

Note: The Foundation Board meeting minutes are published on WADA's website once they have been approved by the Foundation Board members, generally at their subsequent meeting. The minutes are intelligent third-person verbatim transcriptions, i.e. slightly edited for readability.

Minutes of the WADA Foundation Board meeting 21 May 2021, via videoconference

The meeting began at 7.00 a.m.

1. Welcome, roll call and observers

THE CHAIRMAN warmly welcomed all the Foundation Board members and observers to the meeting. That would be the second virtual Foundation Board meeting and he was hopeful that the next time the members met in November it would be in person. That matter would be discussed later that day in relation to the upcoming meetings. He welcomed the new members in 2021 to their first meeting.

As mentioned in the abbreviated agenda, all decisions would be taken by circulatory vote after the meeting within a ten-day response period.

The following members attended the meeting: Mr Witold Bańka, President and Chairman of WADA; Ms Yang Yang, Vice-President of WADA; Mr Andrew Parsons, IPC President; Mr Nenad Lalovic, Executive Member, GAISF Council, Member of the IOC, President, United World Wrestling; Ms Baklai Temengil, IOC Member, Vice President, Oceania National Olympic Committees; Mr Jiri Kejval, IOC Member, President, NOC, Czech Republic; Mr Fabio Pigozzi, President, International Federation of Sports Medicine; Mr Zlatko Matesa, President, Croatian Olympic Committee; Professor Ugur Erdener, IOC Member, President, World Archery; Ms Filomena Fortes, IOC Member, President, Cabo Verde National Olympic Committee; Mr Andrzej Krasnicki, President, Polish National Olympic Committee; Mr Andrey Kryukov, Vice President for International Cooperation and Interim Secretary General, Kazakhstan National Olympic Committee; Mr David Lappartient, President, UCI; Mr Jean-Christophe Rolland, President, World Rowing, IOC Member; Mr Ingmar De Vos, Council Member, ASOIF, President, FEI, IOC Member; Mr Jan Dijkema, President, International Skating Union; Ms Randall, representing Ms Danka Barteková, IOC Member and Vice Chairman, IOC Athletes' Commission; Mr Bindra, representing Ms Kirsty Coventry, IOC Member and Chairman of the IOC Athletes' Commission; Ms Hong Zhang, IOC Member and IOC Athletes' Commission Member; Ms Emma Terho, IOC Member and IOC Athletes' Commission Member; Mr Tiago Brandão Rodrigues, Minister of Education, Portugal; Mr Krasen Králev, Minister of Youth and Sports, Republic of Bulgaria; Ms Amanda Lind, Minister for Culture and Democracy with responsibility for sport, Sweden; Mr Bjørn Berge, Deputy Secretary General, Council of Europe; Mr Igor Zhdanov, Advisor, Research Institute of the Ministry of Internal Affairs, Ukraine; Mr Ashraf Sobhy, Minister of Youth and Sports, Egypt; Mr Hafiz Adam, representing Mr Mustapha Ussif, Minister of Youth and Sports, Ghana; Mr Mkhize, representing Mr Nathi Mthetwa, Minister of Arts, Culture, Sports and Recreation, South Africa; Mr Taillak, representing Mr Gerardo Fajardo, President of CONCECADE, Honduras; Ms Regina LaBelle, Acting Director, White House Office of National Drug Control Policy, USA; Mr Reyes, representing Mr Ernesto Lucena, President, CADE; Ms Fatima Morales, President of the South-American Sport Council (CONSUDE), Paraguay; Mr Mohammed Saleh Al Konbaz, President, Saudi Arabian Anti-Doping Committee, Saudi Arabia; Mr Li Yingchuan, Vice-Minister, General Administration of Sport, China; Mr Park, representing Mr Jeong-bae Kim, Vice Minister, Ministry of Culture, Sports and Tourism, Republic of Korea; Mr Niwa Hideki, State Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Richard Colbeck, Minister for Youth and Sport, Australia; Mr Cosgrove, representing Mr Grant Robertson, Minister of Sport and Recreation, New Zealand.

The following Standing Committee Chairs attended the meeting: Mr Ben Sandford, Chairman of the WADA Athlete Committee; Hon. Mr James Wood, Chairman of the WADA Compliance Review Committee; Mr Ser Miang Ng, Chairman of the WADA Finance and Administration Committee; Ms Kady Kanouté Tounkara, Chairman of the WADA Education Committee; Mr Lars Engebretsen, Chairman of the WADA Health, Medical and Research Committee.

The following representatives of WADA Management attended the meeting: Mr Olivier Niggli, Director General, WADA; Ms Dao Chung, Chief Financial Officer, WADA; Ms Amanda Hudson, Education Director, WADA; Mr Tim Ricketts, Standards and Harmonisation Director, WADA; Ms Catherine MacLean, Communications Director, WADA; Mr Tom May, Programme Development and NADO/RADO Relations Director, WADA; Mr Rafal Piechota, Office of the President; Dr Olivier Rabin, Science and International Partnerships Director, WADA; Dr Alan Vernec, Medical Director, WADA; Mr Julien Sieveking, Legal Affairs Director, WADA; Mr Gunter Younger, Intelligence and Investigations Director, WADA; Mr René Bouchard, Government Relations Director, WADA; Mr Frédéric Donzé, Chief Operating Officer, WADA; Mr Sébastien Gillot, European Office and IF Relations Director, WADA; Ms Maria José Pesce Cutri, Latin American Regional Office Director, WADA; Mr Rodney Swigelaar, African Regional Office Director, WADA; and Mr Kazuhiro Hayashi, Asian/Oceanian Regional Office Director, WADA.

The following observers were recorded as being present on the videoconference: Yaya Yamamoto, Kenji Takahashi, Kumiko Takasu, Sayaka Hori, Kenji Takarabe, Takumi Kishi, Satomi Suzuki, Yu Ueki, Yumiko Takasugi, Taera Choi, Seung-yeong Song, Heejung Woo, Nick Paterson, Sarren Mullaly, Patrick Clancy, Richard Baum, Jocelyn Easy, François Allaire, Marcos Díaz, Victoria Noguera, Maria Fernanda Muñoz, Cesar Palacios, Rob Koehler, Marcellin Dally, Ioana-Raluca Petre-Sandor, Travis Tygart, Allison Wagner, Max Cobb, Chris McCleary, Prince Emekor Azanu, Mohamed Rezk, Eman Gomaa, Martin Lauesen, Ricardo Deggeller, Nadia Soghomonian and Gonzalo Rivero.

– 1.1 Disclosures of conflicts of interest

THE CHAIRMAN asked the members if they wished to disclose any conflicts of interest.

2. Minutes of the previous meeting on 12 November 2020

THE CHAIRMAN drew the members' attention to the minutes of the previous meeting. Draft minutes had been circulated among the members in January that year and included within the document set shared three weeks previously. New Zealand had provided some corrections, which had been shared with the members the previous day. He proposed approving the minutes via circulatory vote subsequent to the meeting.

DECISION

Minutes of the meeting of the Foundation Board on 12 November 2020, including amendments made by New Zealand, to be approved by circulatory vote subsequent to the meeting.

3. Director General's report

THE DIRECTOR GENERAL stated that it was a pleasure to be with the members, although unfortunately once again virtually. Hopefully, that would be the last time it would be necessary to conduct a fully virtual meeting and he hoped that, in the future, it would be possible to have hybrid meetings with the majority of members present in person. Everybody had adapted to the situation; however, it was necessary to recognise that, while WADA had kept moving forward, the lack of in-person contact had complicated a number of discussions and work. As good as they were, virtual meetings limited the capacity to foster consensus and sometimes

achieve more productive cooperation. He was hopeful that it would be possible to revert back to more consensual discussion in the months to come. The meeting that day would hopefully be kept to three-and-a-half hours; therefore, he would try to be as brief as possible.

He updated the Foundation Board on the discussions that had taken place the previous day at the Executive Committee meeting and the decisions taken. The Executive Committee had started by reappointing Mr Jacques Antenen as auditor of the Intelligence and Investigations Department. The Intelligence and Investigations Department was independent of the WADA management and, therefore, was audited separately from the rest of the organisation. Mr Antenen had performed that role over the past three years, had agreed to continue for another three-year term and had been reappointed.

The Executive Committee had approved an important recommendation from the Working Group on Contaminants, set up to address the issue of traces of prohibited substances that could be found in food or in some pharmaceutical products with the potential of resulting in adverse analytical findings for athletes. The group had recommended putting into place minimum reporting levels for six diuretics and three substances known as growth promoters, found mainly in meat. At the same time, the Executive Committee had approved the technical letters linked to the recommendation so that the laboratories would start to not report such substances if found under the defined threshold. That was an important step to protect clean athletes, and the working group would continue to look at other substances.

The Executive Committee had approved changes to the International Standard for Results Management (ISRM), mainly to ensure coherence with a number of technical documents and the latest version of the International Standard for Laboratories (ISL).

It had also approved a memorandum of understanding with a Japanese pharmaceutical company, Shionogi, to foster the exchange of scientific information, an important element of WADA's work.

The Executive Committee had approved and accepted the withdrawal of candidate status of a blood laboratory in Riyadh, Saudi Arabia. The Saudi authorities had expressed a wish to postpone the process and potentially reapply at a later date.

Another important decision had been the approval of a new technical document on dried blood spot (DBS). The document would enter into force on 1 September 2021, marking major innovative progress in the fight against doping in sport. It would provide for a harmonised approach in the collection, transport, analysis and storage of DBS samples and would pave the way for the implementation of the new testing method in the future. That was a very important step forward.

The Executive Committee had approved a number of modifications to technical documents to ensure consistency with international standards.

Last but not least, the Executive Committee had approved the 2021 social science research projects. It had approved 18 projects for an amount of 474,000 dollars, the highest amount ever allocated by WADA to social science research. It was also important to highlight the fact that the grants were geographically diverse, with 72% of the total funding provided for research teams outside Western Europe and North America.

The Executive Committee had then discussed other topics and made a number of recommendations for discussion by the Foundation Board that day. Having heard from the chairman of the Working Group on the Review of WADA Governance Reforms and the drafter of the code of ethics, the Executive Committee recommended deferring the adoption of the code of ethics to the Foundation Board meeting in November. The two topics were clearly interlinked, and it had been agreed that the two activities should be conducted under the same timelines.

The Executive Committee had heard from the chairman of the Finance and Administration Committee and recommended to the Foundation Board the adoption of the 2020 accounts under both the International Financial Reporting Standards (IFRS) and the Generally Accepted Accounting Principles (GAAP). The members would hear the report from the auditor, PricewaterhouseCoopers, later that day.

As part of his written report, the members of the Executive Committee had discussed the possible non-payment of contributions to WADA and agreed in principle that that was an important topic to be discussed further and the WADA management, in collaboration with the One Voice platform and the sport movement, who would explore possible legal avenues to address the issue.

MR NIWA introduced himself. He had been appointed in February as State Minister of Education, Culture, Sports, Science and Technology in charge of the Tokyo Olympic Games and Paralympic Games. He had previously had an opportunity to attend a WADA Executive Committee and Foundation Board meeting in 2014, and it was his privilege and honour to attend an important WADA meeting again.

In relation to WADA's governance, he appreciated the hard work and efforts of all the stakeholders and he extended his heartfelt appreciation to them. To make sure that the Tokyo Olympic Games and Paralympic Games were clean, it was very important to make sure that the level of testing recovered. He appreciated the hard work being done. With a view to the upcoming Olympic Games and Paralympic Games, a memorandum of cooperation had been signed in April between the International Testing Agency (ITA), the Ministry of Sport, Japan Anti-Doping Agency (JADA) and the Japan Sports Council (JSC), and every effort was being made to ensure that anti-doping activities, including intelligence activities, were in place for the upcoming Olympic Games. Strict Covid-19 parameters would be put in place, and he was determined to hold safe and secure Games. Japan would continue to prepare for successful events to bring hope and courage to people around the world in those challenging times.

PROFESSOR ERDENER thanked the Director General for his very comprehensive report. He wished to comment on the independent observers: as everybody knew, the independent observers produced reports for each major event, such as the Olympic Games, Paralympic Games, Commonwealth Games and Pan American Games. There was normally a long list of recommendations to the organising committees, IOC and WADA. The request was for a systematic review of the nearly 50 independent observer reports on major events over the past 20 years, as it would be good to know how many had been acted upon and how many recurring themes there were. That would be a good guide for WADA, the IOC and IPC and the organising committees on how doping control should be organised at major events, whether the independent observer system was helping raise the standard of doping control at those events and whether the IOC programme should be changed in any way.

On the long-term storage facilities, the sport movement welcomed the support provided by WADA to the ITA to facilitate the development of a centralised long-term storage facility. The IOC took the opportunity to further invite all NADOs to contact the ITA to store, free of charge, samples collected in the context of the Tokyo 2020 Olympic Games. The sport movement encouraged WADA to provide further support, considering that the facilities were an important part of the future of the fight against doping in sport.

MR AL KONBAZ thanked the Executive Committee members for understanding the blood laboratory situation in Saudi Arabia. Many obstacles had been faced during the Covid-19 crisis and it had not been possible to obtain ISO accreditation and other things; therefore, the best solution had been to stop the process and the laboratory would apply again when the situation was more suitable.

MR REYES thanked the Director General of WADA for his report. On behalf of the Americas sport ministers, he thanked the WADA President, the Director General and Ms Pesce Cutri for

their presentation and presence at the CADE assembly that had taken place the previous week. Their participation showed their commitment to the region, for which he was very grateful.

Mr Lucena sent his apologies: he had received an urgent call from the President of Colombia to a meeting.

He thanked WADA for the letter of condolences regarding the death of Mr Eduardo Gutiérrez (the head of Venezuela's anti-doping agency) from Covid. Everybody was very sorry to have lost Mr Gutiérrez, who left behind his amazing work against doping in the region.

In relation to the report by the Director General, the Americas supported the idea of finding ways to protect WADA from the possibility of having some countries deciding to withdraw their contributions unilaterally, so WADA could count on the commitment of all of the countries, which would financially support WADA.

MR KRALEV spoke on behalf of the One Voice platform to underline the fact that he fully agreed that commitments to pay contributions to the WADA budget should be fully respected by all stakeholders, and the Council of Europe, with its recent experience, completely understood WADA's anxiety about that. However, the members should be conscious of how delicate and complicated the issue was and, although it might be fully legitimate, consider some consequences for the threat of non-payment in the future. The process should be focused on the principles and be completely detached from any specific case. He could confirm that the public authorities, through the One Voice platform, would be prepared to engage in constructive dialogue with WADA on that matter, with a view to evaluating possible options and developing viable proposals.

THE DIRECTOR GENERAL responded to the comments, first thanking the Japanese minister. He could count on WADA's full support for the Olympic Games and Paralympic Games.

Mr Konbaz was very welcome and he looked forward to continuing to work with him on that.

WADA would work with the public authorities, with the One Voice platform and the sport movement to explore an appropriate way forward.

In response to what Professor Erdener had said, in relation to the independent observer reports and the reports with multiple recommendations, WADA had looked into the reports and they had already been fed into the compliance programme, but perhaps more could be done in the future.

MR RICKETTS added that WADA certainly always closely reviewed the independent observer reports when published; however, the new compliance programme for major event organisers had been launched in 2019, including the major event organiser receiving a Code compliance questionnaire in advance of the event, usually around 12 months before the event. In developing the questionnaire, WADA had reviewed a number of the more recent reports and built in any trends or recurring issues. He believed that the new compliance programme for major event organisers, regulated by the International Standard for Code Compliance by Signatories (ISCCS), would ensure that any non-conformities were addressed prior to the actual event by the major event organiser. As a result of the questionnaire, any corrective actions identified which were event-specific would be observed at the event itself as part of the Independent Observer Programme, and those observations would be addressed in partnership with the organising committee and major event organiser at the next event, and any that could not, would be carried over and listed in a corrective action report for the following event. That would enable a measurement of true progress, since there was a clear framework and greater accountability that perhaps had been missing from the pre-2019 independent observer missions.

THE DIRECTOR GENERAL spoke about the opportunity for all NADOs to store samples collected as part of the pre-Games testing programme, and urged all the representatives to encourage their NADOs to do that, as having the samples available for retesting was a

significant deterrent element in the anti-doping programme. Since it was free of charge, as many samples as possible should be stored.

DECISION

Director General's report noted.

– **3.1 COVID-19 update, including WADA's operations for the Tokyo Olympic Games**

MR RICKETTS provided an update on three areas in the paper in their files and shared a short presentation covering the number of samples collected to date during the pandemic, the work of the WADA Strategic Testing Expert Group and WADA's support of the upcoming Tokyo Olympic Games and Paralympic Games.

He detailed the total number of samples collected in 2019 and compared that to the samples collected during the pandemic in 2020 and the first three months of 2021. The data represented the total number of samples collected consisting of urine, blood and Athlete Biological Passport blood samples collected by signatories to the Code (IFs, NADOs and major event organisers) either in-competition or out-of-competition. The green columns represented 2019, a non-pandemic year, and the members would see from the graph that there had been an average of 25,000 samples per month collected in 2019. The black column represented 2020, and the members would see that the numbers in January and February had been tracking well, consistent with 2019; in March, the numbers had dropped by 60% and, in April, things had ground to a halt with the global lockdown. There had been gradual increases from May of around 3,000 samples per month, peaking in October at around 21,000, then tapering off again in November and December as countries had started to experience the impact of subsequent waves of the virus. There had been a consistent increase during the first three months of 2021 to March, when the highest number of samples, 23,000, had been collected by signatories since the start of the pandemic. That was really great news, an important achievement and a reflection of the hard work of the ADOs. Looking at the number of in-competition samples, that was the area that had had the largest impact due to the postponement of events and competitions at which testing would normally have taken place. In 2020, only 40% of samples had been collected in-competition compared to 2019, and in April and May, there had been very little testing at all taking place at competitions. Testing taking place at events from June onwards had been conducted primarily in a bubble environment with strict procedures to protect athletes and officials. The limited number of samples collected in-competition had continued during the first three months of 2021.

Looking at out-of-competition testing, that had been the real saviour of clean sport during the pandemic. Comparing the 2020 figures with those of 2019, WADA had achieved 68% of samples collected in 2019, and in the latter parts of 2020, in particular in October, November and December, WADA had reached upwards of 80% of samples compared to those collected in 2019. However, the more exciting news was that, in March 2021, WADA had seen the largest number of out-of-competition samples collected since the start of the pandemic and also the second largest number of out-of-competition testing samples collected since January 2019. Those figures were certainly very promising and provided a glimpse that the number of samples being collected was returning to some level of normality, and that was a significant and important milestone in the testing of the athletes leading up to the Olympic Games in Tokyo. The preliminary figures for April looked as if they would be close to those for March, so it seemed that the trend would be continuing and further supported by the global vaccination programmes.

On the work of the Strategic Testing Expert Advisory Group, following the group's publication in late November of the revised guidance document to assist ADOs with the collection of samples during Covid-19, the expert group had turned its hand to conducting a feasibility study on alternative and innovative sample collection programmes, in particular looking at several programmes piloted by some NADOs during the pandemic. The study would look at the legal, privacy, science, IT and security principles and a number of other areas to determine whether

or not modified procedures could improve the efficiency of sample collection in such pandemic situations or in other circumstances in the future. A key element of assessment would be, if there were departures from existing standards identified, whether there were alternative procedures or systems that could maintain the integrity and security of the sample and were legally sound. He would share the outcomes of the study with the Foundation Board in due course.

In terms of WADA support for programmes linked to the Olympic Games in Tokyo, WADA had partnered with the IOC and ITA on two very important programmes, both funded by the IOC and coordinated by the ITA. The first was the pre-Games testing programme, which involved a group made up of representatives from NADOs and summer Olympic IFs. It had developed a sport athlete risk matrix that guided test recommendations for athletes who had either qualified or might qualify for the Olympic Games. The recommendations were given to the IFs and NADOs with the objective of having as many Olympic athletes arriving in Tokyo having been subject to a suitable amount of testing in the months leading up to the Olympic Games. The programme had started prior to the 2016 Olympic Games in Rio and was working very well given the impact of the pandemic. Collaboration between the IFs and NADOs had been positive and many tests had been conducted across all the Olympic sports. WADA strongly encouraged those IFs and NADOs that had received the test recommendations to implement them, and would certainly be assisting the ITA with any gaps that might exist prior to the Olympic Games.

The second programme, which had been mentioned earlier, was the IOC's long-term sample storage project. He thanked the IOC for funding the project and the ITA for coordinating it, and encouraged the IFs and NADOs to use that important programme.

On the Independent Observer Programme, WADA would be sending two teams to Tokyo, one for the Olympic Games, which consisted of eight members, and one for the Paralympic Games, consisting of five members. Both teams had expert representation from IFs and NADOs, as well as some WADA staff experts, and there was also athlete representation on both teams. The role of the independent observer team was to work closely and in partnership with the IOC, the IPC, the organising committees and, in the case of the IOC, the ITA, to ensure that the anti-doping programme at the Olympic Games was the best it could be, delivered in accordance with the Code and the international standards. The independent observer team members would review and observe various anti-doping activities at the Olympic Games: the development and application of the test distribution plan, testing of athletes in the village and competition venues, as well as the management of the TUE programme and the result management process should any anti-doping rule violation be brought forward, as well as ensuring that the accredited laboratory was meeting its requirements under the ISL. To do that, daily meetings between the relevant stakeholders would take place and any observations and recommendations made by the independent observer team would be shared at the meetings and solutions discussed and implemented where possible during the Games. The independent observer teams would also consider the outcomes of the Code compliance questionnaire and ensure that the areas were adequately addressed, in advance of or during the Games, and a combination of both the advanced compliance questionnaire and having the independent observer team on site would ensure that anti-doping programmes at major events would be as effective as possible.

THE CHAIRMAN observed that the return to normal levels of sample collection was great news for clean sport and, despite all the difficulties, was much appreciated. WADA should congratulate and thank all the ADOs for their great work and for resuming activities back to near pre-pandemic levels, which was why he remained optimistic about the success of the Olympic Games and Paralympic Games in Tokyo that year, and he wished the Japanese hosts, the IOC and the IPC well.

PROFESSOR ERDENER thanked Mr Ricketts for his very detailed presentation. The Olympic Movement was very pleased that testing was recovering and there had been a record number of tests in March 2021. He looked forward to reading the analysis of the Strategic Testing Expert

Advisory Group and how innovations could potentially improve the efficiency of anti-doping activities and processes. Again, he further encouraged WADA to lead and support innovations that would facilitate the work of ADOs and athletes' experience in the fight against doping in sport.

MR NIWA thanked Mr Ricketts for his report. The number of tests was being restored and he appreciated the support of WADA to the Tokyo Games. He was aware that preparations were steadily progressing, including WADA's audit to certify the Tokyo laboratory. He would like to work closely with JADA and the WADA accredited laboratory under the coordination of the Tokyo organising committee to hold clean Games.

MR LAPPARTIENT congratulated WADA on its efforts prior to the Olympic Games to ensure the credibility of results during the Olympic Games. It was not an easy period. WADA's support for the Olympic Games in Tokyo was well received by the Olympic Movement. During the pre-Games testing period, ADAMS was a very strong tool and it was also important for cooperation with the NADOs. He made a point linked to item 7. Whilst significant improvements had been made to ADAMS for athletes, the system continued to be extremely unstable and negatively affected the work of the ADOs. The sport movement echoed the concerns raised by the Health, Medical and Research Committee and stakeholders urged WADA to address that as a priority and ensure that the topic was addressed by the Executive Committee at its next meeting. The Olympic Movement had already sent in a number of written recommendations. ADAMS was a tool used by athletes and ADOs on a daily basis; therefore, it was important to ensure that new technologies, such as the possibility to exchange data between systems, could be integrated as they became available. That was also essential to improve the effectiveness of ADOs. That was key for the Olympic Movement and the athletes themselves.

MR MATTON said that there had indeed been a number of recent performance issues in relation to ADAMS and he thanked those stakeholders who had worked on the issue. Various solutions had been implemented and continued to be optimised. The particular issue had been corrected and ADAMS' performance was being monitored very closely. He was very confident that the issues would not reoccur. On the Application Programming Interface (API), that was something that WADA would like to put in place, but it was not currently a priority. WADA was continuing with the development of the other modules; for example, that week, the DCO Central application had been launched as part of the ADAMS ecosystem and a solution that would allow for doping controls to be carried out in a paperless way.

MR RICKETTS thanked Professor Erdener and Mr Niwa for their comments. He wished Mr Niwa well with the Olympic and Paralympic Games; he had WADA's full support.

DECISION

COVID-19 update noted.

4. Governance

– 4.1 Working Group on the Review of Governance Reforms – interim report

THE CHAIRMAN informed the members that the Executive Committee had had a good and constructive discussion on that point the previous day and, as the steering body for the Working Group on the Review of Governance Reforms, had provided its feedback to the chairman of the working group. Professor Haas would guide the members through the interim report prepared by his working group.

PROFESSOR HAAS thanked the members for having him and granting him the opportunity to present the first interim report of the working group. It was made up of seven members: a chairman, two people recommended by the public authorities, two by the sport movement, and two by the WADA Athlete Committee. The working group was based on the terms of reference upon which the Executive Committee members had decided. In essence, the terms of reference

provided for seven tasks for the working group. The first task related to investigating the status of implementation of the 70 recommendations proposed by the previous group. The second related to developing a consultation process with all WADA stakeholders on the implementation of governance reforms. The third was to review all the feedback from the stakeholder consultation, consolidate the views and consider their appropriateness, taking into consideration the foundation and structure of the agency. The fourth was to suggest any new concepts or other general areas of improvement. The fifth task was to condense all of that into a report. The sixth was to have a preliminary consideration on the impact of the reforms and look at the feasibility of implementation. The last task was to recommend whether or not the working group should continue in its mandate.

The working group had been operational since mid-December, and had held nine meetings up until the end of April; conditions had not been optimal, as the group met only virtually, people were located in different parts of the world, the window to meet was small given the time differences, and the video platform was not the best in terms of engaging. Nevertheless, considerable ground had been covered, and the group had looked at the implementation of the 2018 recommendations and had done some work assessing WADA governance. In particular, the working group had looked at the relevant benchmarks, it had been heavily engaged in the stakeholder consultation process and then it had taken a look at the draft code of ethics, and he wished to present the conclusions on each of those areas.

In relation to the 2018 recommendations and the assessment of their implementation, there had been 70 recommendations made at the time. He would not go through them one by one. The members would find them in the interim report. Out of the 70, 49 recommendations had been fully implemented, and the process for 15 was still ongoing. Eight recommendations in 2018 had related to the code of ethics, and there was no fundamental opposition to the code of ethics, but it had not been implemented to date because the process was ongoing. Six recommendations had not been implemented for various reasons. The working group would have a closer look at them and the reasons for which they had not been implemented in its final report.

The next topic looked at had been the methodology and how to assess WADA's governance. It was no easy task, because WADA was a unique organisation; there was nothing comparable and it was difficult to find a relevant benchmark to measure WADA's governance structure. The group had taken as a starting point the IPACS (International Partnership Against Corruption in Sport), which had 50 criteria, had gone through them to see whether some needed to be discarded because of WADA's uniqueness, discarded some and added others by looking at different benchmarks, for example, international benchmarks developed by the Council of Europe, benchmarks developed by UK Sport and Australia Sport, and come up with 57 criteria that would be relevant to assess WADA's governance. The purpose of the 57 criteria that the members would find in the report was to act as a source of inspiration. The working group would not follow them slavishly, but they would be a source of inspiration in order to measure whether the WADA governance structure was a best model of practice. The 57 criteria had been separated into five topics according to the IPACS, and some of them referred to the transparency of the organisation, some to integrity and some to the formation of the inner will of the organisation, referred to as democracy, and then there was an issue covering certain criteria that dealt with development and solidarity. At the end, there was one topic dealing with checks and balances and internal control mechanisms within WADA. The members would find the detailed list of all the criteria or benchmarks in the interim report.

The most time-consuming operation had been the stakeholder consultation process. The working group had designed a questionnaire with detailed questions for the stakeholders. Then, in March, there had been the consultation process and the working group had been happily surprised with very good feedback: 77 organisations had participated. There had been over 2,300 comments on governance reform, the majority of which had been made by NADOs. Governments and sport had made similar numbers of submissions (around 350). Breaking down

the submissions related to the topics, the members would see that there had been five very hot topics leading to many comments: all questions related to the Executive Committee had led to a lot of participation, as had issues related to the Athlete Committee and athlete representation, standing committees, the Foundation Board and diversity and gender equality. Those had been the five hottest topics addressed in the questionnaire. The overall reaction to the survey had been very positive: most stakeholders had said that it was a very good idea that they were being asked. There had been some criticism related to technicalities such as WADA Connect, the instrument used to file comments (some people had thought that it was cumbersome).

In terms of conclusions to be drawn from the feedback on the questionnaire, it was difficult to talk about majority and minority in that context, because the individual stakeholders were so different and could not be compared. For example, there had been submissions by individuals and umbrella organisations, and one just could not compare an individual with an umbrella organisation with about 200 individual members, so the working group had tried to talk about what it described as significant trends that followed from the consultation process. For the working group, a significant trend was if a number of people backed a certain proposal; but, in addition, the proposal needed to be backed by different stakeholder groups. The feedback would be a very important source of inspiration to the working group, but the working group would wait for the outcome of the consultation process, including its own expertise and interviews that it was conducting, so would not slavishly follow all of the recommendations proposed by the various stakeholders.

He would go into the various topics on which the working group had received feedback. In terms of general aspects addressed in the consultation process, there had been comments that it should have taken other topics on board as well, including a reform of the CAS and the impact of anti-doping on human rights. The view of the working group was that it would not incorporate them in the governance review. Looking at the CAS, the working group was of the view that it fell completely outside its mandate. In relation to the aspect of human rights, the working group was looking at the internal structure of WADA and it had a legal framework, Swiss law, which it deemed sufficient. The working group had also been informed that the WADA Athlete Committee had sent a letter to the Director General to invite WADA to conduct a human rights assessment. The working group had therefore thought that, if there was something separate going on related to human rights, it would be better not to duplicate things.

A second aspect in relation to general themes of the consultation process was that some stakeholders had said that WADA should be burned down to the ground and there should be a completely new model. The working group thought that the legal framework within which WADA operated (Swiss law) and the existing governance structure were sufficiently flexible to be adapted to the relevant international benchmarks, so the proposal for the topic was not to have a completely new model, but rather to further develop the existing structure.

Diversity was one of the topics that had stirred up a lot of questions. There had been a couple of submissions asking why diversity was being dealt with in the context of governance reform and suggesting that it be left to some other experts. It was the opinion of the working group, and it would recommend that subject to the guidance provided by the Executive Committee members, that diversity was such an important pillar of governance that it needed to be incorporated in any governance reform. Another issue that had arisen from the stakeholder consultation was that there were some stakeholders who preferred a narrower approach when it came to defining diversity and there were others who had a rather broad approach. It was the working group's proposal to start with a broad approach of what diversity was and should be, and it did not exclude having different mechanisms in place to stimulate diversity across the various levels of WADA. A third interesting aspect that the working group had deduced from the consultation process was that there was a significant trend for a concept of diversity across all organs and levels of WADA.

The next general topic addressed in the report related to independence. Independence was covered in the general part of the report and also in the consultation process when it came to

the individual organs, so independence was referred to in relation to the Executive Committee and the Foundation Board. However, as the members were aware, the current WADA governance regulations were based on a nuanced approach in terms of independence. There was not a one-size-fits-all approach, but there was a clear differentiation as to whether an organ was managerial or advisory in nature or whether it was made up of representatives. Different forms of independence applied depending on the person being talked about. That had been put to the stakeholders and a very split picture had been received from them. Even though he did not like the word, a majority had said that they could live with the nuanced approach and wanted the group to develop that nuanced approach further. There had been other submissions that had said that the concept of independence was digital: one was either independent or not, there were no shades of grey in between and one could not compromise. The working group's proposal was to continue with the nuanced approach developed in the 2018 governance reform. It might need further development, but the working group felt that there should be a nuanced approach, looking at the function of the organ, whether it was advisory, legislative or executive, and looking at whether the organ itself was representative of certain constituencies or not.

The Executive Committee had been the most important topic for the stakeholders. Composition and membership had been the main issues. The working group had been able to figure out some significant trends, the first of which was that people thought that the number of Executive Committee members should not be reduced. The second important trend was that there was a clear wish that the number of independent members of the Executive Committee be increased, and there had also been a significant trend to include more athlete representatives on the Executive Committee, and to have a different type of athlete who was not double-hatting, meaning that they were not related to a NADO, a government or a sport institution. Looking at the individual members of the Executive Committee, the significant trends had been to strengthen independence for the president, the vice-president and even for the independent members. In addition, a significant trend had been to strengthen independence criteria for the ordinary Executive Committee members. Furthermore, all Executive Committee members should undergo some kind of vetting and all Executive Committee members should always be under the duty to take decisions that were in the best interest of WADA. It was the view of the working group that those significant trends were valuable and interesting, and it would like to carry out an in-depth review of those proposals and come up with something more concrete in the context of governance reform.

When it came to the Foundation Board, there had been two major topics raised, the first on composition. Completely different to the Executive Committee, the Foundation Board should remain representative in character, and there was a significant trend to include NADOs on the Foundation Board, and that there should be some athletes who were not double-hatting. In relation to the individual members, there had been no real trends; but, again, when it came to composition, the trends were important and valuable and the working group wanted to take them on board when it drew up concrete proposals. There was one interesting thing he was unable to make a proposal on because significant numbers of stakeholders had said that, when looking at Executive Committee and Foundation Board agendas, there was a significant overlap of roles and agendas which was not considered to be efficient, so the question was whether the members of the Foundation Board could give the working group guidance on that.

Addressing the standing committees, it appeared that people were very satisfied with the standing committees in general. There was a significant trend, which was that having the standing committees was adequate, helpful and provided expertise. Only a minority had said that they were far too bureaucratic. The overall view on the standing committees had been positive.

On independence, interestingly, people wanted the independence standard to be increased, not only in relation to the chairman but also in relation to other ordinary members of the standing committees, and there had been a certain trend to say that they did not want people from the Executive Committee to be members of the standing committees. That was already

standard practice for the chairmen, but the people had wanted the rule to apply to ordinary members. There had been one exception in relation to the Finance and Administration Committee. Some people had asked whether it was really necessary to have full independence for the members of the Finance and Administration Committee, because it was so tied to the operations of the institution that perhaps there should be an exception to the rule. There had been a strong wish for diversity to be reflected better in the composition of the standing committees. The working group proposed taking all of those significant trends on board and studying them in more detail.

When it came to the Compliance Review Committee, the overall attitude had been positive, and no clear trends had been detected. There had been a couple of interesting submissions, but no strong trends. Some people had proposed strengthening athlete representation, while others had suggested having NADO representation, because that was one of the standing committees on which NADOs were not included. Others had said that it was necessary to strengthen the independence of the Compliance Review Committee members, and then there had been a question on whether or not the Compliance Review Committee should have decision-making powers or whether it should only submit recommendations to the Executive Committee. No significant trend had been detected, and the working group was open to proposals and to any kind of input on the standing committees in general or the Compliance Review Committee.

There were two big topics left: on athletes and athlete representation and the NADOs. On the issue of athletes, there had been submissions that the matter should be left for athletes to decide and that the working group should not get involved in athlete matters. That was an important governance matter that needed to be looked at comprehensively, so the working group would like it to form part of its mandate. The working group was, of course, working closely with the Athlete Committee. There were two representatives of the Athlete Committee in the working group, and the Athlete Committee had established a special working group on aspects in relation to athlete representation, so the working group's proposal was to work hand-in-hand with the Athlete Committee, its working group and, of course, the two representatives on the working group he chaired. There had been a debate on what the best athlete representatives should look like. The significant trend had been that the athlete representatives needed to be high-level or international athletes, bound by the World Anti-Doping Code, and there had to be a certain lapse in time taken into account after the end of their sporting career. The window proposed had been relatively wide, between three and 12 years. The working group proposed taking that on board and further elaborating on the criteria applicable to athlete representatives.

The next topic was even more complicated: how to relate the athlete representative back to their constituency. The overwhelming view had been that there needed to be legitimacy, some link between the constituency and the athlete representative; however, there had been no clear trend as to how to accomplish that. Some people had proposed that WADA should use existing structures, for example, athlete committees from the IOC, IPC, IFs and NOCs, in order to elect the athlete representatives, and others had said that they wanted alternative election systems, a network of NADO athlete committees, for example. Others had said that they would like to have an election outside any existing structure with a global election process, and others had said that they would like nominations from the Nominations Committee, which would vet and then appoint the candidates. Others had said that they would like some combination of all of the above. There had been no clear trend from the feedback from the stakeholders, so the working group would consider the ideas to come up with proposals.

Finally, there had been a big discussion as to whether there should be an additional independence criterion for the athlete representative. Some of the respondents had said that the person should not be attached to any NADO, sport organisation or government, so no double-hatting. Finally, there had been a very significant trend (backed by more than one stakeholder constituency) that the Athlete Committee should have more power, should be entitled to elect its own chairman and would be responsible for sending the athlete

representatives to the various standing committees. The working group would take that on board and consider it when making concrete proposals.

On the role of the NADOs, the working group recognised and acknowledged the valuable role and contributions of NADOs as experts in the field. That was not disputed. The question was the role to be given to the NADOs within the WADA structure, and that would depend on the role attributed to the NADOs. Should they be experts, or a political or decision-making body? The only thing the working group could see from the submissions was a significant trend that people wanted NADOs around the Foundation Board table, but there was no such trend related to them sitting around the Executive Committee table.

MR DE VOS congratulated Professor Haas and the working group on behalf of the sport movement for their excellent work and detailed and comprehensive report. He commended the working group on the stakeholder consultation and the comprehensive report and methodology used to evaluate the comments, in particular recognising the diversity of the stakeholders and their weight and the identification of significant trends. One could view the participation rate in the survey as low, but not all stakeholders were always that involved in WADA governance, or they might just be satisfied and had not felt the need to participate in the process. In general, the sport movement agreed with the proposals of the working group on the way forward. He wished to highlight some points on which guidance had been sought.

He agreed that the CAS and human rights reforms, although very important, were not part of the terms of reference of the working group. The CAS was an independent Swiss foundation and that independence should be respected, as there was the principle of separation of powers, even though WADA might not always be happy with some of the decisions and outcomes. He believed that the human rights issue was already addressed.

The working group should also work based on the existing model. Fewer than three years previously, there had been a thorough governance reform, so the wheel should not be constantly reinvented. The equal partnership of the founding and funding members of WADA should be respected and it was good to see that 64 out of the 70 recommendations of the previous governance reform had been implemented or were at least under way, and he congratulated the Director General and his team on the work achieved.

On diversity, the sport movement supported a broad approach taking into consideration all possible aspects of diversity on the different levels of the organisation. Independence was a topic of discussion across all fields and he welcomed the nuanced approach of the working group. WADA was an organisation based on the representation of the two founders and that should remain the core. Independence needed to vary according to the body being looked at. In the Executive Committee, there were already four independent members and two had only just started, so the members should see how that evolved.

Double-hatting had been mentioned and should not be an issue, as the members were obliged to act in the interest of WADA.

On the composition of the Executive Committee and Foundation Board, the sport movement supported the current composition and structure. Representatives of relevant stakeholders such as athletes or NADOs could be included in the representation of the sport movement and the public authorities, and that was already the case for athletes. Athletes and NADOs were very important for the organisation and he would welcome ideas on how WADA could strengthen its engagement, for instance, with the NADOs, but more in terms of NADOs having an expert role.

Professor Haas had mentioned the overlapping agendas of the Executive Committee and the Foundation Board. It was normal that the agenda of the Foundation Board be discussed by the Executive Committee and consequently there could be overlaps, but the Foundation Board agenda should perhaps be more like the agenda of a general assembly, so he was open to improvements and further suggestions.

The sport movement agreed that the members and chairmen of standing committees should not be Executive Committee members but asked the working group to look at making an exception for the chairman of the Finance and Administration Committee, as the chairman was crucial to the strategy of the organisation and should assist the Executive Committee and Foundation Board in the preparation of important decisions.

In relation to the Compliance Review Committee, the decision-making power should remain with the Executive Committee, as that made decisions stronger, especially when they were challenged.

In relation to athlete representation, WADA should build on the existing network of athletes, but the sport movement would be happy to hear from the athletes.

The working group should also include the code of ethics in its work and final report.

He looked forward to the final report later that year.

MR MKHIZE supported and commended the work done to date; stakeholder consultations always helped to get a general view of members who benefitted from WADA, but all the changes that might be accepted in the WADA governance structure should not undermine the partnership between the governments and the sport movement. On the increased participation of athletes, he believed that that was fine in principle and should be supported. Athletes should take the lead in terms of coming up with a process to decide who would represent them. That would assist in terms of the continued efforts concerning representation in the WADA structures, in particular the voice of the athletes, who should devise strategies on how to identify their representatives.

The splendid work done by the working group was much appreciated.

MS YANG thanked Professor Haas for the very detailed report and congratulated the Director General on his leadership to implement the recommendations. The first comment was that she totally agreed with the working group developing on the existing model instead of starting from scratch, respecting the work done over the past 20 years. It was also necessary to respect the equal partnership between the Olympic Movement and the public authorities, also the funding agreement, in terms of further development on governance reform. On athlete representation, it was important to hear from the athletes and she was happy to see that there were two athletes sitting on the Working Group on the Review of Governance Reforms. The athlete representatives could not be isolated from athletes; they had to come from the network of athletes.

MS LIND stated how pleased she was with WADA's work over recent years: with the increased budget combined with the governance reforms, the fight against doping in sport had reached a higher level. It was appropriate to thank the governments and the sport movement for the step forward, and the WADA management and other stakeholders.

She welcomed the interim report and thanked the working group for its work, which provided a truly excellent overview of current issues relating to WADA governance and raised several relevant questions. The European governments agreed that the duplication of roles between the Executive Committee and Foundation Board should be avoided. There should be a clear and logical separation of responsibilities to avoid double-hatting and representation of political interests on the Executive Committee. She further supported the suggestion to explore avenues on how to make the process of asserting non-compliance independent of political and other interests. Athlete representation on the decision-making bodies was very important and it was important to take the process forward in that regard. The process ahead was very important and it should be open and inclusive. Amendments to governance would enhance WADA and consequently the rights of athletes to compete fairly and cleanly. She looked forward to joint work on governance. Good governance was important for the governments and the sport movement.

MS TERHO thanked Professor Haas for the clear and detailed report and the working group on the work done to date. On the athlete part, WADA benefitted from hearing from the people experiencing the importance of fair sport and all the complexities of what it meant to be bound by the Code. She supported the working group consulting with the WADA Athlete Committee and the Athlete Committee's Working Group on Athlete Representation, and also supported the working group's consideration of significant trends and elaborating on the eligibility criteria in order to be an athlete representative based on the existing recommendations drawn up by athlete commissions. It was important to build on what was currently working. Athletes representing others within WADA should have received a mandate from their peers, as well as have a way of going back to the community to seek additional views, and a good way of doing that was using the existing networks in place. Athlete representation was clearly defined across the sport movement, thanks to the work of the IOC, IPC, IF, NOC and NPC athlete committees.

In relation to the NADOs, their terms of reference varied somewhat, and she encouraged consultation with the national athlete committees to seek their views on representation. She thought that the general independence criteria should apply to the WADA Athlete Committee.

MS LABELLE appreciated the opportunity to be there and virtually meet her colleagues on the Foundation Board. She thanked the working group for the questionnaire and the great summary of the results. It was encouraging that so many different areas of consensus had been identified. She focused her remarks on increasing the independence of the Executive Committee. The USA supported all the significant findings highlighted in the interim report in relation to the Executive Committee and she wished to reference a few points. First, the importance of increasing the number of independent Executive Committee members, increasing the number of athletes, strengthening the independence of all Executive Committee members and ensuring that all Executive Committee members had the duty to take decisions in the best interests of WADA. Ideally, the Executive Committee should be fully independent without conflicts of interest, and that goal could be accomplished over several years. For the next step, she asked that the working group develop options to add two additional independent Executive Committee members in 2022 and another one in 2023. It was the US view that independent appointees could be recommended by any WADA stakeholder and the vetting and final decision on the candidates should be made by the Nominations Committee. She recognised that, to keep the Executive Committee at its current size, it might be necessary to reduce the number of sport movement and public authority representatives on the Executive Committee. On the Foundation Board, she believed that the composition should be broader and bring in more expert voices. The Foundation Board should, as a representative body, include NADOs and more independent athletes. Those were important findings the USA supported. There was a variety of options available to add NADOs and independent athletes to the Foundation Board, and the USA asked the working group to develop specific proposals to add NADO and independent athlete representatives to the Foundation Board in 2022. The USA looked forward to specific proposals on those important topics.

MR SANDFORD thanked Professor Haas and the working group for the comprehensive report and the work being done.

Many of the questions asked in the stakeholder consultation under the athlete section were questions that the Working Group on Athlete Representation had asked to be put there and he thanked everybody for the feedback and the working group for collating the information and passing it on to the Working Group on Athlete Representation, because it fed directly into what it was doing. The Athlete Committee had developed various models and was working on developing a further model and consulting with various stakeholders, but stakeholder consultation and feedback were vital to the progress of that work. That also touched on eligibility, independence and legitimacy, because the work focused on what the Athlete Committee would look like, how the athletes would get on to the Athlete Committee, who they would be representing, what the body would look like and how it would work within WADA. Obviously, the working group led by Professor Haas was looking at a slightly wider picture, and

the Working Group on Athlete Representation and the Athlete Committee would work very closely with the Working Group on the Review of Governance Reforms in the coming months, and he looked forward to further dialogue.

PROFESSOR HAAS thanked the members for the feedback, which would be taken on board. The working group had taken a look at the draft code of ethics, but had not had time to look at every single provision, so it had prioritised and looked at the various models. The majority of the working group preferred model B and, even though there was some debate on the models, believed that there were ways to compromise. The working group had wished to persuade the Executive Committee to postpone the decision on the code of ethics, and the Executive Committee had agreed on that the previous day.

THE CHAIRMAN asked if there were any other questions or comments on the report. He thanked Professor Haas for moderating the important discussion; he greatly appreciated the work done by the working group to date. He thanked the stakeholders for all their comments. He reminded the members that, based on the discussion the previous day and other contributions, the working group planned to conduct a series of bilateral meetings with key stakeholders between May and September, and then further consultations between the September and November Executive Committee meetings.

DECISION

Interim report by the Working Group on the Review of WADA Governance Reforms noted.

– 4.2 Code of ethics

MR SIEVEKING said that very useful comments had been received during the second consultation period, and most of them had been taken into account and incorporated into the new draft. An important point to make was that option C, referring to an ethics officer only, was no longer on the table, so there were two options: one according to which the decision belonged to the Executive Committee and another according to which the decision belonged to the independent ethics board. The comments received made it clear that there was no consensus among Executive Committee and Foundation Board members on the best option, so discussion would continue on that very important matter, on which the Working Group on the Review of WADA Governance Reforms was also now working.

MR KAISER briefly went through the revised version of the draft code of ethics following the result of the second consultation process. The draft code had been adapted to take into account the comments made by the various stakeholders. All the stakeholders had been unanimous in setting aside option C, referring to the ethics officer only model. The only two remaining versions were based on who would take the final decision. In version A, the Executive Committee would have to take the final decision on whether or not a violation had been committed and, in version B, the independent ethics board would take the final decision. The group had received many very interesting comments from the stakeholders and had implemented most of them. Those that had not been implemented had already been in the draft, but perhaps expressed insufficiently, so the wording had been amended to reflect what had been suggested, and others had not been included because they were dealt with elsewhere in WADA regulations and documents.

In terms of the main amendments and the general principles, several stakeholders had been concerned about the fact that perhaps the draft did not contain enough precision on the values defended by the code of ethics. The new draft elaborated on the core values defended by WADA of integrity, openness, the overall mission, the worldwide movement for doping-free sport and the main aim of WADA, and made some kind of reference to the behaviours to be shown by the officers of WADA: acting with impartiality, in good faith, with intellectual honesty and fairness, an absence of prejudice, no favouritism, no retaliation against anybody making a violation

report under the Code and no undue influence. On the duties, in relation to conflict of interest, one stakeholder had said quite rightly that the provision on conflict of interest was not defined in sufficient detail, and that had been the purpose because, in fact, that topic was extensively covered in the WADA governance regulations adopted in 2019 in Katowice, so it had been felt better to have only a reference in the code of ethics to conflict of interest as covered in the governance regulations and not duplicate the provision. Also, on integrity, it had been felt necessary to specify that only undue incentives would be a violation, because some incentives, such as payment incentives to officials to better perform their duties, were not violations of the code of ethics. On confidentiality, it had been felt necessary to specify clearly that reporting of a violation or facts that could constitute a violation according to the Code would not be a breach of the confidentiality obligation within WADA. On the duty to cooperate of the concerned person, there was a very important issue: what to do if the person concerned by the violation did not cooperate and WADA wanted to obtain information or documents from a third party, such as a bank, if there was some kind of corruption payment. It was impossible for WADA or the independent ethics board to obtain those documents from a third party or the concerned person, but the duty to cooperate implied that the concerned person should give their consent to the third party to provide the information required by the independent ethics board or officer or the Executive Committee and refusal to do so could result in the decision-making body within the code of ethics to draw adverse inference from that refusal. That was a system used commonly in ordinary courts which worked quite effectively.

Under terms, appointment and operations, in relation to the terms of office, a common remark from all stakeholders had been to have three-year terms, with a maximum of nine years, as in the WADA governance regulations for the other bodies. That was a very good proposal and it had been implemented in the draft; the same system was applied for the ethics officer and members of the independent ethics board. In relation to appointment, the only modifications had been cosmetic, because the wording had been there. It had been made clearer that the appointment of all members of the independent ethics board would be by the Foundation Board upon recommendation of the Nominations Committee; however, the recruitment and of course also the assessment and vetting of the members and chairman of the independent ethics board would be done by the Nominations Committee. The sport movement and public authorities could submit candidates to the Nominations Committee. One stakeholder had suggested placing a limitation on the number of submissions to be made by the sport movement and the public authorities. The group believed that that was not necessary, because it was difficult to foresee in advance the best members or candidates. There might be situations in which the public authorities provided only one excellent candidate and the sport movement submitted three excellent candidates, and it might be useful for the Nominations Committee to have the four candidates at its disposal before vetting.

On reporting, the independent ethics board would operate totally independently of WADA. The board members could speak directly to people in WADA without having to refer to the Executive Committee or the Foundation Board. The independent ethics board would make a yearly report to the WADA president on activities carried out in general but not on actual cases.

On the investigation process, some suggestions had been implemented, in particular the fact that the board would be able to submit a complaint if it was aware of a violation of the code by somebody. It had also been felt important that the ethics officer have the assistance of an attorney or consultant when carrying out their investigation, but it had also been a good idea to make that subject to prior approval of the independent ethics board, for budget reasons, because it should remain within budget.

The third point had to do with referring to the criminal authorities, and there had been a unanimous decision by all the stakeholders to allow for referring to the criminal authorities if such violation also consisted of a criminal offence. It had not been expressly stated in the previous draft. The ethics officer and the independent ethics board could both refer the violations to the law enforcement authorities. In relation to the ethics officer, it had been felt

necessary that they seek prior authorisation from the independent ethics board, because it was an important action that could trigger countereffects such as libel cases, which could be very detrimental to the interests of WADA, so it was important for the independent ethics board to give its approval prior to the filing of such complaints. It had also been felt important to have the prior assistance of the WADA Intelligence and Investigations Department, which was well equipped as it had worldwide contacts and a great deal of experience in the field.

On version A, which was basically the decision taken by the Executive Committee, at the level of the independent ethics board, some stakeholders had suggested removing the reference to the rapporteur of the panel. It had been maintained because it was cost-efficient and more efficient in terms of operations, since it prevented the panel from going through all the details of the case. There would be an executive summary provided by the rapporteur, who would be a member of the panel. The panel should also decide whether or not the complainant should be a party to the procedure. That had been clearly stated in the revised draft.

At the Executive Committee level, the point had been made as to whether or not the Executive Committee should look at the case de novo; in fact, it would examine the case on the basis of the recommendations made by the independent ethics board, but it would not be bound by such recommendations. Therefore, it was not a complete de novo examination, but there would definitely be independence in terms of decision-making. In relation to cost, the Executive Committee could impose costs, but it was not obliged to do so; it would be left to the Executive Committee's discretion, depending on the particulars of the case and the behaviour of the parties during the proceedings.

A point agreed upon fully by all stakeholders was that, in the interest of transparency and good governance, decisions should be published in principle, subject only to certain limitations in relation to protection of personality rights, data protection and third-party rights. Appeals to the CAS against decisions of the Executive Committee on violations of the Code had been discussed by a couple of stakeholders, and the decision had been taken to maintain the CAS as the appeal body against those decisions to minimise the risk of having conflicting decisions by ordinary courts dealing with the code, and that was important in order to have a consistent approach to the application of a code of ethics worldwide.

On version B, no other amendments had been made, except that all the provisions referring to the Executive Committee had been deleted.

In relation to the sanctions and measures, there had been no modification except in relation to WADA staff. A stakeholder had made a very good observation, which was that it would be very difficult to apply the sanctions and measures in the current draft to WADA staff. If the investigation revealed that a member of WADA staff had violated the code, the decision would be referred to the WADA Human Resources Department, which would then issue sanctions and implement measures in accordance with labour law, and decisions on the violation of the code by a member of the WADA staff could not be appealed to the CAS because all decisions would be moved to ordinary courts or labour law courts.

MR KEJVAL thanked Mr Kaiser for preparing the document. The Olympic Movement supported delaying approval of the code of ethics to the meeting in November to allow more time to discuss the issue, especially by the Working Group on the Review of Governance Reforms, as Professor Haas had mentioned previously. In terms of the proposed models, the Olympic Movement strongly preferred model A because the proposed procedure was very similar to the current procedure of the Compliance Review Committee; it would provide the necessary independence whilst preventing the risk of WADA facing too many appeals in relation to the independent ethics board's recommendations.

MR REYES thanked Messrs Sieveking and Kaiser for preparing the code of ethics and insisted on the importance of advancing on the code of ethics, whether that be through model A or B. The document included rules, regulations and values to be applied to different behaviours and

also cases in which WADA should report to the criminal authorities. His region thought that the adoption of the code should be a priority and it should be the first on the list of items on the agenda.

MR BERGE said that, since it was his first Foundation Board meeting, it was a pleasure and honour to participate in that very important work. On behalf of the One Voice platform and Europe, he confirmed that he very much welcomed the proposal to integrate the discussion on the new code of ethics in the work of the WADA Working Group on the Review of Governance Reforms. At the same time, he stressed the need for the working group to prioritise the issue in terms of adopting that important document. It was very important to reach a consensus on the models and he proposed a separate meeting between the public authorities and the sport movement. It might be helpful to consider inviting GRECO, a group of experts in the Council of Europe with a great deal of experience and expertise in fighting corruption and promoting integrity, and he was sure that they would be able to contribute to find a compromise solution that would be acceptable for all stakeholders. Issues of prevention and awareness-raising could not be left out of the code of ethics, as it was clearly preferable to avert cases of corruption and conflict of interest than to deal with their consequences.

MR MKHIZE stated that the matter should be taken together with the governance issue and deferred to the November meeting. He commended the sterling work done by the group to date, but it needed further discussion, and there was the issue of finding a way of dealing with the models and finding a model that could work once all the views had been taken into account. That was a critical area of WADA's work, and a code would be able to remove any subjectivity in dealing with matters that arose. He supported that the matter be linked to the governance matter and deferred to the November meeting.

MS EL FADIL reiterated the position of Africa, which supported deferring the matter to the September or November meeting, but also supported model B and looked forward to more consensus on the code of ethics.

THE CHAIRMAN thanked the members for their comments. It was a very important item for WADA; a lot had been done and he remained optimistic that a compromise would finally be found and that WADA would have strong transparent regulations and a strong ethics code and board. It was very important for the future of WADA.

DECISION

Decision on the code of ethics postponed.

– **4.3 Statutory/regulations**

4.3.1 Endorsement of Foundation Board composition for Swiss authorities

THE DIRECTOR GENERAL asked the Foundation Board to endorse or acknowledge its composition, as circulated two days previously. It was simply a formality, and he asked the members to accept the proposal detailed in the paper that they had received.

DECISION

Endorsement of Foundation Board composition for Swiss authorities to be approved by circulatory vote subsequent to the meeting.

4.3.2 Changes to statutes and regulations in relation to deputies

THE CHAIRMAN referred to the discussion requested by One Voice on statutory amendments requested by deputies. The previous month, there had been a circulatory vote on changes to the WADA statutes. The case was closed, and 29 members had voted in favour of the changes and only two had been against; however, a few public authorities had expressed

concerns on the Swiss authorities' position in relation to deputies, therefore Mr Kaiser, the Swiss legal counsel, would explain the process and the request from the Swiss authorities.

MR BERGE had three brief points to make. First, the public authorities' exchanges with the One Voice platform had shown that WADA's procedures in relation to circulatory votes should allow for greater opportunities for meaningful dialogue in the process of adopting decisions. Second, the question of modification of the statutes would certainly benefit from an in-person discussion to better understand the reasons and issues related to such modifications and would also provide the possibility to seek the necessary clarifications and perhaps also avoid any misunderstanding. It would indeed be appreciated if WADA could consider reviewing the circulatory vote process.

MR KAISER said that he would provide a brief summary of the proceedings in relation to the regulatory authority in Switzerland. After the adoption of the statutes in Katowice in November 2019, WADA had sent the governance regulations and statutes to the Swiss regulatory authority as provided for by the law, ahead of a meeting scheduled with the authority in Bern. The Director General and he had met the head of the supervisory authority and the person in charge of the file. They had been somewhat surprised by the fact that the person in charge of the file had taken quite a strong position and, according to her view of Swiss foundation law, the existence of deputies for board members was not acceptable, because the position of a board member was *intuitu personae*, which prevented them from being represented by deputies at Foundation Board meetings. It was too personal a position. After the meeting, WADA had sent a letter to the authority stating that all the Swiss legal scholars confirmed the admissibility of deputies, but there was no court precedent on that issue. In April, the authority had answered, maintaining its position very strongly. The position of a member of an organ such as the Foundation Board was a highly personal mandate, therefore strictly linked to the member, which could not be delegated. Against that position, WADA had filed a very important letter explaining in detail what WADA was: an international organisation with stakeholders from the public authorities and the sport movement and, for both, the presence of deputies was an essential requirement to maintain equal participation and representation throughout WADA meetings, that the deputy system was not prohibited under Swiss law, that the deputies always respected the instructions received from the members and, lastly, the members of the Foundation Board were often ministers or very high-ranking officers in the public authorities and sport movement and were fully aware of their rights, responsibilities and duties even when represented by a deputy. In July the previous year, WADA had received an e-mail from the authority stating that it had taken note of the explanation but maintained its position that it could not back a system of deputies. In February that year, there had been an exchange of e-mails with the authority in which a possible compromise had been suggested in the form of limiting a deputy's appearance to once per year. The authority had maintained its position that it was an unacceptable principle but had taken note of the offer made and thought that it might be acceptable. That was the format of the statute submitted to the vote. It had been a tight negotiation. In conclusion, under Swiss law, it was correct to say that the position of a Foundation Board member was a very personal one linked to the person appointed due to their representative character, capacity and experience, and therefore it was understandable that the authority had taken that position. Under Swiss law, members of a board of directors of a company could not be represented by deputies at board meetings because of their *intuitu personae* position. That was the case in a lot of jurisdictions worldwide. The negotiations had taken place, and had been long and difficult because of the pandemic. There were two options: to abandon the system of deputies, which none of the stakeholders wanted, or have the issue dealt with, forcing a decision from the supervisory authority and then forcing a decision to be taken by the Swiss Federal Tribunal, the supreme court of justice, and the result was very difficult to predict, as there was no precedent, and there could be a refusal of the presence of any deputy on the Foundation Board and the Executive Committee.

THE DIRECTOR GENERAL said that he hoped the explanation had provided some clarity. It was clear that everybody hoped that the in-person discussions would take place again very

soon. In 2020, there had been two Foundation Board circulatory votes following the Foundation Board meeting to formalise discussion that had taken place during the meeting, and there had been four Executive Committee circulatory votes on technical issues or appointments. He recognised the difficult times and hoped that, in the future, the number of circulatory votes would decrease; on the other hand, they were also a means of taking decisions in between meetings when an urgent decision was required. WADA was available to clarify during the period of the vote. Three weeks were being provided for voting purposes and, if stakeholders had issues or questions, WADA was always happy to have a discussion. On the particular issue explained by Mr Kaiser, he wished to highlight the fact that it had been mentioned at every single meeting since May the previous year and, in his report in November, he had said that there would be a vote on that question at the beginning of the year, so it could not have come as a surprise to anybody.

DECISION

Update on changes to statutes and regulations in relation to deputies noted.

– **4.4 Honorary president – update from public authorities and sport movement on discussions**

This item was not discussed. It had been agreed that further discussion was required by the two stakeholder groups prior to bringing a proposal forward for decision.

– **4.5 Executive Committee membership**

THE CHAIRMAN informed the members that WADA had been formally advised on Friday 14 May of a replacement member from the Americas and had informed members accordingly. There was a new member from CADE, Mr Ernesto Lucena, from Colombia. In order for Mr Lucena to become a Foundation Board member, he had to be formally approved as a new Executive Committee member by the Foundation Board. He had been appointed the previous week at the CADE meeting, so WADA had been unable to circulate the information prior to the Foundation Board meeting, and would therefore include his appointment in the circulatory vote following the meeting. Mr Lucena had acted as a deputy for CADE at the previous day's meeting; but, following approval, would become the new member for the Americas region on the Executive Committee and the Foundation Board.

DECISION

Proposal to appoint Mr Ernesto Lucena Executive Committee and Foundation Board member representing the Americas to be approved by circulatory vote subsequent to the meeting.

5. Finance

– **5.1 Government/IOC contributions update (including extra contributions for research and investigations)**

MR NG referred to the contributions from the public authorities and the sport movement. As of 20 May, contributions received from the public authorities had been 57% of the budgeted contribution compared to 77% the same time the previous year. Another 8.7 million US dollars had yet to be received. He understood the challenges caused by the pandemic but urged the public authorities to be as proactive as possible with their contributions in days to come. Additional contributions received to date amounted to 90,000 dollars thanks to Australia and Japan. In addition, as announced by the IOC at the 2019 World Conference on Doping in Sport in Katowice, WADA had received additional contributions of 3.5 million dollars from the public authorities for research and investigation, thanks to China, Canada, Cyprus, Greece, India,

Poland and Saudi Arabia. France and Egypt had also committed to contribute another 160,000 dollars. With the IOC matching, the total would double to more than 7 million dollars. WADA was indeed very grateful for that additional support and no doubt that would be extra funding to help further WADA's work in research and investigation. He also extended thanks to Montreal International, as WADA had entered into a renewed agreement in 2021 for another 10 years, and the annual contribution would increase by close to one million dollars, to 2.4 million dollars.

DECISION

Government/IOC contributions update noted.

– 5.2 2020 year-end accounts

MS CHUNG noted that the members had a second set of year-end accounts, in addition to the year-end accounts under the IRFS, under the Swiss GAAP to review and approve.

In the interest of time, she would go over only the highlights of 2020. All the detailed information was in the members' documentation. Overall, WADA had ended the year in a strong financial position, registering 38.5 million dollars in operating income, an increase of 485,000 dollars from 2019; on the surplus side, WADA had recorded 5.2 million dollars, an increase of 573,000 compared to prior years. Despite a challenging year, contributions from the public authorities had reached 98.2% of the annual budget of 18.7 million dollars, and she greatly appreciated that and thanked the public authorities for payment efforts made. WADA also thanked the Government of Japan, the Government of Australia, the City of Lausanne and the Canton de Vaud for the additional contributions totalling 271,000 dollars, and extended thanks to Montreal International for the annual grant, which would also be increased as of 2021 for the coming 10 years.

On the operating expenses side, WADA had recorded 33.9 million dollars, about four million dollars less than in 2019, and the pandemic had played a big part in that: savings in travel and accommodation had come from cancellations and postponements of in-person meetings and events, for example the annual symposium and various committee meetings such as that one. In-person activities and events had been converted where possible to online and teleconferences, and WADA had gained in efficiencies in some of the areas. Testing activities had not been carried out at the usual level for obvious reasons. WADA had been down by 200,000 dollars compared to 2019. Consulting fees, including different consulting services for various departments, had also been lower than in 2019 by 1.2 million dollars, but the legal costs in relation to a number of high-profile cases, such as RUSADA and the Chinese swimmer, had still required additional financial resources. However, in relation to RUSADA, the CAS had awarded WADA 1.8 million dollars to alleviate some of the costs that had been incurred in the past. Payment would be spread over the coming two years. Starting in the second quarter of 2020, once the 2020-2024 strategic plan had been approved by the Foundation Board, activities and projects had been prioritised and carried out during the pandemic. Hiring had been on pause at the beginning of the year but had picked up later in the year, explaining for a large part the increase in salaries and other employment-related expenses. Another contributing factor to the increase in salaries and other related expenses had been the one-time adjustment to the Swiss pension plan, which had not had an impact on cash flow, so no additional payment had been required. In relation to capital expenditure, WADA had spent about three million dollars, slightly over budget but lower than in 2019 nonetheless. Investment had been mainly in ADAMS and ADeL. The surplus had allowed WADA to increase the operational reserve to 6.4 million dollars, a rise of 2.5 million from 2020 as per the agreed policy. The litigations reserve had been increased by 500,000 dollars to two million, both approved by the Finance and Administration Committee in August 2020. That summed up the 2020 year-end accounts, and she would be happy to take questions.

MS EMERY told the members that she was a partner at the PricewaterhouseCoopers Montreal office responsible for the audit work on the financial statements of WADA. She worked hand-in-hand with her colleague, Mr Philippe Tzaud, a partner in the office in Switzerland, who was ultimately responsible for signing off the audit report on those financial statements. She provided the members with a status report on the audit work and covered the significant accounting and financial reporting matters dealt with during the audit. PricewaterhouseCoopers had substantially completed its work on WADA's audited financial statements for the year ended 31 December 2020. It was consequently ready, subject to approval of the financial statements by the Foundation Board, to release its report without qualifications or references to violations of the law. As auditor of the agency, PricewaterhouseCoopers was responsible for issuing an audited opinion on the financial statements and to confirm the existence of an internal control system designed for the preparation of financial reporting. PricewaterhouseCoopers was in a position to conclude that the financial statements for the year ended 31 December 2020 gave a true and fair view of the financial position, the results of operations and the cash flows of the agency in accordance with the International Financial Reporting Standards. That year, the agency had also prepared a second set of financial statements under Swiss Generally Accepted Accounting Principles for the year ended 31 December 2020. PricewaterhouseCoopers could also conclude that the financial statements complied with Swiss law and the foundation's deed. PricewaterhouseCoopers also confirmed that an internal control system was in place for the preparation and fair presentation of the financial statements in accordance with the requirements of the Foundation Board.

The audit work had been conducted in line with the audit plan. As part of its auditing, PricewaterhouseCoopers had discussed with management the key risks as well as the key areas of focus and the audited approach. During the course of the audit, PricewaterhouseCoopers had reviewed management accounting policies and positions, management judgements and estimates in establishing the financial statements, and the financial statements, presentations and disclosures under applicable accounting standards. During the year ended on 31 December 2020, there had been no unusual transactions to be accounted for and no internal control deficiencies or recommendations for improvement that she believed merited the attention of the Foundation Board that day. There had been no uncorrected misstatements identified during the audit and no new accounting methodology had been adopted or change in accounting policies. The agency had adopted IFRS 16 on 1 January 2019, related to leases contracted by the agency. PricewaterhouseCoopers had found no deficiencies and was satisfied with accounting treatment. The agency that year had also included certain new information in the financial statements on the Swiss pension plan liability for employees in Switzerland. That was per IFRS IAS 19 accounting standards. That presentation had no cash flow impact on the agency.

In closing, she sincerely thanked the management and staff of the agency who had assisted PricewaterhouseCoopers in carrying out its work, in particular Mr Niggli, Ms Chung, Ms Vizioli and Mr Villegas.

MR KRALEV spoke on behalf of the One Voice platform to express his approval of the agency's 2020 audited financial statements under the IRFS and the Swiss GAAP currently required under Swiss law. In addition, Europe requested that, for the sake of transparency and clarity, any future end-of-year accounts should separately highlight the indemnities paid to the WADA President, Vice-President, independent members of the Executive Committee and other officials who were not receiving remuneration for their work at WADA but who were instead entitled to indemnities. He invited WADA to continue assessing the consequences of Covid-19 on the financial savings and to consider drawing upon that assessment, reviewing the agency's working methods in the future and providing additional information.

THE CHAIRMAN concluded that the Foundation Board members formally approved the accounts.

DECISION

2020 year-end accounts to be approved by circulatory vote subsequent to the meeting.

– 5.3 2021 quarterly accounts (quarter 1)

DECISION

2021 quarterly accounts noted.

6. Key items or decisions

– 6.1 Legal

6.1.1 Russia update

MR SIEVEKING said that he was in charge of presenting the update but, obviously, the work on the Russia follow-up involved colleagues from several departments, who would intervene where necessary in the event of questions related to their area. Speaking on behalf of his colleagues, he stressed that the monitoring of the Russian situation had triggered a very high workload for WADA, making it necessary to invest significant resources, both human and financial, to ensure the appropriate monitoring of the implementation of the CAS award by signatories, to monitor the fulfilment by RUSADA of the reinstatement conditions and to monitor result management of individual athlete cases.

He would provide a short update on the work done to date which was, obviously, ongoing. On the monitoring of the implementation of the CAS award made in December the previous year, WADA was obviously monitoring the appropriate implementation of the consequences by stakeholders and signatories. WADA had started by establishing a list of more than 600 events falling under the definition of world championships to be held anywhere in the world within a two-year period from December 2020 to December 2022, and also a list of Russian officials sitting on the boards, committees and commissions of all affected signatories. On that point, there was already a good outcome to date: all known Russian officials falling under that definition of government representatives as provided for in the CAS award had stood down from their positions. In relation to the follow-up of events planned in Russia in that two-year period, relating to 14 IFs, WADA had asked them to withdraw the events from Russia or provide detailed information as to why they were of the view that it was legally and practically impossible to move the events outside Russia as per the wording in the CAS award and reassign them to another country. To date, three IFs had withdrawn their events from Russia and others had postponed their events to dates outside that two-year period covered by the CAS award and, for all the other cases at the time of writing the report, WADA was reviewing the information provided by all the applicable IFs with events planned to take place in Russia during the CAS award period. Also, WADA was looking, for all the events held outside Russia during the two-year period, at the question of uniforms, the description of the team, the anthem that could be played, etc., so that was also something that WADA was monitoring very proactively and, for all those points, should WADA disagree with the position taken by a signatory, WADA could open a compliance procedure if it considered that there was non-compliance with what was set out in the CAS award.

On the monitoring of RUSADA and the reinstatement conditions, the CAS decision had confirmed non-compliance and outlined a number of conditions to be met by RUSADA in order to regain compliance at the end of the two-year period. WADA had developed a comprehensive plan to monitor the progress made by RUSADA in view of the achievement of the reinstatement conditions; the plan had been endorsed by the Compliance Review Committee at its April

meeting and would be shared with relevant stakeholders addressing various issues in relation to anti-doping in Russia to facilitate the sharing of information and coordinate planning where appropriate.

On the last section of WADA's work on the Russian case, the follow-up of individual athlete cases, the WADA Legal Department and Intelligence and Investigations Department continued to assist ADOs with cases stemming from the LIMS database as well as the data disclosed in the previous McLaren report. That had already led to a significant number of sanctions against Russian athletes. WADA was also closely monitoring the outcome of the decisions rendered in those cases, with a particular focus on those cases in which the ten-year statute of limitations was approaching. Following the CAS award, a strategy had been developed to prioritise and monitor outstanding cases involving athletes who were deemed active to ensure that none of those athletes would participate in the upcoming Tokyo Olympic Games or Paralympic Games or any world championships. The WADA Intelligence and Investigations Department and the Legal Department, together with external counsel, had established a list of 50 priority cases of active athletes, strong cases presenting a reasonable prospect of establishing an anti-doping rule violation, so all IFs with athletes on the list had been asked in February to promptly inform WADA as to whether they had or would assert an anti-doping rule violation against the athletes identified and also to let WADA know if those athletes were likely to participate in the forthcoming Olympic Games, Paralympic Games or world championships. Since the letters had been sent out in early February, of the 50 cases to be dealt with as a priority, six athletes had been charged, 11 would shortly be charged, investigations were being conducted on 29 athletes and WADA had filed its first three appeals against the decision of an IF not to charge athletes. WADA had appealed three decisions by the International Canoe Federation before the CAS in March, so those cases were pending before the CAS. For athletes not considered active, to avoid any risk in terms of upcoming events, there were approximately 100 additional cases, and WADA was already contacting IFs with athletes on the list to ensure that there was no risk of them taking part in the Tokyo Olympic Games.

On the reanalysis cases, in 2014 and 2018, WADA had seized a total of 6,400 samples from the Moscow laboratory. The WADA Intelligence and Investigations Department had established a targeted reanalysis programme and 1,500 of the samples had been reanalysed. A total of 69 adverse analytical findings involving 63 athletes had resulted from the reanalysis targeted programme conducted by the WADA Intelligence and Investigations Department, and a decision had already been taken in 33 cases. Some athletes had had more than one adverse analytical finding. 30 athletes had already been sanctioned and 33 more had been charged with an anti-doping rule violation, so that was a good outcome. The members had other details on the 50 priority cases and the LIMS cases, how many athletes had been charged and decisions rendered. In 24 cases, athletes had been charged and WADA had been informed that 12 additional athletes would be charged over the coming days. Decisions had been rendered in 148 cases; in 110 of them, it had been decided by the applicable ADO not to pursue. All of the cases had been duly reviewed by the WADA Legal Department in consultation with the WADA Intelligence and Investigations Department and external legal counsel and the department had been satisfied with the closure of the cases; however, as mentioned, it had been decided to bring three forward to the CAS. 36 athletes had been found to have benefited from protections in place in Russia and to have committed an anti-doping rule violation and had already been sanctioned. The sports in question were athletics, biathlon, bobsledding, skiing and weightlifting.

THE CHAIRMAN thanked Mr Sieveking for his very comprehensive report. The chapter was not yet closed and required that WADA spend a lot of time and resources. The work would be continued to ensure that the system was strengthened.

MR BERGE thanked Mr Sieveking for his excellent and comprehensive report. Responding to the request from the Chairman, the Council of Europe, through the monitoring group to its anti-doping convention, had launched a process to assess whether any of the points identified by the CAS in its judgement on the RUSADA case raised issues in relation to compliance of the

Russian Federation with the Council of Europe anti-doping convention. A dedicated taskforce had been set up by the monitoring group, which would gather the necessary information and undertake a thorough analysis. The task force had established contacts with the relevant Russian authorities and maintained regular dialogue. It was expected that a special monitoring visit to Russia would be organised in the context of the process later that year and it might be possible to provide preliminary information on the outcomes of the visit at the next Foundation Board meeting in November. He thanked WADA for the excellent cooperation with the monitoring group in that process. Several coordination and exchange meetings had been organised and more were planned over the coming weeks. WADA and the Council of Europe had actively cooperated in Russia since 2015 and he was confident that the joint work would continue and remain active and successful.

THE CHAIRMAN confirmed that it was true that WADA had sent two letters under the government relations update item 7.12 to UNESCO and the Council of Europe, and the letters encouraged the organisations to explore possibilities to declare Russia non-compliant with the convention based on the recent CAS decision. He thanked Mr Berge for his statement on that issue.

DECISION

Russia update noted.

6.1.2 IWF update

MR SIEVEKING informed the members that, in early June the previous year, Professor McLaren had published his investigation report on the IWF. WADA had been very active since then, following up the case with the ITA, which was in charge of result management for the IF. Several letters had been sent over the summer to the IWF and the ITA to follow up on the 146 identified pending cases. The deadline for the ITA to give a decision and status update on all the cases had been 18 February 2021. Since the report, information provided by the ITA had already enabled WADA to close 92 cases, meaning that decisions had been received and no more follow-up by WADA was required. WADA had received information on all the cases from the ITA and was still analysing all the information provided, but the work would be concluded shortly, after which an internal report would be drawn up with conclusions, enabling WADA to determine the basis upon which a compliance procedure would be undertaken. The Compliance Review Committee had been regularly updated as to the way in which the situation was being monitored; it had expressed its satisfaction with the way in which the matter was being addressed by WADA and, once the report was made available, the Compliance Review Committee would be determining the next steps to be taken in terms of compliance. None of the remaining pending cases related to a weightlifter likely to compete at the Olympic Games in Tokyo and WADA continued to strengthen its review of all analytical findings in weightlifting.

MR RODRIGUES spoke on behalf of CAHAMA to recognise the work done by WADA, but Europe regretted that, to date, no consequences had been proposed by WADA for irregularities uncovered in relation to past IWF anti-doping activities. He reiterated the position expressed by Europe in November raising concerns that Dr Aján had been a member of the Foundation Board at a time when doping-related misconduct and manipulation had been taking place at the IWF, and that would have a negative impact on WADA's reputation. It would be important to examine the situation properly with a view to developing the necessary safeguards against the possible presence of people involved in doping-related conspiracies on the WADA statutory bodies and committees. The Working Group on the Review of WADA Governance Reforms might look at the issue in its work with a view to drawing appropriate conclusions.

THE DIRECTOR GENERAL remarked on the comment made by Mr Rodrigues. Some consequences could be assessed once all the evidence had been gathered. However, until one had evidence against an individual, it was very difficult for an organisation to take measures. In both cases, weightlifting and biathlon, WADA had initiated investigation and the Intelligence

and Investigations Department had done so on its own initiative, as it was totally independent, which had led to the discovery of evidence and the involvement of law enforcement authorities. In theory, it was all well and good saying that there should be rules to prevent such embarrassing situations; but, in reality, one had to recognise the fact that, until one had evidence against people, it was impossible to act.

DECISION

IWF update noted.

7. Written reports

THE CHAIRMAN asked the members if they had any comments on the reports.

MR BERGE made a few comments on the issue of athletes' rights. He welcomed the proposal of the Athlete Committee to invite WADA to carry out an initial human rights assessment, as human rights had recently become a main topic of discussion at the international level. Considerable work on the topic had already been done at the Council of Europe, including discussions at the two recent conferences of sport ministers and also the extensive work of the monitoring group to the Council of Europe anti-doping convention, in particular in ensuring access to justice by athletes and protecting the rights of whistleblowers. He believed that it would be appropriate to draw upon that work in preparing the assessment. He was ready to assist WADA or provide any support that WADA might find necessary or helpful.

THE CHAIRMAN thanked Mr Berge for his support.

Were there any questions to the directors on their reports?

– 7.1 Athlete Committee

7.1.1 Athletes' Anti-Doping Ombudsperson update

Taking the members back to basics, MR SANDFORD recalled that the reason everybody was there was for clean sport and clean athletes, and the basis of the system and the way in which it functioned was regulating athletes and/or the organisations that regulated the athletes. That placed a huge amount of responsibility on athletes in a system that was very legal and complex and, when athletes got it wrong or made poor choices or intentionally did something that was against the rules, there were enormous consequences. Because of that, it was vital in that system to have tools and mechanisms in place that allowed the athletes to engage with the system and navigate through it, and that was where the athletes' anti-doping ombuds came in.

One of the first things that the members would notice in the report was that, for the past year, the name of the project had been the Athletes' Anti-Doping Ombudsperson. The term had just been changed to Athletes' Anti-Doping Ombuds. It still meant exactly the same thing.

In the documents for the meeting, there was an update on all the work happening and the benefits of introducing the ombuds. There was also the ombuds discussion document, which had been given to the Executive Committee and the Foundation Board the previous year, describing the role of the ombuds, the need for the ombuds, what it was not and what it was. There was also the ombuds model 1, which was being called an employee model, and the associated terms of reference, and the ombuds model 2, which was being called a contractor model, and its terms of reference.

The roles and functions were still the same as previously communicated but better defined in the terms of reference. The role was still to direct, act as a back-up, review and report, inform, guide, capacity-build and coordinate. The mission was still for the athletes' anti-doping ombuds to provide athletes with cost-free, neutral, impartial and fair advice and assistance in relation to the World Anti-Doping Programme and the entities that played a role in it.

In terms of models 1 and 2, there were some similarities between them: the mission, services, function and purpose were still the same, and a regional approach was still being talked about for both the models. The idea was to have four regional ombuds. They could work with the athletes and understand the particular issues of each region. There were some key differences, however. The difference was how model A and B would fit with WADA, who the ombuds would report to, the structure of the office and the potential benefits for athletes. Even though the functions and services were the same, it was necessary to think about what WADA wanted to achieve for athletes. Which model would deliver the most functionality to athletes and which model would contribute overall to improving anti-doping the most?

The employee model was model 1 in the documents. The office would be structured in a similar way to the Intelligence and Investigations Department, which was part of WADA but also independent to a certain degree, so there would be independence but also an entity working within the organisation.

The second model was the contractor model, and that would see an administrator, possibly shared 50-50 with the Intelligence and Investigations Department. WADA would contract the regional ombudspersons. That would provide a greater level of independence, but there could be a loss because of the inability to work within WADA and contribute behind the scenes. There were also differences in terms of how the ombudspersons would report. In the employee model, which was more of a classical model, the ombuds would generally be reporting directly to the highest body in the organisation, the Foundation Board. That could also be put into effect in the contractor model but, because of the shared administration with the Intelligence and Investigations Department, the main point of contact would be the administrator, who would be in charge of coordinating and collaborating with the different ombuds.

Those were the main differences. The working group had not established a preference and had got some good feedback from the Executive Committee the previous day. He would really appreciate further member feedback. The working group continued to meet and he thanked the members of the working group for the huge amount of work they had put in and their expertise. Because things were moving so quickly, it was his hope to have a final model to present later that year. It would be necessary to work on particulars with the WADA management, go back to the WADA Athlete Committee and make sure that it was a model that it wanted as well. The members would also see a brief line at the very end on what the possible budget could be, but that was very much up in the air and would be determined by the model selected. Hopefully, over the next couple of months, it would be possible to decide on the model, and then the details would be worked out and presented to the members later in the year.

THE CHAIRMAN stressed the importance of the idea for him personally. It had been part of his campaign manifesto and, as a former athlete, he supported it very much. Some elements of the proposal needed further discussion, such as how to best structure it; however, progress had been made and the work was much appreciated.

DECISION

Athletes' Anti-Doping Ombudsperson
update noted.

7.1.2 WADA athlete engagement activities

MR KEMP gave a short update on the paper the members had received. The initiatives were led by the Athlete Committee but those were not the only WADA initiatives on which athlete feedback was solicited. He was pleased to be able to say that the WADA management itself was able to participate in the ombuds working group and fully supported the initiative. To provide an indication as to how busy and engaged the WADA Athlete Committee was, Mr Sandford had been involved in two IOC athlete forum meetings just before that meeting, and WADA would be participating in three more sessions later that day. He thanked the IOC for the invitation to

participate and have a dedicated section on anti-doping in order to engage with athletes around the world.

In relation to the Athlete Committee, for the first time that year, it had been possible to provide formal inductions for the three new members (from China, the USA and El Salvador), an important way to ensure that new athlete members were empowered to act as good advocates for clean sport, and they were engaged already at IOC meetings, had been involved in regional meetings and were actively participating to ensure that they were hearing from athletes around the world. Those athletes and many others had participated in a highly successful Play True Day on 9 April, showcasing the commitment of many athletes around the world to clean sport. The large network of athletes formed through Athlete Committee memberships in the past, as well as athletes who had participated in the WADA Outreach Programme, had been extremely helpful.

In relation to outreach, it was worth highlighting to members who might not be aware that WADA's Outreach Programme would not be present at the Tokyo Olympic Games and Paralympic Games due to the pandemic; however, WADA was working with the IOC, IPC and ITA to see how to ensure that the awareness, education and information programmes could be made available to athletes through digital means.

WADA had been working closely with the Athlete Committee, as well as Mr Ricketts and his team to ensure that WADA was providing dedicated messages to athletes around the world regarding Covid-19, in relation to the reduction in testing and also how to ensure that anti-doping remained strong during that period, as well as to assure athletes that they would arrive in Tokyo on a level playing field but also that they need not have any concerns about vaccination relative to the List of Prohibited Substances and Methods. WADA continued to look at further ways of engaging athletes on a daily basis, so that all of the programmes were as athlete-centred as possible, and was always happy to hear from members of the Foundation Board on their own ideas about what WADA could be doing in that area.

THE CHAIRMAN observed that it was good to see that WADA was moving forward with the implementation of the strategic plan and the clear priority of being athlete-centred. That was a very important issue for him and the agency.

MR BINDRA commended WADA and the Athlete Committee on their digital campaign to promote clean sport on the occasion of Play True Day on 9 April. That had been very well received and he believed that more such digital engagement would help the athlete community. He also thanked Mr Sandford and his team for their active participation in the ongoing international athletes' forum.

MR REYES said that CADE was grateful to Mr Sandford and Mr Kemp. On behalf of the governments of the Americas, he reiterated the support to athletes. He supported any model the athletes proposed and hoped that it would be based on the members being elected democratically, transparently and with a gender and sport balance, as well as a geographical balance. He wanted athletes from all regions to be included, in particular athletes from developing regions.

MR KEMP took the points made by Mr Reyes on board and thanked the members for their comments.

MR SANDFORD welcomed the comments and said that he would be happy to answer any questions in the future.

MS MORALES addressed the members. As the president of CONSUDE, she thanked WADA for the invitation to the very important meeting. She also wished to join those voices calling for the next meeting to be an in-person, normal meeting after the pandemic. South America was preparing for two major events in 2022. The first event was to take place in April, the South American Youth Games in Rosario, Argentina, and the second event in October, the South

American Games in Asunción, Paraguay. She seized the opportunity to request that WADA keep supporting the countries in Latin America with all of its resources and projects and to focus on the anti-doping issues that were so difficult there. It was also important to have more information in Spanish. She knew that it was a very tough request, because Spanish was not an official language of WADA; however, WADA had previously provided material in Spanish and she would appreciate more, as it helped build skills and a greater reach to the athletes. It was also a way to reach out to the community with materials in Spanish, so she was very grateful to the regional authorities for their support with such a complex problem as anti-doping. She thanked WADA and called for united sport.

MR TAILLAK said that he was representing the president of CONCECADE, who had had a number of government commitments and had not been able to take part in the meeting that day. He was honoured and satisfied to take part and listen to all of the topics, and commended the depth of discussion and debate seen on each of the issues. The Central American and Caribbean region was working with WADA, doing some sterling work, supporting all of the athletes and those parties involved so that they could all be trained and formed in accordance with the main objective, to support the athletes so that, day by day, they could be better athletes than they had been before, whilst respecting fair play. He thanked the President from the bottom of his heart for the great work being carried out in terms of combating doping.

THE CHAIRMAN thanked Ms Morales and Mr Taillak for their very kind and positive words. As he had said many times, both Americas were very important regions and he was more than happy to work hand in hand, arm in arm, to strengthen anti-doping policy and to deliver comprehensive support. He was very happy to hear from them and thanked them for their comments. He welcomed any further comments on the various agenda items sent in by e-mail after the meeting and would be pleased to coordinate the required answers.

DECISION

WADA athlete engagement activities
update noted.

8. Any other business and future meetings

THE CHAIRMAN invited Ms Gabriela Ramos, Assistant Director-General for Social and Human Sciences at UNESCO, to say a few words.

MS RAMOS was very pleased to attend the session of the WADA Foundation Board, unfortunately once again in a virtual format. She hoped to be with the members at some point, because the pandemic had extended further than anybody would have imagined. It was great to hear about all the progress made in terms of the objectives and the implementation of so many activities that were important for the sport world. She believed that the sport activities had been harmed by the pandemic and whatever could be done to show that WADA was still strong was important, and she looked forward to the Tokyo Olympic and Paralympic Games and the restoration of the activities.

She wished to share with the members what the Conference of Parties (COP) 7 to the anti-doping convention had been doing and the activities carried out by UNESCO to step up the fight for clean and transparent games. She welcomed WADA's engagement in UNESCO's anti-doping activities since the previous Foundation Board meeting, in particular through its participation in the second formal meeting of the bureau of the conference of the parties held in Dakar, Senegal, as well as the high-level ministerial dialogue with the Economic Community of West African States (ECOWAS) sport ministers in February, in addition to the meeting of the approval committee of the anti-doping fund in March in Dubai. That feedback was valued by the secretariat and the governance of the convention. In that respect, she was pleased that WADA would be involved in two key UNESCO events taking place the following week: the third formal meeting of the COP 7 bureau in Saudi Arabia and the regional ministerial webinars on traditional

pharmacopeia, sport values and Covid-19, especially the one focusing on the Latin American and Caribbean perspective. Over the past few months, UNESCO had continued to strengthen interaction with the public authorities, providing a dedicated platform for sharing information and good practice, as well as to address the challenges to ensure assistance and better support to states parties.

The convention mechanisms and tools helped governments implement the Code, in particular in relation to national public policies, as well as through enhanced ownership and understanding of their roles and responsibilities at national, regional and global levels. One recent example of which she was very proud was the support provided to Timor Leste, one of the newest states party, in accordance with the decision of the COP 7 bureau. The ad hoc initiative implemented in liaison with the RADO aimed to equip the public authorities of Timor Leste with the necessary basic knowledge to create the foundations for a comprehensive national anti-doping framework through operational and structural capacity-building activities. That was very important; the institutional setting to deliver on such issues was paramount and the good outcomes would represent a model for further similar interventions on the ground. It was also necessary for governments to be provided with adequate tools to respond to the convention objectives and the expectations of the COP, notably with respect to the role of the convention in relation to relevant national stakeholders, not limited to public authorities in order to build strong structures and policies. She was convinced that the operational guidelines and framework of consequences for non-compliance, which the COP bureau had endorsed in February in Dakar, would represent a major step forward. In addition, the proposals for the improvement of the monitoring system would hopefully benefit the whole ecosystem. The next operational plan for the anti-doping fund for 2022-2023, to be submitted for the decision of the COP 8, would further optimise the overall environment of implementation of anti-doping measures, including through NADOs, which continued to be the main beneficiaries of the fund.

2020 had been a year full of lessons learned, showcasing the relevance of the convention and its universality, as only four UNESCO member states had yet to ratify, and UNESCO was working with them. A lot of progress had been achieved through those regional consultations with states party, high-level ministerial dialogues, the new cycle of projects financed by the fund and the endorsement of the operational guidelines and framework of consequences for non-compliance. There was much to be done, nevertheless, and she thought that it was necessary to continue building on all of the capacities and commitment. It was necessary to continue the collaboration with the COP bureau, with the fund approval committee and the secretariat, and she relied on partners such as WADA to promote the common goal. More needed to be done to consolidate the convergence between WADA and UNESCO, promote achievements among athletes, the public authorities and support personnel and encourage the general public, therefore strengthening the global regulatory framework.

She was also pleased that the common work on social science research was being pursued along with the European Commission, the Council of Europe, the IOC and the Partnership for Clean Competition, and welcomed the launch of the French and Spanish translations of the Sport Values in Every Classroom toolkit. She hoped that it would be possible to continue consolidating the partnership ahead of the COP 8, which promised to be a milestone in the life of the convention.

She thanked the Foundation Board for giving her the opportunity to talk and wished the members every success for their meeting. She commended the work of WADA and was glad that WADA continued to partner with UNESCO in that very important endeavour.

THE CHAIRMAN thanked Ms Ramos for her kind words.

He mentioned that it was Executive Committee member, Ms El Fadil's last day of participation. She had been a member since January 2017, and he thanked her for her commitment and contribution to WADA. On behalf of the staff and stakeholders, he extended his appreciation to her and hoped her replacement in the African Union would be as engaged

as she had been. It had been a great honour and pleasure for him to work with her as a member of the Executive Committee and then as the president of WADA.

MR KONBAZ noted that the next UNESCO bureau meeting in Saudi Arabia would be in-person, not online, and would be held on 24 and 25 May, and he hoped that there would be some results; in particular the minister of sport for Russia would be attending as a member of the bureau. That was by way of clarification.

THE CHAIRMAN said that the next meeting of the WADA Foundation Board had been due to take place in Brisbane in November; however, there would probably be a change of plans given the pandemic.

MR COLBECK stated that, unfortunately, the effects of Covid were still interrupting. He shared the desire expressed by many to have the next meeting face-to-face, but it would not be possible to host the meeting in Australia in November that year as planned. Australia was, however, very willing to host a meeting at the first possible opportunity and would continue to work with WADA executives to that end; but, unfortunately what he had hoped would occur would not be possible in Australia, as he expected that there would be border restrictions into 2022.

THE CHAIRMAN thanked Mr Colbeck. He fully understood the situation. WADA would need to look at a replacement location and would advise members as soon as possible. The management would aim to keep the same dates as communicated, subject to venue availability.

MS YANG thanked the President of WADA for leading the organisation through a very difficult situation and also wanted to thank the Director General for leading the office and carrying out the work of the organisation during that difficult time to protect clean sport.

THE CHAIRMAN thanked Ms Yang for her positive words. Everything was thanks to the great collaboration among the members. He thanked the members for their participation and hoped that they had found the meeting a positive and informative one, despite the circumstances. He hoped soon to have an opportunity to meet them in person. He wished them all the best.

DECISION

Executive Committee – 15 September 2021,
Istanbul, Turkey
Executive Committee – 20 November 2021,
location TBC
Foundation Board – 21 November 2021, location
TBC
Executive Committee – May 2022, dates and
location TBC
Foundation Board – May 2022, dates and location
TBC

The meeting adjourned at 10:45 a.m.

FOR APPROVAL

MR WITOLD BAŃKA
PRESIDENT AND CHAIRMAN OF WADA