

**Minutes of the WADA Executive Committee Meeting
17 May 2017, Montreal, Canada**

The meeting began at 9.00 a.m.

1. Welcome, roll call and observers

THE CHAIRMAN welcomed the members to the WADA Executive Committee meeting. There were apologies to note from Ms Amira El Fadil, from the African Union, as well as from Mr Ricci Bitti, the Chairman of the Finance and Administration Committee, whose doctor had refused to let him travel. There were some deputies present: Mr Ryan would be representing Mr Ricci Bitti on behalf of ASOIF, but members would be pleased to hear that he would not be asked to present the financial statements. Mr Pengilly would represent Mr Estanguet; Mr Godkin would be representing the Australian Minister, Mr Hunt; and Ms Bruusgaard was representing Ms Widvey, who was unable to attend because of some infirmity, which was a shame as it was her last meeting. It was the first Executive Committee meeting for the Vice-President, Ms Hofstad Helleland, the first meeting for Mr Kejval, who was representing ANOC; the first Executive Committee meeting for his old friend Mr Baumann; and the first formal meeting for the Chairman of the Compliance Review Committee, Mr Jonathan Taylor. Those not involved should pay a huge compliment to those who had just finished evaluating Los Angeles and Paris (Mr Baumann, Professor Erdener and Mr Ryan at the Executive Committee meeting, with Mr Estanguet and Ms Coventry, who would be at the Foundation Board meeting the following day). Those members must be wondering which particular part of the world they were in after the hard work of an evaluation commission. It was appreciated that they had taken the trouble to be present that day to take full part in the Executive Committee meeting.

The following members attended the meeting: Sir Craig Reedie, President and Chairman of WADA; Ms Linda Hofstad Helleland, Vice-President of WADA, Minister of Culture, Norway; Ms Beckie Scott, Athlete Committee Chairperson, ANOC Representative; Mr Andrew Ryan, representing Mr Francesco Ricci Bitti, Chair of ASOIF; Professor Ugur Erdener, IOC Vice President, President of World Archery; Mr Jiri Kejval, President, National Olympic Committee, Czech Republic; Mr Patrick Baumann, IOC Member, Secretary General, FIBA; Mr Adam Pengilly, representing Mr Tony Estanguet, IOC Member and Member of the IOC Athletes' Commission; Ms Eva Bruusgaard, representing Ms Thorhild Widvey, Representative of the Norwegian Government, Norway; Mr Marcos Díaz, CADE President, Dominican Republic; Mr Toshiei Mizuochi, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Godkin, representing Mr Greg Hunt, Minister for Sport, Australia; Mr Edwin Moses, Education Committee Chairman, WADA, and Member of the Board of Directors, USADA; Mr Jonathan Taylor, Compliance Review Committee, Partner, Bird & Bird LLP; Mr Olivier Niggli, Director General, WADA; Mr Rob Koehler, Deputy Director General, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Ms Catherine MacLean, Communications Director, WADA; Dr Olivier Rabin, Science and International Partnerships Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Mr Benjamin Cohen, European Regional Office and IF Relations Director, WADA; Mr René Bouchard, Government Relations Advisor, WADA; Ms Maria José Pesce Cutri, Latin American Regional Office Director, WADA; Mr Rodney Swigelaar, African Regional Office Director, WADA; Mr Kazuhiro Hayashi, Asian/Oceanian Regional Office Director, WADA; and Mr Frédéric Donzé, Chief Operating Officer, WADA.

The following observers signed the roll call: François Allaire, Warwick Gendall, Lisa Studdert, Gabriella Battaini-Dragoni, Marko Todoroski, Neil Robinson, Hannah Grossenbacher, Akaash Maharaj, Marie-Genevieve Mounier, Matteo Vallini, Richard Budgett, Sergey Khrychikov, Jan Åge Fjørtoft, Tetsuya Kimura, Kaori Hoshi, and Rune Andersen.

– 1.1 Disclosures of conflicts of interest

THE CHAIRMAN asked the members if they had any conflicts of interest in relation to any of the issues on the agenda. In the absence of any declaration, he would continue.

2. Minutes of the previous meeting on 19 November 2016 in Glasgow

THE CHAIRMAN drew the members' attention to the minutes of the previous Executive Committee meeting, held in Glasgow on 19 November 2016. The minutes had been circulated. They were very full minutes, to ensure that there was a very accurate record of everything that was said just in case

it was necessary to go back and refer to it. He was not aware of any observations. Were the members happy that they were a true record of what had taken place? If so, could they be approved?

DECISION

Minutes of the meeting of the Executive Committee on 19 November 2016 approved and to be duly signed.

3. Director General's report

THE DIRECTOR GENERAL informed the members that he would like to keep his report relatively short, although he would be happy to answer any questions. He started with a few remarks on the McLaren report, just because he thought that it was important to restate and refocus on the fact that the mandate for Professor McLaren had been to check the allegations made one year previously, when the New York Times had published the revelations of Mr Rodchenkov. Nobody would forget that day. The mandate for Professor McLaren had been to check the allegations. As part of his work, he had come across the names of a number of athletes in various documents to which he had gained access. His mandate had never been to gather evidence to prosecute all the athletes. He had got what he had got through the material he had been able to access, and he had gained only so much evidence. That evidence was only what had been given to him by the whistleblowers and potentially the elements the whistleblowers had had in their possession. Professor McLaren had received nothing from Russia, either from computer records or from people in Russia; a lot of the samples at the Moscow laboratory had been destroyed. He wanted to put things into perspective, because there had been a lot of discussion about how many individual athletes would be prosecuted. The reality was that the evidence was only what Professor McLaren had been able to reveal. For some athletes, there would be enough evidence to initiate a case, and for many there would not be. That was the reality that WADA faced. Of course, if new evidence appeared, and he was thinking of new whistleblowers emerging one day, that might change the situation for some, but that was the situation at that time. There would be a more comprehensive report from the Legal Department. WADA would continue working with the IFs. It was a lot of work and a lot of evidence had to be reviewed, but it was what it was and there should be no confusion: WADA was not asking the IFs to conduct their own inquiries to complement what Professor McLaren had done. If the IFs had other things from their own testing programmes or their own intelligence, fine; WADA did not currently think that there was a way of obtaining anything further unless there was new evidence or new whistleblowers.

That led him on to Russia. There had been a number of developments over the past few weeks. From a management point of view, no effort had been spared in trying to work with Russia and recreate a system that would be independent, credible and accepted by the international community as having the proper safeguards in place, and the members would hear from the people in charge of that. It had been a heavy burden on the organisation and continued to be. WADA would keep working in that direction, as it was important in the interest of all athletes that things improve in Russia, but it would not be an easy road.

DECISION

Director General's report noted.

– 3.1 Updates from the Way Forward (November 2016)

THE DIRECTOR GENERAL said that the members would all remember the very important discussions in Glasgow on the way forward and which direction the members wanted WADA and anti-doping to take, and he would briefly update the members on the various items discussed there and the work that had been happening since the meeting in Glasgow. There would be separate reports from the chairs of the working groups or the experts involved later that day, so he would not go into too much detail.

3.1.1 Consequences of non-compliance

THE DIRECTOR GENERAL said that it was probably the number one priority for WADA as the regulator to ensure that a proper compliance programme was in place. It should be looked at from two angles. There was a discussion on the operational part of compliance and the legal framework that would come with compliance, and there was a discussion on the necessary consequences of non-compliance and who should be making those decisions. The members would hear about both of the compliance issues.

In terms of the operational side of things, there was already an ISO-accredited process in place. The Compliance Review Committee was working very well and WADA had sent a questionnaire to all ADOs to map out the situation of anti-doping worldwide, and it had started the audit programme. He drew the members' attention to the fact that, at that time, when talking about audit programmes, WADA's capacity was for about ten audits per year, which was already a substantial amount of work. There were about 300 signatories to the Code, so WADA would not see them very often if it followed that pace, and that would be the kind of thing WADA would have to factor in to the budget discussion going forward and decide what scale of programme the members anticipated for an organisation such as WADA.

On the consequences of non-compliance and the legal framework, the members would hear a lot more from the chairman of the Compliance Review Committee. WADA proposed a process (which was often as important as, if not more important than, substance) on how to build that framework, have consultation and agree on how to proceed.

The members had discussed the Speak Up! whistleblower programme in Glasgow. The investigation team had been established as indicated. In previous discussions, some people had not liked the term 'whistleblower'. The Speak Up! programme was currently in place and working beyond WADA's expectations. Mr Younger was sitting at the end of the table looking very tired, as he was receiving a lot of calls about the matter. The resources required would need to increase if WADA wanted to be able to respond appropriately to the information and calls being received.

A very important topic that had been on the agenda for a while was the Independent Testing Authority proposed two years previously, in November 2015, following an Olympic summit. There had been a steering group meeting on 4 May in Paris, and the members would have the recommendation and the full report from the chair of that group, Ms Fourneyron, the following day at the Foundation Board meeting. She had been unable to attend the Executive Committee meeting, as she was in the middle of a complicated political process in France, but she would be coming the following day to talk to the members. The second meeting had been conducted in a very constructive spirit compared to the first one. The elements on the table and the way in which the members had to look at it were that the proposal from the Olympic summit had initially been that the Independent Testing Authority should be operated by WADA and the response from the public authorities had been that WADA should have absolutely nothing to do with it, as it would compromise WADA's role as regulator. The discussion in Paris had been to try to bring together the two visions into something that would be acceptable for both sides, and he thought that had been achieved. The compromise was that WADA would not be involved in the operational part of the Independent Testing Authority, but the WADA Executive Committee would play a role in ensuring that the board of the entity would be independent and would be vetted by the WADA Executive Committee to ensure that it was seen as independent, but that would be an initiative of and funded by the Olympic Movement (it was important to note that for the public authorities), and that would not change anything in the Code in terms of compliance for the IFs. The responsibility would remain theirs, and they would have to have a bigger discussion on where the Independent Testing Authority fitted into the anti-doping system, and that would have to take place through the Code revision process. There would be a full report the following day. There were two members of the committee who had been in Paris and who could give more information if necessary.

It had been decided in Glasgow that WADA would set up an Ad Hoc Working Group on Laboratory Accreditation, chaired by Professor Erdener. There would be a full report on that later that day. The group had met twice since the meeting in Glasgow and had done a lot of work. The mandate of the group was technical, not political, but there would be a discussion that day on that. The members would see the interim report from the group, after which they would be able to decide on the way forward.

The members had taken an important decision in Glasgow to set up a Working Group on WADA Governance Matters to look at possible governance reform. WADA had followed the process to set up that group, and the Foundation Board had voted on the composition and the terms of reference. After approval in January, the first meeting had taken place in March in Lausanne. There had been a very open discussion, the purpose being for people to express their views freely at that first meeting; there had not been too much guidance to narrow down the issue. There would be a full report from the first meeting later from one of the experts. The next meeting was planned for July, and the aim would be for the issues to be narrowed down to arrive at concrete proposals that could then be reviewed by the Executive Committee and the Foundation Board. He wished to highlight the fact that the group had two mandates: to look at some government principles that could apply to WADA and see how to make WADA more efficient and transparent, and (equally, if not more important) to introduce principles of good governance that could then find their way into the Code

to become part of compliance monitoring to ensure that all ADOs, be they NADOs or IFs, could apply them. It was very important to have that as part of the Code revision process to ensure a good overall compliance programme.

The members would have a report on UNESCO the following day, so he would not say too much. It was a big year for UNESCO, with the sport ministers meeting in July in Russia and the conference of parties that took place every two years relating directly to the anti-doping convention which would take place in September in Paris right after the next Executive Committee meeting. WADA had invested time trying to work with UNESCO and trying to get some of the issues it believed were important on the agenda. The members would hear about that the following day. He would refrain from commenting at that stage on how successful WADA would be in getting what it wanted.

There was a funding issue in which he knew that all the members would be interested, and the public authorities were always very attentive to such issues. It had been agreed in Glasgow that WADA would try to put together a clean-slate budget that year, looking at the mandate and expectations, and the cost of doing that. The aim was to identify the core priorities and activities for WADA and how much they were costing, then look at what was more discretionary. There would be a discussion, but the process was as important as substance. The reason the members did not have numbers on the table at that meeting was because the Finance and Administration Committee would be meeting in July, and it would not be proper process to come and throw up numbers before the discussion took place in the appropriate committee and the experts were able to give their views on how things should be presented. He understood the governments' concern on timing for their own budgets, and he would try to provide information as early as possible after the Finance and Administration Committee meeting in July, before the Executive Committee meeting documents were provided, and there would be a refinement of the proposal after the Executive Committee meeting in September leading to a decision of the Foundation Board. WADA's management would also try to project the budget over two, maybe even three or four years to allow governments to do more planning on subsequent year budgets, especially if there were to be significant increases. That year, WADA would have to have a discussion that was not just about the bottom-line budget figures but also how to fund the budget, and whether or not WADA should think out of the box, so WADA needed to broaden the discussion on that. From the priorities identified, he mentioned compliance; investigation (that was a reality); RADOs and supporting the development of anti-doping in parts of the world in which less was happening and there were fewer resources (if WADA wanted to raise the level of anti-doping globally, it would be an important task); laboratory accreditation (quality was at the centre of everything that was being done and that required strong monitoring of the work conducted by the laboratories, at a cost); ADAMS; developing IT and related security (he did not need to emphasise that after everything that had been happening recently around the world; those were key elements that came with a cost); and governance. The members would hear about the outcome of the Working Group on WADA Governance Matters; but, from the preliminary discussion already held, he could see some dollars attached to the proposals being made; for example, different role for the Ethics Panel, and a selection commission to be put into place. There were several proposals that would come with a cost.

On IT security, since the single episode the previous year, WADA had never been attacked and there had been no further intrusion. There had never actually been an intrusion into WADA's system. A password had been stolen through a user's e-mail. WADA had invested substantial amounts of money in a security firm to check traffic on the website and our systems, and make sure that WADA prevented any issues arising. He always recommended that everybody be very prudent. The weak part of the whole system was the human factor. People should not click on links they did not know. It was still very much a problem for everybody and WADA could potentially still be a target.

He would wish to provide some remarks on clenbuterol. There had been an ARD German television programme about clenbuterol with allegations of clenbuterol cases that had not been dealt with properly by the IOC and WADA. First of all, clenbuterol was a public health issue in some jurisdictions. It was not an anti-doping issue, but a real issue in a few jurisdictions in which there was a problem with contaminated meat, either because there was an illegal parallel system of breeding cattle or because the regulations were not good enough. WADA had invested and would continue to invest money in research projects to try to distinguish between direct intake on the part of the athlete and ingestion of clenbuterol in contaminated meat. That had begun some years previously; but, unfortunately, WADA had not got the scientific answer it would like to get because it was not that simple. There were still teams working on it and he hoped that WADA would get somewhere, but WADA currently had no control over the speed with which science evolved. WADA had invested a substantial amount of money in that. What had been lacking completely in the German programme was the big picture on that, which was not limited to a few samples that had been retested by the IOC from the Beijing Olympic Games; the big picture was how the issue had been

dealt with around the world since 2011 when WADA had realised that there was an issue. About 420 cases had occurred since then, all of which had resulted in the same result (no sanctions) because, in fairness to the athletes, they could not be held responsible for having eaten beef and then be sanctioned for doping. The Beijing samples that had been retested were no different to the other samples dealt with since then. It was unsatisfactory, but it was unsatisfactory for everybody. It was limited to a few jurisdictions, and it was not all around the world. One of the solutions proposed had been to have a threshold, and say that anything above the threshold was an issue and anything below was not, but that had been rejected at the time, because in some jurisdictions there was no good excuse for having clenbuterol in one's body and there was no issue with meat contamination and therefore, by having a threshold, one would be allowing a number of people to get away with taking clenbuterol when they were not in a place in which there was a problem. WADA would look into how to approach that and potentially come up with guidelines, which could help everybody deal with the case in the same way. It was on the agenda of a WADA ad-hoc legal group, which would meet in a few weeks in Montreal, and WADA would see if the lawyers were better than the scientists in terms of resolving the issue by coming up with some guidelines on how everybody should be dealing with it. There was nothing more that could be done except perhaps suggest that samples with low levels of clenbuterol be stored for further testing once a test became available, in the hope that the test would come one day.

The final thing he wished to raise for the members' information was that WADA had recently received something from the Swiss authorities. WADA was a foundation under Swiss law, and had received from the authorities an unusual and extensive list of questions, including the remuneration of the Foundation Board and Executive Committee members. There was a big list of questions. The short answer was that perhaps the Swiss authorities thought that WADA was like FIFA. WADA would respond in the appropriate fashion and would provide documents that were public documents because, in fact, the meetings were public, and the authorities could have looked on the website and found 90% of what they had been requesting. WADA would give the authorities the information and would keep the members informed about the matter, but he had been quite surprised to get such a detailed request from the Swiss authorities.

MR GODKIN shared with the members the fact that the public authorities had had a special meeting the previous day following up on the inaugural meeting in Glasgow in November the previous year. There was a communiqué from that meeting which he would be happy to share. Without going through it in any detail, he would touch on a couple of key points. First, in relation to collaboration, under an initiative by the Vice-President of WADA, the public authorities would be looking to formalise enhanced collaboration to support the WADA mission and would be conducting some work in 2017 in order to bring in a formal process for the start of 2018. The public authorities looked forward to that. In terms of compliance, the representatives had noted and endorsed the positive developments in strengthening global anti-doping compliance, in particular the suggestion about the Code review and/or development of a standard. In relation to the Independent Testing Authority, the group was very pleased with the progress made at the recent steering group meeting in Paris, and certainly agreed that the Independent Testing Authority should and would continue to work closely with NADOs in fulfilling its role. In terms of budget and funding, there were various challenges that WADA was currently confronting. Certainly from the public authorities' point of view, it was important that WADA clearly prioritise its task, so that WADA could be transparent in the allocation of funding, and certainly for national government processes, giving some forewarning of likely costs was very useful for government budget cycles. In relation to the independence and governance of WADA, the public authorities had identified that WADA must remain the independent international regulator of global anti-doping, and welcomed discussions on the reform of the governance of WADA. That was a process that had to apply to WADA and all anti-doping stakeholders. The importance of MINEPS VI and the UNESCO conference of parties had been emphasised and discussed at the meeting. The challenges and opportunities in the post-McLaren environment had been discussed, and in particular the revelations that had been exposed (and were still with WADA) had ongoing implications for upcoming events, and the public authorities looked to continued work for the resolution of those issues. The roles of NADOs had been identified as being critical in the global fight against doping in sport and the public authorities supported the ongoing work of INADO representing NADOs globally. The perspective of athletes and the importance of the athletes' voice had been recognised by the group, and the public authorities supported the WADA Athlete Committee's work, noting that the athletes must represent the athletes and not any particular organisation. Regarding the WADA headquarters, the public authorities endorsed the fact that WADA commence negotiations with Montreal International in relation to the host city agreement.

MR MIZUOCHI stated that the report mentioned the need to develop various reform ideas for the future direction of WADA as well as a progress report on Russian reform. He expressed his great

respect to the people at WADA and those experts involved who had been working so enthusiastically on improving the global anti-doping system. His country, which would be hosting the Olympic Games and Paralympic Games in Tokyo three years from then, also felt it must see to it that those games would be completely free of doping, through enhanced and reinforced anti-doping programmes. The government was currently working with the legislators to table a bill, which would be Japan's first law on anti-doping. The law, once enacted, would provide for legal recognition that doping in sport was indeed a violation of the law, and it would also include a provision to establish a legal framework and system for the sharing of intelligence among law enforcement agencies and a provision to further promote education research and development activities. In relation to the collection of intelligence, preparations were under way to open a contact point for whistleblowers within the Japan Sport Council. Through those concrete measures, the Japanese Government intended to work in harmony with those working on WADA's future reform and further reinforce anti-doping programmes in the country. On the international front, Japan intended to continue to contribute to WADA's future reform plans, working together with WADA, the IOC and the IPC.

3.1.1.1 Potential development of an international standard for compliance and stakeholder consultation process

MR TAYLOR said that he was very glad to be present at his first meeting. There was a paper and a PowerPoint presentation, which tracked the paper and might be helpful to follow along with. It was certainly the case that the first couple of iterations of the Code had been focused very much on compliance by individuals with responsibilities under the Code and for signatories in relation to getting the basic building blocks in place, statutes, legislation and rules to provide the building blocks for an effective anti-doping programme. There had been provisions on monitoring compliance and sanctioning signatories, but he thought that it was fair to say that they had not been the focus of attention in the early years. That had changed; those provisions had been tested thoroughly, starting in November 2015 with the revelations about Russia and the declaration on non-compliance of RUSADA, and the IAAF had also declared the Russian NF non-compliant. In 2016, parties had sought to implement the provisions in the Code relating to non-compliance by signatories, and the members would see that they involved a declaration by WADA, but then it had been left to different signatories to determine the sanctions for non-compliance within their own sphere or responsibility with little guidance about what those sanctions might be and little ability to ensure coordination between different signatories. It had been seen in 2016 that that had not inspired confidence among the stakeholders in the ability of the Code to deal effectively with non-compliance problems. There had also been an inherent tension in non-compliance situations with declaring a NADO non-compliant and thereby having to stop its anti-doping activities and the difficulty that that created with a gap in coverage, when WADA was trying to create a level playing field for everybody by ensuring that everybody complied with their obligations. To declare somebody non-compliant so that they had to stop any of their responsibilities obviously created a conundrum, and the gap had to be filled in some effective way.

At the latest meeting of the Executive Committee and Foundation Board in Glasgow, his predecessor Mr Bouchard had presented a paper, which had a framework for the imposition of graded and proportionate sanctions, so a range of sanctions depending on the nature and severity of non-compliance. There had been a decision in principle by the Foundation Board to approve that paper and concept of graded and proportionate sanctions, but the question had been how to implement and put that into effect. The aim was to deal with the weaknesses or apparent weaknesses identified through the crisis mentioned earlier, to develop the framework and enable its implementation, and to ensure a clear procedure so that everybody knew in advance what would happen when problems like that emerged in the future. The proposal before the members that day was that, in order to implement the decision taken in principle in Glasgow to introduce a range of sanctions for non-compliance, it would be necessary to amend the Code (article 23 in particular, and potentially only article 23). It would also be necessary to support the amended Code with an international standard for compliance, and that was in order to ensure that everybody was clear on the procedure and rights and responsibilities in terms of addressing and identifying non-conformities, correcting them before they became non-compliance and dealing with them if they became non-compliance. The concept before the members was that, as far as possible, by analogy, the process for dealing with non-compliance by a signatory should be the same or as close as possible to the process of dealing with non-compliance with Code provisions by an individual, be it an athlete or athlete support personnel. What he meant by that was what the members would see on the slide (although he was afraid that the printing was rather small), which described in broad terms the process for identifying and addressing non-compliance with Code obligations by an individual and addressing non-compliance by a signatory, so one would identify evidence of a possible non-conformity and engage with the signatory. It was very important and underlying the entire proposal that it was not the intent to create and to rush into lots of cases of non-compliance; the intent was to ensure compliance and

assist signatories with delivering compliance and effective programmes, not to force cases of non-compliance. One of the ways of ensuring compliance was by having an effective framework if, despite best efforts, one could not get the signatories into a situation whereby they corrected non-conformities and therefore there was a position of non-compliance. In that situation, the WADA Compliance Task Force would bring it to the Compliance Review Committee, which would review the matter and again provide opportunities for signatories to correct non-conformities, but there would come a point in the process, if there was no correction, at which a recommendation would be made to the Foundation Board to assert that the signatory was non-compliant and also a recommendation that the Foundation Board say that the non-compliance was of a particular severity and warranted a particular sanction in the range already identified. That was very much the model with an individual athlete when the evidence had gone through the review board, and the IF or NADO sent a letter to the athlete asserting an anti-doping rule violation and saying that the consequences of the anti-doping rule violation under the Code should be as followed. If an athlete accepted that, the assertion became a decision and became enforceable by everybody under article 15 of the Code. So, too, the proposal was that, if the signatory accepted WADA's assertion of non-compliance and the sanction proposed, that become a final decision enforceable by all signatories under the equivalent of article 15 of the Code. However, if the signatory disputed the asserted non-compliance and/or the disputed sanction, there would be no decision at that point; it would go to an independent tribunal and WADA would have to make its case for non-compliance and for the proposed sanction, just as an IF or a NADO, if an individual athlete was to dispute an asserted anti-doping rule violation, would have to take it to a hearing panel and make its case for an anti-doping rule violation and a sanction. After that process, if it was upheld that it was non-compliant, the signatory could accept it, at which point it would become a final decision and would be recognised by everybody; if not, it could be appealed to the CAS and the CAS would make the final decision. In addition, if it was a non-compliance situation and sanction that affected the Olympic Games or Paralympic Games, exactly the same as in an individual case, if a proposed ban were to affect eligibility for the Olympic Games for an individual, exactly the same thing for the signatory, the IOC or the IPC would have the right to appeal to the CAS too. If that happened, the CAS would make the decision. Once the decision was made, the decision was either accepted by the signatory or would go to an independent hearing panel and, if not accepted, it would go to the CAS; but, ultimately, there would be a final decision and, once there was a final decision, it would have to be recognised and enforced by all of the signatories. That was exactly the same as under article 15 of the Code. Once there was a final decision on the ban of an athlete, for example, it had to be recognised and enforced by all the signatories. Just as there were steps for an athlete to be reinstated following an anti-doping rule violation and ineligibility, so too were there steps for signatories to be reinstated, once the consequences had been applied and enforced and conditions of reinstatement met. That was, in broad terms, the proposal. The Code provision article 23 would need to be amended to provide the hook and the international standard would provide the detail.

In relation to the timing, after the full Code review (depending on the final proposal), a new Code would come into effect in 2021, and his impression was that, for stakeholders, compliance was of such high priority that that was too long to wait. Certainly at the March symposium he had felt that there had been a strong reaction to a presentation and, for stakeholders, compliance had been the highest priority for WADA to deal with and sort out a mechanism that would avoid a repeat of the problems seen in 2016. That was a challenge, but he also regarded it as an opportunity for WADA to show that it could act effectively and decisively in order to fix a perceived issue. His proposal and the proposal of the Compliance Review Committee, therefore, was that WADA open up a consultation process, which would be a full consultation process, on the revised Code article 23 and a draft supporting international standard, but that WADA seek as a starting point to establish a timetable that would allow for two rounds of consultation and, if there was sufficient consensus (and obviously the Compliance Review Committee had taken account of the different statements from the Olympic Movement and governments and athletes to ensure that there was sufficient consensus and the committee thought that there should be sufficient consensus in what it was proposing), it would like to try and see if it could harness and identify that consensus and have a full consultation process, but in a time period that would allow it to come back, if consensus was reached, to the November 2017 meeting with a proposed article and a standard for adoption, which would then come into effect three months later. The proposal would be to open consultation on 1 June; there would be two months for people to provide comments and, during that period, there would be meetings with key stakeholders to discuss their comments and debate the issues; in August, there would be a drafting exercise to produce a new draft and, if there was sufficient consensus, the revised article and standard would be issued on 1 September with a view to consultation for six weeks until mid-October; and then, if there was enough consensus, that would be brought to the Foundation Board in November for approval. It was not about short-circuiting or stopping a debate that had to be had; it

was about trying to grasp an opportunity and build upon consensus that there needed to be a change and consensus on the key principles of that change to demonstrate to the world that WADA and its stakeholders could act decisively. If it appeared in September/October that there was not sufficient consensus to go to the Foundation Board in November with an agreed position, the Compliance Review Committee would go to the Foundation Board and suggest that there be another round of proposals with a view to getting the proposal to the members this time the following year. The starting point was that the committee should at least try to get something to the Foundation Board for its November meeting.

A separate but related issue was, of course, what the position in the meantime was. Clearly, in the meantime, signatories and WADA would have a responsibility to continue to deal with current and new cases arising. There was no suggestion that the new provisions would act retroactively to those cases; they would have to be dealt with under current arrangements. Having come to WADA as the chairman of the Compliance Review Committee in November, it had been clear that the Foundation Board and Executive Committee had seen and identified and approved on an ad hoc basis various principles based on the provisions in the Code, and it was important to collect those together and make sure that everybody was clear on what they were and ask the Executive Committee and Foundation Board members to confirm what effectively had become by practice on a case-by-case basis the current position. The WADA responses to non-compliance could be seen on the screen.

WADA had developed a provision whereby it tried case-by-case to allow a non-compliant NADO, as it demonstrated its ability to do so, to carry out certain anti-doping activities and in the meantime to get third parties to fill in on other activities; so, for example, UKAD was currently organising testing in Russia. Then there were the other signatories under the Code provisions, all able and charged with the responsibility of addressing non-compliance within their own spheres of competence, and those were summarised on the slide. It had taken him some time to explain, but he wanted to make sure everybody was clear about the basics of the proposal. He would be happy to answer any questions.

THE CHAIRMAN observed that Mr Taylor had made it very clear.

PROFESSOR ERDENER said that he wished to speak to the subject, and he was sure his colleagues from the Olympic Movement would have some other ideas. The Olympic Movement supported an open consultation process for the potential development of an international standard for compliance; however, that should be done considering the final outcomes of the Working Group on WADA Governance Matters which were still being drawn up. Another point was that the Olympic Movement did not agree to making WADA the compliance monitor as well as the sanctioning and decision-making body, which went against the democratic principle of separation of powers.

MS HOFSTAD HELLELAND thanked the Chairman of the Compliance Review Committee for a very good presentation. In her opinion, it was very important to follow up on the advice of the Compliance Review Committee in relation to the establishment of an international standard for compliance. WADA owed it to the athletes to establish a robust system for monitoring compliance and an international standard for compliance would ensure that. Establishing standards contributed to following up on the recommendations on this matter that were agreed upon by the Foundation Board the previous year. She strongly believed that the work was urgent. She was not sure that she agreed with the IOC representative, because it was also essential that WADA show it had tools that it could use in its day-to-day work. She thought that the work could not be delayed and WADA needed to act quickly and accept the proposal. She strongly supported it.

MR RYAN gave a big thank you to Mr Taylor for that very clear explanation of the way forward. He understood the analogy between the way in which an individual athlete and a Code signatory would be dealt with, but he was a little unclear. The Code set out very clear sanctions for an individual athlete and an anti-doping rule violation. Would that be the case that there would be very clear sanctions set out within the Code for various offences? The second word of caution was that he agreed with the urgency, but it was a very big step that WADA was going to take, and it was quite ambitious to expect that the two levels of consultation process would happen in that timeframe, and he was just a bit nervous, knowing the strength of feeling within the anti-doping movement on that, that it might be a little ambitious. He sounded a note of caution about it, because Mr Taylor had spoken about the importance of reaching a consensus, and he thought that it would be challenging to reach a consensus within that timeframe. A consensus was definitely reachable; he just questioned whether it could be done that quickly.

MR DÍAZ supported what Mr Ryan had just said. He thanked Mr Taylor for the presentation. He also believed it was a very challenging timeline, but there was a need to do that. The question was

whether it was doable. If it could be done, WADA should go for it. There was a need to move forward with Mr Taylor's proposal.

MS BRUUSGAARD thanked Mr Taylor for a very comprehensive presentation. Europe supported the idea of drafting standards on compliance by the Compliance Review Committee but requested that the decision, whether the standards were in the form of an international standard or a version of the Code or both, be taken after the initial proposals were tabled by the Compliance Review Committee, ideally at the next meeting in November 2017. She expressed Europe's commitment to engage in an extensive consultation process with the Compliance Review Committee concerning the development of the standards on compliance and wished to confirm endorsement of the interim measures in relation to compliance.

MS SCOTT spoke on behalf of the Athlete Committee to say that it had always been pushing for the immediacy and urgency of the matter and supported the timelines and timeframe set out. She reiterated that the athletes viewed it as a very high priority and a way of closing the circle on the work to be done. One of the very first endeavours of WADA and the anti-doping movement had been to develop sanctions on non-compliance for athletes, and it was time to raise that standard and ensure that everybody was meeting the same expectations and standards, not just the athletes. She thought that it was doable. It was an important effort that the organisation needed to undertake. She highlighted the fact that it was very important for the athletes and included the IOC athletes' commission.

MR GODKIN said that, in consultations and in consideration of the proposal, the question had arisen as to whether the international standard was the best document to house those rules or not.

MR BAUMANN thanked Mr Taylor for the clear presentation. He supported the effort of trying to coordinate between the signatories the consequences of being non-compliant. It was the role of WADA to be the regulator and, as such, to define the scope or the framework of the consequences. However, he thought that he supported the position that the sanctioning mechanism should come out of a separate jurisdiction once the process had been completed through the WADA system and the framework given. In that context, he thought that the sanctions should have ranges, and he also had a concern about them being tabled in international standards rather than in the Code itself. It should be part of the law and then there should be ranges for the sanctions; then it would be up to the adequate independent, third jurisdiction and not WADA to take those decisions within the framework, be it one year, ten years or forever. The last point related to the timeline that was being put forward. He understood the history, background and reaction. It was important work, and represented the next stage; however, at the end of the day, it had to be consensus work and did not have to be rushed through if a consensus was not reached. There should be a lot of meetings to get to that consensus.

MR PENGILLY confirmed that the IOC athletes' commission held the same view in relation to the timeline and supported swift actions, as athletes had been asking for clear consequences for non-compliance for some time.

MR TAYLOR thanked the speakers for their comments. Where they agreed with him, he agreed with them. The sanctions to be proposed would be very much those that had been approved in principle by the Foundation Board in the November paper. On reflection, one or two areas needed fleshing out or supplementing, but it would be clear and was based on already existing consensus. He quite accepted the point: should that range of sanctions, which needed to have clear principles but also discretion within individual cases, be in the Code rather than the international standard? His own view was that it could be either. It could be easily done either way. He had no concern whatsoever about putting it into the Code and no legal concern about putting it in an international standard.

Why an international standard though? There were a number of important features about the principles and process which WADA needed to clearly communicate and it needed to make sure that signatories understood that they had clear rights and procedural protections, and to leave those in a protocol, in his view, would create the wrong message to provide a standard that clearly and precisely identified their responsibilities and their rights, and the procedure going forward was the right message and the right instrument to do that. That was why he proposed an international standard to achieve that.

On the issue of separation of powers, he understood the concern. That was why he was proposing that, if WADA's assertion of non-compliance and asserted sanction was not accepted, or if it was disputed, WADA should not have the power to impose that sanction. It would have to take it to an independent hearing panel and it would be WADA's burden to prove that there was non-compliance and that the sanction should be as it proposed and, if it did not prove that to the independent hearing

panel's satisfaction, there would not be a decision to that effect. If it did, it would be the hearing panel's decision, not WADA's, and there would be a right of appeal of that decision to the CAS, and that perfectly respected and preserved the principle of separation of powers in exactly the same way as an IF or NADO monitored compliance by individuals and pursued instances of apparent non-compliance and, if necessary, if the athlete did not accept the asserted anti-doping rule violation and sanction, took it to a hearing panel and ultimately to the CAS to decide. Just as that respected the principle of separation of powers, so too entirely did the proposal.

The final point mentioned by several people had been timing. There was no doubt that it was ambitious. There was no doubt in his view that the cries from athletes and other stakeholders for WADA to take the lead and take decisive action warranted that ambition and warranted WADA doing its best to respond quickly and efficiently. There was no suggestion to do that in a way that short-circuited or bypassed or undermined consensus. It was very much the hope of the Compliance Review Committee based on the decision taken by the Foundation Board as to the range of consequences the previous year and based on reading the declarations from the Olympic Movement and governments. After seeing the proposals, he hoped there would be immediate strong consensus. Of course, there would be details and, if there were more than details, if there were differences of principle, he did not propose coming back in November and pushing something through if there was no consensus. If there was that consensus, and WADA should try, in November hopefully the Foundation Board would be able to take a decision that showed that WADA was able to react decisively. If WADA did not have that consensus by that time, the Compliance Review Committee would work to get it by next May and bring it to the members then. There was no suggestion that the expedited process was there to bypass consensus; it was there to achieve it quickly and efficiently. He hoped he had addressed the issues.

THE CHAIRMAN answered that he thought that Mr Taylor had done so very clearly. It was quite clear what the recommendation from the Compliance Review Committee was, subject to a proper process of consultation and aiming with consensus to do that properly. Were the members happy with that? If so, WADA would ask Mr Taylor and the Compliance Review Committee to put that in proper written form. For example, many would have difficulty remembering the sanctions agreed upon in Glasgow the previous November, so perhaps they should be included in the document, which WADA would get out for consultation. He thanked Mr Taylor very much.

DECISION

Proposal to develop an international standard on compliance through a stakeholder consultation process to be recommended to the Foundation Board for approval.

3.1.1.2 Interim measures

MR TAYLOR asked if everybody was happy with the interim position.

THE CHAIRMAN noted that there was no change in the interim position.

3.1.2 Governance Working Group – report from the expert

THE CHAIRMAN noted that there was a fairly long paper in the members' files, and Mr Akaash Maharaj had been asked if he would come and deal with that.

MR MAHARAJ said that, along with Mr Huw Roberts, he was one of the two expert members of the Working Group on WADA Governance Matters. He served as head of the Global Organisation of Parliamentarians Against Corruption and had previously been a national athlete in equestrian sport.

All of the members had a copy of the summary of the proceedings of the previous meeting. There were 68 items, which described areas in which consensus had been reached, areas that remained open and areas that had not reached consensus. He did not propose to go through all of them but sought to provide a broad arc of the discussion and the main themes flowing through it, and most of all to give the members an opportunity to ask questions on how things would progress. Although his presentation was in English, if there were any questions, he would be happy to answer them in French or English.

It was important to start with a sense of the background. The important point was that, although the mandate of the working group was to examine the question of how to strengthen WADA's practices and its effectiveness as an organisation, it was valuable to start by acknowledging that the context in which the Foundation Board and Executive Committee had created the working group had

been driven by revelations of institutionalised doping in Russia and the friction between the constituent organisations of the international sporting alliance. That was important because, while the mandate of the working group was to strengthen the organisation and present a means by which it would be possible to do so, in terms of making it politically feasible, it was valuable to reflect upon the fact that it was that friction that had given rise to the work of the group. Having said that, irrespective of the genesis of the working group, it was an important opportunity for WADA to take stock of where it had come from, how it was executing its mandate and how it could strengthen that mandate. The Executive Committee and Foundation Board had created a working group whose members were drawn from states being governments, sport, NADOs, athletes, and there were two expert members. The work to date had been conducted by going over a large number of documents created by partner organisations, interviewing members of the working group and other members of the sport and anti-doping community, and then convening a meeting in Lausanne in March that year. There was one more meeting scheduled for 20 July and his objective was to report to the members on the first meeting and how that was likely to lead in to the second meeting. Although he would be focusing on the question of how WADA could be strengthened and therefore necessarily what its weaknesses were, before he did so he thought it important to emphasise that that was only part of the story. The working group had been called together to discharge its mandate not because WADA was weak but because it was strong, and indeed it was remarkable, given all the challenges it faced, how well it had executed its mandate. For somebody like him, whose profession was in international affairs, the greatest challenge and frustration for his sector was the hard reality that it was almost impossible to do justice in the international arena. It continued to be the case, thousands of years after the Melian Dialogue, that the strong did what they could and the weak endured what they must, and WADA was remarkable for its ability to uphold and enforce the rule of law in the international arena. The working group was therefore looking at making an already strong institution even stronger, recognising that the very exercise of its mandate had invited powerful and strong enemies.

The very first question that the working group had confronted was what the essential role of WADA was. He was glad to say that there had been a consensus among the working group members across the sectors that the essential character of WADA was and must remain as the regulator of the sport system. Unless there was a meeting of minds over the essential character and objective of the organisation and its role in the international sport system, nothing else could function, and there had been a clear mandate and a clear indication from the working group members, and that was the conclusion on which all of the subsequent work flowed, that it was the role of WADA to be a regulator and not a service provider. Just as, for state authorities, the legitimacy of the state regulator flowed from the consent of the population but the regulator then had an obligation to regulate strongly individuals within a society, so too was the role of WADA seen as drawing its legitimacy from the consent and participation of all the constituent parts of the international sport system, but its essential character was to regulate that system, not to act in service of the will of individual parts of that sector. It was a fundamental point, and flowing from that view were certain functions and certain aspects of its mandate, many of which were subject to debate, some of which were being handled by other groups (the members had heard the report of the Compliance Review Committee), but the work of the working group began and ended on the conviction that the role of WADA was essentially first and foremost that of a sport regulator.

Looking at the basic structure between the Foundation Board and the Executive Committee, he doubted very much that anything he was going to say would come as a surprise to anybody around the table, but one of the key challenges identified was that there was a lack of clarity in the roles and responsibility of the constituent bodies of WADA between the Executive Committee, the Foundation Board and its committees, and that lack of clarity had led to overlap and duplication, and had muddied the ability of any one of those parts to discharge its mandate. It had confused the elements of governance, oversight and operation, and it had militated against the ability of the constituents making up WADA to force a common long-term vision for anti-doping. In addition, that same ambiguity had led to a perception and indeed a reality of conflicts of interest among the groups, the individuals at the table and the rules that governed them, and yet at the same time had not provided enough breadth to allow the very broad community of the sport sector and in anti-doping to find and develop a common cause.

Beginning with the Foundation Board, the sense was that one of the key challenges for the Foundation Board, given the way in which it was currently constituted, was that it was too large to be a deliberative body that allowed different parties to carefully weigh and discuss evidence and conflicting arguments and reach consensus, yet at the same time it was too small to be a genuinely representative body that allowed all the constituents of the international sport system a seat at the table and a sense that they had a voice. The working group's recommendation was therefore to expand the Foundation Board but to narrow its mandate; in other words, increase the number of

constituents around the table, but reduce the scope of its activities so that the effective purpose of the Foundation Board would not be to act as a traditional board of directors in a corporate context, but instead be a forum at which all the partners and parties to the international sport system and anti-doping had a chance to sit down together, express their views, feel that they had been heard, contribute to creating the policy context in which WADA operated, and to ensure that WADA's decisions and policies were taken in an environment that was legitimate and fully informed. The key question with such a new structure related to those additional constituents who would have a seat at the table. The working group had discussed NADOs, laboratories, Para sport (especially, recognising that Para sport had distinct needs from non-Para sport), potentially professional sports, augmented gender equity, multi-sport organisations, athletes, different age cohorts and states of different size. The precise question as to who should be at the table in an expanded Foundation Board remained under active discussion, and he expected it to be one of the key questions to be discussed on 20 July. There had been a consensus that the total number of people around the table should not exceed 50; any greater than that, he feared, would militate against any kind of coherent discussion. He would pick out one specific area, because he knew that there had not been an enormous amount of discussion about that at the previous meeting, but he would speak to it because he understood that the public authorities had had a discussion prior to that meeting about the way in which government representatives were chosen for WADA. The flavour of that discussion was that government representatives were currently chosen based on regions and, whilst that reflected a reality of the sport system, there were other realities, such as the fact that small states often had more in common with one another across regions, just as large states had more in common with one another across other regions. In addition to regions, there should be other ways to capture the diversity of states participating in the Foundation Board.

For the Executive Committee, the recommendation was that it become more muscular and effectively play the role of a traditional board of directors. It was a smaller body capable of coming to faster decisions (or at least it had the potential to come to faster decisions); but, to do that, the Executive Committee should first focus on strategy and oversight. It should give up such functions as it currently had in merely reviewing and rehearsing decisions that had already been taken and look to the future rather than to the past, looking to the past only insofar as was necessary to determine that the organisation was accountably and reliably fulfilling its policy directives. Perhaps most importantly of all, he believed the individuals on the Executive Committee should be chosen primarily for their expertise and not for their representative functions. If the Foundation Board played an expanded and larger role to ensure that all voices were included in WADA, in complementing that there was a role for Executive Committee members to be chosen based on their abilities rather than where they came from. Having said that, there had been various positions on how much of a good thing was a good thing. Some people around the table had felt that all members of the Executive Committee should be selected based on skills and competence, whilst others had felt that perhaps as few as one-quarter should be chosen based on that, with the remaining representatives coming from sport and state actors. His sense was that it was likely that, on 20 July, the group would come up with some sort of formula whereby a percentage of the Executive Committee was made up of independent actors chosen entirely and exclusively for skills, with the remaining percentage continuing to be chosen and appointed through state and sport bodies with equal numbers coming from both.

On the subject of committees, what he had said for the Executive Committee appeared to have been even more strongly felt for the committees, and that was that, because their role was to provide expert advice and often deal with very technical subjects, the selection process for the committees and their Chairpersons should be professionalised. In other words, there should be clear roles and responsibilities, but also clear qualities for the individuals who populated those committees, and among those skills, leadership skills were an essential component. As a secondary consideration, the group felt that there should be greater rotation, so that the committees did not become ossified with the same people populating them, and there should be enough geographic and gender diversity, and he added in particular, and emphasised that that was only from his own perspective, so he abused his role reporting on behalf of the working group, that if WADA was not able to show greater gender diversity in the execution of its activities, in other words, if it did not look more like the people it was governing, it would not build legitimacy among the people it was governing. State and public authorities were suffering a crisis of confidence, which could be described as the governed feeling as though the governors were not like them. It would be legitimate for some people in the sport community to say that the population of many of those bodies was not like them, and that was only his view.

All of that spoke to structure. Structure was merely the vessel into which human practice was poured. The next stage would be to develop policies and priorities and the way in which the bodies

actually behaved in order to ensure that they lived up to their full potential. That would be the next stage of the activity, and it would necessarily follow consensus on what the structure must look like, but he did want to emphasise that the question of policies and practices was at least if not more than what the structure looked like. If an organisation was animated by the right culture and governed by the right practices, it could usually make any ramshackle structure work; but, if there was not the right culture animating that body, no structure would work.

That took him on to the question of officers and the election of officers, specifically the president and vice-president of WADA. There had been a consensus that there should be some term limits for the role, and discussion had ranged from six to nine years. There been no specific number chosen, but there had been a sense that term limits were desirable. There had been discussion on age limits, from the early to mid-seventies, mirroring the age limits in other sport organisations. While the question of what constituted independence was one of the most vexed questions within sport, there had been a clear sense that, putting aside for the moment the question of directors, Foundation Board and Executive Committee members, the president and vice-president had to be above all others, independent in reality and in perception, and the group had defined independence as not currently holding a paid or senior voluntary role with a sport or state actor. There was a clear sense that the alternation between state and sport and the president and vice-president coming from different constituencies had been valuable and should continue. The group had talked about induction training and also possible remuneration for the president and vice-president. If people were being asked to give up so much to take on the roles, it might not be reasonable to say that they should do so as volunteers. The group had also talked about creating a nominations committee, not just for the president and vice-president, but also indeed for members of the Executive Committee. Moving towards a more skills-based population of the apparatus of WADA, it became increasingly important that the people selected or came forward for those posts were sought out specifically for their skills and encouraged to run.

On funding, knowing what a controversial subject that was, it was probably best that the script on the slide was illegible from a distance, but the working group strongly felt that, in its budgeting exercise, WADA should not continue the practice of simply having the following year's budget be a function of incremental change over the previous year's budget. Instead, it advocated a zero-based budgeting exercise in which WADA tried to develop a realistic estimate of the total cost of fulfilling its mandate. They did not live in the best of all possible worlds, so the likelihood of WADA attracting all the money it needed to do all the things it should be doing was low; but, in that context, it was more important that WADA be clear about what it could do with increased resources rather than trying to stretch its resources irrationally to cover all variety of things that it might not be able to do. The group also believed that, while it had said that the Foundation Board should be expanded to include other constituents, all constituents who funded WADA should continue to have a seat on the Foundation Board in order to maintain accountability back to their home constituents (be they taxpayers or members), but that that not be a requirement; in other words, non-funders should also be allowed a seat at the table, and the number of votes that an entity had at the Foundation Board should be decoupled from the level of its funding, and that was one entity, one vote rather than larger or richer entities being able to purchase votes.

Finally, there had been some discussion going into the working group meeting about having a broadcast levy, a levy on sport broadcasters to fund WADA, and he thought that it was fair to say that that had not attracted consensus of support.

If the members had additional questions beyond that, he had put up his contact details as well as those of the other expert member, Mr Roberts, and he invited the members to contact them with any questions. He concluded by saying that the work with which the group had been charged was both an honour and difficult. It was a huge mandate, and in many ways struck at the core of the frictions that had defined political debate in and around WADA for the past few years. He commended the members of the working group for the spirit they had brought to the table. It would have been very easy in the current context for the members of the working group to simply come and rehearse lines handed to them by their home organisations or regurgitate lines that they felt would be tactically advantageous for their corner. He had felt instead a real effort by the members of the working group to come to a meeting of minds and to advance the organisation, and for that he commended them.

THE CHAIRMAN thanked Mr Maharaj very much, noting that the members would begin to understand why WADA had invited him to be one of the experts. It was a big topic and he was grateful to Mr Maharaj for his remarks about the good work done by the working group. A lot of effort had gone into getting the right mix of people to listen to Messrs Maharaj and Roberts and have a proper debate. He did not think that Mr Maharaj would be lucky enough to get away with putting

his contact details up on the screen in the hope that somebody would phone him. He suspected that there might be some questions.

MR RYAN thanked Mr Maharaj for the enthusiastic presentation. The members knew that Mr Maharaj was always speaking from the heart and had a great deal of experience. There was no 'but' coming, although he would raise five points on behalf of the Olympic Movement broadly because it had been represented in the group, and the group had been very free-speaking and thinking, and people might not agree with what had been discussed there, but broadly he could say that the Olympic Movement was on board, and certainly believed that to do such a process (not on a regular basis, not every year, but after a number of years) was a very healthy thing for an organisation. After making his five points, he would take Mr Maharaj's lead and completely abuse his position as reporting on behalf of the Olympic Movement and add a couple of his own personal points.

One of the things that the Olympic Movement felt was that the Foundation Board should do exactly what it said on the tin, and it should be the Foundation Board and it should be representing WADA's founders, really just made up of the public authorities and the sport movement. Because it was a political body, the Olympic Movement believed that the wider consultation and representation process could occur at the next level down, within the standing committees, and one way to approach that was to make absolutely sure that those standing committees really did reflect gender equality (and there was a long way to go from what he could see there), but also the cultural and sport diversity that existed in the work that was done with WADA. He for one did not believe that WADA currently did that, and that was an essential part of the work with governments, and the public authorities in certain countries knew very well that, unless they reflected in their organisations the public at large and popular thought, they became increasingly remote. It was believed that that could be done through the large number of standing committees.

On the Executive Committee, the Olympic Movement supported having experts in the field of anti-doping, perhaps legal and finance, as well as sport, but it believed that, for efficiency, WADA should be very careful, especially under the model put forward, to ensure that the Executive Committee was kept small and effective. It should not start to grow by trying to achieve too much diversity of representation and therefore locking it up; it needed to be fast on its feet and able to take quick decisions. It was an executive body and it was different to the Foundation Board. The Foundation Board was a political body, as the Olympic Movement saw it. The Olympic Movement also thought that input and views could be (they already were, but could be a bit more) channelled from things such as the symposium. The World Conference on Doping in Sport was a way to consult, and WADA should always design those events to consult a wider range of stakeholders and get greater input, perhaps moving on to a position whereby the public at large was more represented in some of those internal fora.

The Olympic Movement was in favour of having a neutral chair and vice-chair of WADA and also believed that it would be very helpful if the chair and vice-chair did not hold multiple positions around the world. It was perhaps a bit unrealistic to expect somebody coming to WADA, certainly on the Executive Committee, to drop everything else they did. WADA would not have so many people there if that were the case. It could be done, and again through a consensus effort as had been done between the public authorities and sport to have a neutral chair and vice-chair, and the Olympic Movement thought that it was very positive. The Olympic Movement also believed strongly that the same chair and vice-chair should be chairing and vice-chairing both the Executive Committee and the Foundation Board.

Elected athlete representatives from the relevant bodies should be integrated in all the decision-making processes, in the political bodies and the working groups throughout. WADA had to be very conscious of who it was that WADA was having representing so-called athletes of the world within those bodies. That was where he wished to give his opinion, which was a strong opinion. Unless WADA could get much greater rotation into the bodies that managed WADA (and he would be very happy to fall on his sword as the first one to go), WADA would not renew and would not remain healthy. Gender equality was absolutely essential, and it had been very interesting to hear the comments from the public authorities about how to reinvent representation, as sport also needed to do to, to find out how it was best representing its stakeholders at the tables. He might not get endorsement from the sport representatives on those last comments, but he hoped he would, as he thought that the points were essential.

MR MIZUOCHI said that he wished to thank the Chairman and the two experts of the working group for their work on consolidating the discussions. He supported the recognition that anti-doping activities were to protect clean athletes and, therefore, higher priority should be given to the voice of the athletes. He also emphasised the effect anti-doping activities also had on social development in that, by protecting the integrity of sport, WADA was protecting the power of sport that could

contribute to the development of a society, and those who carried out anti-doping activities were members of society, citizens and taxpayers, so the governments should continue to be involved in decision-making.

On governance reform, it was important to maintain what was functioning well. The Executive Committee made decisions on daily operational issues in a flexible and timely manner. That was the kind of thing he felt should be maintained. He also emphasised the importance of the governments' involvement in decision-making. In discussing WADA reform, the members should not concentrate only on independence, but also bear in mind the importance of efficiency, transparency and accountability, and try to avoid a deterioration of the functioning of the organisation. At any rate, he looked forward to further discussion at the July meeting of the working group.

MR DÍAZ also thanked Mr Maharaj for his report. The working group had been created to talk about governance in the light of the doping scandals and, somehow, his concern was that WADA was focusing on revising the structure and making a change where a change was not necessary. Also, in terms of the proposal in relation to the Executive Committee members being experts, he thought that a corporate board represented the interests of those involved. Experts could come and provide information, but he supported the colleague from Japan, who had said that governments needed to represent the different countries in the decision-making structure. He acknowledged the important and benefits of periodically analysing governance in any organisation, but that group had been created because of doping scandals, and his personal concern was that WADA was focusing more on the Executive Committee and Foundation Board and not really analysing what had happened.

MR PENGILLY thanked Mr Maharaj for all the work he and his colleague had done on the matter. He thought that a lot of best practice had recognised that there needed to be some representation but also some independence as well because, clearly, everybody came with an interest when representing a body. Therefore, he would advocate a mixed position and, again, one that was not too big; otherwise, it would lose its agility. The athletes were very keen that there should be a significant proportion of athletes on the Foundation Board and bodies, around 20% as a kind of benchmark to act as a proper representation of the athletes out there competing, and that would also provide a good balance between the two sides of the table.

THE CHAIRMAN noted that some direction had been provided, much from a member of the working group, which was healthy. Perhaps Mr Maharaj might indicate the kind of target areas on which he would be working with the working group in July.

MR MAHARAJ responded that, in terms of the next steps in the document circulated among the members of the Executive Committee and in his presentation, much of that reflected broad principles, but principles were of no use without practice, and the next step would be to flesh out specific models that would make the principles material. The working group would be meeting on 20 July and he hoped that, before then, it would be possible to come up with some specific models that would respond to the principles to circulate among members of the working group so that they would be able to reach a decision on them. There was a lot more in the points that he could cover, but he did want to reply to the question about the athletes.

That was certainly one of the clear recommendations that had come out of the working group and that had been supported by different constituencies: that there should be athlete representation, not only to ensure that the voice of the athletes was heard throughout the decisions of WADA and not only to project a sense of legitimacy of the organisation, but also to emphasise the ethical backbone of the organisation. At the end of the day, the reason that WADA was doing all of those things was to ensure that sport was conducted with integrity, and the people on the sharp end of that process were the athletes themselves.

As to what Mr Díaz had said, he agreed entirely that what had prompted the working group was that, in addition to an institutional desire for renewal and growth, there was the question of drug scandals and state-sponsored doping specifically. To a certain extent, he did not think the working group should be above taking advantage of the momentum created by that issue to build up WADA and to say that, notwithstanding the genesis of the working group, it presented an opportunity to strengthen the organisation and make it better able to discharge its mandate. Indeed, it was important to remember that, when WADA had come into being, there had never been an organisation like it, ever. It would have been extraordinary if the founders, no matter how well-intentioned they had been and how much foresight they had had, had been able to get everything right the first time round. There had been several decades of experience to identify where that structure could be strengthened. There were some vexed questions that the working group could not answer, such as who had the legitimate authority to make some of the decisions relating to excluding national teams, what the appropriate locus of that authority was and what the appropriate response to large-scale

doping activities was. That was a question of political will and one of policy, not of structure. It was the case, however, that those decisions would be taken and would be influenced by the structure and who had a seat at the table when those decisions were being made.

He thought that, though he was sure the question about institutionalised doping in Russia and the debates that had followed over the past year or so had been some of the most difficult experiences for the people around the table, it would be remembered as WADA's finest moment. If WADA had buried its head in the sand and refused to do anything, it would have had a quieter life. It was the very discharge of its mandate and its ability to stand up for the rule of law and the international system that had earned it the honour of having difficult and intractable enemies.

THE CHAIRMAN thanked Mr Maharaj. Very briefly, and not summing up, certainly the events of the past two years had brought about all sorts of challenges and suggested changes. His personal view was that, if WADA was an organisation that had been in place for 18 years, there was nothing wrong with looking at the WADA structures and finding out whether they were up-to-date and modern, and he thanked Mr Maharaj for the detailed work carried out thus far and in particular for the intellectual vigour that he brought to the exercise. He looked forward very much, as Mr Maharaj began to press down on a number of particular representational issues, to WADA having the next tranche of the improvements. He thought that, from the relatively modest list of questions, Mr Maharaj could take it that the Executive Committee was impressed with his work.

DECISION

Interim report from the expert on the Working Group on WADA Governance Matters noted.

3.1.3 Laboratory Accreditation Working Group – report from the Chair

THE CHAIRMAN noted that the Ad Hoc Working Group on Laboratory Accreditation was chaired by Professor Erdener.

PROFESSOR ERDENER said that he would give the floor to Dr Rabin after outlining some activities. As everybody knew, the decision about the working group and its mandate had been taken during the previous Foundation Board meeting and its mandate was to review the current status of WADA accreditation of anti-doping laboratories and determine if the current laboratory accreditation system adequately provided stakeholders with the quality of service necessary to support the present and future of anti-doping strategies. The working group he chaired comprised Professor Christiane Ayotte, who was president of the world association of anti-doping scientists and director of the Montreal laboratory; Dr John Miller, who was the former chairman of the WADA Laboratory Expert Group; Professor Peter Van Eenoo, who was the director of the Ghent laboratory; and Mr Richard Young, who was a lawyer and had great experience in all anti-doping issues. All of the activities were supported by the WADA Science and Legal Departments.

The working group had had two in-person meetings. The first had been held in this very room on 13 January, and the second had been held in Lausanne on 21 and 22 March. The WADA departments had arranged a survey in relation to the WADA-accredited laboratories and the results were also one of the important elements it was dealing with.

DR RABIN shared some of the preliminary conclusions of the Ad Hoc Working Group on Laboratory Accreditation. There had been several key points identified and addressed by the working group, the conclusions of which would be on the slides. Starting with an overview of the global network of anti-doping laboratories, there were currently 34 WADA-accredited laboratories around the world (the majority were located in Europe for historical reasons) and currently three WADA-approved laboratories doing blood analysis in support of the Athlete Biological Passport. One of the issues was to look into the network and see how it fitted into the needs and strategy of the anti-doping community. A survey had been conducted in support of the review and considerations of the working group. First, there was a strong feeling that there was no real need for more WADA-accredited laboratories. A lot of the laboratories were not working at full capacity, and so the working group recommended investing in the existing laboratories before thinking about adding laboratories to the network. Having said that, and that was very important, part of the survey had concluded that quality was more important than the geographical position of the laboratories. The other element was that the network of laboratories should not be closed but should remain open to high-quality candidates. It was an open process and quality remained essential in all processes in the future. One of the key elements on the table of the working group had been the independence of laboratories, and it was nothing new, but deserved to be looked at again for several reasons. The members had heard about what had been learnt from Russia, but also other situations, and the notion of independence was

something that the working group believed should be strengthened. There was a global trend, including under the ISO accreditation process and ISO 17025, about impartiality that was currently being strengthened, so that was a general trend, and the working group was proposing adding administrative independence to the requirements for WADA accreditation, in addition to the operational and financial independence already in the International Standard for Laboratories. One of the mandates of the working group had also been to look at the long-term strategy for laboratories (what, if and when new laboratories came into the network), and there had been three different situations looked at: first of all, new laboratories, which did not form part of the system but would like to join the system, and of course, as he had mentioned previously, there was an emphasis on the need for high quality. There was no compromise possible on quality. Certainly something the working group felt should be strengthened was also the request for a full business plan from the laboratory. Laboratories often said that they were going to analyse more than 3,000 samples, but where were the samples going to be coming from and what support would they be receiving? Some laboratories that reached the level of accreditation lacked sustainable support to continue to grow and invest in quality in the development of the laboratories, hence the emphasis on the need for guarantees for long-term support in terms of financial and human resources in anti-doping laboratories. Another situation that could be faced concerned the laboratories in the probationary phase, and there was certainly a need to ensure that the laboratories in the probationary phase did receive the level of confidence that would come with the quality with which they analysed the samples during that phase. WADA would want to see all the laboratories applying all the methods to ensure that there was one category of laboratory, and also set a time limit for the accreditation process, because there had been some laboratories dwelling in the probationary phase in the past, which was not helpful and did not represent a very strong dynamic on the part of the laboratory to achieve WADA accreditation. Of course, when that level of quality was achieved within that period of time, the door would be open for accreditation.

Another point that had been clearly discussed, in particular in light of the number of suspensions seen recently in the network of anti-doping laboratories, was being stricter about the laboratories being reinstated, coming back into the system and being allowed to analyse some samples. One of the strong suggestions had been to request a kind of double reading of any adverse analytical finding reported by those laboratories coming back into the system to ensure that the high level of quality and confidence in the system was maintained. Confidence had been at the heart of the discussions by the working group; WADA felt that there was a need for confidence, which should be strengthened and continued over the coming years at the analytical and also ethical level for the laboratories. Some suggestions were being made, including one inherited from the recent actions between WADA and the laboratories which was to put some emphasis on reanalysis of samples, not necessarily in terms of ADOs doing reanalysis after a few years, but trying to exchange samples between anti-doping laboratories to ensure that the quality of analysis was maintained among all the different laboratories and there was no possibility of some samples not being properly analysed. That could be done on a systematic basis, for example, randomly swapping 10, 20 or 30 samples systematically between laboratories; on a targeted basis, in particular when some investigations were undertaken or samples were seized, with a more targeted and systematic reanalysis; or simply for quality assessment purposes, with WADA saying that it thought the sample was somewhat unusual and suggesting extracting it for reanalysis elsewhere. One of the things WADA had learnt was to have periodic site visits to the anti-doping laboratories and good guidance when visiting the laboratories. WADA learnt a lot through the on-site visits and could provide useful guidance when visiting the laboratories. One of the issues that had arisen frequently over the years had to do with the differences in analytical capability between the laboratories. It was impossible to have absolutely identical laboratories around the world and that did not apply only to anti-doping but also to any analytical system around the world. WADA had to recognise that. It could certainly try to improve on the differences and try to reduce them, and one of the philosophies proposed by the working group was to align all laboratories on best performance and highest quality of practice. In the past, there had been a group of 34 laboratories, and WADA had looked at improving the system by looking at them globally, saying that there might be a few dragging slightly behind, and setting the bar high enough so that they could catch up with the others to maintain the progress of the group. The philosophy had since been inverted. WADA wanted to look at the top five to ten performers and say that all the laboratories should be aligned with the top laboratories around the world. That would not go without sharing knowledge, and part of the debate had been about how better to share knowledge among the anti-doping laboratories. A lot had to do with experience: it took years and years to train top-level scientists, in particular for specific analysis, and there was a need to transfer that knowledge, and the working group had discussed the possibility of creating clusters of laboratories in which one leading laboratory would help a group of five other laboratories to facilitate the transfer of knowledge and information. WADA was in an active field; anti-doping was growing tremendously,

and he had to say that some laboratories sometimes, because of language or resources found it hard to follow the pace, and WADA needed to encourage them to keep up the pace and provide strong support and guidance to ensure that they could meet the changes when implemented in the anti-doping system. The idea was to have one group of laboratories, not the two-tier system, but one group, because it was essential to limit as much as possible the number of false negatives. Everybody was worried about false positives for obvious reasons, but having too many false negatives was also very damaging to the system. The idea was to have one class of laboratories, but WADA had to acknowledge that some methods would not have to be implemented by all the anti-doping laboratories for cost reasons, and also because some laboratories received requests only three or four or five times a year, which was not worth the investment. The idea was therefore to have some particular methods implemented only in some laboratories. For example, for gene doping detection, there would not be a huge market for gene doping analysis. He could guarantee that; but, on a needs basis, that would come in the future and WADA would want to have five or six laboratories around the world providing that service. Also, for particular analytes, and he gave the example of isotope ratio mass spectrometry (IRMS), which was developing for some very specific analytes, to ensure that some substances were of exogenous origin, maybe for some very specific analytes there could be only a few laboratories providing that service. Some laboratories might receive only two or three such requests per year, so there was no need to spend a lot of money maintaining a method when it was used only two or three times a year and when that capability could be concentrated in another laboratory.

Security in anti-doping laboratories had been at the heart of a lot of discussions lately, and that had not been ignored in the discussions of the working group. It was necessary to acknowledge what had happened recently with cyber-attacks. The laboratories were also under threat. There were different elements to be taken into account. WADA had to be aware of those threats, but they might not be addressed in exactly the same way, depending on the situation faced. The group had made the clear distinction between major events, when some specific measures should be taken on a case-by-case basis. In Rio, for example, the laboratory had had a fence around it with military guards and CCTV cameras all around the place. In other situations, adjusting the level of security would have to be taken into account when reviewing the preparation of the laboratories for certain events. That should not necessarily be done systematically, but the idea had been to think about including some rules or best practice on the issue of security in anti-doping laboratories, either in the existing ISL or guidelines that could be separated. It would be possible in one of the sections of the ISL

In relation to transparency and communication, WADA had faced criticism for not being sufficiently transparent when communicating about a laboratory suspension. The usual sentence had been that the laboratory had broken some ISL rules, full stop. Some people had requested more than that, and that had been heard by the working group. When it could, it needed to be able to address such situations and provide more information, and also the laboratory community wanted to learn from the errors and know why some laboratories had been suspended or had their accreditation revoked. They wanted to be able to learn from past mistakes and be able to act as quickly as possible. As to the potential change for the ISL, it was clear that everything discussed that day that the preliminary conclusions, when they became conclusions and recommendations, would certainly have an impact on the ISL, and he already anticipated such changes not only because of the discussions that were currently taking place but also because the ISO 17025 standard was being reviewed and would have an impact on the ISL.

MS BRUUSGAARD remarked that the terms of reference of the group covered a number of politically important issues and therefore Europe asked that the composition of the group include representatives of the public authorities and NADOs. She suggested that the composition of the group be changed before the next meeting of the Executive Committee. She expressed regret that the reports of the meetings in January and March were not available in writing; the oral update had been very good indeed, but having the reports in writing gave a possibility to all stakeholders for proper consultation in relation to the performance of the group.

MR PENGILLY noted that it was obviously encouraging to hear that high quality was the most important thing, but the laboratories should not be based on geography and the question was, having gaps around the world with no laboratories, how much of an impact did that have on the anti-doping programmes in those regions and the ability to collect enough samples and do programmes properly and effectively?

His second question was perhaps an internal one for the Olympic Movement. Obviously, every Olympic Games had a new laboratory and he wondered if the IOC was having a discussion about a new laboratory for the Olympic Games within the context of that laboratory strategy. It was perhaps not one for that day, but it would be helpful to know if that discussion was taking place.

MR GODKIN had three comments. One of the major issues facing laboratories those days from his perspective was financial sustainability. There were great contributions and investment in the laboratories, in particular with the ongoing accreditation requirements. Had that featured in the considerations at all?

The second thing was consultation (and he would endorse the comments made by his Norwegian colleague). Certainly there was a great interest in the work of the group and the anti-doping organisations would be interested in being consulted about the deliberations and would be interested in the programme in relation to that.

Lastly, he had an observation. He was quite taken with the outline of security issues identified and, of course, one of the best ways to maintain the fidelity of the laboratories was to not hold major events where they were prone to manipulation.

THE CHAIRMAN said that the group had been approved at the previous meeting, so it had been doing its work, and he supposed one of the questions would be, after the pretty major list of improvements necessary, whether it needed to meet again, or whether there was enough to be getting on with, and how it should do that. Perhaps by consultation on the international standard? He did not know.

PROFESSOR ERDENER stated that the composition of the group had been decided by the Executive Committee but; on the other hand, it was up to the Executive Committee to decide. There was no doubt that he was ready for more (broader) members in the group. He thought that everybody agreed that, when the working group activities were finalised, a detailed report would be shared with everybody concerning that important task. Perhaps Dr Rabin could add something more. As to having a new laboratory in a new host country, that was not a necessity. If there was no WADA-accredited laboratory in that country or in that city, cooperation with any of the WADA-accredited laboratories could easily be arranged. Perhaps Dr Rabin could add to that.

DR RABIN added that some of the questions had already been answered. The initial idea (and the composition of the working group had been known for some time) had been to have a technical view on the questions, and of course some of the questions had political ramifications, and that was the concept of the consultation process, to address those issues. He saw two consultation levels, one before the November Executive Committee and Foundation Board meetings, when the final recommendations of the working group would be presented. There would be a period of consultation leading up to the Executive Committee and Foundation Board meetings. As he had mentioned (and that was why he had also insisted on that), many of the changes would have an impact on the ISL, and that was an important international standard and, in the review process of the ISL, there would be extensive consultation at the technical and political level. On the sustainability of the laboratories, what was proposed by the working group to strengthen the existing laboratories went exactly in that direction. The ISL currently mentioned a minimum of 3,000 samples per year, and there had been several discussions with the laboratories that conducted their own analysis, several of which had reached the conclusion that, to break even and to be sustainable, they would be talking about 15,000 samples per laboratory per year, so there was a significant margin between the minimum number requested to the point at which the laboratories would break even. That was why WADA wanted to strengthen the existing laboratories rather than adding laboratories around the world.

To conclude, WADA had certainly encouraged the establishment of laboratories in the past; clearly, there were some areas in the world in which WADA did not have laboratories, but that did not prevent effective anti-doping programmes from being implemented, because it was sometimes more complicated to send samples to neighbouring countries than to another continent because of airline connections. The working group members had been somewhat surprised that the geographical distribution had not been a major concern expressed by the laboratories who had responded to the survey.

THE CHAIRMAN asked Dr Rabin if he saw a need to meet again, or whether it was a question of presenting the work done and outlining what would happen as a result of that going forward with final decisions to be taken in November.

DR RABIN responded that he thought that the idea was to have the preliminary conclusions shared with the Foundation Board the following day, collect the feedback (also received from the Executive Committee that day) and include the feedback in a round of discussion with the working group. At that point, he did not foresee an in-person meeting; it would probably be more a matter of sharing the information and then holding a teleconference before the November meeting.

THE CHAIRMAN asked if everybody was happy with that.

DECISION

Interim report on the Ad Hoc Working Group on Laboratory Accreditation noted.

3.1.4 Independent Testing Authority Steering Group – report from the Chair

THE DIRECTOR GENERAL said that he would be brief. As he had said earlier, there would be a full report from the chair of the group the following day. The members had received the update on Friday as to the outcome of the work conducted by the group, and the proposal on the table was for approval the following day by the Foundation Board. The idea was that the Independent Testing Authority would be created under a Swiss foundation by the IOC, which would be providing the capital to do that. It would be run by a small board of five people, one representative from the IOC, one from the IF, one athlete and two independent members, and the chair of the small board would be one of the independent members. To appoint the board, there would be a process, which was that the Olympic Movement would propose the members, they would go through an appointment committee to check that they met the requirements, then it would come to the WADA Executive Committee, which would be able to refuse the board members if it saw any problems. Once done, the board of five people would run the Independent Testing Authority and would have the task of setting up the organisation, appointing the people and making it run. WADA would not be a member of the board; it would have an ex officio position, non-voting, around the table. There would be funding going forward and that would be determined by the Olympic Movement. It would not be mandatory. There would be a discussion as to whether there was a link between non-compliance of IFs with the mandatory use of the Independent Testing Authority but, to start with, it would not be mandatory; therefore, once created, the Independent Testing Authority would have to enter into contractual agreements with IFs to use the Independent Testing Authority and potentially with NADOs for the Independent Testing Authority to use the NADOs to perform a number of services. The next discussion would be how the Independent Testing Authority fitted into the big anti-doping picture. That was the situation. It had been felt to be an acceptable compromise by both sides of the table in terms of making sure that WADA remained independent and fulfilled its role as regulator while helping the sport movement to set up something that was independent and would serve international sports in terms of testing. Ms Fournayron would be presenting it to the Foundation Board the following day and would ask the members then to endorse that proposal.

THE CHAIRMAN concluded that the Foundation Board would have a decision to take the following day. He congratulated Mr Niggli on his report.

DECISION

Report on the Independent Testing Authority Steering Group noted. Report to be delivered by the Chair of the Group at the Foundation Board.

– 3.2 Ethics Panel update

THE DIRECTOR GENERAL referred to the report in the members' files. The role of the Ethics Panel would likely change once WADA had progressed the work on governance. There had been clear consensus in the discussion that there was a need for an ethics panel (or commission) that could handle other matters rather than being an adviser on scientific and technical issues which is currently was; it could potentially address conflicts of interest and so on. The current Ethics Panel was working; the members could see the composition, and there would be no change in its brief until WADA had reached a conclusion on the governance group. The intention was then for the group to evolve with a broader mandate.

MS BRUUSGAARD noted that it was Europe's view that, looking at the scope of activities of a new Ethics group, which went beyond purely scientific issues, the competence of the panel members might need to be expanded, and she also drew attention to greater diversity of the panel, including gender balance.

THE CHAIRMAN responded that he would leave that with the Director General to deal with.

THE DIRECTOR GENERAL said that, as a matter of principle, knowing that work was progressing on governance (which included gender balance, geographical balance and so on), the status quo of

maybe not perfectly balanced but very good people would be maintained until moving to the next step and the reform process.

DECISION

Ethics Panel update noted.

– 3.3 INADO grant funding

THE CHAIRMAN said that there was a report from the executive office saying what it thought was possible and there was an observation from the Olympic Movement saying that it was not entirely in support of that. He thought that a compromise would be possible.

MR KOEHLER noted that the original recommendation had been to provide INADO with 100,000 US dollars over a two-year period for a 200,000 dollar grant, similar to what was being done with the Drug-Free Sport Unit, which was given 160,000 dollars. WADA had heard the Olympic Movement and understood that the governments also supported the recommendation; however, in the interim, based on what had been seen, he recommended starting with a grant of 100,000 dollars for that year to INADO and sought acceptance of that as a full-stop funding agreement.

THE DIRECTOR GENERAL added that the grants to INADO and the DFSU had always been done together, to ensure a balance between support to a sport organisation versus a governmental organisation; so, in light of that, the proposal was that, given that WADA had funded the DFSU that year, it would fund INADO in the same way to respect that balance. Going forward, the situation would obviously change. That was the philosophy of the proposal.

THE CHAIRMAN concluded that that would likely be the last time that the members would have such issues before them. Were they happy to accept that compromise?

PROFESSOR ERDENER noted that the Olympic Movement did not support any kind of funding for INADO because it had not respected the terms of the previous agreement. That was the main issue.

THE CHAIRMAN said that, from a procedural point of view, there was a recommendation before the members that funding be made for a period of two years, and he took it that that would not be supported by the Olympic Movement, so therefore it would fall. He had hoped that it might be possible to have a half-way house to be able to do it for the last time and then move on, but if the Olympic Movement was insistent then procedurally it would be necessary to agree whether the recommendation was accepted or not.

MR GODKIN stated that he had mentioned earlier that the public authorities had agreed that INADO should be supported, so he was not sure where that left the Chairman.

THE CHAIRMAN said that he could see where the Executive Committee was headed, and that was a direction with which he was not comfortable. He proposed a coffee break to see if a cup of coffee would sharpen the members' minds.

After the break, he asked whether the coffee had had a therapeutic effect.

MR KOEHLER responded that he thought it had and he had heard that the members would be pleased to accept a one-year extension of 100,000 dollars for INADO recognising the work it did to assist the NADOs when it came to compliance and ensuring that they increased the quality. He proposed the 100,000 dollars for one year, effective 1 July 2017 to 30 June 2018.

MR BAUMANN said that he was happy to confirm what Mr Koehler had said, adding that it would be great if it remained confined to what its scope was.

THE CHAIRMAN said that the members would understand why the minutes were always very long minutes and that everything would be carefully recorded.

DECISION

INADO grant funding for one-year (only) approved.

– 3.4 WADA headquarters – seat renewal

Item dealt with during the in camera Executive Committee meeting held prior to the Executive Committee meeting.

4. Operations/management

– 4.1 New Executive Committee appointment

THE CHAIRMAN informed the members that the Executive Committee would be losing Ms Widvey from Norway, regrettably, and she had to be replaced. The proposal was that she be replaced by Mr Bańka from Poland.

DECISION

Mr Bańka to be recommended to the Foundation Board to be appointed as the new Executive Committee member for Europe.

– 4.2 Endorsement of Foundation Board composition for Swiss authorities

THE CHAIRMAN said that it was a regulation that WADA provide the Swiss authorities with a half-yearly update of who served on the Foundation Board, and the members could see the list of people who currently served. That might change by a name or two in November. Were the members happy that WADA record that with the Swiss authorities?

DECISION

Foundation Board composition to be recommended to the Foundation Board for endorsement for Swiss authorities.

– 4.3 2019 World Conference on Doping in Sport

THE CHAIRMAN noted that the members would have seen that WADA had started with a very detailed list of specifications for hosting the next World Conference on Doping in Sport and had lost a couple of what it had thought were enthusiastic applications, leaving one application, Katowice in Poland. As the only applicant, he suggested that WADA go there for the next World Conference on Doping in Sport. He noted that a oresebtatuib would be delivered the following day from a Polish contingent and the Board we be asked to approve Katowice as the 2019 host.

DECISION

Katowice, Poland to be recommended to the Foundation Board for approval as host of the 2019 World Conference on Doping in Sport.

5. Athletes

– 5.1 Athlete Committee Chair report

MS SCOTT informed the members that she had a fairly brief report from the Athlete Committee because most of the notes and summaries from the past two meetings were in the members' files. The Athlete Committee had deliberately met in Lausanne, Switzerland, just prior to the WADA Annual symposium to enable the athletes to stay on and participate in the symposium if they so chose, and she was pleased to say that many had done so. The Athlete Committee had also invited a lot of IF and NOC athlete committee chairs to the WADA symposium in an effort to strengthen and increase communications and relations with athletes worldwide, as the WADA Athlete Committee represented athletes worldwide. She was pleased to report that many athlete committee representatives and chairs had joined the WADA Athlete Committee there, and they had been able to communicate and talk, which was such a fundamental part of the Athlete Committee's role; hearing from athletes what their concerns and thoughts about anti-doping were. The Athlete Committee had discussed a number of items there and there had been a number of presentations received.

The Athlete Committee continued to support the whistleblower policy that had been developed by WADA, namely the Speak Up! programme. As athletes, it was important to be supporting fellow athletes or any members of the sporting community who came forward with information, so the Athlete Committee really supported that programme. The Athlete Committee continued to advocate the mandatory use of ADAMS, knowing the critical role it played in testing and investigations. She had said it before and she would say it again: the Athlete Committee supported ADAMS and the mandatory use of ADAMS. She was sure that she sounded like a broken record. As she had said earlier after Mr Taylor's presentation, the committee really supported the work of the Compliance

Review Committee and stressed the time sensitivity for athletes. An athlete's career could be very short and the process was of critical importance to athletes, and the committee would like to see it done as efficiently as possible.

She would spend a few minutes speaking to an idea floated at the WADA symposium and developed by the WADA Athlete Committee. Some of the members might be aware of it already. It was the idea of an athletes' charter, and she had a few slides to explain it. She had said that at prior meetings but, as the chair of the Athlete Committee, it had been an unprecedented year for communication from athletes; whether in the form of petitions or letters or phone calls to her or members of her committee, there had really been a surge and an incredible number of athletes' voices related directly to the revelations that had formed part of the McLaren report. Many athletes had felt that they needed to speak out. That had been taken very seriously and the Athlete Committee had taken it to heart. It had had a discussion on what to do about it, how to capture it, and the themes coming out of the letters and petitions and public statements, and the Athlete Committee had pulled together some of the themes, the biggest being that athletes wanted their rights to be upheld. They felt that they had a right to a level playing field and a right to doping-free sport, and that that right was not being upheld. The Athlete Committee had come up with the idea of a charter of athletes' rights, and had proposed it at the Annual symposium in the form of a request for feedback in terms of what should be included in the charter. It had been proposed not only to athletes but also to the anti-doping community at large, including NADOs, IFs and the IOC. Many groups of stakeholders from the anti-doping movement had been present, and the Athlete Committee had used it as a platform to garner feedback and get ideas as to what should go into the charter. The next step would be to formulate a questionnaire and carry out very broad stakeholder consultation among athletes and other members of the community in terms of what should be put into the charter. The overall intention was for the charter to be a rights-based document, because there was nothing out there that outlined the rights of athletes as they related to clean sport. It was concrete, but also aspirational. The idea behind it was to give athletes who had felt that they were not being heard over the past year something that they could reference and use as a platform to elevate their voice and to reassure them and give them the confidence that they were valued voices in the movement. It was something intangible to give athletes a sense or a feeling that they were important, that they were not powerless, that their voices were being heard in the movement, but it was also going to be a legitimate document that they could reference and to which they could refer if they felt their rights were not being upheld. The next step would be broad stakeholder consultation. The Athlete Committee was refining what it was going to ask and how to propose it to athletes. It would go as far and as wide as possible, the Athlete Committee would seek input and advice and guidance from as many relevant groups as possible and then propose it for ratification at some point hopefully over the coming year. That was the essence of the athlete charter of rights.

That was all from her side. She would be happy to take any questions or comments.

MR PENGILLY said that he really supported the greater engagement with athletes and the proposed communication strategy. That was really helpful, and it had been evident during the Lausanne symposium that having more athletes there from the different constituent groups had been really helpful. He really encouraged and commended that, and the possibility of having a forum to do that could work; obviously, the structure and framework needed to be right, and it might be an environment as well in which some of the Athlete Committee members could be elected (he knew that it was an ongoing discussion) from among various people within the athlete community. It was a challenge that various athlete commissions had had, about the proportion of elected versus appointed, and in particular in the Olympic Movement getting that right was a work in progress. Some IFs had been very agile and others had certainly struggled with that.

In relation to the charter of rights, he had a question. Was it just within the realm of anti-doping or was it broader than that?

MS SCOTT thanked Mr Pengilly for his question. That was the first question that had come out of the public consultation held in Lausanne. She had presented it to various athlete groups, it was generally the first question that came up. She did not yet have an answer. She thought that it would come out of the broader stakeholder consultation process. The idea was that it began with athlete rights in relation to anti-doping, but it could potentially extend to athlete rights outside that, and why not extend it to athlete rights outside anti-doping, as athletes should have rights in all arenas? And was it ethical to propose having rights in one arena but not worry about rights in another arena, or should WADA make it a broad document that looked at all rights for athletes? She did not yet have that answer, but thought that it would probably become clear in due course, and she was hopeful that that would be the case.

MS HOFSTAD HELLELAND observed that it was extremely important that such engagement from the athletes existed. WADA needed an independent Athlete Committee more than ever with one mandate: to represent the clean athletes. She thanked Ms Scott for her work and, as set out in the communiqué from the public authorities meeting the previous day, athletes should represent athletes and not organisations, and that was important going forward. She thought that the Athlete Committee had been working well and had a lot of credibility and a strong reputation as the voice of the clean athlete. WADA was there to protect the clean athletes, and that was why it was more important than ever that they have a strong voice. She wished the Athlete Committee luck in its important work.

DECISION

Athlete Committee Chair report noted.

6. Finance

– 6.1 Government/IOC contributions update

THE CHAIRMAN informed the members that Mr Ryan would not be giving the report. This would be done fairly quickly in two parts. Ms Pisani, WADA's Chief Financial Officer, would take the members through the routine stages of WADA's situation in the first quarter of the year, and Mr Niggli would deal with how WADA intended to approach the complex problem of the future budgeting process. On the members' desks, they would have seen an updated list of contributions received to date. Ms Pisani had always been smiling at the members from the back row. The sun was now shining upon her.

MS PISANI stated that she would take the members through the finance papers and answer any questions they might have. She noted that all figures were in US dollars. The latest contributions were tabled and dated to 16 May. There had been an increase in collections since the document had been distributed on 21 April. WADA had obtained 78.1% of budgeted public authorities' contributions to date compared to 83.36% the previous year. WADA was somewhat lower than the previous year, although hopeful that it would attain the budget.

She gave the members a quick overview of outstanding contributions by region. Europe's total outstanding contribution to date was 1.2 million dollars, largely made up of outstanding contributions from Spain, Turkey and Italy's shortfall. The total outstanding amount for Asia was 400,000 dollars, largely made up of Bahrain, Brunei and Thailand. The total outstanding amount for the Americas was 1.6 million dollars, largely made up of the USA (second instalment only), Mexico and Argentina. The total outstanding amount for Africa was 46,500 dollars, largely made up of Libya, Nigeria and South Africa. Those were but a few of the outstanding countries to date.

MS PISANI noted that the additional contributions received to date totalled 347,314 dollars and she thanked Australia, Japan, Kuwait and Saudi Arabia.

DECISION

Government/IOC contributions update noted.

– 6.2 Special Investigations Fund update

MS PISANI informed the members that the total amount received from the public authorities to 30 April 2017 was 704,903 dollars, and she was pleased to announce that WADA had received matching payments from the IOC. Therefore, the total received was 1,409,806 dollars. The members could refer to the document in their papers for details of all contributions received. WADA thanked all the stakeholders for their contributions to the success of the special funding endeavour.

DECISION

Special Investigations Fund update noted.

– 6.3 2016 year-end accounts

MS PISANI informed the members that WADA had obtained 97.93% of budgeted contributions from the public authorities, the lowest level received since 2007. Additional contributions received amounted to 298,747 dollars, as well as a grant from Montreal International totalling 1.43 million dollars. WADA had posted an excess of expense over income of 729,000 dollars in 2016 against a forecast loss of 144,000. The excess was due to a write-down of assets, in particular ADAMS, which

had come in above budgeted amounts, and the cost of investigations such as the independent person's report, despite allocating 654,000 dollars from the Special Investigations Fund.

Capital expenditure for 2016 had totalled 2.4 million dollars, 500,000 dollars below budget, due to the late start of the development of ADAMS with the new developer. The finance overview in the members' papers went into more details in relation to the outcomes of 2016. The overall financial position of the agency was stable; however, as cash reserves were used to supplement costs for special projects, such as the two investigations (the independent commission in 2015 and the independent person's report in 2016), it had become imperative to increase funding. As a finance person, she strongly believed that. As per WADA's internal policy, cash reserves were not to be depleted by more than 500,000 dollars to fund a deficit.

The auditor's report, the internal control system, had once again been very favourable, with no deficiencies found in the accounting controls and no suggestions for improvements to be made. Page four of the IFRS audited statements was tabled for the members' reference. The description of expenses for the Communications Department and the Education Department had been changed to better reflect expenditure.

She asked the Executive Committee to recommend the 2016 year-end accounts to the Foundation Board for approval.

THE CHAIRMAN noted that the local representative of PricewaterhouseCoopers would present the auditors' report the following day, after which the accounts for the year ending on 31 December 2016 would have to be approved by the Foundation Board. Ms Pisani had told the members what they said. Did the Executive Committee members agree to put them before the Foundation Board the following day?

DECISION

2016 year-end accounts to be recommended to the Foundation Board for approval.

– 6.4 2017 quarterly accounts (quarter 1)

MS PISANI informed the members that, as of 30 March, WADA was at 52% of total budgeted income; however, the major portion of funding was received within the first six months of the year, with little coming in in the last half of the year, while expenditure had the opposite trend. The quarterly profit of 9.6 million dollars did not reflect reality or the trend to year end. The overall budget was on track and there was nothing to draw the members' attention to at that time.

DECISION

2017 quarterly accounts noted.

– 6.5 2018 budget – preliminary planning

THE DIRECTOR GENERAL said that WADA would follow its process, which was to have the Finance and Administration Committee meeting in July, after which WADA would try to provide the documents as quickly as possible to the various parties in August so that they could look at them prior to the Executive Committee meeting in September, and then the documents would be refined following discussion by the Executive Committee for budget approval in November. WADA was looking at coming up with a budget that focused on activities and really providing figures for the expectations in relation to the work that was to be conducted by WADA. It would inevitably show a significant increase on the current period, but the management would try to make it as reasonable as possible and (as the management had committed to do) put it into perspective over a longer period to help governments plan and allow them to follow their own budgetary process if the increases were more significant than usual. There would also be a discussion by the Finance and Administration Committee on the funding of the budget and whether or not it would be a good idea to try to think outside the box going forward. He understood the governments' constraints and expected he would hear comments the following day about timing. It was also necessary to follow process, but the management would take that into account by projecting it over more than one year.

PROFESSOR ERDENER spoke on behalf of the IOC to clarify that the total amount for annual contributions for that year, 14.9 million dollars, had not been fully invoiced by WADA. The IOC was ready to make its payment on time.

THE CHAIRMAN joked that Professor Erdener would be asked not to leave the meeting without an invoice.

He explained to the members that, under the Special Investigations Fund, the original agreement with the IOC had been that it would match funds received by a cut-off date, after which WADA had received roughly another 250,000 dollars, and he had put a request to the IOC and the IOC's executive board had decided to match that money as well. He thought that should be on the record.

MR KEJVAL stated that he had two issues. The first one was about the tax contribution from Montreal International. WADA had signed the original contract in 2001 up to 2011/2012 and the contribution had been for 15 million dollars divided into 1.5 million dollars per year. Later, WADA had extended the contract with Montreal International. He made a small analysis in relation to tax payable and due to the fact that, in 2002, the turnover had been at about 17 million and WADA was currently at turnover of almost 30 million. He had asked KPMG to do some analysis in his country based on public figures available, and had realised that, from the contributions from 2002, WADA was missing something like 1.5 million dollars, which, from 2002 to date, amounted to almost 15 million dollars. He had the analysis and he asked WADA to have a look at it, as it could represent a significant contribution.

The second issue had to do with the acceptance of the voluntary donations, because he had checked the figures for past contributions and, in 2013, 2014 and 2015, seen that WADA had received almost half a million dollars each year from the Russian Federation. From outside, it looked like a serious conflict of interest. Nobody announced donations from other countries, so his recommendation was to stop accepting the additional donations from countries because of possible conflicts of interest.

THE CHAIRMAN thanked Mr Kejval. That recommendation would be taken to the Finance and Administration Committee to see what it said. He was sure that Ms Pisani would be very happy to have the breakdown over the years.

THE DIRECTOR GENERAL said that he was not sure he had understood the first point correctly, but noted that the contract with Montreal International was a fixed amount indexed on inflation. It was not based on the agency's turnover. Obviously, the account in US dollars meant that there was an exchange rate fluctuation.

For Russia, the amounts had been received in total transparency; they had been known to the Executive Committee and the Foundation Board and had been paid instead of being paid to the UNESCO research fund, and that was an agreement that had been made at the time. It looked unfortunate in light of the current situation but, at the time, it had been very clear to everybody why and how it had been done.

THE CHAIRMAN noted that the Russian Federation had been prepared to continue but WADA had thought that, given the circumstances, it would be wiser not to accept the contributions.

MR GODKIN commented on the issue of the voluntary funds. He could not speak for the other countries, of course, but for Oceania the contributions were to sustain the operations of the regional anti-doping organisation, without which he did not think that there would be one. He was open to having a discussion about ceasing contributions, but the members would have to do it with their eyes open.

THE CHAIRMAN thanked Mr Godkin for that kind offer, which was declined. He took the point. There had been a situation over the past two or three years whereby WADA had been in an almost hand-to-mouth situation. WADA had been faced with two independent investigations with professionals carrying them out, and they had been hugely expensive, and there had been enormous pressure to do it without the funding, hence the request he had made as a means of funding what had turned out to be effectively the second inquiry, which had not been planned, but it was not a sensible way to plan ongoing financial structures, begging for money. He lived in hope that WADA would never be faced with the same situation again; but, in future, the investigations would be handled in-house by the chief investigative officer at WADA, and he was reliably informed by him that it was bound to be cheaper than it had been before.

He thanked Ms Pisani for her presentation and congratulated her because, for years and years, he had never been brave enough to mention the names of those countries that had not paid their contributions.

DECISION

2018 budget noted.

7. Education

– 7.1 Education Committee Chair report

MR MOSES said that the Education Committee meeting had taken place three weeks previously on 20 and 21 April. There had been 100% participation; everybody on the committee had been present, either physically or via telephone, and the meeting had been very exciting. The meeting outcomes were attached, but he went through a few points that he believed were important for the members to know. The Education Committee had determined that there was a need for all stakeholders to be engaged in education, including the national and regional ADOs, IFs, NOCs, NFs and major event organisations, and that included more values-based education. As basic principles, stakeholders needed to be made aware that everybody had an interest in promoting clean sport and ensuring a level playing field and not just those involved in anti-doping organisations. Everybody involved in the running and delivery of sport should work together to promote fair competition, which was directly in line with all anti-doping goals. The second point was that there was a need to see how the WADA Education Department could work in collaboration with the IOC education committee, as they were working towards similar goals, especially in relation to values-based education.

The Education Committee welcomed the report by Ms Scott, the Chair of the WADA Athlete Committee, and furthermore it fully supported the Athlete Committee initiative to develop an athlete charter of rights and a call to action.

The committee also recommended several topics for consideration for the WADA Social Science Research programme, and the potential research was provided in detail in the report and would be considered by the Social Science Research Review Committee at its meeting in October that year. The Education Committee had also stressed the need to ensure that all ADOs were implementing research to evaluate their own education programmes.

The WADA Education Committee was of the opinion that more still needed to be done to highlight the importance of education and to guide stakeholders on what developing an effective education programme meant. As a result, the Education Committee recommended that the WADA Foundation Board endorse the development of an international standard for education and information, which would involve the establishment of a small working group to determine the parameters of the project, followed by a call for consultation with the stakeholders. The goal would be to have the standard completed by November 2019, and the decision paper would be tabled at the Foundation Board meeting.

Finally, the Education Committee commended the Education Department on the high quality of work that it had been able to deliver. There had been a lot of progress over the past few years with WADA's education programmes, which included the introduction of new resources for parents, the development of a new e-learning platform called ADEL, the implementation of the university e-text book (on which it had been working for quite some time), the training and assistance to stakeholders, the quality of research being gathered and the continuation of the values-based education through sports programme.

DECISION

Education Committee Chair report noted.

– 7.2 International Standard for Education and Information

MR KOEHLER told the members that there had been a strong feeling that it was time to develop an international standard, so the department sought a recommendation from the Executive Committee to put forward to the Foundation Board the following day, to approve exploration in developing an international standard for education and information. Should that be accepted, WADA would form a very small working group to establish the parameters of what that would look like, and it would also include engaging the Council of Europe, which had already developed a framework on which WADA would build upon to ensure that the process was minimised but had the most effective returns possible.

THE CHAIRMAN mentioned he had already asked how small 'small' was. The suggestion was to have five people working on an existing draft to refine and improve it. When did Mr Koehler think the draft of the standard would be available?

MR KOEHLER responded that he hoped something would be available by May the following year.

THE CHAIRMAN asked the members if they would be happy to make the recommendation to the Foundation Board.

DECISION

Proposal in relation to an international standard for education and information to be recommended to the Foundation Board for approval.

8. Health, Medical and Research

– 8.1 Health, Medical and Research Committee Chair report

PROFESSOR ERDENER informed the members about the Health, Medical and Research Committee's activities. He was really pleased to note the increased compliance by anti-doping organisations, resulting in an increase in doping control forms and granted TUEs now being entered into ADAMS. Although that was good news in terms of WADA's ability to monitor, it was to be noted that there had been a very substantial increase in the monitoring work done by the agency.

There had been several major activities carried out in relation to WADA-accredited laboratories. First, there was the work of the Ad Hoc Working Group on Laboratory Accreditation and the assessment of the situation for several laboratories for the reinstatement of further legal procedures including maintenance of suspension or revocation.

In relation to research, he referred to the major international efforts on OMICs (field of study in biology ending in –omics) for predictive medicine and in the field of OMIC biomarker discovery, either directly or in partnership with anti-doping applications. The exceptional fund was essential in relation to WADA's research efforts and he urged the Executive Committee and Foundation Board members to consider restoring the research budget to the level of past investment if WADA wanted to avoid major gaps in testing capacity in the future.

DR RABIN referred to the annual call for grants. In 2017, WADA had received 85 proposals in relation to various themes selected by the Health, Medical and Research Committee, a fairly similar number to that received in previous years, in particular when taking into account special calls for research activities done over the past few months. WADA had received close to 100 annual research applications, about the limit with which WADA could deal through its current process. The review of the grants had already been conducted by external experts and completed some days previously. As usual, the Project Review Panel would review the grants at the end of August before they were presented to the Health, Medical and Research Committee to finalise the review process and for approval by the WADA Executive Committee on 24 September.

On the laboratories, as the members were all aware, WADA had had a record number of suspended laboratories: a total of nine laboratories suspended over the past 18 months. Several had already been reinstated. The laboratories in Madrid, Doha, Beijing and Rio de Janeiro (just before the Olympic Games) had been reinstated. There were still five laboratories (including Bogota and Mexico) suspended and three under review as mentioned previously, with possibly some legal action or input to take place before any decision was taken, in particular for Almaty, Bloemfontein and Lisbon. The WADA management, with the support of the experts and in particular the Laboratory Expert Group, had been working with the laboratories themselves to review corrective actions and to ensure proper resolution of the issues before considering reinstatement of the laboratories or any other legal action if necessary.

DR VERNEC mentioned that the draft List for 2018 had been sent out to stakeholders for comments at the end of April. As far as TUEs were concerned, he was pleased to see an increasing number of ADOs entering TUEs in ADAMS. In 2015, there had been 1,330 TUEs entered; in 2016, there had been 2,200; and, in 2017, WADA was probably on course for over 3,000 if not 4,000. He was very pleased and did not believe in any way that this was an increase in the number of granted TUEs around the world, but it reflected the fact that people were being more compliant and entering TUEs into ADAMS. It gave all the ADOs as well as WADA an opportunity to monitor those.

WADA's work in terms of monitoring and reviewing had increased. Thus far in 2017, WADA had five reviews in process by WADA TUECs.

In relation to the Athlete Biological Passport, he was happy that it continued to advance, both in terms of the existing modules and future ones. For the present haematological module, there was a lot of work on plasma volume, which would help the efficacy of the haematological module.

As far as the future was concerned, the Athlete Biological Passport expert group and a small ad hoc group on biomarker discovery had met, and there were a couple of projects in the works to look at EPO use and altitude. If somebody said that they had spent some time at altitude, it made the evaluation of a blood passport considerably more difficult, so that was very important work to make the Athlete Biological Passport even more refined.

WADA was also looking at the endocrine module, and a group would meet in Montreal the following month to look at IGF-1 and review some of the recent research done with laboratories and ADOs and see how to progress the endocrine module. He would be happy to answer any questions.

THE CHAIRMAN asked if there were any questions. That was a very busy department with lots of things to do.

MR GODKIN observed that, in relation to the Athlete Biological Passport, something that had come up was the inefficiency of NADOs having to negotiate data access individually with IFs, and the suggestion put forward was to determine whether there was any way of WADA looking at streamlining information-sharing provisions so as not to have inefficiencies of a whole rash of individual information-sharing arrangements.

With regard to the human chorionic gonadotropin decision limits and the fact that there were two different thresholds identified, was Dr Rabin comfortable that that was unlikely to lead to complications in terms of result management? He also wondered about the availability of the research behind those two levels.

MR MIZUOCHI said that he wished to use the opportunity to introduce the members to an initiative implemented in Japan. Anti-doping related research and development in Japan had been carried out individually at universities and research institutes. In January that year, for the first time in Japan, a number of universities had formed a consortium to further anti-doping research. Each of the universities involved had its strong research field; but, with that initiative, the universities could bring together the results of various research projects and together engage in more comprehensive anti-doping research and development in Japan. He expected the consortium to further promote research and development efforts on anti-doping and, in the future, Japan hoped to explore a way of promoting international partnerships among university anti-doping research consortia.

PROFESSOR ERDENER said that he could give more information on research activities from the IOC perspective. The IOC medical and scientific commission had ten research centres all over the world, up from four, two years previously. They had to be supported financially. There were very well organised research activities. There was currently close cooperation with his friends from the WADA Science and Medical Department, Dr Rabin and Dr Vernec and, some ten days previously, Dr Vernec had been working with him in Lausanne at a consensus meeting on supplements, which were still a big problem in sport, and the contribution on the issue had also been very valuable. During future activities, he hoped to maintain such close cooperation between the two bodies.

DR RABIN told Mr Godkin that his colleague Dr Vernec would respond to his questions. He made a brief comment in response to Mr Mizuochi. WADA certainly welcomed the Japanese initiative, and hoped that WADA and Japan would be able to cooperate to coordinate efforts and have the possibility to exchange views on the urgent needs in some areas of research in anti-doping and future challenges, in particular OMICs, as mentioned by Professor Erdener.

DR VERNEC responded to Mr Godkin. WADA was very well aware of the need for cooperation agreements between NADOs and IFs and had been hoping to come up with a solution in the form of a default agreement between NADOs and IFs, but a few had balked in that area. As soon as that had happened, WADA had been unable to take that route. The feeling in the Legal Department was that such sharing agreements were necessary. That was really just a start-up business and, once people were in operation, it was not something that needed to be revisited again. If there were actual problems with some sort of cooperation between a NADO and an IF, WADA needed to be aware of that, and he certainly hoped that WADA would be alerted. In all the years with the passport, WADA had been made aware of one situation and had intervened, and everything had been sailing smoothly since then. Members should not hesitate to inform WADA about specific issues.

DECISION

Health, Medical and Research Committee Chair
report noted.

– 8.2 Scientific technical documents

THE CHAIRMAN referred to the four technical documents. He had read a fair bit of all of them. The phrase 'measurement uncertainty' had attracted him. Coming from a financial background, normally, if one's measurement was uncertain, one would end up in jail. He invited the Deputy Director of the Science Department, Dr Osquel Barroso to present the technical documents.

DR BARROSO said that he would try to be as brief and straightforward as possible. There were four technical documents that had been reviewed by WADA's Laboratory Expert Group. Technical documents were brought to almost every Executive Committee meeting. Technical documents were living documents and WADA needed to update them according to new developments and particular cases and knowledge and scientific literature in general. He would be dividing his presentation into two parts, first taking the members through the technical document review process, and then discussing the major modifications for each of the technical documents reviewed.

The review process for the technical documents had several objectives: to update the documents that were complementary to the ISL, the ultimate objective being to improve the analytical capacity of the anti-doping laboratories and to harmonise the way in which laboratories tested for prohibited substances and reported the results. In general, the review process started with modifications, which were proposed either by technical working groups (e.g. on Hgh, EPO and IRMS) or by the Laboratory Expert Group itself. Following those modifications, there was a consultation phase with the laboratories and WADA stakeholders in general. In that case, the consultation phase had taken place from 22 March to 14 April. The aim was to give as much time as possible for the consultation phase, but sometimes there were time restrictions due to the fact that WADA needed to present the technical documents to the Executive Committee for approval. Following the consultation phase, there were always some comments to be reviewed and, if necessary, incorporated into the draft documents before the presentation of the final version to the Executive Committee for approval. That was the whole review process for the technical documents which might happen once or twice a year for different documents.

8.2.1 TD2017DL version 2

DR BARROSO informed the members that the technical document on decision limits was actually the second version of the technical document that year, and the reason the document had had to be reviewed had been to make sure that the different documents were compatible. If WADA changed one document, it might reflect on another document; so, in order to make them compatible, it was necessary to change both. In that case, in the table, 19-NA had been removed, because the technical document was applicable to threshold substances only and 19-NA would no longer be a threshold substance. It was important to note that the maximum levels of uncertainty specified therein were maximum. Laboratories could have lower levels, meaning that the measurement was more accurate. That had been done to address issues raised in particular court cases.

In relation to the question asked earlier by Mr Godkin, there was no issue at all with the fact that there were two different thresholds or decision limits for HCG. In particular for the measurement of peptide hormones, the result would be assay dependent. That was a complex molecule that existed in different forms. Different assays could analyse or measure different forms of the same molecule. In that case, the HMRS, which was a mass spectrometry-based method, had a sample preparation, a step that included immunoqualification, meaning that the assay was much more specific than the immunoassays, which was why the threshold was lower. There were substantial data for both types of assays that demonstrated that the levels were actually quite conservative. He did not know if that answered Mr Godkin's question.

MR GODKIN asked whether the research data were available for laboratories to consider and use in their own processes.

DR BARROSO responded that the research had come from the WADA research programme and had been produced by different research groups in the world. There was a working group on ACGLH and all the information was being provided to WADA-accredited laboratories.

There was also a minor but important modification in the technical document in relation to the analysis of certain substances that were classified as threshold substances and what happened when the substances were detected in the presence of diuretics or masking agents. Without going into too much detail, it was necessary to establish that there was a difference between substances that were prohibited at all times or in competition only. Stimulants were not reported before a certain level, which was 50% of the MRPL; so, for those threshold substances, even if they were detected in the presence of diuretics or masking agents, they should not be reported below 50% of the MRPL. It was an important rule. The situation had not arisen in relation to any sample thus far, but it might happen.

It might happen that athletes would want to use a diuretic with a TUE for the purpose of abusing certain stimulants, in particular those threshold substances, so it was necessary to cover that particular situation.

8.2.2 TD2017CG/LH

DR BARROSO informed the members that the changes to the document had been minor, because the existing guidelines, which were a level 3 document, had been converted into a mandatory level 2 technical document. The main modification was the inclusion of the LCMS assay for confirmational analysis and the specification that, for concentrated urines, the decision limit should be adjusted accordingly, and the instructions for that had been provided in the technical document on decision limits.

8.2.3 TD2017MRPL

DR BARROSO informed the members that the minimum required performance levels document was also a very important document, because it established the levels at which the laboratories should be able to detect. It was important, especially, for example, for those long-term metabolites of steroids which had been the topic of recent cases after re-testing samples from the Olympic Games, to ensure levels that the laboratories should be able to detect, but WADA also wanted to make sure that it harmonised the analytical capacity of laboratories even further by telling them not only that they had to detect a particular substance, but also a particular metabolite from that particular substance. It was important that they be able to detect the substance for as long as possible after it was administered, both short-term and long-term, so WADA wanted to insist that the laboratories be able to detect several different target analytes from the substances on the Prohibited List. Therefore, new classes of substances had been defined, and many were peptide hormones, small peptides, meldonium, insulins and so on. Those levels of detection had not been identified or specified before. They would become mandatory: all laboratories should be able to detect those substances at those levels.

It was currently mandatory that all laboratories should have the analytical capacity to detect small peptides; however, it was important to note that that was not a method that was included in the routine testing menu. For peptide testing, the testing authorities would have to specifically require that the testing to be done. Some laboratories did it routinely, whilst some laboratories did not, so the testing authorities should know that they should request the analysis on the doping control form.

In relation to reporting levels for non-threshold substances, higenamine and meldonium in particular, he mentioned that there had been many cases since levels of reporting had been established and also the target analysis level for other non-threshold substances with reporting limits.

8.2.4 TD2017NA

Regarding the technical document on the analysis of 19 norsteroids, specifically nandrolone 19-NA, which was the major metabolite, DR BARROSO informed the members that there was a major change in the technical document, which was that the substance was no longer going to be considered a threshold substance. For low levels of 19-NA, a positive finding would depend on the result of the IRMS analysis, and there was a threshold of 15 ng/ml above which IRMS was not necessary because at those levels it could not be of endogenous origin, so there were some requirements regarding the initial estimation of the concentration during the screening procedure as well as more stringent requirements for the confirmation analysis. Briefly, what was important there was what was done during the A sample and what was done during the B sample procedure. The B sample confirmation procedure was somehow easier or faster than the initial testing procedure because, for the B confirmation, one simply had to demonstrate that what had been done previously had been done properly. Again, it was a combination of a semi-quantitative assay to determine the levels and then IRMS analysis to confirm exogenous origin when the concentration levels were low.

Finally, there was a change, and he was sure that the members would like the picture, which was not as complicated as it seemed. WADA would look at the absolute value of the IRMS result; in other words, it did not matter if the value was plus 4 or minus 4, as long as it was above 3 or below minus 3, it would be positive, and that change had been triggered by the fact that there were synthetic preparations of nandrolone that would never be reported as positive by IRMS if such change were not made. He would not go into the technicalities, but asked the members to trust him.

THE CHAIRMAN asked the members to approve the proposed documents. He thanked Dr Barroso very much.

DECISION

Proposed technical documents approved.

9. World Anti-Doping Code

– 9.1 Compliance Review Committee Chair report

9.1.1 Russia

MR KOEHLER said that he wished to provide a current update on what had been happening in Russia. As everybody knew, on 18 November 2015, the Foundation Board had declared RUSADA non-compliant. Since that time, WADA had been working tirelessly with RUSADA, the ministry of sport, the NOC, the NPC and the Smirnov commission to try and rebuild confidence in the system and anti-doping in Russia. During that time, WADA had also engaged UKAD, which should be commended for the work it had done and its ability to work in Russia and ensure gaps were filled through targeted testing, which had been very effective and appreciated by all the stakeholders assisted. WADA continued to engage two international experts on the ground in RUSADA; they were paid by RUSADA but the money came to WADA, which was responsible for them, and they responded to WADA. WADA had also arranged to have a member of the Council of Europe sit on the RUSADA supervisory board, and the international experts worked daily in the RUSADA office to build up the organisation itself. That was what WADA had been doing since 2015 from a high-level perspective.

He felt that it would also be responsible to provide an update on what UKAD had been doing. The testing that had been done by UKAD had been intelligence-led; UKAD had made sure that every test meant something and that every athlete tested was subject to no-advance notice or quality in-competition testing. UKAD also had oversight of all the whereabouts information within RUSADA and monitored it on an ongoing basis and worked with RUSADA to ensure any filing failures were followed up on. UKAD also reviewed and approved all TUEs among Russian athletes and had approved several and denied several. That process appeared to be working well. The other thing, recognising that gaps needed to be filled, was that UKAD continually worked with the IFs to encourage them to increase their own testing in Russia and make sure that as much testing on Russian athletes was taking place as possible. Over the past year, (and he corrected the first bullet point) 2,731 tests had been planned (not conducted) in 2016, of which 84% (2,300) had been collected and 16% had not been collected. 333 tests had also been conducted overseas across 25 countries and 32 sports had been included in that testing programme. Capacity had always been an issue with the programme. There was limited capacity with the service providers that UKAD was using. The members would see that 2,340 tests had been cancelled and 90% of those had been because of capacity issues, not the willingness or plans to have tests done, but the capacity had simply not been there. That trend continued in 2017, and he provided an update since 2 May: 1,261 tests had been planned in Russia, 1,037 had been collected, 126 had not been collected and 98 were currently in progress and were out in the field waiting for a response back to see if the tests had been completed. Of those, 298 tests had been conducted overseas involving 23 countries, again across a wide variety of sports (31 sports to date).

Looking at the current situation in Russia, and what RUSADA had been permitted to do to date, it had been conducting education, and it was an area it had really taken hold of. RUSADA had implemented values-based education and outreach programmes, and the ministry of sport had started a programme to inject anti-doping messages in schools. The independent body of RUSADA had been permitted to do result management, and of course the oversight of any case or decision was by WADA through its Compliance Review Committee to ensure results and decisions were being dealt with appropriately. The international experts oversaw limited investigation. When they had an adverse finding or when an athlete came forward with something, they reacted through targeted testing or handing over to other authorities to act, so there was a flow of information coming in terms of investigations. RUSADA was not allowed to conduct its own investigations, but was seeking and obtaining information.

In terms of advancement, he referred to a report received from the international experts. A WADA staff member had also been to Russia several times. There was a new culture and staff, younger, new people, with only one person left from the old RUSADA, and they were ready to move. The people were young and excited, and had been trained to move forward with anti-doping. Recently, UKAD and the Finnish anti-doping organisation had trained 20 doping control officers. So as not to lose that training, they were going on observation missions, because they were not currently allowed to test. The staff at RUSADA had gone to UKAD and been trained on how to carry out risk

assessments, test distribution planning and the most effective approach to clean sport. Education was being conducted with NFs and through athlete outreach programmes.

Moving forward, the plans had already been put in place, and TUE committee members would start to be trained to ensure they could do their own TUE management moving forward. There was a result management committee and appeals committee, but it had been felt that, as WADA reviewed the system, it could do further education and training on the people there. In mid-June, there would be phase 2 of the doping control officers training programme, including ensuring that chaperones were trained and had the capacity to deliver a programme.

There had been an increase in budget for RUSADA. It was currently funded by the Russian ministry of finance. The budget had covered international experts and up to 6,000 tests as a starting point for 2017, and RUSADA had committed to having the international experts in RUSADA until the end of April 2018.

Overall, looking at the assessment, the organisation itself had all the necessary elements in place to commence anti-doping work. The experts and UKAD had done a tremendous job in upskilling the people. The independent experts' oversight was maintained for all the work being done in Russia.

Currently, there had been several immediate recommendations required of Russia and RUSADA, and WADA had received an update over the past week and had been working very closely with the Russian authorities. The Compliance Review Committee had made a recommendation that the RUSADA chair and vice-chair be independent. WADA had received full commitment from the Russian authorities that they would accept and implement that and, on the 31st of that month, there would be a supervisory board meeting and the statutes would be changed to ensure that the chair of RUSADA was independent. In the road map, WADA and the international experts had to approve who the independent members were. The development of a conflict of interest policy had already been tabled and would be accepted at the supervisory board meeting on 31 May and sent to the Compliance Review Committee for approval and acceptance. There had been a request to make sure that all stakeholders could have access to the Athlete Biological Passport samples in the laboratory in Russia. In fact, full access was currently provided to those Athlete Biological Passports, so that was no longer an issue. The Russian authorities had already agreed to open the closed cities to doping control officers; several cities were open and focused on the core athletes' whereabouts, and work was ongoing with the mayors to ensure that an expedited process would take place to open all cities to the doping control officers. There was a commitment to do that.

In summary, from his perspective, working with the team at WADA and the international experts, RUSADA had come a really long way. It had been up and down, but he thought that the focus was there. RUSADA was committed to continually improving, doing more work and being open to the international community. The new director general selection process was in place and the person would probably be in place by mid-June. There was a commitment to working with WADA, the IOC, IPC and the IAAF to make sure that plans were aligned. If WADA wanted to ensure a level playing field, the mechanisms were in place in RUSADA, and ensuring a level playing field to increase capacity by allowing the doping control officers to get out and work and test and do that under UKAD and the supervision of the international experts would only help the global community.

THE CHAIRMAN asked if there were any questions.

MR BAUMANN thanked Mr Koehler for the report and the positive progress being made or which would be made soon. He had a question on how that worked in terms of when the Compliance Review Committee made a recommendation. He was a little bit intrigued: was it a recommendation or a requirement? The way in which it had been worded had been in the form of a recommendation, and then it said that the chair and vice-chair 'must' be independent, so he wanted to understand what it meant. Also, what was the legal basis for imposing such a condition on somebody WADA was reviewing? It was a little worrying, as it could happen to anybody, an IF or another signatory that was not compliant, so he wanted to understand the limits or responsibility of the Compliance Review Committee in terms of putting rules in place or imposing conditions on compliance. That was even more relevant given that morning's discussions. In whose hands would the stakeholders be if they were non-compliant? He was somewhat confused about that.

MS BRUUSGAARD expressed Europe's concerns about the number of samples collected in Russia. Europe believed that they were insufficient to secure the level playing field at international competition. Considering that RUSADA remained non-compliant, Europe suggested that urgent measures be taken by WADA to increase sample collection in the Russian Federation and invited WADA to engage doping control officers from other NADOs in sample collection in the Russian Federation. Also, in order to ensure the transparency of the RUSADA reinstatement process, Europe invited WADA to make public the road map, or at least part of it.

MR KOEHLER responded that that was the proposal on the table. Capacity was an issue, which was why, if WADA had doping control officers ready to go in Russia (it had 20, which would be doubled within one month), the suggestion was to use their expertise under the supervision of the experts, making sure they were signed off and under the oversight of UKAD. Realistically, to get a NADO doping control officer to Russia to do testing and to fly people in to do testing would be expensive and cumbersome; but, if WADA could get the doping control officers moving on the ground, it could build capacity, allowing WADA to carry out a more robust audit in September, should everything go to plan.

In relation to the publication of the road map, the Compliance Review Committee had had a discussion and was developing a new revised one to be made public. That would hopefully be done in the coming months.

THE CHAIRMAN said that, in that case, the Executive Committee should ask Mr Taylor to present his report on the Compliance Review Committee and also answer Mr Baumann's question.

MR TAYLOR stated that the answer to the question was that the Compliance Review Committee had been asked to consider a position whereby a clear directive by WADA to RUSADA after a number of missed steps by RUSADA in convening its supervisory board had been ignored and the Compliance Review Committee had been asked to consider that position as an independent committee and to provide its response. The Compliance Review Committee did not make compliance decisions; those were for the Foundation Board. The Compliance Review Committee made independent recommendations and it had said that, in the exceptional circumstances of the case, when the question was how to restore confidence in RUSADA amongst stakeholders around the world and in reconsidering reinstatement conditions, in the view of the independent Compliance Review Committee, it should be put into the statutes that the supervisory board composition, while it would include nominees of the ROC, RPC and ministry of sport, would also include independent members and the chair and vice-chair would be selected from them. That was an exceptional requirement; it was by no means a unique one (it had been seen in other situations and other contexts) and it had been the judgement of the Compliance Review Committee that it was necessary to institutionalise those requirements if the recommendation of the Compliance Review Committee was sought to reinstate RUSADA. It was not the Compliance Review Committee's decision; it was the Foundation Board's decision and, in terms of reinstatement conditions, it was one that the Compliance Review Committee had said that it would recommend and therefore if it was not that, it would not be recommending reinstatement. How would that work moving forward under the proposal that the Executive Committee had been discussing that morning? If there was an assertion of non-compliance and a proposal as to a sanction, there would also be a proposal as to reinstatement conditions. Again, a signatory could accept that, in which case the decision on non-compliance, the sanctions and the conditions for reinstatement were agreed, or they could dispute it, in which case again it would go before an independent hearing panel, again potentially to the CAS, and a final decision made, and they could dispute the declaration of non-compliance and/or the proposed sanction and/or the proposed reinstatement conditions. So, moving forward, it was the same as before; it was not a WADA unilateral decision. If it was not agreed, it would be up to an independent hearing panel. That was what he would say in response to that point.

The Compliance Review Committee was pleased to see that RUSADA had agreed that those were conditions it wished to meet in order to gain reinstatement and was pleased to see that it proposed to change the statutes to implement the changes and to provide a conflict of interest policy for approval. If it received those, the Compliance Review Committee would look at them very quickly and make sure it was happy that they had been implemented properly. It was also pleased to see that there was acceptance that the Athlete Biological Passport samples should be accessible to those ADOs that had sent them to the laboratory, and to understand that, finally, after something like five years, it had been agreed that there would be access to closed cities. Once that decision had been implemented and there was access to the closed cities, and once the Compliance Review Committee saw that the conditions had been met, it would be pleased to recommend that there be agreement that RUSADA be permitted to plan, coordinate and execute testing with its trained doping control officers under the supervision of the international experts and UKAD because of the very concern that a number of people had expressed, which was that there was a big gap that needed to be filled. The Compliance Review Committee saw it as a positive step forward and, as soon as it saw that those words had been turned into actions, the Compliance Review Committee would be pleased to make that recommendation.

MR BAUMANN indicated that he understood what Mr Taylor was saying; but, at the end of the day, the Compliance Review Committee's recommendation was a decision. He understood that, formally, it was the Foundation Board's decision to reinstate or not, but the Compliance Review

Committee's decision to recommend or not was a decision and, in the end, the recommendations that it had put on the table were preparing the ground for whatever decision came later on, even if the Foundation Board did that formally. It looked as if it was moving forward in the right way, so that was fine. However, he thought that it was a somewhat delicate issue to define who was independent or not and who was appointed as the chair of a NADO; that was a very delicate matter, and he was not sure, even if it was in exceptional circumstances. There should be some coordination between signatories on how sanctions were being applied, and the same should apply in terms of reinstatement conditions: there should be a range of criteria, and WADA should not change those criteria depending on the case. Otherwise, it would be entering the realm of subjectivity, and he did not think that appropriate. That was a personal comment.

THE CHAIRMAN noted that it was a Foundation Board decision and he thought that the Executive Committee might ask Mr Taylor at the appropriate moment the following day to make that recommendation on behalf of the Compliance Review Committee, subject to the two or three small issues that had to be resolved, and that hopefully would allow for the resumption of much of the testing that WADA wanted done in Russia which he knew was extremely difficult to do unless one had international doping control officers in Russia doing it. That was why WADA had not been able to do as much as it would have wanted. It was very difficult to phone up a NADO and ask it to send doping control officers to Russia. It did not work that way. If everybody was happy with that, WADA could move it forward. Was Mr Koehler happy with that, having been at the front end of most of the negotiations? He had been on the record as saying that before: it was really important that WADA have the biggest country in the world compliant going forward. It was not acceptable that it remain non-compliant on a permanent basis. Much work had gone into that, and he would be grateful if the Foundation Board were to accept the recommendation from the Compliance Review Committee the following day. He thanked Mr Taylor.

DECISION

Compliance Review Committee Chair report, and
Russia Update noted.

– 9.2 Compliance monitoring update

MR DONZÉ noted that the members had already heard about a number of the priorities that kept WADA busy in terms of compliance monitoring, but he wished very briefly to add a few elements in relation to the development of the Code compliance monitoring programme. As had already been alluded to by Mr Taylor that morning, the focus was to work with signatories to make sure that they maintained or reached compliance and, in the event of non-compliance, to help and support them as much as possible to be reinstated and regain compliance with the World Anti-Doping Code. The members would hear from a number of people around the table in terms of compliance monitoring, and it reflected the process that WADA had in place to deal with compliance monitoring. WADA had already developed an internal Compliance Task Force, which brought together representatives of all the WADA departments and met every two weeks, and coordinated and directed the development of all activities in relation to Code compliance and the monitoring programme. If any non-conformity was identified by the task force, the focus was on ensuring that WADA could work with the relevant signatory, address and resolve the issue and, if that was not possible, the issue was escalated to the independent Compliance Review Committee. The focus on collaboration and partnership was highlighted by the fact that, looking at the NADOs declared non-compliant by the Foundation Board in November 2016, three, the Azerbaijani, Brazilian and Indonesian NADOs, had been reinstated and regained compliance, and that had also been the case for the Spanish NADO, which had been declared non-compliant in March 2016 and had regained compliance before that meeting, which was very good news and put WADA in the situation in which the only non-compliant signatory was currently RUSADA.

The Code compliance monitoring programme had been formally launched. The members would shortly hear in more detail from Mr Ricketts about the circulation of the Code compliance questionnaire in February. There was a deadline for all ADOs to complete that questionnaire by 20 May. The members would also hear from Mr Ricketts about the launch of the audit programme. WADA had an audit programme in place enabling it to conduct site visits of ADOs, identify potential non-conformities and work with the relevant signatories to address those in the implementation of their anti-doping programmes.

9.2.1 Code compliance questionnaire and audit programme update

MR RICKETTS said that, in terms of background on the Code compliance questionnaire and audit programme, it was certainly the most enhanced programme WADA had undertaken. The last

compliance exercise had been in 2010 and 2011. In terms of the monitoring programme, it responded to what everybody had been requesting for a long time, including the athletes, and it had been voted as the number-one priority at the recent annual ADO symposium. The two main tools being used to assess compliance were the Code compliance questionnaire (known as the CCQ - another acronym to add to the already long list of acronyms) and the signatory auditing programme. WADA was also using other data sources: it had ADAMS, which contained a plethora of information, and the Intelligence and Investigations Department, and any other information WADA might receive.

In terms of the general principles and objectives of the monitoring programme, WADA was aiming for a structured, collaborative and objective process. It had all been ISO-certified, and WADA was seeking consistency and transparency and was open to feedback to continually enhance what was done. The aim was to enhance programmes rather than declare signatories non-compliant and, in doing so, WADA would provide a period of time for signatories to address any shortfalls, and would be providing guidance to the signatories as to how to do that. Of course, WADA hoped that the programme would achieve greater athlete and public confidence and, in turn, protect clean sport and clean athletes.

In terms of the questionnaire itself, it was an online web-based self-assessment tool. It had taken over two years to develop. It had recently been sent out to 307 signatories, so WADA was dealing only with the IFs and NADOs as a starting point. It consisted of over 300 questions, developed based on what was in the Code and the standards, so where there was a 'shall' and a 'must', and WADA was also using the questionnaire as a tool to gather information on better practice and quality and information on how ADOs operated. That had gone out on 20 February; the signatories had had three months to complete it and the deadline was looming that Saturday. WADA was of course primarily assessing programmes for 2016.

To give the members an idea as to the layout of the questionnaire, he showed them a screenshot of the testing and investigations section. There were seven categories at the top, containing various questions ranging from result management to TUE, education and data privacy. On the left was a sub-menu of the various categories within the testing and investigations section, and that was the largest section of those categories, followed closely by result management. WADA had built in a login security password process. The system had to be enhanced on the back of the Fancy Bear incident, so that had added a delay to the launch. Other user-friendly functionalities had also been included, such as the one that could be seen highlighted in the red box, which was references to the ISTI or the Code; people could hover over that and get the article to which the question was related. It was not a purely tick-box exercise. Directly above that red box was a green 'attach' box. WADA was asking for certain components of programmes to be uploaded into the system so that it could evaluate them as well.

In terms of the support provided to the signatories, WADA had tried to engage and keep everybody up to date during the development of the system and had provided a number of support activities. The first had been a core one, involving putting together a pilot group of IFs and NADOs of different sizes to help establish the actual questionnaire. There had been a group of around 20 signatories assisting WADA on building and reviewing the questionnaire. In addition, a draft questionnaire had been provided in July the previous year to give people a heads up as to what was coming and enable them to start addressing the various areas before the official launch. A webinar had been well attended, with over 180 online participants, and further follow-up had been available on the WADA website. The WADA website had been updated and a WADA workshop on compliance monitoring had also been held at the recent symposium. Internally, a support team had been set up to deal with any queries, and WADA had been very responsive and had also received good feedback from stakeholders in relation to that service. A number of reminders had also been sent out to signatories one month out, two weeks out and one week out from the due date. In addition, he thanked his colleagues in the regional offices who had been working hard, ringing around and e-mailing and working with their stakeholders to ensure that they logged on to and completed the questionnaire.

In terms of where WADA was as of that morning, the details could be seen on the screen. It had been sent to 307 stakeholders; to date, 279 (91%) had registered, 164 signatories were in progress working on the questionnaire, and about 86 of those were over 90% completion of the actual questionnaire. In terms of numbers submitted, 92 (30%), comprising 30 IFs and 62 NADOs, had submitted the questionnaire. WADA was currently reviewing 40 of those 92 questionnaires. In terms of those that had no activity, had not registered or had registered and had not started, there were 51 organisations. The 28 that had not actually registered were broken down into three IFs and 25 NADOs. Those that did not submit the questionnaire by the due date would follow the process outlined in Mr Donzé's paper. The matter would go to the internal Compliance Task Force, they would receive

a letter from that task force outlining that they had a further three months in which to complete the questionnaire and that they had entered the non-compliance process of the programme, as also outlined in the ISO process. In terms of what happened once the questionnaire was submitted, an internal team was conducting the review of those. Any shortfalls detected would be put into a corrective action report, and guidance would be provided on how to go about making those corrections. The timeframes for implementing those corrections were broken up into three categories: three months, six months or nine months, depending on the level of importance of the programme area that needed the action to be taken.

In terms of the audit programme, which was another tool for WADA to assess compliance, whilst there were some extra bells and whistles on the questionnaire, the self-assessment process did have its limitations. The audit programme would allow WADA to look into signatories' programmes in more detail. Ten audits had been planned for 2017, and they were in progress. WADA had conducted a number already, and there were others on the table, but notifications had not gone out to those signatories, so he would not outline those there. As Mr Niggli had mentioned, WADA could or should be doing more than ten audits. A total of 30 had been put forward in the clean-slate budget for 2018, and that was around 10% of WADA signatories on an annual basis, but that would require additional staff and funds to enable that programme to be rolled out if it was to be delivered in the best possible way.

The next two slides talked about the audit criteria that could trigger a site visit; he would not talk about them in detail, but they were there on the screen for the members' information.

There was the matter of reinstatement of Russia, and there would be an audit to be conducted before Russia came back into compliance status. Obviously, if there was any other intelligence or information that required WADA to take on an audit, that would be considered as well.

In terms of conducting the audits, they would be performed by a mix of WADA staff and anti-doping experts from IFs and NADOs. The internal WADA staff had been trained and a small number of external experts would be trained the following month in London. The audits were conducted in English and/or French and, where possible, in other languages if there were members of staff who could assist, but the main languages were of course English and French. The team was usually a three-person one, although there could be four people, carrying out two- to three-day audits, and of course the outcome was an audit report, again with corrective action and guidance on how to assist the signatories in terms of correcting those actions. In terms of assistance and cooperation, a meeting had been held in Norway the previous week on cooperation between IFs and NADOs and looking at ways to establish partnerships for IFs and NADOs to work together with their colleagues and organisations to address corrective action as part of the compliance process. WADA would be looking at all ways of assisting signatories in gaining and maintaining compliance. That completed the update; he would be happy to take any questions.

THE CHAIRMAN observed that it was clearly a complete game-changer, and changed the whole pattern of what WADA could do. Instead of insisting that people be rule-compliant, they could actually be compliant in terms of capabilities to run a good anti-doping organisation.

MR RYAN congratulated Mr Ricketts on embarking on what was probably WADA's first serious effort to establish compliance. WADA had to understand that the number of such questionnaires that the signatories were facing had grown a lot recently, as it seemed to have become the norm, certainly in the IF world, to use such tools either for research or assessment, and the capacity of some of the IFs (and he assumed the NADOs) was limited, so one of the points he would make as WADA went forward with that was that it was necessary to make sure that WADA coordinated between the stakeholders what else was going on in relation to questionnaires, because just on WADA, ASOIF had hit its 28 members the previous year with a substantial questionnaire, and that had been rolled out from the summer to the winter IFs and, he thought, the GAISF members. Subsequent to that, PricewaterhouseCoopers had run its own questionnaire among the same stakeholders, so it was understandable that WADA should coordinate the timing of the questionnaires to get the best response rates. WADA should also try not to hit them with questionnaires unnecessarily, but save the work required of them for things like compliance, which was a priority. The question he had in relation to that, and he did not want names, but he was hoping that Mr Ricketts would reassure the Executive Committee that the ones that had not responded were the smaller, non-Olympic IFs and the smaller NADOs.

The next point concerned the speed with which WADA would complete that. Even with the clean-slate budget application for the following year for 30 audits, it would take WADA more than ten years to get through the signatories. WADA was limited by resources and had to do something, but what kind of selection process was WADA using to decide whom to audit? One would expect that WADA

would target the most active players in the market, and not do the ten smallest but perhaps the biggest NADOs and IFs.

To sum up, his points were not in any way a criticism. WADA was taking a really good step, but it needed more resources and it would need superb coordination to get the work finished rather than just create an enormous backlog of uncompleted work. He congratulated Mr Ricketts on the work.

MR RICKETTS agreed totally in relation to the point made about coordination. There was also a Council of Europe and UNESCO questionnaire, so WADA had been in discussion with those organisations, in particular the Council of Europe, and had built a functionality into the questionnaire for those European NADOs to share their data from that questionnaire with the Council of Europe, so such things had already been built into the system. That was a good starting point. In terms of those organisations that had not responded, he did not have the list to put on the screen, but they were the small ones; all the Olympic IFs had registered, as had the big NADOs.

MR RYAN offered help if necessary.

MR RICKETTS added that WADA was looking to move forward with the auditing process on a priority basis, and would be looking at the big players as the starting point and then working its way down, unless it saw major issues coming up with serious breaches of the Code, in which case they would be put into the pot as well.

MR DONZÉ added to what Mr Ricketts had said. WADA was also looking at optimising resources as much as possible and using synergies, and had been in discussion in particular with the Council of Europe. The Council of Europe monitored compliance of governments with the Council of Europe convention, but there were certainly synergies there, and WADA was looking at potentially having joint visits or joint audits of a number of NADOs, which would actually allow WADA to synergise and optimise resources, so WADA was certainly keen to explore such synergies in order to maximise resources, because it was clearly of concern to WADA that its resources (human and financial) were limited.

DECISION

Compliance monitoring update noted.

– 9.3 Non-compliance

THE CHAIRMAN noted that the item had been dealt with because there were no declarations of non-compliance at that meeting.

– 9.4 Legal opinion on Article 10, sanctions on individuals – request from IOC

THE CHAIRMAN recalled the request made at the previous meeting, that WADA investigate the possibility of introducing into the World Anti-Doping Code a particular sanction clause at the request of the IOC. The work had been done and he asked Mr Sieveking, WADA's Legal Director, to speak to what was actually quite a complex and interesting report.

MR SIEVEKING said that, following the IOC request, WADA had submitted the proposal for an amendment to article 10 of the Code to Justice Costa, the former judge of the European Court of Human Rights who WADA had consulted during the course of the revision process leading to the adoption of the current Code. He had reviewed the proposal and concluded that the amendment of the Code and inclusion of the provision as proposed by the IOC would lead to the imposition of disproportionate sanctions, and would also be questionable with regard to certain principles of law, in particular the principle of the personalisation of sanctions, on proportionality mainly, because a sanction above six or seven months sanctioned inadvertent doping and did not sanction real anti-doping rule violations; so, to have an athlete deprived or prevented from taking part in such an important event as the Olympic Games would appear to be quite disproportionate. On the principle of personalisation of sanctions, the automatic ban from the next edition of the Olympic Games was an automatic sanction; there was no differentiation made in relation to the circumstances of the case and, still in the opinion of Judge Costa, that would not be in compliance with the principle of personalisation of sanctions. On that specific point, if one looked back at the Code evolution since the first version, the signatories and the stakeholders and CAS in its case law, everything pointed to the individualisation of sanctions, and there was currently a Code in which sanctions were possible from a reprimand to four years and taking into account the specific circumstances of each case. That was the current situation. The next point was obviously to discuss the potential review of the current Code. The IOC could obviously propose a new Code revision process, and there would be other opportunities.

THE CHAIRMAN said that he had read it with great interest and was clearly disappointed that it was going to be difficult. He did not have a solution. Clearly, Judge Costa, whose legal opinion was about as eminent as one could get, did not have a solution, so WADA had to throw it to any legal expert interested in sport to see if they could come up with smarter ideas. It might well be that it could come into a future Code revision process. He had been very sympathetic to the understanding behind the question asked; but, unfortunately, that was not going to be the solution.

MR PENGILLY wondered whether, if WADA were able to get the majority of athletes who were training to compete in the Olympic Games to sign up to it, that would give it legal validity. If there was a way of doing that clearly, would it? If the answer was yes, then WADA should work out a way to achieve that.

MR SIEVEKING responded that any suggestion by a major group of stakeholders to review the Code, in particular athletes, would have to be discussed. There would still be the problem of compliance with the general principle of law because, if WADA followed that and if it went to the CAS, for example, if an athlete submitted it to a court and said that it went against the principle and that it was not proportionate, he was not sure that WADA would avoid a decision confirming that.

MR PENGILLY said that, if all those subject to that rule agreed to it, surely that would change the rights position and make it more legally enforceable. It was a little bit like a collective bargaining position.

THE CHAIRMAN asked Mr Baumann to speak.

MR BAUMANN replied that the court would void any agreement made if the basis of that agreement was illegal, and one could not restrain one's freedom to go to a normal judge and fight for one's rights even if, collectively, a position had been taken. It was impossible; there was no jurisdiction.

From the shake of his head, THE CHAIRMAN assumed that Mr Sieveking agreed. The last time there had been a legal change had been an increase in the maximum sanction from two to four years, and that, in the main, was the court of public opinion, not just one part of the public. People had begun to believe that it would stand up in court that a sanction was proportionate up to four years. It might well be, as WADA continued that debate, that public opinion would come round to the kind of view that Mr Pengilly was expressing, that athletes had said that, if there were a different Code ruling, it might work. However, the issue, as he saw it in that particular case, was that a relatively short period at one end and a sanction that came up to three-and-a-half years later was one of the problems.

THE DIRECTOR GENERAL reminded everybody that, in the discussion in relation to the 2015 Code, the four years had actually been seen as a legal solution to that proposal (which had been slightly differently phrased at the time) by ensuring that somebody who got four years (for a serious violation) would miss an edition of the Olympic Games, and that had been the way round the legal constraint that there would always be. Whether one placed the bar at six months or at 12, one would always have the same kind of issue.

THE CHAIRMAN said that it was disappointing, but thanked Mr Sieveking for his work on the matter.

DECISION

Legal opinion on article 10 noted.

– 9.5 Potential World Anti-Doping Code review

MR SIEVEKING informed the members that the WADA Legal Department had reviewed some 2,500 decisions a year since the entry into force of the current Code, and it was quite a lot; but, he thought that the current Code was working quite well, in particular in terms of sanctions and the increased number of anti-doping rule violations. So, if WADA were to move to a revision process, the scope should be limited. He would personally not make any change to the list of anti-doping rule violations in sanctioning for intentional doping, as it was a system that was quite efficient in practice, and the key principles should not be re-discussed. Obviously, there was a need to review articles. WADA could not do it any other way due to the new projects that the Executive Committee had been discussing at length that day, and obviously compliance, even if WADA were to change article 23 quickly to adopt the international standard on Code compliance, there were other provisions that would require amendments based on changes to the compliance system, in particular article 20 and article 13 on appeals. For changes to the articles, it would be difficult to avoid a consultation process.

The Independent Testing Authority question would also have to be addressed in the Code because, until the Code was reviewed, the Independent Testing Authority was not and could not be a Code signatory, so that also raised compliance questions and would have to be discussed. An important point was the conclusion and the changes to be made based on the conclusion of the Working Group on WADA Governance Matters. That would also most probably require that some provisions of the Code be added or amended. Finally, an important topic discussed had been the question of contaminated products. It was perhaps the only provision in a sanction that could be fine-tuned, in particular to take into account a new proposal on the table in relation to result management for meat contamination cases that did not currently fall within that clause.

The issues of cost and timeline could be seen in the papers. As for the previous Code revision, even if the scope of the review were limited, he did not think that it would decrease the cost significantly, because WADA would still have to build the team, the team would still have to travel, there would still have to be a website for everybody to comment, and WADA would still have to organise meetings. He did not think that would mean less work, so he did not think it would be a major change in terms of cost. A Code revision process would trigger a heavy workload for his department, so that would also entail additional costs.

THE CHAIRMAN noted that he was not quite sure how to answer that. He was attracted to the idea that the Code was working pretty well and WADA did not have to revise everything; it was necessary to clearly identify the bits that needed to be worked on.

MS BRUUSGAARD said that Europe fully understood the rationale behind the idea of revising the World Anti-Doping Code, but did believe that WADA should carry out an in-depth needs assessment to identify specific areas in which revision of the Code could be required before engaging the drafting process and establishing a drafting group, and also asked that the composition of the drafting group (and she did not wish to criticise the group named, because it was very sound) depend on the outcomes of the needs assessment and that all stakeholders be consulted during the course of the needs assessment. Europe suggested that the decision on the revision of the Code be taken when the needs assessment had been completed, preferably in November 2017.

THE CHAIRMAN stated that, at the risk of having to double the Legal Department initially, he did not think that that was an unacceptable suggestion to identify what needed to be done and put the whole programme in place at the November meeting.

MR SIEVEKING responded that he had no problem with that if the Executive Committee so decided.

THE CHAIRMAN concluded that that was good news and thanked Mr Sieveking.

DECISION

Potential World Anti-Doping Code review to be analysed before a decision is to be taken.

– 9.6 Technical Document for Sport-Specific Analysis – amendments

THE CHAIRMAN noted that two sport organisations wished to make modest changes.

MR RICKETTS stated that two organisations had come to WADA subsequent to the meetings in Glasgow in November looking to add names of sports and disciplines or change the names of those existing in the TDSSA in appendix one and two. As that was a mandatory document, it came to the Executive Committee for approval. The changes were highlighted in the members' documents and involved the World Underwater Federation and the IPC. The proposal was there for approval and would be effective immediately.

DECISION

Proposed TDSSA amendments approved.

10. Intelligence and investigations

THE CHAIRMAN stated that item 10 dealt with intelligence and investigations. There was an introductory paper and, under item 10.1, WADA had to put together a policy and a framework.

– 10.1 Investigations policy and framework

MR SIEVEKING said that the Legal Department had been asked to draft a policy in cooperation with the Intelligence and Investigations Department to outline how the Investigations and Intelligence Department would perform its work and conduct investigations. What was contained in the policy applied to all the work to be done by Mr Younger and his team. The most important part of the policy related to the independence given to Mr Younger and his team; they could run the investigations how they wanted, so the independence from the rest of WADA required some safeguards and external control. The policy encompassed different areas: the investigation principles and processes, the independence, finance, legal aspects and also the storage of evidence. In relation to control, the idea was to appoint an independent supervisor who would run a yearly audit of the Investigations and Intelligence Department and would provide a report to the Executive Committee for approval. The outcome of the report would be made public on the WADA website. It was also important to underline that the independent supervisor might also conduct additional audits if considered necessary.

MR GODKIN said that he very much supported the development of the investigations policy and thought that he understood the key objective, which was in particular the placement and operation of the Investigations and Intelligence Department within WADA, and so Oceania had no concerns about what was contained in the report. It did, however, have concerns about what was not contained in the report and, certainly from some of the NADOs that were quite active in investigations, there was quite a lot of interest in how the department in particular would be undertaking its scope of work and how it would integrate that work with the NADOs, whether it was focused only on an international or a national level, and how that would work with the laws of the countries involved, whether it would be locally focused, and so on. There was a whole range of issues in relation to the conduct of investigations that were not addressed within the particular policy. That might be considered outside of scope but, notwithstanding, those were real issues and concerns for many people who were very active in investigations in the anti-doping world. He would like to see that redressed in some way. That was some of the feedback that there had been during the process.

THE CHAIRMAN asked Mr Younger to deal with the specific point that Mr Godkin had made.

MR YOUNGER responded that a really important part of the investigations policy had been raised by Mr Godkin. The policy focused only on the internal procedure; nevertheless, it was also important to have a big network. Thus far, there was already a small community of NADOs, including WADA, which met once a year, and they were discussing the strategy of investigations. Australia was part of it. They would be meeting the following week in Lyons at Interpol, and the important thing for him was to ensure that all the NADOs and IFs were part of that discussion on how to work together in the future, because it was very important to have partners and investigators who were experienced and could help in global investigations. That would be one of the topics discussed the following week.

DECISION

Proposed investigations policy and framework to be recommended for Foundation Board approval.

10.1.1 Independent Supervisor

THE CHAIRMAN referred to the specific item on the appointment of the independent supervisor.

MR SIEVEKING said that, in accordance with article 8 of the policy, the independent supervisor would be appointed for a period of three years, renewable for one subsequent three-year term. There was a proposal for recommendation: Mr Jacques Antenen, whose curriculum vitae was attached. WADA had been looking for somebody with all the qualifications detailed in article eight of the policy. Mr Antenen was a Swiss lawyer and had extensive experience in law enforcement and criminal prosecution. He also had experience in anti-doping and sport law as a member of disciplinary committees and ethics committees of international sport federations and, in addition, he was able to work in multiple languages. Most importantly of all, he was available.

THE CHAIRMAN thanked Mr Sieveking.

PROFESSOR ERDENER said that the Olympic Movement supported the appointment, but would appreciate some clarification on the process, especially for future appointments.

MR SIEVEKING said that he had seen the comments, and he agreed that the process could be better defined for the future. WADA had been in a bit of a rush that time, but he fully agreed that a process should be in place for the next time.

THE DIRECTOR GENERAL clarified that the candidate had been picked because he was a good candidate. In the future, WADA would bring names to the Executive Committee to make a decision. WADA had not had many candidates who met the requirements that time, but there would be three years to think about other names.

DECISION

Proposed independent supervisor to be recommended for Foundation Board approval.

– **10.2 Speak Up! programme update**

MR YOUNGER informed the members about the Speak Up! programme. There had been some reservations about the use of the term 'whistleblower', hence the choice of 'Speak Up'. There were two main secure communication channels to his department: the WADA website and the application, both of which were encrypted and externally administered, so there was no access to the system. He would show the members a short demo on how to use the application the following day. It was very easy to use. It might be the reason for which it had been so successful from the very start. It had started on 9 March and had been in operation over the past two months, during which time WADA had received around 60 cases. That was a huge amount. That also meant that WADA had taken the right step and the application was accepted, because half of the cases had been reported through the website and half through the application. Doping and corruption cases had been reported, and some cases that were not related to doping had been reported and referred to local authorities such as the police to follow up on. What was happening was that every message that came through the Speak Up! programme went through an internal procedure, meaning that every case was registered, and the source and information were evaluated, in terms of whether they were valid and good to share or should be investigated further; then, based on that first evaluation, there was an internal decision matrix, because WADA could not take on every case, so the matrix, which was part of the investigation policy, showed where WADA's Intelligence and Investigations Department should investigate or whether it could be forwarded to the IFs or NADOs. For the latter, WADA had created a transmission form, so the NADOs or IFs would get a report with all the information, if WADA had the consent of the informant, and that was very important, as WADA could not forward anything without consent, although it could generalise information. If the source was not reported, it meant that the informant had not answered the request or had said that they did not want to share.

Since he had taken on the position and started registering all reported allegations, WADA had 150 cases pending in the department and, as the members were aware, the team had been complete since April, and the last person had arrived in April and had been sent on a mission a week later. With the small team that WADA had, comprising two teams, one in Lausanne and one in Montreal, they ran one long-term project, six sophisticated cases and one global operation, and he could not go into more detail as they were still ongoing, although he would be happy to report once they were finished. The members might be interested in the fact that, with current resources at WADA, it would be possible to follow up on around 12% of all cases but no more. That was already over the limit that the department could usually deal with. What happened with the rest? Several were on hold, as they were not critical time-wise. Since March, WADA had shared around 30 cases with partners, NADOs or IFs, and had helped some investigate.

One of the crucial parts of the investigation was establishing a strong network and perhaps a task force if there was a comprehensive investigation, as the Chairman had said, to keep costs as low as possible. Perhaps first the NADOs and investigators would be asked to work with WADA, and WADA would perhaps have a coordinating role but would outsource the intelligence and investigations work to its partners. In that respect, as he had already mentioned, there would be a strategy meeting the following week.

The other part that the department was managing was whistleblowers, and he had separated that task in his department to avoid conflict for investigators. If they had very committed teams, they wanted success. If they were to manage whistleblowers, there might be a conflict because, for the manager of a whistleblower, the first task was to protect the whistleblower. The investigator did not know who the informant was (they would get a report and could work with that report), but the manager of the whistleblower, who was currently him because of limited resources, managed all informants and whistleblowers, and another person had access to the Speak Up! programme and nobody else. To really make sure that everything was separate, there was separate storage for the whistleblowers' identity, so nobody could have access, and not even Fancy Bear would manage to get the names, but there were limited resources, and he was the only one and it was quite time-consuming. He had to turn off his phone during the night because it was constantly beeping. He

could not really manage all the informants who would be ready to work with WADA, and it would be important to have somebody help him manage the informants in the future.

WADA would sign a memorandum of understanding with FairSport, to encourage whistleblowers to come forward. Their role was pre-investigation; so, if they had an informant or whistleblower, they could forward that person to WADA and WADA would be solely responsible for that person. The second role was post-investigation, and so, if WADA had finished its investigation and the informant or whistleblower needed financial help or relocation help, WADA could forward the information to FairSport, only of course if the whistleblower gave their consent.

MR RYAN thanked Mr Younger for his report. He had a request, and he knew it was early days and WADA was feeling its way forward with it, but the IFs in most cases did not have any capacity to follow up when anything was forwarded to them. For example, the extreme in his world was the Canoe/Kayak Federation or the Golf Federation, which had five employees in total; so, when something was forwarded to them, they had absolutely no idea what to do next with it. Tennis, on the contrary, had about 12 full-time members of staff in its integrity unit, mostly former police officers, and they could act. He would like WADA to develop a very serious vetting process about what cases from the programme were then forwarded to an IF or indeed any other stakeholders. It could not be that every time something came in that was not of interest to WADA it could automatically just be forwarded, because IFs, by and large, would not have the capacity to follow up. He would give a real-life example, and he hesitated to do that because the representative of the country concerned was on his left and he knew that he had a personal interest in the sport concerned. One of Mr Younger's quite famous reports from an informant was that somebody who played golf in Australia had noticed as he went around the golf courses that an awful lot of Australians were drinking beer before playing and should be investigated, and that had ended up with the Golf Federation. He asked that Mr Younger forward only something that looked credible.

The representative from Australia confirmed that it was a problem!

THE CHAIRMAN joked that clearly in Australia it was a very artisan problem and the rest of the world would drink Scotch.

MR YOUNGER assured Mr Ryan that, if he were to spend a week in the department, he would see similar cases every day. There had been a case involving a fly-fisher who smoked marijuana. The problem was evaluating such messages in the internal process; the department could decide not to forward it, but he thought that the IFs in particular should know what was addressed. Even if the IFs decided to do nothing, at least the department would know, because it concerned the sport federations.

As to what had been said about IF capacity, in every e-mail sent together with the transmission form, WADA asked the IFs, if they had any problems or needed any assistance in their investigations, to come back to WADA. Most of them did, and WADA helped by setting up interviews and questions, because WADA wanted to know which were the strong ones. ASADA never came back, for instance, but some came back and were very grateful when WADA helped. That would also help WADA to address training measures in the future. Even if something from WADA made the members laugh, it was also good to see the capacity, and he wanted the IFs to know about the kind of messages that WADA received, after which it would be up to them to decide whether or not to delete them.

MR PENGILLY noted that it was great to see the process happening and that thoughts and recommendations about the name of the programme had been taken on board, as well as the success the programme seemed to have had thus far. How would WADA be able to promote the success of the programme in the future? He presumed that, if it was seen and known as successful, the athletes and other support staff would be more likely to use it.

MR BAUMANN said that he was not sure how feasible it was, but SportAccord (GAISF) might be able to give some help to those that had fewer resources, so there might be a conversation about how that might be feasible. They might have the capacity to have that as a service for those federations that did not have the resources.

MR YOUNGER thanked Mr Pengilly. The plan was to see how the athletes and informants accepted the programme, and WADA also needed to have some success stories. It could be a success for him only if there were good results at the end. As soon as there were good cases to be presented, he would be happy to go to the Athlete Committee and say what had been an outcome of the programme, explain the process and the result. After the initial results, the department could go to the Athlete Committee and say what it had investigated and how the process was in place within WADA.

MR PENGILLY asked if that would have to be retained by the Athlete Committee or if the news could be made public.

MR YOUNGER responded that that was why he had to generalise without telling the members too much about the technique being used.

He thanked Mr Baumann for his comment. If somebody came back, perhaps he could refer them to Mr Baumann.

MR BAUMANN wanted to talk first about setting up the resource.

THE CHAIRMAN thanked Mr Younger for his report.

DECISION

Intelligence and investigations report noted.

11. Legal

– 11.1 Operación Puerto

THE CHAIRMAN noted that, unless there were any specific questions on the legal report, he would like to concentrate on item 11.1, which was a complex and potentially difficult issue, which was a decision that the Executive Committee would have to take on how it reacted to the information it had on the legendary case from Spain, Operación Puerto.

MR SIEVEKING noted that May 2017 marked the 375th birthday of Montreal and 11 years since the Puerto report. It was an important month. He had had the file on his desk since starting at WADA. There had been a decision giving WADA access to the blood bags the previous year, so it had immediately used the possibility. As everybody knew, it was totally time-barred, meaning that, wherever WADA had looked, under Spanish law, the Code and the UCI rules, it had been unable to find any solution or a way of sanctioning the athletes, who remained unidentified. WADA had seized 215 blood and plasma bags the previous year and taken a sample from each bag at the Barcelona laboratory, and the samples were currently secured at a WADA-accredited laboratory. There had been 116 blood samples; the rest had been plasma samples. WADA had performed DNA analysis on them, and found several bags belonging to the same people, so there had been 24 male and three female athletes concerned, making a total of 27 athletes. He had wanted to submit the information because there were several possibilities, but no athlete would ever be sanctioned because of the problem. Any complaints should be addressed to the Spanish justice system. The solutions proposed all had risks and costs attached, hence the need for the opinion of the Executive Committee.

In terms of results, if DNA matches were done and the 27 athletes were identified, the applicable IFs could use them for target testing, if the athlete were still competing, but he imagined that that would not be the case for most of them. The intelligence could also be used for investigation. It was important to note that something could be done in relation to three athlete support personnel, the people involved in the criminal case, except Dr Fuentes (because he had had no links with federations at the time), but Vicente Belda, Manolo Saiz and José Ignacio Labarta had. At the time the Puerto report had been filed by the Spanish police, the Spanish cycling federation had initiated disciplinary proceedings against those people. The proceedings had then been suspended because of the instigation of the criminal proceedings and, under Spanish law, such proceedings could not run in parallel. WADA was liaising with the UCI and checking the situation with the Spanish counsel, but it was likely that the proceedings could be reinstated and it would be possible to hand down a sanction against the three athlete support personnel. Nothing could be done with the athletes. WADA had consulted the Spanish counsel, the external counsel on data protection and the Swiss counsel and, even if WADA identified the athletes, it could never make the names public, because it would be a high risk in terms of litigation for WADA if the names were made public, and WADA did not have the money to fight that. Whatever happened, it was an important point to take into consideration. He was the first one who was disappointed, but there was no legal option there.

WADA had the right to perform the DNA analysis and, based on the intelligence available, look for samples stored or test the athletes to make matches and identify them. That was the first option and, as indicated in the report, it fell within the scope of the Code. The conclusion was that WADA could do that but, again and for the reasons explained, there were risks because, if WADA identified and then provide the names to the IFs, leaks sometimes occurred, and WADA would be at the origin of identifying the name. It was impossible to be 100% sure that WADA would avoid litigation. That was the first option, but it would be costly, involving DNA analysis, target tests, a review of intelligence, and seeing who the likely owners of the blood bags were.

The other option was that WADA make available to the IFs the DNA codes for the 27 athletes so that the IFs could use the intelligence and information to do what they deemed appropriate.

Another option was obviously to do nothing else. That would require some work in terms of communications. He would be happy to hear the views of the members.

MR DÍAZ thanked Mr Sieveking for his comments. He believed it was a very media-sensitive operation in terms of whatever decision the Executive Committee took that day. What was the real risk if WADA moved forward? It was a major doping scandal, probably the biggest in Europe before Russia. Would WADA say that it was going to stop because of the risks, or could WADA not find another way of having the names of the athletes? It was clear that there had been corruption, because the justice had kept the bags until the expiry of the statute of limitations. There were athletes who had just retired or were active, and he thought WADA should keep going to the end and find a way of making it public. It might not be possible to sanction them sport-wise, but it might be possible to have the names, and maybe one of those athletes would not be able to gain endorsements in the future, or they might not feature in a hall of fame, so there would be sanctions, moral or other, and he really thought WADA should somehow get to the bottom of this and not be seen in the media as just giving up.

MS BRUUSGAARD supported Mr Díaz and said that Europe urged WADA not to close the case before all the relevant information was obtained and shared among the relevant organisations. The information obtained could be used for intelligence purposes to provide a better understanding of similar cases in the future.

MS SCOTT echoed what Mr Díaz and Ms Bruusgaard had said and, on behalf of the athletes, asked for the case to be completed.

MR GODKIN noted that his mandate was also to support continuation but asked how realistic the exposure to litigation was if WADA was very careful to abide by its obligations and the Code and could demonstrate that; was it really engaging in great risk?

THE CHAIRMAN said that it was a really difficult one. He asked Mr Niggli to repeat what he had discussed the other day before the members took a final decision.

MR NIGGLI stated that the bottom line for WADA was to justify and have a rationale for what it was going to do. He fully understood what Mr Díaz had said, and that WADA should get to the bottom of things but, knowing that the athletes could not be prosecuted, how could WADA justify potentially making the names public and actually damaging the reputation of the athletes when the statute of limitations had expired? The best justification WADA currently had for going forward was the fact that there were three athlete support personnel for whom the statute of limitations had not been reached and, if some of the athletes had been clients, that would have an impact on cases that had not yet reached the statute of limitations. That was a good reason in his view for going forward. He did not know how many would be found. There were DNA codes and WADA would have to do analysis on stored samples or take samples and see if it could get a match. There was some intelligence and WADA might get more from other people, but there was no guarantee.

Having said that, WADA had to be realistic. Once WADA knew the names, the names would come out. If WADA shared those names with NADOs or IFs, the names would come out. Then it would be necessary to take into account the reaction of the athletes; depending on the circumstances, WADA might have to defend cases. It did not mean that WADA would be condemned, but just defending the cases was a liability for the agency. WADA would have to decide. Everybody wanted to get to the bottom of things.

MR GODKIN said that that morning there had been a recommendation on the Independent Testing Authority, with a vetting process and a right of refusal by the Executive Committee for people who might be unsuitable. That was the sort of detail that might inform those decisions. It might be unfortunate for WADA to have a senior member of its Athlete Committee with a difficult past, for example. He was just saying that there were issues beyond the statute of limitations and the anti-doping rule violation aspects that came into play, and there were other risks to weigh up against the litigation risks.

MR RYAN said that, off the top of his head, if WADA followed Ms Bruusgaard's view to its conclusion, if WADA did not act, it was saying that anybody who might have waited until the statute of limitations had passed, had won. It sent quite a powerful message that, if somebody was going to try that tactic, WADA was not going to give up.

THE CHAIRMAN noted that it was one of those situations in which one could be wrong both ways. In general terms, he would always be in favour of action and doing something rather than sitting

back and saying that WADA would not do anything. But if that did not work properly, WADA would have to sit back and wait for the potential financial blow that would land on the agency. The trouble was that WADA simply could not quantify that, but his experience of athletes recently, when somebody in the media had impugned their honesty and reputation, was that they were not slow in coming forward and there were a million lawyers out there who would love to act for them. That was the downside. The upside was to say that that had been the biggest doping scandal around at the time and WADA was being seen as walking away from doing something about it. It was a very narrow choice one way or the other. He supposed he ought to call for a vote on that, unless it was unanimous. He wanted the members to clearly understand the risks involved and the implications of the decision that they took. From Mr Baumann's legal experience with a big federation, was that a fair analysis?

MR BAUMANN confessed that he was not entirely sure what the recommendation was. Should WADA just move forward and try to figure out the situation? There might not be any risks in that case. It would potentially be simply a question of costs and that was that. Then WADA would have to come back and say what it had done and recommend what to do next.

MR NIGGLI added that, if WADA did that and got results, it would share them with the relevant IF and NADO, because he did not want it to remain a WADA secret, which would put WADA in a difficult situation. WADA would share it with the relevant people confidentially, but everybody knew what 'confidentially' meant.

THE CHAIRMAN said that his feeling was that the consensus was that WADA should be positive rather than negative, and respond in the limited way it could and move forward, acknowledging that risks existed. Were the members happy with that? Was anybody against the proposal? He thanked the members. It was a very complex and interesting situation and WADA would move forward.

DECISION

Proposed plan of action in relation to Operación Puerto approved.

12. Standards and harmonisation

– 12.1 2018 Pyeongchang Olympic Games Task Force update

MR RICKETTS informed the members that, on the back of the success of the pre-Rio testing and intelligence-gathering task force and in preparation for the Olympic Winter Games, the IOC had asked WADA to assist it in setting up a similar task force to the one put in place for Rio. The pre-Rio task force had consisted of six NADOs, whose role had been to undertake a gap analysis of top-ranked athletes in high-risk sports leading into the Olympic Games, and that had resulted in a number of recommendations made to the IFs and NADOs to test identified athletes, as well as the task force undertaking its own tests under the authority of WADA when such recommendations had not been followed up. The outcome had been 15 adverse analytical findings and 15 athletes prevented from competing in Rio, so it had been quite a success in terms of that aspect.

For the Olympic Winter Games, a select group of NADOs had shown interest in participating, and an introductory meeting had taken place, as well as a separate meeting with the winter IFs to sell them the idea and process, and they had all seemed in agreement with that. The IOC and WADA would also be members of the task force, and the IOC had appointed the Doping Free Sport Unit as the secretariat, to be responsible for the majority of administration of that. WADA was close to finalising a draft agreement together with the IOC and DFSU and, the following day, would have a meeting to further progress that. WADA would then reach out to the winter IFs and NADOs to outline the role of the task force and the assistance that would be needed moving forward. The assistance would be to ensure that a minimum level of testing took place on the athlete based on the test plans of the IFs and NADOs and also the gap analysis that the task force would undertake, and recommendations would be made to the IFs and NADOs where necessary. He was confident that the work of the task force would provide an additional layer of protection for clean athletes and he looked forward to the NADOs' and IFs' support moving forward.

MR PENGILLY said that, obviously, the pre-Rio programme had been fairly successful, but the Independent Observer report had highlighted some gaps within that, and the question was how WADA would avoid a similar thing happening in the run-up to Pyeongchang.

MR RICKETTS replied that he thought that the gaps to which Mr Pengilly was referring were the recommendations made by the task force that had not been followed up by the IFs or the NADOs. The task force had undertaken some testing where that had not occurred. Moving forward, WADA would be incorporating those, working more closely with the IFs and the NADOs to ensure that they

did those tests. If they did not respond or participate, that would be fed into the compliance programme that WADA was running.

THE CHAIRMAN asked if the members were happy that WADA undertake the exercise that it had been asked to do by the IOC. If WADA did, he made a plea to make sure that that time it worked and worked highly efficiently in the run-up to Pyeongchang, because WADA really could not slip up, and he was happy that the DFSU in Lausanne would act as the secretariat. WADA really had to make sure that, by the time it got to Pyeongchang, it had done it as well as possible.

DECISION

Pyeongchang Olympic Games Task Force update noted.

13. European Regional Office/International Federations

– 13.1 2017 annual Anti-Doping Symposium report

THE CHAIRMAN said that Mr Cohen was the Director of the Lausanne office. His report was in the members' files and he looked forward to hearing from him. He would concentrate on the huge symposium that WADA ran in March every year with well over 700 participants.

MR COHEN said that most of the members had attended the symposium, so he would not spend much time on that report. The members had the outcomes of most of the discussions held during the symposium. Everybody agreed that it had been quite a successful event. One of the highlights was that the event had been held in a new venue, the state-of-the-art SwissTech Convention Center, which provided much more space than the previous venue at the Palais de Beaulieu. Another highlight had been the record attendance. There had been around 750 people, some 200 more than the previous year, which was quite encouraging. It was the first time the governments had been invited, and there had been approximately 50 government representatives, which was also quite encouraging. Hopefully, the following year, there would be even more, and he also turned to the Council of Europe, since it was in a position to gather close to 50 member states, to encourage them to attend, and WADA would do some more work to make sure that more governments attended in the future. It had also attracted the largest media coverage, with close to 100 media representatives attending the event. He thought that the attendance of the Russian sport minister had been the reason for such media presence. Ms Scott had mentioned athlete engagement, and it had been very encouraging to see so many athletes attending. As at previous events, the symposium was increasingly an opportunity for other organisations such as INADO, the laboratories and the pre-Games task force to meet in the framework of the symposium, and WADA should promote that even more and make sure that all anti-doping stakeholders used the opportunity to come to Lausanne, attend the symposium and meet up.

He would not go into the substance, but said that day one had been marked by the presence of Professor McLaren and the Russian minister. There had been very interesting sessions on the whistleblower programme. Ms Helleland had launched the athlete Play True campaign, and the idea of the charter for athlete rights had been raised during one of the sessions. There had been other interesting sessions on partnerships among ADOs and compliance.

WADA had managed to stay on budget despite the huge increase in participants. For the following year, the Swiss Confederation had also agreed to make a contribution of 20,000 Swiss francs, so WADA would have contributions from the City of Lausanne, the Canton de Vaud and the Swiss Confederation amounting to 60,000 Swiss francs out of approximately 300,000 budgeted for the symposium, so 20% would be covered by the Swiss authorities. Any other authorities around the table wishing to contribute would be most welcome.

WADA had already started the work for the following year. The dates would be 21-23 March; the symposium had been slightly postponed to accommodate people attending the Paralympic Games. He thanked everybody around the table for participating directly or indirectly, and thanked Mr Donzé, as the symposium was his baby. He also thanked the staff for their support.

MR BAUMANN said that he did not know about contributions, but wanted to make two points. He thought that the tool was an extremely valuable one and it brought everybody together, providing an opportunity for exchange. If WADA did it in the heart of the Olympic Movement, maybe it would be possible to figure out a way of avoiding controversy. WADA had been at the peak of controversy at some point, and was going back down the valley again. WADA should try to figure out a way of showing unity on seating in the room between public authorities and the Olympic Movement stakeholders or the Foundation Board members present.

THE CHAIRMAN observed that it was a particularly Swiss situation, climbing the mountain and then going down into the valley. The event had been terrific and he congratulated Mr Cohen. WADA would take on board the observations made and make it better the following year.

DECISION

2017 annual Anti-Doping Symposium report noted.

14. Any other business

15. Future meetings

THE CHAIRMAN thanked everybody for their contribution to the Executive Committee meeting. A number of serious things had been dealt with responsibly and well. The Foundation Board meeting would be taking place the following day, and there would be decisions to make. He thanked the interpreters and technology experts, as well as WADA's staff.

One thing that occurred to him was that the papers were of a very high quality. People could be rather disconcerted when they saw that there were 658 pages, although quite a lot of that was the minutes of previous meetings, be they Executive Committee or Foundation Board. He suggested sending the minutes separately, earlier in advance, for the members could read, because they had to be approved at the meetings. When they came to the serious bit of the next meeting, however, they would not have so much to read. There was a real issue, because those members who travelled a lot were used to saying that they would read the material on the plane, but he did not think that the journeys were long enough, no matter where they were in the world, to read all the material. If that helped, WADA might try to do that.

That night was a big night in Montreal. It was the 375th birthday of the foundation of Montreal, and he expected fireworks and who knew what else.

DECISION

Executive Committee – 24 September 2017, Paris, France;
Executive Committee – 15 November 2017, Seoul, Republic of Korea;
Foundation Board – 16 November 2017, Seoul, Republic of Korea;
Executive Committee – 16 May 2018, Montreal, Canada;
Foundation Board – 17 May 2018, Montreal, Canada.

The meeting adjourned at 4.00 p.m.

FOR APPROVAL

SIR CRAIG REEDIE
PRESIDENT AND CHAIRMAN OF WADA