have with the OCA?

THE CHAIRMAN noted that it would be similar to what WADA did with the Canadian Government.

MR MALLARD thought that it was a question of whether people could make principled decisions with support from other organisations or not. The question he had for the Director

General was really a question of whether timing was of the essence in this matter and whether in fact WADA might accommodate the views expressed by Japan by acknowledging the kind offer and saying that WADA would prefer to put it to the full Foundation Board at the meeting in Madrid and make a decision following that, which would give Japan the time to consult with Asian governments.

MS ELWANI noted that WADA had previously accepted a government offer from South Africa to have a regional office without consulting African countries. That had also been free of charge; however, WADA was now paying for that office. In this case, it would be getting something free of charge for five years from a continental organisation and not a government, so she thought that it was a better offer. The issue should be discussed in the OCA; she thought that this was a management issue, as this office would help WADA coordinate anti-doping all over the world. It was not about the country or the organisation, so she would support having the office.

THE DIRECTOR GENERAL said that, if WADA did not want the space, the OCA would use it for something else. WADA already had an office in Uruguay paid for by the Uruguayan Government and an office in South Africa paid for by the Western Cape Government and the South African Government, and there had never been any conflict. WADA shared those premises with officials from governmental agencies. In Japan, WADA paid for its premises but shared a building with the Japanese Institute for Sport and had an office next door to JADA. That had not affected any of WADA's independence or any of its principled activities. If it had, he would have reported to the members; so, as a matter of principle, there was no difficulty. As a matter of timing, WADA could go back to the OCA and ask it to keep the space open until November. He would be happy to ask the OCA to do that.

MR LAMOUR asked whether the office would be opening another form of WADA presence, not the headquarters or the regional office, but a hybrid office. If premises were opened in Kuwait, perhaps this would lead to other offices being opened. Was this a new strategy? Perhaps the strategy should be fine-tuned. Japan would therefore be able to discuss the matter with the regional partners in the meantime, and then perhaps a decision might be taken in Madrid.

MR BURNS said that he had not been an Executive Committee member at the time of the decision taken regarding the regional office in South Africa, but his position was that, if Japan had concerns, which could be for a myriad of reasons, WADA should wait and allow Japan to go through the process of consulting, which the governments felt was extremely important, as the Executive Committee members represented people who were not present and, unless there was some extreme emergency for which this had to happen immediately, he would respect Japan's request.

MR REEDIE said that Asia was an enormous continent and he thought that there were practical reasons for having additional services, and he was very attracted to this as he thought that it was a very good thing for WADA that a continental body of the sports movement turned round and asked WADA to join it in its new offices. He thought that this added to the status of WADA and that WADA should make use of the offer. He felt quite certain that going back to Sheikh Ahmad and saying to him that, in principle, WADA thought that this was a good idea and that consultations would take place in Asia and that WADA hoped to confirm the matter in Madrid was probably the best way to go.

DECISION

Decision regarding the offer by the OCA to be postponed for further consultation until the World Conference on Doping in Sport in Madrid.

4. Strategic Plan

THE CHAIRMAN said that the Olympic Movement had wanted the summer to study the Strategic Plan and seek input from its constituents. The Strategic Plan was now back to the members for re-approval; the only decision that the Executive Committee had on principle if it was approved there was the basis on which it was to be presented to the Foundation Board. The Foundation Board had been quite interested in the Strategic Plan, and was tending towards a view that it should approve the Strategic Plan, but the Foundation Board was not the organ of WADA that had this responsibility; so, if it was approved by the Executive Committee, he thought that WADA should go forward to the Foundation Board with it, not for any formal approval, but for support.

THE DIRECTOR GENERAL said that he had not received comments from anybody in the interim, but had used it as directed as a provisional report, and Mr Reddie would refer to it in his report, as it had been used for all the items on the Finance and Administration Committee agenda. There had been some confusion as to what a Strategic Plan meant, and some felt that a Strategic Plan should direct new strategies in the fight against doping, and that was where some people had thought that this was not sufficient. This was a management tool in the direction of the agency, and his discussions with those with other views had led to the management's consideration of a lateral thinking thought processing strategy that might be developed after the World Conference on Doping in Sport in Madrid. This was a different strategy, and might answer the questions of those who had been concerned about this in May.

THE CHAIRMAN said that, if the members approved the plan, it would go forward to make sure that WADA had the support of the Foundation Board, but as a plan that had been approved and was now in operation.

DECISION

Strategic Plan approved.

5. Finance

MR REEDIE said that the first piece of paper was the minutes of the Finance and Administration Committee meeting held in Lausanne in August. If the members read the minutes, they would see that finance was a great deal of fun, and he was rather disappointed that only five people had applied for membership of the Finance and Administration Committee, but the significant part of that meeting was under the heading of draft budget, when both the sports movement and government representatives on the committee had spent a long time questioning the Director General and Mr Niggli on what was happening on a daily basis in the organisation to make sure that the Finance and Administration Committee was satisfied that proper management systems were in place, and that the financial outcomes were acceptable. At the end of the day, he thought that the committee had been satisfied.

5.1 Government/IOC Contributions

MR REEDIE said that government contributions changed every day, and Mr Niggli kept his eye on them. Mr Niggli would take the members through the most recent and very encouraging government receipts because, after government contributions came in, the Olympic Movement met the contributions on a dollar for dollar basis, although WADA had a special relationship with the IOC, which meant that the IOC made WADA three payments, all of which came in in the first six months of the year with a final balancing payment at the end of the year, and that greatly aided cash flow.

MR NIGGLI said that the Executive Committee had received an update on contributions, because that week a substantial amount had been received from the USA to cover all shortfalls for 2006 and 2005, and this was now reflected in 2005, for which 94% had been reached, and 2006, for which the figure was almost at 97%. He thanked the USA for this payment.

Looking at 2007, WADA had reached 93.6%, and had been at about 90% the previous year at the same time, so collection had been better, and WADA was very thankful to the governments for timely payments, which helped in terms of managing cash flow and being able to achieve all of the projects planned. Looking at the sheet region by region, there was still an issue in the Americas. The Asian region had agreed to a new way of splitting the share that year, and he was very confident that Asia would shortly go back to higher percentages; however, in the Americas, the issue was still unsolved and it concerned mainly Mexico and Venezuela, where were different problems. Mexico was arguing that it should not be forced to pay something it had not agreed upon with the other members of the region, but nobody in the region wanted to rediscuss the issue, so WADA had been going round in circles for years and saw no progress being made, despite some promises. Venezuela had simply not paid since 2004, when it had paid only a portion of the amount agreed upon. This led him to ask the members a question: in Madrid, there would probably be some recommendations regarding those countries that had never paid and had clearly indicated that they would not pay, so that the constitution would apply and they would not be entitled to any official position within WADA and so on; however, in the lead-up to Madrid, the question was whether it was appropriate for those countries that had never paid, or had perhaps paid once, and that had indicated no willingness to do anything, to be in Madrid and, if they were in Madrid, whether it was appropriate to let them speak. Those were the two questions he asked the Executive Committee to reflect upon and provide guidance on.

THE CHAIRMAN said that the issue would involve the use of a certain amount of muscle and, if WADA were to use it, this should be considered very carefully. The Executive Committee should consider it immediately, as WADA would have to give some notice that people would not be welcome if they were not up to date with payments.

DECISIONS

1. Proposal for observer status only to the World Conference on Doping in Sport in Madrid and no opportunity to speak for governments not up to date with contributions approved.
2. Government/IOC contributions update noted.

5.2 Quarterly Accounts

MR REEDIE said that this attachment was the accounts to 30 June 2007 with a calculation attached that he received regularly from Ms Pisani who ran WADA's finance operations, which showed actual expenditure and actual income against what the committee had thought would happen when it had set the 2007 budget. These accounts showed that WADA had collected income extremely well and had spent less than 50% of the planned annual expenditure, so the end result was that WADA was currently cash rich because it had lots of other expenditure still to come in the year. He did not propose to make any more comments on that unless any member of the Executive Committee had any particular questions. What the actual against budget figure did was show exactly the most recent information available that allowed WADA to change and modify the overall 2007 budget, which became the basis for 2008. Contributions had been well received, and were higher than assumed and, because WADA had been cash rich, it had invested the money wisely and sensibly, and had a much higher interest income than had been anticipated, and that was taken into account,

and WADA was spending more on litigation than had been intended and none of that came as a great surprise.

DECISION

Quarterly accounts update noted.

5.3 Revised 2007 Budget

MR REEDIE said that the detailed breakdown department by department was shown so that all of the information on income and all of the information on expenditure could be seen. In 2007, he knew that there would be higher contributions and interest, and payments from Montreal International had gone up slightly, expenses were higher on litigation, expenses would be higher on the RADOs and expenses would be higher on the production of the final version of the World Anti-Doping Code at the World Conference on Doping in Sport in Madrid. The committee had looked pretty hard at expenses and managed to save money on audit and consultancy fees. Reductions in costs were quite clear in relation to the Independent Observers, which had not been as active as originally thought. The ADAMS cost was coming in rather lower than budget; the committee had reduced costs on educational tools and had a very hard look at operational costs across the board. The committee thought that the outcome would be as set out in the first page of the statement, where WADA would have to subsidise the operations by just over 1.8 million dollars of its accumulated cash, accumulated mainly due to governments paying arrears of contributions, which had been unexpected, and he apologised for not immediately thanking the US Government for its payment. The figures worked out pretty well and in line with what the committee had said that it thought would happen in 2007.

DECISION

Revised 2007 budget noted.

5.4 Draft Budget 2008

MR REEDIE noted that the first attachment related to the Strategic Plan; the decision taken at the previous meeting, whereby people had seemed uncertain as to what the Strategic Plan actually said or meant or whether it would be adopted, had left the Finance and Administration Committee in a bit of bother because, if it had been asked to prepare a budget in line with a Strategic Plan that nobody had actually approved, it would have had difficulties. The committee had looked at the general strategic principles and added to them an operational plan, going through this department by department with a fine toothcomb, actually trying to work out what its income and expenses would be in terms of the operating plans that WADA had to adopt in general line with the strategy that was there. Had he known that the Strategic Plan would whiz through the Executive Committee quite as quickly as it had that morning, he would not have been quite as concerned with all of the work but, at the end of the day, he was very grateful for that. The second general point was that, having looked at operational savings, as a matter of principle, the committee had gone through costs with a fine toothcomb, and had removed in excess of 280,000 dollars of costs. Looking at the budget, the Finance and Administration Committee had found that there was quite a lot of fat in the budget in various areas of routine operations, and people were given quite generous budgetary figures for things like travel and entertaining, which they actually had not ever spent, so the committee had tightened all of that and saved in excess of 280,000 dollars. The committee had done that as it had thought that this was the first step to be taken before asking the stakeholders for more money. WADA could not just keep asking for more money. WADA actually had to get its own budgeting and cost processes in a firm and tight condition before asking for higher contributions. Looking at the 2008 summary, members would see that WADA had built in an assumption of increased

contributions of 4% and had slightly higher payments from Montreal International but, at the end of the day, if all of this worked out, WADA would still be subsidising these operations by 2.2 million dollars from its accumulated and unallocated cash, so WADA was not spending it on one year, but would run it off over a period of years. The expenses that had increased were shown. Litigation was still a particular problem. In 2008, there would be major Olympic and Paralympic costs in Beijing; new staff members were needed in the IT area; information and communication showed a noticeable rise in percentage terms and a relatively modest rise in money terms; Health, Medical and Research was much the same, although the committee had assumed a slight reduction in research grants down from 6.58 million to 6.4 million, on the grounds the Finance and Administration Committee thought that there was enough research activity out there to be going on with, and 6.4 seemed to be the correct figure. That was not for the Finance and Administration Committee to decide; it was for the Executive Committee to decide but, at the end of the day, there was a substantial subsidy from accumulated figures.

DECISION

Draft budget 2008 noted.

5.5 Five-Year Budget Plan and Way Forward

MR REEDIE said that, looking ahead to the ongoing years, 2008 was relatively straightforward. To try and satisfy the projection request from governments, the Finance and Administration Committee had put together attachments one and two under 5.5. Certain assumptions about what might or might not happen had been made. The first was an assumption that the exchange rate between US and Canadian dollars would be at 1.08, and that had been blown out of the water in the past four or five weeks, because the exchange rate was now almost in parallel. The Finance and Administration Committee had assumed, and was more comfortable with this, inflation rates of somewhere between 2% and 3%, had assumed a renewal of the Montreal International contract for 2012, had assumed interest rates at a similar level or close to those it was currently experiencing, that might or might not be valid because, since the Finance and Administration Committee meeting, it was quite clear that the credit arrangements in the world financial system were different to what they had been a few weeks previously and it might well be that central governments would be reducing interest rates for political or financial purposes. The one the Finance and Administration Committee was comfortable with was the collection rate of 93% of the budgeted contribution revenue; it was ahead of that in 2007 and, provided WADA kept doing it, and if it refused to let anybody from Venezuela or Mexico go to the World Conference on Doping in Sport in Madrid and then they paid, that would increase the overall government contribution, which would then be doubled by the IOC.

The committee had tried department by department to run the costs that it saw going forward from 2009 to 2012; it was actually quite a difficult thing to do, because he suspected that the crystal ball was no more accurate than anybody else's, but it was a genuine attempt to show what the increase in costs of the existing activities would be. The Finance and Administration Committee had then related that to figures, and there was row after row of figures. To try to reconcile it into something that most people could make sense of, the members could see that the maroon element was budgeted income, the yellow element was budgeted expenditure, the blue element was research commitments, which were clearly the biggest single element of expenditure that the agency had, and the dark maroon element was capital and operation reserves. WADA was an agency under Swiss law and had to have a 5 million CHF capital provision, which it had. At the bottom, the orange block showed funds that would be distributed to cover the projected cost, and these funds that were distributed became less and less each year until, at the end of 2012, there was nothing left and WADA had very few funds available after it had made its commitments and reserves. The committee had also shown this on a projected cash flow calculation in figures

rather than graphical form, and the only point he would make was that that still assumed a certain overall rate of contribution increase. The assumption that had been made was that contributions would increase in 2008 by 4% and in 2009 by 5.5% and thereafter by 6% per annum. If those assumptions and everything else applied, that was how the figures would look. If contributions did not go up, a number of things would happen. The first thing was that WADA would exhaust its unallocated cash much faster than it currently did and, if that became really serious, the Executive Committee and the Foundation Board would have to decide on what activities it currently undertook would not be undertaken, just to make the budget balance. He made it clear that, in relation to the previous comments and discussions about reserve funds, the Finance and Administration Committee thought that WADA should establish a 1.5 million reserve fund on a relatively informal basis, but that would be against higher litigation costs; however, after that, it did not want to have any specific further operational reserve, as it thought that it could run the business sufficiently accurately that there should always be enough cash to operate the organisation. It took about 1.5 million dollars a month to run the WADA operation; so, if WADA ran below anything like 3 million dollars in the bank, it would effectively have two months of operations before it ran out of money. When he had gone to discuss this initially with the Olympic Movement, which was a much easier call for him to make than to go to the public authorities around the world, the IOC President and his advisors in Lausanne had told him that they would be comfortable with an increase of 4% in 2008 and an increase of 5.5% in 2009, but they did not wish to sign up to an ongoing commitment of 6% per annum thereafter. He was quite happy about that, because he thought that the request that had come from governments for a five-year plan had been indicative only and not an absolute commitment, so that was where WADA was at the moment. He was pretty comfortable and pretty relaxed with the situation but, if resource-rich Canada and the currency kept getting stronger, it would present a significant problem for the financing of WADA and, secondly, if everybody said, certainly on the sports side, and he thought also on the public authority side, that one of the major challenges facing sport was the fight against doping in sport, there had to be an understanding that contributions would have to go up, and the issue was going to be when the increase was reviewed and ultimately what that increase would be. He wanted to submit that the 2008 budget be approved in the knowledge that contributions would increase by 4% and that the Executive Committee note that the projections over the remaining four years had been made and that it would review them on an annual basis thereafter. He would also like a provision in principle to put a litigation reserve and all he would do was allocate one bank account marked "litigation reserve".

PROFESSOR LJUNGOVIST had a concern relating to the proposed reduction of the research budget, the sole item proposed for reduction, and he had seen that pattern before in organisations that tried to save money for other purposes and research was cut. He did not think WADA should fall into that trap, particularly in a situation whereby research was one of WADA's major commitments, with some 26% of the budget set aside, and the need for research was steadily increasing, as was the interest. The research fund in WADA had become an established fund known in the scientific community; it was being looked at increasingly with great interest by WADA accredited laboratories and scientific groups and laboratories all round the world, which were ready to help WADA and were being helpful in conducting research for the purpose of improving the fight against doping in sport and to find methods for the detection of substances, improved methods for existing tests, and new methods for substances about to emerge. The figures told quite an interesting story. In 2004, there had been an application for 14 million dollars; in 2005, this had gone up to 18 million dollars; in 2006, the figure had increased to 21 million dollars; and, in 2007, there had been applications for a total of 30 million dollars from an increasing number of highly sophisticated laboratories. WADA had been able to allocate only approximately 6 million dollars, and he would report on that later on in the meeting. There had been many major important research projects that WADA had been unable to support because of financial

constraints, so to choose that moment to cut the budget, although the Finance and Administration Committee might feel that there was enough research going on, was a misinterpretation of the situation. He strongly urged the Executive Committee to ask the Finance and Administration Committee to revise the budget to raise research grants in accordance with the increase of the budget for expenditure in general, which was a 4% increase.

MS LAROCQUE said that everybody recognised that 2008 was a big year for WADA, what with the Olympic Games and the new leadership, and this created cost pressures. The foreseen increase in litigation costs had been well projected and was coming in as expected, so she would support the approach for the proposed budget for 2008, including the 4% increase, but was not prepared to look at increases beyond that point formally; however, she certainly took note of the projections that the Finance and Administration Committee felt that WADA would need, and would be prepared to consider those at a later date.

MR LARFAOUI said that he was concerned about the increase in litigation expenses; he thought that there would be more litigation expenses and less testing in the future, which was of concern.

MR STOFILÉ said that the reason this item was being discussed was because in May the Executive Committee had decided that it would be postponed until it had been possible to look at the Strategic Plan; he thought that this had been well done and indeed it explained even to lay people like himself what the expenditure was designed for. He heard what Professor Ljungqvist was saying; of course, he knew from other experience that research funds were cut when there was a problem with the budget, so there were different experiences in different parts of the world. He was not suggesting a research budget cut; he was simply saying that, on the basis of the detailed Strategic Plan, WADA should know exactly why and how much it was budgeting. He was sure that the Finance and Administration Committee, on the basis of motivated new research projects, should be able to come back and make a case, but he was very wary of just raising the percentage on the general basis that had been applied for other items of the budget. He would support the budget as it stood.

THE DIRECTOR GENERAL said that he had made several presentations recently to international bodies to explain how WADA spent its money, because many thought that WADA had a lot of discretionary funds that it could use for extra activities, and he reminded people that WADA had committed funds on an annual basis of around 21 million dollars, which covered all commission meetings, including the Executive Committee meetings, which totalled about 1.7 or 1.8 million dollars annually. That cost did not include the attendances WADA staff made at meetings to make presentations. It included the research at 6.4 or 6.5 million dollars, the projects to which WADA was committed: ADAMS, the RADOs, out-of-competition testing, litigation, and then general operational costs that could not be deflected, including the costs of the regional offices and the salaries of those who were employed. WADA worked under a staff ceiling, and there was no room to manoeuvre in terms of staff resources. Each of his staff members was now working at over 100% in his view. The management had now been asked to conduct a compliance report for the following year; this would take huge resources, and he did not have spare money or staff for that, and would have to restructure, so that staff involved in a current activity, such as out-of-competition testing, would be diverted for compliance reporting. Nobody gave him extra money to undertake extra activities such as the proactive attitude taken towards investigations. He had 85,000 man and woman hours each year at his disposal, and he was looking at a cost-effective use of the staff resources, which formed the bulk of WADA intelligence and activities. Every individual in WADA was carefully selected to undertake a task. Now, there was a demand to increase that task, and it would be irresponsible of him not to table the fact that he was visited almost daily by members of his management team,

who were asking him not to ask them to do any more as they would be unable to do it properly. When there were discussions about budget and activities, he emphasised that WADA did not have sufficient discretionary funds to be able to engage in extra work, and did not currently have enough funding to do some of the work to the degree of expertise that the Executive Committee would wish. WADA had just lost 7% of its projected Canadian money in the past two weeks, so the management was having emergency discussions on what could be spent in the run-up to Madrid. He wished to make sure that everybody was alert, from a management point of view, that there was no such thing as a slush fund. There was nothing left, and Mr Reddie, in his extremely expert cross-examination for the Finance and Administration Committee, had extracted 280,000 dollars out of him (some of which the management had not been spending, and he accepted that), but the management was running a very tight ship. He asked the members for their comprehension.

THE CHAIRMAN said that the Director General was raising a more macro problem. He thought that, if there were people round the table who thought that the budget of WADA was sufficient to do what the world expected WADA to do, they had not been paying attention, and WADA needed quantum increases if it was to do what was expected.

MR BURNS echoed what had been said; the governments' position was that they understood the need for additional capital, the report was excellent, and Mr Reddie and his assistants did wonderful things in presenting it to the Executive Committee, but part of the problem, to be frank, was that, when the representatives went back to their countries, they got proposals to hire new positions, at what some would see as outrageous levels; that type of activity and those proposals were not well received by the governments. The governments then began to question the legitimate expenses and costs, the decision-making process, and simply asked to be consulted and allowed to participate in true policy decisions with respect to the course and direction of WADA and what should be the priorities, to sit at the table and say, for example, that if there were numerous NADOs that were not in compliance, why did WADA continue to spend a great deal of its resource on scientific efforts? WADA should be able to have that type of discussion, but not begin from the premise of just because it had been funded at a certain level for a certain amount of time, that was it, and WADA now had to find new funds if additional activities were to be carried out. There should also be discussion with respect to whether WADA should change its policy regarding the priorities and the important activities. The governments were greatly respectful of the Director General and his strong, steady leadership, and Mr Reddie, and WADA had the governments' full support, but these were issues that the governments wanted to discuss and wanted to be a part of.

THE CHAIRMAN said that he had understood that the governments were represented on the Finance and Administration Committee.

MR BURNS said that, after the last meeting, as soon as the members had left, they had received a proposal to hire someone at between 100,000 and 150,000 dollars for a position that had not been brought up at the Finance and Administration Committee meeting, the Executive Committee meeting or the Foundation Board meeting. He used that as an example to tell the members that, in the governments' mind, this was a substantial amount of money and decision about which they had not been consulted.

THE CHAIRMAN said that there were three issues before the Executive Committee: one was the five-year thing. It was like a ping-pong game. When WADA had first started in 1999 and 2000, annual budgets had been presented, and the governments had said that this was not satisfactory and that they needed a broad horizon of at least five years in order to be able to plan, so WADA had done that. The governments had then said that they did not want that because it might appear as if they might agree with the projections, so WADA had stopped doing such projections. Now, there had been another request. Mr Reddie had been very careful to say that WADA would deal with the 2008 budget, and noted that

nobody was committed, but that was what it would look like on those assumptions, so he thought that was fair enough.

On litigation, and having a reserve for such purposes, it was important that WADA be seen to be ready to defend the positions that it thought were important. There had been a recent effort to outspend the anti-doping authority, and bring it to its knees, and it was necessary to send a message saying "come and get us, we're ready and prepared to litigate".

The third issue was research, and there were two approaches: one was to say that this was one of the really incremental values that WADA had brought to the table in the fight against doping in sport, it was the first time ever that there had been a centralised source of research funding to be used and leveraged with other laboratories, and it was not just the usual suspects, it was not the occasional NADO, but scientific teams from all over the place. It was a bad message to send, having built up this reputation and credibility, to say that the WADA research commitment was now going to go down. If the budget was up by 4%, and it was for a variety of reasons and programmes, WADA should be sending the same message, that research remained as important as it always had been (if the projects were no good, of course, WADA did not fund them); so, if the budget went up X%, research should generally follow that. It certainly should not be decreased. The other approach was to say "you've got to cut your cloth and you pick numbers". He did not think that the number picked reflected any assessment of the merit of the scientific projects. That was something for the Health, Medical and Research Committee to deal with. He thought that, as he understood the request, and opinion was perhaps divided on it, it was that, of the total to be spent in 2008, WADA should try to move the research portion of that up to an increase that reflected the general level, and make whatever internal adjustments were appropriate to get there.

The Director General's question was a much bigger one. At some point or another, and maybe in Madrid, somebody would have to put that on the table and say that 22 or 23 million dollars to deal with everything WADA had to deal with was just ludicrous, and neither the sports movement nor the governments could possibly believe that that was enough to do what had to be done and, therefore, did everybody believe in a significant increase? Should the administration go out and look for additional sources of finance and, if they found additional sources of finance, would the principal stakeholder groups then say "oh well, if you've got the money from outside, you don't need it from us"? That had been an original response a few years ago when WADA had decided to try and get extra money, and had realised that it was shooting itself in the foot and should stick with its stakeholders.

MR REEDIE responded to the questions asked, not necessarily in the order in which they had been asked.

He was grateful to his Canadian colleague; having 2008 settled by the public authorities was helpful. He asked Canada to take the ongoing projections because Canada had asked for it, and he was long enough in the tooth to know that, every time somebody asked for a five-year projection, the Finance and Administration Committee delivered it and that person then said "thanks very much" and then ignored it; he did not really mind, and he understood the governments' world, but this effort had been quite substantial and he hoped it was of value, but there would be a notable increase and his guess was above 4% the following year, and he would leave it at that.

To respond to Mr Larfaoui, he was right: litigation would go up, but he was sorry, it was something that had to be responded to that day. It could not be left for nine months until a committee meeting to decide whether something should be done about it. That was part of the world in which WADA lived.

He thanked Mr Stofile for his support, which was extremely helpful.

The Director General raised a whole raft of issues, which the Finance and Administration Committee had discussed in considerable detail, as it had wanted to make sure what the reality was, and that would be part of the finance presentation at the World Conference on Doping in Sport in Madrid so that people clearly understood that keeping the staff down to 53 or 54 people (which was what he had asked the Director General to do) placed strain on the staff members who were working.

Mr Burns had summed up the points that he had been going to make in general. The whole issue that the Executive Committee had was the decision on priorities, and the Executive Committee should be part of that process. The specific issue raised had not been raised in the Finance and Administration Committee because his information had been that it would not happen, and that the appointment would not be made.

He had begged for money over many years, with some success and, had he been in Professor Ljungqvist's position, he would have said exactly what Professor Ljungqvist had said. Looking back at his notes, he had thought that the 2008 priorities were delivering the World Anti-Doping Code and starting the exercise on compliance. The Finance and Administration Committee was always concerned about the litigation effects, and it was perhaps for that reason that there had been a sort of modest (about 180,000 dollars) reduction in the overall research budget. If the Executive Committee wished to re-establish that to the figure that it had been in 2007, he had no particular worries about that in cash terms. It simply meant that WADA's unaccumulated cash would be used up a little bit faster. One could certainly make an argument that this should be done, as it was a worthwhile thing to do. What he would be a little unhappy about would be the fact that having one of the big spending departments get the right to spend at the rate of increase on income immediately removed from the Executive Committee the right to decide on the priorities. It was entirely possible that priorities could change in two years' time and something other than research would become the major priority. He could live with re-establishing the research budget back to the 2007 level. Members should also remember that, although applications came in in dollars and WADA paid them out in dollars, he could only assume that all those people who applied knew that their costs were higher, and therefore the applications were higher, so the dollar devaluation affected the situation. If that was of any help, he could reorganise the figures to take that modest change into account and report to the Foundation Board that this was the budget that had been accepted. He would make sure that the Finance and Administration Committee went through all of the history, structures, how the money was currently spent, and raise at the World Conference on Doping in Sport in Madrid the clear challenges on the decisions that had to be taken on priorities for the future so that the government representatives in particular could come to future Executive Committee meetings and say that they had a very clear idea of what the priorities were.

THE CHAIRMAN noted that the members had a slightly altered proposal, which involved noting the five years, pushing up the research budget to the level of 2007 and the establishment of an informal litigation reserve.

DECISIONS

1. Proposed 2008 budget (including modifications) approved.
2. Proposal to establish an informal litigation reserve approved.
3. Five-year plan noted.

6. Code Compliance

THE DIRECTOR GENERAL said that he had drawn up a little chart, which was what WADA had to monitor; WADA monitored compliance with the Code by all of its signatories, which included predominantly the anti-doping organisations, the IFs and the NADOs. WADA looked at both bodies, thereby looking at each country and the way in which each country ran its anti-doping programme. That was different from governments, although governments in general funded the NADOs. The compliance programme would therefore look at the NADOs and RADOs and indicate that within the compliance report. In addition, there was the UNESCO convention, and the Code was a feature of the convention. The governments added on duties that they had agreed to carry out, including education; sanctioning of professionals, such as doctors and lawyers, a field in which sport had no jurisdiction; assistance with major issues, such as trafficking and distribution; and added to what could be done by the anti-doping organisations, and he thought that this was a good way of showing how it all worked and how WADA was working with UNESCO to make sure that there was no duplication of compliance processes. WADA had offered its compliance programme to UNESCO, and had had a meeting with UNESCO to see if UNESCO could use what WADA did and not commit to too much paperwork or reports, rather, benefiting from the process in which WADA was involved. He wished to remind members that WADA would be providing a compliance report the following year for every anti-doping programme in every country in every sport. This should not be confused with government compliance and UNESCO.

MR ANDERSEN said that he would present the chart that the members had in their binders. They might be disappointed to have only figures, but he had been trying to avoid giving them the huge document that he had before him, which was the master copy of all the paperwork in one single document. It was available to the members if they wished to see it. He would try to give the members a presentation of the big picture. The report that they had in their folders was based on facts, and those facts were taken from the anti-doping rules that WADA had received from the signatories. It was also based on stakeholders' self-assessment, which might be facts, as well as less hard facts.

The self-assessment was based on a system he had presented to the members previously, WADA Logic, which was an online logon system, comprising 28 questions, which were on rules and rule compliance, which meant the process in place. He quoted two questions to illustrate the different levels: *Has Article 10 of the Code regarding sanctions been incorporated into your rules?* There was a multiple choice answer option: *fully, partially or not at all*. It was a very simple way of quoting the questions, but the system did not go into depth. There was another question, which was: *Do you have a system in place for collecting and processing whereabouts information?* This was a more detailed question and was more related to the process itself. And WADA itself, through its network of contacts, had also made an assessment of the figures that the members had before them. The first upper-left column or box was related to the Olympic Movement and was about Code acceptance, and this process had started upon the conclusion of the World Conference on Doping in Sport in Copenhagen. It was well under way, even though WADA was still working with countries to have them accept the Code. Some of the NADOs in countries that had stated that they had a NADO might only be a committee within a ministry or within an NOC. There was no structure beyond that, there were no people hired, and it was more a paper-based organisation or committee. Obviously, these NADOs would need more time for the RADO process. Looking at the next box, in which anti-doping rules had been received, WADA had requested all rules for all Code signatories. It had requested, and this was obviously an obstacle, that the rules be in an understandable language. WADA had asked some NADOs to translate their rules into languages that WADA could understand. WADA had reviewed all of the rules and every article of the rules received, and there had been a lot

of correspondence back and forth. For the summer IFs, there was only one that was not in line with the Code, and he supposed that he might as well say that that was the International Volleyball Federation. There were some minor issues remaining with the International Volleyball Federation. The NOCs had to be seen in connection with the NADOs and the RADOs, in other words, the country. The NADOs were the only signatories working solely on anti-doping and there was quite a bit of work remaining on the NADO side. Only 16 were compliant. The third upper box was the WADA Logic results compliance survey. It was an indication only, based on the 28 questions, with a multiple choice response, and it was again self-assessment, and some of the signatories were extremely positive about what they were doing. All of the summer and winter IFs had replied to this and 20 summer IFs and 6 winter IFs had passed the self-assessment test. A total of 51 of 205 NOCs had replied, 21 of which had passed the self-assessment test. A total of 39 NADOs had replied, 23 of which had passed the self-assessment test. He would not go into the boxes outside the Olympic Movement for the time being, but wanted to draw attention to the out-of-competition testing programme. The assessments of the anti-doping organisations were based on WADA Logic and surveys, and a WADA assessment was based on various sources, but also the same sources mentioned previously. In relation to the Summer Olympic IFs, 20 out of 28 had said that they had an out-of-competition testing programme. By doing thorough research into what WADA considered to be the facts, WADA was saying that only 10 had out-of-competition testing programmes. Of the Winter Olympic IFs, six out of seven had said that they had an out-of-competition testing programme; WADA's figure was less optimistic, and it assumed that only three had an out-of-competition testing programme. Regarding the Recognised International Federations, eight had said that they had an out-of-competition testing programme; WADA said that one had. In relation to major event organisations, two had reported that they had an out-of-competition testing programme and WADA thought that this was correct. Ten NOCs had claimed that they had an out-of-competition testing programme, and WADA thought that this was correct as well. Members might wonder why WADA had gone in the opposite direction regarding the NADOs, because only 34 had reported that they had an out-of-competition testing programme. WADA thought that this figure was 46, and the under-reporting was based on the lack of input into the service sent to the NADOs; it also included the RADOs, which had not reported that they did any out-of-competition testing at all; they did, even though the numbers were very small. The next slide showed the final and conclusive figures, which were also in the chart at the bottom of the page. Next steps included assessing all of the information available and verifying it. It was not enough to use an online system based on multiple choice. It was necessary to review, assess and verify. WADA would also be required to advise and assist in the follow-up of this, as WADA was not interested in declaring anybody non-compliant. The aim was to assist those who wanted to be Code-compliant. WADA would also be required to rewrite, and some of the anti-doping organisations would be required to change their policy. Then again, additional verification would be needed, and it would be necessary to report to the Foundation Board in November the following year.

THE CHAIRMAN said that anybody who wanted to get the detailed report was certainly welcome. Where members saw red ink, there was a problem, and there was a lot of red ink.

MR BURNS said that, on behalf of the governments, the NADOs were subject to the Code and, if not in compliance, were subject to the same scrutiny as any other entity; at some point, he thought that the governments would be interested in looking at it like WADA looked at those countries that had not paid, identifying the NADOs and applying the same energy and scrutiny and effort that WADA did to its policies and dues collections. There had been some discussion that morning among some of the government representatives that this could threaten the very nature of WADA and, if WADA did not get this into some type of shape, some were asking what the use was, and why WADA was out doing all of this when

they were not Code-compliant, so he echoed that on behalf of his brothers and sisters from the government side.

PROFESSOR LJUNGOVIST agreed with what had been said by Mr Burns and was very surprised that only 14 Olympic IFs had out-of-competition testing. This was about the same figure as in the late nineties, and was one of the reasons for which WADA had been created, yet nothing had happened. What was being done in order to have this changed? Of course, a Code compliance review was important, but an action plan should be attached to it to make sure that those bodies that were not compliant became compliant. Was that part of the project?

THE CHAIRMAN said that he thought an escalating series of inducements was needed. One of the major factors that had retarded the speed at which this was happening was the desire of the Olympic Movement not to have 2007 as a monitoring year prior to the Olympic Games (he thought in the almost certain knowledge that there would be considerable embarrassment). It seemed to him that WADA should, following this meeting and building on the remarks of Mr Burns and Professor Ljungqvist, write to those bodies that were not compliant or had not responded to state that this had been noted and there would be consequences. He thought that WADA should identify them in November. He saw lots of heads being shaken about letters to be written, but WADA was trying to influence behaviour, not prevent change from happening.

MR BURNS asked whether that could be the same for the IFs.

THE CHAIRMAN replied that the IFs were included in the ADOs. It was outrageous that there were still so many Olympic IFs that were not in compliance and it was a shame that, for reasons unrelated to the merits of the proposal, the IFADO had not gone ahead. That would have helped a lot of the smaller IFs to get something in place, and considerations other than anti-doping had intervened.

MR REEDIE spoke particularly about the number of NOCs that appeared to be non-compliant. The quality of the planning of this consultation and the quality of the questionnaires and approach to all of the stakeholders had been excellent in every way, but the reality out there was that there were lots of small organisations that simply were not competent to either receive the information or reply properly. He thought that WADA should do something along the lines suggested, but not simply by writing a letter stating that the organisations were not complying. He thought that WADA should say to people, in simple terms, that these were the things that had to be done to become compliant. Mr Andersen's team was as good as anybody in the world at doing this, and so much better than those from whom information was being requested. He had been asked by any number of smaller NOCs what they had to do, and he had asked them if they had replied to the survey and they had asked "what survey?" That was not WADA's fault, but it was a huge issue because, if one was not compliant, the ultimate sanction was that one would not go to the Olympic Games. He thought that WADA should try very hard to do everything it could to help them become compliant before leaving people with the inevitable problem of finding a reason for not applying the ultimate sanction for non-compliance. He thought it had to be simpler, and he left it to the experts to say what point should be put in as far as they were concerned and, if it was out-of-competition testing, that could be highlighted. As far as the NOCs were concerned, it was a simple statement and clearly an offer of who to contact to help them. It was slightly disappointing after all of the efforts made by the staff, but he was afraid that was the real world out there and, unless WADA had a go on a real-world basis, it would not be possible to get those organisations compliant.

MR MALLARD stated that this was a particular embarrassment for him, because he had looked round the countries at the table and found a group of three countries that were wonderful, and South Africa was very nearly there, and then he found that legislation that

had been passed in his country in 2006 had not been sent to WADA and was not reflected in the table, and the survey appeared not to have been completed either, and that was something that, for him, was very embarrassing; as minister, he would get that rectified. He might also say, having looked through all of the NADOs, that his colleague Mr Lamour also needed to pass on to the new minister the need to give the French NADO a boot in the posterior, because the Code had not been accepted, even at the initial stage, by the French NADO, and that was something that was even worse than New Zealand's embarrassing position.

THE DIRECTOR GENERAL said that the management had already undertaken the very sensible suggestions raised as to the process; most of the IFs had had a letter, if not two or three. They had also had meetings, with Mr Moser in particular, so WADA had progressed with each of the IFs almost on an individual basis. Mr Andersen had done a similar exercise, and it had commenced at the beginning of that year. This was not something that had just been thought of or just done for that meeting. For example, letters had been sent in January and in February in relation to non-acceptances, people who could have access to the Code compliance report, etc., because one did not have access unless one had accepted the Code, so it was all done very carefully. The only NOCs that would be responsible for anti-doping programmes were those in countries in which there were no national anti-doping agencies. 119 of these had been covered by engaging them in various RADO activities, so the only ones left would be in countries in which there was no RADO or no national anti-doping agency, and there were very few of these. The management was looking at that in a very specific manner to make sure that those NOCs did things in an appropriate manner. WADA was doing everything that had been asked; the management would do more and provide bigger lists in November, and publish who had not accepted the Code, who had not replied to the Code compliance report, who had passed and who had not, and WADA was working with every institution to ensure full compliance, and would need that by June the following year to be able to prepare a proper report for November, because each signatory that did not comply had a right of appeal, and he was sure that the Foundation Board would not like to declare non-compliance and then experience the legal consequences that led to lengthy litigation on the basis that full consultation had not been provided. The management was therefore very alert to the matter. He advised the members that this was taking a huge amount of WADA resources, and the resources used would be taken away from some of the other activities that WADA was currently undertaking, and he made that quite clear because he did not have any other resource available to conduct this sort of work, which was at a high priority level, much higher than out-of-competition testing for IFs, and he thought that Mr Andersen could reply as to why WADA did not have IFs doing their own programmes, because WADA was doing it for them under its programme. The IFs therefore had no inspiration to conduct their own programmes.

MR ANDERSEN said that some of the reasons for the over-reporting by IFs on out-of-competition testing programmes were obviously because they reported that they did it because WADA did it for them. WADA had specifically asked the IFs whether they were doing their own doping tests outside the WADA out-of-competition testing programme, and even then some had chosen to report that they were conducting out-of-competition testing. WADA would continue to work with each and every signatory, write them specific letters (this was not mass correspondence) to advise each signatory on the way forward, and would naturally increase those efforts in the time to come.

THE CHAIRMAN thought that what the Executive Committee was urging was that some way be found to translate some really good effort into results. There was a lot of good effort and information, but not the kind of movement that the Executive Committee sought.

MR REEDIE said that he did not want to labour this point, but it was impossible for him to tell whether NADOs were properly compliant, whether RADOs were properly compliant, and

who was not compliant at the end of the day, so he was perfectly happy to take this off the table with the clear understanding that he could sit down with Messrs Andersen and Howman and find a relatively simple way of going to these people to make sure that, if they were not doing anything about it, they do something, and if they were, WADA tell them. There was confusion out there; the out-of-competition testing bit was easier. There was confusion and a lack of certainty in the NOC world and it should be possible to sort it out.

THE CHAIRMAN said that the IOC used to have a grant programme and all that NOCs had to do was write to the IOC to receive money, and 20 or 30 of the NOCs had never bothered to write, so had never received their administrative grants.

PROFESSOR LJUNGOVIST said that what he was going to say had been discussed earlier on and suggested that some clarification to the IFs regarding the WADA out-of-competition testing programme was needed, because it had never been intended to replace the responsibility of the IF; it had been intended to initiate out-of-competition testing in those IFs that did not have anything. Now he noticed that 22 out of the 35 IFs were using WADA's 3,000 annual tests as an excuse for not doing anything and those 3,000 tests could never be sufficient for efficient out-of-competition testing. The relation between the WADA out-of-competition testing and the expectations that WADA had needed to be reviewed very carefully.

THE CHAIRMAN asked whether the management had any further questions.

MR LARFAOUI pointed out that the IFs would support the actions carried out through ASOIF.

DECISION

Code compliance update noted.

7. Code Review

THE CHAIRMAN said that the Executive Committee had been established as the organisation to provide policy guidance on articles of the Code being considered for amendment or otherwise. The Code Project Team had carried out an extensive consultation process, very similar to that which had led to the adoption of the original Code, and the Executive Committee was now in the process of having to make certain decisions on points of principle before the final version of the Code was distributed to all stakeholders in the middle of October for discussion and, he hoped, adoption by the Foundation Board following the World Conference on Doping in Sport in Madrid. Mr Young would lead the discussion on the Code, and would go through it and, where there were changes that should be brought to the members' attention, this would be done; where Mr Young and the Code Project Team required a policy decision, there would be a signal indicating that policy direction was sought, and it was the members' job to provide that direction as efficiently as possible.

MR YOUNG informed the Executive Committee that the team had been at this process for 18 months, had had three rounds of consultation, sent out two complete new drafts of amendments, and received submissions from more than 200 stakeholders (pretty much the same stakeholders that had commented the first time around), but the volume in terms of paper had been less. If the members had been able to see the stacks in his office floor for the original Code, they would have seen more than six feet of comments; this time around, there had been two to three feet of comments. The consensus heard was that the Code had worked very well. Some of the dire predictions that the whole sanctions scheme would be thrown out by national or international courts had not transpired. There had been hundreds of CAS cases that had dealt with the Code and, in almost all of the cases, the CAS had come to conclusions, as intended and expected by WADA. There had been a handful of decisions whereby the CAS had chafed at the lack of flexibility, and had been able to find lacunae in

the Code allowing it to do things that WADA would not have expected it to do, and obviously those had been dealt with in the drafts. A lot had been learned from three-and-a-half years of experience with the Code, and there were really only about a dozen significant changes. Looking at the end of the Code, with the different coloured lines, he had found it interesting to note that there had been 1,500 changes to the Code, with additions, deletions, moving things and, with the exception of the dozen or so significant matters, those were a response to feedback from stakeholders who had suggested modifications for clarity. The team had tried not to change things too much for change's sake; but, in some cases, people really had made good points. The other reason for the number of changes was that the team had answered the one, two, three, four, five and six "what-if" questions, and had now been asked to answer the seven, eight, nine and ten "what-if" questions, because the things that one would never have imagined happening seemed to have happened over the past three-and-a-half years.

He highlighted the dozen or so issues that the team had thought needed to be brought to the Executive Committee members' attention in particular. One was the general requirement that all anti-doping organisations have an anti-doping education programme. Another concerned various provisions that strengthened and clarified an anti-doping organisation's ability to bring cases based on evidence other than a positive test. Another was the tightening up of the requirements for missed tests and whereabouts and having more harmonisation on sanctions. Another, and probably the most important, had to do with increased flexibility in sanctioning down when not dealing with an anabolic steroid or a hormone, or a method or a heavy stimulant, the ability to go down from two years where the athlete could clearly establish no intent to enhance performance. That was one of the areas in which the CAS cases had chafed. The flip side of this was the ability to go up to four years when there were aggravating circumstances. One of the messages conveyed by the Executive Committee was that those two elements were an important thing to add. The team had expected that that would be an extraordinarily difficult concept to get consensus on, and actually had remarkable consensus on that, being a vehicle to accomplish the flexibility down and up. Another issue was the introduction of the concept of atypical findings, and what that really meant was that, when there was a T/E ratio greater than 4 and an investigation was required, it did not get statistically reported as an AAF, so one did not end up with 1,000 cases that looked like positive tests in the statistics when they were really not, and the athlete did not get notice of it right away and that whole process did not start until the investigation. Another, and this was an obvious policy issue (and the team had tried to highlight some of the most obvious policy issues in yellow in the text for the members so that they would know that their opinion would be sought on the matter), was provisional suspension. Under the original Code, it had been optional; under this draft, it was optional for the A sample and mandatory for the B sample. Another was an incentive for athletes to come forward and admit that they had doped as opposed to dragging everybody through expensive legal cases and denials in the press. Along with that, there were incentives for the athletes to provide substantial assistance in uncovering other anti-doping rule violations. Another was the recognition of financial sanctions. Some IFs, for example, had fines in their rules; there had been some discussions as to whether that was permitted under the Code, and it was now clearly permitted. Another had to do with consequences to teams in team sports. Individuals in team sports were treated just like individuals in all sports, but the consequence to the team would be at a minimum, and major event organisations or IFs could have their own tougher rules; if, during an event (it was the whole course of the event, the Olympic Games, the world championships or whatever) two people on a team committed anti-doping rule violations, there would be mandatory target testing. If three people were involved, there would be consequences. Another issue was making WADA's appeal rights more efficient. Another important one (highlighted in the back of the Code) was that, if a government did not accept the UNESCO convention by 1 January 2010, it would not be eligible to hold world championships or major events. The last one he

would highlight was the effective date of the Code, the new List that needed to go with the Code, and the new International Standards that needed to go with the Code. As drafted currently, it was 1 January 2009. The team had talked to the winter sports IFs, which had said that it was in the middle of their season, and they would prefer 1 October 2008. This could be done; but, whatever the date, the List and International Standards would have to go into effect then, otherwise there would be a transition period, during which a lot of the good done with the original Code would be undone.

What the Executive Committee members had before them was very close to the final document; WADA was still getting comments from lawyers and others around the world with technical suggestions, but he would like the Executive Committee to accept this draft of the Code and recognise that the team could make non-substantive technical changes. The Executive Committee members would be there much longer than the Chairman would like if he went through all of the changes, so he had identified those changes for which policy decisions were needed, or where there had been some controversy, or where somebody might ask what something meant, and those would be discussed and, if there were other aspects about which the members had comments, he asked them to let him know .

THE CHAIRMAN asked the members to bear in mind that they were not a drafting committee. He did not care about punctuation. This was a view from ten thousand metres over what the policy was.

MR YOUNG said that he would rely on anybody to stop him if he was going too fast, but he had clearly received marching orders to go smartly through the document. On pages 6 and 7, he had nothing to discuss. At the bottom of page 8, he brought to the members' attention the fact that all anti-doping organisations were now meant to have anti-doping education programmes. On page 9, there was a clarification, and it was important for members to understand. There were articles in the Code that anti-doping organisations needed to have incorporated into their rules. Those were not the only mandatory aspects of the Code. There were other parts of the Code that said that members would do things such as conduct testing; they did not need to write this verbatim in their rules, but it was still mandatory. There had been some confusion about that, so the language had been changed to clarify it. There were other things related to results management whereby the principles were mandatory but there was flexibility in terms of how it was done. Now, when people said that the only things that were mandatory were the things that had to be incorporated verbatim in the rules, the Executive Committee members would know that this was not true and could highlight the new language in the Code.

MR REEDIE pointed out that he wanted to nitpick in relation to page 10.

MR YOUNG noted that, in Article 2.1.2, on page 12, it was interesting that A and B samples had never before been talked about in the Code, and the team had thought it appropriate to include the issue in the Code and not just in the International Standard for Laboratories. If the athlete waived the B, there did not have to be a B; if the anti-doping organisation wanted to analyse the B sample anyhow, it could. This was how it worked.

MS ELWANI asked what would happen if there was no B.

MR YOUNG replied that, if there was no B sample, there would be no positive test, no violation of 2.1 for the presence. One might use an A sample alone to prove use with other evidence. An example would be Tyler Hamilton at the Olympic Games where his B sample had been accidentally destroyed. One could not prove a positive test in the absence of an A and a B sample; however, one could certainly use the positive A sample with other evidence (such as a blood profile or something like that) to prove doping. As to Article 2.2 on page 13, the comment right under the title was the very point that Ms Elwani had just raised, that other analytical evidence, if reliable, could be used to prove a use case. At the bottom of page 14, this had to do with missed tests and whereabouts, and it used to be that, under the

old Code, it was three months to two years for a missed test or a whereabouts violation; however, that was reasonably defined in the rules of the anti-doping organisation. That had been wide open and flexible. In the International Standard for Testing (IST), the team had defined what a missed test was, and what the whereabouts filing requirements were, so everybody did everything in the same way, to say that, if there were three of either of those in 18 months, it was a violation and, since everybody was operating from the same hand, it was now possible to mix and match whereabouts and missed test violations between anti-doping organisations. So, if CCES had two missed tests and FINA had one missed test, that could constitute the three violations, since CCES and FINA standards would be consistent with the IST.

MR SCHONNING said that, since the Tour de France affair involving Mr Rasmussen, many people in Denmark had been very interested in the question of warnings, and his comment concerned the issue of making these warnings public. It might be a question that should be addressed in the IST, but would it not be a better system for all these kinds of warning to be made public, in the same way as the sanctions were made public?

MR YOUNG asked whether Mr Schonning would say that the first missed test would be the warning. The way in which it was currently written was that, if there was one missed test, it would not be made public, and if there were two missed tests, they would not be made public, but three missed tests would constitute an anti-doping rule violation (ADRV) and this would be dealt with in the same way as a positive test or anything else. There was no system of warnings built in; an athlete would simply get three strikes, which did not apply for other ADRVs. Was the idea to make the missed tests public? He thought that the feedback received would not support that generally.

THE CHAIRMAN said that one assumed that the athlete would be advised if he or she had missed a test.

MR YOUNG agreed with the Chairman. The athlete would certainly be advised.

MR MALLARD cited the example of a cyclist who indicated that he would be at a particular place for a particular period and got a puncture upon his return. Should the cyclist have a public warning? Another example concerned the case of people who made a late decision not to return home, having said that they would be home between three and four in the morning.

MR YOUNG replied that the point raised had been discussed, and was one of the reasons for the current draft. An athlete would not get a missed test if he or she had a reasonable explanation as to why he or she had a missed test. A car accident or a bicycle puncture would not lead to a missed test but, even then, if an athlete was careless, there were probably some good reasons why WADA would not want to make that public, particularly since the public was not really sophisticated as to the idea of one, two and three warnings, and one would not want the public to think that an athlete was a doper just because he or she had missed a test.

THE CHAIRMAN said that one would not want to get into that until there was a doping infraction.

MR KASPER asked why, in team sports, the coach was responsible and could be punished for a missed test and then, in individual sports, the athlete himself or herself was responsible.

MR YOUNG said that this had been changed back and now, for team sports, just like individual sports, at the end of the day, if the athlete was not where the athlete was supposed to be, the athlete would suffer the consequences. The team had taken a long time to get there, but had got there in the end.

MR LARFAOUI wished to say that he agreed with the two first missed tests not being made public, but why was there an 18-month period for the three missed tests? The period was too long for three missed tests.

MR YOUNG replied that he was not sure that there was any absolutely right period; if the Executive Committee wished to make the period longer or shorter, that would be easy for him to do.

MR ANDERSEN noted that the longest period had been stipulated by the IAAF, which had provided for a five-year period for three missed tests. He thought that the shortest period was 18 months, which applied to most of the anti-doping organisations. He had one more comment on the reporting and publication. The missed tests and whereabouts findings would of course have to be reported to other anti-doping organisations, but would not be made public until there was an ADRV. He thought that that would be unfair to the athletes but, as Mr Young had said, if this was something that the members wanted, he would of course take it into consideration.

MR YOUNG added that it would also be reported through ADAMS, so FINA would know if a swimmer had two missed tests with CCES, and CCES would know if the swimmer had one missed test with FINA. That might solve part of the question asked by the Danish representative.

THE CHAIRMAN said that something that should not be overlooked was that, the longer that period was, the tougher the rule. It was contrary to what one might first think. A five-year period, with three tests in five years, was much tougher than three tests in a year.

PROFESSOR LJUNGQVIST said that the IAAF had been referred to as the federation with a five-year period. He was no longer authorised to speak on behalf of the IAAF since he had stepped down as vice-president of the organisation, but he knew from discussions following meetings with the Code Review Team that the IAAF was not unhappy with 18 months at all, particularly when missed tests could be combined between various anti-doping organisations, so 18 months might be arbitrary in a way, but there had to be a fixed period, and the period of 18 months had been determined as a result of broad consultation, and his point of view was that this was acceptable.

MR YOUNG said that the other thing to consider was that, in changing the sanction period from a low of three months to a low of one year to two years, the consequences of three missed tests had gone way up too, and there had been a fair bit of opposition to that, but that was where the team had come out as the majority of the people thinking that that was right.

THE CHAIRMAN said that his sense of the consensus was that WADA would not make warnings one and two public.

MR YOUNG referred to Article 2.5 on page 15; at the end of that comment at the top of the page, members should simply note that providing fraudulent information to an anti-doping organisation had been added to tampering, and that could include intentionally false whereabouts. At the top of page 16, the comment on possession and the definition of possession had been changed as well. If one bought steroids over the Internet, it was possession and was not a defence that they had been bought for one's ageing grandmother or girlfriend. In Article 2.7 on page 16, attempted trafficking had been added to trafficking, and this probably should have been done the first time round. The comment to Article 2 after 2.8 dealt with the situation whereby, for example, Marion Jones and Tim Montgomery went to Canada to work with Ben Johnson's coach, who had been suspended for life. The team had decided not to make that an ADRV but would encourage sporting organisations to make that a code of conduct violation. Consorting with somebody who had been banned for doping would be like consorting with a gambler.

Article 3.2.3, about which a fair bit of comment had been received, was on page 18. What it meant was that, if somebody was convicted in a court for trafficking, the anti-doping organisation did not need to have to retry the whole trafficking case; that fact was established unless the person could come forward and say that this had been a kangaroo court and that it had violated justice.

Article 3.2.4 dealt with the ability of a tribunal to take an inference based on the athlete or other person's refusal to come forward and answer questions put by the panel or the anti-doping organisation. This was exactly what had happened in the Tim Montgomery case; the panel had said that it could take an inference if it wanted. Tim Montgomery had been there for the entire hearing; his lawyers had argued vehemently that the blood tests submitted as evidence were not Tim Montgomery's, and WADA had said that it would like to call him to declare whether or not they were his blood tests. Tim Montgomery had refused, and those circumstances had been taken as an inference.

The next matter of particular import was on page 19, and that was at the bottom of the page, under Article 4.2.2, which was the definition of specified substances. It was this definition that later triggered the ability under Article 10 to have more flexibility in sanctioning down where the athlete could establish how it had got into the athlete's system and that there had been no intent to enhance performance, so this was the list that triggered that, and it was steroids, hormones, methods and certain stimulants. The team would have said, if it had worked scientifically, the amphetamine group of stimulants, but that did not make sense from the scientists' point of view, so the List effective for 2009 would feature a list of those stimulants treated in the same way as steroids and hormones and which were not eligible for the reduced sanction.

MR REEDIE asked whether there was any way of marking on the List specifically to say that these were specified substances or not specified substances. This had to be read pretty carefully to work out what it meant whereas, if one could look at the List and see what would lead to a higher sanction or what would not, he thought that it might help.

MR YOUNG said that that would be done on the List published in 2009. That was one of the reasons for which it was necessary to implement all of the pieces of the puzzle together. It did not make a lot of sense to implement this Code with the great compromise of specified substances ahead of a List that identified what those might be.

PROFESSOR LJUNGOVIST noted that he was happy that the concerns expressed from a scientific point of view had been accommodated. Regarding Articles 4.2.2 and 4.2.3, he thought that there was a need for some minor amendments. He had given an example of that recently when he had presented the list of new substances and classes of substances. First of all, he would like Mr Young to communicate with the Science Department to clarify, for the 2008 List, the implications with respect to the Code but, in particular, regarding Article 4.2.3, it was probably not sufficient to talk about new classes of prohibited substances, as there were also new individual substances, because then new specific stimulants that needed to be non-specified might come along. He would prefer it if Article 4.2.3 referred to new substances and/or classes of prohibited substances, with a provision that individual substances might also be decided upon by the Executive Committee as non-specified substances.

THE CHAIRMAN asked whether, if the List approved that day moved finasteride from the really bad stuff to specified substances, WADA had a provision that said that, if the Code was made easier, that did not mean that somebody convicted three years ago could come back and say that this should not have been done because there was a *lex mitior* or something like that.

MR YOUNG said that there was a transitional article, and it was a little like FINA had done when it had had a four-year ban and the Code had stipulated a two-year ban. If the athlete

was still serving the sanction, the athlete could appeal and say, under *lex mitior*, that his or her finasteride ban should really be reduced. If the athlete was not still serving the sanction, the case would be over.

In Article 4.3, which related to criteria, no change had been made based on the Executive Committee's direction. The team continued to receive a lot of comments on it, but had made no change.

Article 4.4 on page 22 referred to TUEs. The existing rule, although not as clearly stated as it should have been, was that, for international level athletes or international events, it was only the IF that could grant a TUE, and it did not have to mutually recognise TUEs by anti-doping organisations. The team had been asked by NADOs to change that rule and had not done so; it had now made that rule crystal clear. What had happened, and he expected would continue to happen, was that agreements had been made between IFs and some NADOs with which the IFs were comfortable, whereby the IFs voluntarily recognised the NADOs; but, to date, the team had gone with the wishes of the IFs that only they grant TUEs for international athletes so that all international athletes would be on the same playing field. The NADOs would say that they did not like it, but that was the way this went. As a matter of policy, the Executive Committee would decide whether or not it was happy with that.

At the top of page 23, the members would see the text there as simply a backstop. Some IFs did not do their job of having a TUE process in place; at a higher level, that was a compliance issue, but an individual athlete could treat it as a denial and appeal it and get the TUE if he or she could not get a decision out of the IF.

THE CHAIRMAN asked whether that potentially opened the door to a whole bunch of IFs saying that they did not have to do this because WADA would do it if they did not have it in place.

MR YOUNG said that this might, but the alternative was having athletes out there who were required to have TUEs and had medical issues and could not get their IF off its backside to tell them to fish or cut bait on their TUE. The IFs had generally fought for the authority to grant TUEs, and if there were now IFs that were irresponsible in their process, WADA could not just leave the athletes hanging. It might cause lazy IFs to try to shift the burden to WADA.

THE CHAIRMAN said that the IFs were doing that with out-of-competition testing, for example.

MR REEDIE referred the members to Article 5.1.1; it had taken him some time to find out the actual legal authority that said that IFs must have an out-of-competition testing programme. If that was the case, WADA probably needed to beef up some wording later on, and he wondered if there was any way of strengthening it and making it quite clear that the IFs should do this.

MR YOUNG said that, in the definition of the registered testing pool, the IFs had been required to identify who was in that pool so that an athlete knew who to go to for a TUE.

Article 5.3 referred to retired athletes coming back to competition: somebody who had been in the testing pool, had retired, and now wished to come back. There was currently no requirement in the Code for some period during which an athlete had to be tested before being allowed to come back. A number of IFs and NADOs had those periods; a year was typical, and there were some with six months, but now a period was required. The team had not mandated what the period should be; it could, if the members so desired. At the moment, the team had said that the rule had to be there so that everybody knew what it was, but had not chosen between six months or a year or whatever. Were the members happy with that?

PROFESSOR LJUNGOVIST said that the general phrase that they should establish requirements for athletes could also include not just the timeframe, but also a requirement for undergoing doping controls during that period, for instance.

MR YOUNG thought that this was fair, just as it would apply to somebody coming back from ineligibility. This did not preclude it; the question was whether WADA wanted to mandate it. A body could clearly state the period, as well as the number of times during which an athlete needed to be tested during that time.

THE CHAIRMAN thought that this was covered by eligibility requirements.

MR YOUNG drew attention to the comment to Article 6.1 on page 25, and this showed up at various points in the Code. For purposes of a positive test, there had to be an A and a B sample from a WADA-accredited laboratory or some other method accredited by a laboratory. If one was going to try to prove use, one could use other analytical methods, as long as these were reliable. Following on to Article 6.2, which started at the bottom of page 25 and carried over to the top of page 26, one would not, for example, if performing a blood profile on an athlete, need to collect an A bottle and B bottle of the blood and would not need to send it to a WADA-accredited laboratory. One could not get a positive test unless one did that, but one could collect a single blood sample, send it to a hospital laboratory that was reliable, with a chain of custody and the like, and use that data in a longitudinal blood profile, which would later get used in a case.

On page 26, Articles 6.3 and 6.5 dealt with research and retesting. The important thing here was that WADA had always had a right to retest samples, and this was simply clarified; WADA had always had a right to do research on samples with the athlete's permission, and that was clarified too. It was important for the laboratories to keep the two concepts straight. WADA did not do research on samples until it had finished with them for purposes of retesting and, when WADA did do research on samples, it was anonymous, so WADA did not end up with research analysis of samples being attributed back to a particular athlete. These articles simply made these points clear.

The next page, page 27, talked about results management of atypical findings, for example, an elevated T/E ratio (Article 7.1), and Article 7.2 dealt with adverse analytical findings (AAFs). He would talk about the AAFs first. In the middle of the paragraph, one of the things about which the athlete was to be notified was the scheduled date, time and place for the B sample analysis if the athlete wanted it. There was a real problem about the delay between the A and the B sample. The idea was that the date of the B sample analysis would be set and it would happen within ten days. That would impinge on the athlete's opportunity to attend the B sample analysis, bring an expert, etc. The problem was that there had been difficulties with the drawing out of the B sample analysis, and some substances, luteinising hormone, for example, for which, if one did not perform the B sample analysis quickly, the hormone would no longer be present, so there would be a positive A sample analysis and a negative B sample analysis. The team had put pressure on getting that done at some sacrifice of the athlete's maximum opportunity to find his or her desired expert and send such expert to the laboratory. The laboratory would have a surrogate watching.

At the bottom of Article 7.2, it had been made very clear that, if an anti-doping organisation got an AAF from a laboratory and, after reviewing it, decided not to go forward on the case, and sent notice to everybody who would have a right to appeal so all of those everybody's could appeal, this would not drop through the cracks.

Looking at the process under Article 7.3 for the atypical findings, he discussed how it was the same and how it was different. It was different in that, when an anti-doping organisation received notice of an elevated T/E ratio, it was not an AAF; so, statistically, there would not be 1,200 AAFs reported in the statistical laboratory report when only 20 or 30 or whatever the number was turned out to be real positive cases. That was one

important part. The other part of it was that one did not start the whole process of notice to the athlete and everybody else until after the investigation; therefore, at the moment, what should be happening was that, when there was a T/E ratio greater than 4, there were 1,000 athletes out there frightened to death that they might have a positive test only to find out that it had been no big deal. Now, they would not be notified until the anti-doping organisation had made a decision either to go forward with the elevated T/E as a positive test or not and, at that point, the athlete would get notice, as would all the other anti-doping organisations so that, if they did not like it, they could appeal.

There were two exceptions to that, and they were the two bullet points under Article 7.3.1 on page 28. He dealt with the second bullet point first. If he was an anti-doping organisation with an elevated T/E and an elevated luteinising hormone that might be relevant to that, he would perform an investigation, but he would not wait until his investigation was over to analyse the B sample; he would have to do it right away or the luteinising hormone would be gone; so, at that point, it was necessary to notify the athlete and everybody else and perform the B sample analysis quickly. That was an exception to the non-notification concept. The other exception was the first bullet point. If he was an NOC picking a rowing crew for an eight, it was probably fair to know that one of the people he would otherwise put in the crew had an investigation pending based on an elevated T/E or some other situation. The team had allowed for team selection bodies or major event organisations (the IOC, for example) to enquire, before the event or selection, about athletes with possible pending investigations. This was a compromise, but a fair compromise.

The next page, page 29, dealt with provisional suspensions. In the existing Code, one could provisionally suspend after the A sample analysis, and one could provisionally suspend after the B sample analysis, but one did not have to provisionally suspend after either. The options submitted had been to provisionally suspend everybody in a mandatory fashion after the A sample analysis, and to keep the rule as it was. What had been drafted was the compromise in between: one would not have to provisionally suspend after the A sample, but could do so. If the B sample analysis was also positive, then one would have to provisionally suspend. The rationale for that was that, occasionally, the B sample did not confirm the A sample, and the consequences to an anti-doping organisation of provisionally suspending after the A sample result when the B sample result did not confirm it were not pretty. Therefore, in order to avoid that, if an anti-doping organisation wished to write the rule and take that risk, then good, but WADA did not force the organisation to do that by virtue of the Code. He knew that there was a lot of debate about that, but this was what the team had concluded.

MR LARFAOUI asked whether that meant that the IF could provide for provisional suspension after a positive A sample result.

PROFESSOR LJUNGOVIST said that there had been a lot of debate around this and some people, including himself, had argued on behalf of the IAAF that one should consider obligatory suspension following the positive A sample result, and the fact that it had happened (although very occasionally) that the B sample result had not confirmed the A sample result. It was an extremely rare occurrence. He had to report that the Olympic Movement was not happy with the optional idea, and would like to see a compulsory suspension following the A sample result, since all IFs should treat the issue in the same way, and the Olympic Movement would hate to see, at the Olympic Games, some athletes not provisionally suspended and having a case to answer, and others provisionally suspended. The IOC Executive Board had recently decided to provisionally suspend all athletes with positive A sample results during the Olympic Games, but was very concerned about what would happen to athletes who had had positive A samples prior to the Olympic

Games and were then allowed to compete. He strongly urged on behalf of the Olympic Movement that the A suspension be compulsory.

MR YOUNG said that the answer to Mr Larfaoui's question was yes. Looking at the additional language in the middle of Article 7.5.1 on page 29, the anti-doping organisation that had the power to impose a provisional suspension was not just the results management entity, but also the IF, so if CCES's rules did not provide for suspension after an A sample result, FINA's rules could.

To Professor Ljungqvist, he suggested adding "major event organisation" there, so that, if the IOC wanted to adopt a rule that nobody came to an edition of the Olympic Games with an A sample but not a B sample result, the IOC could impose a provisional suspension on any potential competitors and so there would not be swimmers not coming and volleyball players coming.

MS ELWANI asked whether WADA was trying to protect the laboratories from looking bad by having a negative B sample result following a positive A sample result. WADA was trying to protect the athletes; so, if she were an athlete competing today, she would not want an athlete who had tested positive the day before to be in the semi-finals and prevent her from being there, and then the next day going on to the finals. It should not be optional; it should be obligatory. If there was a positive A sample result, an athlete should not be able to start the race unless such athlete had been cleared, and that could be an incentive for the laboratory to hurry up and analyse the second sample, thus allowing the athlete back into the game or not.

MR YOUNG said that the team had tried to mitigate this debate by saying that the B sample would be analysed in ten days, so WADA might be dealing with the situation about in-competition the following day, but at least it was not talking about months; it was talking about a ten-day window either way.

PROFESSOR LJUNGOVIST said that this was a very important issue. It was essential to take the necessary time to seek a conclusion. Personally, he believed that ten days was an illusion, for many reasons. There could be all sorts of acceptable and justifiable explanations, on behalf of the laboratories, athletes concerned, entourage, etc. If there was a mandatory ten-day period, a case that could not be analysed within that period would have to be dropped. Was that what the team wanted?

MR YOUNG observed that the B sample analysis would not be dropped, nor would the case.

PROFESSOR LJUNGOVIST said that the problem would then become even more apparent, and there would be an athlete whose B sample had for some reason not been analysed within the stipulated ten-day period, and that athlete would go on competing; then, there was the aspect of the protection of all those athletes who should not have to compete against an athlete who was 99.9% likely to have committed a doping offence. He still felt strongly that there was a need for a compulsory ban following a positive A sample analysis.

MR REEDIE said that his understanding of the feeling from the IFs was that it was not only the Olympic Games that mattered; there should be an absolutely uniform approach that, for all Olympic sports, if an athlete tested positive, such athlete would be immediately suspended.

MR LARFAOUI pointed out that he was in favour of automatic suspension after a positive A sample analysis. An athlete had been tested, not by FINA, and had tested positive. This athlete had then participated in the world championships, and FINA had been unable to suspend him. He had won. FINA had appealed to the CAS, and the athlete had been suspended 18 months after the date of the test. FINA had withdrawn the athlete's medal, but the person who had actually won had not benefited at the time. He was in favour of

automatic suspension after a positive A sample result. Apart from the case involving Marion Jones, no B sample analysis had ever contradicted an A sample analysis, and, since the same laboratory had to conduct the A and B sample analyses, he did not think that any laboratory would discredit itself by declaring a B sample analysis result that was different to the A sample analysis result.

THE CHAIRMAN asked whether the Executive Committee wished to mandate mandatory suspension after a positive A sample result.

MR YOUNG said that Article 7.6 on page 30 basically stated that one could not get out from under an ADRV case to answer by retiring, either in the middle of the case or, if the athlete had committed the ADRV violation and retired and this was discovered one year later, the athlete could not say that nobody had jurisdiction over him or her because he or she was a retired athlete.

On page 32, Article 8.3, which dealt with waiver of hearing, simply made clear what he would have thought was already clear, that there could be a rule that said that an athlete was given an opportunity for a hearing but, if the athlete did not timely claim that opportunity for a hearing, he or she would be considered to have waived it and the sanction was in effect and stayed in effect and there could be no appeal.

On page 33, Article 10.2 dealt with the positive test, stating that an athlete would receive a two-year sanction for a positive test unless he or she had a 10.4 or a 10.5 or a 10.6. The 10.5 was the old no fault or no significant fault rule; 10.4 was the new specified substances rule, and 10.6 was the new aggravating circumstances rule. To look at the new aggravating circumstances rule, one had to go to the bottom of page 35. What 10.4 said was that, now that there was the list of specified substances, it was not the steroids or the hormones or the methods or the stimulants that the List Committee said should not be treated especially. In order for there to be a reduction, the athlete had to show, one, how the substance had got into his or her body and, two, that the substance had not been intended to enhance sport performance, and the burden that the athlete had on showing that it had not been intended to enhance sport performance was a higher than normal burden; it was the comfortable satisfaction burden, which was the same burden that an anti-doping organisation had and, as could be seen from the comments, it was really meant to be strictly applied. An athlete could not just say that he or she had not intended to enhance performance; he or she had to have other corroborating evidence. The other thing that it was important to keep in mind when talking about the ability to go down for specified substances was that just because something was a specified substance did not mean that one could go down. In fact, one could go up on aggravating circumstances for a specified substance. Finasteride, or whatever the substance was, might otherwise be a specified substance but, if one could prove that an athlete had been trying to dope or mask with it, then it would be possible to go up to four years as opposed to staying at two or going down.

MR REEDIE referred to the question of Article 10.3.3 and the business of missed tests; the old rule was an option for an IF to have in its rules a period of suspension of three months to two years, and that had thrown up the occasional pretty serious difference of opinion on comparable standard athletes in two different sports in the same country, and he wondered whether it would not be possible to have one uniform penalty, which would apply across the board, perhaps then with a right of appeal on the no fault or no significant fault "excuses", for want of a better word. Mr Young was saying that there would be one year to two years based on the athlete's degree of fault. That seemed to him to be a rather different standard of fault; much more explicit definitions of that had been set out in other parts of the Code. He was also slightly concerned about the wording for *whereabouts, filing failures and/or missed tests*. This was a missed test issue; the others led to missed tests, so he was not sure that this was right here. The logic should be, if this was a serious doping offence, that the uniform penalty was two years, with the right then for an athlete to prove

that there had been no fault, in which case the athlete would escape a sanction, or that there had been no significant fault, in which case it would be reduced from two years to one year.

MR YOUNG said that this was something that had been discussed. Going to a minimum of one year was about as far as it had been possible to push it based on the comments. There had been a lot of people who had thought that even a one-year sanction for missed tests was way too harsh. There would not be the opportunity to reduce based on no significant fault or no fault for a missed test or a filing failure because, if there had been no fault, there would not have been a missed test in the first place. Mr Mallard's comment about a cyclist having a puncture and being unable to return on time was no fault, but the cyclist would not get a missed test for that either.

MR REEDIE said that that presumed that fault lay only in the case of the athlete. What happened if fault lay with the people who were going to do the test?

MR YOUNG replied that, if the doping control officer screwed up, there would be no missed test. If the anti-doping organisation lost paperwork and the athlete could prove that he or she had sent the paperwork to the organisation, the athlete would not get a filing failure. It really was one of those balancing dilemmas; if he was an NOC and he got one person with one year and another person with two years, that would not feel very good but, on the other hand, he would not want a situation whereby these were all two years. A comment could be added to this to deal with what Mr Reedie had just said so as to better answer the question.

THE CHAIRMAN asked whether a decision might not be taken.

THE DIRECTOR GENERAL suggested having a comment explaining the defence of no significant fault to deal with Mr Reedie's issue.

THE CHAIRMAN did not think that everybody was on the same level here. He had thought that three missed tests in 18 months would be the same as testing positive. If an athlete tested positive, the athlete would be given a two-year sanction unless he or she could show something warranting a reduction.

MR YOUNG said that the question was what could be shown. If it was a positive test, the only way of reducing it was no significant fault which, based on CAS jurisprudence, was a really high bar to show. WADA could say that it was two years unless the athlete could show that this was not appropriate based on fault, but he personally would not go with a bar as high as the no significant fault, as then the situation would never arise. He would probably go with two years unless the athlete could show, based on lack of fault, that that was too harsh.

THE CHAIRMAN added that this should be accompanied with a comment that drew attention to the fact that the missed test did involve fault, because otherwise it would not have been a missed test. Either it was an ADRV, in which case it was a standard thing, or it was something else. He had thought that it was the equivalent of an ADRV.

MR YOUNG said that it was clearly a violation if there were three missed tests or a combination. It was two years, unless one could show that it should be reduced based on lack of fault. It could then go down to one year, but this lack of fault was something different to no significant fault, otherwise the athlete would not have been there.

THE CHAIRMAN agreed.

MR REEDIE said that he could live with that. The situation that he was quite keen to avoid in the future was one that had arisen within the last six months in his country, whereby one IF had banned a world champion for three months and another IF had banned a world champion for twelve months. That was untenable. If it was a serious doping

offence, it should not be three months; it should be a higher figure, and this should be made understandable.

MR YOUNG said that the text on page 37 had not been tinkered with. The CAS had, by and large, done a good job interpreting this and, since it was not broken, the team had not tried to fix it.

On page 39, about a quarter of the way down from the top of the page in the comments, the issue of minors was mentioned, and he brought this to the members' attention because there had been a lot of comments, particularly from the Council of Europe and its members, who wanted WADA to have a special rule for minors and, in different drafts, the team had tried that; there was an issue that age of majority was different in different places. The conclusion had been that what was most important was not the age of the athlete, it was the maturity and experience of the athlete and, when there was fault as the criteria on how one was sanctioned, that would be considered in the fault. If a 17-year-old athlete had been an international since the age of 12, that person would not get a lot of slack, but a 14-year-old in his or her first competition would get a lot of slack in terms of degree of fault. He thought that this answered the minority question, but it was important for the members to know about it, as they would probably hear about it from some stakeholders.

Article 10.5.3 was the substantial assistance provision. A lot of feedback had been received on this, saying that, now that WADA was entering a world of non-analytical positive cases, this was something that ought to be strengthened and substantially encouraged, and so that had been done and, on the one hand, the team had increased the sanction reduction that could be given in the most extreme case from a half to three-quarters, for providing the utmost substantial assistance and absolutely providing wonderful assistance in the fight against doping in sport; on the other hand, the team had very much tightened down the requirements as to what had to be done to get credit for substantial assistance, both in Article 10.5.3 and the definition of substantial assistance, which would be talked about later on. The other way in which the team had expanded the opportunity for substantial assistance was that it did not need to be provided only to an anti-doping organisation; it could also be provided to a criminal authority or a professional disciplinary body. In other words, a doctor could be caused to lose his or her licence for illegally prescribing growth hormone.

On page 41, Article 10.5.4 was another new provision; in the beginning, he had said that the team was trying to do what it could to encourage people who had committed ADRVs to come forward. This was to deal with the situation whereby, out of the blue, somebody came forward and admitted that he or she had doped when WADA had had no basis to suspect doping and the athlete had not had the DCO knocking on the door. When somebody did that there was the possibility of reducing what would otherwise be a two-year ban to a one-year ban.

Article 10.5.5 was the process of mixing and matching the different opportunities to reduce sanctions. If an athlete spontaneously admitted, and provided wonderful substantial assistance, but would otherwise have got four years because there were aggravating circumstances, the team talked about starting out with aggravating circumstances, then there was the opportunity to go down to, at most when mixing and matching, three-quarters, so it would be three-quarters of four years, or three-quarters of two years if that was what the athlete would otherwise have got. Then there were three examples of that on page 42.

Article 10.6 was the aggravating circumstances clause; it was at the bottom of page 42, and that was the opportunity to go up to four years in a bad case of use or a positive test, and this was changed from the last draft circulated, based on a lot of very valuable comments from the IAAF and the IOC and some discussions within the IOC that involved the

hawks and doves in this process coming up with a compromise, and what that said was that, where there were aggravating circumstances, and it did not define aggravating circumstances but gave a list of examples (in other words, it was a bad case and here were some things that would cause one to think that it was a bad case, but they were not exhaustive), it could be increased up to four years unless one of two things happened. Either the athlete could come back and prove that it had not been intentional, or an athlete could avoid aggravating circumstances by promptly raising his or her hand and saying that he or she had done it. Again, it was one of those incentives for athletes not to drag WADA through the expensive and publicly distracting process of denial, denial, denial.

Article 10.7 dealt with multiple violations. This was something for which there had been one paragraph in the original Code. If the team had gone into all of this detail in the original Code, it would simply have pushed people over the top, and it would have been seen as insanely complicated. Now that people had been able to swallow the Code, this additional layer of complication could be added, and this had been made necessary in part by the Puerta case, as WADA had been told that it had a lacuna in the Code, and had not talked about mixing and matching these different circumstances. The team had responded to that.

MR TANAKA said that the Code should be as simple as possible. Article 10.7.1 seemed to be too complicated. He suggested simplifying the drafting.

MR YOUNG replied that Mr Tanaka's comment was in line with some of the comments that had been received. The comments received had ranged from "this is so complicated it is an example of lawyers gone insane" to "this is the most elegantly crafted and beautiful thing in the whole Code". But the problem was that the team really wanted to be fair in how this was done, and it really made a big difference what kind of two ADRVs there were. If there were two really bad ones, there should be stiffer consequences than if they were two not so bad ones. The team had tried, in the drafting process, to say something like that, but that was precisely where the court, regarding the Puerta case, had said that WADA needed to give the anti-doping organisations and CAS panels directions as to how WADA wanted this to work out in the different circumstances. Therefore, the team had been between making it complicated and making it simple but potentially not fair, and had tried, to make it somewhat less complicated, to draw the picture in the chart. If the members did not like the chart, they would not have liked the three pages of narrative description on how it was supposed to work.

MR TANAKA was concerned about the second ADRV.

MR YOUNG said that he completely understood what Mr Tanaka was saying, but that had been the issue in the Puerta case; previously, the team had not gone to a lot of trouble to deal with the second violation and, here, the team had not gone to a lot of trouble to deal with the third violation; it had simply thrown up its hands to say that, if an athlete screwed up three times, WADA would not try to be fair and flexible in every case and the athlete would have to face a huge consequence. In relation to the Puerta case, it had been claimed that it was a very minor second violation and a very minor first violation and, putting those together, there could not just be a firm serious sanction; it was necessary to deal with it especially.

THE CHAIRMAN thought that it was perhaps more important to have simplicity when dealing with the athletes and what they could and could not do; the precision was needed where the interpreters of the Code had to apply a sanction and, there, one needed to be certain as to the outcome, even if it was a complicated expression of it.

MR YOUNG added that a related point to that was on page 46, Article 10.7.5, which also came out of the Puerta case. He was talking about violations that might be eight years apart, which had some significance. It related to the point raised by the Chairman, that the longer the time span for counting strikes or screw-ups, the sterner the rules were. On page

47, Article 10.8.1 had to do with prize money; it simply recognised what many IFs already had in their rules, that, if an ADRV was committed, an athlete forfeited his or her results and prize money, and had to repay that prize money before being able to come back.

Article 10.8.2 dealt with what happened to that prize money. What happened to it was that, first, it went to other athletes if that was what the IF rules stated. If that was not what the IF rules stated, it would go first to cover the collection expenses of whoever was responsible for collecting that money, and then to whoever had had to pay the money to prosecute the ADRV. It might not be a perfect solution, but that was the conclusion reached.

At the top of page 48, Article 10.9 referred to the commencement of the ineligibility period. This was one where the CAS panels had not always got it right. The normal rule was that the period of ineligibility began on the date of the hearing decision, and all results were wiped out retroactively. If it was not the athlete's fault that it took a long time to get to a hearing, and all results were wiped out and then the athlete was given two years on top of that, it was probably not fair, if it had not been the athlete's fault that the hearing had taken so long. That was what the old rule had attempted to say, but some panels had backdated the effective date to sample collection based on factors other than it being the anti-doping agency's fault that the hearing had taken so long, so the team had made it clear.

Article 10.9.2 referred to timely admission, and was yet another incentive to athletes to not bring their phoney denials and drag WADA through the process. If athletes promptly admitted, their sanctions could start right back at the date of sample collection.

Article 10.9.4 was simply a codification of what was currently going on in practice: athletes voluntarily accepting a provisional suspension, which was always nice, because then WADA did not have the liability exposure, and they did that to start the clock running, and this could be in something other than a positive test and, if they did that, they got credit, starting with when they voluntarily accepted it.

Article 10.9.5 made it clear, however, that an athlete could not get credit for simply taking himself or herself out of competition; an athlete had not signed a commitment to be provisionally suspended, but had simply chosen not to compete. That did not work, because it was the athlete's choice, and he or she could have competed or not competed.

Article 10.10 was a policy decision from the Executive Committee and referred to what an athlete could and could not do when ineligible. In this draft, the team had made it crystal clear that, if ineligible, an athlete could not practise with his or her club or be involved in any of the activities of a member club of a member of a signatory. This was particularly harsh in team sports, but the flip side was that, if somebody had been suspended, he or she should not be out there practising with the club and just not competing.

Article 10.10.2 on page 50 described what happened if an athlete was ineligible and went ahead and competed anyway. The answer was that, whatever the initial period of ineligibility had been, it started all over again on the day on which the athlete competed. Of course, if it turned out that it had been a big accident, there would be an opportunity for no significant fault to come into play and there could be some mitigation but, clearly, if an athlete flaunted his or her obligation not to compete or participate in other activities such as training with the club whilst ineligible, from the day on which the athlete committed such transgression, the penalty would start all over again.

At the top of page 51, the members would see another of the comments that went not to ADRVs but to something that might go in the code of conduct rules. If a coach let an ineligible athlete train with the club, that was not a good thing. It had not been called an

ADRV, but it certainly ought to be a code of conduct violation in all sports. It was like other bad things that coaches could do vis-à-vis their athletes.

Article 10.12, regarding the imposition of financial sanctions, made it clear that it was alright for an anti-doping organisation or IF to have fines in its sanction scheme, but WADA clearly told the CAS panels that they could not let fines be a reason not to apply the ineligibility sanctions that they would otherwise apply. Just because an athlete had had to pay a big fine did not mean that he or she should have a lesser period of ineligibility.

Article 11 described the consequences to teams. The distinction in the Code between team sports and individual sports was whether one could substitute in the middle of the match, so an eight in rowing was an individual sport because, in the middle of the race, somebody could not swim out and substitute a member of the crew. For volleyball, basketball and hockey, one could substitute in the middle of the match, and so those were team sports. One of the questions he had been asked to address with the team sports was that the athlete who committed an ADRV was sanctioned just like everybody else, but what would happen to the team? In rowing, the crew was out; in track and field or swimming, if a relay athlete doped, the relay event would be lost, so what would happen to football, handball, rugby teams and so on? The team had gone round and round this with the team sports and the rule that was acceptable to them after a lot of dialogue and pushing was that, during an event (not just one game) if two members of the team had ADRVs or positive tests or refusals, there would be mandatory target testing in the rest of the team. If more than two had violations, then there would be mandatory consequences but WADA would not say what those consequences were. It was probably less harmonised and less severe than a number of members would have liked, but it was what it was and that was the best that the team could do in terms of getting agreement from the team sports.

In 11.3, the team had also made it clear that event organisations, such as the IOC, had the right to have their own, much stricter rules. If the IOC wanted to adopt a rule that one positive test on a basketball team would eliminate that team from the Olympic Games, it could do that.

PROFESSOR LJUNGQVIST asked whether the concept of team sports would be defined.

MR YOUNG replied that it was defined in the definitions and, if an athlete could be substituted in the middle of the game, then the sport was a team sport. If an athlete could not be substituted in the middle of the game, then the sport was not a team sport.

PROFESSOR LJUNGQVIST asked where a relay team in swimming, athletics and skiing fell.

MR YOUNG said that, if one could not substitute in the middle of the relay race, then it was not a team sport. When looking at one of the explanations, the team talked specifically about relays in track and field and in swimming and said that if, in a particular race, there was a positive test, the results of that relay race would be lost. It was up to the IF and the nature of the competition to disqualify, but it would have changed the results in one case about which Professor Ljungqvist was certainly aware.

MR SCHONNING asked whether the rule had been considered to be applicable to tournaments.

MR YOUNG replied that the team had considered this and had left it to the IF to define what an event was. It was pretty understandable when one thought about the Olympic Games and a world championship; however, the team had left it to the IFs to decide whether a whole premier league season was an event or not because, when trying to do that, there had been too many different size feet for the team to figure out one shoe to fit them all.

MR REEDIE said that this was an anti-doping code. He therefore understood that beach volleyball was not a team sport.

MR YOUNG said that that was correct. Indoor volleyball was a team sport, and beach volleyball was not, just like tennis doubles was not.

At the top of page 53, Article 13.1.1 was very technical and he would not normally bother the members with this, except that it was a point about which some comments had been received. He explained what this meant. He asked the members to imagine an IF that had a doping control review board and then appealed to the Executive Committee; from there, the athlete could go to the CAS. If the doping control review board said that there had been no violation, and the IF said that, as far as it was concerned, the case was over, because the doping control review board had deemed that there had been no violation, and WADA wanted to appeal, WADA could take its appeal directly to the CAS and would not have to first go to the executive board of the IF before doing anything. That made all the sense in the world because, at that point, the IF had decided that it was happy with the decision of its review board, but there had been some comment on that, maybe because people had not understood it, but that was the sensible place for WADA to be.

Article 13.2 again clarified that the entities and anti-doping organisations that were allowed to appeal could appeal decisions not to go forward, be it with an AAF or any ADRV.

Regarding Article 13.2.3 on page 54, in addition to the list of people who used to be entitled to appeal, the team had added the NADO of the athlete. The team had also added a clause at the beginning that dealt with a practical problem faced by WADA, and that was that, when appealing a decision not to find an ADRV, it was the NADO that had the file, and so it was a little hard to appeal and bring a case when the person against whom one was appealing had all the documents, so this was a direction to the CAS to hand over the documents.

The text at the top of page 55 had to do with the filing deadlines. Again, this was a little technical, but it was a subject about which the team had received comments. The idea was that WADA should not have to appeal until the IF had made up its mind whether it was going to appeal. If the IF was going to appeal, WADA might not want to appeal but, if the IF did not appeal, WADA needed a period of time for it to decide to appeal, and WADA should not have to pull the trigger on the appeal until it had received the information on the case upon which it could base a decision.

Article 13.3 was significant in that, if an anti-doping organisation was sitting on a case and simply would not make a decision, WADA had a right after consulting with that organisation to treat that refusal to make a decision as an exoneration decision and take the case to the CAS. If an IF did not like what NADOs were doing sitting on cases, the IF had two choices, one of which was to go to WADA and say that WADA needed to take the case over from the NADO, or have a provision in its own rules saying that, when a member national federation was sitting too long on a case, the IF had the right to take over the case. The Code provided for this.

Regarding Article 13.5, the change there said that people could appeal a WADA non-compliance report. Before that change, WADA would report an IF's non-compliance to the IOC, the IOC would take a decision to ban that IF from the Olympic Games, and that would be the decision appealed. The change allowed the IF to appeal the WADA report before going through the IOC process.

On page 57, Article 14.1.5 dealt with confidentiality, and again talked about the need for confidentiality and people with a need to know, but it also included NOCs and IFs, as they might be picking teams, and then there was the comment that an anti-doping organisation

had to have in its own rules requirements and discipline resulting from breaches of confidentiality.

MR REEDIE said that he hoped that this was not a naïve comment, but WADA ran into lots of problems because cases were conducted in newspaper columns, simply because people did not adhere to the confidentiality rules under the Code. He wondered whether it might help marginally if the team were to beef up the wording a little bit, with anything that allowed those in charge of the process to say to those who leaked it that they should not.

MR YOUNG thought that that was a good suggestion, and it could be tied to Article 14.2.5, which said that nobody commented publicly except in response to the athlete's comments, for example. The team had tried to come up with sanctions and things like that there; he thought that it was non-compliance with the Code at WADA's level, but it was something that needed to be taken seriously, because his experience from the Landis case was the fact that somebody had leaked information to the press. It was absolutely irrelevant to the issues in the case, but it had added a huge emotional charge that he would just as soon never have to deal with again, and it affected the integrity of the whole process, so he thought that this was very important. The team would beef up the language, but it would probably need to think beyond the Code about what else could be done.

Article 14.2.3 was a clarification of what had to be disclosed after a case was over. At present, some anti-doping organisations were pretty limited in what they disclosed. Article 14.2.5 referred to no comment, except in response to the athlete. This was good in that it made it clear that laboratories and everybody else did not comment on pending cases; it was also good because it allowed, for example, an organisation such as USADA to change its rules and say that it would comment in response to the athlete whereas USADA had been unable to comment under its rules on the misleading press releases relating to Landis.

Article 14.5 was technical again, but it was important for the members to know. Many comments had been received about data protection and the EU directive. The team had taken advice from outside counsel who understood the directive, and was simply representing that, in gathering and disseminating information through ADAMS, WADA was compliant with the directive.

Article 15.1 concerned a hot topic and he thought that it had been resolved to everybody's satisfaction. It was illustrated in Article 15.1.1 and had to do with who got to test at an event. He took the members through how it worked. He referred to an event of an IF. The IF got to test and define what the event period was, so basketball might say that the event period began a week before, when everybody arrived, and ended three days after, when everybody went home. Only the IF got to test except, if a NADO wanted to test, it could go to the IF and explain why it wanted to test during the period. If the IF said yes, great; if the IF said no, that NADO could go to WADA, and say that it wanted to test and the IF would not let it. At that point, WADA would go to the IF and find out the situation and then, after that consultation, WADA would decide whether or not the NADO could test. It had been a pretty hot topic, and he thought that this response had generally made everybody happy.

MR REEDIE said that, regarding Article 15.2, if WADA had identified that out-of-competition testing was mandatory under 5.1.1, it should be recorded under the heading of out-of-competition testing, because this was the bit that referred to out-of-competition testing and would force IFs to actually do what everybody knew they should do.

MR YOUNG agreed with Mr Reedie. Article 15.4 concerned mutual recognition, and the comment there simply reiterated that IFs were the only ones that had authority to grant TUEs for international level athletes.

THE CHAIRMAN asked why it had been limited to “should” as opposed to “shall” in 15.4.2. “Should” imposed no obligation of any sort whatsoever.

MR YOUNG replied that “shall” would be fine.

Page 64 was the start of *Part Two, Education and Research*. The language in the articles came in part from stakeholders’ comments, but largely from the applicable WADA committees. There really was not anything on Articles 18 or 19 that he thought needed particular attention.

MR TANAKA had a comment on education. He fully understood the importance of education; however, in relation to the last sentence on page 64, which stated that *these programmes should be directed at young people in school*, he noted that all of this information was important, but young children should be provided with information according to their stages of development, because “young people” was not the same as athletes or sports officials. His suggestion was to delete *young people in school and sports clubs* and separate these groups. He thought that this information should be provided to young people according to their stage of development.

MR YOUNG replied that the team could modify the reference to young people and note that education would be appropriate to their stage of development; that was fine, and would be an easy, good change.

PROFESSOR LJUNGQVIST said that he had a comment to make regarding Article 15.2 on page 60, where reference was made to the fact that out-of-competition testing should be coordinated through ADAMS. Would it not be wise to use the same phrase as in Article 14.3, which stated that it should be coordinated *through ADAMS where reasonably feasible*? It was the same thing actually.

THE CHAIRMAN said that WADA was trying to get people onto ADAMS; it was an easy thing to use. There was some myth out there that it was a problem, so anything that WADA could do to make sure that this happened was to be desired. WADA should do everything it could to make that as mandatory as possible. It was certainly feasible by any organisation. It was change, and sometimes people were averse to that, but it was certainly feasible.

PROFESSOR LJUNGQVIST thought that it was not logical to have it in one place and not in the other; it would be wise to have the same phrase in both places.

THE CHAIRMAN noted that it did say “should”.

MR YOUNG said that the team would do whatever the Executive Committee wanted it to do.

THE CHAIRMAN wondered whether WADA might not advance ADAMS here.

MR YOUNG said that, on page 67, under *Part Three*, there had been a number of provisions added to the roles and responsibilities of stakeholders. He could mention those that were general to everybody, and then there were several that were unique to a couple of types of stakeholder. One was at the top of the page before Article 20: *the spirit of partnership and collaboration* applied to everybody. Article 20.1.6 referred to pursuing ADRVs within jurisdiction and particularly to investigating whether athlete support personnel and other people had been involved.

THE CHAIRMAN asked whether one might assume that Mr Young was talking about the IOC or the IPC and the IFs, and that these were changes that had been discussed with and consented to by those organisations.

MR YOUNG said that, as a matter of fact, the reason that Article 20.1.1 was highlighted was a reminder to the Executive Committee that WADA had asked the IOC whether, with the new Youth Games, it wanted WADA to simply talk about Olympic Games, which covered

Winter, Summer and Youth, and the answer received had been yes, so there would be a terminology difference here.

THE CHAIRMAN said that, unless there was some issue about what the IPC or the IFs had agreed to with the Code Project Team, there was no issue.

MR YOUNG replied that he did not think that there was an issue, in Article 20.1.7 at the bottom of page 67, with the IOC; he thought that the IOC had agreed that it would not award any bids to a country that had not accepted the UNESCO convention; when it came to the major event organisations and the IFs, there was no agreement.

Article 21.8 applied to everybody, as did Article 21.9.

On page 69, at the bottom, Article 20.3.10 discussed the roles and responsibilities of the IFs, and this was a policy question for the Executive Committee members. What the team had said was that, after 1 January 2010, an IF would not award any type of world championship to a country that had not accepted the UNESCO convention. The members would recall the history of this, and the last draft had featured 1 January 2009, but had referred only to major world championships. The compromise was that it now referred to all world championships, but it had been moved back a year. The team had heard arguments in favour of this, saying that the sporting world had been saying for a long time that the governments needed to do their bit, and this was the IFs' best chance to make them do their bit, and the other side was that there were some IFs, and Mr Kasper could talk about this, such as skiing, where there were not a lot of countries in which world championships could be held as not everybody had snow. That would be a hardship if these countries did not adopt the UNESCO convention. The team had drafted this based on what it had understood the Executive Committee wanted it to do after the last round, and that was the nature of the comments received, but it was a policy decision for the members, and the same would apply to major event organisations and IFs.

MR LARFAOUI said that this referred to candidatures after 2010; sometimes, world championships were granted four or five years prior to the event taking place. Therefore, if IFs granted championships in 2009, they would take place in 2013 or 2014 and, even if a government had not yet ratified the UNESCO convention, it would be able to host those championships.

MR KASPER did not want to repeat himself, and the IOC President had been very clear on this and had been strictly opposed to this article, as it would kill sports activities in many nations. The aim was to support sport and not kill it off. If, by 2010, everybody would have signed the Convention, the article was not necessary.

MR SCHONNING repeated the position of the Council of Europe. It supported the provision. There were three provisions in the draft that should be looked at together: 20.1.7, 20.3.10 and 20.6.5. He believed that WADA should stick to the date of entry into force of the new Code on 1 January 2009. As many governments as possible would ratify the convention as soon as possible.

MR KASPER asked whether Mr Schonning agreed that it was more important to sign a convention than have active sports for young people in their countries. He told the Executive Committee honestly that, if the date were set for 2010, his federation would decide in 2009 on major world championships for the next 20 years, and that would not help matters.

THE CHAIRMAN thought that it was necessary to be sensitive to what was going on. This was not putting pressure on the governments. It was a statement of principle by the sports movement. Those who believed in anti-doping would not award their events to countries that were not prepared to do this. He thought that, if Mr Kasper were to do what he had suggested, he would have a very bad reaction from the rest of the world. It could certainly

be discussed in November, but he was reluctant to have the sports authorities saying that they did not care whether the convention was adopted or not.

MR KASPER said that there would be no world skiing championships over the coming years if this were the case. He did not believe, for example, that Mr Bush would change US legislation if a small sport such as luge wanted to hold its world championships in a US village. In his country, Switzerland, it would not be possible to hold championships.

MR BURNS asked why Switzerland had not signed the convention.

MR KASPER replied that he did not tell the government of his country what it had to do. The core countries for many sports had not yet signed. Switzerland had to go from one canton to another, and that could take three or four years.

THE CHAIRMAN thought that the sport movement should think very carefully before saying that it did not care about this joint effort.

MR STOFIE said that, from the African continent, this had already been practice since 2005, not so much with respect to the signing of the Code, but with respect to compliance in terms of subscriptions and all multilateral agreements. No compliance meant no hosting, and this decision had been taken in April 2005.

MR REEDIE said that, to make sure that WADA actually got a Code approved, there was a way of admittedly softening the clause in yellow, but it would be along the lines of "IFs will use their best endeavours to ensure that their events are awarded to..." and the next section for NOCs would state that they would be encouraged to use their best endeavours to make sure that their governments signed the UNESCO convention, so this would be some attempt by the sports movement to say that it wanted governments to come to the table fully; it was not as strong as what was written there, but he thought it was something that both parties could live with.

THE DIRECTOR GENERAL said that he had spoken to Mr Blatter when he had been in Shanghai. He had a letter from Mr Blatter supporting the clause in question on behalf of FIFA. FIFA had not only supported it, but had made a full list of the UNESCO ratification countries and those that had not ratified, and was agreeing to go to countries that had not ratified to encourage them to do so.

PROFESSOR LJUNGQVIST noted that this was a problem, because sports were, in a way, being punished for failures at the government level, and that was not attractive. It was not the same as saying that the IFs did not care; they cared very much indeed, but was this the right way of exercising the necessary pressure? For FIFA, it was not a problem, and the same applied to his sport but, for other sports, there was a limited number of countries available. This was why there had been certain reactions when discussing the matter. He would have liked the clause to be there had it been unanimously supported by the federations concerned; however, if that was not the case, he would be uncomfortable with such a clause.

THE CHAIRMAN said that it was a good debating point but it was not punishing sports because of governmental failures. This was a commitment by sports, saying that they would not take their events to a country if such country did not want to be part of this worldwide fight. And that was a much stronger statement than "we should" or "might". The sports side of this should be very careful about how this would come out.

PROFESSOR LJUNGQVIST agreed that it could be put both ways. In that sense, it could be made an optional condition, which certainly the IAAF and FIFA would sign up to, whereas others experienced hardship in doing so.

THE CHAIRMAN observed, with the greatest of respect, that it was a perceived hardship, and not a demonstrated hardship. Did the members want to take a decision on this? Should

they leave the language as it was or did they wish to instruct the team to change that language? How many were satisfied to go forward with it as drafted? A six to five vote meant that they would go forward with it.

MR YOUNG said that the next issue to look at was on page 72. Article 20.7 was not earth-shaking but, since it dealt with WADA's responsibilities, he thought that he would point it out. Article 20.7.2 made it clear that WADA was not just monitoring AAFs, it was monitoring Code compliance, and Article 20.7.8 introduced the concept that WADA would cooperate and work with national and international organisations in the area of facilitating enquiries and investigations.

Article 22, which dealt with the involvement of governments, had been completely rewritten in light of the UNESCO convention. The team had received some feedback from governments that it should not be there at all; that was the same feedback that had been received in relation to the first Code, and this was not the signatories telling governments what they had to do; it was the signatories talking about their expectations of governments. Again, Article 22.5 had to do with bidding for Olympic Games, world championships and the like, and the other aspect of this was that there could be additional consequences, such as forfeiture of offices and positions within WADA; that same provision having to do with additional consequences appeared for signatories in Article 23.5.1.

Under *Part Four*, in Article 23 on page 76, at the end of the long list of things to be incorporated verbatim, the team had added a provision that said that a new clause could not be added that took away the effect of incorporating all of the verbatim clauses, and then the comment simply made another code of conduct point that, just because it was not an ADRV for a coach to coincidentally have a whole bunch of athletes who tested positive, it would certainly be within the realm of an NOC or NADO or NF or IF to say that a coach might not have committed an ADRV, but it no longer wanted such coach to be a member.

On page 78, Article 23.5.1 referred to the additional consequences, such as loss of positions within WADA, that applied to signatories. Also on page 78, Articles 23.4.6 and 23.4.7 set forth what he was sure WADA would have done anyhow, which was that, if WADA was going to declare a body non-compliant, such body had the opportunity to submit its side in writing and the decision got made by the Foundation Board.

On page 79, to which he had alluded in the beginning, the members would see the effective date of all of this. He recalled that WADA did not want the List and the International Standards and an anti-doping organisation's effective date for the rules to occur at different times because they were all synchronised and there would be a mess otherwise. The question was, what was that date? Was this to be done on 1 January because it was convenient and the List always came out on 1 January and drove the selection of the date? This would have to be done after the Olympic Games in Beijing so as not to create a mess before the Olympic Games, but the question was whether it should be done on 1 October or some similar date, which would require doing something different with the List, but it might be easier on the winter sports, so that their rules were not changed mid-season.

THE CHAIRMAN asked whether the Executive Committee had made the value judgement that it did not want to do anything to mess up the Olympic Games. He thought that that was a very bad idea. WADA was doing something that was going to improve the fight against doping in sport, but did it want to specifically wait until after the 2008 Olympic Games to put it into effect? It was a terrible position. He agreed that 1 January did not make sense for the winter sports, but should it not be 1 August 2008, so that the Olympic Games would be in the vanguard of the improvements in the fight against doping in sport?

MR KASPER said that he had just received a message from the IOC president's cabinet in Lausanne that it would be impossible for the IOC to have this in place before the Olympic

Games in Beijing, as it would have to make some exceptions for some sports. This was not his personal opinion.

THE CHAIRMAN asked Mr Kasper, for the record, whether the IOC had said that it would be impossible for the IOC to accede to these changes because it might create some difficulties for some sports. This had been done in 2004 with no problem. All he could say was that he was surprised and disappointed that that was the view that the IOC had expressed, and he thought that WADA should pursue that with more vigour. He knew that 1 January 2009 did not make any sense. Somebody needed to tell the IOC how bad it looked for the IOC to say that it did not want any changes to this until after the Olympic Games.

PROFESSOR LJUNGOVIST said that a decision might not necessarily need to be taken immediately, and perhaps the Code Review Team and the WADA Chairman might be able to have a discussion with the IOC president, rather than taking an immediate decision. The message that WADA had was the one Mr Kasper had stated, but why not have further discussion and find out whether this might be adjusted?

THE CHAIRMAN said that he agreed. It was not a major drafting issue, so it would be pursued.

MR YOUNG said that, on page 80, under Article 24.6, the members would see a highlighted clause, which was basically something that said that, if a body accepted the Code and the body's rules were inconsistent, then the Code would prevail. An example of this would be the old IAAF rules whereby the IAAF had accepted the Code, the Code had stated two years, the IAAF rules had stated a minimum of two years, a CAS panel would reject the argument for more than two years because the Code trumped the literal language of the IAAF rules. There had been a lot of pushback to that, from the IFs in particular, and one of the elements to the pushback that had been heard from the lawyers pretty consistently was that it was not fair to an athlete who read the rules of his or her own sport to suddenly be judged by another set of rules that trumped his or her rules, and so this clause should not be included and, if this clause did exist, it would get thrown out anyhow.

THE CHAIRMAN said that, first, it was necessary for a body to make sure that its rules were the same, and such body should get good enough lawyers to make sure that they were. If WADA got challenged and lost, that would be fine but, if it did not have the clause, it would never have a chance to impose the harmonisation. He personally thought that this was an opportunity, and not something to worry about.

PROFESSOR LJUNGOVIST asked whether this meant that, under those circumstances, the actual rules would not be Code-compliant.

MR YOUNG replied that it meant that, if an IF had rules that were different to those of the Code, it could be that they looked Code-compliant, because the IF and WADA interpreted them as being Code-compliant, but this would tell a panel that they could be interpreted differently; however, if there was any ambiguity or discussion on how this rule got interpreted, the Code would win.

He would not talk too much about the definitions.

MS ELWANI noted that Mr Young referred to the introduction to the Code under Article 24.7; however, at the very beginning, there was no introduction to the Code.

MR YOUNG said that the name had been changed and thanked Ms Elwani for pointing this out.

Under the definitions on page 82, the members would see the definition of an athlete. Put simply, this meant that there were several countries that wanted to be able to test all levels of athlete, including little children, masters, and the like. They did not want to have to apply the full regime of the Code to every one of those people they tested, and they did

not want to get TUEs from all the old people using Viagra now that this might be included on the List or all the little children who had been prescribed cold medicines by their paediatricians. The countries had been told that, as long as their programmes applied to the kinds of athlete who would compete in their national championships, they could go ahead and test or use parts of the Code for the other athletes. He thought that that satisfied the needs of the Executive Committee members, who wanted to make sure that every aspect of the Code applied to the top athletes, and the needs of the countries that wanted to test old people and little children.

MR LARFAOUI asked about world masters championships, where there was an age limit of up to 100 years, and many athletes used products, but these were international competitions.

MR YOUNG said that it would be up to the IF if it was running the masters world championships or whoever was running those international championships to decide whether, for a master or a little child, the full Code applied. It meant that, if Sweden wished to test and have the full Code applied to all masters, it could do that if it wanted, or it could apply to the top level of masters, or it could not apply to masters at all. They had that flexibility but, from the team's point of view, it insisted that this full range of the Code should apply to anybody who would be in the national championships at the open division.

MR LARFAOUI objected that these were international championships.

THE CHAIRMAN asked Mr Larfaoui whether he wanted to test these people.

MR LARFAOUI replied that he did not wish to test them.

THE CHAIRMAN replied that he did not have to.

MR YOUNG referred to the last comment; in the course of talking about the other articles, he had mentioned things such as possession and how the definition of substantial assistance had been built up. The last one that he would point out was the definition of a registered testing pool, and that was important because, in response to a question from Mr Mallard, this was where the IFs and NADOs were told that they could decide who would be in their registered testing pool but they needed to let people know by category or individual name that they were in it. That was a weakness in the current system.

That was the list of things he had been interested in talking to the Executive Committee about.

THE CHAIRMAN thanked Mr Young for a very thorough and professional job. He knew that the team had been wrestling with lots of demons. The issues raised were important and the Executive Committee would see what happened in the next version. He asked Mr Young to address the Executive Committee's thanks to the team.

DECISION

Code review update and new instructions issued
by the Executive Committee to the Code Review
Team noted.

7.1 International Standard for Testing

MR ANDERSEN informed the members that no text had been made available for this item, as he did not want to go through the full text on the A and B samples. He simply sought the members' opinions on the principles of whereabouts and missed tests.

The process for the International Standard for Testing (IST) had been similar to that for the Code. It had started in May 2006. There had been three consultation periods, and an ad hoc working group had been established in 2007, assisted by WADA staff and a lawyer.

85 submissions had been received from IFs, NADOs, athletes and others. Some basic principles were of note. Every athlete was in principle subject to testing at any time and any place; however, unannounced out-of-competition testing was at the core of effective doping control, and this was also a comment to Code Article 2.4. Without accurate athlete location information, such testing was inefficient and sometimes impossible, and this was also a comment in the Code. Therefore, the rules needed to require a high priority athlete to provide information that was sufficient to enable him or her to be located without prior notice for testing while out-of-competition. The rules needed to be practical, feasible and backed up by an effective sanction for non-compliance. The current Code had a very lenient way of looking at this, leaving it to each organisation to have a system for whereabouts and missed tests based on what was phrased as "reasonable rules". The applicable requirements were set by the athletes' IF and NADO in order to allow for flexibility based on varying circumstances encountered in different sports. The Code comments received had stressed the need for harmonisation and standardisation, given the differing practices for different sports. When implementing the Code for 2004-2007, many ADOs had adopted Article 2.4, but with different rules and regimes. There had been no coordination between them, for instance, as to whether filing failures and missed tests should be treated separately or counted together towards an ADRV and as to how many filing failures or missed tests over what period would amount to an ADRV. The 2003 Code did not mandate mutual disclosure and recognition of whereabouts failure declared under another ADO's rules, and mutual recognition was almost impossible without standardised rules. There were some situations, such as the Rasmussen case, whereby a cyclist got two failures under his or her IF's rules, and two failures under his or her NADO's rules, and yet that did not prevent him or her from continuing to compete. The basic principle was that every athlete was subject to testing everywhere at any time, 24 hours a day, seven days a week. The testing could occur at any time and, if an athlete tested positive, naturally, this would be considered a positive test and an ADRV. The new proposed regime was the following: the 24/7 regime still applied, but WADA was requiring athletes to give a specific hour a day as to their whereabouts. If athletes were not available for testing during that hour, this would be considered as a missed test. If athletes did not provide whereabouts information, this would be considered a filing failure and a combination of three missed tests and/or filing failures would constitute an ADRV. These were the principles; they were included in several anti-doping organisations, and this was now included in the draft of the IST. He sought the members' opinion and comments on the principles of this.

THE CHAIRMAN asked whether members thought that that was a reasonable approach.

DECISION

International Standard for Testing update noted.

7.2 International Standard for Therapeutic Use Exemptions

DR GARNIER said that, as the members were aware, there had been a great deal of attention paid to the standard since it had been developed in 2004. The general principles of the standard had never been called into question; the negative comments received concerned the workload related to the process for ATUEs, concerning beta-2 agonists and glucocorticosteroids inhaled and applied topically. Paradoxically, in spite of all these comments on the excessive workload, no alternative proposal had ever been submitted, so it had been quite difficult for the different groups working on the draft to come up with something that would satisfy everybody. This was undoubtedly because of the nature of the standard itself, which required a minimum of medical expertise.

The slide showed the main stages of the drafting process. An initial proposal had been drafted by the working group chaired by Professor Gerrard in March 2007, based on the comments received. Then, in Beijing in April, the Code Project Team had amended the

proposal and, based on the amendments, different options had been submitted to the Executive Committee in May, leading to a clear Executive Committee recommendation to implement a retroactive process to take the place of the abbreviated process. The Code Project Team had revised this in August and the draft had been circulated at the start of September for consultation. This presentation was for information only, as consultation was still ongoing.

As to the main changes, the majority of the standard, regarding the normal process, had undergone no major changes. Most of the changes proposed concerned the former section 8, which dealt with the abbreviated process and would now deal with the retroactive process, as the abbreviated process had now disappeared, to be replaced by the new abbreviated process under new section 8. The substances concerned by the retroactive process remained the same. The List Committee was still responsible for defining the substances concerned in the process.

The main stages in the retroactive process were summarised on the next slide. Before any use of a substance, the athlete and his or her physician had to constitute a complete medical file in accordance with WADA recommendations. This file was kept by the athlete and was not sent on to anybody or any organisation. However, the athlete was asked to make a declaration of use through ADAMS when available. In the event of testing, the athlete had to declare the use of the substance on the doping control form and, in the event of an AAF, the medical file had to be sent immediately to the ADO in charge of results management, following which the file would be sent to a panel of three physicians, who would review the entire case and determine whether or not it was acceptable.

If the file was approved, a formal TUE would then be issued to the athlete with an expiry date and no disciplinary process would be launched. Should the approval be rejected by the panel, two possible situations could apply: either the file would be deemed to be compliant with the recommendations, but the treatment was not accepted by the TUEC, in which case there would be no disciplinary consequences, or the file would be deemed to be absent or non-compliant, in which case a disciplinary process for an AAF would be launched.

A review of the file could also take place at any time, upon the request of the ADO or WADA. In the event of a denial, there would be no disciplinary consequences for the athlete, although the athlete would have to stop using the substance until a new application had been submitted and approved.

WADA retained the right to review any TUE approval issued following an AAF and could reverse the initial decision taken without any sanction being issued in relation to the athlete involved.

Following the proposal made by the Health, Medical and Research Committee, two additional options had been requested, one of which was to keep the retroactive process only for those athletes who were not members of an international registered testing pool, and apply the normal TUE to all those athletes who were members of an international registered testing pool, which would be in perfect harmony with the process requested by the IOC in relation to participation in the Olympic Games, and the second option was to change nothing and maintain the status quo.

THE CHAIRMAN asked whether anybody wished to maintain the status quo. It was just a blizzard of paper; it was unmanageable. The proposal involved slightly more risk for an athlete on the edge of needing a TUE; however, if the conditions and the medical recommendation went together, even if the treatment was perhaps not what a WADA TUE committee thought, it would be necessary to stop, but there would be no immediate consequence for the athlete.

PROFESSOR LJUNGOVIST said that the Health, Medical and Research Committee, when reviewing the retroactive process, had not been particularly attracted to it. Any sort of retroactive decision had been deemed unfair, so the committee had decided to add a second option, or the two additional options, one of which was the status quo (option two), which everybody agreed was not very useful, but option one was an alternative to restrict the concern to the international testing pool and require a full TUE for all sorts of medication within that pool, and he was very interested in what the stakeholders would say, but it was very important that the Executive Committee be informed about what was going on.

THE CHAIRMAN said that that was the one that was out there now. Were there any concerns or comments? He supposed that it would be necessary to wait and see what the response was.

DECISION

International Standard for Therapeutic Use
Exemptions update noted.

8. Science

8.1 2008 Prohibited List

PROFESSOR LJUNGOVIST said that a small slide show had been prepared for the Executive Committee. He began by discussing the 2008 Prohibited List as proposed by the Health, Medical and Research Committee. With regard to the consultation process, 121 comments had been received compared to 165 for the previous year. This was not a very relevant figure because the number of comments might be very different in terms of comments coming from individuals or groups of stakeholders. What was more interesting perhaps was the way in which the comments had been distributed and what comments had been made. Comments had been requested in order to amend the existing List. Members would see before them a percentage breakdown in terms of what kinds of comment had been made. As in previous years, several comments had been made on principles of inclusion, and certain substances, and they were certainly partially political and not necessary science-based, and the critical substances under discussion were cannabis, glucocorticosteroids and beta-2 agonists. The Health, Medical and Research Committee did not propose any changes with respect to their status on the List, but there were feelings out there that some of these substances should not be on the List, and there were good arguments for this, but it had been concluded that it was not the right time to make any changes in that respect. Some editorial changes had been made, and the committee would have liked to make more, and refer to the laboratory standards and technical documents, but that would be for the next version once the new Code had been adopted later that year; therefore, the committee had made some clarifications.

The majority of the comments on anabolic steroids related to the T/E ratio; some time ago, a decision had been made to go down from a T/E ratio of 6 to 4 as a triggering factor for further investigations. A large majority of stakeholders had requested a move back to 6, but he understood that there were good reasons to wait. The committee proposed to stay with a T/E ratio of 4.

Pseudoephedrine was another matter that had been discussed; in this case, the committee had specifically asked stakeholders to give comments on three options presented to them, and there had been very divided opinions on this. One might say that the majority of stakeholders had the feeling that this should be reintroduced but, on breaking down the details, one found that there were divided opinions there. As an example, there had been a joint submission from the laboratories (WAADS) that pseudoephedrine should be reintroduced but, when he spoke to individual heads of laboratories, they did not appear to

be in agreement. This was again difficult to interpret. He mentioned that the committee did not propose any change with respect to pseudoephedrine that year, and the reason was very much a scientific one. There were divided opinions; some felt that it was good that pseudoephedrine had been taken off the List, and others felt that another substance related to pseudoephedrine should be removed, namely cathine, and that was why the problem had arisen. He knew that he should not go into the science, but he thought that he needed to explain why pseudoephedrine had come up in particular that year. Some laboratories had experienced difficulties with the fact that they could show the presence of cathine in urine samples, and cathine was a banned substance, but it was also a metabolite of pseudoephedrine, and an athlete who tested positive for cathine could therefore easily say that this depended on his or her intake of pseudoephedrine, which was allowed, so the cut-off level of cathine should be looked into, or cathine could be removed as well. That had been a proposal supported by many stakeholders. That was the background to the current pseudoephedrine problem from a scientific point of view. Another problem was that, if one put pseudoephedrine back on the List, it was a decision that would be permanent because, in order to remove, and then reintroduce, a substance, one had to have a good scientific argument. The committee had therefore felt reluctant to do so because it had felt that it did not have the necessary scientific support for this. Although opinions had been divided, the List Committee and the Health, Medical and Research Committee had been united in the final decision to recommend not to reintroduce pseudoephedrine, because there was not the necessary scientific background to state what cut-off levels should be used for cathine on the one hand and pseudoephedrine on the other. Pseudoephedrine was becoming somewhat obsolete around the world, but it was easily available over the counter, which was why there had been several accidental doping cases that had been quite problematic. If such a substance was taken unintentionally, an athlete would test positive, even with very high cut-off levels, within the coming five to six or seven hours, and much more research into what the exact cut-off level should be was needed in order to recommend the reintroduction.

He hoped that his brief explanation had been clear enough: it was not to recommend the reintroduction of pseudoephedrine at that stage, but to have more scientific investigation related to any cut-off level to be joined to it and the actual use or misuse of the product. Pseudoephedrine together with cathine, for instance, which had been removed some years ago, had been on the monitoring list, which meant that some of the WADA-approved laboratories did test for it and reported to WADA. With respect to pseudoephedrine, many laboratories had reported very little, whereas a few laboratories had had quite a few pseudoephedrine cases. There might be a geographical distribution of this drug, or it might be sports-related. It was necessary to know more about the possible use of pseudoephedrine and also about the correct cut-off level in the event of reinclusion on the List. The committee was not convinced that it should be reintroduced at all but, before taking that decision, more scientific discussion was needed.

With regard to finasteride, which had been another matter of dispute the previous year, the Health, Medical and Research Committee again recommended that it be included on the list of specified substances. The reason it had not previously been a specified substance was that it had been reported by a particular laboratory to be an efficient masking agent; it had now been scientifically proven that this might be the case. So, science had evolved and shown that finasteride could be used for masking purposes, and should therefore be on the list of specified substances.

The members had the other information in their files, but he wished to highlight some further points as they appeared on the List itself. There was not much with respect to the first few pages. On page 3, under *S1, 1B, Endogenous AAS*, members would see a change, one of the clarifications to which he had referred earlier on. It now became much clearer: *where an anabolic androgenic steroid is capable of being produced endogenously, a sample will be deemed to contain such prohibited substance and an adverse analytical finding will be*

reported This was simply a clarification of the text, which was the same in the paragraph now on the screen, whereby it was clarified that, when there was a suspect hormone or steroid profile of urine that could suggest an intake of AAS, the endogenous profile was given the primary importance, and the example of the T/E ratio at or above 4 was given as one of the parameters that could be used. This was done because, the following year, the committee felt that it could probably do away with the T/E ratio as a triggering mechanism, and identify further endogenous profile abnormalities that could, or should, trigger a further IRMS study. As he had mentioned earlier, a recent case had shown the importance of identifying abnormal steroid profiles for the purpose of going further in suspect cases. In that particular case, it had actually been the T/E ratio, but it was known that there were cases out there where there had been a normal T/E ratio, but the steroid profile had looked quite suspicious in other respects. WADA had not been in a position to pursue those cases further because of the current wording of the Code. Therefore, the wording had been improved, and he believed that there would be a further improvement the following year.

The other items highlighted in yellow were again editorial changes as compared to the earlier List to make it more understandable to readers.

Under Chapter 2, a new group of substances known as SARMs (selective androgen receptor modulators), had been introduced, and this was an example of why the List needed to be revised every year. New substances were being produced by the pharmaceutical industry for the purpose of curing diseases. One new group of substances, the SARMs, acted specifically on androgen receptors at the cellular level, and would serve as anabolic steroids, so they were known as *other anabolic agents*, since they were not chemically-speaking anabolic steroids, but they had the same effect.

Under the next item, *S2*, there was an introductory sentence, stating that *the following substances and their releasing factors are prohibited*. This sentence occurred in every other chapter but had not existed there, so this was an editorial change, and the same related to the sentence that came after example 5, *corticotrophins*, which said *and other substances with similar chemical structure or similar biological effect(s)*. This was simply an adaptation.

S4 was a new title in the group, and he needed to explain this to the members. Earlier on, there had been a discussion about certain antagonists, particularly aromatase inhibitors, substances that had an effect on the enzyme system, with the result that one could produce androgenic effects by manipulating the enzyme system. There were other substances that worked in the same way, which were agonists, antagonists and modulators of existing biological systems. Therefore, these had all been grouped together under the title of *Hormone antagonists and modulators*, thus making the List far more logical, and *Aromatase inhibitors* were included as one example, with *Selective Estrogen Receptor Modulators (SERMs)* as another group, which had been present for quite some time in the medical therapeutic arsenal, but this was simply a matter of making the List more logical and easier to read. As example 4, the committee had introduced *S4.4*, an important new subgroup of substances, and this was a good example of where WADA, though its List, acted preventatively and proactively. These *Agents modifying myostatin function(s)* were in the pipeline in the pharmaceutical industry, although not yet on the market. Myostatin was substances that could regulate muscular growth and the manipulation of substances that were important for muscular growth could, of course, result in increased muscular growth, thereby having an anabolic effect. Myostatin inhibited the reaction in the muscle to growth stimuli so, if one introduced a myostatin inhibitor, such inhibition would be taken away, and the muscular growth would accelerate.

He thought that he had covered the most important changes; nothing had been changed with respect to the other groups of substances, although there had been a cosmetic change on page 10 in the files, *Substances prohibited in particular sports*, as the UIM (power

boating union) had asked for the introduction of beta blockers on its list of banned substances. He thought that he had covered everything; he had attempted to explain a complicated matter in a simple way, but feared that he might have failed. He had tried to explain why the committee proposed the List as contained in the members' files.

THE CHAIRMAN asked whether the Health, Medical and Research Committee was proposing this as the List for 2008.

PROFESSOR LJUNGOVIST agreed that the Health, Medical and Research Committee was proposing this as the 2008 List.

THE DIRECTOR GENERAL said that Professor Ljungqvist had mentioned including the word "acute" for intravenous infusions.

PROFESSOR LJUNGOVIST thanked the Director General for reminding him. He referred the members to *M2*, which said that *intravenous infusions are prohibited*, and there had been the Japanese experience, and WADA learnt by experience; that was fully acceptable, as science could not put into words every possible situation, and now there was a case whereby the committee felt that the reintroduction of the word "acute" would be helpful, and some confusion had probably been caused by taking it away previously, because this particular rule was there because the Health, Medical and Research Committee had already considered that intravenous infusion for athletes who did not need intravenous infusions was totally contrary to the ethics of sport and could be dangerous to health. It met every criteria for inclusion on the List. It could happen that athletes became acutely ill and therefore needed an intravenous infusion for one reason or another; there, the medical officer would have to take responsibility, as WADA could not put in words all those circumstances that would make an intravenous infusion or a particular therapeutic intervention medically correct; it was for the medical professional to decide, but then such professional would have to justify his or her reasons for doing so, and that was where this Japanese doctor had a problem, but it related also to the fact that WADA was talking about intravenous infusions in general, and the Health, Medical and Research Committee would like to reintroduce the word "acute", as emergency cases were being dealt with, and this was where the committee did not wish to see intravenous infusions taking place under the pretext that there was an acute need when there was no real acute need.

THE CHAIRMAN asked whether the language proposed was "except as an acute medical treatment".

PROFESSOR LJUNGOVIST replied that the Health, Medical and Research Committee was proposing "intravenous infusions are prohibited, except as a legitimate acute medical treatment".

MR LAMOUR had spoken about an element that had not been modified, the T/E ratio, which was still at 4. Professor Ljungqvist had said that many people had recommended a change of this ratio, but that this would be kept at 4 for the time being. He knew that it was a ratio that had allowed for the detection of exogenous testosterone and, had the ratio been at 6, the athlete in question would not have been caught. What was the reason given by those who recommended a T/E ratio of 6?

PROFESSOR LJUNGOVIST replied that there were very few cases of athletes who had been discovered between the 4 and 6 ratio and proven to be doped, but there were enormous, or large numbers of samples between 4 and 6 that, after lengthy costly analyses, had proven to be nothing, so the majority of laboratory people and others felt that they were doing a lot of work for very little, and that was the reason, but the reason for which the Health, Medical and Research Committee wished to stay with the T/E ratio of 4 was that very critical particular cases, such as that mentioned earlier, had been the result of an initial ratio between 4 and 6, so it had been felt that, if WADA moved from 4 to 6, there would have to

be very good reasons and, since WADA was en route to more or less doing away with a fixed T/E ratio as a trigger and rather using the T/E ratio in general terms together with other abnormal parameters, then it would be necessary to wait a year until the necessary scientific information to do so was available. The Health, Medical and Research Committee felt that it would be better to stay with the ratio of 4 for the time being; to be honest, the Health, Medical and Research Committee would be happy to move it from 4 to 6, but he knew that the legal people would be unhappy with it and he accepted their arguments since he knew that the problem would probably be solved in a different way in the near future.

MR MALLARD said that it was good to get that explanation, as it was a matter of a lot of concern in New Zealand and there had been numerous cases between 4 and 6 and not one that had proceeded following the IRMS test. Was the IRMS test now available right around the world in laboratories that were covering all the countries involved? His understanding was that it was not yet available, and that appeared to be causing some other problems as well.

DR RABIN said that WADA had commissioned a study with the Cologne laboratory about the use of testosterone gel and patches and, out of roughly 900 samples taken, of people exposed to testosterone gel or patches, there had been only one positive sample with a T/E ratio at 6, and half the samples with a T/E ratio at 4, so about 450 had been returned positive. This showed that, with a T/E ratio at 6, one could manipulate the ratio and take synthetic testosterone; that was an absolutely clear picture. The other element to be borne in mind was that about 1% of the population naturally had a T/E ratio above 4; so, when measuring a T/E ratio at 4, there would be some athletes above 4 who were not doped, but the benefit of the system was to allow the identification of those athletes so that it would not be necessary to systematically go back to them when it was proven that they were naturally above the T/E ratio at 4. To answer the question asked by Mr Mallard, half of the laboratories were currently equipped with IRMS but all had to provide the service and, if they could not do it themselves, they had to have as part of their services a chain of custody to have the samples analysed in another WADA-accredited laboratory. This service was now provided by all the anti-doping laboratories.

MR LARFAOUI said that, in the past, Professor Ljungqvist had spoken about hypoxic chambers. What was the situation with regard to research now?

THE CHAIRMAN had a question regarding the pseudoephedrine decision. Were there known projects under way that would generate the data required for this decision or was that just a wish that was out there and therefore nothing would ever happen in relation to pseudoephedrine?

PROFESSOR LJUNGOVIST answered the questions. With regard to IRMS, it was necessary to be careful because, if WADA did an IRMS on a suspicious case and found it negative, WADA would have great difficulties in pursuing it, even though the athlete might well be doped, because a false negative did not say much. This was why WADA needed a better battery of parameters to support the establishment of an abnormal steroid profile; so, IRMS did not tell the full story, and a negative analysis certainly did not. That was why both an IRMS (when it was felt necessary) and the hormone profile (and that was not yet scientifically fully established) were needed. He hoped that WADA would have it in a year's time. It was close to having it, but did not currently have it.

With respect to hypoxic chambers, the discussion by the Health, Medical and Research Committee had finished for the time being; it had decided not to introduce hypoxic chambers on the List. Studies were ongoing with respect to the effects on the body of hypoxia; the study of the body's response to low oxygen was a basic scientific area but, for the purpose of establishing whether it should be regarded as doping or not, there was no particular study going on to his knowledge as it had already been decided that, based on

scientific data currently available, this was not considered a banned method. That had been looked into by the IOC Medical Commission, which had the responsibility to look into the medical aspects of methods that people might be using in training. For the time being, this was not a matter for the List.

With respect to pseudoephedrine, there was data available that had not yet been analysed, and that was based on the monitoring programme. Some of the laboratories might be reporting this at very low levels, and some might not be reporting it because they felt that their levels were too low. There was an uneven distribution of reports, which had been of concern to the committee, which had decided to expand the monitoring of pseudoephedrine to include all of the laboratories; until then, it had been a handful of laboratories, but this number had been expanded to 14, and now it would be expanded to all of the laboratories, so WADA would get more information and research was ongoing in order to be able to come back with a better scientific basis for a decision at the Executive Committee meeting the following year.

MR TANAKA wished to ask about the use of the term “acute”. The present wording was “legitimate medical treatment”, and the new proposed wording was “acute medical treatment”. Was there any difference in the meaning of this sentence? He could not understand the purpose for changing the sentence.

PROFESSOR LJUNGOVIST explained that the change was going back to what had originally been proposed many years previously. There were people who needed intravenous medical therapy for various conditions, even though they were competitive athletes. They could of course make use of TUE procedures in place; therefore, this non-acute situation was covered by the TUE procedure but, when it came to an acute situation, there was no time to ask for a TUE, which was why this clarified that, if an athlete had an acute need, he or she could go ahead and seek therapy, but would have to justify this afterwards and, if he or she were unable to justify this, there would be a big problem. That was the difference. He thought that the reintroduction of the word “acute” made it easier for the physicians dealing with athletes to understand what WADA was really asking for. The TUE was an excellent mechanism for dealing with situations other than acute emergencies.

MR MALLARD recalled yet again New Zealand’s view on cannabis being on the List. New Zealand thought that it should not be on the List. He was not asking for a debate on it.

PROFESSOR LJUNGOVIST said that the List Committee had invited the world champion (from a scientific point of view) in cannabis, Marilyn Huestis, who had explained the full picture regarding cannabis, and those listening to her presentation had felt fairly convinced that cannabis probably did have a place on the List. He had been very reluctant about the inclusion of cannabis on the List but, after having heard the expert, he thought that WADA was probably right. Ms Huestis was employed by the NIDA and NIH as a top expert in the field. She had come all the way from Baltimore to give the two-hour presentation.

THE DIRECTOR GENERAL said that WADA had asked Ms Huestis to prepare a paper so that it could be published and people could refer to it directly. When the paper was ready, WADA would distribute it to the Executive Committee members and post it on the website.

THE CHAIRMAN referred to the proposal to approve the List as contained in the members’ files, with the single addition of the word “acute” in paragraph 2 under *M2*.

PROFESSOR LJUNGOVIST said that it might be left to the management to make the proper editorial adjustments. The meaning was that there should be an acute medical need for the treatment. It should be phrased in an appropriate way and he was not in a position to do this immediately.

THE CHAIRMAN asked whether the members were content with the List as proposed and thus modified. Consequently, there was a List for 2008; it would be distributed and made public before 1 October.

DECISION

Proposed 2008 Prohibited List approved, with the addition of the word "acute" in paragraph 2 under M2.

8.2 Research Projects 2007

PROFESSOR LJUNGOVIST informed the members that there had been 73 project applications submitted to WADA representing 20 different countries from five continents. 47 projects had been submitted by leading investigators not from anti-doping laboratories, which was extremely encouraging. A total of 15 projects had been submitted within category A (*Compounds and/or methods enhancing oxygen delivery*), 9 projects had been submitted in category B (*Non-steroidal compounds or methods enhancing growth*), 26 projects had been submitted in category C (*Projects relating to the Prohibited List: classic methodologies*), 12 projects had been submitted in category D (*Projects relating to the Prohibited List: novel methodologies*), and 11 projects had been submitted in category E (*Identification and/or detection of substances with suspected doping potential*). All of the projects had been submitted for review by an independent panel of scientific experts, as well as ethical reviews, and research proposals had been reviewed by the Health, Medical and Research Committee on 6 and 7 September 2007. The recommendation was now before the members.

DR RABIN said that the next slide gave the amount of money requested from the 73 projects, which was close to 31 million dollars. Of course, WADA did not have that money, but had approved 33 projects for a total of 5.6 million dollars. This was still a reasonably high level of success of 45% compared to some other major organisations. He would briefly guide the members through the projects approved.

Out of the 33 projects approved, four were related to the detection of blood manipulation, two were related to the hot topic of autologous blood transfusion, one was related to the current EPO method to gain knowledge on some of the proteins also detected by this method, and one was looking to the future of new substances to come in the area of erythropoiesis stimulation, such as new compounds developed by the pharmaceutical industry, and WADA knew that the pharmaceutical industry could be very creative in this area. There were four projects on the application of genomic techniques to detect gene manipulation, also the detection of the viruses used to inject genes in the body; there was a very good international team that had submitted a project to WADA. There was also a project on the detection of inhibition of RNAs; he was not going to go into the technical aspects, but these technologies were currently being looked at very actively by pharmaceutical companies to develop a new generation of products. There was one project on bioinformatics with the aim of combining knowledge of different teams working under WADA's auspices to combine this information and extract potential future anti-doping tests. There were five projects on the detection of hormones. Tremendous progress had been made on the detection of insulin, mainly the long acting and short acting forms; here, he was talking about the natural form of insulin to be detected, as well as the detection of IGF-1, a growth factor closely related to human growth hormone and now available on the market. A total of 14 projects aimed to extend or improve the detection of current doping substances; knowledge was being gained on glucocorticosteroids and there was better knowledge to establish thresholds of detection of glucocorticosteroids. WADA was also gaining more information on beta-2 agonists and their performance enhancing potential, as well as on anabolic steroids; with new analytical chemistry and the knowledge gained in this

area, there was always the possibility to extend the detection limits for anabolic steroids and also improve the use of IRMS. There were four projects to increase knowledge on existing doping substances, and he had mentioned glucocorticosteroids and beta-2 agonists, but also referred to nutritional supplements. WADA was always surprised to see under dietary/sport nutritional supplements some substances that had been synthesised many years ago. There had been the recent case of a substance that had been identified in 1957, found recently in a dietary supplement, and this was clearly an antioestrogenic drug that had resurfaced in those dietary supplements, so it was necessary to be very vigilant on the use of those substances. There were two projects on the detection and determination of the doping potential of new substances; as had been discussed earlier, the SARMs constituted a new class of substances in development by the pharmaceutical industry, and WADA had contacted the company developing two of the leading substances in this area, and there was also a project on phosphodiesterase inhibitors, which would not mean much, but if he said that Viagra was a phosphodiesterase inhibitor, he was sure that it would ring some bells, so WADA was investigating the doping potential of some of these products.

In addition to the traditional grant applications, WADA had targeted projects, whereby WADA went to the teams to invite them to work on specific projects, and there was one on a better process for the purification of EPO, which, if completed as expected, would tremendously simplify the EPO procedure, in terms of time and costs. In addition, there was a project for human growth hormone detection by means of a new isoform, to expand upon the current test being developed on a commercial level. WADA always kept a programme on monitoring the use of stimulants out-of-competition, and there were ten anti-doping laboratories involved in the project to date. There was also a component known as the reactive project budget, which allowed WADA, when teams approached WADA with urgent issues, to trigger this research and launch the project so that information could be gained very quickly on the proposal or concept. There was one such project on the detection of autologous blood transfusion; a Swedish team had approached WADA with a new concept that it had found very interesting, and there was also a project from France about luteinising hormone and trauma in boxing in particular, which WADA believed was worth looking at more closely and, as discussed earlier, in relation to pseudoephedrine, there had been a recommendation by the Health, Medical and Research Committee to gain additional information on the pharmacokinetics of the product to be able to establish a reliable threshold in the future.

These were the projects WADA was currently looking at. On a financial note, WADA had spent 5.59 million dollars that year, a little more than anticipated for the grant proposals; the budget had almost been closed for targeted research and WADA was close to finalising the budget for reactive research, showing that this was a budget needed to cover the projects received, or information needed at a research level in support of the List and knowledge on doping substances. This was the distribution of the research funds for the 2007 projects for the years to come.

PROFESSOR LJUNGOVIST said that he wished to show what had been achieved over the past few years with respect to the research budget and what successful research projects had been completed, so as to give members the full picture and enable them to put that day's decision into perspective.

The priority research areas were known to the members, but the research programme had been budgeted as could be seen over the past few years and 14.5 million dollars had been paid out to date, and there was a reserve of 31.5 million dollars.

The next slide showed the statistics on research projects received, approved, the success rate, and how many had been completed. The list of completed projects was interesting, with some 40 plus projects completed. As members could see on the next slide, by

September that year, some 14.5 million dollars had been committed and 48 out of the 156 projects had been successfully completed.

What had been achieved with the budget? There had been discoveries and disclosures about designer drugs which would not have been possible without the research projects. There had been detection of certain previously undetectable compounds on the Prohibited List, for instance, oxo compounds or aromatase inhibitors, new techniques for steroids and the conversion of supplements into nandrolone, the detection of new long-lasting metabolites, genetic ethnic differences in androgen excretion, which was important for the laboratories, and the development of an in vitro system for the identification of steroids, as well as the detection of particular steroid abuse. Discoveries with respect to blood doping included the development and implementation of detection methods for HBOCs (haemoglobin oxygen carriers); together with USADA, WADA had found methods for the detection of homologous blood transfusion, developed a particular software for EPO analysis, and been able to determine the influence of exercise on EPO urine profiles, which was questioned by courts when there were legal cases. New approaches for EPO detection had been explored, along with a blood model for the Athlete Passport and an artificial intelligence system for target testing. In relation to peptide hormones, WADA had been able to develop and validate differential immunoassays for the detection of growth hormone and, together with the IOC and USADA, markers for an alternative approach and validation of markers for the purpose of ethnic and sex differences, as well as a particular demonstration on the validity of certain markers, and the detection of short and long acting insulin.

With respect to other areas, it had been possible to detect dextrans, masking agents, masking properties of alpha-reductase inhibitors, finasteride, for example, the effects of acute beta-2 agonist inhalation in sports performance, combined screening of diuretics and heavy volatile N-containing drugs, and identify the doping properties of glucocorticosteroids and the doping potential of beta-2 agonists.

For the WADA research programme, the request to research teams to present and publish their results was important, and there had been 100 presentations made thus far in scientific journals acknowledging WADA support, and he had been present at the annual Cologne workshop that year and reported on the clear acknowledgement of the WADA research grant support by the research community. WADA should be proud of what it had achieved. In conclusion, it was a truly international programme, the number of applications was increasing steadily, there was a high success rate, annual financial support was at its highest (and he had mentioned earlier on that he hoped for an improvement here), and there was a good publication disclosure rate; so, in conclusion, these efforts must continue and even be reinforced.

THE CHAIRMAN said that there was a more detailed description of each of the projects in the members' files. Were the members content to accept the recommendations of the Health, Medical and Research Committee for these projects?

MR REEDIE said that it was actually not the budget that was important, it was the quality of the work that the budget paid for. Had all of the projects had the same significance to the fight against doping in sport or could they be rated? If WADA was highly regarded in the international community, WADA should be telling people about that and getting more credit for the work that was done, perhaps outside the international community. It was a communications challenge for Mr Donzé and Ms Hunter. If WADA was doing all of this good work, it might help if WADA could identify the really significant successes that it had had and then try to make that work so that the world understood the good work that was being done.

PROFESSOR LJUNGOVIST replied, as was always the case with research, that some projects were short-term projects in terms of responding to particular needs at the time, and

others were more long-term projects. He would not be in a position to say whether there were differences between the projects in terms of importance. All of them were important as they were all related to identifying priority areas, but certainly there had been major breakthroughs in that certain new detection methods had been found for new substances that had come on the market, and those were examples of short-term effects. With respect to the second question, he was very pleased with the general knowledge of WADA funding in the scientific community, but he thought that there was much more to be done in terms of communicating to the scientific community that WADA was there and could offer support, but the actual figure of about 45% of research applications was coming from scientific laboratories that had nothing to do with anti-doping at all, and he thought that was a great achievement.

DECISION

Proposed WADA research projects 2007 approved.

8.3 Accredited Laboratories

DR RABIN gave the members three presentation options.

THE CHAIRMAN suggested jumping to the conclusions.

DR RABIN said that the Science Department had tried to have an overall view on the accreditation of the laboratories, and had ended up with three models, which had been proposed and mentioned to the Executive Committee in May. Since then, there had been some refinement, but basically Model 1 was an extension of the current model, the current ways in which WADA worked regarding the accreditation of the anti-doping laboratories. Model 2 was a different model, based on a two-tier system with screening and reference laboratories so there would be a bulk of screening laboratories and, when an adverse analytical finding was found in the A sample, the A and B samples would be transferred to reference laboratories to continue confirmation analysis, on the A and possibly the B sample. There was a third model, which was a set number of laboratories, centres of excellence for anti-doping analysis, and this model had been approached with two options, one of which would be expanding a little bit on the number of current laboratories, pushing the figure to 40 WADA-accredited laboratories, and another option, which consisted of reducing the number of existing laboratories to 20 laboratories. These hypotheses had not been completely innocent in that the department had tried to bracket the best option based on previous hypotheses made, first that there was, according to some people, including anti-doping laboratory directors, a high number of laboratories to date, reflected in the fact that some laboratories had very little activity and were barely completing the 1,500 samples asked for in the International Standard for Laboratories, which was mandatory for accreditation, and the department had also taken into account the geographical distribution and optimal distribution of laboratories around the world, and had reached a number of about 30 laboratories to cover the needs, so the hypothesis of 20 to 40 laboratories was not completely innocent. In May, the Executive Committee had requested the addition of some cost elements, and the department had been working on this. For Model 1, which was the extension of the current model, if WADA continued at the current pace, which was about one additional laboratory accreditation every year, there would be a regular annual cost increase, which was normal due to inflation and additional workload, which would probably be transferred into additional time for the Laboratory Committee and certainly the Science Department, in particular for the two members of staff working on issues relating to laboratory accreditation. If WADA were to move to accredit two laboratories per year, there would be this natural increase in costs, and WADA would need to have one full-time equivalent in the Science Department to cover the additional work, and he emphasised that, in all of the cost assessments, the cost of WADA management had not been taken into account; the assessments had been based only on external costs. For Model 2, which was a

two-tier system, there was obviously a cost increase for the shipment of samples from screening laboratories to reference laboratories, and this had been discussed with the Laboratory Committee members, and was why there had been an adjustment of the initial numbers, because the hypothesis of samples being sent in normal conditions had been used, in other words, unrefrigerated between two laboratories, but there had been a very strong recommendation from the Laboratory Committee members that these samples, when they contained an AAF, should be shipped frozen, so this made a huge cost difference of almost a factor of ten, and an additional cost of about 1 million dollars per year just for shipment. There would also be a cost increase in proficiency testing because, with a group of reference laboratories, WADA would intensify its proficiency testing (PT) programme for these laboratories, but also keep and maintain a proficiency testing programme for the screening laboratories. WADA would simply ask for more from the reference laboratories, so there would be an increase in the cost of the PT programme and an increase in the resources for the Laboratory Committee and the WADA management, as WADA would keep expanding the pool of WADA-accredited laboratories, in particular the pool of screening laboratories.

For Model 3, which was what he would call the *numerus clausus*, and initially Model 3a with 40 laboratories of excellence, there would obviously be an increase in the PT programme, because WADA would ask these laboratories to have all the techniques available, including EPO, IRMS, human growth hormone when available, and all the methods available in the laboratory, so they would need to be challenged in terms of competence in these areas.

Model 3b involved a reduction in the number of laboratories to 20 laboratories, of course, with the same increase in the PT programme and resources because WADA would intensify the competence testing of these laboratories; there would also be an increase in shipment costs (less than for the previous model, but still an increase); however, it was necessary to bear in mind that there would be significant cost saving in laboratory investments, because resources would be focused on a limited number of laboratories, and also cost saving for the establishment of anti-doping laboratories; it was calculated that establishing an anti-doping laboratory in a country ranged from 3 to 6 million dollars, which was a significant cost that would be saved in all those countries willing to have new anti-doping laboratories if WADA were to focus the resources on a small number of laboratories. These different models had been presented to the Laboratory Committee twice, and Model 1 had been deemed unsatisfactory, because some of the laboratories and certainly the members of the Laboratory Committee were aware of some of the issues faced with the current model and hardly saw an extension of this model dealing with some of the issues faced by WADA; Model 2 was strongly rejected on the basis that there would be a significant gap created between the analysis competence of the screening and reference laboratories, with a risk of increasing the rate of false negatives. The model recommended was Model 3. The models had also been presented to the Health, Medical and Research Committee, and its members had come up with the same answer that Model 3 was the preferred model. He would certainly like to hear from the Executive Committee members should they wish to share their views on the different models.

MR LAMOUR acknowledged that the laboratories would be at the core of the activities over the coming years, and had often spoken about this at earlier meetings. He asked whether the two possibilities were Model 3, a (with 40 laboratories) or b (with 20 laboratories).

DR RABIN replied that, yes, to a certain extent, that was the case. The idea was to frame the option considered by many people, members of WADA and experts in the field, as being the most likely option. He thought that there were currently probably too many anti-doping laboratories, and not all of the laboratories performed at the expected level, so the number of laboratories (40 and 20) was to give a general idea of the costs associated with

Model 3 and the proposal to reduce the number of laboratories, but that remained to be decided.

Perhaps to save time, he could submit the proposal, if Model 3 were approved by the Executive Committee, to create a working group or an ad hoc group, including people at a technical, financial and political level with the proper legal support to establish the objective criteria, because any selection process for laboratories would require objective criteria to select the group of excellence of anti-doping laboratories and come up with an optimum number of laboratories to be proposed, with the idea of a numerus clausus on the number of laboratories.

THE CHAIRMAN said that he understood that there were two proposals: Dr Rabin was asking the Executive Committee to select Model 3 and then, having selected Model 3, adopt the resolution.

MR REEDIE observed that he was not sure whether adopting the new system effectively meant going to some existing laboratories and downgrading their competence. Was that implicit in this?

DR RABIN replied that the new system would not downgrade the competence of the laboratories; based on criteria to be defined, the laboratories would be told that they could continue as WADA-accredited laboratories or their accreditation would be revoked based on the objective criteria defined by the ad hoc group.

MR STOFIE noted that his national scientists had discussed this with the colleagues and he would support Model 3, but did not agree with the notion of the objective way of selection, because that did not exist; even the so-called objective had involved a process of selection to define the objective. The question of how many would be decided on would have to be discussed with greater circumspection, because the notion that there were too many laboratories in the world was not accurate. It ignored the lop-sided location of those laboratories, which were congested around one continent, and totally inexistent in other continents, so it was necessary to be very careful. On the contrary, he thought that the Executive Committee should say that it supported Model 3 and, if it went for 20, it should look at what was available, and how best to service those areas that were showing development towards participating in the anti-doping activities. One of the issues raised by the national scientists was the question of transmission of samples; he could imagine that transmitting them from Cape Town to Tunisia could create a serious problem whereas, if there were intermittent accredited laboratories, that problem might be obviated. He was simply pleading for a very circumspect way of planning the location of these accredited laboratories. He agreed that whether a laboratory was accredited or not depended on its ability and compliance with certain norms and standards; it should not be compromising those norms and standards just because of its location. These issues should be discussed before taking a final decision so that if, for instance, the laboratory in Tunisia was lagging behind, this should be pointed out to the laboratory, and if the laboratory in Bloemfontein was falling below, WADA should be pointing this out and should have a responsibility to make sure that it did not because, if the laboratories fell out of the radar, there would be a very serious problem for the entire continent. He supported Model 3, but the decision on a or b should be determined by further discussions.

THE CHAIRMAN said that he did not think that what Mr Stofie had said was contrary to anything that was being proposed. He understood that the Executive Committee was being asked to choose Model 3 and, having done so, a committee would be created to try and figure out how to define and measure scientific excellence, and he was sure that one of the criteria would be where the laboratory was and the costs of transport. He did not think that Mr Stofie was hearing anything that surprised him.

MR STOFILE noted that he was not arguing about anything; he was just making the point.

THE CHAIRMAN asked whether the members were disposed to approve Model 3 as recommended. Were they in favour of the resolution to set up the committee to develop the criteria and so forth? He thanked Dr Rabin and his group; he knew that the work involved a number of difficult issues.

There was another issue to deal with, which was a proposal to withdraw the accreditation of a particular laboratory.

DR RABIN informed the members that a WADA-accredited laboratory, the HFL in the UK, which had been approved by the Executive Committee in June 2004 to receive WADA accreditation after quite successfully completing the due process during the probationary period, was no longer receiving samples, so it could not complete the current work and quality of work expected of a WADA-accredited laboratory. He had been in touch with the laboratory quite regularly over the past few weeks. The laboratory had had to relocate its staff to other activities and was hardly in a situation to face more challenges related to the WADA PT programme and had agreed to withdraw from any more participation in the programme. The laboratory also knew that it would not fulfil the requirement of the 1,500 samples because, once the support from the NADO had been withdrawn, it did not have any contingency plans for receiving the required number of samples from other sources, so the laboratory faced a decision not to continue with the testing of human samples and a letter received that week from the laboratory had made it clear that it could not continue the WADA process; the WADA International Standard for Laboratories was extremely clear that, when a laboratory could not fulfil those requirements, WADA accreditation would be revoked.

MR REEDIE thought that it might help the Executive Committee members to know that HFL stood for Horse Racing Forensic Laboratory and, many years ago, with excess capacity, the laboratory had come to the authorities in the UK and said that it was using the same basic scientific procedures and could do more work. That had caused more than a little difficulty for the anti-doping agency in the UK, which had ended up with two laboratories; one was a very high quality laboratory at Queens College in London, and the second was the HFL. The fact that the laboratory was no longer getting any samples from UK Sport did not in any way mean that it would be going out of business; it meant that it would no longer be performing human testing, although it would continue to perform equine testing. The laboratory was in Newmarket, which was the best horse racing town in England. Members should not think that, by withdrawing accreditation, they were actually putting people out of work.

THE CHAIRMAN said that members could see from the correspondence that the laboratory was quite resigned to the outcome that the Executive Committee was being asked to determine. Did the Executive Committee favour withdrawing the WADA accreditation of the laboratory?

DECISIONS

1. Proposal to select Model 3 as the accreditation model for anti-doping laboratories approved.
2. Proposal to set up an ad hoc committee to develop related criteria approved.
3. Proposal to revoke WADA accreditation of the HFL approved.

9. Other Business

THE CHAIRMAN asked whether there was any other business that any member would like to raise.

10. Future Meetings

THE CHAIRMAN referred the members to future meetings in Madrid. He looked forward to seeing them there.

DECISION

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 Executive Committee members for doing their homework. He also thanked the members of staff for their hard work, and highlighted the underlying work of all of the committees. He thanked everybody for their contribution and declared the meeting adjourned.

The meeting adjourned at 5.35 p.m.

FOR APPROVAL

RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA