

Minutes of the WADA Executive Committee Meeting 14 November 2018, Baku, Azerbaijan

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. It was with a heavy heart that the members had to start the meeting by remembering Mr Baumann who, as they knew, had died suddenly on 14 October whilst attending the Youth Olympic Games in Buenos Aires. He hoped to speak for all of the members when he said that Mr Baumann had been much admired and respected. He had been a man of great integrity, an outstanding young sports administrator and a man with a very bright future. He wished to formally recognise his immense contribution to sport and his commitment to WADA and anti-doping. It was without question a great loss to all the global communities. On behalf of WADA, he had extended heartfelt condolences to Mr Baumann's family, friends and colleagues, and he asked everybody to stand for a minute's silence.

Turning to attendance, Mr Cosgrove was deputising for his minister, Mr Robertson. He welcomed back Ms Ukishima from Japan, who had been a member a number of years ago. In light of the passing of Mr Baumann, the replacement for that meeting and for the remainder of that calendar year was Mr Lalovic, who was present that morning.

The following members attended the meeting: Sir Craig Reddie, President and Chairman of WADA; Ms Linda Hofstad Helleland, Vice-President of WADA, Minister of Children and Equality, Norway; Mr Edwin Moses, Chairman of the Education Committee, Chairman, Board of Directors, USADA; Ms Beckie Scott, Chairman of the WADA Athlete Committee; Mr Francesco Ricci Bitti, Chairman of the WADA Finance and Administration Committee, President of ASOIF; Professor Ugur Erdener, Chairman of the Health, Medical and Research Committee, IOC Vice President, President of World Archery; Mr Jiri Kejval, President, National Olympic Committee, Czech Republic; Mr Nenad Lalovic, GAISF Council Member, IOC Member, President, UWW; Ms Danka Barteková, IOC Member and Member of the IOC Athletes' Commission; Mr Witold Bańka, Minister of Sport and Tourism, Poland; Ms Amira El Fadil, Commissioner for Social Affairs, African Union, Sudan; Mr Marcos Díaz, CADE President, Dominican Republic; Ms Tomoko Ukishima, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Cosgrove, representing Mr Grant Robertson, Minister of Sport and Recreation, New Zealand; Mr Jonathan Taylor, Chairman of the WADA Compliance Review Committee, Partner, Bird & Bird LLP; Mr Olivier Niggli, Director General, WADA; Ms Catherine MacLean, Communications Director, WADA; Dr Olivier Rabin, Science and International Partnerships Director, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr René Bouchard, Government Relations Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Mr Sebastien Gillot, Director, WADA European Office and IF Relations; 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: Rune Andersen, Jan Aage Fjörtoft, Maren Aasan, Shin Asakawa, Satoshi Asidate, Fukuei Saito, Kaori Hoshi, Andrew Godkin, Abhinav Bindra, Nick Paterson, Ben Sandford, Chiel Warners, Jean-Christophe Rolland, Viktoria Slavkova, Sergey Khrychikov, Irene Kitsou-Milonas, Joe Van Ryn, Frank Hans Dannenberg Castellanos, Michael Vesper, Hannah Grossenbacher, Richard Budgett, Andrew Ryan, Gabriella Battaini Dragoni, Hubert Dziudzik, Joanna Zukowska-Easton, An Vermeersch and Rafal Piechota.

THE CHAIRMAN remarked that when Mr Baumann had died, there had been many tributes, one of which had come from a young journalist, who had said that not only did people come together in times of grief, but a death as unexpected as Mr Baumann's also put squabbling and fighting into perspective. Mr Baumann might have been among those seeking Russian reinstatement, a decision that had sparked

a response bordering on revolution, but even those at odds with his views had lined up to pay their respects. When a man just 51 years of age passed away so suddenly, one began to realise that there were more important things in life than bickering and political point-scoring. If Mr Baumann's empty chair at the Executive Committee and Foundation Board meetings in Baku did not hammer that home to those who had been at the heart of the dispute, then nothing would. On that rather sombre note, he had to address the fact that the meetings had been excessively combative of late. It was incumbent upon all to ensure that their words and tone were measured and respectful and constructively focused on the WADA mission. Whilst the members might not always agree with one another, respect and collegiality should prevail to support the mission of WADA. In that respect, he wished to ensure that all of the participants used a respectful tone when addressing one another.

Since the previous meeting in the Seychelles, WADA had also been the target of an organised media campaign against a decision taken democratically concerning RUSADA's conditional reinstatement. The campaign was targeting the agency, its stakeholders, WADA leadership and him personally and, in the end, it served only to weaken the global anti-doping system, which ultimately benefited those who wished to cheat. Regrettably, even some Executive Committee members and chairs of standing committees were actively supporting it via traditional and/or social media and other means. That was simply not acceptable. The members should respect their colleagues' views. Collegiality and the interests of the WADA mission simply had to prevail.

One of the campaign's most recent actions had been an emergency anti-doping summit held on 31 October at the White House in Washington DC. It had been focused on the reform of WADA. Coincidentally, it had been staged on the eve of WADA's pre-planned media symposium in London on 1 November. Ironically, at a time when WADA was being asked for greater transparency and openness, the meeting had gathered only a limited number of countries and a select number of NADOs and athletes. Of course, those invited had been against the Executive Committee's decision regarding RUSADA. There had been clearly no interest in having different views represented. He had not been invited to the meeting, nor had he known about it. Rather, he had been politely informed by the Vice-President that she would be attending. He had made it clear to the Vice-President that he was not giving her the mandate to represent WADA at that meeting, and he also understood that the Vice-President had not had a mandate from the WADA public authorities to attend the meeting as their representative. The members had been provided with the relevant exchange of correspondence.

Under the WADA statutes, members had duties to the agency and to their fellow members. Those duties were based on ethical principles and needed to ensure an orderly implementation of decisions taken in a democratic fashion at the agency's Executive Committee and Foundation Board meetings. That was extremely important, and non-compliance with those principles damaged the way in which the organisation functioned. In practice, that meant that, once a decision had been democratically taken after a full and open debate, members who did not agree with the decision had to be prepared and willing to objectively explain the rationale on which the decision had been based. If they could not support it, they should refrain from publicly criticising the organisation or other colleagues for having supported it. He therefore asked the members to take good note that such situations could not and should not continue. Once a decision had been taken by a majority of members, members should either support it or at least remain publicly silent. If they could not do either, they should take their distance from the organisation. If they chose not to do that, measures would have to be taken, in the same way as they would be in relation to the leaking of documents, which would be addressed by Mr Younger later that day. He was sorry to have to start the meeting in that way, but it was important that he do so, and he threw the issue open for discussion before moving on to the rest of the business. Were there any observations?

MS EL FADIL gave her heartfelt condolences for the loss of Mr Baumann and expressed the wish that his soul rest in peace. Everybody agreed that they wanted WADA to be strong and to continue to be strong and to have that strength and unity, and the members needed to harmonise their positions and respect the principles of the organisation. The issues had been discussed thoroughly at the public authorities meetings and the public authorities had heard the explanation from the Vice-President about her attendance of the meeting organised by the White House and USADA, and they recommended that, in the future, the public authorities members of the Executive Committee and Foundation Board be informed as to such matters and consultations and that a common position be developed. That was the public authorities' position. It was a lesson learned and the public authorities apologised for any inconvenience.

MR COSGROVE joined the other members in acknowledging Mr Baumann and his huge contribution. His heart went out to Mr Baumann's spouse and his family. He took on board the comments made and, as a general principle, he thought that they were fair. He wished to make one point: the organisation was not an organisation based on cabinet collective responsibility, and by that he meant that, in a Westminster system, everybody signed up whether they disagreed or not. From a public authorities point of view, he pointed out that the countries were sovereign states and (he could speak only for the government he represented) his minister would choose to make statements as was his right on the position of his government and, as far as he read the statutes, that was a human right. Equally, he agreed that the members should be measured in their statements and express them with decorum, and it was regrettable that the Chairman had been attacked personally. As a former politician, he made the observation that there was often a difference between what a journalist wrote or broadcast and what happened at a meeting. The members had to be mindful that there was a perception of WADA in terms of how it dealt with issues as an Executive Committee but also how the leadership dealt with issues, that it was perceived, rightly or wrongly, as an organisation that was closed, did not allow freedom of expression (which was a basic human right) and did not allow dissent. It was a democratic right for people to take positions and argue those positions. He did agree with Mr Reddie that that should be done with civility.

MR BAŇKA expressed his feeling that the death of Mr Baumann was a big loss. As for WADA, he thought that it was nearing a critical point and it was a good moment to say that it was necessary to think about the future, the principles, the values, why the members were there, what their objective was, and more than ever they should ensure unity and respect. All of the stakeholders should build bridges, because it was about the future of sport. He urged his friends to think about that.

PROFESSOR ERDENER said that he was still very sad about the great loss of his dear friend Mr Baumann. He fully agreed with the Chairman about what he had said. It was really necessary to keep prestige, dignity and everything for the important organisation.

MR DÍAZ also wished to offer his condolences in relation to the sudden departure of Mr Baumann. He had arrived with huge concerns about the media attacks recently received by WADA. He had never worried personally, because he felt a part of WADA and, when something like that happened, politicians were very used to opposition, as it was something they dealt with publicly almost every day, but WADA was fighting doping and the members were not fighting against themselves, so the members had to place the values and interests of the organisation above any personal interest. The members could talk and discuss and level constructive criticism, but they had to be careful to be united against opposition from the outside. He believed in WADA and strongly supported working together for the benefit of the organisation.

MS BARTEKOVÁ stated that the athletes also missed Mr Baumann, who would be sorely missed by WADA. She shared the athletes' concerns. She was not saying anything new when she said that the athletes did not currently trust the anti-doping system. They had serious concerns about lack of trust. It was in the best interest of the athlete community not to fight, to show more respect and start working together to ensure that WADA was working well and was much stronger.

MR MOSES expressed his condolences to the family of Mr Baumann. He had spoken a great deal with Mr Baumann and whom he had really liked, although they had had some disagreements. His organisation had organised the meeting at the White House and, contrary to what had been reported in the press, the reason for the meeting was that he was accountable to the Office of National Drug Control Policy because that was where USADA's funding came from. After seeing things play out subsequent to the decision in relation to Russia and reading press clippings and being in meetings, he had to be accountable to them. USADA had organised the meeting for which it had paid a lot of money outside its budget, and it had been its prerogative to invite who it had wanted to the meeting. It had not been open because it had been its meeting with its clients and its funder. Quite a few people had been invited. Others had not accepted the invitations, but that had been USADA's play to make because it was its funding. The White House had wanted to know what the heck was going on in relation to Russia. USADA had conducted a meeting under the right conditions. The conditions had been up to USADA, which was an independent organisation that did not have to be accountable to WADA or anybody else because it was a non-profit foundation and an extension of the US Government to handle the mandate of drug testing in the USA, so it had been its prerogative to invite who it wanted. It had not been an open, WADA meeting; it had been its meeting to conduct. He wanted to make that clear to everybody present.

THE CHAIRMAN thanked the speakers. He would not get into details about the meetings in Washington or whatever; he just reminded the members of paragraph 8 of the WADA statutes, which read: *The Foundation Board will see to it that its members, the members of the Executive Committee and any other person acting on behalf of the foundation in whatever capacity respect the fundamental principles of ethics, in particular those with regard to independence, dignity, integrity and impartiality.* The people who had written that seemed to him to have been pretty wise. He thanked the members for the useful discussion.

– **1.1 Disclosures of conflicts of interest**

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

2. Minutes of the previous meeting on 20 September 2018 in Seychelles

THE CHAIRMAN drew the members' attention to the minutes of the previous meeting. They had been distributed to the members some days previously. Were they a full record of the meeting? He had been made aware of one small amendment, which was a correction to what had been said by Mr Mizuochi of Japan. He had said that: *the Government of Japan's hope in general was for more athlete participation from the greatest number of countries at the Tokyo 2020 Olympic Games. From the viewpoint of respecting the recommendations of the Compliance Review Committee, he approved the recommendations made and supported the reinstatement of RUSADA.* Subject to that amendment, were the members happy with the minutes?

DECISION

Minutes of the meeting of the Executive Committee
on 20 September 2018 approved.

3. Director General's report

THE DIRECTOR GENERAL said that it would come as no surprise when he said that, from a management and staff point of view, the past few weeks had been neither particularly easy nor pleasant, and he had to make the point as the Director General that, within WADA, there were over a hundred very committed employees who were very troubled by the kind of media campaigns that they had read about in the past few weeks. At the very least, they had certainly been discouraged and felt it unfair, and everybody had to realise, in particular when he read claims that the whole purpose was to have a stronger WADA, currently what was going on was weakening the organisation and was taking the focus away from the real anti-doping issues to deal with the distractions.

On a more positive note, despite what had been faced over the past two months, there had been a lot of positive events. The members would hear later in the legal report that WADA had won the Bruyneel case (in relation to the manager of Lance Armstrong), a long case involving a lengthy fight, and he was very pleased with the outcome of the decision, which would never have occurred without WADA's involvement.

WADA had successfully organised a symposium on education in Beijing, and he thanked the Chinese friends for that. The feedback on the symposium had been excellent, the President had attended it, and it had been very constructive and very helpful in terms of going forward in education, which was so important with respect to what WADA was doing.

Another very important symposium had just taken place in Italy on the Athlete Biological Passport, and the members would hear about it later. It had been a very successful scientific meeting, and the feedback from the IFs, NADOs and laboratories had been very positive, showing that, at the level of operation, people were able to work very well together.

WADA had progressed its governance work and that would be discussed later on at length. It had not been easy in the time available between the two meetings. There had been a second meeting in October which had resulted in what the members currently had before them, and he was very pleased to be able to present a series of recommendations.

The work on the Code and standards continued, and a high volume of work was being done in that area, and he emphasised the fact that WADA had a very dedicated team of people working hard on very

important matters and a lot of things were progressing. He hoped that it would be possible to focus on those matters and further progress them.

From his report, he focused on a couple of points. First, on Russia, after the meeting in the Seychelles, WADA had notified the Russian authorities and RUSADA as to the decision taken there and had immediately organised the RUSADA audit, which was to take place in December. WADA had been liaising with the Russian authorities on organising the mission of independent experts to collect the data. That was ongoing, and there was no date set as yet, but he hoped that it would be set shortly.

He would ask Mr Younger to report on the leaks and International Centre for Sport Security (ICSS) follow-up following the previous meeting, and he would deal personally with the strategic plan. The last issue, which was part of his report, on inappropriate behaviour at the Executive Committee would be dealt with at the end of the section after questions on the overall report.

DECISION

Director General's report noted.

– 3.1 Strategic plan approach

On the strategic plan, it had been agreed that WADA would look into starting the exercise and engaging a consulting firm to help with the strategic plan and also performing a gap analysis, having a discussion with all the stakeholders and identifying what was needed, and risk analysis of the work being done. WADA had been in discussion with the Boston Consulting Group, its primary choice, since it had been involved previously with WADA and therefore had the necessary background knowledge. It had not been possible to reach an agreement with BCG, which was a very high-quality consulting firm, because its proposal was not in line with WADA's budget. Discussions were still ongoing, but WADA would have to decide on a few different possible options. He doubted that BCG would do much more than it had already done. The other option would be to have a combination of BCG and another consulting firm to do more of the groundwork at a cheaper rate, or potentially look for another provider. He did not yet have an answer; but, as soon as he had some concrete proposals with accompanying figures, he would come back to the Executive Committee and submit them. That was the situation and he would try to move it forward for the next meeting.

DECISION

Strategic plan approach noted.

– 3.2 Documentation/information leaks – investigation results

MR YOUNGER said that he had had to look at four leaks. On 15 September 2018, the BBC had published an article about the Russia doping ban and WADA's suggested approach to bring an end to the Russia ban. There had been one leak, the letter of 22 June from the WADA Director General to the Russian minister for sport. The second leak had been on 13 September, the response from the minister for sport in Russia, although the letter itself had not been leaked but only a reference to the letter and its content. On 19 September, leak number three had occurred: the letter of 30 May from the Director General to the Russian minister for sport, with the article on the Russian doping ban and WADA helping RUSADA to lift the ban. Leak number four had been on 20 September 2018 during the Executive Committee meeting in the Seychelles. A few minutes after the decision on the reinstatement of RUSADA, between 2:38 and 2:40 p.m., it had been published on the Russian-sponsored news agency website Sputnik, with the quote *WADA votes to reinstate RUSADA's anti-doping agency... Earlier in the day, the source told Sputnik that the majority of the WADA Executive Committee members had backed the reinstatement of RUSADA.*

The results found out during the investigation had been for leaks one and three, the letters. All the documents had been sent to the Executive Committee members to their personal or work e-mail accounts. There had been no tracking system in place for the documents and, even with a tracking system for leak number two, for which only the content had been leaked, it would not have been traceable. He had had no power to get the source by the BBC, and the documents had been shared via the WADA Sharefile system, and there was no download tracking system in place, so it had been impossible to work out all who had downloaded the documents. Even if records of the downloaded files had been available, viewers could have taken photos and forwarded the pictures via a private e-mail account. An internal investigation of the IT system had been carried out, but there had been nothing

suspicious, so everything had been in order. WADA had no law enforcement power to seize equipment or look into Executive Committee member e-mail accounts.

For leak number four, there had been four hypotheses, the first of which was that the information had been leaked by an outside entity via the headset. He had done some tests in the Seychelles with the headset, so he had been able to hear the interpreter around 40 metres away from the meeting room, meaning that, standing at the hotel entrance, he had been able to listen to the conversation in the room. There had been 65 headsets, and they had not been personalised. The security staff had been tasked with ensuring that the headsets remained in the meeting room, but that task had been limited only to visual checks, so it could not be excluded that an outside entity had got hold of a headset and listened to the meeting all day. Hypothesis two was that a meeting participant or member of staff had left the room to report to the media or a third party. There had been three cameras at the meeting room, and the entrance had been clearly visible through the cameras. He had seen the footage, and nobody had left the room within five minutes during and after the process. Later on, it was difficult to say because there had been some technical problems with the footage, which had been jumping. It had not been possible to identify why the problem had occurred. He had wanted all of the footage, which would have made it easier to look at it differently; but, without an official police investigation and a court decision, the hotel manager had not been able to hand over the entire footage. Hypothesis three was that a participant had used communication devices (such as a phone or a laptop) in the room. The Wi-Fi in the room had been down from 12:30 to 4:00 p.m. The reason was that the service provider had been tasked with putting a new cable in the hotel and had damaged the old one, which was why the Wi-Fi had gone down. Regardless, there had been other service providers available in the room so, using roaming, it had been possible to send messages or pictures, or set up a hotspot to send e-mails out of the room. Therefore, even though the Wi-Fi had been down, it had been possible to send out messages, and messages could have been sent out from any device. It had not been possible to see with the cameras, which had focused more on the broader room than on the individual devices. Hypothesis four was that electronic listening devices had been installed in the meeting room in advance of or during the meeting or participants' electronic devices had been intercepted by an outside entity during the course of the meeting. When he had looked at the footage, he had seen a Russian media team of three people in the room between 7:30 and 7:45 a.m. before the WADA staff had come in. He had seen no obvious gestures by the media team in order to make the assumption that they had put something in place; they had been more interested in the room, but he could not rule out the fact that they might have put something in the room. They had been in the room when the interview with the President and the Director General had taken place at 6:45 p.m. He had searched the room for cameras and microphones, but there had been nothing there.

In conclusion, it had not been possible to thoroughly investigate due to a lack of power to gain access to all possible means. Nobody had approached him or his team in relation to the leaks and any indication as to the person who had been leaking. He recommended that WADA increase the level of security, but that would entail less comfort when dealing with documents, for instance, and the degree of counter measures should be proportional to the threat. He would come up with some proposals, but he highly recommended involving security experts in the process to ensure that, in the future, it would be safer to work with documents.

THE DIRECTOR GENERAL summarised that WADA did not know the answer.

MR YOUNGER concurred, from an investigation point of view.

THE DIRECTOR GENERAL said that the recommendation would be taken into account and WADA would work with Mr Younger and his team to see how to improve matters, which would be no simple thing.

MR COSGROVE noted that Mr Younger had indicated that he was not aware from an investigative point of view. Did that mean that he was aware from another point of view?

MR YOUNGER responded that he had just explained the different methods applied to investigate the matter to ensure that every possible leak was considered.

THE CHAIRMAN referred to the last item on the report, which was the point made by Ms Scott when she had written to him complaining of a situation that had arisen in the Seychelles. He thought that that should be dealt with properly. He prefaced the discussion by saying that he was sorry that Ms Scott had felt that way; but, as he had said earlier, it was incumbent upon all of the members to ensure that they

were respectful towards one another, and that was the place for discussion and debate. He hoped that it could be handled properly. He had been asked any number of times to comment on the situation and he had refused to do so before the media. The issue had been in the media, but it seemed to him to be entirely unfair to comment on it without actually having the opportunity to do it there. All the members had received documentation, and he asked Mr Sieveking to take the members through what had been done and they could discuss what might be done in the future.

MR SIEVEKING referred to the documents, in particular the letter sent on 8 October from Ms Scott to the Chairman and the Director General, a response from the Chairman to Ms Scott sent on 9 October, and a report from a WADA-mandated independent firm with expertise in prevention and management of harassment in the workplace, which Ms Scott had also had an opportunity to read. On 8 October, the Chairman and Director General had received a letter from Ms Scott advising them that there had been remarks and gestures directed towards her during the meeting from IOC and WADA Executive Committee members Messrs Ricci Bitti and Baumann that were both derisive and inappropriate. That same day or the day after, Ms Scott had used the term 'bullying' in an interview she had granted to the BBC. WADA had taken the matter very seriously, immediately requesting a transcript of the meeting discussion and mandating an independent firm to conduct a review. The firm, based in Montreal, specialised in organisational psychology and psychosocial intervention in the workplace. It offered services in relation to the prevention and management of harassment and discrimination in the workplace, and also conducted investigations into compliance as an independent third party. The firm had as clients international organisations, Canadian cities and municipalities, police services and so on. The firm had been provided with the audio recording and a full written transcript of the meeting with the mandate of determining if any bullying or belittling had occurred at the meeting in the Seychelles. The members had had an opportunity to review the report from the firm and read the conclusions, which were that there had been some uneasiness, discomfort and, at various moments, tense discussion between some members of the committee. It seemed that Ms Scott's harsh comments had triggered tension and a difficult dialogue, which had caused an attendee to respond to the comments she had made; however, the firm could not confirm that there had been bullying or belittling during the meeting, or that the exchanges during the meeting had the abusive characteristic required to constitute bullying. Finally, the firm had also reported that, based solely on the review of the second transcript concerning Ms Scott's intervention before the WADA Russia decision, it could not conclude that Ms Scott had been disrespected whilst reading out the names of those against the reinstatement of RUSADA. That was the conclusion of the report by the firm.

THE CHAIRMAN thanked Mr Sieveking. The matter was available for discussion and he reiterated again his sincere regrets to Ms Scott that that had happened; however, she had asked WADA to deal with it and the members had heard from Mr Sieveking on how it had been dealt with. He opened the floor to anybody who might like to comment.

MR RICCI BITTI said that he obviously had a duty to make a declaration. He reiterated that, at that meeting, he had never intended to disrespect Ms Scott, who was his long-standing colleague in WADA, and she should know that the members were sometimes animated; but, also on behalf of Mr Baumann, he had to say something very clearly. There had been an intervention after the vote, in the report of the Athlete Committee that had implied a clear criticism. He had to mention freedom of expression. Ms Scott had implied a criticism on two sides of the IOC athletes' commission, first on the RUSADA case and second on the legitimacy. Together with Mr Baumann, and he spoke also to honour his memory, he had decided to react to the criticism by disagreeing, but not disrespectfully. They had not reacted to some interventions following their reaction so as not to continue a debate that might not have been productive, even though he had not been completely in line with what had been said. He insisted that his aim had not been to disrespect Ms Scott at all. He had worked with her for a long time in the organisation. His position was clearly to represent the stakeholders who WADA had to represent and the sport movement. There was nobody better than he, who had been serving WADA for many years (perhaps too many), to say that he had always been an ambassador for the vital importance of cooperation among the shareholders. He had been helped many times. Nevertheless, that did not mean that one should always have the same position. One also had to listen to the stakeholders. The shareholders had to control the management and stakeholders had to be listened to. He had been an athlete himself and he always respected the athletes. That was his feeling. He was a little surprised and obviously disappointed. He was sorry to have to intervene, but he thought that he also had to honour the memory of Mr Baumann in that particular case and say what he had to say. He was really sorry that it had been taken that way, but there had been no intention and no desire to disrespect anybody.

MR COSGROVE made a couple of observations in the spirit of the congenial and very positive comments made earlier by the Chairman. In relation to chairing the meetings, there needed to be a more active role from the Chairman. It would be helpful to set a rule that, when people made interventions, members should turn on the microphone. Likewise, if people interjected or spoke or made comments in any way, shape or form about others, they should do it with the microphone turned on. The mandate of the report, in his view, was inadequate. An organisation had simply been instructed to review tapes and a transcript. No witnesses or human beings had been interviewed. In the spirit of natural justice, the complainant had not been interviewed. In the spirit of natural justice, the alleged perpetrator or perpetrators had not been interviewed. No people had been interviewed. The process had never taken into account the point he had made (because it had not been technically possible) about comments made off mike. He noted that it was interesting that, in the report itself, as outlined by the colleague, on three occasions the report had been unable to confirm certain facts, but then it leaped to a conclusion. It talked about lack of evidence but then concluded who was, effectively, at fault. That did a disservice to the issue and compounded the problem being dealt with that day. Parties under the rule of law had a right to defend and put their case and he was quite astounded that nobody had been asked (he assumed), because they had all been at that particular meeting, to be interviewed. With a heavy heart, he had to say that he put very, very little credence into that document at all. His view, and he presumed that the members would get to the substantial discussion, was that the matter as per Ms Scott's request deserved a full, open and independent inquiry, but not, reading Ms Scott's letter, around an altercation that had happened between parties at a previous meeting, rather to more systemic issues which he believed she outlined.

MS EL FADIL said that she would explain the public authorities' situation, but she also had a request. The public authorities had discussed the issue thoroughly at their meetings the previous day and that day. The public authorities had requested that Ms Scott attend the meeting that morning, and the public authorities had listened to her and discussed the issue. The public authorities had decided to distinguish between the two issues but had not yet finalised their position in relation to the issue of the allegation of bullying. She asked for five minutes so that the public authorities could come back with a common position.

THE CHAIRMAN responded that he would deal with that in a minute. He asked Ms Scott if there was anything she wished to say. He told the members that there had been very little time between the receipt of Ms Scott's letter and the meeting to get something done, and he wished to separate the two issues before the members. If any member of the Executive Committee or if Ms Scott wished to speak to the independent people that WADA had commissioned, they were free to do so and WADA would encourage that company to speak to them and, if they wanted to qualify or add to or subtract from the report, they were free to do so on the wider issue, which was hinted at by Mr Cosgrove and he suspected was what Ms El Fadil was talking about.

MS EL FADIL said that the public authorities agreed that an investigation was necessary but they had not agreed on the mode of the investigation. Since Ms Scott had tabled the letter, an investigation was necessary.

THE CHAIRMAN noted that that was the second bit that had changed the situation, and he would talk about that shortly. What had changed was that Ms Scott, which was her right, had instructed legal advice. The members had had a detailed letter from Washington lawyers seeking a different type of investigation. He thought that the Executive Committee had to react to that in some way, and that was why he was trying to separate the two issues. There was the specific request from Ms Scott which the management and Executive Committee had taken on board to produce an independent report. If there were question marks about that report, he was perfectly happy to open that report for comment if that was the wish of the members. As far as the second suggestion was concerned in relation to a much wider investigation, everybody was aware that WADA was being invited to have a much wider investigation. If that was the case, then he had to say, as the Chairman, having received an invitation to do that from lawyers in the USA, that WADA too should take opinion from its own lawyers in the USA to see if there was anything in the document before the members that warranted the need for that type of investigation, or what would be the appropriate course of action. He was not asking the members to take a decision on the second part at that moment. If the public authorities wished to talk about it again, maybe they could do it during the coffee break. He concluded by noting the report and stating that anybody could add to it if they wished; but, for the suggestion, WADA needed to seek its own legal advice on the potential effect that it could have on the organisation.

MR COSGROVE commented briefly on the report and suggested two things. The need for haste was not an excuse when trying to render justice and come up with a valid report. In his view, the report should be withdrawn because it was not good enough to invite the person who had submitted a complaint, after a conclusion was reached (and it reached a conclusion and effectively lay responsibility with Ms Scott), to respond to a report which had led to a premature conclusion without interviewing her. It was justice in reverse, it was absolutely absurd and he would argue that it breached a whole host of laws. To have that document on a table making allegations without having interviewed the witnesses was grossly unfair. He argued that the document should be withdrawn; if Ms Scott wished to talk to that firm, that was her right and privilege, but one could not render a verdict and then ask the person in the dock to talk to the judge. That was not how justice worked.

THE CHAIRMAN responded to the comment about speed. There had been much debate in the media on that issue. Ms Scott had done several interviews and they had ended up on his desk with people asking what WADA was going to do about them. That was why the report had been encouraged, because the members had wanted it and he had assumed that the Executive Committee would want to have it dealt with at that meeting.

THE DIRECTOR GENERAL responded to Mr Cosgrove's comment about unfair justice. Things needed to be put into perspective a little bit. The report did not pretend to be anything other than what it was. It clearly stated what had been reviewed within the time available and it clearly drew conclusions based on what had been reviewed. The reality, when talking about fair justice, was that everybody would need to be heard, and there had been about 50 people in that room, so that would not have happened in the time available. If it was the wish of the Executive Committee to have the process continued, that would be fine. The report was the first step taken in good faith to address an issue put in the public domain on 12 October. WADA had dealt with it. It was quite unusual to have a recording of the whole event. It was possible that things might have happened off mike. WADA had given everything it had to those independent people. If the members wanted more, that was fine, but it would take a lot longer and there were a lot of people who had been present in the room that day and fairness dictated that everybody had a right to be heard.

MR COSGROVE retorted that he did not accept that. Two phone calls could have been made, one to the person making the complaint, and one to the person or persons in order for them to defend themselves. That was quite simple and it was called natural justice. There was no excuse for rendering a report with a conclusion without even talking to the two people on both sides. Mr Niggli was a lawyer and understood what that meant.

THE DIRECTOR GENERAL countered that he had asked Ms Scott in a letter to specify exactly her concerns and she had not wished to do that. She had said that she would do so if there was an independent investigation. The people had completed their work on the basis of what they had. The rest was still open.

MS EL FADIL said that she had explained that the public authorities had requested that the investigation continue. She had not spoken about the modalities, but she wished to speak about them on behalf of Africa and not on behalf of the public authorities. The investigation process should continue. It was not complete. She would like it to continue, with interviews carried out with those present at the meeting, and the firm should complete the investigation and bring another report at the next meeting. That was her suggestion. It was not complete and more investigation was necessary. There was also talk about other incidents and a culture of bullying in the organisation. The case should be continued, and the firm needed to continue its investigation. The Executive Committee was not a court of law and the members were not judges. The facts needed to be stated and an independent firm or third party was necessary to look at the documents and interview the people. The members had been present at the Seychelles meeting and could attest to what they had heard at that meeting.

PROFESSOR ERDENER stated that he was pleased to see that the submitted report had not concluded that there had been any inappropriate behaviour. That was important. Controversy allowed for constructive discussion and controversy should not be mistaken for personal attacks. He agreed with the African proposal to have the company conclude its work by conducting the requested interviews.

MR DÍAZ echoed what Ms El Fadil had said. The outcome might help WADA only internally, but he truly supported the proposal.

MS HOFSTAD HELLELAND sent her deepest condolences to Mr Baumann's family and also to WADA's members for the big loss. She had been listening to updates on the issue of bullying, harassment and improper conduct and she was deeply sorry that WADA as an organisation was in that situation. The allegations were serious, and WADA needed to look very carefully into them. Not doing anything was not an option in her view, as it would be detrimental to the values of WADA. Internal reviews conducted under the auspices of the WADA management might not give the full picture as to the situation; therefore, she agreed with Ms El Fadil that it was necessary to agree on a principle for an independent investigation. That should be the outcome of the meeting, but she also suggested that a full, independent and transparent inquiry be carried out as soon as possible. If WADA failed to do so, she was afraid that it might lose the trust of its stakeholders and be placed in a very difficult situation.

MR BANKA stressed that Europe supported the African statement.

MS EL FADIL clarified what she had said previously. Her proposal was for the current firm that had started the investigation to continue its work, because it was an independent firm and not part of WADA. No new firm should be hired.

MR MOSES stated that he wanted to go on the record as agreeing with Mr Cosgrove, who was really correct. Just by way of an observation (and that was a personal observation, he was representing nobody but himself), it was a very emotional issue, and the way in which the conversation had transpired that morning, with all due respect, was that the members had given their condolences to the Baumann family for his good work at the organisation and then, immediately after, the Executive Committee had gone into some really touchy subjects and dealt with news, including the leaks at the Seychelles. With all due respect, the way in which the members had entered into the conversation and the words used had been accusations, such as an organised media campaign, as a prelude to talking about the case with Ms Scott, and that kind of atmosphere was what the members were talking about. If there was to be an investigation, that would take place. He had spoken about some of the experiences with which he had been familiar. Nobody had asked him anything thus far in relation to the investigation being carried out, and the members knew that he had had concerns. He had talked to several others about them. He probably should have been talked to in the investigation, which was why he agreed with Mr Cosgrove, but the whole way in which the conversation had gone on that morning went to the atmosphere in which WADA's members existed. It was an 'us versus them' mentality. He could feel it. He had been through that many times, especially in relation to drug testing, and he knew and had experienced it on multiple occasions, but the atmosphere (not necessarily the content) in which such things were discussed had a lot to do with what was being discussed and what Ms Scott had referred to as a culture of not paying attention to what athletes had to say or at least feeling that they were not being listened to or brushing the athletes off. That had to stop and it had a lot to do with the culture and the atmosphere at WADA. He loved the organisation, and had very good friends in it, and one of the commonalities from almost everybody who had weighed in on either side of the subject was that they needed to continue to build WADA. Nobody was trying to tear it down, and that was the major premise for the changes that needed to be made in the organisation. It would be necessary to work together and find a way to communicate, because communications were currently just going over everybody's heads. The members were going to have to find a way to communicate either legally or diplomatically, and he felt it would probably be both.

MR COSGROVE offered a point that the Executive Committee might wish to take into account. It was a legal matter and, regardless of the recommendations for any sort of process, he assumed that, once WADA had taken its own legal advice, it would be a matter that was ultimately between the parties, i.e. Ms Scott and her counsel and WADA and its counsel, as to what was mutually acceptable regardless of any discussion about the continuation or scope of the enquiry, and he would assume that that would probably need to be taken into account by WADA as it worked through the process.

THE DIRECTOR GENERAL said that he was not sure he understood exactly what Mr Cosgrove meant.

MR COSGROVE apologised and tried again to explain. He assumed that, once WADA had taken its own legal advice, it would engage with Ms Scott's lawyer and, as was the norm, both parties would stipulate what sort of process they would prefer. Ms Scott had set it out in her letter as a wide-ranging process, and whether or not the Executive Committee agreed to the process about the existing report could well be irrelevant, as WADA and its counsel and Ms Scott and her counsel would presumably have to come to some mutual agreement and either party might accept or reject the process put in place by the Executive Committee.

THE DIRECTOR GENERAL clarified that WADA was the members; WADA was the Executive Committee, so the advice that was taken was for the Executive Committee to make the right decisions. Of course, there would be a discussion with Ms Scott's counsel, and then he would come back to the members and set out the recommendations, and that was a possible way forward on which hopefully everybody would agree.

MR LALOVIC introduced himself to the members. It was his first meeting and perhaps the last, because he was taking Mr Baumann's place. In relation to the introductory speech, he had heard many things that were not in line at all. Listening to the discussion about the unfortunate event in the Seychelles, it appeared that nobody in that room had been there. Everybody had been there and they all knew what had happened. Ms Scott had allegations, she had felt bad, and that was her right, but he disagreed with what Mr Cosgrove had said in relation to withdrawing the report. The report was done; it said clearly that there had been no disrespect. Some members wished to continue with the investigation, and that was also okay, but they needed to bear in mind that one of the people could not answer or be interviewed. It was also necessary to take care of the feelings of the other people involved.

THE CHAIRMAN sought to sum up the discussion. He took the point that the report commissioned from an independent firm had been distributed. Points had been made that it might be incomplete. Everybody seemed to agree that the report could be extended and WADA should invite the company involved to examine its report and see what additional information it wanted and, if that involved discussing individually with people who had been in the room in the Seychelles, then so be it. As far as the second issue was concerned, Ms Scott's counsel had written to WADA, and it seemed to be a much wider type of report, dealing not with the specific issues in the Seychelles but with a wider set of circumstances, some of which Mr Moses had mentioned. He repeated his advice: WADA needed its own advice on how to deal with that and this will determine the next steps. If the members were happy with that conclusion, that was what would be done.

DECISIONS

Documentation/information leaks –
investigation results noted.

Independent firm to continue investigation into
Ms Scott's allegations of bullying.

4. Working Group on Governance

– 4.1 Working Group recommendations

THE CHAIRMAN said that the smiling figure that the members could see before them on the screens was Professor Haas, who had taken on the role of Chairman of the Working Group on WADA Governance Matters. He apologised for not having gone to any of the meetings, which he was told had been wonderfully successful. He was very grateful to Professor Haas for getting up so early in the morning and helping with that particular item.

THE DIRECTOR GENERAL said that he was pleased to have concluded about two years of efforts in the working group with a number of recommendations, and he would let Professor Haas take the members through the proposals that the group would be making for adoption the following day by the Foundation Board.

PROFESSOR HAAS stated that it was a great honour and pleasure to present the results of the working group. The task entrusted to the group had been a difficult and complicated one. It had been quite a treacherous mountain to climb. He showed the members the road map in terms of how to reach the summit. In September 2016, the WADA think tank had come up with the idea of revising the structure within WADA and, shortly after, the Executive Committee and Foundation Board had endorsed those ideas. In January 2017, the Foundation Board had approved the composition of the working group and the terms of reference. The group had started its meetings in March 2017, some in person, some via teleconference. The last meeting had been held on 22 October 2018. The group had comprised a chairman, five representatives of the public authorities and five of the sport movement, two athlete representatives, two from NADOs and two independent governance experts with no voting rights. At all the meetings there had been observers, and the WADA management had helped steer the group.

The methodology applied had been guided by the terms of reference. In addition, there had been as much support within the group as possible to achieve a solution by consensus and then, at the end of the day, the members had borne in mind that they would require approval from the majority of the Foundation Board members. Of course, with all the views on practicability, the members had always tried to find those solutions that were most needed for the governance structure.

The working group had come up with recommendations; it was not a legal text. One of the key issues looked at had been independence within the WADA structure, independence at different kinds of levels within the WADA hierarchy. It had been the consensus of the group that independence was an essential prerequisite for good governance; however, it had also been the consensus of the group that there was no one-size-fits-all approach but that flexibility was necessary on various levels. First of all, the general principle of independence had been taken into account, meaning that practically on every single level within the WADA hierarchy, that general principle was applied.

Special Note: *Given the presentation from Professor Haas was made remotely, the audio recording was of insufficient clarity to transcribe into minutes. In summary, Professor Haas outlined the various recommendations by theme before the floor was opened for questions.*

THE DIRECTOR GENERAL commented that it was really important for everybody to understand what had been said at the end of the presentation, which was that the Executive Committee could recommend the proposal for adoption the following day at the Foundation Board after which, if the Foundation Board approved it, there would be a whole lot of work done to transform that into a legal text, either by amending the WADA statutes or by creating by-laws, which would need to deal with a number of the proposals made. All of that would have to be submitted to and approved by the Swiss supervisory authorities, because WADA was a Swiss foundation and was under the supervision of the authorities, which would need to check that WADA was still fulfilling the goal for which the foundation had been set up. The goal in terms of timing would be to have all the legal texts ready for discussion and possible approval at the May 2019 meeting. He was not sure that WADA would have the green light from the Swiss authorities by then. He opened the floor for questions.

MS SCOTT thanked Professor Haas for his presentation. There had been a meeting of the WADA Athlete Committee the previous day and the recommendations of the working group had been discussed quite extensively. She was sure that Professor Haas was aware of the position of many athletes outside that room and globally, and the level of desire for a voting position at the table of the Executive Committee and Foundation Board, and it had been put to the Athlete Committee that it should design or come up with a proper representational model before that would be considered. The Athlete Committee had taken that on board, and would create a working group and work to establish a representational model that would hopefully be adequate and sufficient to the Executive Committee and the organisation. The Athlete Committee was doing that with the anticipation and optimism that it would result in a vote at the Executive Committee and Foundation Board, because the athletes felt quite strongly that that should happen, and it was perhaps a missed opportunity to increase the voice of the athletes in WADA by adding a voting member to the table. She wondered if Professor Haas had any thoughts on a timeline and, once the athletes established the representational model, what kind of guarantee or confirmation could be given as to when the athletes might expect to have a vote at the table.

PROFESSOR HAAS thanked Ms Scott for the input. His task was limited. He had been responsible for the first leg, which had been to make the initial proposals. He did not know what the future group would look like; but, from his perspective, it had been pretty clear within the working group at that stage that it wanted to increase and strengthen the voice of the athletes. At that point in time, the group saw some problems because the status of the group was unknown. There had been a proposal from Mr Pengilly. The Athlete Committee had not had enough time to develop a comprehensive proposal, although he was very happy to hear that that was on the way. He was optimistic that a good solution could be found to strengthen the voice of the athletes once the problem of representation had been tackled. If a solution to that could be found, it would be good.

THE DIRECTOR GENERAL added to what had been said, because he thought that Professor Haas was unable to answer all of the questions. As discussed the previous day with the Athlete Committee, the WADA management would undertake to provide expertise to the Athlete Committee to help the athletes to structure their proposal. The idea was also that there would be an ongoing review of the system; therefore, when new elements became available, such as athlete representation, they could be factored into the recommendations on how WADA needed to evolve.

MS EL FADIL said that she had liked the presentation and the idea of climbing the hill to get to the top in the coming years. The work was work in progress, it was not finalised and, in some areas, work needed to be continued, and she thought that it was necessary to have more ongoing review and improvement. She was speaking on behalf of the public authorities, which welcomed the recommendations and had some observations to make on some of the recommendations, and the outstanding issues such as future athlete representation on the Executive Committee and Foundation Board needed further discussion and solutions needed to be proposed. It was necessary to have comprehensive proposals to guide the members in the future. She supported that the athletes' voice needed to be heard, but the matter needed more discussion and a more comprehensive proposal.

PROFESSOR HAAS absolutely agreed with what had been said. Rome had not been built in a day and, looking at other tasks accomplished by WADA in the past, and he gave the example of the World Anti-Doping Code, there had been four revision processes to get to the current stage, and if one compared the first Code to the latest Code, probably 20% of the original Code remained and the rest had been changed, so it was necessary to be ambitious. The first step needed to be taken, and he strongly recommended having the ongoing review process to deal with what was left over and to improve on the structure implemented, so he was absolutely in favour of what had been said.

MR BAŃKA said that he had some comments to make on behalf of Europe. Outstanding issues, especially athlete representation on the Foundation Board and Executive Committee, should be discussed and a solution put forward as soon as possible. The European governments would prefer to have more time to analyse the recommendation and consult all relevant partners at the national level. In general, Europe was of the opinion that longer consultation periods were needed for important matters such as the reform of WADA governance, and WADA had to take into consideration the future and the public authorities required more time for more informed opinions. Although they were not satisfied with the time for consultations, they understood that there was an urgency to take a decision on the recommendations and avoid delaying the reforms proposed by the WADA Working Group on Governance Matters; however, there were several tasks that had been given to the working group in the original terms of reference adopted by the WADA Foundation Board in November 2016 that had not yet been fulfilled, in particular in relation to the development of WADA's operational procedures. The European public authorities regarded the task as crucial and requested that the work continue to complete them the following year with a view to making proposals at the Foundation Board meeting in Katowice in Poland and, if necessary, some consideration should be given to the composition of the working group to ensure that the tasks approved in 2016 were fulfilled. Generally, he expressed his appreciation to all of the members of the working group for their hard work and commitment to the good governance of WADA.

PROFESSOR ERDENER spoke on behalf of the Olympic Movement to thank Professor Haas and the working group members for their great effort. The Olympic Movement fully supported all of the recommended principles. He wished to take the opportunity to underline the importance of the partnership between the sport movement and the public authorities and the value of ensuring the balance between the two sides. The implementation of the recommendations would be very important for the future of WADA and to ensure a strong WADA; therefore, the Olympic Movement supported the Executive Committee being responsible for overseeing and monitoring the implementation of the recommendations made by the working group with the support of the management.

PROFESSOR HAAS said that the working group had some thoughts on the follow-up process, which he thought was needed; and, if a follow-up group were structured for the future, it might be advisable to make the group a little smaller than the current working group to be more flexible and quicker, because with a big group it had been quite hard to find dates on which everybody was available. A smaller group would be more efficient, so the proposal was to have equal representation but to make the follow-up group a little smaller so as to be more effective.

MR DÍAZ took the opportunity as a working group member to congratulate Professor Haas on a great job. The working group had had five meetings, three of which had not been very successful, after which Professor Haas had come in and helped the members come up with the current proposal. He thanked ANOC for hosting the meetings at its headquarters in Lausanne, and he congratulated and thanked the IOC for providing two expert members, who had been very helpful: Messrs Subiotto and Cossin. He thanked Professor Haas.

PROFESSOR HAAS thanked Mr Díaz. He could only congratulate Mr Díaz and, of course, all the stakeholders who had taken part. It would never have been possible without the support of all the

stakeholders. He was particularly proud of the fact that recommendations had been reached by consensus. There had been no dissenting opinion, proving that everybody had been very committed to finding solutions.

THE DIRECTOR GENERAL thanked Professor Haas.

MS HOFSTAD HELLELAND commended the work of the working group and also complimented Professor Haas and the members of the working group. She was aware of the challenging work the group had had. The conclusions were a step in the right direction towards an improved system of governance. It was crucial that the governance work continue and that WADA not stop at that stage. The public authorities in particular found it necessary to stress that athlete representation in WADA governance bodies had yet to be established, as several colleagues had just mentioned. There had been a very fruitful discussion the previous day at the public authorities meeting on how to strengthen the voice of the athletes. She thought that it was necessary to clarify the vital role and important input of the athletes in governance, and would suggest developing further recommendations for consideration at the meeting in May. She was very aware that that was not much time, but it was an important message to send to the athletes in the current situation.

PROFESSOR HAAS observed that it was a very political issue and he did not think that he was the right person to address it. That was not really for him to comment on. The only thing he would take into account was that the recommendations already included far-reaching changes for the structure of WADA. There would be a new ethics board, a nominations committee and quite a few changes with the standing committees, and he would not overburden the process. He suggested taking it step by step. One step did not mean that a second step would not be taken. Momentum was necessary. It would be up to the members to decide when to take what steps.

MR RICCI BITTI praised Professor Haas and the working group members on the big job. He had always felt that governance was not the major problem of WADA, and perhaps he was in the majority feeling that way. The document was a great effort however to improve through consensus and he congratulated Professor Haas, because achieving consensus did not appear to be easy. He wished to make a very minor suggestion. The Olympic Movement was for the adoption of all the recommendations, including article 3.4 related to the conduct of the election of the WADA President and Vice-President, but with the addition of 'or government' where the article specified that no assistance, whether financial, material or in kind, be it direct or indirect, be given to candidates by a signatory to the World Anti-Doping Code. That was the condition that he was proposing.

THE DIRECTOR GENERAL said that that would be talked about later.

MR RICCI BITTI noted that that was his proposal. He agreed with everything else.

MS SCOTT said that the WADA Athlete Committee thanked Professor Haas for his work. The Athlete Committee accepted the proposals and acknowledged that consensus was required to move everything forward and that some important milestones had been reached, but she would be remiss if she did not add that the WADA Athlete Committee had three positions about which it felt quite strongly and she wished to have them on record. The first was, of course, the addition of a voting member of the Athlete Committee to the Executive Committee and Foundation Board. That had been an objective from day one and the Athlete Committee had been quite disappointed to have no voting athlete member added in the end. The Athlete Committee also felt very strongly that the independent ethics board should be a disciplinary and decision-making body and not a reporter to the Executive Committee. The third point was the concern that, while the Athlete Committee really supported and applauded the addition of independent members to the Executive Committee and Foundation Board, it wanted to see those members recruited and vetted and nominated by the nominations commission. There had been some questions about true independence if the members came from either side of the table.

PROFESSOR HAAS acknowledged that there was always room for improvement, which was why the follow-up process was necessary. On the independent members, two of the working group members who had been nominated by the sport movement for the expertise were in his view probably two of the most independent people in the room who had contributed hugely to the success of the group. At the end of the day, it always boiled down to the person in charge or nominated. As long as there were people like the two experts he had mentioned, WADA was on the right track.

THE DIRECTOR GENERAL stated that everybody agreed that there was room for improvement and a continued discussion on having more athlete representatives was needed. There was however an athlete

on the Executive Committee with voting rights and four on the Foundation Board; they came from the Olympic Movement structure but, nonetheless, they were athletes. It was just necessary to be clear. He knew that the aim was to get a different kind of athlete representative around the table but, for the record, there were athletes already within the organisation.

THE CHAIRMAN said that it seemed to him from listening to the debate that there was pretty warm acceptance of the work that had been done, and the members understood the processes undergone, that there was additional work to be done and, as the Director General had said at the Athlete Committee meeting the previous day, that was a live document, and he was pleased to hear that further work would be done on the representational issue for the athletes. He thought that, formally, the members should agree to place that before the Foundation Board the following day with the recommendation that it be accepted and, if that was the decision of the members, that was what would be done. Was anybody against doing that? He thanked the members for the unanimous approval of the work to date. He echoed the comments made by Mr Díaz, thanking Professor Haas for coming in for the final two meetings and really driving the project forward. It was complicated and it had been well done.

PROFESSOR HAAS thanked the members for their support.

DECISION

Proposal to submit Working Group on WADA Governance Matters recommendations to the Foundation Board approved.

– **4.2 Procedural rules – Chair and Vice-Chair election November 2019**

THE DIRECTOR GENERAL gave the floor to Mr Sieveking to present the recommendation for the voting process, which took into account the recommendation from the Working Group on WADA Governance Matters.

MR SIEVEKING stated that the terms of the President and Vice-President would end on 31 December the following year, so a set of rules had been developed to ensure a fair process. There were two sets of rules, option one and option two. Option one included the recommendation under the Working Group on WADA Governance Matters and number two did not. Both sets of rules were linked to the rules for conduct during the election process. If approved, the rules would apply to both options. The proposal for all the rules was to define the provisions applicable to the election in conformity with the WADA statutes and the provisions of Swiss law governing WADA. It was also required as, although the rotation principle applied for both positions, article 7 of the WADA statutes did not limit the number of candidates. The legal basis would be approval of the rules by the Foundation Board the following day and also subsequent approval by the Swiss federal supervisory authority for foundations. If accepted, the WADA management would ensure that the rules were transmitted to the authority for approval. The difference between the two options, with or without the governance criteria, was that option one included the working group recommendation, there would be a nominations committee responsible for vetting the candidates and producing a report for the Executive Committee before the election, and also it contained independence criteria as recommended by the Working Group on Governance Matters. In relation to the rules of conduct, in consultation with the external legal advisor, the objective was simply to follow best practice and good governance principles to ensure that the election process was conducted fairly.

PROFESSOR ERDENER said that the Olympic Movement believed that the spirit of the recommendations of the working group could be reflected in the election process but it would not be possible to implement all recommendations in a timely and appropriate manner; therefore, the Olympic Movement supported two things: the next president would of course be elected from among the public authorities and the criteria of independence from option one to be applied without a nominations committee, and it was important for the Olympic Movement that the chairman represent WADA and not be perceived to be representing another constituency.

MS EL FADIL spoke on behalf of the public authorities. The issue of the election of the president had been discussed and criteria had been developed and a document agreed upon by the public authorities which would be tabled the following day at the Foundation Board meeting after finalisation. She conveyed that, in relation to the election of the WADA president, the public authorities had agreed that they would put forward a single candidate, to be presented at the May 2019 Foundation Board meeting. The public authorities had approved the criteria and agreed that candidates who failed to secure nominations would stop their campaigns, but the most important thing was that the public authorities thought that there

was not enough time to form a nominations committee for the upcoming election. It was needed, but there was not enough time to have such a committee for the upcoming election, which was why the public authorities would do it themselves.

MR COSGROVE said that he supported the comments made by the chair of the public authorities and Professor Erdener. In relation to the regulations concerning conduct, they were vague and essentially some might actually be illegal in some jurisdictions in relation to freedom of speech. In practical terms, they provided an inability to campaign or for candidates to actively engage with various constituencies to convince them one way or another in relation to support. Could somebody advise as to the exact practicality and role of a vetting committee? Would it have a veto right? How would the vetting take place? He knew that there were some detailed notes in the paper, but could they be enlarged upon? He supported the two colleagues in their representations.

MR BAŃKA added that Europe considered the proposed code of conduct redundant and irrelevant in relation to the election of the WADA president and could not support its adoption by the WADA Foundation Board. He requested that WADA and any other organisation concerned ensure equal campaigning opportunities for all declared candidates from the moment of declaration of their intent to run for the position to avoid giving an unfair advantage to any of them.

MR KEJVAL made a technical point. He asked the management to take into account the comment made previously by Mr Ricci Bitti about article 3.4 and the request for the addition of 'or government' to the text after the reference to the signatories to the World Anti-Doping Code.

MR SIEVEKING responded that Mr Cosgrove had asked about the vetting committee. The role of the committee would be to review and prepare a file on each candidate, to interview each candidate and find out information and then produce a report for the Executive Committee to review before the candidates were presented to the Foundation Board. The role was really to assess the validity of each candidature and the applicable rules and competence of the candidates. He was not sure whether the comment on freedom of speech required a response.

THE DIRECTOR GENERAL understood that the consensus was to have no nominations committee. Did that mean that the Executive Committee would play that role and review the nominations?

MR COSGROVE explained that the view would be that the public authorities would run their own operation as they had done in the past and elect their own candidate. The Executive Committee would not have a role.

THE DIRECTOR GENERAL feared that they were not talking about the same thing. The public authorities were totally free to carry out their own process and come forward with a candidate, but that candidate had to be acceptable for the election and meet the independence criterion, and somebody had to check that the criteria were met. Who would do that, the Executive Committee?

MS EL FADIL said that, after the public authorities agreed on the candidate, it would have to go back to the Executive Committee.

MR COSGROVE asked what had happened the previous time. What role had the Executive Committee played on the previous occasion?

THE DIRECTOR GENERAL responded that, the previous time, the Executive Committee had received a nomination and had confirmed or recommended the nominated candidate for a vote by the Foundation Board, as it did for all votes. That was all it had to do but, if the Executive Committee accepted the independence criterion, which was new and had not existed previously, somebody would have to say that they were comfortable that it was met. That was the idea of the nominations committee, that it would do the work of checking that the requirements were fulfilled. If there was no nominations committee, that was fine, but the Executive Committee would have to tell the Foundation Board that it was satisfied that whoever had been proposed by the public authorities met the requirements agreed to.

PROFESSOR ERDENER said that he fully respected and supported the public authorities' internal process in relation to the candidature process.

MR DÍAZ said that he thought that it made sense that the Executive Committee review the person proposed by the public authorities and check that the person met the criteria set. It was not a matter of deciding or anything else, just a matter of confirming that the person proposed met the requirements agreed upon.

MR BANKA said that, in his opinion, checking the candidate was the role of the Foundation Board and not the Executive Committee.

MR COSGROVE stated that he wanted to make certain that there would be no power of veto, because there had not been the previous time, and that the public authorities could elect the person they wished, in order to preserve the status quo.

MS EL FADIL said that she thought that the Foundation Board would be electing the person, so the process would be that the public authorities would decide on their candidate. When they decided on the candidate, they would be following the procedure in relation to the criteria, selecting according to the criteria that they would table the following day. The public authorities would select the candidate in accordance with the criteria, as was their right. That person had to come back to the Executive Committee just to be endorsed, not rejected, by the Executive Committee. The nomination would then go to the Foundation Board for election.

MR RICCI BITTI stated, as a long-standing member, that the rule on independence had not existed in the past. In the past, the Executive Committee had ratified or accepted the candidate and then the Foundation Board had elected. It was very simple in his view. If the Executive Committee did not want a nominations committee, somebody would have to fill the gap. That somebody could only be the Executive Committee, as the Foundation Board was the electing body. It was a matter of following up on what was decided. If the Executive Committee decided to adopt the new additional definition of compliance with independence and did not want the nominations committee to carry out the task, the Executive Committee would have to carry it out. He did not think that the members had much choice.

THE CHAIRMAN provided the members with just a touch of history. The WADA statutes had been based on a rotating presidency. The presidency had rotated from sport to the public authorities and back to sport. The IOC had gone through its own process all those years ago, with three people considered and, for reasons of which he had never been entirely sure, he had emerged. Since then, particularly from the IOC, there had been a wish to increase the independence of the chairmanship of WADA and he had been constantly criticised to his considerable irritation that he had a conflict of interest simply because he was an IOC member. That introduced an element of independence, which was a good thing and was generally accepted. If that was the case, the public authorities could have their own system, electing one or two or three candidates; whatever they wanted to do, they could do. The issue was that, if the Executive Committee accepted the principle of independence, as Mr Ricci Bitti had said, somebody had to say that that person met the independence criterion and, if there was no nominations commission, clearly that should be the Executive Committee. Were the members happy to allow the public authorities to do whatever they wanted to do? If they wanted one single candidate, that would be fine. When that candidate emerged, the only thing the Executive Committee would have to do was make sure that that candidate fitted the definition of independence. He asked Mr Sieveking if he was right.

MR SIEVEKING confirmed that the Chairman was right.

MR COSGROVE sought clarification. If there was a situation whereby the Executive Committee felt the person did not meet the criteria, it would presumably advise the public authorities, but was it correct that the public authorities then still retained the power to agree or not to put that person forward, because it could become subjective? He assumed that the regulations for the code of conduct had been withdrawn and dismissed.

THE DIRECTOR GENERAL replied that, on the first point, he thought that, if WADA were to face the situation mentioned by Mr Cosgrove whereby one candidate did not meet the independence requirements, the public authorities would be advised and would therefore be allowed to propose somebody else; but, if WADA were to say that the public authorities could force the vote of a candidate that is not independent, that would be going against the criteria being adopted which would be made part of the constitution, so there would be a problem proposing somebody who had not met the criterion agreed to.

MR COSGROVE said that it was essentially possible for the Executive Committee to have the power of veto if what the Director General was saying was correct. The public authorities would be advised that person X did not meet the criteria, and therefore they would be required to select somebody else. He knew that there were criteria and a legal definition, but there was also some subjectivity around that. He would argue that that was a nominations committee, because the Executive Committee would effectively have the power to veto.

THE DIRECTOR GENERAL said that, if one were to follow Mr Cosgrove's scenario and the public authorities still wanted their candidate to go forward, they could technically put that person forward, but the Foundation Board would have to vote and, if the person did not meet the requirements, it was unlikely to vote for that person. The public authorities' process was parallel to the rules. If there was only one candidate, there was only one candidate, but the Foundation Board was the body that voted. There could be a letter of support from somebody. Technically, the public authorities could insist on the person being voted and it would be the Foundation Board that would decide. He did not think it was right to say that the Executive Committee had a power of veto; the Executive Committee could assess and make a report and recommendation to the Foundation Board.

MR SIEVEKING confirmed what the Director General had said. The rule was to review the candidature and the criteria and ensure their fulfilment, and then report to the Foundation Board. The Foundation Board would be asked to approve the following day, and it would be up to the Foundation Board to vote.

THE CHAIRMAN said that he would prefer not to go through a what-if situation. He agreed that somebody would have to do the job if there were no nominations commission. The point had been well made that the Executive Committee should take considerable care in that process. The Executive Committee trusted the public authorities to make the correct decision as far as that was concerned. It was necessary to discuss the issues about what a candidate could do while the process was under way. Did Mr Cosgrove have any specific improvements that could be made?

MR COSGROVE responded that the position that the public authorities had reached was that they should be removed. They were vague and ambiguous and he could provide some examples. Point 3.3, for instance, stated that candidates should limit the number of trips that they made in view of promoting their candidacy. Did that mean that a government could not fund a candidate to travel the globe to convince people that they should be supported? How many trips? What did that mean? Secondly, there was the issue of the use of media, and the fact that candidates should exercise self-restraint with media, including social media, when promoting their candidature. If a candidate said that they disagreed with candidate X and explained why, and if that was seen by media or reported as provocative, did that create an offence? A candidate could produce no spoken word, written text or representation of any nature that was likely to harm the image of another WADA candidate. He fully agreed with that but, if a candidate made a misstatement and was corrected or challenged on their position, what did that mean in legal terms? Under 6.1, any interested party could bring a breach of those regulations. What did that mean? An Executive Committee member, a Foundation Board member, a journalist, a politician, the hotel cleaner, what did that mean? Particularly with that clause, he would submit that there was no natural justice in relation to that and those clauses would make it almost impossible to campaign appropriately. Whilst he believed that the spirit of the document was right, that WADA members should behave themselves and not throw bombs at one another, in his country and in many countries in Oceania, those rules would breach a number of laws, and in Europe he suspected that they would break articles 10 and 14 in relation to freedom of speech and discrimination. Therefore, he thought that they should be withdrawn. He thought that candidates would conduct themselves appropriately, but also noted 6.2, in terms of who decided whether there was a breach. Would it be delegated to the Director General, and how was that process going to happen? They were simply too vague; the intent was absolutely correct, but they should be withdrawn.

THE CHAIRMAN thanked Mr Cosgrove for his intervention. Thinking of his own experience over a number of years and IOC or city elections, maybe the principle should be that they be deliberately vague, because as soon as one settled on one particular thing one could or could not do the inventive candidates found another thing that they could do. He sought some guidance from the public authorities on how they wanted to handle it.

MS EL FADIL said that she thought she had mentioned that the public authorities had developed their own criteria, which contained rules on behaviour and limits. She would like to share the criteria because the essence was also some kind of code of conduct. She would table them. She was not happy with the current code of conduct proposal, which was why the public authorities had created their own and agreed upon it. She requested that the Executive Committee look at the criteria, which would be used for the election. The election was being taken as an exception because there was a very limited amount of time to discuss and agree on the code of conduct.

MR COSGROVE asked if he could make a proposal.

THE CHAIRMAN reminded Mr Cosgrove that he was talking about regulations that applied not only to the president but also to the vice-president.

MR COSGROVE wondered whether it might be possible to formulate a simple statement of intent, which was that candidates should act in good grace and character and leave it at that. It was a statement of intent to behave and act in good grace, and the Executive Committee could withdraw the rest of the objectives.

MR RICCI BITTI thought that a proposal had been made. Any proposal was not perfect but would undoubtedly improve the situation and act as a deterrent. He thought that the proposal with the small amendment was very good and proposed putting it to the vote.

MR SIEVEKING noted that the rules simply followed best practice. They were not necessary because any reasonable person should apply that kind of rule anyway. He personally saw no limitation. As to the clause on the media and freedom of speech, the exact wording was that the candidate should show self-restraint. Each candidate needed to ensure that his or her behaviour was appropriate, and the Executive Committee would consider whether or not the behaviour of the candidate was appropriate and the candidate was playing a fair game. In his view, the process was fair, and then it would be up to the members to determine whether or not there had been a breach. The objective was to ensure a fair campaign, that each candidate had the same ammunition and there was no particular advantage given to one candidate or another. He had noted the criticism from Mr Cosgrove, but the objective was just to have the Executive Committee act as a judge and ensure that everything was run in a proper fashion.

MR COSGROVE accepted the general principle but asked how, if a person from the private sector who was not a politician was nominated, for instance, one would create a level playing field between two candidates who were ministers and one who was not a politician and, again, any interested party. So, was that limited to anybody? Because the way in which it was written meant that anybody on the globe could take issue and bring a breach of the regulations. They were very vague regulations and he was thinking of worst-case scenarios whereby people from outside could meddle with the rules. One had to argue from a legal point of view that that particular point in itself was completely vague. The interpreters could bring a breach if they wished. His fear was that they were ill-conceived. The proposition was absolutely correct and he would have thought as a general principle that people should act with civility, but that was too proscriptive and too open and, from a legal standpoint, one could drive a bus through it if it were challenged in a court.

THE CHAIRMAN concluded that there was a fairly clear option. The members either adopted the rules, or having listened to Mr Cosgrove's observations, they tried to rewrite the thing. The one alternative might be to say to the public authorities that, when they had their own system, perhaps they could take the rules and build that in and say to the Olympic Movement that, when it had its policy, whatever it might be, it take those on board and behave as they were set out. He accepted that it was a slightly easier issue for the Olympic Movement because he would question whether or not there would be a huge range of candidates.

MS EL FADIL proposed not taking a decision immediately. The public authorities would share their criteria and the sport movement could share what it came up with and then the Executive Committee could revisit the issue at a later date.

THE CHAIRMAN said that perhaps the Executive Committee might see if some wording might be found to take it forward.

THE DIRECTOR GENERAL stated that the public authorities could have their own criteria within their own process, as long as the public authorities understood that they would police them themselves, not WADA. If there were no rules, WADA would not do anything. The public authorities would have to deal with the matter themselves.

MS FADIL responded that that was exactly what the public authorities wanted to do; they just needed more time and more consultation in order to come up with a proposal.

THE CHAIRMAN asked if the principles might be agreed upon (the principle of independence and the fact that the Executive Committee did not want to have a nominations committee) to take to the Foundation Board the following day. In the meantime, it would be necessary to find out whether such instruction was needed, who was going to police it or whether or not to rewrite it. Were the members happy with that?

DECISION

Procedural rules for the nomination of the president and vice-president (including principle of independence and proposal not to have a nominations committee) to be submitted to the Foundation Board meeting.

5. Operations/Management

– 5.1 Executive Committee appointments 2019

THE CHAIRMAN referred the members to the issue of the Executive Committee appointments for 2019.

THE DIRECTOR GENERAL referred to the tabled list of members of the Executive Committee to be proposed to the Foundation Board for approval the following day. Two members of the sport movement had just been confirmed. That was the list to be submitted the following day to the Foundation Board for approval.

DECISION

Proposed Executive Committee appointments to be submitted to the Foundation Board for approval.

– 5.2 Foundation Board

5.2.1 Memberships 2019

5.2.2 Endorsement of composition for Swiss authorities

THE DIRECTOR GENERAL stated that the issue was a formality in relation to the composition of the Foundation Board. The following day, the standing committee composition would also be tabled. One change had taken place the previous day, so the management was finalising things.

DECISION

Foundation Board composition endorsed.

6. World Anti-Doping Code

– 6.1 World Anti-Doping Code and international standards review update

6.1.1 World Anti-Doping Code

MR SIEVEKING informed the members that the second phase of consultation had taken place from 14 June to 14 September. A very high number of comments had been received (approximately 300 pages of comments), making the drafting team very happy, highlighting the great interest of all stakeholders in the important process. He also underscored the fact that the level of the comments was increasing, meaning that the anti-doping knowledge of all stakeholders was increasing, which was a very positive thing for anti-doping in general, also making the work of the drafting team more complex, because the quality and specific nature of the comments received had created more work.

The members had the second draft proposed in their files. Mr Young was not present in person but would be making a presentation via Skype on the substance of the changes made. After the first round, there had been a number of very positive comments from stakeholders, and the members of the team had been particularly pleased with the changes proposed, and he was looking at Ms Scott and Mr Sandford when he said that the Athlete Committee had stated that most of the changes from the first draft were really positive and were considered to be of benefit to the athletes. He was very satisfied with

that. The Code Drafting Team had held a number of important discussions with stakeholders, in person or via conference call. The exact list of meetings was in the members' files. There would be a third consultation phase from 10 December to 4 March. The members would have seen in the paper that the symposium in Lausanne would take place in mid-March, and the topic would be almost exclusively the Code and international standards review. There had been a suggestion to reduce the upcoming consultation period to allow the drafting team enough time to review and analyse the comments received during the third phase so as to go to the symposium with a direction and ideas to put to the stakeholders. Following discussion the previous day at the Public Authorities meeting, it appeared that some people around that table were not in favour of reducing the consultation period. He proposed discussing that at a later stage. He gave the floor to Mr Young, thanking him again because it was one a.m. in Colorado Springs.

THE CHAIRMAN asked Mr Young if the American rotator cuff was the reason for his absence.

MR YOUNG apologised for not being present. He missed the members' company.

He provided a brief background, reminding the members of the landscape when the first Code drafting process had taken place, at a time when rowing, for example, had had a lifetime ban for the same violation that would get three months in cycling, governments had had different lists of banned substances to the Olympic Movement list, and so on. Therefore, in the interests of harmonisation, when drafting the first Code, the team had been pretty darn strict in terms of variations from the harmonised norm. If they had not done that, the concern had been that everybody would go back to their old rules if given the opportunity. Every time, the team had built in more flexibility. The version of the 2021 Code was more flexible than the 2015 Code. The 2015 Code had worked pretty well. People had been generally happy with the first draft; but, when one gave the whole world an opportunity to come in on a document, one would inevitably get a lot of good ideas that one would want to incorporate in the document. Although the first draft had been generally well perceived, there had been more than 100 changes between the first draft and the second draft. Out of the changes, the Code Drafting Team had tried to identify those that the members would consider to be the most important, and then organise those into four categories of changes, the first of which was changes in which the team thought that there was general consensus. The second category was changes in which the team thought that there was consensus but to which significant new language had been added. The next category was changes in which there had been more conflict in stakeholders' opinion. Some liked it as drafted in draft one, some wanted to go further, and some did not want to go that far. The last category was areas in which the team had not thoroughly addressed a topic in the Code because it was awaiting feedback.

Regarding the slide on changes on which there was general consensus, the first point was the multiple violations article. The general principle in that article in the 2015 Code which had been carried forward was that one could not get a second strike until one had been notified of the first, and that dealt with the situation whereby an athlete was on a course of steroids, was tested two or three times and, before receiving notice of the first violation, had already racked up the third violation. That made a lot of sense, but it did not make a lot of sense when there was a long time span between the first and second violations. In the case of the IOC retesting, with many years between an earlier unknown violation and a later first violation, there deserved to be more of a consequence when that earlier unknown violation was discovered, so the gap that had been built into the article was the general rule of initial notification before it became a second violation did not apply if the violations were more than 12 months apart. Second, athletes were required to receive a redistribution of prize money recovered by the ADO. As to concerns about prize money that had not been collected being redistributed, it got redistributed only when collected, and another caveat was that, if the sporting organisation and its athletes decided that they would like to see a different rule such as the money going towards general anti-doping purposes, they could do that.

On clarification of the article providing protection against retaliation, changes had been made to that. The protection currently applicable was that, if one was a whistleblower, people retaliating had violated the Code and got punished. There was no affirmative duty on any stakeholder to build in (other than putting that in the rules) other kinds of protection for whistleblowers. The team had also clarified what it meant to retaliate and made it clear that, if an ADO went after a whistleblower for an anti-doping rule violation, that was not retaliation.

Still on changes on which there was a general consensus, an ADO could delegate authority to conduct any part of the anti-doping process, but it remained responsible. Everybody appeared to agree with that, but there was some concern that, if he hired a service provider and they violated the Code in the work

they did for him, he was responsible; but, if somebody else hired the same service provider and they did good work for that person, that person would not have any exposure. That was correct and it had been made clear.

The next point on which he thought that there was general consensus was that fraudulent conduct that occurred during the doping control process could be sanctioned as tampering. In recent years, there had been a number of cases in which, during the hearing process, athletes had come up with forged documents and hotel receipts from hotels in countries in which they had never been, and nothing had been done about it, they got whatever sanction they got in the case but there was no punishment for their fraudulent conduct. That addition allowed that conduct to be punished as tampering.

There was clarification that failure to publicly disclose as required by article 15 was not a compliance violation when that disclosure was prohibited by a national law; that was in response in part to a number of comments from stakeholders about the new EU privacy regulations.

He referred to the areas in which the team thought there was consensus but significant new language had been added. The first was pretty straightforward. It was the expectation of stakeholders, and WADA could not bind governments but could tell them what it expected, that governments were not going to limit WADA's access to anti-doping organisations held by a signatory or a WADA laboratory. That was pretty self-explanatory. Had WADA experienced the Russian situation in 2013, that would have been in the 2015 Code already.

The next was obligations of individual signatory participants and government representatives who agreed to be bound by the Code. The Code said that violations such as administration, trafficking and complicity could be committed by athletes, athlete support personnel and other people. The problem was that a lot of those other people had not agreed to be bound by the Code and, if they had not agreed to be bound by the Code, there was no way that authorities under the Code could discipline them. That article said that a certain category of other people had to agree to be bound by the Code in order to hold their positions. There was some debate on how broad and narrow that category should be but, in the second draft, it was officers and directors, employees and volunteers involved in doping control or providing medical services. Some wanted it broader. Some wanted it narrower. An important caveat to that was where national laws prohibited that kind of requirement in an employment agreement, in which case, if one did not get that from those officers, directors or employees, it was not a compliance violation by the person in question.

On the next slide, the first point was prompt admission. In 2009, a couple of articles on timely and prompt admission had been put in the Code, allowing for a potential reduction in a four-year sanction. If one admitted the violation quickly, the idea was that that would save time and money in the result management process. Neither had worked as envisaged, because there had been lots of arguments about what was prompt and what was timely. It had ended up not saving time and money in a lot of cases, because the athlete had admitted the violation, but then there had been long hearings over the appropriate sanction, whether or not there had been substantial assistance, no significant fault, etc. The Code Drafting Team had therefore scrapped both of those articles and replaced them with the concept of a case management or result management agreement. The result management agreement said that, if one was facing a four-year ban or longer, one could agree to having committed the violation and would get a year off the ban, end of case, no further argument about no significant fault, etc. In other words, make the case go away and get a year off. The second part was a case resolution agreement that said that, if the athlete and the anti-doping organisation with result management responsibility and WADA all agreed, the otherwise applicable sanction could be reduced to a half and the start date could start as early as the date of the anti-doping rule violation. The important part there was that that was not something that a panel could decide; it was totally up to the discretion of WADA and the result management authority if the athlete agreed.

The next point had to do with Code modifications related to the new International Standard for Result Management. The Code was okay, saying that one was entitled to a fair hearing before an impartial hearing body. The problem was that a number of organisations did not really follow that, the hearing was not fair and hearing bodies were not impartial. There had been lots of suggestions to really beef up article 8, and the team had recommended coming up with (and in fact a separate group had done that) a draft International Standard for Result Management that spelled out in great detail what was required to have a fair hearing in front of an impartial body, and it went through the process. International standards were mandatory. It might be sufficient that no other changes needed to be made to the Code or, looking at that international standard, a handful of key principles could be pulled out that left all the

detail in the international standard so as to avoid adding another 15 pages to the Code, which was a pretty long document as it was.

The final point on that slide was substances of abuse. A lot had been heard from stakeholders saying that they were spending an incredible amount of time on marijuana and cocaine cases, not so much about whether there had been a violation but how long the sanction ought to be. The proposal was that, in the event of a substance of abuse case, such as cocaine, and if the athlete could demonstrate that the use had been out of competition and unrelated to sport performance, there would be a fixed three-month sanction with the opportunity to reduce that to one month when a satisfactory course of rehabilitation had been fulfilled. That was straightforward and did not take extra time.

The third basket was where the changes involved more conflict in the opinions of the different stakeholders. The first was added flexibility and sanctioning of minors and other protected people. The 2015 Code said that, when dealing with minors, the mandatory public disclosure in article 15 was not required. The Code Drafting Team still said that. The 2015 Code also said that, when it came to establishing no significant fault, everybody else needed to establish where the source of the prohibited substance had come from. Minors did not have to do that. The second draft continued that benefit to minors. In draft one, there had been a proposal that, when a minor established no significant fault, instead of the sanction being reduced by a half, the sanction could go all the way down to a warning. Some people had thought that it was a good idea, others that it was too lenient. He had been fairly impressed with the position of the Council of Europe on that. Usually, the Council of Europe as a group was very supportive of the rights of minors. It thought that it went too far; the Code Drafting Team had agreed and taken it out.

The final point in relation to the treatment of minors (and it had been in the first draft and was still in the second draft) had to do with intentional doping. Everybody else, when dealing with a non-specified substance, had to demonstrate that the use of the substance had not been intentional; otherwise, it would be a four-year sanction. The Code Drafting Team proposed that, for a minor, that burden be shifted and it be up to the ADO to establish that a minor's use of the prohibited substance had been intentional. Some thought that went too far, others thought that was okay. The team had left it in there.

That was the first part on minors and protected people. The second part was that a number of stakeholders had said that it was necessary to deal with Para-athletes as well as minors. Having talked to the Paralympic community, a number of Paralympians might have physical disabilities but their mental state was as good as or better than anybody else's and they had not thought that that was appropriate. There were people with disabilities who deserved special protection. A number of people had not liked the team's definition of minors. The athletes had felt very strongly that a 17-year-old athlete likely to end up on the podium did not need special treatment. Their definition of minors was 18 years or under for podium athletes; otherwise, 16. He was not sure whether there was that much of an objection to the concept of that, but there was a big objection that a minor was a defined term and that the Code Drafting Team should not be changing that. Instead of calling people minors, therefore, or Para-athletes, it had created a new term of 'protected people', who got the benefit he had just been talking about. He could not tell the members how hard it had been to come up with that term. A lot of time had been spent talking to the Para-community, because the team had not wanted to be offensive. Words such as 'special' and 'vulnerable' were offensive, and finally the team had ended up with 'protected', which might not be the best word, but the team had gone through a lot of dictionaries and thesauruses trying to come up with one that would not be deemed offensive by people within that group.

The second general category was flexibility in sanctioning recreational athletes. A number of stakeholders did their testing way below anybody who would compete on the national or international level. That was important to them as a matter of national health. The current rule was that stakeholders could test anybody they wished but, if they did and there was a positive test, the full scope of sanctions would apply. That did not make a lot of sense for a recreational athlete, some person who tested positive who did sport simply for fun and health. The requirement that their name and substance be published would cost them their job. The team proposed that recreational athletes enjoy the same flexibility of sanctions that protected people got. Another issue that the team had had to deal with was how to define a recreational athlete. In draft one, there had been a fairly long definition. Some had liked it but most had not. The team had stipulated looking to the rules of the ADO, the IF and the applicable major event organisation that said what a recreational athlete was: somebody who was not a national-level or international-level athlete under the rules of those organisations. Only one safeguard had been put in

there: over the past five years, the person could not have represented their country or been in a testing pool.

Something on which there might be some dispute was no specific reference in the Code to the ITA or any other individual service provider. There were different kinds of service providers. Some did one thing, such as collect urine, some did a handful of things. The ITA model was to provide full-service anti-doping support. There were not many others he knew of that did that right then, but there easily could be. Feedback had been received from some stakeholders that WADA really ought to certify and monitor anybody providing doping control services, and there should be a special category of something like signatories. That might be a good thing, but the resources that it would take WADA to do that would really be substantial, so the team had not accepted that suggestion. It was the view of the team that the ITA held a lot of promise, but the members had been concerned about specifically singling out the ITA as opposed to other people who might end up providing such services for anti-competitive reasons. If somebody said that they did the same thing as the ITA and they wanted to be named in the Code too, they would be refused, for example. A good meeting had taken place with the ITA and, to their credit, they had said that they did not need to be named in the Code and that they were willing to stand on the quality of their work. The team had been very impressed with them generally and particularly impressed with that attitude.

On the criteria to become a signatory, they did not have to be dealt with in the Code. The decision was that they would be in a guideline, but the team had learned a fair bit, which it would pass on, and made four observations. First, why would WADA not want as many people to follow the Code as possible if they were legitimate organisations? There had been a good meeting with GAISF, which had some very useful criteria on how to decide what was and what was not a legitimate organisation, so whoever drafted the guidelines needed to talk to GAISF about that. There was a very legitimate argument that the Olympic Movement should not have its money going to support monitoring and compliance for non-Olympic Movement signatories, so they ought to be charged, and the second benefit of that was that it weeded out the fly-by-night organisations. GAISF had been pretty candid about the fact that any rules about anybody competing with existing signatories not being recognised meant that there were serious anti-competitive values.

The next category was changes awaiting input from other WADA committees or working groups. No major Code changes had been made because the ball was largely in the court of others. As to the general principles set forth in the fundamental rationale and introduction to the Code, there had not been many cases dealing with the introduction or fundamental rationale, although those that had had been very supportive, for example the European Court of Human Rights. The team's view was, if it isn't broken, don't try to fix it, but he did not think that that was the consensus. The WADA Ethics Panel thought that there should be changes, as did other stakeholders, so the Ethics Committee had been asked to come forward with a proposal which could then be shared with other stakeholders.

The education section in the previous Code had come largely from the WADA Education Committee; in that case, the team had given the stakeholder comments on education to the Education Committee and was awaiting input.

On WADA governance, obviously, he was waiting for the members' reaction to the governance report they had just received from Professor Haas, but the general reaction was that the Code was a set of anti-doping rules and not good governance rules, and it ought to be kept that way. To the extent that stakeholders wanted changes in WADA governance or principles that WADA needed to follow on governance, the right place to put that would be in the foundation documents and not in the Code.

The next change was science issues. There were two science problems that were really important in the Code, for which there were just place-overs. The first was the problem of substances that were not prohibited out of competition but for which there were trace amounts of metabolites of those substances in competition, and the question was whether or not one could prove that those were out-of-competition and whether there was any benefit at all from the in-competition presence. The second issue was that of contamination in very minute degrees. There was good news and bad news for that. The laboratories over the past decade had been able to reach phenomenally low detection levels. He knew of a case involving a positive test for one picogram. It was not too long ago that one nanogram had been very low, and that was a thousand times greater than a picogram. That meant that the chances of finding a contaminant had just gone up a thousand-fold. That was something that really needed to be addressed at the scientific level. Whether that would involve thresholds or something else, he did not know. The good news was that WADA had put together a working group of really top scientists, and he thought

that they would have recommendations on both of those issues well before the next version of the Code came through.

It was premature to decide how the Anti-Doping Charter of Athlete Rights fitted into the Code until the charter was seen. That had been the comment from a number of stakeholders and that made sense. The way in which the charter was currently mentioned in the introduction to the Code was that it was not an obligation that triggered any kind of Code compliance violation by a stakeholder. The first part of the document he had seen included a good summary of rights already found in the Code and put them in one place; they were a useful tool for athletes. The second part of the document dealt with aspirational rights that athletes would like to see, and he was not sure how that would fit into the Code, and he guessed there would be a push-back to that, so how that got worked out in the charter, the members would just have to see. In summary, there were lots of changes, and there might be others in which the members were interested.

MR SIEVEKING asked the members if they had any questions on that presentation or any other changes they had seen in the second draft that they had in their files.

MR BAÑKA stressed that the time available for consultation on the revised World Anti-Doping Code was limited and it would be detrimental to reduce the length of the consultation phases over the coming year, so Europe strongly opposed any such move.

MR SIEVEKING noted the comment and position.

THE CHAIRMAN concluded that, as always, Mr Young's presentations were so good and so comprehensive that there were relatively few questions. The consultation process and the work of the Code Drafting Team were outstanding.

DECISION

World Anti-Doping Code update noted.

6.1.2 International standards

MR SIEVEKING informed the members that the first consultation phase for the international standards had run in parallel with the second consultation phase for the Code. It was important to run a parallel review to ensure that all of the documents in force on 1 January 2021 would be consistent. As the members could see from the document, a high number of comments from stakeholders had been received for each standard, in particular for the ISL and the ISTI, so the drafting teams for the standards had done extensive work to produce quality documents. For each standard, the members had a summary of the major changes proposed, so he would not go into detail, but the directors responsible for each standard were present and the members were invited to ask questions if necessary.

He wanted to say a few words about the new International Standard for Result Management drafted that summer. It was an important standard because result management was a key area of the anti-doping process, an area monitored for compliance, but the sole area that was of importance and monitored for compliance for which there had been no standard in place, so there had been a need for improvement and harmonisation. Also, the new standard had been necessary as a result of comments (in particular from Europe) in relation to fair hearings and, instead of adding clauses to the Code and to keep the Code as short as possible, the new standard had been needed. It had been supported by most stakeholders. As a result, a drafting team had been set up and worked hard that summer to issue the first draft. It was important to note that the key principles of result management were still in the Code, but many details, in particular in article 7, had been moved to the standard, making the Code a bit lighter. There had also been rules on result management in many other documents. Everything related to result management had been grouped together in the new standard. He had also heard the comments from the European friends, in particular about the need to review the document. It was a very first draft, a new document, of good quality; but, again, it was a very first draft, so it would be circulated for consultation together with the Code and the other standards as of 10 December. Given the importance of the document, he would suggest adding a second phase of consultation for the standard after the May 2019 Executive Committee meeting. It would be only for that standard, because all the other standards would have had two consultation phases, so he believed it would be fair to have two phases also for the result management standard. The first phase would start in December and he proposed another phase after the May 2019 Executive Committee meeting. There was time because the standard would enter into force with the new Code and other standards in January 2021. He would be happy to take questions

on the ISRM or give the floor to the directors responsible if there were questions in relation to the other standards.

THE CHAIRMAN noted that the members would begin to understand the scale of the operation in which WADA was involved. He agreed with the suggestion to have two periods of consultation, which he hoped would avoid the situation in which the members had found themselves earlier that day.

MR BANKA said that he had some comments on the different standards referred to under that agenda item. Starting with the ISRM, which was very important to Europe, he expressed Europe's disappointment in relation to the drafting process. The idea had emerged from the need to accommodate the comments made by Europe in relation to article 8 of the World Anti-Doping Code and to take into account existing legal standards and case law of the European Court of Human Rights. Europe had repeatedly offered to contribute to the drafting process and had submitted considerably detailed proposals that had not been taken into account. The process of drafting the standard put into serious doubt the value of the entire consultation exercise, during which the drafting team had completely ignored the proposals aimed to ensure that the World Anti-Doping Code was in line with international human rights standards. He strongly suggested and requested that the drafting team revisit its approach; however, if the current practice continued, Europe would consider its withdrawal from the consultation exercise.

MR SIEVEKING responded that, as he had said, it was the very first version, which was why he wanted to have two consultation phases. It was an exercise that had had to be done very quickly, because the decision to draft the new standard had been taken in mid-May and it had been necessary to form a drafting team and work quickly. As he had already told some of the Council of Europe representatives, he took due note. There would be a meeting the following week in Paris, he would be in Strasbourg at the end of January and there would be a lot of contact between the Council of Europe and the drafting team. It was easier to work when there was a basis than when there was no document on the table. The matter would be addressed during the first phase, and also during the second phase, which he asked the Executive Committee to accept.

THE CHAIRMAN said that he thought that the Executive Committee should make it work. He did not think that withdrawal from a consultation process was wise in any event.

DECISION

International standards update noted. A second consultation phase for the ISRM also noted.

- 6.1.2.1 International Standard for Code Compliance by Signatories

MR TAYLOR informed the members that there had been relatively few comments on the International Standard for Code Compliance by Signatories, as it had only been in place for six months. The IOC, as had been discussed, had wanted it to be a living document and for WADA to learn from experience, and the IOC had put plenty of work into a series of comments that had been received at the end of the consultation period. As the drafter, he had had some concerns about those comments that he had thought should be discussed by the Executive Committee at that meeting. However, he and Fred Donzé had had an extremely constructive meeting the previous day with Ms Hannah Grossenbacher and Mr Michael Vesper from the IOC. It was clear that there was a common desire to keep a strong compliance structure and there needed to be further discussion about ensuring that WADA would be able to do that in the best and most effective way possible. The outcome of the meeting had been that there needed to be further discussion about the proposals from the IOC and therefore they were no longer tabled for discussion today. Instead, there would be a specific in-person meeting with the IOC as part of the second consultation phase, and the issues they had raised might be resolved or amended, or they might be raised again as part of the next consultation phase. However, his current understanding was that they were not on the table to be put into the next version and therefore the members could just note the current situation. It had been a constructive meeting and he hoped to have further discussions and to be able to work things out.

THE CHAIRMAN commended the admirably brief report and thanked the Olympic Movement representatives who had got around the table and agreed on a way forward; that was very encouraging.

DECISION

ISCCS update noted.

6.1.3 International Standard for Laboratories - changes

MR YOUNG announced that he would start with the international standard. There had been wholesale changes to the new international standard version 10. They had been very good. He would deal with most of those at a pretty high level, about 10,000 feet. He would try to put himself in the members' shoes and figure out which of those technical things he really ought to care about as an Executive Committee member. In doing that, he would focus in particular on the half-dozen complaints that had been heard from the friends at the World Association of Anti-Doping Scientists. If he missed something in the presentation which was a technical issue about which the members wanted to know more, he would try to answer it. Fortunately, Dr Barroso and Dr Rabin were present to go into anything about which he did not know much. He always found it interesting that he ended up presenting the international standard, because he was not a scientist, but what he did for a living was explain scientific stuff to people who were not scientists, so he was really a translator. Over the past 25 years, he had ended up working with most of the WADA-accredited laboratories, most frequently in the context in which he was defending their decisions at a hearing at which they were being attacked by an athlete and their counsel. He got involved with the ISL because the attacks on the laboratory said that it had done something wrong or had not done something, which was why there was all of the detail in the ISL saying what the laboratories did and did not have to do. Where the ISL was confusing or ambiguous, that was an area in which WADA would get attacked in a case. For the most part, he was on the laboratories' side in the whole process. There was the occasional exception when WADA suspended a laboratory or revoked the accreditation of the laboratory and the laboratory took that to the CAS, such as the Malaysian case, when he was on the other side of the laboratory.

He started with some general observations. When it came to the laboratories, the reality he thought WADA faced was that there was no disagreement that the laboratories were an absolutely critical part of WADA's anti-doping mission. Second, the reality was that the laboratories were not all equal. There were some great laboratories, some good laboratories, some adequate laboratories, and some that were barely getting by. The fact was that, if he were a sophisticated dooper, he would really want his sample to go to those laboratories that were barely getting by, because his chances of getting caught would be a lot less than they would be in Cologne, Montreal, Lausanne or a number of other very good laboratories. That was not fair on the athletes, and it was not good for the system, which was why (if the members remembered a report from Professor Erdener's task force in Seoul) it had been said that WADA had to raise the bar for everybody and it would do what it could to train and share information. However, at the end of the day, all of the laboratories needed to chin that bar or they would not belong as WADA-accredited laboratories, so that was a fundamental premise that was carried forward into the ISL. What was being heard from athletes and CAS panels was that, if WADA was going to be strict with them, and there was strict liability for athletes, WADA had to be strict with itself, and that included its laboratories. In fact, as a person who defended WADA's laboratories, when there were laboratories that did not chin the bar, it really put a black mark on the whole laboratory system and WADA got judged by the lowest common denominator of the laboratory performance.

Moving on to the slides and the summary of major modifications, there were hundreds of changes, but the summary grouped them into important categories. One of the reasons the ISL had been changed was to comply with the revised ISO17025. Another important reason was to update the ISL on new technical and scientific developments, so WADA was setting criteria for Athlete Biological Passport laboratories. They were not currently in there, but needed to be; it was important that they be in there as soon as possible. The new ISL dealt with technical issues such as further analysis (also sometimes called retesting) and split samples. Those came largely out of draft two of the Code. Another general category was to enhance WADA monitoring capability in the EQAS evaluation system. What had been reported in Seoul and what the Executive Committee had approved was that WADA needed to do a lot more in the area of EQAS and monitoring to ensure that laboratory performance chinned the bar, and the details of that extra monitoring and EQAS were built into that version of the ISL. The next was more transparency and proportionality in the disciplinary process. He would talk about the principles in dealing with the laboratories' concerns, but there were a lot of technical issues too that were important, such as when a laboratory was suspended, what happened to the samples in that laboratory that had not yet been analysed? That was something that should be in the ISL. It was not in the old ISL, but it was in version 10.

Another important substantive change was that the old ISL talked about the operational independence of laboratories and the new ISL talked about administrative and operational independence. In other words, the laboratory could not report to the ministry of sport. It was okay if it got money from

the government; anti-doping organisations got money from the government. The government just could not control how that money was used, as that was operational, and it could not be the boss of the people who ran the laboratory. That might take time to change, so a two-year implementation schedule had been built into that change for administrative independence. Those were all really good and important changes with which everybody agreed. They would have a significant impact on the quality of the anti-doping system.

Talking about the process, the next slide dealt with the ISL working group. Having worked with those people, they were representative of the laboratories, they were very good, they had been supported by the WADA Science Department and the WADA Legal Department.

As to the following slide, which dealt with the review process, the team had been working on that for two years, with many different consultations, as the members could see.

Slide six showed the stakeholder consultation results, which were robust.

The seventh slide went to the six areas that were substantive in which WAADS had had concern. One of WAADS' concerns was why WADA should change the ISL immediately: why not wait until the ISL had to be changed to accommodate the new Code? There would not be a lot of required ISL changes with the new Code. A number of the important ones discussed had already been built into the ISL. It might be the case that there would be some changes to the ISL with the new Code, but that would be a terrible reason to put off making all the good changes that that ISL made immediately. There were enough things in the new ISL that were really important and it would make no sense to wait 18 months. With the exception of the handful of items, everybody agreed that the new ISL was better than what WADA currently had.

In relation to the late addition of article 4.4.1., the article said that payment of the host country's annual financial contribution to WADA was a condition of continued accreditation for the laboratory in that country. He understood the purpose of it: it did not make a great deal of sense for WADA to be spending a lot of money on the monitoring of that laboratory when the government in that country was not paying its fair share. In fact, when one had a laboratory in one's country, it was a real privilege in terms of convenience and a whole lot of other things, so that government if anybody ought to pay its fair share. That had been added at the end of the consultation process and, based on the people he had talked to, if one had to pick one thing that stirred up that whole WAADS hornet's nest, it was that provision. He had been told that there would have been no objection if that had not been added. It was up to the members to decide whether or not to leave that in there or put it off for further discussion.

On slide number eight, the new ISL said that laboratories had three months to implement changes. That would be a piece of cake for the good laboratories. Most of them had already implemented most of the new changes. It could be tougher for some of the lower-performing laboratories and WADA could be flexible, if they had a plan and imposed deadlines, in giving them extensions. Or, instead of having the three months, if there was that much of a problem, implementation could be put back to June or something like that; but, again, the longer WADA waited, the more samples would be analysed under less than optimal conditions.

The next one was a bit of a tough one. The new ISL said that the Executive Committee could delegate authority to the Laboratory Expert Group to issue technical letters, which were mandatory and had immediate effect. Things that were mandatory and had immediate effect were like level two technical documents, which could come from the Executive Committee only after appropriate consultation, so he understood that argument. On the other hand, there were things that needed to be done immediately. There was a handful of compounds, such as ostarine, whereby the metabolites of ostarine could come from ostarine but they could also come from substances that were not prohibited, and so a technical letter would come out saying that, before calling an ostarine sample a positive, it would be necessary to confirm that the metabolite had not come from one of those substances that was permitted. That was pretty important; otherwise, there would be a false positive. It was pretty important to do that immediately or at least stop reporting ostarine positives until they figured out how to test for the permitted drug, and it had to be mandatory. There were currently technical letters, but they were not mandatory and, if somebody ignored that requirement, there ought to be disciplinary action. If they did not check that the ostarine had come from a permitted substance and they declared an athlete positive, there ought to be consequences. There were consequences only if it was mandatory, and WADA could not wait to do that until going through the whole Executive Committee process, so that was why that was there.

The next concern was the requirement that there be two scientists reviewing initial testing procedure results. In the current ISL, there was a requirement that two scientists review adverse analytical findings. That transferred the responsibility when it came to reviewing initial testing procedure results. Why? Because it was going to be more expensive, there were not that many adverse analytical findings and there was an initial testing procedure result on every sample; so, with two scientists, it was going to cost more. The reason that there were two scientists checking adverse analytical finding results was to avoid any false positives. The reason that there were two scientists checking initial testing procedure results was that it cut down on the chances of false negatives. He had talked to laboratory people who had been part of monitoring groups and found situations in which the reason they had missed a positive test in an initial testing procedure was because the analyst had been tired, etc. If there had been a second person, they would have caught him. The laboratory person had told him that that was why they had two people doing that work in their laboratory and, if they did not, they would miss some positive tests. The fact was that a number of laboratories already had two scientists reviewing initial testing procedure results. He had heard from a lot of athletes who were concerned about false positives but they were also concerned about false negatives. That was a response to that concern and the fact that WADA wanted the laboratories to get it right on both positives and negatives.

The final WAADS concern, and it was an important one, was that it did not think that the changes the working group had made in that version 10 in the area of laboratory discipline had gone far enough. When he talked to laboratories, they readily acknowledged that not all laboratories were equal and some laboratories really needed to improve to be able to chin the bar, and they readily acknowledged that, if they did not, they should be out. The problem was that they had a bit of a conflict there because they were also afraid for themselves, even the very good laboratories. They were not perfect and could make mistakes too (there but for the grace of God go I). They were very afraid of a system in which any little mistake could cause WADA to do something to them that could permanently ruin their reputation and that they would hear about in every single case from then on in which the laboratory was being attacked, and that was not an unreasonable fear because he had seen it, where laboratories had had discipline imposed, and that was a central theme of the cross-examination of the laboratory director. The group had tried to meet those concerns in a reasonable way and still be mindful that the bar was being raised and, if the laboratory did not chin the bar, there had to be discipline. Things had been done in the direction that WAADS and the other laboratories wanted. The penalty points system had been changed to distinguish between clerical errors (somebody who transposed numbers, for example) and analytical errors (the method for a particular substance had not worked or they had not done the kind of quality check required in the technical documents in the ISL); it distinguished between false positives and false negatives (false positives were more important); and it placed particular emphasis on mistakes that had adversely affected athletes. A false positive on an athlete whereby an athlete had been disciplined was obviously about as bad as one could get. There had been more of a focus on solving mistakes or problems, if the laboratories were able to quickly identify the root cause of the problem and implement the satisfactory corrective action. If a laboratory could do that, the discipline would be less than if it could not.

Another important point was that sometimes the laboratories had a problem only with a certain substance, they failed an EQAS test or everything they did was fine but their method had not been very good for a particular substance. Under the current ISL, they would get suspended; under the new ISL, they could receive an analytical testing restriction, and that got to be really important from a reputation point of view because, when one read in the paper that a laboratory had been suspended for a certain substance, what people read was that the laboratory had been suspended, and that would ruin its reputation. If a laboratory had been restricted for one method, that would have a completely different impact. What the group recommended, at least on that topic of laboratory discipline, was that everybody agree that version 10 was better than the existing ISL on the topic, it was more favourable to the laboratories, the disciplinary process was more open and transparent and gave the laboratories more opportunity to comment. Why would one not, therefore, if what one was concerned about was the disciplinary process, approve that version, which was better, immediately? Between then and the time the Code got adopted, WADA, the Laboratory Expert Group, WAADS and the individual laboratories and anybody else could continue to work to get the necessary consensus. That was his presentation on the ISL. Were there any questions or comments?

THE CHAIRMAN thanked Mr Young. It was complicated stuff, but it was important that the Executive Committee take the correct decision.

DR RABIN thanked Mr Young for his very clear presentation. He had had the privilege of discussing with some of the laboratories over the past few days, and in particular a couple of concerns had been received from WAADS, the first of which related to 4.4.1 on the payment to WADA of dues by host countries to maintain accreditation. That was not a new provision; it existed already for laboratory approval. It was only for the maintenance of laboratories, and that provision had been to secure in particular the resources needed to make the changes approved by the Foundation Board the previous year and ensure that WADA would be able to make the changes presented earlier. However, if that was a very contentious point, it might make sense to withdraw the provision and have it discussed as part of the new version of the ISL to be presented for adoption in 2019 to come into force in 2021.

As to the technical letters, because they were very technical by nature and the group had not wanted to overburden the Executive Committee with such technical elements, if it was the preference of the Executive Committee, it would simply be necessary to find a way of being quick and approving the letters so that they could be sent without delay to the anti-doping laboratories.

Finally, he could only echo what Mr Young had been saying, which was that the disciplinary aspects of that version of the ISL were much more favourable to the laboratories than previously, and the provisions being proposed were for the benefit of the laboratories. The laboratories should appreciate the steps being taken in that new version of the ISL.

THE CHAIRMAN concluded that the Executive Committee was being asked to approve the new version of the ISL minus the two clauses on payment and the technical letters.

MR BAŇKA said that, at the previous meeting of the Executive Committee, Europe had asked WADA for clarification that the proposed changes to the ISL were minor. However, it seemed that the proposed amendments were substantial and, furthermore, had not been consulted on properly with the relevant stakeholders, namely the laboratories, so the public authorities requested a postponement to the approval of the 2019 ISL and called on WADA to initiate additional consultation on the standard. In addition, Europe also strongly objected to the inclusion of the reference to the technical letters as mandatory in the standard; in Europe's opinion, it might be a way for the Laboratory Expert Group to impose new requirements on laboratories by bypassing the Executive Committee and replacing its role in standard setting for laboratories.

MR COSGROVE endorsed the position of his European counterpart. His Australian friend had reminded him that there had been reference to laboratories being a convenience. In the case of Australia, that convenience added up to a total of 3.3 million dollars per year. It was not a convenience. The changes, he was advised, would put an additional impost on top of other costs of around one million dollars a year; therefore, he endorsed the notion of a postponement so that there could be proper consultation on that, given also that there would be further changes to that in the Code, thereby providing further financial impost. He endorsed his European colleague's remark.

DR RABIN responded that, in relation to the minor changes, he had always anticipated that there would be some significant changes in that version of the ISL, because WADA had to adjust that version of the ISL to the new version of the IS017025, so some significant changes to that version of the ISL had been anticipated, but minor changes in the next version of the ISL to be adopted at the same time as the World Anti-Doping Code. That had always been clear.

In relation to the technical letters, that could be removed from the ISL and a version without reference and maintaining the approval by the Executive Committee would be quite acceptable.

In relation to the postponement, he could only echo what Mr Young had said. There were some very important proposals in that version of the ISL and he believed that WADA would be much better with that version in force in 2019 than postponing well beyond the initial implementation date proposed. He was ready to reconsider some of the controversial points. He believed delaying would be an issue. He could propose delaying the implementation to allow a little more time for the scientists reviewing the initial testing procedure results. That would be quite understandable. Beyond that, that could be an issue for the laboratories for the reasons explained earlier.

MR YOUNG said that he was sorry he had made the comment about convenience. He had never quite understood why countries were so desperate to have a laboratory in their own country, particularly if it was going to cost them three million dollars. His view was that it did not make a lot of sense to have perfect being the enemy of good. That document was good, and it was a lot better than what WADA currently had. He understood that there might be some areas in which WAADS did not think it was

perfect; but, with the carve-outs mentioned by Dr Rabin, he thought that it would be really foolish to just put it off. There would be continued consultation; but, if that document was better than the one WADA currently had, the members should adopt it and then continue consulting on the issues that were contentious.

THE CHAIRMAN asked how Mr Young reacted to the potential suggestion of a slight delay in implementation.

MR YOUNG responded that that was fine. If there were good reasons, that would have been agreed to anyhow. The only issue was that what the members would hear from athletes was that they were already concerned that there was too much of a difference between the good laboratories and the bad laboratories; in fact, the good laboratories were already doing that or would be able to implement very quickly and the bad laboratories might take until June, and so it would just perpetuate that. He would be willing to do that as an accommodation to the laboratories that were not as good; but, if he were an athlete, he would not be very happy about that.

MR COSGROVE noted that whilst he took the comment on board, and he agreed that efficient implementation was preferable, he thought that also efficient consultation was preferable and, from a public authorities point of view, if they were given sufficient time to consult on that, there was a view that they needed that, putting cost aside, and that they could efficiently come to a view, but he reiterated the point that, in the mind of the public authorities, they needed time to consult on that.

THE CHAIRMAN asked how long the consultation period had been.

DR RABIN responded that there had been a two-month consultation period on the ISL, based on the comments received on the latest version proposed. The consultation phase had been fairly long, not mentioning the previous consultation phase for the laboratories, so the laboratories had been consulted twice, and all the stakeholders had been consulted over a long period over the summer.

THE CHAIRMAN thought that it was time to reach a decision. He spent a lot of time reading (on the members' behalf) reports from laboratories, in particular on their accreditation. WADA had had to deal on a number of occasions with removing accreditation from laboratories or re-establishing that, so he was aware of the complexities involved. He was tempted to suggest that, if WADA was told that it was better, he was reluctant to turn down something that was better and, if the contentious clauses were removed, that might be a way forward, particularly if Mr Young said that all the good laboratories were doing that already.

MR BAŃKA said that the CAHAMA had got the document three days before the deadline, and that was not serious, so his opinion was that the decision should definitely be postponed. The public authorities needed more time.

DR RABIN noted that the key changes had been circulated over the summer. The only one added was related to the payment of dues by the governments to WADA. It had been added post-consultation, but all the others had been circulated and adjustments had been made by the working group, so there was nothing new compared to the summer consultation.

MR BAŃKA said that Europe had 47 countries, and partners needed to be respected and Europe needed more time to consult, not three days before the deadline.

THE CHAIRMAN said in consideration of the comments made by some members, that the issue should be deferred for further consultation and the Executive Committee would finalise it no later than the May meeting the following year. He asked Mr Young if he could live with that, and asked the members whether that was an acceptable compromise. WADA would be less good than it should be but only for about six or seven months. He thanked Mr Young for staying up so late. The Executive Committee was grateful to Mr Young, because there was absolutely no doubt about the quality of the advice he gave.

DECISION

Proposed changes to the International Standard for Laboratories to be reconsidered in May 2019.

6.1.4 International Standard for Testing and Investigations – article 6.3.4 and Annex L

MR RICKETTS said that, rather than wait until the World Conference on Doping in Sport in 2019 for the approval of the ISTI and then another year for that to come into force, there were two areas requiring more immediate attention which were before the Executive Committee for approval that day, and they were sample collection equipment and the criteria around that equipment, and also result management and procedures for the Athlete Biological Passport.

Dealing with sample collection equipment first, the Executive Committee would recall the equipment issues faced by the anti-doping community earlier that year, in particular in relation to the bottles used to collect and store the athletes' urine for testing that had come from one particular manufacturer with (he thought) over 90% of the market share. As a result of that, there had been much concern that WADA would run out of equipment at one stage and no testing would be able to be conducted. That point had not been reached but, as a result, it had been necessary to look at how to enhance the criteria in the ISTI to make it more robust. WADA had therefore formed a small working group comprising representatives of IFs, NADOs and sample collection providers, and that group had come up with an additional 17 criteria, which had then been circulated among stakeholders through the first round of consultation. It was important to outline that the manufacturers were not directly bound to WADA or the ISTI but indirectly through the signatories, who required them to meet the criteria. It was also worth raising the point that the equipment manufacturers had also been consulted in the process and that three of the four manufacturers had made comments through the official channels. The main criteria enhanced included the need to undertake a minimum level of testing on the equipment by independent and ISO-certified institutions, including tests to ensure that the kits could be frozen at least to -80 degrees, which was what the WADA-accredited laboratories froze the samples down to. In addition to being tamper-evident, there was also a requirement to have additional security features built into the equipment to make sure that it was authentic and that copying it would be very difficult. There had also been a number of operational elements and visual elements such as volume levels. Equipment had to be transparent and also had to be tested if changed in any way. That was one of the things the manufacturer had missed when changing the kits, after which it had been easy to open the lids as a result of the modifications made. There was also an onus on manufacturers to be ISO-certified and have quality control measures in place as part of the production process. Those enhanced criteria would assist WADA in addressing the particular issues it had faced earlier that year.

The second element proposed for change was the Athlete Biological Passport and the result management procedures related to that. The changes were mainly the result of revised and related technical documents and two had had an impact on that. There had also been a legal review by a team of experts looking at streamlining the result management procedures, and they were in annex L of the ISTI. As Mr Sieveking had highlighted, that section of the ISTI was part of the new result management standard, so the changes, if approved, would come into force and remain in the ISTI until that transfer occurred through the ongoing consultation process.

He informed the members that there were four manufacturers, with two new ones yet to come to market, and they were looking to do so in 2019 which would ensure that WADA would not be relying on a sole supplier. That, along with the enhanced criteria, would give much better protection. The proposed changes were to come into effect on 1 March 2019. That concluded his overview of the proposed changes. He would be happy to take any questions.

THE CHAIRMAN said that the members would all remember very clearly the issue with the bottles which had caused consternation and hard work. Were there questions on the two technical issues? Were the members happy with those? He thanked Mr Ricketts, concluding that both proposals were approved.

DECISION

Proposed amendments to the ISTI approved.

– **6.2 Code compliance**

6.2.1 Compliance Review Committee Chair report

MR TAYLOR informed the members that they had a report in their files on Code compliance. It was relatively comprehensive and, he hoped, clear. Apart from the usual business (and he would be dealing with new non-compliance cases in a separate item), there were several lessons that had been taken from previous Executive Committee meetings and from the process that had been followed, allowing

signatories to come and provide an update at a CRC meeting just before the Executive Committee meeting. Changes had been made to that process to try and balance the need to give as much time as possible to the signatories with the need to ensure that the CRC had the necessary information and time to come to a robust recommendation to be put to the Executive Committee. He proposed putting those changes, the details of which were set out in the report, into amended CRC Bye-Laws.

MR BANKA noted that Europe was very happy with the idea of having deadlines for submissions from stakeholders, but stressed that the timeframe should give sufficient time not only to the Compliance Review Committee but also to the public authorities to hold consultations and examine Compliance Review Committee recommendations with a view to making informed decisions and avoid making recommendations at the last moment.

MR TAYLOR responded that he was very conscious of that, and the Compliance Review Committee would meet as the Executive Committee directed it and in accordance with what worked for the Executive Committee members and their stakeholders. The Compliance Review Committee was proposing to meet two weeks before the Executive Committee meeting to come to a decision as to what to recommend to the Executive Committee, but with a reserve date of one week later in case it could not make a full decision or in case it needed time to circulate and agree on a recommendation. So it was possible under the current proposal that the recommendation would not be issued until one week before the Executive Committee meeting. As a general rule, it should be two weeks before, but in certain cases, exceptionally, it could be one week before. If this was not considered to be enough time for the Executive Committee to consider the recommendation, the Compliance Review Committee would schedule its meetings as the Executive Committee told it. It was very clear in the International Standard that the desire was to help Signatories to comply, not to have them be non-compliant, and it did seem to be a recurring pattern (and perhaps it was a sign that the system was working) that Signatories tended to comply just before ExCo meetings, so maybe it was when they saw the hangman's noose and they were walking up the steps of the gallows that they finally did what they needed to do to comply. It was therefore necessary to balance the need to give them that much time and maybe avoid non-compliance with the need for the Executive Committee members to have sufficient time to discuss the recommendation. The Compliance Review Committee would do whatever the Executive Committee told it to do. It was currently holding a meeting two weeks in advance of the ExCo meeting, and might be able to send out the recommendation within a day or two of that, but there was a reserve date, which was the week before the ExCo meeting, and it might be that the Compliance Review Committee needed that week, because it did not want to be rushed into a decision. He was very conscious that the Executive Committee needed to vote on the recommendations, so the members needed to be in a position to consult with their stakeholders in relation to the recommendation in advance of the ExCo meeting. If the Executive Committee members wanted the Compliance Review Committee to move the date, it could.

DECISION

Compliance Review Committee Chair report noted.

6.2.2 Compliance monitoring update

MR DONZÉ informed the members that he would be very brief because the members would be receiving a PowerPoint presentation the following day from Mr Ricketts. He gave a few updates on the deployment of the World Anti-Doping Code compliance monitoring programme. He had provided the members with updates at the September meeting. The programme continued to take up a bit of time and energy from WADA management and signatories and the relationship between the stakeholders and the people implementing the programme had been very successful and constructive.

The members would recall that there were two main tools, which were the Code compliance questionnaire and the compliance audits. In terms of the Code compliance questionnaire, all IFs and NADOs had received their corrective action reports from WADA and they went from major non-conformities with the World Anti-Doping Code to more minor details. As of that date, the various IFs and NADOs had received more than 10,000 corrective actions from WADA, which was pretty remarkable, as was the implementation of the corrective actions by the stakeholders. WADA had categorised the stakeholders in various tiers and the corrective actions were also divided into tiers: critical, high priority and other corrective actions. The tier one signatories had implemented 100% of their critical and high

priority corrective actions and the work was well advanced for the other tier of signatories. That showed once again that a considerable effort was being made by all.

In terms of the signatory audit programme, nine audits had been conducted in 2017. Thus far, 13 signatories, IFs and NADOs had been audited in 2018, and there would be another four audits during the remainder of the year. The audits had also resulted in corrective actions being transmitted to the audited signatories and more or less 300 corrective actions had been identified through compliance audits.

WADA continued to enjoy fruitful collaboration with a number of stakeholders in terms of the implementation of the programme, and he thanked in particular the Council of Europe, with which WADA had good cooperation. The Council of Europe monitored the compliance of governments with the European anti-doping convention, and WADA monitored compliance with the World Anti-Doping Code. There were synergies in that exercise, and WADA had conducted several joint visits and audits to countries in which the Council of Europe could focus on the governmental part of the work and WADA could focus on the work conducted by the NADOs. WADA was looking at such cooperation with UNESCO and had been in contact with UNESCO. It had proven to be a very constructive and successful relationship.

THE CHAIRMAN observed that, when WADA had actually started the philosophical challenge of moving from being rule-compliant to being actually and operationally compliant, never in his wildest dreams had he thought that, so quickly, WADA would be talking about 10,000 corrective actions. That was a massive effort and he congratulated Mr Donzé, who was cleverly avoiding responsibility the following day, when Mr Ricketts would be giving the PowerPoint presentation.

MR DONZÉ responded that it demonstrated team work and the fact that everybody was involved.

DECISION

Compliance monitoring update noted.

6.2.3 Russia update

MR TAYLOR said that he had nothing to add to the update received by the members.

DECISION

Russia update noted.

6.2.4 Recommendations of non-compliance

MR TAYLOR referred to the paper at 6.2.4 which had been produced after the Compliance Review Committee meeting in early October, and then the members had a letter of 5 November, providing an update following the teleconference on 31 October, two weeks before the Executive Committee meeting. The Compliance Review Committee decided upon a recommendation, and then told the Signatories in question what the recommendation would be and that the committee would be meeting again two weeks before the ExCo meeting, and that the Signatories should provide any updates before then, and that was a time when the Compliance Review Committee saw a great deal of movement in many of the cases, and that was the case at this meeting as well.

The first case was the Nigerian NADO. The facts were set out in the report, and the corrective actions that were still outstanding could be seen. There had been some movement since early October, but there were still three critical requirements outstanding and therefore the recommendation of the Compliance Review Committee remained as set out in the paper, which was that WADA should send a notice asserting non-compliance and proposing certain consequences, and those could be seen in the table on pages two and three of the paper. The Compliance Review Committee had gone to the International Standard for Code Compliance by Signatories, which set out a range of possible sanctions. The Committee had gone down the list and said what it recommended in the right-hand-side of the column. He hoped it was a clear way of presenting things, that it showed the reasoning of the Compliance Review Committee and how it was trying to fashion consequences commensurate with the non-compliance and also consequences that encouraged compliance as soon as possible. That was the only case for which the recommendation remained exactly as set out in the paper.

The next one was the Portuguese NADO. For that case, the members would see a series of corrective actions. The first item, establishing a mechanism to review the test distribution plan, had been corrected.

The remaining ones required amendments to legislation to implement the Code. The corrective action in such cases was that draft legislation be provided with a specific timetable for adoption. If that was provided, the corrective action was considered completed. In that case, the WADA Compliance Task Force had received draft legislation and a legislative timetable only the day before the Compliance Review Committee teleconference, and while it was clear that the Compliance Task Force regarded it as very positive, there had not been time for the members of the Compliance Review Committee to review in detail, consider in detail and confirm that point. In other words, it appeared as if the necessary corrective action had been taken, but the Compliance Review Committee had not had time to go into that detail. That was why, in that case, the Compliance Review Committee was now not making any recommendation in relation to the Portuguese NADO. Instead, at its next meeting, in January, the CRC would have had time to consider the legislation and confirm the clear view of the WADA Compliance Task Force that the corrective action had been completed, in which case there would be no recommendation in relation to the Portuguese NADO.

The next case was the International Gymnastics Federation. The members would see the list of critical requirements outstanding, and they were important ones: a risk assessment, developing a test distribution plan, implementing the TDSSA, and developing and implementing a registered testing pool. Here again, there had been significant movement by the signatory. In particular, the signatory had engaged the ITA, and the Compliance Review Committee had been given the detail of that agreement. A specific action plan had been provided, saying that the risk assessment would be done and the test distribution plan would be done by 7 December and implemented immediately. The situation was slightly different compared to the Portuguese case. What had been provided was not a corrective action, it was a plan in relation to when corrective actions would happen. There was a specific provision in the International Standard for Code Compliance by Signatories, Article 9.4.5, that allowed the CRC in that situation to recommend to the Executive Committee that the Signatory be given four months (it was colloquially known as the "watch list") to implement those corrective actions in accordance with the plan provided, and he had no doubt that FIG would do that. If that happened within four months, there would be no recommendation. If it did not happen within four months, that mechanism allowed for automatic non-compliance without it going back to the Executive Committee. He was very confident, given the commitment made, that the correction actions would take place, but it was different to the Portuguese NADO because the corrective actions had not been completed; rather, there was a specific plan to complete the corrective actions within a certain period of time. That was the reason for the difference in recommendation. The recommendation was to put them on the watch list. If they did what they had said they would do within four months, that would be the end of the process.

In relation to the International Federation for Athletes with Intellectual Impairments, there had been one outstanding non-conformity, and it had been fully corrected, so there was no longer a recommendation.

Therefore, the recommendations were, for the Nigerian NADO, as originally set out in the paper, and for the International Gymnastics Federation, as set out in the updated letter of 5 November.

THE CHAIRMAN asked the members if they were happy with the recommendation in relation to the Nigerian NADO. On the International Gymnastics Federation, he had some knowledge of that and rather shared Mr Taylor's enthusiasm that the federation would, within four months, meet the requirements. Were the members happy with that recommendation?

DECISION

Proposed recommendations in relation to non-compliance approved.

– 6.3 Technical Document for Sport-Specific Analysis – amendments

MR RICKETTS said that, following a recent meeting of the TDSSA expert group in September, there were two main areas of proposed amendments to the TDSSA, the first of which related to the criteria in relation to the mandatory implementation of the Athlete Biological Passport blood programme for certain sports, and the second was the postponement of the implementation of mandatory testing for growth hormone until the establishment of the endocrine module part of the Athlete Biological Passport.

First, he would give a little bit of background on the TDSSA so that everybody knew what he was talking about. The TDSSA was a mandatory document. It had come into effect on 1 January 2015 and outlined the minimum levels of analysis for certain sports and disciplines determined to be at risk in

relation to those specific prohibited substances not included in a standard urine analysis. There were currently three prohibited substances in the TDSSA. They were erythropoiesis-stimulating agents or ESAs (that included the EPO group), growth hormone detectable in blood only and growth hormone releasing factors. Given that the TDSSA had been in operation for over three-and-a-half years, he had included some statistics in his presentation just to highlight the level of testing that had occurred across the three groups of substances.

For the category of ESAs, the members could see across all levels a consistent incline, and he had included the numbers for a number of Athlete Biological Passport blood samples, coinciding with the ESA target testing.

For growth hormone, the first three columns were similar: a general incline across the number of samples and sports being tested for the substances and testing authorities; however, the adverse analytical findings had not been as good as had been hoped, and he would come back to that later in the presentation in relation to the postponement of mandatory testing for that substance.

For the growth hormone releasing factors, again, across all columns, the members would see a good incline of samples, number of sports and testing authorities, and adverse analytical findings as well.

Overall, that told him that more athletes, more sports and more countries were being tested for those substances, so the bar had definitely been raised and WADA was heading in the right direction.

In terms of the Athlete Biological Passport, that had proven to be a very strong and powerful tool, which was why, in November 2016, the Executive Committee had approved that the Athlete Biological Passport blood programme would become mandatory for sports and disciplines with 30% or above minimum levels of analysis for ESAs. 2017 and 2018 had been implementation years to prepare ADOs for the implementation of that, and part of that had been increasing blood testing capacity where blood had not been collected previously, and also looking at where laboratories were located and dealing with issues of shipping blood, which had a short timeframe for collection and delivery to the laboratory to be analysed. For that particular area, WADA had seen two new laboratories specific to the Athlete Biological Passport established in Egypt and Kenya and providing a good service to the African region. The sports that were affected, when he mentioned 30% and above, were obviously endurance sports. There were 12 with 25 disciplines, and the full implementation of testing for those sports was 1 January 2019. In terms of those countries that did not have a blood Athlete Biological Passport programme up and running under the tier-one or tier-two categories to which that would apply in terms of compliance, there were around 20 countries that needed to get up and running and, certainly, the Athlete Biological Passport Department and NADO and RADO Relations Departments had been working closely with those countries, together with the regional offices. All of the federations for the sports that the members could see on the screen had an Athlete Biological Passport blood programme up and running.

In terms of the proposed changes, the first was the criteria for the implementation of the Athlete Biological Passport programme. It was proposed that a minimum number of three blood tests would be planned for athletes in the sports who were actually in a registered testing pool. That number would be on average so, across the total number of athletes within that pool, an average of three blood Athlete Biological Passport tests should be carried out annually. The test distribution should be carried out according to intelligence, including information from the APMU and any other intelligence that the ADO might have. That would result in some athletes having more tests than others and that was why the average factor had been built into that scenario. It was important to note from a resource perspective that ADOs could share the minimum tests. IFs and NADOs that had dual jurisdiction over a particular athlete could collaborate and work out testing programmes (which was what WADA wanted them to do in general anyway) and that would assist from a resource perspective. There were over 6,000 tests already being conducted on athletes with the passport. The average was already over three, so WADA was hitting the minimum mark already and there should not be a major change for the majority of ADOs.

The second aspect he had mentioned was growth hormone and the postponement of that. When the Executive Committee had approved the Athlete Biological Passport blood programme, it had also approved the mandating of the implementation of growth hormone testing as outlined in the TDSSA. Following the expert group meeting in September, there was a recommendation to postpone the mandatory implementation until the endocrine module of the Athlete Biological Passport was ready for implementation. A number of factors had been considered in reaching that decision, including the growth hormone testing and adverse analytical finding figures, the current analytical methods and also the potential benefits from the preliminary research into the endocrine module. Similar to the ESAs and how

that guided the blood Athlete Biological Passport programme, it was envisaged that the endocrine module would guide the targeting of growth hormone testing as well. However, having said that, growth hormone remained on the TDSSA and ADOs would certainly be encouraged to continue testing for growth hormone, but would not be held accountable for meeting those minimum levels of analysis until the endocrine module was up and running and growth hormone was mandatory to meet the minimum levels.

It was proposed that the revisions come into play on 1 January 2019. ADOs had already been informed of the proposal, a summary of the expert group meeting had been circulated in early October and, in addition to that, there was a planned consultation process for the TDSSA to review the past four years of implementation and further refine the document.

MR SHEPANDE spoke on behalf of Africa to say that his analysis of the document was that the TDSSA expert group was composed mostly of experts drawn from Europe and North America, and under-resourced regions such as Africa were not represented at all, meaning that their interests were not taken into consideration.

MR COSGROVE asked for an assurance as to whether there would be any flexibility. Australian and New Zealand NADOs had raised concerns about whether there would be flexibility between the need to test in relation to ensuring compliance with the technical document as opposed to intelligence-led and target testing. Would there be flexibility?

MR RICKETTS responded. In terms of the composition of the TDSSA expert group, it was coming up for a renewal of members and he would happily welcome recommendations from Africa with people who had expertise in implementing the TDSSA and Athlete Biological Passport programme. WADA would be happy to receive recommendations via its regional office in Africa.

In relation to the flexibility of compliance monitoring, certainly the starting point was that WADA wanted people to conduct smart testing based on intelligence and not just meeting numbers. As long as ADOs could show that they had put in place an intelligence testing programme, there would be consultation and dialogue with the Athlete Biological Passport Department, and they knew who was doing what around the world based on the data in ADAMS, so certainly there would be that flexibility. There were also many ADOs that did not run on calendar years for financial and budgetary allocations so, obviously, with that coming into play on 1 January and some countries with budgets running from mid-year to mid-year, there would be flexibility in that regard as well.

THE CHAIRMAN said that it was a specialised piece of work and, off the top of his head and guessing, about 50,000 tests had occurred that year, so that was a very effective way of targeting the people WADA needed to test. Were the members happy that the changes outlined come into effect?

DECISION

Proposed TDSSA amendments approved.

7. Athletes

MS SCOTT informed the members that the WADA Athlete Committee had held its second and final meeting of the year the previous day in Baku. That had been done to enable members to stay on and take part in the Foundation Board meeting the following day. Many members of the WADA Athlete Committee would be seen in the room the following day at the Foundation Board meeting.

She ran through the outcomes of the meeting. First and foremost, the WADA Athlete Committee wished to acknowledge and thank the many athletes and athlete groups that had spoken up and rendered opinions on the current status of anti-doping. The Athlete Committee still maintained and believed that the athlete voice was important and valuable to the anti-doping movement.

She had covered governance earlier, when the WADA Working Group on Governance Matters report had been presented. The Athlete Committee had spoken about RUSADA and its reinstatement and, while the members remained disappointed with WADA's decision to declare RUSADA compliant prior to achieving the established conditions, they acknowledged that the process had taken place. They did, however, expect and anticipate that access to the LIMS data would be obtained by WADA by the end of that year and, as soon as the data had been validated (or not), they greatly anticipated a recommendation and decision on compliance to be rendered immediately.

Her colleague Mr Sandford would be talking quite extensively about the Anti-Doping Charter of Athlete Rights. The Athlete Committee was nearing the finish line and expected to send out the final draft for consultation shortly. The IOC athletes' commission had offered its database to engage a large number of athletes, which was appreciated, and of course the Athlete Committee was hopeful and optimistic and intending for it to be fully implemented in the following year's revised World Anti-Doping Code.

Speaking of Mr Sandford again, the Athlete Committee had been privy to an overview and an opportunity to consult on the proposed Code changes thanks to his involvement on the Code Drafting Team. The Athlete Committee had provided some input and guidance.

There had been a chance to have a presentation on the new ADAMS and the new athlete-central whereabouts application from Mr Kemp, and one of the members would be involved in ongoing developments and feedback. The Athlete Committee certainly welcomed and supported the new application and the developments and had been quite excited about them. It was always good to get a visit from Mr Kemp.

There had been a debrief of the WADA athlete forum. The athletes certainly acknowledged the value and importance of creating an environment and an opportunity for the broader athlete community to engage exclusively on the important subject of anti-doping. The forum had been used as an opportunity to further consultation on the Anti-Doping Charter of Athlete Rights. Recognising the importance of the forum, the Athlete Committee and WADA's management would assess the feasibility of holding a second edition of the forum with the WADA ADO symposium in spring 2019 in Lausanne.

She noted that the IOC athletes' commission would also be holding a forum in April and the WADA Athlete Committee had been invited to present at that forum and was taking that into consideration.

The final topic of the day had been athlete group collaboration. The WADA Athlete Committee had received an invitation from the IOC athletes committee to have a joint face-to-face meeting to discuss recent incidents. Following that, the athletes had discussed the potential of having an memorandum of understanding to establish some guidelines to ensure that communications between the two groups took place in a respectful manner. A date convenient for both groups had not yet been set, but both groups could confirm their interest in the meeting. Further to that, the WADA Athlete Committee had again agreed to establish a working group to explore the potential for improved collaboration and communication across all athlete groups and signatories. Those were the main outcomes of the meeting the previous day.

MS BARTEKOVÁ thanked Ms Scott and the Athlete Committee for the meeting held the previous day. She thought that there had been a great effort from both sides to sit and talk things through. She believed that it could be made to work.

THE CHAIRMAN strongly supported the idea that the two different committees should sit round a table and meet and discuss and move things on and he was very happy to hear that that was what was going to happen.

DECISION

Athlete Committee Chair report noted.

– **7.1 Anti-Doping Charter of Athlete Rights**

MR SANDFORD informed the members that he had quite a long presentation, and he was going to try and skip through a lot of it quickly to give the members a chance to ask questions. The members had the draft of the Anti-Doping Charter of Athlete Rights in their files; it was a second draft, and it really was work in progress. That was a process that had been going on for a couple of years and it had come about because a lot of athletes around the world and athlete committees had been feeling quite frustrated, which was why the idea of developing a charter of rights had been floated along with moving that into the Code, and it had been very helpful that he was also on the Code Drafting Team and able to identify areas in the Code in which athletes' rights could be enhanced. The idea had been developed in 2017 and presented at the WADA symposium. The initial feedback had been really positive and he thanked all those involved in the process and who had seen the potential of the project. It had been really positive and the engagement had been great. A small group had been formed, and the idea had been taken out for athlete consultation, receiving over 2,100 responses, which was pretty fantastic for an anti-doping document. Athletes were really passionate about it, and really wanted their rights

identified and articulated and to be able to have access to those rights. The members could see that there had been a response from 2,100 athletes from 50 sports, and the representation from around the world and the age had been really encouraging. 97% believed it was essential and desirable to have clean sport. The impression when talking to clean athletes was that they really believed in the work that WADA did. They believed in clean sport, they wanted clean sport and they wanted sport to be fair. They also wanted their rights clearly expressed within the framework that WADA had. The results from the survey had been obtained, after which the first draft had been created. It had been presented at the ADO symposium earlier in the year, then there had been the athlete forum in Calgary, after which the second draft that was before the members had been developed.

As the members could see, the document was divided into two main parts. There was a mission statement and a preamble, and then actual rights, which were rights that athletes had under the 2021 Code or under international standards or associated WADA documents. The problem for athletes was that a good job had been done of creating rules and regulations and responsibilities for athletes, and there were thousands of pages of rules for athletes to follow, but there was not one single page anywhere articulating all the rights of athletes, so that went some way to remedying that. They were rights that reflected the 2021 Code. That made the process a little bit challenging, because it was like changing a tyre on a moving car; so, as new developments happened with the Code, they had to be reflected in that document, but the members also had to approve the document before approving the Code at the end of the following year. Therefore, the timeframe was that the Anti-Doping Charter of Athlete Rights would be taken back out for athlete feedback as soon as possible after that meeting with the help of the IOC, which would reach out to its database, and it would be on the WADA public platform for feedback. He really wanted to know the concerns and even perhaps the mistakes he had made in drafting. The actual rights were rights in WADA documents. He would not necessarily speak to any of them, but drew the members' attention to article 10, which did not necessarily fit so well in an actual right, although it referred to the anti-doping athlete ombudsman. The current situation was that athletes had rights but they were scattered all over the place. The WADA statutes talked about athlete rights, the convention talked about human rights, and then there was the Code with rights and international standards. That was being condensed in one place, and that was all very well, but WADA needed to make those rights accessible to all athletes. That was the intention of the anti-doping athlete ombudsman. It could be a real game-changer. It would make everything accessible to athletes in one place, and gave them one person to whom they would be able to go. There were all sorts of ranges of ombudsmen out there: there were several in New Zealand, and the USOC had one, and so it was a discussion he was looking forward to having with the WADA management about structuring it. He would love to hear from the members during the feedback phase. The ombudsman idea was a fantastic one and it could be a big step forward. The members had heard Mr Young talking about the aspirational rights. One of the complications of the Code was that people often had fantastic ideas, but they were fantastic ideas for a certain jurisdiction only and did not apply internationally. They were rights that athletes saw as being very important, but he recognised that they were not currently rights that would exist universally around the world. They had therefore been included as aspirational rights. He recognised what Mr Young was saying, which was that it was a little bit strange to have aspirational rights in a document that also articulated actual rights, but that did not necessarily not work. They had been structured in a certain way for the time being, but there were other ways of including them. The word 'should' instead of 'must' was an obvious one. They were what athletes had said they saw as best practice and were what they would like to campaign for in the future for universal recognition. Athletes had been really staunch on saying that they wanted the document to be rights-based, but they also wanted it to be aspirational. They wanted everybody out there to know the rights that they would like to see in the future. He would be happy to take any questions.

MR KEJVAL thanked Mr Sandford for the very useful presentation. The Olympic Movement had already expressed the strong opinion that the Anti-Doping Charter of Athlete Rights remain purely anti-doping and be in conformity with the World Anti-Doping Code. He had some questions in that regard. It was not clear what the composition of the steering committee involved in the drafting of the charter was? Had there been confirmation in relation to the proposal of the IOC athletes' commission to have a consultation process? He noted the united efforts of all the athletes in terms of the interest of doping-free sport. Finally, how did WADA intend to adopt the document and monitor its implementation?

MS HOFSTAD HELLELAND thanked Mr Sandford for his very interesting presentation. Athletes' representation and the need to strengthen the athletes' influence within WADA had been discussed and would continue to be discussed. She was very encouraged by the idea of the Anti-Doping Charter of

Athlete Rights and, by supporting that initiative, WADA would in practice be supporting the athletes and their ideas on how to protect athletes' rights and responsibilities.

THE CHAIRMAN added a final question: did Mr Sandford envisage at some stage, instead of definitions of rights and aspirational rights, an element of responsibilities, because frequently there was that element?

MR SANDFORD responded to the question about the steering committee composition. He was on it, along with Ms Scott and Ms Andréanne Morin, who was a previous WADA Athlete Committee member. They were very much steered by the feedback they received from athletes and stakeholders. As a three-person group, they answered to the WADA Athlete Committee and the wider athlete community. It was very much steered by feedback. In terms of IOC athletes' commission consultation, many members would be aware that the athletes' commission had just developed a declaration of athlete rights and responsibilities, and the Players' Union had a declaration of athlete rights as well. The three groups had formed a small group to work together to make sure that they aligned their documents and covered the same issues at the same time. He had not spoken to Ms Walker, who had been steering the declaration for the IOC, over the past month, but his understanding was that the IOC document was very much a living document and would be developed further in the future. The Athlete Committee had spoken in depth about how to coordinate and incorporate the charters. Obviously, the IOC declaration was much broader, whilst WADA was focused on anti-doping rights, and the Players' Union was quite broad as well, dealing mainly with professional players, but there was a commonality between all three, so the various bodies were trying to work together. The next question might be how the IOC athletes' commission would refer to the Anti-Doping Charter of Athlete Rights in its document, and he would have to refer to an IOC athletes' commission member. That would be worked through in due course.

The final point had been about WADA implementation. Similar to what was happening with the Code, the document would be sent out for full public feedback, from the beginning of December until March. He was hoping for a lot of feedback and WADA would collate that information, and then hopefully there would be a second WADA athlete forum before the ADO symposium. The findings would be presented and then there would be a workshop drafting process at the forum, and then later, in mid-April, the IOC had asked the WADA group to go and speak and it would hopefully present the charter there. The Executive Committee would be asked to approve the document once completed, so the idea was to submit it to the May Executive Committee meeting, but he also wanted to tie that in with the Code.

THE CHAIRMAN suspected that, at the end of the day, the Foundation Board would have to approve it and not just the Executive Committee.

MR SANDFORD noted that the charter was staying away from responsibilities, because it was just a charter of athlete rights. Section 21 of the Code dealt with athletes' roles and responsibilities, so that was specifically taken care of within the Code, and the idea was not to confuse rights and responsibilities, and also there was quite a big difference between rights and responsibilities: rights automatically created responsibilities, and the group wanted to keep them separate.

MR KEJVAL asked whether or not FairSport was part of the procedure.

MR SANDFORD responded that FairSport had been used for the initial survey, and the group wanted to use the same network to take the survey back out again and needed to ask FairSport if it could have that contact without using it. FairSport had been involved in the initial survey, but that was its only involvement.

DECISION

Anti-Doping Charter of Athlete Rights update noted.

8. Finance

– 8.1 Government/IOC contributions update

MR RICCI BITTI informed the members that he would focus on the update and the information requiring approval but he did not intend to repeat all the matters he had presented at the September Executive Committee meeting.

He recalled the main recommendations coming out of the approval of the 2017 year-end accounts and the discussion that the Finance and Administration Committee had had at its meeting in July. The first piece of good news was that 2017 had enabled WADA, with an increase in cash reserve of 382,000 dollars, to reinforce its very limited operational reserve. The message that the Finance and Administration Committee had sent to the Executive Committee and the recommendation was that the operational reserve should be at least three to six months; currently, it was about one-and-a-half months at best. In future, perhaps the target should be to improve. There had been a recommendation to the Executive Committee and Foundation Board to carry out a review. It was time to look at the share split between and within the continents. The split was outdated and did not reflect the reality. The very generous contribution from China meant that such distribution should be reviewed. The Foundation Board had approved an 8% budget increase for the coming four years, 8% per year to be approved year by year, and the Finance and Administration Committee believed that some kind of major control in terms of KPIs should be introduced to check and to verify the effectiveness of the expenditure. WADA was in trouble when it did not have money, but there was a different kind of trouble when WADA had money. WADA was earning more money than usual, and so he thought that the process should be controlled a little more in terms of efficiency and effectiveness.

On the contributions, 98.84% of contributions had been paid, a figure that was better than in the report because a few payments had recently been received, and there was an additional contribution of 1.3 million dollars, which had already been received. He thanked the public authorities of Australia and Japan for their support to RADOs, Lausanne for its support to the symposium, and China, as he had mentioned, for its very generous contribution.

DECISION

Government/IOC contributions update noted.

– **8.2 2018 quarterly accounts (quarter 3)**

MR RICCI BITTI informed the members that, in July, the half-yearly accounts had been presented. The members would see, on page 19 of their papers, the reference to 75% of expenses at the end of the third quarter. WADA maintained good control over everything, more or less, with an average of 67% of expenses, but not one of the variations was over 75%. It was necessary to be careful, because many expenses would be coming in at the end of the year, but he was confident that the revised budget would be fulfilled. As the members would see, there were 12 million dollars available at the end of the third quarter; so, knowing more or less what was going to be spent, unless any major expense came in unexpectedly, WADA should fulfill the revised budget, and that was good news.

DECISION

2018 quarterly accounts update noted.

– **8.3 Confirmation of auditors for 2019**

MR RICCI BITTI informed the members that there was a recommendation and it was very important that he submit it to the Executive Committee. There was a particular situation in the Finance and Administration Committee. Ms Dao Chung had replaced Ms Pisani, who had retired, and the management had felt it would be a good idea, although the three-year period of the mandate of PricewaterhouseCoopers would be ending that December, and proposed that the WADA Foundation Board confirm for one more year (due to the transitional situation) the mandate of PricewaterhouseCoopers. If the Executive Committee agreed, he would make a formal recommendation to the Foundation Board the following day.

THE CHAIRMAN asked the members if they were happy with that. It seemed eminently sensible.

DECISION

Proposal to recommend to the Foundation Board that it appoint PricewaterhouseCoopers for a further one-year approved.

– **8.4 2019 draft budget**

MR RICCI BITTI said that the Foundation Board, at its May meeting, had approved an 8% increase in contributions from 2019 to 2022 to be approved year by year. The Finance and Administration

Committee had reviewed the draft budget and recommended that the Executive Committee recommend it to the Foundation Board. The highlights of the budget for 2019 were that WADA would have an increase in income of about 3%, which was averaged between the 8% increase and other income not expected to come in, with an increase in expenses that would lead to a loss of 351,000 dollars, with a depletion of 481,000 dollars, again within the limit set of a maximum of 500,000 dollars. He could list much of the expenditure that would increase the following year. As he had said, this would relate to the executive office, strategic plan, branding, education, NADOs, science and research (one million dollars more, always a tough increase), laboratory accreditation and so on. There would be an increase in standards and harmonisation staff costs, operational costs, and regional office staff costs. The depreciation decrease of 250,000 dollars was good news; it was because of an acceleration of applications with the money available that year, and capital expenditure would decrease by 1.4 million, so the projection for the end of 2019 would hopefully be better, but the budget showed a deficit of 351,000 dollars and the depletion of cash, under the limit of 500,000, was 481,000 dollars. That was what he recommended that the Executive Committee present to the Foundation Board the following day for approval. It was the draft budget for 2019.

THE CHAIRMAN noted that the members had gone through that in some detail in the Seychelles. There were no major changes. Were the members happy to take that to the Foundation Board the following day and seek approval?

MR RICCI BITTI said that he could give some information on the revised budget: if there were no unexpected expenses in the next semester, he believed that WADA could keep to its numbers, and that was good news. The revised budget indicated a 1.3-million-dollar profit and a major increase of 950,000 dollars in investment in ADAMS, anticipated that year because WADA had the money available, and no depletion, so there had been two big achievements that year. He hoped that the management would be able to improve the reserve available with a better result than the budget. That was the summary. WADA was in good shape. The 8% increase was a good decision to improve the activity of WADA. On the other hand, there were also risks when there was money available after a long time spent without money available, so it was necessary to control the evolution, but he was confident that the management would be able to do what was recommended.

THE CHAIRMAN hoped so. He noted the five-year plan as requested by the public authorities.

DECISION

2019 draft budget to be submitted to the Foundation Board for approval.

9. Education

MR MOSES informed the members that he would be providing an update on education activities. There was not much information in their files, but there was a major key development that had occurred on 24 and 25 October at the second WADA global education conference. Almost 200 people had participated in the conference hosted by the Chinese ADO and USADA. It had been a resounding success. The post-conference evaluation had revealed that the participants had been very satisfied with what had been delivered and the outcomes. There had been anti-doping practitioners, researchers and other stakeholders involved in clean sport and they had examined emerging trends, contributed to the development of a new international standard for education and examined how ADOs could enhance their education programmes and ultimately strengthen the global anti-doping programme whilst keeping athletes at the centre of their strategies. The best way to describe all of that was simply to read the declaration, which basically came under three key headings: the athletes, clean sport, education and practising cooperation. Athletes would remain at the centre of education programmes with educators seeking ways to engage them and planning the implementation of such programmes. The stakeholders would continue to elevate and promote athletes' voices and help them engage in the clean sport conversation. The Anti-Doping Charter of Athlete Rights had been acknowledged and supported. In particular, it was the athletes' right to be educated. Under clean sport education practice, the International Standard for Education was an important step forward for clean sport and the development and implementation of that would be supported by ADOs. The vital role that education played in anti-doping and clean sport would be promoted and advocated, and a more positive approach to anti-doping would be undertaken with a focus on using more positive language and acknowledging that the vast majority of athletes wanted to compete clean. ADOs would work together to provide easy access to

education tools and ensure that education initiatives were evidence-based and included monitoring and evaluation. Under cooperation, the ADOs would continue to collaborate on best practices to further resources and goals and advance education. Partnerships with other organisations within and outside the clean sport movement would be sought in order to advance common goals. In relation to the international standard, the working group responsible for drafting that had planned to meet following the global education conference to prepare the second draft for public consultation. The drafting process was still in progress ahead of publication with the most recent draft as well as the outline of major changes since the first draft available to the members in their Foundation Board papers.

The education partnership with the IOC, IPC, the International Fair Play Committee, the International Council of Sport Science and Physical Education and UNESCO continued to develop. A values-based resource for teachers was being piloted in 10 countries through the UNESCO Associated Schools Network and, once that was complete, WADA would be able to offer a full complement of educational resources for all stages of an athlete's career, meaning that they would be age-appropriate, including all the support personnel, and those were freely available on the WADA website.

The e-learning platform ADeL had been launched that year and continued to develop through the addition of languages and administrators from a wide variety of ADOs, and there were 12,000 registered users on the platform. The number of users had increased dramatically, and that would allow WADA to grow rapidly as more and more stakeholders adopted the platform and promoted it among their athletes and other stakeholders. There had been a successful webinar on ADeL in support of the colleagues in the Latin American regional office, and seven courses were currently available for different stakeholders from athletes all the way to Athlete Biological Passport scientists. The most recent resource to be made available was the university e-textbook, aimed at students and student athletes, and he was looking forward to the day when ADeL could be seen as a one-stop-shop for all matters related to anti-doping.

He commended all the members of the WADA and USADA staff who had done an outstanding job, as had several members of the WADA Education Committee and multiple researchers. The executive director general of CHINADA had been present at the conference, and he was really glad to say that Mr Reddie, the President, had been there for the entire time. He had learned many things that he, even as chairman of the committee, had not even known about athletes' education and all the different parameters. It had been a very educational two days during which participants had listened to the psychology and implications and anything and everything that affected the athletes. It had been great to see the President there and it had been a very successful event.

THE CHAIRMAN agreed that it had been a fantastic two days full of very smart people. Slightly to his surprise, one of the vice-ministers had announced that China was hopeful that, at the end of that year, it would be able to pass new legislation bringing into criminal law the illegal manufacture of performance-enhancing substances. That was an absolutely unregulated business in a huge country like China and it would be very difficult to make it fully effective, but it was a terrific step in the right direction and, if it worked at all, it would be a good thing. Vice-minister Li would be there for the Foundation Board meeting and he would ask him to speak about that the following day. WADA had been trying to get China to take action for a number of years, and he thought that it was a real step forward.

DECISION

Education Committee Chair report noted.

– **9.1 Annual social science research projects**

MS MACLEAN informed the members that she had been in Beijing and, with about six weeks under her belt heading the education group, it had been very educational for her. She came to that role with some humility, as she had some things to learn.

As was standard practice, a call had gone out in April for social science research projects. Also, as was standard practice, a call had gone out for the three bulleted elements that the members would see in the centre of the slide. A focus had been placed that year on encouraging more projects from the intervention category, in which WADA wanted researchers to focus more on the implementation of programmes and determining their effectiveness. WADA had also created an open category, trying to encourage more innovative approaches to anti-doping research, in particular in light of technological developments over recent years. WADA had received 47 applications from 21 countries, and they had fallen in the different categories. It had been encouraging to see how the focus on intervention and open projects had borne fruit, as a higher number of applications had been received for them. She had also

been happy to see more applications that year than in previous years and greater variety in terms of the countries of representation: whereas historically there had been more representation from Europe, there had been greater representation across the different countries, which was encouraging.

In terms of the projects proposed for funding (all of which were in the papers), the social science review panel had gone through all the different applications and made the recommendations to the Education Committee, which had endorsed the six projects.

Considering the widespread use of supplements and inclination of younger athletes to shop online, the first project gave insight into that area, in particular emerging trends of which ADOs needed to be aware. The second project looked at the efficacy of messages received by athletes in relation to anti-doping as part of their education programmes. It was important to understand how the messages were received and what type of messages were more salient for athletes, in particular young athletes. The project would look at the types of messages that could help protect athletes from becoming vulnerable to doping. For the third project, the proposal was to fund a pilot project of an application that looked at intervention in secondary schools in Kenya. After that was assessed, WADA would look at implementation on a wider scale and whether or not a second phase could be funded. For the fourth project, research showed that developing ethics and the moral character of athletes was one of the most effective ways to prevent doping. That project sought to build on that and develop an intervention that could be used by ADOs to target that specific area. In terms of the fifth project, it was well known that coaches were one of the biggest influences on athletes, so ensuring that coaches were educated and understood their role in anti-doping was critical for the prevention of doping. The project sought to build a framework that could support an education pathway for coaches at every step of their career. Regarding the sixth project, building on the importance of coaches and their influence at the adolescent level was particularly important given that stage of development. It was proposed to fund the first part of the project, which looked to document the experiences of athlete support personnel with adolescents to better inform the development of intervention. The implementation of the intervention would be looked at at a later stage once the efficacy of the intervention was examined further.

The members would see the summary of funding with the total at the bottom, so she was looking for the Executive Committee to approve the recommendations for the total on the screen and the balance in reserve (320,000 dollars) to be made available for other targeted research.

THE CHAIRMAN asked if the members were happy to approve the grants as proposed.

DECISION

Proposed annual social science research projects approved.

10. Health, Medical and Research

– 10.1 Kazakhstan candidate laboratory

DR RABIN informed the members that the Almaty laboratory in Kazakhstan had been accredited by WADA from 2011 to 2017 and had been suspended because of a failure in the EQAS programme. The laboratory had never recovered from its suspension and so, after the two six-month periods, under the ISL, it had been necessary to revoke the laboratory, which was what the Executive Committee had done. Recently, the laboratory had come back to WADA (and the members had a document on the matter) with information that it had more support, informing WADA that it was moving to new facilities, which had been one of the issues (previously, the laboratory had been in the wrong type of facility for all sorts of reasons, in particular security and control zones), and the laboratory was receiving more support from the government authorities. He therefore proposed that the laboratory be accepted as a candidate laboratory, which would allow the WADA management to work with the laboratory towards achieving probationary status in the coming months. The proposal was to give the Almaty laboratory candidate laboratory status.

– 10.1A and 10.1B Fast track laboratory accreditation – Lisbon and Bogota

Two documents had been tabled that morning, 10.1A and 10.1B. Document 10.1A related to the possibility for the Lisbon laboratory (whose accreditation had been revoked a few days previously) to receive a fast-track status, which would be based on the fact that it was allowed under the ISL, and by no means did fast-tracking mean fewer requirements (the same requirements were simply condensed

over a shorter period of time). Based on the fact that the laboratory had provided WADA with assurance of support from the Portuguese Government and the fact that the laboratory had sent the (tabled) document showing all the recent efforts made, the Laboratory Expert Group and WADA management recommended that the Lisbon laboratory receive fast-track status on the probationary and possibly re-accreditation phase.

THE CHAIRMAN asked if Dr Rabin was suggesting a fast-track process for Portugal and Bogotá.

DR RABIN confirmed that there had been a similar request under 10.1B from the Bogotá laboratory, whose accreditation had been revoked a few minutes previously (*Refer item 11.1 below, which was brought forward in the agenda given the flow of requests for decisions*). The director of Coldeportes had explained some of the issues faced and in particular the lack of support received by the laboratory over the years, in particular in relation to investments. There was government assurance that the new laboratory would receive more support and, in light of the fact that the laboratory had recently been a WADA-accredited laboratory, given the efforts being made and the new support, he hoped that the laboratory could also be proposed for fast-tracking and it could be taken to the re-accreditation phase, again with no compromise on quality.

MR DÍAZ thanked Dr Rabin and his team for giving support and help to the Colombian Government. The fast-track proposal would involve great efforts on the part of the new government, which had sent a delegation with the minister of sport to WADA with a message and a commitment that it would meet all the requirements for the fast-track procedure. Having the Bogotá laboratory reinstated would be a great help for the region, so he urged the Executive Committee to support the proposal. At the same time, since the Latin American countries had agreements with Spain and Portugal, he thought that it would be beneficial to approve the Lisbon laboratory proposal, which would also be helpful to the region.

THE CHAIRMAN asked if two fast-track processes could be handled at the same time.

DR RABIN responded that that would be possible. It would require only two additional EQAS programmes for the laboratories.

THE CHAIRMAN thought that it would make sense to approve the proposals because WADA wanted high-quality laboratories.

DECISION

Proposals relating to the Kazakhstan, Lisbon and Bogotá laboratories approved.

– **10.2 Technical Document 2019 Decision Limits – TD2019DL**

THE CHAIRMAN asked Dr Barroso to explain the technical documents, remembering Mr Young's splendid ability to explain scientific projects not being a scientist to a group of people who were not scientists.

DR BARROSO informed the members that there were four technical documents for approval by the Executive Committee, but the members should not get scared. It was the first technical document that was the most important one. The other three were just a consequence of the changes made to the first one. The technical document he was referring to was TD2019DL, which was applied to the quantification of substances that had a threshold. In terms of the main modifications, the first was basically cosmetic, in relation to the number of insignificant figures applied to decision limits for the three substances. It did not really have any practical consequences, but was a matter of scientific accuracy. The most important change in the technical document was a consideration of the measurement uncertainty for the determination of specific gravity. An important change had been implemented the previous year in relation to the adjustment of decision limits in concentrated urines. Following feedback from stakeholders and discussions at the laboratory expert group, it had been decided that, being a measurement procedure, it was necessary to account for the measurement uncertainty of the determination of the specific gravity. That meant that there was an adjustment to the formula. The measurement uncertainty was being taken into consideration and the value was being added to the value of the measured specific gravity. A series of footnotes had been added to explain how that was determined and what the consequences were. In any case, that favoured the athletes, as the adjustments were for concentrated and not diluted urine. Those were the main changes to the technical document.

DECISION

Proposed amendments to TD2019DL approved.

– **10.3 Technical Document TD2019CG/LH**

DR BARROSO explained that, as a consequence of the aforementioned adjustment and the consideration of the uncertainty of the determination of the specific gravity, it had been necessary to modify three other technical documents that also included such adjustments, and the first was the one on the determination of human chorionic gonadotropin and luteinising hormone and in that document two formulas for the adjustment of the decision limit for chorionic gonadotropin or concentration for luteinising hormone, the difference being that luteinising hormone was not considered a threshold substance but, similarly, the so-called maximum value of the specific gravity had had to be included in the correction formulas.

DECISION

Proposed amendments to TD2019CG/LH approved.

– **10.4 Technical Document TD2019IRMS**

DR BARROSO explained that an adjustment had been made to the document on IRMS. It was the same kind of adjustment of concentrations of markers of some of the steroids mentioned. Another minor change made there had been to remove the requirement to report the concentrations of markers of the steroid profile as part of the IRMS test report because that was mandatory anyway in ADAMS.

DECISION

Proposed amendments to TD2019IRMS approved.

– **10.5 Technical Document TD2019NA**

DR BARROSO said that a similar adjustment had been made to the formula for the concentration of the main metabolite.

In summary, there had been just one major modification to the technical document on decision limits that had had an impact on some other technical documents.

THE CHAIRMAN explained that one of the great advantages of being a member of the WADA Executive Committee was that pretty important decisions had to be taken. If the Executive Committee did not do that, WADA would be scientifically deficient. Did the members approve the modifications?

DECISION

Proposed amendments to TD2019NA approved.

11. Legal

MR SIEVEKING informed the members that he would be happy to take questions on his legal report, but first wished to underline a couple of points. On data protection, further to the report of the Office of the Privacy Commissioner in Canada, WADA had implemented the majority of the recommendations and was still working hard on that. WADA had hired a lawyer, who would deal with data protection issues on a full-time basis. Also on data protection, the members would see in their files that guidelines had been issued for stakeholders. That had been a request from stakeholders, as data protection rules were not always easy to understand, so there were clear guidelines that could be used by stakeholders to ensure that they could understand and correctly apply rules in relation to data protection.

The new version of the ISPPPI, approved by the Executive Committee in May, had been amended to bring it into line with the new European rules on data protection. Council of Europe lawyers had been consulted and they considered it to be a very solid document, so he trusted that it would be useful for stakeholders to implement proper data protection rules and practices in their organisations.

In relation to the litigation update, the Director General had already mentioned that the Bruyneel case, after almost five years of proceedings before the CAS, had come to an end. It was a very important decision imposing a lifetime ban on the coach, who had been involved in very organised and professional doping practices. That was important for the anti-doping community.

– **11.1 Revocation of the WADA-accredited laboratory in Bogotá, Colombia**

(Refer also to item 10.1B above)

MR SIEVEKING informed the members that Bogotá laboratory had been suspended in 2017 for six months. Following that, there had been a site visit by WADA and the Laboratory Expert Group had identified corrective actions to be undertaken by the laboratory. The corrective actions had not been completed on time, so the suspension had been extended for six months, despite which the laboratory had failed to fulfil all of the conditions so the Laboratory Expert Group had recommended revocation. That had been assessed by the disciplinary committee formed to deal with the matter which recommended to the Executive Committee that it revoke the accreditation of the laboratory. The members would see the full text in their papers. The laboratory had already been suspended in 2010, so it was the third time that a decision was required in relation to that laboratory.

THE CHAIRMAN thought that the Executive Committee should formally approve that recommendation. It was a pretty good example of what Mr Young had been talking about earlier that day. Were the members happy to revoke the accreditation of the Bogotá laboratory?

– **11.2 Meat contamination from clenbuterol – proposed consultation process**

MR SIEVEKING informed the members that the meat contamination issue had already been addressed several times. To cut a long story short, the WADA Ad Hoc Legal Group had been asked to find a solution, because it was impossible to scientifically determine whether a low level of clenbuterol in an athlete's sample was the result of doping abuse or meat contamination, so the group had been asked to find a solution. Strictly applying the current Code, that was not possible; even if the athlete was able to establish that the origin was meat contamination, it was impossible not to disqualify the result if the Code was applied strictly. As he had said earlier in May, the current situation was quite regrettable, as one could imagine an athlete having a piece of meat in one of the three countries in which meat contamination with clenbuterol was a reality. By eating meat, an athlete could theoretically have a qualifying result disqualified. The question had been addressed for the new Code, which would allow for the clenbuterol positive (if at a certain concentration that was compatible with meat contamination) to be reported as an atypical finding, requiring further investigation and, if the conclusion was that there was meat contamination, there would be no adverse analytical finding and therefore no need to cancel the result. That would be possible only when the new Code came into force. He did not ask the Executive Committee to accept and approve the change in the Code, but he would like, during the upcoming Code consultation and revision of the Code and standards, to add a question for stakeholders asking them if they would agree that the Foundation Board in May the following year could amend article 7 as mentioned in the papers, which would allow, as of May 2019 and until the new Code was in force, for the laboratories to record a positive clenbuterol result as an atypical finding. The decision the members were being asked to decide upon was not a change to the article, but to agree to submit the question to the stakeholders to have the Foundation Board approve the change to article 7.4 of the Code in May 2019. Article 7.4 was not an article that had to be implemented and interpreted verbatim in anti-doping rules, so a change of that nature would not affect stakeholders' rules, but it would benefit athletes who might test positive as a result of contaminated meat ingestion. The request was to add the question in the consultation phase starting in December.

MR LALOVIC stated that the sport movement supported the approval of specific consultation on article 7.4 of the World Anti-Doping Code to address the matter of meat contamination from clenbuterol with a view to the amendment of the article by the WADA Foundation Board in May 2019, but the Olympic Movement would also support accelerating such process if possible.

MR BAŇKA said that Europe was of the opinion that it would be inappropriate to make any amendments to the Code while the general World Anti-Doping Code review was under way; therefore, Europe invited WADA to bring the proposed changes to the attention of the Code Drafting Team and include them in the original process. In the meantime, Europe proposed that WADA find an alternative solution for meat contamination cases from clenbuterol.

THE CHAIRMAN understood that the suggestion was to do something else and wait until the Code was ready, whereas the Olympic Movement was pretty supportive of that but wanted it done earlier.

THE DIRECTOR GENERAL said that there was no alternative solution. It had been discussed again and again. WADA could not deal with it scientifically, and it could not deal with it under the current Code. If it dealt with it, there might be unfair results, so WADA should either stick to the rule, and it might

have those situations happening until the Code was modified, or it should try to fast-track that to have it before the 2021 Code enters into force, but there was no magical thing that could be invented to deal with it and he did not think that science would provide the answer between then and the end of the following year.

MR SIEVEKING could only support what the Director General had just said. There was no solution. The question had been discussed at length with the Ad Hoc Legal Group, and he thought that it was the best option. Obviously, there was a change for the 2021 Code, but a temporary solution was necessary. It was possible to discriminate when the athlete had evidence, so that would not create confusion; it was easy to establish for an athlete who really had eaten meat in that country, so it was not opening the door to any problem, it was simply solving a problem to protect athletes whose only fault had been eating meat in a country in which there was an obvious lack of control.

THE CHAIRMAN had to say that he had written 'at last' in his notes, because WADA had struggled with that issue for years and that seemed to him to be an improvement in the situation so that WADA did not adversely affect athletes. How did Mr Sieveking react to the suggestion of implementing it a little earlier as suggested by Mr Lalovic?

MR SIEVEKING responded that he would personally be very happy to submit that to the Foundation Board as soon as possible. It was a very slight change, the addition of three words to the article, so personally he thought that the sooner the better.

THE CHAIRMAN said that an attempt would be made to look at it and it would be taken to the Foundation Board the following day. It would be really nice to move that on.

DECISION

Legal update noted.

12. Any other business/future meetings

THE CHAIRMAN noted that the members would be meeting again in May 2019 in Montreal, and would meet again in September in Japan where, coincidentally, the World Rugby Championships would be taking place, and then at the World Conference on Doping in Sport in Poland at the beginning of November. Looking further ahead to 2020, he was confident about the September meeting in 2020; but, if anybody had any really smart ideas about the November meeting in 2020, he was sure that the management would be pleased to hear from them.

MS HOFSTAD HELLELAND had a very brief question. The heading of an Inside the Games article published stated *Investigation clears Executive Committee members bullying Scott but WADA open second phase of inquiry*. A further quote from the text was that *In a statement, WADA revealed officials present at a fractious meeting in the Seychelles in September would be interviewed during the second part of the investigation. The Executive Committee also decided not to pursue an overarching investigation into the general conduct of officials in WADA but said that it would seek legal advice "to help determine a path forward"*. It was a legal question, so she was worried about WADA being at risk. She asked Mr Reddie to explain why that was out in the media and whether that had been authorised by him.

THE DIRECTOR GENERAL said that he was aware that the Communication Department had received media questions during the day, and also that an article had come out in the Washington Post, with the letter from Mr Moses published and a number of other things. The only thing done had been to provide a response to articles already out there.

Without wishing to waylay procedures, MR COSGROVE said that he was aware that the Director General had authorised a response from WADA. The Chairman had given the members a pretty fair telling-off that morning (and he did not mean that in a negative way) and that had been noted by everybody; but, apart from the statement from WADA being very one-sided and not giving the full detail, the Director General having authorised that was, in his view, very dangerous. The Director General had told the members that morning that he had not yet received legal advice and was seeking legal advice on the whole issue. The Director General was a lawyer and ought to know better than going to the media talking about a quasi-judicial issue like a complaint where a member of the Executive Committee had engaged a lawyer without seeking legal advice. That put WADA at risk. The Chairman had been very

definitive in his directions to the members, and he knew that it was not a leak; it was worse than a leak, it was a deliberate statement authorised by the Director General that brought that body into legal risk, and he thought that it was highly inappropriate and the record would probably have to be set right at the meeting the following day.

MR MOSES stated that he had been made aware of the article from the Washington Post at lunchtime. He had not read it, nor had he spoken to the journalist. He wished that to be on the record.

THE CHAIRMAN said that he and Mr Moses had something in common because he had not seen either one.

THE DIRECTOR GENERAL objected to what Mr Cosgrove had said. He had not made any comment to the press. WADA had responded factually following articles that had already been in the press when documents that should not have been in the press had been made available to the press and, if he understood what had been read by the Vice-President, it was clearly saying that WADA was seeking legal advice.

MR COSGROVE responded, with respect, that the articles referred to in Inside the Games did not refer to Mr Moses at all; they touched solely on Ms Scott and the report tabled that day.

PROFESSOR ERDENER was wondering whether a discussion was to be started again based on media issues.

MR DÍAZ suggested not losing focus. Everybody had made very clear what they thought and he suggested continuing to work and doing a good job.

THE CHAIRMAN informed Mr Cosgrove that the minutes from the Executive Committee meeting would be made public. They would be posted on the website and everything that had been said would be made public.

He thanked the interpreters as well as the technicians, who had worked extremely well to provide live connections with Zurich and Colorado Springs, allowing WADA's Executive Committee members to do their work. He thanked everybody for their attendance and their comments.

DECISION

Executive Committee – 15 May 2019, Montreal, Canada;
Foundation Board – 16 May 2019, Montreal, Canada;
Executive Committee – 23 September 2019, Tokyo, Japan;
Executive Committee – 4 November 2019, Katowice, Poland;
World Conference on Doping in Sport – 5-7 November 2019, Katowice, Poland;
Foundation Board – 7 November 2019, Katowice, Poland.

The meeting adjourned at 4.50 p.m.

FOR APPROVAL

SIR CRAIG REEDIE
PRESIDENT AND CHAIRMAN OF WADA