

## **Minutes of the WADA Executive Committee Meeting 11 May 2013, Montreal**

The meeting began at 9.00 a.m.

THE CHAIRMAN presided over a short in camera session prior to the commencement of the formal agenda.

### **1. Welcome, roll call and observers**

THE CHAIRMAN formally declared the meeting open. There was an extensive agenda. It was the intention to see if the normal business could be dealt with during the course of the morning and commence with the report of the Pound Committee that afternoon. Mr Pound was coming that morning from Ottawa, so it would not be possible to have that dealt with that morning, but it played in rather nicely with the Code changes, and there was some extensive paperwork in respect of the proposals on the revision of the Code as WADA approached the final stages of that particular exercise. He could indicate that he had spent some two and a half hours with the drafting team the previous day and he had been the only one asking questions, so he thought that it would take some time, as he was sure that a number of members would want to ask questions or seek clarification. He therefore thought that the day would be a fairly long day, which was a good thing in that context. He thought that it was important that the Executive Committee be able to say to the Foundation Board the following day that it had given a great deal of thought and discussion to the changes that were coming through; that was always reassuring to the broader constituency on the Foundation Board.

The members would see that they had an iPad in front of them with all of the papers that they would be deliberating during the course of the day. To assist people like him, there was a member of the IT team whom he asked for a quick lesson on how to use the iPads. The members did have the hard copy in their folders and he asked the members to feel free to use either. He could say that one of the boards on which he sat had adopted the process about one year previously and he had been surprised with how convenient it was, and he hoped that he would be able to say that at the conclusion of the day and that the members found the technology helpful. The iPads were not to be taken home with the members, and WADA did not have sufficient budget, as Mr Reddie would not give WADA any more money, to ensure that the entire Foundation Board would have an iPad, so they would not be in use the following day for that reason.

Following the iPad presentation, THE CHAIRMAN asked if everybody was comfortable with the iPads. He was sure that the members would be able to work them out as the meeting progressed.

He had been remiss: he had had the opportunity of meeting Mme Fourneyron from France on a number of occasions and he did not see her as a new member as he had had many discussions with her. It was her first time, however, at the Executive Committee, and he welcomed her.

He distributed the roll call and asked the members and observers to sign it.

The following members attended the meeting: Mr John Fahey, AC, President and Chairman of WADA; Professor Arne Ljungqvist, WADA Vice-Chairman, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Ms Beckie Scott, Member of the IOC and representative of IOC Athletes; Mr Craig Reddie, IOC Member and representative of ANOC; Mr Fikile Mbalula, Minister of Sport and Recreation, South

Africa; Mr Gian Franco Kasper, IOC Member and President of the FIS; Mr Francesco Ricci Bitti, President of the International Tennis Federation and President of ASOIF; Mr Ugur Erdener, IOC Member, President of World Archery; Mr Edward Jurith, Senior Counsel, Executive Office of the President, ONDCP, USA; Mr Teru Fukui, Minister in Charge of Sports, Japan; Mr Bill Rowe, representing Ms Kate Lundy, Minister for Sport, Australia; Mme Valérie Fourneyron, Minister of Sports, Youth, Non-Formal Education and Voluntary Organisations, France; Mr Lane MacAdam, representing Francisco Boza, President, CADE, Peru; Mr David Howman, WADA Director General; Mr Rune Andersen, Standards and Harmonisation Director, WADA; Mr Frédéric Donzé, Director of the European Regional Office and IF Relations, WADA; Mr Rob Koehler, Education and Programme Development Director, WADA; Ms Julie Masse, Communications Director, WADA; Dr Alan Vernec, Medical Director, WADA; Dr Olivier Rabin, Science Director, WADA; and Mr Olivier Niggli, Finance and Legal Director, WADA.

The following observers signed the roll call: Richard Budgett, Andrew Ryan, Benjamin Carlier, Max Fuzani, Yoshio Yamawaki, Ole Sorensen, Warwick Gendall, Kazu Hayashi, Rodney Swigelaar, Maria José Pesce, Emiliano Simonelli, Osquel Barroso, Julien Sieveking, Jack Robertson, Stuart Kemp, Richard Young, Anne Jansen, Doug Macquarrie, Ichiro Kono, Hajira Skaal, Andy Parkinson and Françoise Dagouret.

– 1.1 Disclosures of conflicts of interest

THE CHAIRMAN asked if there were any conflicts of interest that the members wished to disclose. He noted that this was not the case.

## **2. Minutes of the previous meeting on 17 November 2012 (Montreal)**

THE CHAIRMAN drew the members' attention to the minutes of the previous Executive Committee meeting. No particular matters for change had been received before that day's meeting. Was it the members' wish that he sign the minutes as an accurate record of the proceedings on that day? Was there any matter anybody wished to raise arising from those minutes?

### DECISION

Minutes of the meeting of the Executive Committee on 17 November 2012 approved and duly signed.

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

THE DIRECTOR GENERAL informed the members that he would take them through items on his report that he thought required more information. He started with UNESCO. There were currently 173 ratifications of the treaty. The document from Syria was on the way to Paris and he could tell the members that Tuvalu, a small island in the Pacific Ocean, had completed its cabinet process, so two more were on the way to Paris. The UNESCO conference of parties would be on 19 and 20 September in Paris. A monitoring report would be made available to states parties at the conference and there were other important matters on the agenda for discussion by governments, so he hoped that the governments would take the opportunity to attend. WADA had seconded one of its good people to the UNESCO secretariat. It had done that as it had been quite concerned at the lack of attention received by the treaty over the past few months, and he had discussed that very strongly with one of the deputy director generals of UNESCO and, as a result, David Julien, who came from the education/anti-doping development team, would be in Paris for 12 months, during which time he would continue to do work for WADA in relation to the RADOs and anti-doping development projects, but he would be somebody

on the ground in Paris with very good knowledge of the treaty and the way in which anti-doping worked. He looked forward to seeing that Dr Julien's attention to issues would benefit the conference of parties.

With regard to Interpol and the WCO, both of the partnerships continued with beneficial results to WADA. WADA was presently looking and hoping that some country would second a specialist to the WCO in the same way that France had seconded Mr Holz to Interpol. He was currently in discussion with a couple of countries that had expressed an interest but, if anybody had an idea or if there was a country that would be prepared to have a specialist customs person in Brussels, that would be most helpful. A special research project undertaken by the WCO had shown that steroids were being distributed around the world in alarming numbers. The WCO had been conducting a study looking at drugs such as heroin and cocaine, and had found during the course of the study that there was an extraordinary amount of steroids. The WCO understood the issue WADA faced and wanted to work more closely with WADA, so he would like to have a secondee in Brussels for that purpose.

With regard to NADO development, there were a few countries on the list, and he updated the members on each country. Brazil was a very important country in terms of upcoming events. There had not been much progress since November, and that was regrettable. WADA would be meeting with representatives in Brazil in two weeks' time and in early June, and he hoped that some advances could be made on a practical basis. There was still no budget being used and no people being hired by the agency. WADA had given the Brazilian authorities some suggestions on how they could progress, including assistance in relation to the training of DCOs, and WADA would like that to occur, but it did need considerably more commitment on the ground in Brazil, so he hoped that, when the Executive Committee met next in Argentina, he would be able to be more positive about what was going on there.

RUSADA had developed very well in Russia. WADA had had a number of meetings with its officials and with government officials and had partnered in a tripartite project with Anti-Doping Norway and RUSADA. All of its systems and structures were in place; it was assisting the organising committee for Sochi and would be playing a considerable role in that regard. It did need more money from the government. Its budget was created on the basis of the number of tests undertaken; in other words, it was a per test amount of money received from government. He did not think that this was a very sound way of looking at running an intelligent anti-doping programme, and those principles of intelligence and information bases for a programme needed to be advanced in Russia, but WADA would continue to work with RUSADA to develop that and talk to the minister to see how more funds could be made available to RUSADA.

He had reported on Turkey in November, saying that the government had not been responding to any of WADA's requests to engage in legislation or provide anti-doping money; on the other hand, the NOC had responded extremely positively and had taken on the role of the NADO in Turkey. It did not have the resources that the government had and WADA was asking the government to support the NOC by providing it with more funds to enable the NOC to hire more people and ensure that it did not rely simply on two fully-paid people and then volunteers, and would allow the NOC to push further to ensure that sports not presently on the programme, notably football and basketball, were engaged, so there was much to be done. WADA would continue to work with the NOC. He had noted a few cases of doping in that country, so there needed to be some education and he hoped that would develop over the coming months. The Ankara laboratory had had its accreditation revoked. WADA was working with the laboratory to see whether that could be put back, but he doubted whether that would happen this year, as there was much work to be done in that regard.

With regard to Belarus, again there was a tripartite project, in that case involving UK Anti-Doping, Belarus and WADA, and there had been considerable progress made over the past few months. There were currently 10 or 12 people fully employed by the NADO, but it needed more money, and WADA would work with UKAD to see that the advance would continue. The tripartite approach undertaken with several countries involved a lot of work, notably from UKAD and Anti-Doping Norway. That topic would be the subject of a special conference convened by Anti-Doping Norway in June in Oslo on the occasion of its tenth birthday celebrations.

The members might recall that, a couple of years previously, Nigeria had been on the list of NADOs with which WADA had felt it needed to work. WADA had done so, and legislation had been put in place, but a NADO had not come out of the legislation so WADA had put Nigeria back on the list and had to go back and ask for a response.

With regard to India, there had been some problems during a transition period when the director general had changed, and it had had a lot of issues relating to doping cases. India had reached out to WADA and asked for some assistance, and WADA was partnering India with the Japanese anti-doping agency, so that a tripartite agreement could be put into place to see that the issues in India could be dealt with.

There were some other countries that wanted national anti-doping agencies: Ukraine and Egypt. They were developing and, if they did develop, WADA might have to have similar tripartite arrangements with them.

The only black spot on the list of NADOs was the RADO out of Kenya, and the specific issues in Kenya that the President had dealt with during his visit there in October, namely dealing with allegations of widespread doping among long-distance runners in Kenya. The Kenyan authorities had promised to undertake an investigation to look at the allegations and write a report. Nothing had happened. There had been a change of government and a volatile election process in recent months, but nothing had been put into place to enable WADA to start reporting to the members that the issue was being addressed. It told WADA that the issue that occurred in the Code revision granting WADA some powers in relation to investigation was most important. If the members sat around the table totally hamstrung at the moment as to what WADA could do with Kenya, the only thing that WADA could think of doing was to declare Kenya non-compliant and he wondered whether that was the sort of approach that WADA should be adopting in such a situation. If WADA did have some power, and he hoped that this matter would be discussed fully later in the day, it did not mean that WADA would conduct the investigation itself, but at least it would have the authority to go in there and ensure that those who would conduct it would put it in place and WADA could oversee it. It was a major gap and a concern for WADA at present.

With regard to ADAMS, the steroid module was advancing. The good news really (and it was something that athletes in particular had been interested in) was the whereabouts module phone application. There would be a presentation the following day on how it would be put into place in the coming months, and it was extremely encouraging. There had been a lot of feedback from those on the expert group. Everybody appeared to agree that it was pretty good. WADA had the benefit of the experience from the Netherlands, which had introduced a phone application, and he thought going forward that athletes were going to be very happy.

Regarding management issues, WADA had had to make necessary changes as a result of the decision to take IT in-house.

The second aspect of management to be dealt with would be the impact of the revisions, because the members would see from the draft impact report that he had

provided with his report that there were several new tasks that would require WADA to respond in an expert fashion, for example, approving the test distribution plans for every ADO if that ADO wished to deviate from a full-menu analysis process, so there would be extra tasks for WADA that would inevitably involve WADA requiring extra people, which would inevitably involve the budget being looked at in a different fashion, and he could anticipate a sizeable increase in the budget or a manoeuvring of the budget in such a way that other activities were discarded (not totally, but at least to a degree whereby WADA was not responding as it had to date).

The budget and activities for 2013 meant that WADA had highlighted as its priority activities the revision of the Code, the conference in Johannesburg, the RADOs, advances in ADAMS and the ABP, and those were the priority issues in terms of looking at the way in which human resource was spread and used, particularly in urgent situations. That did not mean that WADA was not attending to the other issues on the very long list he had circulated among the members the previous time. WADA was trying to achieve all of those, and the members would remember that, when he had made an attempt to remove an item from that list (the paperless project), the members had asked him to put it back on. The WADA management tried to do its best under very limited circumstances with the vast list that it had to accomplish.

With regard to the Sochi 2014 Winter Olympic Games and Paralympic Games, WADA had received an invitation from the IOC to provide an Independent Observer and Outreach team. WADA would be finalising those teams in the coming weeks, and he thanked the IOC and the IPC for their invitation.

Regarding extra funding, on Tuesday that week, WADA had received a cheque from the Russian Federation for 300,000 euros. He had specifically addressed the matter in his report, as there had been some media reports earlier that year suggesting that Russia was expecting some form of favour or special treatment from WADA as a result of that payment, and the members would see the letter from the minister in his report. His suggestion was that the extra fund be referred to the Finance and Administration Committee for consideration as to how it should be spent but that the Executive Committee might think of a way of directing it. The advances and work WADA needed to do with the ABP would very much benefit from extra funds and it might be useful if the Executive Committee were able to recommend that the Finance and Administration Committee consider this.

Another matter in relation to funds was the meeting Mr Donzé had had with the Council of Europe fundraisers in Strasbourg. The meeting had been very helpful and he was grateful to the Council of Europe for its explanation of how it looked to states parties for extra money for special projects. One of the aspects of that was that a specially designated staff person would be required to undertake the project. WADA currently did not really have that resource available, so it would continue to work as it was doing to seek extra funds and he did have some ideas in that respect.

Other items in his report included an update in relation to INADO. The organisation had had its first annual general meeting; it was now well established, it operated out of Bonn, Germany, and WADA was in constant communication with it, already noting the benefits that could come from a service organisation like that and the information it could pass on to WADA in relation to NADOs.

Regarding the US investigation, this was essentially what everybody referred to as the Armstrong case, and he had to remind the members that it concerned not only Armstrong. Seven people had been charged with conspiracy, and Armstrong was one of those. The Armstrong part of that inquiry had finished late in November when no appeals had been lodged against the USADA decision. Those present in November would recall

that the UCI had announced at the WADA meeting that it would establish an independent commission to inquire into those allegations made in the USADA report, particularly one that the UCI had been complicit in the conspiracy, but also many other issues. It had set up a commission, established by the CAS president, John Coates. Terms of reference had been written and the commission had appointed its own lawyers. WADA had not been consulted on any of those issues and, when it had been invited to partake and had been shown the terms of reference and the process to be followed, WADA had immediately said that a meeting would be necessary to discuss them as it had been felt that some issues had been missed out and some timelines too strict and so on. WADA had gone to the extent of briefing UK lawyers and had made extensive suggestions to the commission as to how it might benefit but, after weeks of discussions, nothing had been achieved, and no progress had been made. USADA had been in a similar position, although operating in a different manner to WADA, and WADA and USADA had decided not to partake in the hearings being proposed, and when he said not partake, he referred simply to the hearings. WADA would have provided written evidence and all of its data but was not going to pay UK Queen's Counsel 800 pounds an hour to attend for five weeks of hearing when the terms of reference were not satisfactory; it had made no sense at all from a financial, practical or legal point of view. WADA had pulled out. The UCI had then abruptly ceased the commission's work without giving advance warning to the members of the commission themselves. In February, the UCI's management committee, considering several letters from the WADA President to the UCI president, had decided to establish a group from the management committee to meet with WADA to see if some different commission could be established. That meeting had been to occur without the presence of the UCI president. WADA had indicated that it would be happy to do that. Five weeks later, WADA had had to call to ask to be involved and then three weeks later again, on 18 April, he and Mr Niggli had met with the group, which had included two members of the UCI management committee (one of the originally designated people had not attended so there had been a late replacement), the director general of the UCI and its independent counsel. He had heard on Thursday, two days previously, from the director general of the UCI, that he wished to meet on Tuesday in Lausanne to discuss how to go forward, so he could not tell the members that nothing had happened, but nothing had happened until Thursday, and he now awaited a meeting to see what might be suggested. The director general had indicated on the phone that he felt he could be positive but it would be necessary to wait and see.

The issue he raised consistently about doping at levels below elite athlete level continued to be a factor he felt had to be addressed by governments. It was a societal concern: the distribution and trafficking of steroids, EPO and so forth was extraordinarily high. The Australian Crime Commission's report to which he would refer shortly indicated that there were peptides and growth hormone and so forth coming very easily into Australia. He would suspect Australia was definitely not alone. It became a health issue and a societal issue and it was one that WADA could not address. WADA could simply raise it as an issue for others to address.

Regarding Operación Puerto, Dr Fuentes, who had been at the centre of the allegations, had been convicted of breaches of the medicines act and sentenced to a period of imprisonment. That period had been suspended, as it had not been more than a two-year sentence. There had been a monetary penalty involved but the major aspect of the decision, the issue in which WADA was interested, had been the blood bags. The judge had determined that the blood bags, of which there were about 200 or more, would be destroyed by 17 May. WADA had exercised its rights of appeal, as had the Spanish anti-doping agency and the UCI. WADA was asking in its appeal for an injunction to prevent the destruction of the bags on 17 May, and he hoped that that would be recognised. The president had written to the prime minister of Spain. This was a very big

issue for Spain to address and he hoped for some response so that the information, which had been there for seven years, would not be flushed down the toilet.

Regarding Veerpalu and the Hgh case, the ISF had prosecuted the Estonian skier, who had appealed to the CAS. The CAS had decided that the athlete had self-administered Hgh and that the test to detect it had been reliable, but had exonerated him on the basis that the decision limits for the test had not been established to the panel's comfortable satisfaction. Mr Niggli had given a practical example of what it meant. Speeding was something that was banned in most countries. The test for speeding and the machines used to detect cars speeding were deemed to be reliable, but what people did not know was whether the speed limit should be set at 100, 110 or 120 km/h. That was what the court had said in that case: the test was reliable but it did not know whether the level should be set at 100, 120 or 140. WADA had responded urgently. It had a team involved in the statistical analysis to produce new decision limits. It would take time. It would probably not be completed until the end of July but by some time thereabouts WADA should have revised decision limits so that the Hgh analyses could continue. It would need to be contained in a modified guideline and published in a peer-reviewed scientific journal to satisfy the requirements of the CAS. WADA would meet the legal costs of the FIS.

Regarding special projects, following the members' request in November, WADA had taken back the paperless project. WADA had advanced it, and there would be an important meeting taking place with USADA in the coming weeks, during which WADA would hopefully get to a situation whereby it could be approved.

WADA had made considerable progress with statistics, and he hoped that later that year he would be able to present the members with information giving far more detail on trends, what was happening, who was testing – all sorts of information WADA had not had the benefit of to date, and he thought that the project had been advanced most usefully.

The better practice approach would be used in relation to the World Games, to be held in Cali, Colombia, in July.

Attached to his report, the members would see the report on the risk assessment project in which WADA had engaged relating to the office. WADA had done it in 2002 and it had been felt that it ought to be done ten years on. There was nothing of concern there, but it was a matter for reference. The external risk assessment project was still in train. When it was completed of course the members would be informed.

Regarding major leagues, WADA's Athlete Committee meeting had been hosted by Major League Baseball in New York earlier that year. The members might remember the position of Major League Baseball five years previously: the Mitchell report, all sorts of allegations about a steroid era, and so on. From that stage to the present day, there had been a distinct turnaround and the baseball people were conducting a programme that was probably the best in terms of quantity of the team sports around the world. Every player on every major league team roster was tested at least four times a year for urine and twice for blood. He had talked to many of the team federations around the world, and he thought most would say that one could play team sport at an international level for the whole of one's career and be lucky to be tested, let alone four times per year. He should not have said 'lucky'. Or maybe he should. Regarding the issue of team sport issues and the direction they took going forward, WADA would point to Major League Baseball as an example of how things might be done better. He was not saying that the quality of its testing programme was at the level WADA would like. WADA was talking with the league about how that might be improved. The second component of Major League Baseball was that it had an investigative unit that was excellent, with people in

each of the club houses to look at issues relating not only to doping, but also to bribery, corruption and other unnecessary interferences with people of unsavoury background.

The NHL's anti-doping programme had not yet been fully published; it had gone back to play that year after a lockout. WADA would develop that over the summer with the NHL to make sure that it got closer to the Code.

WADA had been working with the NFL in relation to Hgh. Obviously, there had been a speed bump regarding the Veerpalu case. He would have a meeting with all the major leagues to discuss this on 23 May.

He had nothing more that he could say about the NBA.

It was proper to mention the Australian investigation. He had just been to Australia and had had the opportunity to talk to various authorities, including the minister in Australia, and he gave a brief synopsis. The Australian Crime Commission had prepared a report, which had been called 'Organised crime and drugs in sport'. It had issued it and handed all the information collected during the inquiry (over a number of months) to ASADA, and he had learned that ASADA could not use the evidence itself to sanction athletes on that evidence alone and had to find the evidence of its own accord. The reason was that the Crime Commission in Australia had extensive powers beyond those of the police because its main objective was to address organised crime, so it had the right to conduct wire taps and all sorts of things that one would expect but which one did not expect of an anti-doping agency. The Crime Commission had collected evidence in a very broad fashion. What had gone on there was that there were two codes being investigated by ASADA. One was called the Australian Football League, a game played in Australia only, and the other was called the National Rugby League, a game played in several other countries around the world. Those investigations were pending. While they were pending, the government could say nothing, ASADA could say nothing, and WADA could make only general comments. On the other side, people could say what they wanted, so there would be a lot of conjecture and things mentioned in the media which were not very positive in terms of anti-doping; in fact, they could be said to be negative. He had tried to ensure more background information for the people writing these things to enable them to understand the detail. An inquiry had been run according to the Code, and it had been run professionally. USADA had run an inquiry in relation to Armstrong which had taken two years, and this could take two years. WADA had to make sure that it supported ASADA, so he had informed the minister and the heads of ASADA that that was what it would do and, provided WADA was briefed on a regular basis, he would be able to talk to the media in an appropriate way.

THE CHAIRMAN opened the floor for discussion.

MR RICCI BITTI said that he could have raised the issue in camera but he had nothing to hide and perhaps it was better to talk openly of a letter he had sent to the president of the IOC, and he wished to provide the background to it. It was a private letter and had unfortunately gone to the press. The content had been an invitation to the CAS, not about the future of WADA but what WADA was doing in respect of the feelings of many sports organisations, and the IOC president had answered very positively and would deal with the matter. He appreciated what WADA had done and had fully committed along with all the stakeholders representing the Olympic IFs as a major contributor to the programme. The IFs were fully committed and demonstrated this financially and operationally. The disappointment that had caused his intervention had been the follow-up of the Armstrong case. There had been a media and communication attitude constantly pointing the finger at the sports organisations and it had been felt that this was not completely fair. The sports organisations had contributed; they did not disregard specific problems of the success of WADA and certain national agencies; on the contrary,



they appreciated and thought that it was a key issue for the future to increase cooperation among the various organisations, but the sports organisations could not accept disrespect. They had invested a lot of money and funded 50% of WADA's activities with their own money, and funded all the anti-doping programmes for millions of dollars, and this money was taken away from the development of the game. The Olympic IFs had been required to comply with the Code before Athens 2004 and had done so at great effort. He did not wish to make comparisons with his partners on the government side, but they had certainly been slower to jump on board. Having said that, he strongly supported the idea that WADA was doing what it was doing. More money was necessary, but that was a difficult thing to obtain in the current circumstances. Mr Howman had made a long list of commitments and tasks that were not easy to perform. He recommended concentrating on the key issue of the future: complementary good cooperation between the two major players, which were the IFs and the NADOs. In this respect, WADA was very much behind schedule, and not even the Code was able to solve the issue. Nor was the group on effectiveness, which was a positive exercise but perhaps an interference regarding the key process of Code review, so his recommendation to WADA and Mr Howman was to concentrate on IF-NADO cooperation.

On behalf of his stakeholders, he asked for a table listing the following information: those countries that had signed the UNESCO convention; the countries that had a law in place with criminal content, if any (and that law naturally had to be compliant with the Code. Just by way of an example, in a very important country such as Spain, a satisfactory point had only just been reached after 12 years); the number of NADOs operating in the various countries, including the RADOs, but the NADOs were important, as he did not think that there enough NADOs that were effectively part of the operation; and, finally, two characteristics of the NADOs, the funding system (as the sports organisations had discovered that they also funded the NADOs. In many countries, at least in Europe, NADOs were funded partly by the national governing bodies, which meant the national federations, so again the federations were supporting NADOs, and that had not been the original intention) and, last but not least, those countries that had result management capabilities. He knew that he had talked for some time, but he wanted to make the system progress, and the last point was very important, as there would be some discussion in relation to the Code. He apologised, but this was a way of being constructive in these difficult times, which he hoped were at an end.

PROFESSOR LJUNGQVIST thanked Mr Howman for his usual comprehensive report, which reflected the heavy workload in the office. He had some suggestions based on the report and would conclude with a question. First of all, the Russian contribution was welcomed very much and it had been clarified that it was without conditions and should be used in a clever manner. He agreed to that, but there could be and had been some misinterpretation earlier on, and the Olympic Movement had felt that it might be wise for WADA to consider taking some proactive measures and explain in an official statement that there were no conditions and clarify once and for all that the contribution had been received and provide the proper explanation to avoid any misunderstanding later on, with WADA being defensive rather than proactive.

With respect to priority areas, it was easier to wish for more areas to be priority, but there was one that he felt was missing and perhaps an explanation could be provided: the collection of information and intelligence, which he thought should be a high priority area for WADA. Everybody knew that initiatives had been taken and this was being dealt with by WADA, but it was important for WADA to be active in this field.

The importance of nations and governments and public authorities observing the problem of the seeming increase in the distribution of doping agents among non-elite sportspeople and schoolchildren around the world had been mentioned. There was

evidence of that problem in his country as well, and it was very disturbing, as his was one of the few countries in which anti-doping rule violations were criminal offences, and yet these still took place, so he wondered what it looked like in countries in which these were not criminal offences. When he had read the Houlihan report on anti-doping legislation around the world (Professor Houlihan from Loughborough University had been commissioned to look at that and had written a report for UNESCO the previous year), he had realised that there was much to be done on a national level, so he wished to reiterate the importance of the public authorities representatives taking this very seriously, as it seemed to be an increasing problem. He himself had organised a conference the previous year, as the members knew, entitled 'Doping as a Public Health Issue', and had been happy to see all the relevant stakeholders there, which could confirm that it was indeed a rising public health issue. UNESCO, Interpol, WADA the IOC and the WHO had been represented, so he repeated what Mr Howman had been emphasising, namely that the public authorities look at the matter, particularly with respect to the Houlihan report.

Finally, he had a question that related to the Veerpalu case. Mr Howman had been right to give the example provided by Mr Niggli about the speed limit, but the cut-off limit that had been arrived at finally had been criticised as not having been peer-reviewed, which appeared to him to be rather serious as, had it been properly peer-reviewed, it would probably have been accepted, so why had this not been peer-reviewed and how would it be dealt with in the future to have it properly established in the right scientific way?

MME FOURNEYRON thanked the Chairman for giving her the floor to speak for the first time at the Executive Committee meeting and thanked the Director General for his comprehensive report on the work done and the diverse issues that needed to be dealt with. She had enjoyed the opportunity to meet the President before coming to the Executive Committee meeting for the first time. There had been a change in Europe, and she wanted to express Europe's position on two cases raised in the Director General's report.

Regarding Operación Puerto, it was clear that the decision had had to be taken by the Spanish justice system, but everybody had been frustrated and disappointed with the decision. All of the European countries had informed WADA on 7 May that they supported the proposal to appeal and seek not to have those blood bags destroyed, and they would like to go even further and look at Dr Fuentes' immediate environment, his staff and others involved in the case. She noted with satisfaction the fact that Ms Muñoz, the director of the Spanish anti-doping agency, had also wished to appeal, and it was important to note, and this was the rather difficult part for Spain, that this was all happening at a time when the country had positive legislative means and procedures in terms of fighting against doping, with the adoption of an initial draft law on 9 May, and she welcomed everything that had been done in terms of meetings with the Spanish prime minister to avoid the destruction of the blood bags.

To clarify Europe's position regarding the Armstrong case, she had been able, on a number of occasions, especially during the symposium held in Paris the previous November, to remind people about how USADA had done a great amount of work. In Europe, and particularly in France, this case was of extreme importance, and this would perhaps enable WADA to make a new start, but there had to be a before and after in the fight against doping in sport and emphasis of the importance of WADA's role. WADA could not not act. The Armstrong case had allowed for progress regarding the 2013 Tour de France; the French agency had signed a new agreement with the UCI, with clear responsibilities, and this was one of the consequences of the Armstrong case. There would be full transparency regarding whereabouts during training, biological profiles and

direct involvement in how the various tests were carried out. In the Code revision, there was emphasis on the quality of the tests and the non-analytical evidence, so as to ensure greater independence of the NADOs and investigative powers for the agencies, which would involve looking at the financial possibilities for these agencies to carry out these additional investigations. However, as a public authority, she could not judge the IF concerned or draw any conclusions following these rather troubling matters, but a proposal had been made to all European members to use what had been done by the US representatives and support WADA in its quest for an inquiry commission, transparency and full independence and that there be full cooperation amongst all the stakeholders (on the sport and the government side) so as to be able say that indeed there was a before and after in relation to the Armstrong case, and a common statement had been drafted in support of what WADA had done. WADA had Europe's support and she thought that this would be important in relation to all the discussions that would be taking place with the UCI but, above and beyond that, the recent events should help WADA to collectively mobilise and ensure a proper balance of responsibilities.

MR FUKUI said that WADA would be supported by Japan over the next few months so he agreed to the recommendation and also, on the issue of JADA, there were some laws and legislation that had been rearranged so that its work would be facilitated and he would do his best in that regard. As an Executive Committee member, Japan already paid a contribution of 1.5 million US dollars and, in addition, as in past years, in 2012 it had paid additional contributions through JADA to assist and support RADO activities in the Asian region. For 2013, he was happy to report that Japan had already been able to budget additional contributions to WADA in the form of 20 million Japanese yen for RADO support and, in addition, the newly adopted basic sport law embraced the values of anti-doping, and the law allowed for Japan's sport council to continue its activities in a more enhanced manner based on intelligence-based anti-doping programmes to be delivered by JADA.

MS SCOTT referred to the situation in Kenya. Could the Director General clarify whether WADA had the capacity to begin its own investigation into the situation? It seemed to her a matter of real urgency. The issue had first been brought to the table about one year previously, and she guessed it had been based on intelligence accumulated for a number of years. If she were a track and field athlete, knowing the situation in Kenya with those very dominant runners in the world of track and field, she would be deeply concerned about the lack of activity and investigation going on, so she wondered whether there was a means of beginning an independent investigation into the situation; obviously, the Kenyan authorities were not willing or able to do it themselves.

MR JURITH said that he was pleased to hear that WADA would be sitting down with the UCI to hopefully reach closure. That was important. He certainly agreed with all the sentiments expressed around the table, that sport, public authorities, NADOs and IFs all had to approach the issues in a cooperative manner, but cooperation meant being open and candid and putting one's best foot forward. If the members had not read the USADA investigation into Mr Armstrong, he suggested that they go to the website and read it. It was very thorough and comprehensive and deserved examination. The investigation was continuing. The US Government had recently brought an additional civil action against Mr Armstrong to recover the millions of dollars with which it felt he had enriched himself as a result his fraudulent doping activities, so with the involvement of USADA, the US Government was continuing with this matter.

The previous month, Tyler Hamilton had made an appearance at the Education Committee meeting, and in a very riveting and impressive manner he had pointed out the numerous pressures on those in team sports to engage in doping activities. He was not excusing Mr Hamilton's behaviour; but he had turned around and fully cooperated

with WADA's anti-doping inquiries and that was a model WADA should be encouraging around the table.

To echo what Mme Fourneyron had just indicated, the governments, in any type of inquiry, whether it involved the UCI or Kenya, whether it was by a public authority, a federation or a NADO, should agree to some basic principles as those inquiries went forward: they should be independent of any potential conflicts and undertaken in terms of terms of reference agreed to by WADA, the results of the inquiries should be totally transparent and available to the public, and full cooperation should be expected of any entity, government or sport, subject to the inquiry or the investigation. That was basic, so he thought there had been a very good discussion among the governments to that effect. This was not meant to point fingers but to help the process move forward, because Mr Howman had indicated that the situation with one federation had gone off track and it needed to be brought back on track.

MR REEDIE said that the members would be surprised to know that he was not going to respond to the knowledge of 20 million Japanese yen coming to WADA. He was not unhappy with that.

In the case of Operación Puerto, he would have to be careful what he said because he chaired a specific independent IOC commission. The new legislation had gone through the lower house of the Spanish parliament the previous week; it needed to go to the senate, to the upper house of the Spanish parliament, and there were clear indications that that should be done before the end of June. He had read in a Spanish publication the previous week that the minister in charge had said quite clearly that the reluctance of the Spanish courts to make the information available was not helpful, so he could only assume (and he knew from speaking to Mr Niggli) that WADA would appeal that decision, there would be an appeal in Spain and, if there was solid pressure from the public authorities, particularly the public authorities in Spain, one would have to hope that, without affecting the law of the land in any way, the judgement would be in favour of what would help the anti-doping movement. The reason for the importance of that was that the Spanish NADO had been declared compliant only on the assumption that that legislation was passed. If that legislation was not passed, he certainly did not want to think about the end result of the decision.

MR ROWE thanked Mr Howman for his request for support. Mr Howman had raised the investigation and report by the Australian Crime Commission and he thanked Mr Howman for his comments about the need to support ASADA's investigation. The outcome really underpinned the importance of investigations for Australia; there were a number of athletes involved using substances that had not been picked up through testing and, had it not been for the cooperation between the Australian Crime Commission, the Therapeutic Goods Association (which regulated in that area) customs and others and ASADA, it would not be in its current position of investigating anti-doping violations. If members were interested or would like further details, he would be happy to provide them, but he did not want to take up the Executive Committee's time given the full agenda.

THE DIRECTOR GENERAL responded to the questions. He thanked Mr Ricci Bitti for his kind words. He knew that Mr Ricci Bitti was fully committed and he appreciated his friendship. The issue for WADA in relation to the UCI and the media was that, from February that year, WADA had not spoken to the media at all; regrettably, on the other hand, he had been exposed on four instances to reports made by the UCI to the media which were incorrect and unfortunate. One example was a report to the media of a personal letter from the UCI to him, supposedly received by him on 11 April. On 12 April, he had received a late evening call at his home from a member of the media asking for

comment about a letter he had not received, so somebody had given a personal letter to him to the media before he had received it. He had not responded to that in the media; he had responded in correspondence. There had been three or four consequent similar examples of that, and he thought somebody needed to look at what had gone on from that end. It was just regrettable, and he was trying to do his best with his team in remaining cooperative with the UCI under circumstances that were less than optimal. He agreed totally with Mr Ricci Bitti about cooperation between NADOs and IFs; it was something that they had spoken about on many occasions, a topic that he desperately wanted to have advanced. WADA could not do that alone; it could create opportunities for the federations and NADOs to speak with one another, and it had implemented decent partnerships from time to time. The whole ADO symposium that year in Lausanne had been to effect that very improvement in relationships, but it needed more work and WADA would definitely make sure that that cooperation was enhanced as it went forward. If it became one of the hallmarks of the way in which WADA behaved, that would be more important and that could be written in WADA's activities in that fashion.

Mr Ricci Bitti had suggested a very good idea from a practical point of view in relation to the list he had been asked to compile, and WADA would do that, as it would be most helpful not only to the IFs but also to the NADOs. The members would see that one of the revisions being promoted in the standards was that the IFs, under the TUE standard, would be asked to list those NADOs from which TUEs were coming that they felt were satisfactory and could be trusted. If they were, there would be mutual recognition and, if not, there would not be. That was a very timely example of the matter raised by Mr Ricci Bitti and would be a subject for later in the day.

With regard to Professor Ljungqvist's sensible suggestion about the Russian contribution, WADA had made some comments to the media but a statement from the Executive Committee would be most helpful and very timely, so WADA would do that early in the week.

As to the idea of the collection and distribution of information and intelligence being a priority, it was an activity. It was a full-time job for Jack Robertson, WADA's Chief Investigative Officer. There were some issues relating to data protection in relation to the accumulation of information and the availability of it, and WADA was looking at doing it in such a way that it was legal and appropriate so that what WADA was effectively doing was providing a clearing house of the information to those who could do something with it. It was high on WADA's list of things to do but, in terms of the extra resource or money, it was not a current extra resource money situation.

He agreed with Professor Ljungqvist's comments about doping below elite levels. The key issue was that the underworld was making a huge amount of money in countries in which there were no laws; such vast amounts that it did not need to worry about heroin and other substances, as it could make so much free money in that area. That was where the connection with sport had concerned him for a number of years. Those people who were pushing the steroids got access to the international elite players and then started to mess with their minds and behaviour.

Regarding the Veerpalu case, the Hgh decision limits had definitely been peer reviewed but they had not been published, so that gap would need to be filled, but they had certainly been peer reviewed.

He took Mme Fourneyron's comments as strong commitment from Europe in relation to the way in which WADA had conducted matters with UCI and the support that WADA would get from the European members going forward. He thanked her for that support. He noted that a letter would be coming to the President and WADA would deal with that upon receiving it in an appropriate fashion.

He thanked his colleague from Japan very much for the extra contributions made by Japan to WADA's activities. Of course Japan paid an enormous amount of money to WADA, but the extra fund that came for a number of years was most valuable to WADA as it conducted activities within the Asian region, so he thanked him very much for that.

He told Ms Scott that he wished WADA could do something in Kenya itself. WADA did not have the mandate or power to do anything itself within a foreign country. What WADA might be able to do (and he had been thinking laterally whilst Ms Scott had been talking) was work with the IAAF, because it would have jurisdiction in relation to the Kenyan federation and be able to work with WADA so that something could be done. That was the only way in which WADA could initiate something. WADA had not contacted the IAAF to date because it had been assured time and again (the President had been assured by the minister when he had visited Kenya, WADA had been assured by the IOC member in Kenya and by the head of the national athletic federation and so on) that it would be done. WADA had helped with terms of reference and ideas on who might conduct the inquiry, and they appeared to have vanished into the ether. He thought that WADA should take stock and might need to go forward with the IAAF and look at ways and means of addressing the issue together.

He thanked Mr Jurith for his comments in relation to the USADA decision. He reminded the members that there were still three cases under the conspiracy to be determined by USADA, including that of Bruyneel, who had been Armstrong's trainer for a number of years and a key person in the US Postal team, so the matter was still under inquiry. He had corresponded again with the UCI to ask for the information USADA had sought more than ten months previously, so that that part of the inquiry could continue with the full file, and he was hopeful, as the UCI president had indicated that there would be more cooperation, that that would be provided and would allow some of the matters to be resolved in a more complete fashion. He was aware of the department of justice case in relation to the civil aspects of the Armstrong saga and of course he thought that welcoming Tyler Hamilton was a very good example that one could have of somebody trying to do his best after going to the depths of the doping programme that Tyler Hamilton had.

Mr Jurith had raised four matters of principle in relation to the conduct of investigations. Interestingly enough, those four aspects had been raised by WADA with the UCI as to how an independent commission could be established, so he agreed entirely with such principles and WADA would develop more of those as it went forward if blessed with the power in the revision to the Code regarding investigations.

He embellished on the comment made by Mr Reddie with regard to Spain. At the lower house, when the legislation had been passed, there had been 290 votes for and one or two or three against, so it showed the commitment of the whole parliament. WADA had very close contact with the minister and he knew that Mr Reddie would have met him. The Minister had rung Mr Howman twice that year to ask him to ensure that the Executive Committee was aware of his government's strong support of WADA and of the way in which the anti-doping agency in that country operated. WADA could acknowledge that because it had benefited from that to date, but it needed the blood bags.

He thanked Mr Rowe for his support; he knew that the subject would go on for a little longer in Australia and he welcomed Mr Rowe's briefing him as regularly as possible.

THE CHAIRMAN quickly emphasised a couple of things. As President of WADA, he was very grateful for the additional funds that had been forthcoming over a number of years and that continued. WADA had had the benefit of having Matthieu Holz seconded to Interpol in Lyons by the French Government; that funding had been renewed for a further term, for which he was grateful because he thought that the whole of anti-doping

and the sport movement had benefited from the information that had come out not only in respect of doping but also in respect of other issues such as match fixing and gambling and how they could interfere with the manner in which everybody wanted sport to unfold in the world. There had also been additional funding from France that had given a great boost a few years previously to the ABP, and hopefully this would happen again with what had been seen from Russia. Ultimately, the Finance and Administration Committee, after considering that additional funding, might come up with something that would give a boost to WADA's work rather than simply being absorbed in a way in which a difference was not seen to be made. Japan continued to give support in so many ways, and there had been RADOs developed in the Asian region because of that additional funding.

He urged each of the public authorities members to give some thought to the request made by the Director General about a secondee for the WCO who would perform a similar role in customs to that performed by the French police officer at Interpol. It was sometimes a little easier to get a secondee to go for a period from a particular organisation in government within a particular country, as there was a knowledge that was gained that was helpful when that officer returned to the country; sometimes it was easier than finding extra money, which had been difficult for governments for some time because of the world economic climate, so he asked the public authorities in particular to take that on board. WADA would be grateful for any assistance that might flow through it.

Regarding the issue of Kenya, he acknowledged that the IAAF had not been inactive on the problem of the multitude of athletes who saw the benefit of training at altitude at the academies that had been established in that country and, during the latter part of the previous year, an exercise had been undertaken by the IAAF whereby a team had gone in and many samples had been taken, and the good thing was that the samples had been taken out within the time frames to a laboratory and for the first time it could be said that some anti-doping activity had been conducted in a very robust manner in that country. There was frustration about the investigations; WADA would make some further public comment but had wanted to allow the new minister (who had not yet been appointed) at least the opportunity to become the minister and see what action he might take and, if there was none, the members could rest assured that there would be further public comment because there was no doubt that, when athletes made statements as they had, something had been happening and WADA had to be vigilant and respond to it.

WADA had done so, he believed, with great integrity in cycling and, every time he had received a letter, he had responded to it within 48 hours. Every time he was waiting for a letter to come to him, he waited weeks and weeks and weeks in some instances, and certainly weeks in every instance. After there had been some comment in the media when he had received a response to a letter through the media before he had received any letter, he had made some statements publicly himself; he had had no choice and had believed that he was duty-bound to support WADA as its president at that time. He had done it only once. He had also written to the UCI president and said that he would meet him any time, anywhere in the world. He had never received an answer to that letter. There had been a meeting in London between WADA and UCI representatives on 18 April and he could say, because Mr Howman was too diplomatic, that the information that those representatives of the UCI had had at that meeting had not included correspondence or any knowledge of correspondence or suggestions made to the organisation. It just went on, and he wondered why. He had a view, but he would not express it, although he assured the members that WADA took and would always take very seriously that partnership, which would always have moments when there appeared to be some level of fraying or apparent friction. That was not unhealthy and it was necessary to challenge one another, but it was also necessary to be conscious that the

members should be working with one another. WADA was a magnificent organisation because it was a partnership and the members had to be careful and vigilant to ensure that they overcame any personal difficulties or prejudices, if they existed, and concentrate on the outcomes that they wanted to achieve. He had done that as much as he possibly could, and he knew that WADA was very conscious and tried extremely hard to ensure that it could work with sport no matter what the sport or who the personalities in that sport might be. WADA was doing its best and would continue to do its best to bring about an outcome. Mr Howman had been very diplomatic in his comments.

MR RICCI BITTI said that he did not want to look like a loyal defendant of the UCI, but his comment had been much more general. He did not want to deny a specific problem that each sport, especially the UCI, had in the follow-up of the Armstrong case. He had personally not agreed with much of the correspondence he had seen, but he had been saying that, following the case, sport had become a target (not the UCI in particular).

Regarding the fact that WADA was a partnership, and sport was by far the major contributor to the organisation, and he had no doubt about that, having sat at the table for 10 years, the governments needed to do something to match what sport had done. Having said that, what deserved respect was the effort, which was huge, and the effort was taken away from the development of the game and all the IFs, and he called for WADA to be more active in terms of facilitating cooperation between the NADOs and international organisations and sport, which was vital, and more could be done through the standards, through the Code and by clarifying the different roles, which should be complementary and not duplicating if possible. Also, where NADOs did not exist, they should be created, and where they did exist they should be effective and complementary. The second way, which might be developed upon, would be to have operational guidelines, and he could give an example, for test distribution planning, out-of-competition testing planning, model agreements, etc. There were many ways to go forward on the matter. His point had been very constructive and he did not want it to look like he was denying a specific problem.

THE CHAIRMAN responded that he had not interpreted Mr Ricci Bitti's comments in any way and he knew that Mr Ricci Bitti's personal commitment was very strong. There was an elephant in the room, and it had generated a lot of discussion because of the media comment. He thought that this was the forum for certain things to be said; his comments would not be said in the public meeting that would take place the following day, but he owed the Executive Committee members a little more than what had been said by the very diplomatic Director General in respect of some of the events about which the members had been reading in earlier months. Sometimes he believed that one had to be specific, and he did note that Mr Ricci Bitti's suggestion had been on a general basis and not on a specific case.

PROFESSOR LJUNGQVIST thanked the Chairman for the explanation. A very unfortunate situation had arisen, and ironically the other side of the coin should also be looked at, in that the UCI was currently doing very hard work in anti-doping, more or less pioneering the blood passport project and pursuing case after case, so this was a very unfortunate situation. The Chairman had done what he could to find a way out of it and he hoped that the Chairman would finally succeed.

MR REEDIE said that he was guessing that, if there was a press conference the following day, there would be some questions on that matter and he was sure that the Chairman would deal with them. He suggested that the Chairman consult with Mr Howman and the Communications Department and that WADA make a statement that it



had received money from Russia under conditions with which the Executive Committee was happy.

Regarding the Hgh test and the Estonian athlete, WADA should be prepared to say that it had peer reviewed and it had been doing whatever additional work was necessary to get any other information, and that was under way or had been done, in the hope that the people who were sitting there looking at that judgement and thinking that this was another opportunity to get to the CAS would know that whatever modest errors had been made had been recovered. WADA should be proactive and quite clear to state publicly what it had done in these two areas. He was sure that all sorts of other things would be coming up during the day and the following day with which the Chairman would want to deal in his press conference. WADA should not be afraid of saying things quite categorically immediately, as he thought that WADA would lose the effect if it waited until Wednesday or Thursday the following week and banged something out.

THE CHAIRMAN said that he had made a note to ensure that the Russian explanation would be in the press release, and the peer review issue and the Veerpalu case would also be included.

#### DECISION

Director General's report noted.

##### – 3.1 Working Group on Lack of Effectiveness of Testing Programmes

THE CHAIRMAN referred to the report of the commissioned work into the effectiveness or otherwise of the testing programmes. This had been a Foundation Board resolution about a year previously and a committee had been established under the chairmanship of Mr Pound which had subsequently produced a report with which the members would be familiar. He welcomed Mr Pound to the Executive Committee and for the purpose of presenting his report asked him to present a summary of the report.

MR POUND observed that it was nice to be back at the table after some six years. The members had the report and he would not waste their time by going through it. He did say that a first-class working group had been established with Christiane Ayotte, Andrew Parkinson, Adam Pengilly, Andrew Ryan and a weak chairman. There had been good support from the IOC and the WADA staff led by Mr Howman, and he thought that a report had been put together that should be of some use in dealing with the issues that it addressed. If there were any take-aways from it that had been identified, they would be the need for significant improvement in the compliance programme to be run by WADA in the future; it had to be a compliance programme based on quality. It should become, if not the prime activity of WADA, at least very much a key activity going forward and, as to compliance itself, the current levels were far too low, and that bar for compliance had to be set much higher than it was to date and the group thought that, if that happened, it would lead to more effective testing.

The second point would be the testing itself. The committee's view was that WADA should be the approval authority for all ADO testing programmes to make sure that the testing that was done was based on available intelligence or information, and that sample analysis was based on the full menu unless there was a good reason not to have a full menu, and the arbiter of that question should be WADA.

Finally, the elephant in the room was that all anti-doping programmes had an element of human frailty or fragility and every effort had to be made to be clear and certain that the integrity and values underlying the whole concept were shared by all those responsible for the programmes – not some of them, but all of them.

If there were any particular questions that the members might wish to address, he would be happy to try and answer them, and there were some other members of the group present in the room, so they could share the responses if necessary.

THE CHAIRMAN acknowledged the fact that Andrew Ryan and Andrew Parkinson were also present in the room and thanked them for their work as well. Were there any questions or comments that the Executive Committee members would like to make?

MS SCOTT had a comment with respect to number 54 on athletes, and the first point was that athletes must become more proactive in the fight against doping in sport. Did Mr Pound have any concrete suggestions to follow that statement?

MR POUND responded that he did not have any concrete suggestions at that stage; the response was probably for the athletes to determine and he hoped that all the stakeholder groups would get a chance to respond to the report as it related to them, but the feeling was that athletes were really strangely non-proactive. Obviously, there were exceptions, one of whom Ms Scott knew fairly well, but the observation had been, for some reason WADA was not entirely sure of, whether it was a lack of education, lack of commitment to the principles themselves or what, that athletes were not proactive.

THE CHAIRMAN asked Ms Withers to distribute a way-forward resolution that the members might wish to consider during the discussion, to be dealt with at the conclusion of the discussion.

MR ROWE said that, given that there was a large list of recommendations and various stakeholders, he was presuming, and maybe he was wrong, that what would be addressed at that meeting were the recommendations directed towards WADA and that other stakeholders would have an opportunity to form their views and responses to the recommendations as presented by the committee.

THE CHAIRMAN said that he should probably have invited the Director General to respond instantly, because WADA had obviously had the report and had not been sitting on its hands. It had looked at it and there had been responses made. The resolution being put in front of the members suggested that the other sectors needed to be given the report formally and the opportunity to comment, including the athletes. That was what was proposed in the resolution. It might be a good time for the Director General to report to the Executive Committee on the WADA response to the recommendations relevant to WADA.

THE DIRECTOR GENERAL informed the members that, when it had received the report, the management had immediately considered it in terms of the section on WADA and many of the issues in relation to that were being or would be dealt with in the coming weeks.

Recommendation 3 would be part of what the management would put to the Finance and Administration Committee in July. WADA did number 4 regularly. Number 5 had already been instituted with a draft compliance strategy report, which the members had in their papers. The management had addressed those and then had looked at the respect of stakeholder groups and, as suggested in the draft resolution, each of the stakeholder groups would be presented with the report and asked to respond to it so that it could be on the table at the Executive Committee meeting in Buenos Aires for discussion.

The third element was the Code revision process, as there were a number of recommendations in the report that had had to be sent to the Code Drafting Team immediately. Most of the items suggested as recommendations from the working group had been incorporated into the current versions of the Code and standards, which the

members had among their papers. Mr Young would specify how these things had been done later in the afternoon, but it was important that the members be aware that the team had reacted urgently to the report. The management had not wanted to wait and then ask the Code Drafting Team to look at these at the end of the process.

The fourth thing that the management had done related to Ms Scott's question, and this would be on the Athlete Committee agenda for the end of June and would be considered by the WADA Athlete Committee and any others that the committee might suggest.

The final issue from his point of view was that the report should be tabled the following day at the Foundation Board meeting. It was not yet in the Foundation Board papers, so would have to be prepared overnight by the management so that it was on the table for the Foundation Board members to read and make comments on the following day. Those were the matters he had wanted to raise and he thanked the Chairman for the opportunity.

MR RICCI BITTI said that he welcomed the whole exercise. He did not agree with everything; in particular, he believed that in a broad sense WADA had to be a service organisation together with the governing bodies, so he did not agree with the statement that it was not a service organisation, but this was just a detail. Time for consultation would obviously be necessary. Timing would be difficult as he had been concentrating on the Code review, but this looked like an exercise with policy content and something that could affect the implementation of the Code. In fact, something had recently appeared in the Code, so time was needed. The document was a good exercise. Many good things would be hard to implement but he thought it was a good reference and reserved the right to consider it with the stakeholders he represented and make comments. He was a bit disturbed by the overlap with the Code review, which should be the main exercise at that point in time. The Code review was very important. He had recently received information that he had not understood, so he would be asking questions later on. He welcomed the document, which contained a lot of good ideas, despite the fact that there were some things he did not agree with, and he requested some time for consultation.

THE CHAIRMAN said that IFs would be given a request along with the document to send back comments within a reasonable time. He could not unfortunately overcome the fact that it was a busy time for WADA. There was the Code review and this report that needed to be factored into the Code review in the context of what was relevant for change. WADA could not wait another eight years for the next Code review, and ignore the constructive suggestions in that report. He looked forward to getting back comments from the IFs, NADOs, athletes, laboratories, and all those stakeholders mentioned in the recommendations. Their input would be taken on board, and the members would see the results of that towards the end of the Code review in September.

MR ERDENER said that he was wondering whether clarification might be given about the fact that the ABP should be mandatory in relation to international sports organisations, as it could be arranged but it depended on risk factors, as some disciplines had high risks and some disciplines had very low risks. This was a common idea but it could be a problem for some sports.

THE CHAIRMAN said that he did not disagree that one size might not fit all, but he asked Mr Pound for the motivation or rationale behind the recommendation.

MR POUND said that it had certainly been a unanimous recommendation by the working group. It recognised that there were high and low risks across the spectrum of different sports but, over time, as testing data became available and accumulated, one could develop a passport for any athlete in any sport. It was potentially one of the more

robust tools for detecting drug use, and therefore was something that WADA should not only take advantage of and encourage because, if one encouraged sports organisations to do something, that was a way of making sure that nothing would get done. It was necessary to say that there had to be an ABP in all sports for all athletes in the testing pool.

PROFESSOR LJUNGOVIST said that he was mostly very satisfied with what had been produced by the group, but one expression really made him jump: he referred to the phrase under point 3, 'while not withdrawing completely from education and research activities'. That seemed to him to be a very worrying signal; he would maintain that one of the primary focuses should be research, which was one of the reasons behind the success of WADA. There was no other thing out there that would be able to uphold the research level produced by the fact that WADA had a permanent research budget, which had attracted scientists out there and had become well known as an available resource for research. Researchers did their job because of their interest in a particular area but they also carried out their research activities where money was available. WADA was competing with other areas of interest for the right researchers and the effect had been seen over the past ten years, with increasing numbers of high quality research laboratories outside the traditional laboratories being attracted by WADA's funds and helping out with many difficult research matters. He read in the sentence a worrying signal that research might not be a primary activity for WADA. It had been from the outset and 25% of the budget allocated to research was a clear signal that it was one of the major commitments of WADA. He read this in connection with point 8, which said that research funding by WADA should be limited to projects. He agreed with that, but it was already being done and he was worried about the words expressed in point 3.

MR POUND responded that the working group had not shared the view that the research funded had led to more effective testing and had made the recommendation in the context of the total unwillingness of the stakeholders, both public authorities and sports movement, to provide an increased budget to WADA. In the view of the working group, if WADA was to do a better compliance job, WADA would not be able to afford to do all other things so, if the members wanted research maintained at the previous level and wanted WADA to be a more effective compliance organisation, the solution was very simple: increase the budget accordingly.

MME FOURNEYRON thanked the authors of the report for their assessment of what was being done in terms of tests and their effectiveness. All of the parties had been represented in the drafting of the document. She tended to be sensitive to comments made about the public authorities because in many cases the anti-doping policies were perhaps not exactly as good as they should be. There were some interesting comments to be made in terms of how things had evolved. She would like to be able to work on terms and conditions and the possibility of NADOs to control foreigners on their territory, and for there to be greater exchange between the sport movement and the NADOs. The cornerstone of the activity would be laboratory compliance and finding the right balance between testing efficacy and the quantity of tests, and the generalisation of the biological passports and the contribution of NADOs, but it was essential that all of the parties concerned by the report act on it, issue an opinion on it (especially those recommendations affecting them directly) and then decide on clear measures stemming from the recommendations, to be submitted to the Executive Committee for review and discussion. Perhaps they would be better placed to examine all of the recommendations, break them down and work out their budgetary impact and whether they would be taken into account in the World Anti-Doping Code. She wondered whether the report should be made public before each of the stakeholders had been able to take the recommendations

into account. How would those directly affected by the report deal with it so as to be able to move ahead in an efficient and collective manner?

MR POUND said that the minister was quite right that what needed to happen was that the public authorities consider in some detail what had been observed and recommended. As a matter of historical fact, when WADA had first been established, the fundamental principle that had applied mostly at the insistence of the public authorities was that WADA be as transparent as possible. That was why the Foundation Board meetings were open and the minutes were available to all. He was not on the policy side of it, but he thought that it would be a huge mistake and a step backwards not to release the report. WADA would eventually release the decisions of the Executive Committee and the responses from each of the stakeholder groups, but to refuse to release something that everybody knew existed would be a large backward step in his respectful view.

THE CHAIRMAN supported the comment.

MME FOURNEYRON said that she had not been talking about not publishing the report; she had meant that it should be published after the recommendations had been taken into account the stakeholders concerned by the report.

MR RICCI BITTI said that there were consequences to the policy of WADA and he summarised the three messages that he had received. One was on testing: WADA did not want to test any more, this was clear. He did not know if it was right or not. When WADA had started, it had not been like that. The second message was less research, and the third was that he did not see the focus he was expecting, where WADA had to improve, as he believed that WADA had done a great job in governing, but putting together the people who were key to the process, the NADOs and IFs as enablers had not yet been done and it was not completely reflected in the report. On top of that, his practical concern was similar to that of Mme Fourneyron. At the same time in the Code revision he saw matters that had never been seen before that were affecting the relations between the major stakeholders (liability, etc.) so he saw a bit of a mix-up and WADA had to be prudent. He was not saying that a good job had not been done. He welcomed the work, but did not like certain messages. It could be that there was no money and, if there were no money, it would not be able to do much more. It was necessary to look deeply at the consequences. It was necessary to be prudent. WADA published everything. Confidentiality was not a big deal; the big deal was the consequences of the operation.

THE CHAIRMAN said that the consequences had yet to be determined. The process was contained in the proposed resolution. This was actually a Foundation Board resolution, which had been that the working group chaired by Mr Pound report back to the Executive Committee. The Executive Committee would have to report to the Foundation Board. That was an open meeting; therefore, it was clear from the following morning onwards, once the papers had been circulated in any event to the Foundation Board, so in that context the documents were out there. What WADA did with the recommendations was a matter for the Executive Committee to determine. WADA could not get final resolution on those until such time as WADA had given an opportunity to the stakeholders to give their input. WADA had clearly had a head start, which was why the Director General had said that the management had considered the recommendations and he assured the members that going forward proper consideration would be given along with the other stakeholders. He acknowledged that there was no chance to keep this secret if ever it was and nor was there an intention to. WADA had to expose itself to that scrutiny and transparency and the resolution encompassed that.

PROFESSOR LJUNGQVIST said that unfortunately it appeared that laboratories had not been named as stakeholders, but they were listed as stakeholders.

THE CHAIRMAN said that he would be happy to talk about the resolution when the discussion was concluded.

MR JURITH thanked Mr Pound and the working group members for the hard work put into the report. It was a truly fine document. He had a question about the issue of testing. He noticed that the report referred to a watering down of the testing pool provisions, and this was something about which he had been concerned for a while. He realised that the testing standard attempted to deal with this by having more risk assessment built into the process, but it seemed that WADA had placed a large discretion in the various stakeholders who created the pools to determine what they looked like. Should WADA be considering some more prescriptive guidance to the stakeholders to have those testing pools put together?

MR POUND said that his inclination would be to send it out to the ADOs and let them respond to it and, if the responses did not seem to be satisfactory, then WADA should consider the possibility of a more prescriptive approach to it.

There was a section of the report directed specifically at the laboratories, so in that sense they were made into stakeholders.

MR REEDIE said that it came as no surprise to him that Mr Pound was challenging people; he had challenged WADA and the very definition of a challenge like that was that one had to give up some of one's perceived authority in the greater good. It would be a fascinating debate. He had a specific question. The buzzword in testing at that moment was 'intelligent testing', and the group seemed to cover it only under the passport heading. Had Mr Pound and his group looked at the question of intelligent testing and, if so, how did they see that being delivered, by each ADO or a group of ADOs, summer Olympic IFs or what? He wanted to know whether that had been part of the discussions.

MR POUND responded that the group had certainly focused on intelligent testing in general as opposed to simply the quantitative testing that a lot of organisations were using. The recommendation in point 33 was addressed pretty broadly to all NADOs, which in some sense subsumed the individual ADOs, so he would say that he recognised the fact that tests just to reach a numeric figure to allow one to check the box on a compliance report was not effective testing at all; in fact, it was the reverse. It was a general statement and NADOs could figure out how to do it. They could certainly get some help from elsewhere, but they could get it within their own countries or regions, from WADA or sport organisations or wherever the intelligence lay.

MR MACADAM thanked Mr Pound for the fairly wide-ranging report. His comments related more specifically to process versus the content, as there was obviously a lot of rich content in the report, which spoke to almost the entirety of the anti-doping efforts, which was appropriate. His fear was that, if the report was simply made public and submitted to the various stakeholders, there was a real risk that people would cherry-pick what they liked and what they did not like and it would come back with a fairly feeble response in terms of addressing some of the real concerns, and to the extent that the Executive Committee was really the partnership mechanism that was trying to coordinate efforts, he was wondering whether there should be some form of collecting that information as WADA did through the Code review process so that there was some filtering down based on the feedback coming in, and a more considered approach to examining what was a priority, what was doable and what trade-offs needed to be made (obviously there were resource and budget implications) so that, in effect, there was a richer discussion and debate as to taking on board some of the recommendations as opposed to sending them out and hoping that some would stick. There perhaps needed to be more discussion on the process going forward as opposed to simply sending it out

there and hoping that some of the things would be taken on board by the various stakeholders.

THE CHAIRMAN indicated that it was essential that WADA get input from the stakeholders. There would be a comprehensive report on that input and an evaluation of the recommendations that might be forthcoming at the September meeting. There would also be work done in the meantime leading up to that by the drafting committee, and there would be obvious recommendations that would probably be agreed on by all and taken into the Code because time was running out and it was just not an option to say that an inquiry had been carried out. WADA was going through the Code review, it did it once every eight years, and it would start again in six years' time for the next one that would come into effect in 2021. WADA could not miss the opportunity if there was a constructive outcome of not incorporating it in the Code where necessary as of 1 January 2015. It was in that context that he was converging the process a little simply because there was not that much time. The Executive Committee would ultimately decide on the policy decisions and certainly any Code changes for the document to go forward in November for approval by the Foundation Board and there would be an opportunity for a good and proper debate and sufficient time would be allocated for that debate at the September meeting in Buenos Aires.

PROFESSOR LJUNGVIST said that the reference to the laboratories was not in the resolution proposal. Regarding recommendation number 66, he would say that the problem with the out-of-competition testing as it was and its inefficiency was very much related to the lack of unannounced out-of-competition testing. That was an impression he had; he did not have the hard data but he had a fairly good idea. He found the wording there somewhat soft, where it said that, 'No advance notice of or contact with respect to any NOC tests shall be permitted', but the definition of out-of-competition testing was that it should be no-advance notice because advance notice out-of-competition testing was a good example of inefficient testing.

MR POUND retorted that he did not think it was a soft word at all. Perhaps it was a reiteration of the principle. The fact of the matter was that the group had not thought that all out-of-competition tests came as a complete surprise to many of the athletes, so there was communication, and people knew when they were going to happen and might even know what the menus were, and he did not think that was proper.

THE CHAIRMAN asked the members to look at the proposed resolution and suggested that somewhere on line 7 after 'sport organisations', the word 'laboratories' be inserted before 'national anti-doping agencies'. Did the members have comments or questions in respect of the resolution? He was referring to resolutions 1 and 2. He believed he had their consent to accept that as an approved resolution of the Executive Committee.

He told Mr Pound and Messrs Parkinson and Ryan that giving time as part of the process and part of the organisation and all of the members on the committee played a role in the anti-doping world that required some level of sacrifice, but when one took on a committee of that nature in a short time frame and with a large scope of work to be covered, many hours and some considerable inconveniences had been required to produce the document that the members had before them, so on behalf of WADA, he believed it was a constructive and thoughtful and sensible document, broadly speaking, and gave some clear guidance and in many cases reassurance, but it would lead to better outcomes if the members took on board what was there, looked at it thoroughly and conscientiously, and adapted and adopted any or all of those resolutions in some form as quickly as possible, and he had indicated when that might be. He thanked the working group members for their efforts, and WADA would continue to use that information for the benefit of anti-doping.

## DECISION

Proposed resolutions by the Working Group on Lack of Effectiveness of Testing Programmes approved.

### – 3.2 Ethical Issues Review Panel

MR ROWE wondered what issues had been raised at the meeting on 11 April. The report said simply that there had been a meeting.

THE DIRECTOR GENERAL responded that the members had discussed the draft of the Code to be able to provide comments to the Code Drafting Team from an ethical perspective, so they had had an opportunity to meet and then meet with the drafting team, which was what had happened. The specifics had not been recorded in terms of a public document, as an official submission had not been made, but there were issues relating to things such as the criteria for inclusion on the List and in particular the discussion of the spirit of sport and ideas about how research projects could be conducted using proper ethical considerations. Those were the two major topics.

## DECISION

Ethical Issues Review Panel update noted.

## **4. Operations/management**

### – 4.1 Endorsement of Foundation Board composition for Swiss authorities

THE CHAIRMAN said that Portugal had departed and had been replaced by the minister from Flemish Belgium, Mr Muyters, who would be on the papers on which the decision would be sought the following day, so it was a question for recommendation by the Executive Committee to the Foundation Board. The members had a copy of the document before them to be recommended for approval the following day for filing.

THE DIRECTOR GENERAL said that there was a member missing: the IOC athletes had not yet nominated their fourth member because of the issues being faced at the CAS about some election issues the previous year. The document, which was tabled, was the complete list, but there was that gap and he asked that the Executive Committee recommend the paper to the Foundation Board the following day.

THE CHAIRMAN said that it might be necessary to send out an amendment as and when the final person was determined. He asked if the members were happy to make the recommendation otherwise.

## decision

Foundation Board composition endorsed for Swiss authorities.

### – 4.2 World Conference on Doping in Sport update

THE DIRECTOR GENERAL said that the programme update was in the members' files and he asked them for express approval of that programme. WADA had done exactly what it had been asked: to make the programme in a similar fashion to the one in Copenhagen, so there would be separate sessions on the international standards that required some consideration and discussion and the plenary sessions in relation to the Code had been broken up in a similar way to Copenhagen and Madrid.

Registration was open, and he encouraged everybody to be involved and to register. It might be useful to register early, because there were limited numbers of delegates



allocated to each stakeholder group but, if there were vacancies during the year, the first to be offered a place would be those who had registered early.

The other matters regarding the draft programme related to the timing of the Executive Committee meeting, which would be on 12 November, and the Foundation Board, which would have two meetings on 15 November. The first meeting would be to approve changes to the Code and standards, then it would be back into conference mode for those to be accepted and announced to the conference participants, then the normal Foundation Board meeting would be held later in the day on the Friday.

He brought to the members' attention the approach that WADA would make to several members to ask them to chair one of the sessions on international standards, and he would be asking the members over the next two days whether those identified would be prepared to do that, as it was not something that the President could do.

MR MBALULU said that he wished to indicate a state of readiness for the forthcoming World Conference on Doping in Sport in Johannesburg in 2013. Since WADA had awarded the bid to South Africa, the Ministry of Sports and Recreation had taken the following steps to ensure that a successful conference would be organised on African soil: one, that WADA enter into an agreement with Sports and Recreation South Africa (SRSA) to organise, manage and host the staging of the 2013 World Conference on Doping in Sport and two, subsequently, SRSA had signed an MOU with the host city to delegate the implementation process of hosting, staging and organising the conference, and three, the City of Johannesburg had appointed a PCO and signed an implementation memorandum.

The fourth World Conference on Doping in Sport 2013 work specifications had been agreed upon by key stakeholders from WADA, SRSA and SASCOC, the convention centre and the City of Johannesburg, at a meeting held from 14 to 15 February 2013. Project implementation was based on the deliverables agreed upon, recruitment of other support services, travel and customs arrangements, airport experience, ground transportation, accommodation, facilitation of venue and conference and technology, other legal documents, facilitation of catering, registration, branding, communication, marketing, web support, conference programme, audio-visual, ministerial, welcome and security and parallel events and activities.

To date, he was delighted to inform the WADA Executive Committee members that the following sub-committees had been established: integrated marketing events, protocol, joint operations, financial management, technical logistics, registration and administration. There was a challenge in terms of the signing of the venue contract. The director general of his department was dealing with the matter, and he did not think that there would be major hassles in resolving the issue.

Finally, the project had been implemented according to the signed MOU and the project plan was being strictly adhered to in order to ensure that the conference would be a resounding success. South Africa was committed to hosting an international event of that magnitude and he was looking forward to receiving all of the delegates in November 2013.

THE CHAIRMAN urged the members to ensure that those who wished to participate, and he was sure that many at the table would, made that clear earlier rather than later.

#### **4.2.1 Draft programme**

THE CHAIRMAN said that there was a need to get a resolution to adopt the draft programme so as to proceed to ensure that that was the programme according to which WADA would be working when the conference took place in November. Were the members happy to approve the programme?

## DECISION

World Conference on Doping in Sport  
update noted and draft programme  
endorsed.

### **5. Legal**

#### – 5.1 Legal report

MR NIGGLI said that it was almost a tradition but he would start by talking about data protection, the difference being that that time he had rather good news. The members would see from the paper that a substantial amount of work had been conducted since the November meeting and he wanted to highlight the fact that the EU Member States, in particular the Irish Presidency and France, had done a lot of work and been committed to trying to find a solution to the issue at stake. As a result of these efforts, the discussion at European Council level had ended up with the draft text being amended and the problematic provision on consent had been taken away, so on that front he thought that a very encouraging and positive result to report on, but WADA could not yet claim victory as the EU process was quite complicated. There was, in parallel, a process of discussion between the Member States and a discussion at Parliament level. The discussion between the Member States had reached this good outcome but the work at Parliament level was not yet complete and it was not known what the text would look like. After the work had been completed, there would be a tripartite negotiation between the Council, the European Parliament and the European Commission to agree on a final text, so there were still several steps to be carried out, and it was important that the pressure be maintained and arguments be put forward constantly to ensure a proper result at the end of the day. But overall at least things had started moving in the right direction. One issue was pending, and had been pending for some years, about the recognition of Quebec law as being adequate. This was not a legal issue, or an issue for Member States; this was purely an administrative issue at the level of the European Commission, but WADA had not yet heard back from the European Commission, which meant that WADA still heard from some countries in Europe, including Italy, that they could not use ADAMS as the European Commission had not formally recognised Quebec law as being adequate. Quebec law was basically a cut and paste of French law, so it was hard to believe that it would not be adequate.

On Operación Puerto, he would not add much, as there had already been a lot of discussion, but he informed the members that the reasoning received for not allowing the blood bags to be shared with sports authorities was that the bags had been collected as part of a criminal investigation; sports disciplinary procedures were of an administrative nature and therefore the interpretation of the judge had been that one could not share evidence collected as part of a criminal investigation for administrative purposes. Clearly, WADA's Spanish lawyers did not agree with this interpretation of the law and, as indicated, WADA would appeal it, but that was what the judge had said.

Since the report had been written, there were some updates to give the members: in case number 4, a case from the Netherlands, judo, the outcome had been an 18-month sanction, which satisfied WADA. The judoka in question had been given 24 months in the first instance and been given a warning and an appeal, and finally had received 18 months at CAS level.

In case number 6, an ice hockey player had been given two years; WADA was happy with that. In case number 13, an equestrian case, the athlete had also been given two years, so these cases had been resolved to WADA's satisfaction.

MME FOURNEYRON said that, since November, what had been heard from the Chairman and Mr Niggli about the difficulties that had arisen regarding personal data had created something of an atmosphere but, following the WADA meetings and meetings with Mr Niggli, it had been possible to mobilise France and, through Ireland's presidency of the European Union, since Ireland was also represented on the Foundation Board, she appreciated all the work that had been done with the WADA management and the Foundation Board and Europe to make it possible to come up with a document that had been sent by the European Council on 24 April and, looking at article 7.4, which had posed a problem, she read that, 'Many member states objected to paragraph 4 of article 7 on the grounds that it would create legal uncertainty and the presidency had therefore dropped the paragraph from article 7'. That was a major obstacle that had been overcome but she agreed with Mr Niggli on his vigilance regarding the European Parliament procedure, it was necessary to make sure that they were careful so as to avoid becoming involved again in another form of blockage when talking about protecting personal data, so she would remain very attentive together with her Irish colleague. She was discovering more and more information about the fact that the European Commission had not adequately recognised Quebec law, which created a barrier for other countries, so she would tackle this with the same determination on a short-term basis so as to be able to have an agreement from the European Commission by the time of the next meeting.

THE CHAIRMAN said that WADA was very grateful for the attention to the issue given by France.

PROFESSOR LJUNGQVIST referred to case 26, which was quite interesting from a principle point of view, in that a research centre had never conducted the research for which funds had been allocated. Had an agreement been reached that it should go to the CAS and on what basis, if so, had the centre refused to pay the money back?

MR NIGGLI said that there had been no agreement; there was an arbitration clause in the contract signed with the centre. WADA's request had not been answered, along with the many requests sent to the centre to provide the report that it had been supposed to provide. Since starting the case, WADA had received some answers, and apparently the centre was drafting the report at the speed of light. WADA had not yet seen it but, at the moment, it was with the CAS.

MR RICCI BITTI thanked Mme Fourneyron for contributing to the very important data protection achievement. He did not understand why some countries, such as Italy, were in trouble. Could Mr Niggli provide an explanation?

MR NIGGLI said that this situation was unrelated to the work that had been done on future legislation, which was to come into place whenever it was adopted in Europe. Currently, to transfer data outside Europe, one needed to transfer it to a country that had been recognised by the European Commission as providing adequate protection, and there was a list of those countries, and there were probably 14 in the world, saying that the countries offered adequate protection for data transfer. Canada was one of them, which was good news, until it had been realised that, since Canada had provinces, an organisation such as WADA, which was a non-profit organisation, fell under the jurisdiction of the province and not the federal law, so there had been a need for the Commission, which had already recognised the federal law, to also recognise the provincial law, which it had not done. It was purely an administrative matter, a process that the Commission had to follow to get to that resolution so that the name would be added to the list. Italy had a decision from its data protection authority saying that, until it had that from the European Commission, it did not want to do anything against

European law so would not transfer data to Quebec. Portugal was in the same position as Italy.

MS SCOTT said that, looking through the cases, it was obvious that the majority of them involved methylhexanamine, and she knew that WADA had issued warnings on the substance and warnings to the NADOs and the NOCs to be disseminated among the athletes, but was there a way of backing that up to guarantee that the athletes were getting the message? Obviously, there continued to be a big problem in sport and athletes might not be getting the message, especially because the number of cases indicated that some were inadvertent. Regardless of whether or not they were inadvertent, there was an obvious problem with that specific substance and she wondered whether there was a means of making sure that the athletes were getting the specific message.

THE CHAIRMAN asked Ms Scott if what she was saying was that athletes were never aware of the fact that decisions were being taken all the time around the world under the Code, which was sanctioning athletes, and that the message was not getting through to the athletes.

MS SCOTT said that she was speaking with reference to the particular substance, and wondered whether there was a way of ensuring that the message about the dangers was being acknowledged.

MR JURITH said that one of the issues discussed in the Education Committee meeting the previous month was stepping up the dialogue between the Athlete Committee and the Education Committee to identify issues. He thought that was an area that could be improved on to get to the issues that Ms Scott had talked about.

PROFESSOR LJUNGQVIST thanked Ms Scott for raising the issue. This had been a problem already before WADA's time when it had been discovered in the 1990s that food supplements contained banned substances, and these had not even been written on the labels. Warnings had been issued repeatedly to athletes to be careful and not use food supplements as they were poorly controlled, if at all, and now they were flooding the Internet market and were easily available. Methylhexanamine was a recent problem and Ms Scott was right in asking for a new piece of information issued in a suitable way to reach the athletes. WADA did not communicate directly with the athletes, of course, but it was time to issue a new alert, to be careful with food supplements, as this had happened too often in too many countries around the world, even with low-level athletes, so it was a concern.

MR NIGGLI replied that all the cases could not be put in the same bag. Some were contaminated supplements, some were supplements whereby a label or Internet search showed that the substances were in there, so they were known to contain the substance. Nevertheless, it was clearly an issue. It was still part of the fact that, if one took supplements, one took a risk. The excuse from the manufacturers initially had been that it came from geranium oil; there was now clear evidence that it did not come from the geranium oil and that the supplements were spiked by the manufacturer. It had been prohibited in more and more countries so a decrease should be seen, as it was no longer allowed but, as had been pointed out, WADA had not seen that. For every ADO doing result management, there had been a tendency initially to think that the cases were not serious, and that a standard six-month sanction should be handed down, but it was necessary to look at these cases as some athletes were really cheating and deserved a two-year sanction, so the automatic excuse that there was no intent to enhance performance because athletes had been taking supplements did not fly, and that was why WADA was appealing a lot of the cases, as he did not agree that they should be looked at in a lenient fashion.

## DECISIONS

Legal report noted.

### **6. Finance**

#### – 6.1 Government/IOC contributions

MR REEDIE said that he was now in the dark because his iPad was no longer working, so he was back to using the old-fashioned folder. The first thing the members would see was a new distribution of contributions to the agency, showing the historical payments and in particular the current year, 2013, so that, as at 10 May, WADA had collected just under 80% of government contributions, and that was matched dollar for dollar by the Olympic Movement. It was not done on a daily basis to avoid sending tiny cheques back and forth; the IOC gave three payments over the year, but that was a pretty good situation.

There was also detail shown of the individual countries that had paid. He was pleased to say that the USA was almost up to date, but still owed WADA about 9,000 dollars. There were some countries that WADA would expect to pay and some it knew paid later in the year, so from the contributions side he was perfectly happy.

## DECISION

Government/IOC contributions update noted.

#### – 6.2 2012 year-end accounts

MR REEDIE said that the procedure would be that the Executive Committee would approve the accounts and then submit them to the Foundation Board the following day for approval. These were prepared under the IFRS rules, and were rather different from the way in which most people would present their accounts but, at the end of the day, the actual deficit had been just over 770,000 dollars. WADA had started the year with a budget that would have a deficit of somewhere around 1.75 million dollars and the difference between the two, quite apart from collecting contributions and being efficient in expenditure, was in the main that WADA had found that the research budget and research account had in it quite a lot of money that had not been spent, i.e. the research project had not gone on or it had started and money had been refunded, so WADA had moved 1 million dollars out of that back into the day-to-day accounts, and that reduced the deficit for the year.

As always, the accounts had been very fully audited by PWC in Montreal and in Lausanne and, having looked at them and as always tried to understand them, he was perfectly happy that they were a very accurate record of the accounting for the year in question and that the Executive Committee should submit them.

Before asking the Executive Committee formally to do that, the members would see in their papers the way in which WADA did it, which was a rather old-fashioned way, involving putting down the budget for the year and the actual figure for the year, whether this was income or expenditure, which gave a very detailed breakdown, quarter by quarter (Ms Pisani could even provide it month by month), to have a very clear idea of exactly how the financial provisions that the Finance and Administration Committee had thought would happen had actually happened. As always, when that had come through, he had asked a whole series of questions. WADA had actually raised 100% of the income that it had been hoping to raise. Most of the expenditure squared off at around 99% of the budget; some departments were a little higher and some were a little lower, but it rather backed up the statement made by the Director General that WADA was actually

operating at pretty nearly full capacity. It had been found that litigation, which had been a financial problem, had been only 101% of budget, so he congratulated the Legal Department for getting that close to the standard.

All in all, he thought that WADA was in pretty good shape. What also encouraged him hugely was the fact that, yet again, WADA had received a detailed report from its auditors which stated clearly whether there were any deficiencies in the accounting system and made recommendations on the audit findings, looking at internal control system findings, and in fact yet again there was next to nothing mentioned. There was one tiny item that had had to be reported, as an uncorrected missed statement, which had involved a period in the accounts that had extended for about one-and-a-half weeks longer than the period expected and that had thrown up a slightly different figure, but the auditors had stated that that had absolutely no effect on the truth of the audit. Having taken those three pieces of paper together, he was happy to recommend that the Executive Committee approve the draft accounts and sought authority to submit them to the Foundation Board the following day.

THE CHAIRMAN said that it was always good to hear the auditors' endorsement; that was a comfort that he would take. He asked whether the members had questions or comments. If not, he asked whether the members would be happy to recommend to the Foundation Board the following day that the annual financial statements as tabled be approved and filed in the normal manner.

#### DECISION

Proposal to recommend 2012 year-end accounts to the Foundation Board approved.

– 6.3 2013 quarterly accounts (quarter 1)

MR REEDIE said that WADA produced a set of accounts on a quarterly basis, so the first quarter was until the end of March 2013, which always showed a very healthy provision, as WADA had taken a very large percentage of its income and only spent about a quarter of expenses, so the end result was that the accounts showed a surplus but that surplus declined quarter by quarter as the amount of income went down and the amount of expenses went up. It was something that the Finance and Administration Committee had done and would continue to do.

The members would see the document on the actual against budget for the period to 31 March. He looked at that and fired off an e-mail to Ms Pisani asking for answers, which were always provided and were in the main satisfactory. For example on page 2, under 'Legal and finance', one-quarter of the way through the year, litigation costs were 34% of the budget estimate. He had found out that WADA had decided to be insanely generous to the FIS, so that figure would increase, and that was a management decision, which had a financial implication. He had asked questions about why the logo protection was high, and the answer had been that WADA had to pay up-front and advertised over a period of ten years. He had asked about information and communications, he had asked about the Montevideo office, which had suddenly had higher costs, and he had found out that WADA was now having to employ an agency to make salary payments, which it had not done previously, so it was to that detail. The members would see this routinely when they came to the Executive Committee meeting in Buenos Aires in September. They would see the six-month figures and those would provide a clear indication of what was happening. He also had details from the Finance Department on the impact of lots of financial situations which he thought helped to give a clear understanding of the situation.

One of the major issues was to project cash flow. Over the years, mainly for reasons of contributions made to WADA by governments from previous years in the main, WADA had been able to build up a figure of unallocated cash, and that was the amount of money actually used to subsidise the agency over the past few years. Clearly, the lower the deficit, the longer the unallocated cash would last, but it would not last forever and, if WADA ran very large deficits, then clearly it would run out of unallocated cash, giving much less freedom of activity, because the logic of that was that WADA would then need to maintain the level of activity and WADA would need to ask for substantial increases in contributions to maintain the level of income, so these cash flow projections could be done on a number of assumptions, and he tried to keep them reasonable. They would become a feature of the 2014 budget when it was eventually submitted.

#### DECISION

2013 quarterly accounts noted.

– 6.4 2014 Draft budget – preliminary planning

MR REEDIE said that he had prepared a final paper because it had become quite clear despite the requests from the public authorities over a number of years that, the earlier they got the figures, the better they liked it, the more it gave them time to plan their contributions, etc. It seemed to him that, that year, it would be almost impossible. WADA was about to spend the afternoon looking at two complicated pieces of paper. The first was the report on the 'ineffectiveness of testing'. That had made a whole raft of recommendations, almost every one of which would have a financial implication, and he had no idea and looked forward to the debate that afternoon to find out what in fact the Executive Committee would do with that. Secondly, there was going to be an even longer debate and WADA was going to put in place a new World Anti-Doping Code, and he was guessing that, in 2014, the Executive Committee would want to be quite clear as to the effect of the new Code on the preparations of WADA to meet its obligations under that Code. The Director General had already come up with a number of headings and, quite honestly, he simply did not know the answer, so he was going to make a suggestion, and the members could see from the breakdown showing what contributions had been and what a 2% or 3% increase in contributions would be. That was dead easy; one could do that on one's iPad. For laboratory accreditation, WADA's income went down. It did not make as much money out of laboratory accreditation as it had done; that was a fact of life. Interest was a real problem. Rates of interest the world over were 0.5% if one was lucky and in some places there were negative rates of interest, so it was actually quite difficult to generate any interest, although WADA held substantial amounts of cash. He had always taken the view that, when investing the agency's money, WADA was investing public authorities' money, so would not take any risks. He would have been very pleased to have put money into the Japanese market one year previously, as WADA would have made 80%, but there was a risk, so WADA could not do that as it was public money. The Finance and Administration Committee tried to make sure that WADA's money was in safe and secure investments and the safer and more secure one was the better. One got a certain return, but it was rather more modest.

For all of these reasons, he asked the members to leave it to the Finance and Administration Committee, which would be meeting in Lausanne at the end of July, and there would be a lot of work to do depending on what the Executive Committee members decided to do with the two other reports just to try to work out what the financial implications would be, and then there would be a clear draft budget before the members. The logic of this seemed to him that costs were almost bound to go up. He found it hard to believe that, if WADA took recommendations to do things, it could do them without spending money, so, without guessing what the Finance and Administration Committee

would say, it was inevitable that it would suggest that contributions should increase. There had been no contribution increase in 2012 and 2013 and WADA could not simply go on that way. This meant that he would not have to do his normal song and dance routine about 1%, 2% and 3%; he could wait until September to do that, but he warned the members that it would be done, and he thought and hoped that, as the world economies seemed to be beginning to recover, it would become easier for the public authorities to meet a modest increase in contributions. He had authority to inform the members that the Olympic Movement would be happy to match the increase, even at a slightly higher rate than that currently being considered. It was a mystery; that was the mystery, and there was a great deal of work to be done between then and July. WADA was financially sound and in good shape; it had costs to meet, and would meet them, and the guessing game for the future would probably start on the plane on the way home the following night.

THE CHAIRMAN asked for questions or comments.

MR ROWE thanked Mr Reddie for the report. He mentioned a matter raised at the public authorities meeting that morning in relation to the consideration of the budget for the following year, which the Finance and Administration Committee would be preparing at its July meeting, and comments and references to different percentages that might apply, including zero and others. He thought that it had been agreed that morning that it would help the members of the committee to consider various options if the committee also had the opportunity to consider an analysis done by the WADA management of the consequences of reductions in certain areas in an attempt to balance the budget. He put that request. If that information could be provided, it would certainly help any decisions that might have to be taken at that time.

MME FOURNEYRON praised the excellent work done by the Finance and Administration Committee. Given the analysis to be shared, even if not the final one, and having examined the lack of effectiveness of the testing programmes and then analysing the developments of the Code, it would be necessary to establish priorities and the financial implications of all the priorities, so the method proposed was very relevant given the work that needed to be done and in which she would participate. It remained to be seen whether the budget would have a 1%, 2% or 3% increase, but it was necessary to make sure that the members understood the consequences of the various priorities and the choices made by the group, and she hoped that WADA would not overly mobilise the reserve fund for those amounts not allocated. How large was the amount? She knew that it was not possible to do things willy-nilly but she wondered how much money there was in the fund so that the Finance and Administration Committee, meeting in Lausanne, had all the documents it needed to better foresee the priorities that had to be made given the available figures.

MR REEDIE responded that he could ask the management to look at reductions in activity; it was a depressing question to ask but, if that was the wish of the public authorities, he could ask that and he was sure that the Director General would do that seriously.

He agreed with Mme Fourneyron that, once he knew the whole range of recommendations that would be coming that afternoon, he thought that it would be unlikely that WADA would be able to do all of them and that it would be necessary to establish priorities and present to the Executive Committee a number of options, and that could be done. The specific answer to the question was that, as at the end of 2012, WADA's unallocated cash was 7,124,350 dollars. He was looking at projections there which were depressing projections and, at roughly 2%, WADA would use all of that before the end of 2015. The members would see where he was coming from. That was



fine. If that was what the Executive Committee wished to do, he would argue against it, obviously, but it was the Executive Committee's call and, if that happened, WADA would either go to the governments for more contributions or stop doing things that it should be doing. WADA had been doing that for some time and had managed to nurse this along in a pretty effective way for a number of years, but that was reality.

MR FUKUI said that it would be necessary to discuss priorities and WADA would have to prioritise and then the budget would have to be executed effectively, which was very important; however, even if WADA used its budget effectively and the other regions accepted WADA's proposal, the Asian region was ready to accommodate the increase in contributions, as a discussion had already been held as to how to deal with the increase in contributions at the Asian-Oceanian intergovernmental meeting.

MR REEDIE stated that he was very happy to hear that.

THE CHAIRMAN said that he thought that there was a clear understanding going forward that WADA was running down the reserves fairly rapidly and would move into going to the bank or closing some doors if it did not go to the bank by 2015, and that was on the basis that it picked up nothing from the Pound report or the Code review, and he knew that that was just unrealistic; but, in the context of the guidance given, the Finance and Administration Committee would deliberate as it did each year at its special meeting in Lausanne at the end of the following month, and there would be some details available in September to enable the Executive Committee to give some more serious consideration to the following year's budget, and it would be getting to the point whereby some decisions would have to be made, and these would be made.

MR JURITH said that it would be helpful to the public authorities if the information could be provided by the WADA management prior to the Finance and Administration Committee meeting in July, so that, as had been done the previous year, the public authorities could consult among themselves and provide the Director General with an informed opinion.

THE CHAIRMAN replied that the request was a reasonable one.

#### DECISION

2014 draft budget update noted.

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

#### – 7.1 Code and International Standards review

MR ANDERSEN said that the Executive Committee would spend some time on the issue that afternoon. There were a lot of things to discuss, and he would walk the members through them step by step: first the paper, and then the changes made since November to date. These were the policy changes on which he sought direction and instruction from the Executive Committee since it was the body responsible for taking such decisions. WADA was at the end of the third round of consultation, with written submissions, and he would provide some facts on what had been submitted to WADA, which could be seen on the screen.

The members would see the submissions received on the Code and the four standards. The first 14 on the Code were submissions and then there were 84 comments and, for the third round, WADA had received 109 submissions and 1,170 different comments, and the members would also see the information on the standards. In terms of all three rounds of consultation, WADA had received close to 4,000 different comments on the Code and the members would also see the figures for the standards. In terms of changes made to the Code, there were around 2,000, small and large and, for the four

standards, there were numerous changes. That was the overall picture of the consultation rounds. There had been lots of comments received and a number of meetings had been held with various stakeholders and stakeholder groups. The team had been trying to consolidate all of the input and present the draft, version .3.0, which would become version 3.0 when the document was published at the beginning of June.

MR YOUNG informed the members that he had good news for them. He would not go over all 2,000 changes and, despite the introduction from the Chairman about the two-and-a-half hours of fun he had had the previous day, he would not take up so much time. He would begin by giving an overview of changes to the Code, then he would go into a couple of dozen specific changes from version 2 to version 3 that the Code Project Team had thought should be brought to the Executive Committee's attention, because they were controversial, policy issues or something about which the members would be asked. The members would have an opportunity, if he did not touch on a particular article in which they were interested, to raise questions, and then there would be a brief discussion of issues and changes to the international standards that involved policy about which the members might be asked. That was the plan.

He started with general themes of the Code changes. For somebody who picked up the 2009 Code and then picked up version 3, looking at both from 20,000 feet, he explained the general themes. The first general theme was that WADA was a lot tougher on the real cheats than it had been in the 2009 Code and it had more flexibility in sanctioning athletes who were stupid or who made mistakes or really had not been trying to cheat. There would still be a sanction but there would be more flexibility. The best example of being tougher on the real cheats was the new series of provisions in article 10.2 that said that, if an athlete tested positive for steroids or EPO, that athlete would get four years unless he or she could show that the use had not been intentional. It had been that four years would be handed down only if the ADO could show aggravating circumstances, but that hardly ever happened and this switched that approach. The best example of flexibility was the addition of the new concepts of contaminated products and substances of abuse. Under the 2009 Code, there could be a situation whereby somebody would test positive for a steroid in a supplement and would have done everything that anybody could conceivably do to make sure that that supplement was clean, including testing two-thirds of the pills in the bottle, and still under those circumstances, the most flexibility the Code had allowed was a one-year period of ineligibility.

Another big theme was a broader and more explicit consideration of the principles of proportionality and human rights. Looking at the red-line changes on pages 1 and 5, in drafting the Code the team had taken into consideration the principles of proportionality and human rights and on page 5 it said that, in applying the Code, the principles of proportionality and human rights should be considered. The same stakeholders concerned with proportionality and human rights generally had been particularly concerned with how minors were treated under the Code, and there had been a number of changes in that respect, for example, the mandatory publication of doping violations was not mandatory for minors. For the definition of no significant fault, one had to prove how the substance had got into one's system, but that did not apply to minors. Beyond minors, the provision that talked about the mandatory publication of results had been extended so that that mandatory publication did not have to take place until the appeals period was over as opposed to at the time of the initial decision. As had been done with prior versions of the Code, a legal opinion had been sought on a number of issues whereby stakeholders had questioned whether what had been proposed was legal or not. The team had been working with a former chief judge of the Court of Human Rights, Judge Costa, and it was an iterative process. As the team produced versions of the Code,

the judge looked at them and said what made sense from a proportionality and human rights point of view and what he thought did not make sense, so the team made changes and, as it made changes based on the judge's recommendations and all of the recommendations from the stakeholders, the team revised it, brought it to the Executive Committee and gave it to Judge Costa again. After that version and certainly after meeting in September, the opinion of Judge Costa would be published.

The next general theme was the emphasis on the increased importance of investigations and intelligence. One of the most important articles that went to that was the change in the expectations of stakeholders of governments (article 22.2), and that said that the expectation of signatories with respect to governments had been expanded to include governments putting in place legislation regulations or policies for cooperation and sharing of information with the ADOs. That was very useful to an ADO when it was going to government law enforcement saying that it needed the good work that had been done to be shared with it. Articles 20.3.6 and 20.4.4 required national federations to report any information that they had related to doping to the NADO. Articles 21.2.6 and 21.2.5 required athletes and athlete support personnel to cooperate with NADOs. The statute of limitation had been extended from eight to ten years.

The next general theme had to do with better ways of dealing with the issue of bad athlete support personnel. One of the most important articles added to deal with that was article 2.10 on prohibited association which put the burden on athletes not to deal with somebody who had been convicted of something that would be doping in a criminal and professional context or who was serving a period of ineligibility, and he would go over that in detail when he spoke about that particular article. There were new roles and responsibilities of athlete support personnel that said that they were not supposed to use prohibited substances in their own time; that was not in the current Code. There were lots of things about anti-doping rule violations for athlete support personnel of possessing in-competition, administering, trafficking and complicity, but there was currently nothing in the Code that talked about athlete support personnel taking steroids at home in their own time and there was in the new draft.

The last thing that he would highlight in the 20,000-foot overview was a new article 20.3.5 that said that athlete support personnel would be made to agree to the result management authority of ADOs; so, if personnel were to be working with a sport, it was up to that sport to make sure that the personnel had signed something saying that they agreed to be bound by the anti-doping process so that they could not just thumb their nose at the anti-doping people when they came knocking at the door.

The next general theme was the concept of smart testing, smart sample analysis and smart long-term storage. The reality was that there was limited money to spend on doping and on the testing side of things and it was really necessary to be smart about to how to use it. He would talk about that when he started a discussion of the technical document later, but the idea was that it was not quantity; it was quality, and it was quality targeted to specific sports and sport disciplines.

The next general theme was something that Mr Ricci Bitti had talked about: an attempt to be fair in balancing the interests of IFs and NADOs. What really ought to happen was that the interests ought to cooperate together and, as a last resort if somebody needed to be a referee after trying to facilitate all of that cooperation, that referee would be WADA. The three areas he would touch on specifically when going through individual articles were the TUE process and the exclusivity of testing at IF events and who did result management.

The last area he would look at as a general theme from 20,000 feet was an almost universal desire to make the Code shorter and clearer. That comment had been made by

a significant number of stakeholders in their submissions. The only problem was that, following that comment, they would say another that another two paragraphs needed to be added to article 5.7 and three more in article 10.5.2 as there was a possibility that such-and-such a thing could happen and the loopholes needed to be closed. Those had been good suggestions, so the team was faced with the issue of dealing with good suggestions that closed remote loopholes but which in fact did happen and keeping the document as short and simple as possible. The team had done that through some significant reorganisation, particularly in articles 10.4, 10.5 and 10.6 on consequences, and had done everything possible to avoid repetition, as there had been some repetition in the 2009 Code. The team had received a lot of submissions on the status of comments in the Code and so had made that clear: stakeholders did not need to include the comments in their rules but needed to say something in their rules that said that the comments had mandatory status in interpreting the Code, so one did not need to put the comments there but, when it came to interpreting the rules in the CAS or some other place, the Code comments had status, as they were useful, despite making the document longer.

As Ms Scott had mentioned, the team had promised the Athlete Committee (and it would be useful for everybody) to produce an athletes' guide to the Code and, when whatever version of 3.0 came out, final touches would be put to that document.

That was the 20,000-foot overview.

The first article he wanted to talk about was article 3.2.1. Mr Howman had talked about the Veerpalu case, and it was pretty clear to everybody at the table that the validity of scientific methods ought to be determined by scientists and not by a panel of CAS lawyers and, quite frankly, it would be a major problem for those who spent their lives enforcing doping rules if in every case it was necessary to go back to the drawing board and defend the scientific reliability of whatever test had caused the athlete to have an adverse analytical finding, so the article was intended to deal with that situation. When Mr Howman had described Veerpalu, he had been absolutely accurate. The ability to measure the speed had not been questioned; the speed limit or, in doping terms, the decision limit, had been questioned, and those concerned had not been comfortably satisfied because there had not been sufficient transparency or peer reviewed publications, so this article said that where there was an opportunity for public comment and there had been a peer review and WADA said that the method was approved, that was the end of it. There would not be a new court fight each time on that method. There was a chance that the CAS would think that that was too broad, but there were other similar provisions in the ISL and the Code about which the CAS had said that WADA made the rules and that was perfectly appropriate. Did anybody have any comments on that article?

MR REEDIE said that the obvious question was whether the lawyers would take it lying down.

MR YOUNG responded that, in the Floyd Landis case, he had made that argument that it was already the law and they had thrown every conceivable argument that they had been able to think of at the wall, but they had accepted his position that WADA had approved the method and there was no talking about it.

Performance enhancement was a mandatory list criterion. This was one that the Executive Committee had asked the team to come back with at the previous Executive Committee meeting. The issue was under the 2009 Code. A substance went on the List if it met any two of the following three criteria: potential to enhance performance, potential adverse effect to health or violation of the spirit of sport. The draft 3.0 that the members had before them changed that to say that potential performance enhancement was a

mandatory criterion, to be accompanied by one of the other two. The team had left that in from version 2.0 to version 3.0 because, on a numerical basis, the majority of the comments received (not an overwhelming majority) had been in favour of that. Interestingly, the comments had been mixed in terms of provenance: governments and sport authorities had been on both sides. He could describe the two sides of the argument in his sleep as he had been hearing them since 2001 when WADA had first produced the Code, but he gave the basic policy decisions and arguments. Those who favoured the existing article, any two out of three, would say that anti-doping was not just about performance enhancement; it was also about public health, and many people around the table were there because of the public health issue as much as the performance enhancement issue. They would also say, as Professor Ljungqvist had pointed out at other meetings, that no matter how many words one tried to put in the Code to protect against this, if one had a mandatory criterion of performance enhancement, lawyers would try to say that, in the case of their client's positive test, this had not been performance-enhancing. The practical impact of that, and the practical effect that people on that side of the argument cared about, was that they really did not want a situation whereby WADA took a substance such as marijuana off the List, and a father was sitting at the breakfast table with his child on a Saturday morning reading that WADA no longer cared about marijuana. The other side of the argument, as a matter of principle, was that people said that this was sport, sport was not general public health, it was about performance enhancement, and it ought to be a necessary criterion. From a practical point of view, they said that they had precious few resources in the fight against doping in sport and were spending a disproportionately large amount of those resources on cases that had nothing to do with performance, and marijuana was the poster child of that argument. 15% of positive tests were marijuana cases, and people said that this was a waste of resources when there were real cheats out there. The two policy issues, whether it was about performance enhancement or public health, were something that only the Executive Committee could decide on; it was not a Code Project Team decision or a stakeholders' decision. One thing he had heard and talked about dealt specifically with marijuana, so this was a practical approach, not a policy approach. Currently, marijuana was not banned out-of-competition, but it was banned in-competition. It stayed in urine for a long period of time and WADA got positive tests from a lot of people who were under no influence of marijuana during competition as they had used it some period of time ago. The proposal increased the reporting threshold for marijuana from 15 ng/ml to 150 ng/ml. The intent was to still make it a positive test for anybody under the influence of marijuana during a competition, but not have positive tests for people who were not under the influence during a competition. That was a little rough, as marijuana affected different people differently and it was a question of whether one was a habitual user or not, but it was a good enough approximation and would knock down the number of positive tests significantly, but marijuana would still be on the List, it was still a prohibited substance, and its use or possession in competition would still be a violation; there would just be fewer positive tests. The principle issue had been put on the table and, whichever way one went on the principle, this might be a sensible solution, but it was a particularly sensible solution if it was the will of the Executive Committee to go back to any two out of three.

THE CHAIRMAN observed that this had been probably the most contentious issue in the committee since it had started the review, and there had been much debate outside the Executive Committee, and there was little doubt that there was a message there that it was very difficult for responsible sports administrators and those who were representatives of governments in terms of messages, as nobody wanted to be seen as being soft on marijuana. This did not take marijuana off the List. It gave WADA an opportunity to fall back on any two of the three and get the best of both worlds in the

context of outcomes. Without wishing to criticise Uruguay, he remembered a trip to Uruguay during which Ms Pesce had been giving him some advice on what had happened the previous year, and the great bulk of the sanctions had been for marijuana with minor-grade players in football, and he had asked himself whether this was really what WADA was in the business of doing. That was just one example he remembered. It happened everywhere. The last time there had certainly been no resolution. He had asked and the members had agreed to leave it on the table on the basis of performance enhancement plus one other. He had made it clear that there was no intent to say that that was the Executive Committee's final position, and the team had come up with a solution that might allow all sides to satisfy their concerns.

MME FOURNEYRON said that she did not know if the newcomers to the Executive Committee would be the first to ask for a decision on the matter that had been debated for the longest time but, in Europe, there was always talk of the approach to principles of public health, and the Council of Europe and UNESCO conventions on doping. She thanked the team that had worked on revising the Code to enable the members to examine the differences between version 2.0 and version 3.0. Regarding the article, it was true that it was difficult to take a decision to change the criteria and make performance enhancement an obligatory criterion without looking at the consequences on the List. The proposal was to change the threshold for marijuana so that, if somebody were found to be under the influence, it would be clear that it was not something that had been consumed well before the event. Perhaps an impact study should be carried out on what kind of impact there would be on the current List if WADA changed the criteria and made performance enhancement an obligatory criterion. Such a study would be of assistance to help make a decision.

MR JURITH thought that the proposal put forward by Mr Young made sense. It was clearly the concern that WADA wanted to prohibit the use of marijuana in competition and he thought from a government point of view that it was a key public health issue. Clearly at competitions WADA would look a little bit silly as an anti-doping organisation if it allowed doping at competitions. WADA would lose a lot of credibility. From a governmental point of view, WADA was a signatory to a whole series of international treaties that called upon WADA to allow the use of certain substances only in a proper medical context. WADA had to comply with those obligations and its obligations under the UNESCO convention. The solution offered by Mr Young allowed WADA to get there. Clearly, as more and more research was carried out into marijuana, more and more was known about the health consequences of long-term marijuana use, and he did not need to repeat those there, but he thought that the recommendation to go back to the initial language, with the violation of two out of three of the criteria, but the threshold would be made high enough that WADA would spend resources only on those individuals who were actively engaging in marijuana use in competition, was a logical conclusion and also, in addition to that, it would satisfy Professor Ljungqvist's concern that if WADA made the discussion totally about performance enhancement, WADA would open itself up to endless litigation about whether or not in any particular context performance enhancement had actually been occurring. It seemed to him that there had been a structure that had worked well since the outset, and WADA could change the cannabis issue, so why would WADA change something that had been working well in terms of advancing the anti-doping agenda?

MR REEDIE said that he supported that view but was interested to know whether the Executive Committee was happy that the threshold limit was correct. Presumably the Code Drafting Team had taken scientific advice on that, and was Mr Young satisfied that that would stand up in a court of law so that WADA did not end up with a huge number of cases around a limit that WADA thought logically would make sense?

PROFESSOR LJUNGOVIST said that no reference had been made to his earlier interventions and he was happy to say on behalf of the Olympic Movement that the team had come up with a good solution, and this was a good example of finding a solution (not a compromise) based on thorough discussions over a prolonged period of time by the Executive Committee and with the stakeholders, and a conclusion had been reached so he supported the proposal. With respect to the cut-off level, it might be seen as somewhat arbitrary but, to the best of his knowledge, that was the current state of knowledge with respect to this. It might require further investigation and science might evolve and suggest another cut-off level in the future. With the proposal, there was the advantage of making it possible to change that, as it would be an annual review by the List Committee to come up with the right level and not a Code matter, so this was a clear solution that he fully supported.

MR YOUNG said that a long time had been spent talking about the issue Mr Reddie had raised with Professor Ayotte, who had had several marijuana cases a week in her laboratory, and her number had been 150. The other interesting thing was that the last item on the threshold list was pseudoephedrine, and the history of pseudoephedrine was instructive. In the old days, when there had been no document, the laboratories had been using 10 as the reporting threshold. In 2000, as part of the IOC medical code, it had been 25. In 2004, it had been dropped off the List entirely as a prohibited substance and had come back in 2010 at 150. That made the point that this was similar and, if WADA needed to change the threshold, it would be able to do so.

In response to the question from Mme Fourneyron, the whole issue of understanding what was beneficial in what sports he would talk about later in terms of smart testing and analysis. The proof of performance enhancement was something he had always been very careful with as Professor Ljungqvist and he would have a very different view of what proof was. As a lawyer, he would say something was good enough, but Professor Ljungqvist would request detailed studies. In the BALCO case, in which THG had been involved, to prove that THG was a related substance, it had been necessary to give the stuff to a baboon to show that it activated steroid receptors, and that was not something one wanted to have to do for each and every substance.

THE CHAIRMAN observed that, from the discussion, there was a clear view that the proposal before the members was to change the current version back to any two of three criteria and to change the level on the technical document from 15 ng/ml to 150 ng/ml. He could assure the members that the drafting team appreciated that outcome very much and certainly it had taken a fair bit of time.

On the screen, the members would see a WADA technical document on which the Executive Committee had effectively made a decision to alter the figures with regard to carboxy THC. Was that good enough from the point of view of an immediate change or did another step need to be taken before the technical document could be changed?

THE DIRECTOR GENERAL asked the Chairman to ask everybody to waive any time limits required for seeking decisions on the change to a technical document; if everybody around the table agreed that the time limit could be waived so that it could be dealt with immediately, then there should be no issue.

THE CHAIRMAN asked if everybody agreed. On that basis, WADA would move immediately to notify the constituency that the technical document TD2013DL would have the alteration suggested in the line highlighted before the members first thing Monday morning. He thanked the members for that.

MR YOUNG said that Mr Ricci had talked about coordination and cooperation between IFs and NADOs. One of the sore spots for the NADOs had been the issue of recognition of

TUEs. This had been changed to make it simpler for all parties and particularly for the athletes and hopefully in the view of the NADOs somewhat fairer, and that would be shared by IFs. This was discussed in the Code article and in the ISTUE. The first principle was that an international-level athlete would get a TUE from the IF, and a national-level athlete would get a TUE from an NF. A national-level athlete with a TUE who wanted to compete in an international event would go to the IF, give the IF the TUE, and the IF was supposed to recognise that TUE unless it determined that the TUE granted was not consistent with the ISTUE and gave a decision saying why it was not consistent. At that point, the athlete and the NADO had the right to take that decision to WADA and the national-level TUE would remain in effect for national-level events but not for international-level events until WADA decided and any appeal was over. If, at that end of that process, WADA decided that the international-level TUE did not follow the standards, the national-level TUE would go away. That was a short and simple explanation of what had previously been pretty confusing and people thought was a fairer and better way to do it.

THE CHAIRMAN said that it was short-circuiting but at the same time respecting the rights that were there. It was mutual recognition to a level that did not take away the autonomy that certain bodies had. Were there any comments?

MR RICCI BITTI declared that this was good.

THE CHAIRMAN said that he took it that all of the members approved.

MR YOUNG said that he had connected the definition of athlete to this because it was related. When an athlete was an international-level athlete or a national-level athlete, full Code provisions applied, so there was no change whatsoever, but a lot of stakeholders wanted to test lots of lower-level athletes down to recreational athletes, and how could WADA deal with that in the context of the Code, as this was very important to them in terms of government policy in some countries? The definition of athlete said that, if the authorities wanted to test recreational athletes, they could go ahead. They could test or not test for whatever menu they wanted to test them for and, if they tested positive, the authorities could give them retroactive TUEs if they met the qualifications, because if the authorities were testing the entire sector of recreational athletes, they would not want to make them go through the advanced TUE process; but if they tested positive the rules of consequences and sanctions would apply to them. That was the compromise he had tried to work out to deal with the Code in the countries that wanted to test recreational athletes. The members would notice in blue on the fourth line up from the bottom (something in blue meant that it was not something that was in the papers that the members had), and this was a late suggestion received that probably made some sense, which was, when talking about recreational athletes, the normal mandatory reporting requirements or the publication requirement that somebody had tested positive should not be mandatory. That was how the team had tried to deal with the recreational athlete situation. Generally, the comments had not been in favour of retroactive TUEs, but if masses of people were going to be tested, one did not want little children getting TUEs when their mothers took them to the doctor.

THE CHAIRMAN asked if anybody had any problem with that suggestion.

MR YOUNG said that item 5.3 referred to event testing exclusivity. It was another area of the potential conflict or potential coordination between NADOs and IFs. The current rule was that an IF had exclusive testing authority over its event and, if a NADO wanted to go in and test at that event as well, it was up to the NADO to go to the IF and try to work something out. If it could not work something out with the IF, the NADO could go to WADA and make its case for why it should be allowed to conduct testing. Before WADA decided on that, it would consult with the IF and then make a final



decision. This was an area in which a lot of words had been spoken and a lot of trees had been killed, but it had come up less than a dozen times. The new part of the Code was that WADA's decision was final and would not be subject to appeal, and that made sense because, as Mr Ricci Bitti was talking about balance and cooperation, that was an appropriate role for WADA and, if one got into appeals, the event would already be over.

The only other change was to article 5.3.1.1, and it dealt with the unique circumstance in which an IF would call a number of matches a single event so, in rugby, if the event lasted over nine months, for example, the in-competition exclusivity period would not be nine months. One could have long events such as Olympic Games or world cups or whatever, but the article said that, if the event went on for over 35 days, there would be no exclusivity.

The next point had to do with the collection of additional samples. It was not uncommon for an IF or even a major event organisation to contract with a NADO to collect samples at one of its events. Consistent with the Pound report, which talked about more testing by NADOs of foreign athletes, this said that, if an IF contracted with a NADO to test at an event, the NADO on its own could test additional people and for a broader menu (do more EPO tests, for example) than it was contracted to do. If it chose to test additional people and for a broader menu, the NADO paid for it, and did not pass the bill on to the IF. Article 7.1 said that, if the NADO chose to test additional people, it would be responsible for result management for those tests but, if it just asked for a broader menu, the result management for the positive tests would still be up to the IF that was the contracting body.

MR RICCI BITTI said that he had already asked the question. This was a key point. He was not happy with the current situation, which was that, when the sport was international, like his sport and many other sports, the domestic side of the sport was negligible. His federation had agreements with professional organisations, so it could not choose; it was not completely free. His federation could not do everything for reasons of cost and contractual obligations. There were two situations. His federation asked NADOs to go where it was not, and as such the NADOs were the authority and could do what they wanted, and his federation did not want to be involved so as to avoid additional result management liability. The other situation was the one that this article covered, which was when the IF contracted NADOs to do its job, like a partner, and in this case it was more regulated, but again the result management came from the laboratories, additional analyses could be performed, and again the IF received the results without having any control over the menu, and in his opinion something should at least be checked beforehand. Nobody was against a laboratory or a NADO doing more than it should, but why not exchange a testing plan? This was the practice in his sport. When talking about cooperation, it had to be full and should not create situations about which one was not aware. He would go one step further and exchange a testing plan in advance; normally, it was not a problem. This issue should be improved.

THE CHAIRMAN asked if the members were happy to proceed on that basis.

MR YOUNG said that, in the general themes and overview, he had talked about smart collection, smart analysis and smart storage, and this part dealt with smart collection. Consistent with the comments heard around the table at meetings past, and consistent with the Pound report, the important consideration in testing was quality and not quantity. In order to get the best quality, it was really important to know, and it went along the lines of Mme Fourneyron's comments, what substances and methods would be of particular benefit to athletes in different sports and different disciplines within those sports, so article 5.4.1 said that WADA would take on the job in consultation with IFs and ADOs of coming up with a technical document, which would identify on a sport-by-sport

and discipline-by-discipline basis what athletes would be most likely to use to enhance their performance or how they would be most likely to dope. As an ADO, one was responsible for building a test distribution plan (when, how and who to test) around that information, so the testing would be smart. Then, when it came to compliance, there were two parts to article 23.3. The first was a requirement to devote sufficient resources to implement the Code, and the second was that, as part of compliance monitoring, WADA could request a test distribution plan to show how one was planning on doing smart testing.

MME FOURNEYRON said that most of the proposals made were positive, establishing the limits of responsibility, a better balance between what IFs and NADOs did, and intelligent testing, which would be part of the framework of better coordination and better dissemination of information among the parties to ensure that the overall development of the Code would be beneficial in that regard.

MR RICCI BITTI referred back to the previous point. He was not sure that he had been understood.

MR YOUNG said that, as he had understood it on the previous point, when hiring a NADO to test at one of his events, Mr Ricci Bitti did not mind that NADO collecting additional samples or having a broader menu at its expense, but it should coordinate with Mr Ricci Bitti first.

MR RICCI BITTI said that he thought that this was quite normal and did not think that the NADOs were against this. The exchange of testing plans tended to be beneficial.

MR YOUNG said that he had noted that he would make the change.

THE CHAIRMAN said that the constructive suggestion made by Mr Ricci Bitti had been accepted. Mr Young had picked up the point.

MR YOUNG said that after smart sample collection came smart sample analysis and, although it was not expressly stated in the Code, it was at least implied and it had been most people's expectation that there would be full menu analysis, but that had not happened. Some time previously, the Executive Committee had passed a resolution that at least 10% of sample collections would involve blood. That had not happened. There were statistics that showed that, in a number of sports, the samples getting collected were not being analysed for the substances that one would expect cheating athletes to use in those sports. To deal with that problem, the answer was not full-menu testing, it was not (somewhat contrary to the Pound report but consistent with what Mr Reddie and Mr Erdener had said) blood testing and biological passport testing of every sample; it was being smart about the testing being done. That meant that one used one's limited resources in the testing menu consistent with the technical document that had been developed in collaboration with the IFs and other ADOs and, based on that, that was what one used to analyse samples. Article 6.4.1 said that, if one wanted to do more as an ADO, one certainly could but, if one wanted to do less, according to article 6.4.2, one had to satisfy WADA that there was a good reason for that in connection with the country, sport or test distribution plan developed in a sensible way. That was the approach to the smart analysis part of the smart testing equation.

MR RICCI BITTI asked who was the menu owner of the analyses, because he thought that, again, if the laboratories decided to have much more expanded menus, they could do what they wanted again, and then the IFs would be responsible for result management. In the long-term, he did not see the interest in exchanging because, if one sent samples to laboratories, one assumed that the laboratories knew better than anybody else the menu that was related to the sport, the risk assessment, etc., but if they wanted to do more, why could they not inform the respective ADOs? Giving them

the freedom was a step forward, but freedom without exchanging information was not a real plus.

MR YOUNG said that he understood that the previous suggestion would be acceptable: that the laboratories could conduct more analyses at their own expense but needed to communicate with the testing authorities to tell them what they were doing.

THE CHAIRMAN concluded that the same additional step had been picked up on.

MR YOUNG referred to the further analysis of samples, and started with the second sentence first, which simply made clear the authority to store samples long-term and reanalyse them and, in the IST, some detail had been gone to to talk about the process for analysing stored long-term samples, again under the rubric of being smart when collecting, analysing and retesting, and the team had also dealt with a number of the technical issues that, for example, the IOC had had in retesting large volumes of samples.

The first sentence dealt with the situation whereby the ADO had received an adverse analytical finding, had reviewed it, was satisfied with the laboratory package and went forward with an anti-doping rule violation case. After that point, there would be no reanalysis or further analysis of that sample and, from an ADO point of view, he might say that he did not like that and would like to be able to reanalyse the sample whenever he wanted, but whatever right the ADO had the athlete also had to have and he did not want to be in a situation whereby, case after case, the athlete asked for a sample reanalysis to eliminate any concern anybody might have had with that particular aspect of the testing because, quite frankly, over time, prohibited substances in a sample sometimes went away. That was the point of the article.

THE CHAIRMAN observed that this was a prudent step.

MR YOUNG said that there had been a lot of comments from stakeholders on modifying roles and responsibilities. The Pound report talked in a number of its recommendations about requiring greater cooperation, so the first page referred to IFs and NOCs, and they were given the responsibility to report to NADOs information relating to doping violations and to cooperate in investigations. That was a specific new responsibility consistent with the Pound report and with what he thought made good sense.

Articles 20.3.15 and 20.4.12 talked about disciplinary rules for athlete support personnel. This was a significant change. There were currently a number of anti-doping rule violations – trafficking, administration and possession in competition – that provided for anti-doping rule violations for athlete support personnel, and that was an anti-doping rule violation, but the change there was to have use by the athlete support personnel at home be something that was outside their roles and responsibilities, and this article said that IFs and NOCs would make sure that their rules and those of their NFs said that, if athlete support personnel were using steroids at home, they should not be working with athletes. The last dealt with promoting education.

THE CHAIRMAN said that there had been a situation in Australia regarding one of the major football clubs. He did not know the outcome as there were still investigations but all of a sudden it had become apparent that the coach had been taking certain things that the players had also probably been taking. The coach had been feeling a bit tired and listless and had been looking at keeping his youthful appearances, but there was nothing in the current Code that allowed anything to be done about a non-playing coach, so this would certainly address the issue.

MR REEDIE referred to article 20.3.12 and the business of promoting anti-doping education. Was Mr Young happy enough with the phrase 'including requiring a national federation to conduct anti-doping in coordination with the NADO'? In his experience, there were some NADOs that had absolutely first-class education programmes and WADA should not do anything to discourage them. It was the phrase 'in coordination with' that concerned him. Were the NADOs happy with it?

MR YOUNG responded that that had been used intentionally to deal with the variety of education programmes that the NADOs had. An NF in a NADO with a great education programme would take that and give it to its athletes. If it was not so good, the NF would need to coordinate and come up with something useful for the athletes.

MR RICCI BITTI said that it was true that there were too many. There were not that many good ones, but many people were working on that. It was a waste of resources and perhaps WADA should coordinate.

THE CHAIRMAN said that he thought that this gave the flexibility to address the issue. The Code currently said that compliance required a body to have an education programme. This new article said that one did not necessarily have to deliver it; one could simply coordinate something that had been done by somebody better. That was the flexibility.

MR ROWE said that he thought that it was intended to achieve the issue raised by Mr Reddie, tying NFs to a NADO's education programme rather than the other way round, which was the problem.

THE CHAIRMAN said that he thought that the Executive Committee members were clear on that.

MR YOUNG referred to the new roles and responsibilities of IFs and NADOs. The first was a general statement to vigorously pursue all anti-doping rule violations within one's jurisdiction. The second went to the athlete support personnel issue, which was that, for each positive test, the ADO was supposed to investigate whether athlete support personnel or somebody else might have been involved. The third was again on the athlete support personnel issue. If one had athlete support personnel who were coaching a minor or had had more than one athlete test positive, one would investigate those athlete support personnel. At the bottom, article 20.3.14, consistent with the Pound report, simply said that IFs and NADOs would cooperate with WADA when WADA did an investigation.

Regarding the roles and responsibilities of NOCs, article 20.4.3 was to respect the independence of NADOs, and then it was in relation to governance and operations. Obviously, there were some NOCs that helped fund NADOs, but the idea was not to interfere.

Article 20.4.5 dealt with the situation of athletes who were not normally members of an NF or IF, for example pro sports and basketball, hockey and snowboarding, and the existing Code said that they had to make themselves available for testing or provide whereabouts according to the rules of the NADO. The team had tried to harmonise that by saying that, at a minimum, if athletes were to be eligible for the Olympic Games, they had to make themselves available at the time the long list was submitted.

Article 20.4.6 dealt with the situation of what happened in a country in which there was no NADO and that required the NOC to cooperate with the government to try to get a NADO in place but, in the meantime, the NOC could raise its hand and become the NADO. It was in blue because it was something that had been discussed recently with ANOC.

MR REEDIE said that he was very happy with that because, originally, one major mistake made in the original drafting had been to confer on NOCs responsibilities to act as NADOs when actually they had had no chance of doing so, so a large group of people had been given responsibilities that they had been unable to fulfil, so this was much better.

MME FOURNEYRON referred to article 20.4.3 on independent NADOs. She shared the belief that NADOs could not be put under any pressure. This was clearly essential. In some European countries, however, these agencies had a specific legal status guaranteeing them total independence, or rather autonomy, because they were financed largely by the governments. The way in which it had been drafted could hamper some in their activities. Perhaps it could be said that the NADOs operated with no political interference. Even if they had a specific legal status giving them autonomy, independence had to do with the decisions that they made, which was not quite the same thing.

MR RICCI BITTI said that, in many countries, were it not for the NOCs, there would not be a NADO, and he believed that it was necessary to clarify the autonomy. Independence was wishful thinking, as people had to get money from somewhere, so autonomy of operations was what needed to be stressed.

THE CHAIRMAN said that he did not think that being funded by a government (as most NADOs were) interfered with the concept of operating independently. A NADO might be dependent on money from the treasury in its country but that did not necessarily mean that the government had the right to tell the NADO how to run anti-doping programmes.

MR RICCI BITTI said that he was not an English speaker but he believed that independence meant that, if one got money from somebody, one had to be accountable to a certain extent. This was independence. Autonomy referred to the way in which one operated. It was very important.

THE CHAIRMAN said that he would defer to the lawyers.

MR YOUNG said that he was not sure that there was any disagreement. When talking about independence, it was in the context of governments and operations, and he clearly recognised that the funding could come from either governments or NADOs. He would take back the suggestion regarding the change of wording from 'independent' to 'autonomous' and discuss it.

THE CHAIRMAN said that he thought that there were a couple of points that might be clarified a little better. He understood the idea.

MR RICCI BITTI said that wishful thinking was good. The Pound report, which had been mentioned a number of times, was a list of wishful thinking in his opinion.

MR MACADAM suggested that whether it was governance, operations or decision-making of the NADO, the decisions that it made were independent.

MR YOUNG agreed.

THE CHAIRMAN said that a little bit more work was needed in that area.

MR YOUNG said that articles 21.1.5 and 21.2.4 were pretty straightforward. They dealt with athletes and athlete support personnel reporting anti-doping rule violations, and that was needed in individual cases to figure out whether it was a first, second or third violation. Articles 21.1.6 and 21.2.5 dealt with the duty of athletes and athlete support personnel to cooperate, and that had been heard in the report from Mr Pound, and the final comment made it clear that the team was not making failure to cooperate

an anti-doping rule violation; it was not doping, but it was something that should result in discipline under the rules of the relevant body, and the blue that the members could see was in the draft that they had. 'May' had been changed to 'shall' in response to further comments.

THE CHAIRMAN said that he saw nodding heads around the table.

MR YOUNG referred to the rule that said that athlete support personnel would not use prohibited substances and, if they did, they would be subject to sport disciplinary rules. Again, it had been changed from 'may' to 'shall'.

The next was roles and responsibilities of WADA, which was clarifications, and gave WADA the authority to conduct in exceptional circumstances doping controls on its own initiative. It also required anti-doping organisations to cooperate with WADA and national and international organisations, including the efforts in investigations.

Article 20.7.9 was an authorisation that was linked to the technical document on substances and methods in sports and disciplines, and article 20.7.10 made it clear that WADA had authority to initiate investigations on its own that might facilitate the anti-doping effort, and the Kenyan situation was an example that had been heard about earlier.

MR RICCI BITTI followed on from his comment on the report. The exceptional circumstances should be qualified. The message was that WADA was not testing any more in his opinion. When WADA had started, it had been very instrumental in having the small organisations in particular. He did not know if it was still needed, but it was certainly one of the messages of the Pound report, together with the research cut he had mentioned previously.

MME FOURNEYRON supported the expansion of WADA's authority in matters of investigation but had some concern regarding the legal capacity to demand that athletes and athlete support personnel cooperate with the NADOs investigating anti-doping rule violations and the related consequences if they did not do so. She was referring to articles 21.2.5 and 21.2.6, so this was concern about the legal capacity to require that athletes and support personnel cooperate and the consequences if they did not.

THE CHAIRMAN replied that it was a compliance issue in the end. A failure to abide by the provisions that were in the Code would become a question of compliance by the body in question resulting in the consequences of non-compliance which were contained in the Code.

MR YOUNG said that the Code did not make failure to cooperate an anti-doping rule violation but said that NFs, IFs and NADOs had to have rules in place saying that this was a disciplinary matter. As with all disciplinary rules, one would have to deal with the unique laws of the countries in which one was trying to impose discipline but, to the extent that athletes would argue that they did not have to cooperate and it was a violation of their right of self-incrimination or privacy or whatever it was for one to try to make an athlete cooperate, it was certainly helpful to have something in the Code that said that, if athletes were going to be part of the world anti-doping movement, this was something that they were expected to do.

MR ROWE spoke about what was happening in Australia with the investigation following the Australian Crime Commission report. The investigation being undertaken by ASADA was essentially an investigation around two particular codes, one of which was exacting a large amount of cooperation from its members because of the code of conduct that sport had to require its members to participate in and cooperate with investigations. Again, it depended on what might happen in each country, but he could see this playing

out by a requirement to the extent perhaps that there was funding provided by the governments to perhaps make it a condition of funding that the sports codes of conduct were required in cooperation with investigations. As this was in the Code, it could be incorporated into the anti-doping policy of that particular code within that country, so there were a couple of ways of giving effect to that requirement that was coming forward in the Code without necessarily making it an anti-doping rule violation, and the way it worked in countries was that it was under contract law, because the athlete signed a contract with the sport and a condition of participation in that sport was laid out in the contract or the rules of the sport including the code of conduct which might cover, in that case, cooperation with investigations.

MR YOUNG said that there were several sports that had those rules requiring cooperation, including Major League Baseball.

MR JURITH said that, when the provision had been discussed the previous November, he had fully agreed that it was necessary on all levels to increase the investigative capacity of all of the stakeholders, be they WADA, the NADOs or the federations, because clearly what had been seen in recent years about the potency of non-analytical investigations had been very valuable to the ability to stamp out doping in sport, and the situation in Kenya was a good example of where WADA needed to find a mechanism to step in. In November, there had been talk about the fact that this was actually taking on a new responsibility for WADA and he had requested an estimate of how much it was going to cost, and he did not know if the staff had been able to put that together, but there had been a commitment that the materials would be provided, although he had not seen them yet, so he looked forward to seeing them but he thought that this spoke to a bigger issue of building capacity, and he knew that Mr Rowe would have some suggestions later about how to improve the issue of investigation in the Code but, beyond that language, the bigger issue was how to build the capacity amongst stakeholders to conduct serious effective investigations. There was some rich experience in terms of what the Australian Crime Commission had done, what USADA had done, and WADA's cooperation with Interpol, but it was necessary to think about how to start building some type of technical assistance and lessons learned and start sharing that with the stakeholders in terms of moving forward in the area. He did not think that it was reasonable that WADA sitting there could run a lot of investigations, and he did not think that that was the intention, but it was necessary to think about how to build investigative capacity in stakeholders. That would be a very effective long-term project about which WADA should be thinking.

THE DIRECTOR GENERAL replied that WADA had a budget line already for what it was doing in terms of investigations and did not intend to increase that for the following year. The staff had spent days and weeks preparing protocols for all of the stakeholders as to how to undertake investigations or use those who were already doing them in their daily work. WADA would not suggest, nor had it ever done so, that ADOs should have investigative abilities. There were police, customs and all sorts of authorities with legal grounds for getting information. WADA had at all times over the past four or five years said that those people should be used, and then there was the arrangement with Interpol and the WCO: that was what WADA wanted to build on. If WADA started taking on more jobs as a regulatory body, not a daily work body, it would collapse. He understood the point that had been made but thought that he had already responded by the way in which the protocols had been introduced.

MR JURITH thanked the Director General.

MR YOUNG referred to a new proposal received from ANOC the previous week. It had to do with working with RADOs. It was new and was not in the papers, which was why he had raised it.

He then referred to the four-year ban for intentional doping. Substantively, there was no change from version 2.0 but, in response to a number of very useful comments from stakeholders, the team had reorganised it to be much clearer, and this would be one of the topics on which WADA would ask Judge Costa to opine. A number of stakeholders had asked if four years was consistent with proportionality and human rights under such circumstances. He thought so but had asked Judge Costa to confirm that.

MME FOURNEYRON asked about the timeframe in terms of the September meeting. When would Judge Costa get back to WADA on the matter?

MR YOUNG replied that the process had been iterative with Judge Costa. As it came up with different drafts of the Code, the team asked his advice on whether something would or would not work, so some of the comments that he had made that day had been in response to Judge Costa's suggestions, and this was something that he had already reviewed. In terms of the final publication of Judge Costa's opinion, he asked Mr Niggli whether this would be after the September meeting, shortly after or right before.

MR NIGGLI said that he thought that it would be before. There should be an opinion on draft 3.0 finalised by the end of June.

THE CHAIRMAN said that there had been some discussion about Judge Costa being in South Africa to address the Foundation Board, just to give the assurance as the former chief judge of the European Court of Human Rights that he had a very proper and legitimate supervision from a perspective of human rights throughout the entire process and he had signed off on it. He thought that that assurance was the type of thing that would be welcomed by many of the delegates if WADA actually went to the extent of having something positive, and that might include him being present.

MR REEDIE said that, if his memory served him correctly, international legal opinion had been taken at a very high level when considering four years for aggravating circumstances, and it had been agreed at that stage that it would fall within whatever definitions of human rights or proportionality there might be, so he would be reasonably confident that the current advisor would do the right thing.

MR YOUNG agreed that Mr Reddie was correct.

MR RICCI BITTI had a question about proportionality. Had a lot of consensus been received on the period of four years? There was a difference depending on the sport.

MR YOUNG said that there had been a heavy consensus in favour of four years and a particularly strong consensus from athletes.

In connection with being tougher on the real cheats, the team had expanded the definition of tampering and, in some respects, this was moving examples out of the comments into the text, and in some cases they were new: intentionally interfering with an anti-doping control official, providing false information to an ADO or, a recent addition, intimidating or attempting to intimidate a potential witness. That had come out of the Australian cases.

THE CHAIRMAN said that there had been a situation reported in the Australian media about a particular witness having four or five footballers knocking on the door asking whether the witness was cooperating with ASADA and giving information. That would be picked up by this particular provision.



MR YOUNG said that the next one was the government analogue to NOCs respecting independence or autonomy and he would take the same points he had heard on the NOCs.

THE CHAIRMAN asked whether there was anything else.

MR YOUNG said that article 23.5.2 was one of the articles on compliance and monitoring. The 2009 Code said that signatories would submit compliance reports every two years. As the members could see, the team had changed it to say that they would submit compliance reports on the schedule determined by the WADA Foundation Board. Therefore, two years was replaced by the Foundation Board, the idea being that it made more sense for that schedule to be in sync with things such as implementation of the new Code or the Olympic Games, or the UNESCO convention. The idea was not to be more lenient on compliance, but to make sure that it took place on a schedule that made sense.

The next article was long, as it had been changed. He would deal with the highlights. In substance, it was very similar to what had been seen in draft 2.0. It dealt with the situation of what to do with bad athlete support personnel. Everybody agreed with the principle in this article. There had been a lot of devil in the details. A lot of the language had been moved from the comment up to the beginning at Judge Costa's suggestion, to put the description of association up-front. At the bottom of the page, the last line included a caveat that had been added to the situation of association in a professional or sport-related capacity, and then there were all of the examples. The last line provided that the athlete could also show that it could not be reasonably avoided. What did one do if one was a child and one's father was one's coach? One could not avoid that association.

The list of athlete support personnel with whom an athlete was not supposed to associate came from a series of real-life examples. Each one could have a name put to it. Article 2.10.1 stated that athletes were not supposed to associate with somebody who was serving a period of ineligibility. The name one would put with that was Charlie Francis, because Marion Jones and Tim Montgomery had gone to train with Charlie Francis, who had been Ben Johnson's coach and had been banned for life, and nobody had been able to do anything about that. The name on number two was Victor Conte. Athletes were not supposed to associate with anybody who had been convicted in the past six years of something that would constitute an anti-doping rule violation. Victor Conte had been convicted of doping all sorts of athletes at BALCO, and yet there he had been at the London Olympic Games, traipsing around as a representative of US athletes. The name on the third one was Doctor Ferrari, who it was known from the Lance Armstrong investigation had been using his son as the intermediary to give instructions and carry out his doping scheme. These were the types of individual with whom the team was saying athletes should not associate. Some of the devil in the detail, which was very important, was: how were athletes supposed to know who the bad guys were? The answer was that it was not an anti-doping rule violation until the athletes had been told that this was one of those bad guys and they should not associate with them. Only if the athletes continued to associate after that point would it constitute an anti-doping rule violation. It was also necessary to tell them at the time of telling them that they should not be associating with Victor Conte what the consequences would be if they continued to do so. WADA also needed to attempt to give reasonable notice to Victor Conte, to make sure that WADA had the right guy, and in fact he had been convicted. Those were all safeguards, or the devil in the detail built into the rule as the concept had evolved.

MS SCOTT thought that it was much clearer than originally proposed. Regarding the second criterion for the issue of support personnel convicted within the previous six years, why was six years the number determined?

MR YOUNG said that some would have liked that to be a lot longer but, when taking into consideration proportionality and the fact that people needed to make a living and human rights and the view of Judge Costa, that had been the number with which the team had ended up. It would not be less than six years, but the team had felt that it would be on thin ice if it made it longer.

MR NIGGLI said that, if the conviction were longer than six years, it would be the conviction, but if the person concerned were given six months or one year the six years would count. In other words, one year in jail would mean six years during which the person concerned would be unable to associate.

MR RICCI BITTI asked how the names could be shared between the ADOs, as the world was very big and there were many different sports. He was talking about implementation

THE CHAIRMAN responded that he did not know whether it would be possible to send out a list. He had asked a question earlier based on the same subject. When the federation, for example, discovered that somebody was in the category, it should then notify the athlete in writing. To try and keep a central registry was impossible outside an individual country. There was no organisation that would allow that sort of information without breaching data protection laws. It would be necessary to phrase it in the context of when the knowledge became available; the IF had the right to notify the athlete, and this would kick in after that. He did not see any way of controlling that from a logistical point of view.

MR MACADAM asked if it could be tracked in ADAMS.

THE CHAIRMAN replied that it would require WADA to have knowledge of anybody who might be a coach anywhere in the world and track any decision that might be taken in any criminal court. It did not have to be a criminal conviction relating to sport; it was a criminal conviction, and he did not think that there was any hope of being able to maintain a register of the decisions taken in every city and town in every country in the world virtually on a daily basis that might ultimately lead to some person connected to an athlete being caught in that revision.

MR KASPER said that he had a special case and he had asked a question about it one year previously. Ms Scott was aware of the case. A girl was married to a man who had been convicted. Both of them were in sport. Did she now have to get a divorce under WADA rules? It sounded funny, but it was the case.

PROFESSOR LJUNGQVIST referred to article 2.10.1 on serving a period of ineligibility; was that for a doping offence or any ineligibility?

MR YOUNG replied that it would be for doping. It was in italics and so it was part of the definitions, and so it was doping ineligibility.

As for the innocent girl married to the bad husband, that was why he talked about the athlete being able to show that the association was not something that could be reasonably avoided. One could not reasonably avoid associating with one's husband.

On the scope of testing, the Pound report mentioned a number of times that NADOs should have the authority to test foreign athletes in their countries. He had not put that there, as it had always been in the Code and it was still in the Code. That authority was a given. He had added articles 5.2.2 and 5.2.3, as these were new authorities. In response

to feedback from IFs, they wanted, in addition to everything else, the authority to test athletes who participated in events governed by their rules, and article 5.2.3 expanded and clarified the authority of the IOC, IPC or other major event organisations to do out-of-competition testing for athletes who had been entered or would participate in their future events. Once entered, the organisation had a right to do out-of-competition testing on athletes.

MME FOURNEYRON said that she knew that NADOs could carry out tests on any athletes on their territory, but NADOs had to ask permission to carry out tests on their own territory, so from the point of view of Europe, the IFs and NADOs should be equal partners with equal rights and WADA should intervene only in exceptional circumstances.

MR YOUNG responded that that was the same point that had been dealt with under exclusivity of testing and the team had modified that article, but the article in substance stayed largely the same, which was, if it was an IF event, the IF controlled testing. If a NADO wanted to test at that event, it would talk to the IF about it. If the IF said that it did not want anybody interfering in its testing as its testing was good enough, the NADO could go to WADA and say that its testing was not good enough, that it had good reason and it should be allowed to test, then WADA would decide and that would be the end of it. There was a balance there; obviously the NADOs would like to be able to test anywhere and at any time in their country, and the IFs would like to have complete control regardless of what WADA said of testing at their events, and this was the compromise.

MR RICCI BITTI pointed out that it was not a matter of complete control. The problem was harmonisation of the authorities because, at some stage, one had to think about the athletes. At one point, there had been three authorities at the same event. The reason behind it was not so much control but some respect for the athletes.

THE CHAIRMAN said that clearly WADA had to use its discretion wisely, and he was sure that, if there were examples whereby it was not using its discretion wisely, they would be aired at that table.

MR RICCI BITTI said that it was related to out-of-competition testing, which he encouraged very much.

MR YOUNG said that he would raise a point that Mr Rowe had made about where to talk about the importance of investigation as an article in the Code. Were he to do that, a good place to talk about it would be article 5, so one could call article 5 'testing and investigation' and then there could be a subparagraph or paragraphs at the end of it that talked about each ADO having the responsibility to have an investigation strategy. Whether they did it themselves or relied on public authorities or however that worked, that would be where that would go.

MR ROWE said that he had raised an issue at the meeting of the public authorities that morning and this went to the point he had been making for a while, and he believed that there was an opportunity at that point that the Executive Committee ought to take to acknowledge the good work done already in raising the profile of investigations, and the new article 2.9 on complicity was very welcome, the matter on cooperation was very welcome, and he was very grateful and he thought that the sporting community would be grateful for that as well, but he thought that there was an opportunity, probably in article 5, to recognise investigations and intelligence-gathering as a contemporary and necessary legitimate tool. That was not to say that testing was not important; it always had been and always would be, particularly if there was an inclination towards the smart testing and intelligent testing that was in Mr Pound's report. It had become quite obvious to everybody over the years, not just recently. One tended to refer to the USADA

investigation and the US Postal Service and Lance Armstrong and others, and reference had been made earlier to the Australian Crime Commission report and the action that had been taken but, going back, it was quite obvious that investigations were important. If the Code as currently drafted were accepted, nine out of the ten violations would be detected through investigation or non-analytical means. He was grateful for the opportunity; it was an area he thought would be useful and helpful, and would send a message to the community at large that WADA was indeed responsive to contemporary issues and was taking the opportunity to give investigations a profile. He applauded the initiative and would be grateful if something could be done. He added that there had been general support at the public authorities' meeting that morning that this should go forward.

MR YOUNG said that, if the Executive Committee agreed, he would make those references in the title and at the end of the article and then start working on appropriate further detail in the IST.

THE CHAIRMAN asked if everybody was happy.

MR YOUNG said that the next point was technical but something that the members should know about. The laboratories would like to use samples that they were otherwise about ready to discard to do quality control and establish reference populations, for example, a reference population in connection with the growth hormone test to make sure that the speed limit was bulletproof. The laboratories had been concerned that this kind of testing of samples to establish reference populations might be research that would require the athletes' consent. From meeting with the WADA Ethics Committee, the team had learned that, in the world of medical science, when one used a sample for quality control or quality analysis of population reference ranges, it was not considered research at all and the laboratories should feel perfectly free to do that, so the team had incorporated that in the comment.

The next point had to do with one of the provisions of article 10.6 that talked about prompt admission. Under the 2009 Code, an athlete could avoid a four-year sanction based on aggravating circumstances by promptly admitting so as to get two years instead of four years, and generally that was fine, as it avoided the expense of having to go through a hearing; but, over the past few years, a number of cases had been seen in which the athlete had been caught cold-stone cheating and one really wanted the athlete to get four years and did not want to reduce it for prompt admission. Therefore, the response to that situation was that, if it was going to be a four-year sanction, for the athlete to get the benefit of prompt admission, the ADO with result management and WADA needed to agree. That would solve a specific problem that had been seen in several major cases.

THE CHAIRMAN concluded that that point was accepted.

MR YOUNG referred to multiple violations. Looking at the 2009 Code, there was a lengthy table listing all the different kinds of anti-doping rule violation and then lengthy descriptions afterwards to try to figure out how long the sanction would be for a second offence and it mixed and matched different types of anti-doping rule violation. In the interests of clarity, simplicity, and shortening the document, that had been converted to a simple formula, and the members would see the formula there. At a minimum, the second violation would be the sum of the first and second violations and, at a maximum, it would be one-and-a-half to three times the sanction that would apply to the second violation. When one ran the numbers and looked at the outcomes under the formula, it was comparable to what had been set forth in the long table of sanctions previously.

THE CHAIRMAN said that, when he had been looking at this the previous day, he had found it hard to envisage, but there would still be a table provided or examples provided, so it would be an understandable process for those working with it and for athletes, so that they would be aware of what was there. It was certainly an improvement in terms of how it could be dealt with. Did the members have any difficulties or questions?

MR YOUNG said that, as had been done before, there would be examples for specific violations of the steps to be gone through to assess the sanction and the different ways in which the athlete could mitigate that sanction and how it all worked, so that useful tool would continue to be there.

Regarding the repayment of CAS awards and forfeited prize money, the team would have liked to have a rule that said that, if an athlete in the anti-doping case had been obligated to pay CAS costs and refund prize money, the athlete would not be allowed to compete again until he or she had done that. The team had been told by Judge Costa and there had been a recent Swiss Federal Tribunal decision that, in a similar but different case, that would not work, so the team had tried to come up with a scheme that accomplished the end but still dealt with the fairness issue of how the athlete would pay the money back if he or she needed to compete to earn the money pay it back. The general principle was that the athlete would not be eligible until they paid it back but, if they could demonstrate that they would have a financial burden that was manifestly excessive, they could submit a payment plan to the CAS and the CAS would approve it and, if they met the payment plan, they could continue to pay back their money and compete, and if they fell off the payment plan they would be automatically ineligible. If the athlete and organisations affected all agreed, there would be no need to go to the CAS. The second paragraph in the new article set forth the priority of where CAS awards or forfeited prize money went in terms of paying people back.

Article 10.10 was not a significant change from version 2.0. The important point was that, as an organisation, one could have fines, but the principle of proportionality applied and one could not buy off a sanction with a fine; one would get whatever the period of ineligibility was and the fine would be on top of that to the extent that the additional sanction was proportional.

THE CHAIRMAN said that this overcame the problem of the wealthy athlete taking the fine who was really not penalised at all.

MR YOUNG talked about retired athletes returning to competition. The rule had been that it was up to the different ADOs to deal with this issue. One did not want an athlete who had been in a registered testing pool to retire, not be subject to testing, dope and then come back, retire, not be subject to testing, dope and then come back. This case had occurred in Australia with a weightlifter. This provision said that, if an athlete was in a registered testing pool and retired, the athlete would not come back until they had given the ADOs (NADO and IF) notice that they were coming back and made themselves available for out-of-competition testing. That prevented the doping-come-back scenario. The team had added, in response to comments to version 2, a provision at the end that said that there might be circumstances in which WADA and the affected ADO were willing to waive the six-month rule where, for example, there were qualifying competitions and the dates had changed and there was nothing the athlete could do about it.

THE CHAIRMAN asked if this was acceptable. There were no comments, so he suggested moving on.

MR YOUNG referred to article 8.1 on fair hearings; this was exactly the same language that had been seen in version 2.0, except the word 'timely' in terms of the

decision had been added. He brought that to the members' attention because it was different to what was in their papers, and that had come from Judge Costa.

THE CHAIRMAN said that he thought that that was fine.

MR YOUNG said that it had been called 'substances of abuse', but a global change was being made. This was now being called 'recreational and social drugs'. This was an opportunity for the athlete to show that the use had had nothing to do with sport and it had been a recreational or social drug on the list of recreational and social drugs, to give more flexibility in sanctioning. Cocaine, for example, was not a specified substance and, in a situation whereby an athlete had a trace amount of cocaine in their system in an in-competition test, that trace amount was just the metabolites; there was not actual cocaine, and that had no effect whatsoever. If the athlete could convince the panel that he had no significant fault and that the presence had resulted from a social as opposed to a sport-related context, instead of a minimum of one year, one could go down to a reprimand. It was still a pretty tough standard, but it was more flexible. That was part of the general approach: WADA wanted to be harder on the cheats and not as hard on the others. The title had been changed from 'substances of abuse' to 'recreational and social drugs' because the team had learned from the List Committee that there were accepted definitions of substances of abuse, and steroids might be a substance of abuse. He was talking about drugs that were more likely to be used for recreational or social purposes than for sport purposes.

MR ROWE thanked Mr Young for the effort. He thought that the term 'recreational' was a really unfortunate term. These things were illicit, illegal, and he did not think that it set a good example for the organisation. Notwithstanding the references in the media or other places to these substances as recreational drugs, they were against the law, so he would have some issues with the term 'recreational drugs'.

THE CHAIRMAN said that, at the risk of sounding very Australian, he thought that this had changed since he had seen it the previous day, and all his life and in particular in the past six years, if people said to him 'recreational drugs' he corrected them and said that they meant 'illegal drugs'. Every one of those drugs was against the criminal code of just about every country in the world. There were a few exceptions, and he thought that they were being given a veneer of respectability, which sent out the wrong message. He did not wish to impose his will but he noted that he had been correcting reporters and everybody else for several years and this concerned him a little.

PROFESSOR LJUNGQVIST agreed with Mr Rowe and the Chairman as a medical doctor. This would send out an unfortunate message, which was not in the interest of WADA as a world governing body for anti-doping. Having solved the problem with marijuana, which was the drug most frequently involved, this whole point was no longer valid and could well be out of the Code.

THE CHAIRMAN asked if anybody was in favour of the words. He wished he could offer some other suggestions but thought it was just a question of message.

MR YOUNG said that the change to 'illicit' was a no-brainer; that would be done, and then he would see what examples were left.

Before going very briefly to international standards, he asked whether there were any other Code articles anybody wished to talk about.

PROFESSOR LJUNGQVIST referred to article 4.22 and requested that Mr Young take a second look at it. It was stated that prohibited substances would be specified substances, except substances in the classes of anabolic agents and hormones, stimulants, hormone antagonists and modulators. He recommended that this be reviewed, as it was very

unfortunate, or even wrong, to refer to categories, which could change quite considerably over time and, since the Code would be valid for many years, WADA would be prevented from including new categories that would come up from the pharmaceutical industry during the coming seven years. He gave the example of modulators. They had been included on the List a few years previously during the period of the existing Code. That was one example, and there were new substances and categories of substance coming up that might or would be misused for the purpose of doping. There had to be a mechanism in place whereby WADA could introduce them as banned substances with the necessary consequence of a four-year ban. He recommended that the team not refer to categories at all there but just give the general concept and let the categories be described in the List or in other documents that could be reviewed annually and thus updated.

MR YOUNG observed that that was a very valid point and something with which the team had wrestled in the 2009 Code. As he recalled, one of the drafts of the 2009 Code had just left it up to the List Committee, and then feedback had been received from stakeholders saying that the specified substance issue had significant impact in the Code in terms of the lengths of sanctions and the like and it was necessary to tell them in the Code document what was meant by that. If the team told them in the Code document what it meant by that, it could come up short in a new category and so that was certainly something worth reconsidering.

PROFESSOR LJUNGQVIST thanked Mr Young for understanding his point. He referred to the terminology. He noticed that 'specified' and 'non-specified' had been maintained. This was somewhat confusing, but he had become accustomed to it. Had stakeholders given an opinion on that or did they want some new terminology? He noted that, in medical practice, this terminology did not exist.

MR YOUNG said that the first time he had heard anybody raise any question in relation to the use of the term 'specified' had been in the paper recently submitted by the List Committee, which suggested that it be 'stipulated'. He did not think that there was any great concern about what it was called, but the previous time the team had tried to change the term 'registered testing pool' for the sake of accuracy, it had not been well received generally or by the Executive Committee, as people finally got an understanding of something and did not like the names changing.

THE CHAIRMAN agreed that one got used to the use of the words. It was something that was worth some further thought. He was not sure that there was an answer to it.

MR RICCI BITTI referred to article 7.1.2 on the whereabouts violation. Why did it say that result management automatically had to go to the authority where the athletes had filed their whereabouts? He had experience with chaperones and quality of people, especially in the USA, where athletes had had some adventures.

MR YOUNG explained that this had been an attempt to coordinate responsibilities between IFs and NADOs and different NADOs. In 2009, it had been said that one could mix and match whereabouts violations, either filing failures or missed tests, between international filing failures and missed tests and national filing failures and missed tests, and so there had been some confusion if one had two national filing failures and one international missed test or vice versa. Who had authority to do result management? The last one or the one with the most of three strikes? This was an attempt to harmonise the whole process. It favoured neither the IF nor the NADO; it just said whichever one with which the athlete filed whereabouts was the one with whereabouts violation result management authority.

THE CHAIRMAN said that he could not see another way of wisdom.

MME FOURNEYRON picked up on what Professor Ljungqvist had said. She understood that changing terminology was difficult but she underscored the notion of specified and non-specified substance, which was based on the history of the use of the term but very little or not at all on any kind of reality in terms of scientific terminology.

THE CHAIRMAN commented that that was a point well made.

MR REEDIE supported Mme Fourneyron's comment and thought that the wisdom of the List Committee, which had suggested an alternative, should be thrown back to the Code panel because it was actually pretty illogical. He was used to 'specified' and 'non-specified', but it was pretty illogical that the dangerous ones were the non-specified ones in crude terms. It was worth having a look at it to see if it might be set out a little more clearly. He accepted the risk that it might be necessary to go through 120 pages of the Code and the standards to change the wording but he urged Mr Young to have a look at it.

MR FUKUI said that he accepted all the proposals made, in particular the basic principles of the WADA Code, in which a new description had been added regarding anti-doping programmes, which further strengthened educational and ethical values. This was a very important improvement. The revision to article 22.2 was very specific and increased flexibility, so Japan welcomed the revision.

MR ROWE apologised as he did not have the reference in the Code but needed to put on the table the Australian Government's disagreement with the amendments that allowed an athlete to be found guilty of an anti-doping rule violation and serving a period of ineligibility to return to training with the team prior to the end of the period of ineligibility. In the government's view, the period of ineligibility was just that. Allowing an athlete to train with teammates whilst serving a period of ineligibility diluted the deterrence effect and sent the wrong message to athletes.

THE CHAIRMAN said that a non-parole period in criminal cases was designed to allow a person who had served a significant period of time by way of punishment to come back and be assimilated in the community before the period of the sentence had expired. Many argued on the other side that team sports spent a lot of time arguing that a one-year or a two-year penalty whereby one required a couple of months before the end of the two years to get back into the team to get fit effectively meant that they were being given a two-year and two-month penalty, so one was increasing the penalty by virtue of the time it took for the athletes to start competing again and perhaps even earn a living. He was not sure that there would be consensus on that one. It was certainly a vexed issue. Perhaps Mr Young had some thoughts based on the submissions.

MR YOUNG said that the submissions had come with both points and more had come with the right to return to training, and it was not just team sports: there were some individual sports such as gymnastics or skiing. A distance runner could go and run in the woods, but a gymnast could not train without a beam and a floor and parallel bars, and a ski jumper could not jump without a ski jump. It was not just a team issue. There had been a lot of debate back and forth. This had been before the group in version 2.0 so he had not re-raised it.

MR RICCI BITTI said that this was a personal comment. What Mr Young had said convinced him more. He saw no difference. All of the athletes needed to have some facilities available, so it was not a matter of team or individual sports. He was against this. He believed that each athlete had the same problems regarding doping and there was not so much difference between team and individual sports, but this was his personal point of view.



MR ROWE added that one of the reasons he felt that way, and he was sure this was the case elsewhere, was that, in some sports, there were thousands of people coming to training sessions and it was a very bad message for athletes to receive a ban of two years and for the public to witness them training.

THE CHAIRMAN asked if there were any other matters anybody wished to raise.

MR YOUNG said that the item on international standards would be mercifully quick. The ISTUE had been changed to be consistent with and provide detail consistent with the TUE approach he had already mentioned in connection with article 4.4 of the Code, and those were the major changes to the ISTUE.

The IST had been changed to provide the detail on smart testing smart sample analysis, and Mr Pound had been talking earlier about needing a better definition of what registered testing pools should look like (whether they were too big, too shallow, not enough, etc.) and that could be found in the IST as well.

The ISL dealt with various issues already dealt with in the Code. A couple worth noting that had not been talked about were the requirement to assist ADOs in developing their testing programme in a cost-effective and informed fashion. Laboratories would be required to publish their prices for each type of analytical method that they conducted. It was supposed to help testing organisations, although there would probably be some resistance from the laboratories.

The next part was a change to the ISL that said that laboratories could no longer contact the testing authority when they had a screen or what was now called initial test for a glucocorticosteroid or a beta-2 agonist to find out whether there was a TUE on file. They had to go ahead with the analysis, come up with an A-sample adverse analytical finding and then the determination of whether there was a TUE got done at that point. The problem was that laboratories were calling testing authorities and the bad testing authorities were saying that there was a TUE on file and then the adverse analytical finding never got reported.

On the ISPPPI there were a number of changes but, frankly, they were pretty standard stuff in terms of privacy protection documentation: the procedures that one had to have in place, who to notify if one learned of a privacy breach, etc. Those were his only comments on the international standards; they largely put meat on the bones of the issues that had already been discussed.

THE CHAIRMAN asked if there were any comments on the papers received relating to the international standards.

MR YOUNG added that two changes had been made to the ISL subsequent to the papers the members had been given. One was a very technical change, but it was important. In the current draft of the ISL and the version the members had before them, in talking about the kind of information a laboratory was supposed to report through ADAMS, it said that one would provide the name of the testing authority if provided. When doing the important statistical analysis of who was doing what tests, what kind of tests, and what the results were, that information was needed and it made more sense to have the laboratory go back to the testing authority and get the information before collecting the sample than have WADA go on a wild goose chase when there were more than a thousand instances of the form not being filled out properly, and that was for urine and blood. He highlighted that because it was something that was not in the members' papers.

THE CHAIRMAN said that this provision would certainly make it a lot easier for WADA in the collection and collation of information that flowed through ADAMS. In other words, go back to source, get it right first and not leave the option there.

He thanked Mr Young and the team for their extraordinary and painstaking work, which had been difficult at times, particularly when they had had to analyse the massive number of submissions. He believed that there was a Code that would be, in the future, a much better base upon which all could participate and do what needed to be done in the particular effort with which they were associated. To a large extent, that came down to having such a hardworking and talented team so, whilst their work was not over, they were in the home strait and he looked forward to the final version in September. He thanked the team for the efforts made to date.

MR REEDIE asked what would happen next. The document would be circulated again, but when? Would it be subject to further comment? This was an absolutely fantastic piece of work and he could not think of any other consultation process in sport that came anywhere close to what WADA was trying to achieve. There was an enormous degree of agreement as far as he could see across the board that WADA had this basically right. In that case, he thought that the members should know exactly what the programme was and what other people could do in terms of making comment on it.

MR ANDERSEN informed the members that, as he had mentioned initially, the formal round of written consultations was over. The plan was to take the members' instructions, revise the documents, and post them on the WADA website at the beginning of June. The opinion would be posted hopefully by the end of June as a response to Judge Costa's opinion. For the testing issue and article 5 on investigations, which would be an addition to the testing article, he suggested that this be worked on at the meeting in June and he would come back to the Executive Committee in September in Buenos Aires for the approval of the addendum. Then, the preliminary final version of the Code and standards would be posted in early October so that conference participants would have the documents well in advance of Johannesburg. What would happen between October and November, he did not know. There might be calls for changes, but he hoped that the document presented in June and October would be close to the final one, although it would be up to the members to decide whether or not they wished to make any changes then.

THE CHAIRMAN said that from a practical point of view he would think that, by the time of the Executive Committee meeting in September, they would be in the home strait and there would be a fairly exceptional change that would require a circular resolution for the Executive Committee to approve after September.

MR REEDIE said that he hoped that the Chairman was right but wondered, when it was put back on the website, how it would be marked in such a way that the changes through which Mr Young had taken the members were highlighted. One or two people would be very interested in what the Executive Committee had agreed to change. It had to be made clear: would they be in blue, green or pink as opposed to red?

MR ANDERSEN responded that technically the draft version 3.0 that the members had was version 2.11. This was the eleventh draft produced. Version 2.12 or 2.13 would then be produced, which would then become the final version 3.0, which would be posted on the website in early June. The changes marked in version 3.0 would be the changes from version 2.0.

THE CHAIRMAN concluded that the comparison had to be with the current document. What Mr Andersen was saying was that they needed to have the current document and go through it provision by provision to find the changes.

MR ANDERSEN said that the document that the members had been given in November would be compared to the outcome of that day's meeting and that would be posted and nothing else. The changes from version 2.0 to version 3.0 would be seen.

MR RICCI BITTI said that, although he understood that Mr Reddie would like to see the evolution, the people involved thought that the best thing would be to have the comparison with the previous Code. He supported the process that Mr Andersen was proposing.

#### DECISION

Code and International Standards review noted.

– 7.2 Code compliance

##### **7.2.1 2009 Code**

MR ANDERSEN informed the members that the item dealt with compliance with the 2009 Code. He proposed that the Executive Committee recommend to the Foundation Board that the five anti-doping organisations mentioned be deemed Code-compliant, and this was a housekeeping matter. Subsequent to review, the ADOs had been found to be in line with the current system.

THE CHAIRMAN said that the mandate given to the Standards and Harmonisation Department in relation to Code compliance had been to report if any organisations had become compliant and if any had become non-compliant, so the members had that paper indicating those that had become compliant. This was a matter to be taken to the Foundation Board the following day and the Executive Committee would recommend that the Foundation Board support the recommendation.

#### DECISION

2009 Code compliance recommendations approved.

##### **7.2.2 2015 Code – strategy**

MR ANDERSEN informed the members that he had very few slides to show them. What had been heard during the day was that the 2011 Code compliance report presented at the end of 2011 had had quite low criteria on measuring Code compliance, a limited assessment of efficient anti-doping programmes, more of a box-ticking exercise, and there had been a call for a new approach. WADA would hopefully have in place, if the new revised Code were approved, much better tools to measure the sticks needed in order to measure Code compliance. As talked about previously, there would be operational independence or autonomy of NADOs, and concrete steps would be taken from risk assessment to the final results. There were or would be better tools for monitoring TUEs through ADAMS. The same applied to result management, and testing would be better monitored through ADAMS and the new statistical methods, which would enable WADA to review the TDPs (test distribution plans), the registered testing pools, target testing and technical documents in the new scheme that would be in force on 1 January 2015, and WADA would also be able to monitor education. In terms of how WADA monitored this, he was saying that WADA should continue to do self-assessment reporting; this would be reviewed through ADAMS and the ABP could be reviewed through ADAMS. There would be better statistics through ADAMS and WADA was also developing a better questionnaire for adverse analytical findings which he would present the following year, as the review was being carried out that year.

WADA was also in the process of cooperating with other parties, such as the IOC, SportAccord, INADO, the Council of Europe, the OCA and others, and was also looking

into how to use independent external auditing firms. This meant that WADA had the tools and the measuring sticks in the documents reviewed to date, and those documents, contrary to what WADA had for the time being, contained clear criteria on how to develop and implement an efficient and effective anti-doping programme. WADA would use all available means to help implement the systems, because there was no sense having a Code and standards unless they were implemented, and WADA had to be part of the solution.

WADA had to use all available means to measure and audit the compliance with the criteria he had just mentioned and would cooperate with various stakeholders and also use independent audit companies and organisations that were dealing with this in a cooperative manner. This was the strategy; it was in the members' papers and he thought that the main outcome of that day's discussion was that the tools would be available for 2015, 2015 or 2017.

MR ROWE congratulated Mr Andersen on the strategy. He supported the recommendation that it go forward for decision, but there were a few things that he thought could be incorporated to improve the strategy. It should monitor outcomes in relation to analytical and non-analytical anti-doping rule violations given some of the discussion that day, and he wondered whether it should not be slightly broader than the assessment of high performers shown in attachment 1, which he thought was the summer and winter Olympic Games. One might also consider world championships and other major international events, and it was important to incorporate non-Olympic sports within the framework as well.

MR ANDERSEN thanked Mr Rowe for his comment. He would certainly increase the scope to include non-analytical findings as well, which made sense in terms of article 5 of the Code, and for the paper of nations, he would also broaden that to summer and winter world championships. He thought that that was doable.

THE CHAIRMAN asked the Executive Committee to recommend the strategy to the Foundation Board.

## DECISION

2015 Code update and strategy approved.

### **8. Athlete Biological Passport**

DR VERNEC drew the members' attention to the screen as he wished to show some slides to highlight current ABP developments. The haematological module was up and running, and there were up to 35 ADOs currently implementing it, and WADA was starting to see the fruits of its labour. A total of 28 sanctions were now directly related to the ABP, or an anti-doping rule violation directly related to the ABP but, more importantly, most of the EPO positives found in different sports were the result of targeting by the ABP. There were numbers that could not be given, but they were important, and he hoped that they would have a deterrent effect in the sports using the ABP.

The steroid module was one that was coming up, and WADA was working very hard to get it ready for 2013. The management was working on technical documents, operating guidelines and implementing it in ADAMS. The big difference from the haematological module was that it was a urine-based testing system; therefore, unlike the haematological module, one did not actually have to get a specific and different blood test to define somebody as being part of the passport programme; essentially, anybody getting urine tested was already automatically part of the steroid passport.

The members would be very familiar at that point with the haematological longitudinal profile and, if they looked to the top-left part of the screen, they would see the haemoglobin. The upper and lower reference values were the athletes' individual reference values, and that was the whole concept of the longitudinal profiles. What was also interesting in this case was that the athlete near the end went above what one would expect at the upper reference with 15.4. This was an athlete who had been sanctioned and 15.4 had been enough to trigger notification and testing when, in fact, if one remembered the old no-start rules, people had been prevented from competing at 17, so an athlete like this one would have stayed very far under the radar and would have had a license to cheat.

The same principle applied for the steroid module, and the members could see the same thing: the upper and lower reference values, and the fact that almost every one of those points except for one was above the 4:1 ratio, which was what now triggered IRMS testing to check for exogenous or outside testosterone use. One would end up with a situation whereby, in the present system, there might be needless IRMS testing on athletes who had a naturally high T/E ratio or epitestosterone level, and perhaps more importantly there were athletes who had very naturally low T/E ratios, and the members would see that their ratios were extremely low. He referred to an athlete who had been given testosterone and had ended up with a ten-time increase in his T/E ratio, which was far below the 4:1 ratio, and therefore this was an athlete who would have had a license to cheat but, as could be seen in the steroid module, there would be a trigger that something was wrong and the athlete would be tested.

That was a very brief update on the passport. There were more details in the report. He would be happy to answer any questions. Not only did he believe that the ABP was an important tool, but also the concept, way of thinking and methodology used in it was the kind of intelligent testing that all ADOs should be applying to their entire anti-doping programmes.

MR MACADAM said that he had noted that the overall number of NADOs had gone up but the actual number of NADOs had dropped by a couple. Was that correct and was there a reason for that?

DR VERNEC replied that it was always difficult to see who was actually running an ABP programme and the aim was to have one system to compare over time, and the previous system, which WADA would try to keep going forward, was which ABP programmes were actually putting all the information into ADAMS. Hopefully, there would be more consistency in how the numbers of ADOs were reported.

THE CHAIRMAN stated that he was very pleased to see indications that the steroid passport was almost with WADA, and Dr Vernec had assured him that, before the year was out, all the necessary steps would be taken, including peer review and publication, to the point at which WADA might well be able to have that as an additional tool in the fight from 2014 onwards.

## DECISION

Athlete Biological Passport update noted.

### **9. Science**

- 9.1 Health, Medical and Research Chair report

PROFESSOR LJUNGQVIST informed the Executive Committee members that a record number of project applications had been received that year, 104, and there was growing

interest in assisting WADA with research in the anti-doping field from laboratories around the world, not just anti-doping laboratories, but also research laboratories.

The draft List for 2014 was currently in circulation and the deadline for submission of opinions was 26 July, after which there would be a meeting of the Health, Medical and Research Committee in August to give the Executive Committee the final proposal at the September meeting in the usual way for a decision to be published at the latest by the end of September that year.

Following the success of the Paris conference in November with the pharmaceutical industry, the relationship and agreements had been developed further with the pharmacy and biotechnology sector, with the ambition of better identifying and detecting substances in development that might be of importance in the anti-doping field.

In three weeks' time, in early June, the fourth gene doping symposium would be held in Beijing, hosted by BODA, the Beijing Olympic Development Association, and about 50 scientists from around the world would be brought together to discuss recent progress on the detection of gene doping and risks associated to the abuse of cell therapy and genetic manipulation. The anti-doping agency in China was supporting this, as was the Chinese NOC. It was also interesting to note that genetic methodology could be used not only to identify gene and cell doping; it could also be used to identify other types of doping. There had been a recent progress report on a project from Glasgow indicating that advanced gene technology could really help identify other types of doping outside the gene doping area.

MR ROWE asked Professor Ljungqvist to expand on the capacity to detect other forms of doping.

PROFESSOR LJUNGQVIST responded that there were ways of using genetic markers for the purpose of identifying other types of manipulation related to the introduction of other types of substance. If one introduced a foreign substance into one's body, something would happen to the genome, and one could use a particular method called micro-array to register the genetic pattern and how it was being changed after administration of a particular substance; so, in an ideal situation, one could get a fingerprint of the substance administered, identified in the genome. This was very advanced gene technology but it was a very promising path to pursue, as it would be pretty simple in the end even though it sounded complicated, and it could even reduce costs in the long term. There was a pretty advanced project going on in that field so, in short, after administration of a foreign substance, one could register the behaviour of the genome and identify specific changes in the genome related to specific foreign substances.

## DECISION

Health, Medical and Research Chair report noted.

- 9.2 Strategy for the development of the Anti-Doping Laboratory Network

THE CHAIRMAN proposed to look quickly at the ten recommendations and walk the members through them, but he first asked whether there was any wish for further explanation to be given to the paper by Dr Rabin. He invited broad comments.

PROFESSOR LJUNGQVIST said that, when he had seen the paper, he had sent an e-mail to Dr Rabin and the President expressing his support of the proposals set out but also his wish to have a further aspect incorporated. The document as it was was very much a political document related to the distribution of laboratories around the world and he had no objection with respect to the basic arguments found there and the actual

consequences of those arguments with respect to the present situation of laboratories; but, with reference also to the Code review and the document from Mr Pound's group, where one saw that the level of the laboratories was very different, and also that new substances would come onto the market and would be picked up by some laboratories that were already working in that particular field and had developed methods for them, WADA could never expect all laboratories to be at the same level. It was virtually impossible, and he was a laboratory person himself and he knew that this was the way in which laboratory work made progress: competent laboratories picked up methods and aspects and made them part of the routine and then this would slowly spread to other laboratories. Therefore, he would like the paper to be looked at in greater detail, so that the Executive Committee could come back in September with those aspects further evaluated, and how the network could serve as a network and not just as a distribution plan, which it currently was, and how laboratories could cooperate and communicate and establish sub-contracts for particular methods that might come up. This needed to be explored. WADA had some experience, when it had made it compulsory for all laboratories to establish certain techniques (EPO, IRMS, Hgh) some years ago, with the consequence that, if one spread all those analyses, each laboratory could end up with too low a critical mass to conduct the tests, so they would lose competence. Laboratories needed a certain number of samples to keep the standard and competence, and this was a current concern, and he was trying to arrange that with other requests or compulsory menus, which would come up in the Code review and in Mr Pound's paper, so as a consequence he felt that the paper was very much dependent on those aspects and should be further expanded to cover those aspects he had tried to explain to the members. He had nothing against what had already been arrived at in terms of laboratory distribution plans, but still asked for it to be tabled so that there could be fuller documentation on how laboratories would interact with regard to the other aspects he had mentioned.

MR REEDIE said that he thought he probably knew the answer to this but would ask the question anyway. One of the comments in one of the papers that afternoon was that blood analysis should be compulsory. If WADA was encouraging sports to adopt the blood passport, was there a way of also encouraging much wider access to either laboratories or hospitals to do the blood tests, which would aid the amount of information and, if correct, how did that fit in with the limitation of 40 laboratories around the world?

MR ROWE added to the comments. He did not have any particular issue with those ten recommendations and thought that they were sensible, but suggested adding a review mechanism of perhaps two to three years, whatever the appropriate timeframe was.

THE CHAIRMAN said that, before inviting Dr Rabin to comment, he wanted to make a small point. The paper sought to give some guidance to those laboratories in various parts of the world that aspired to establish a laboratory that would be granted accreditation. The members could see that, of the 33 laboratories currently accredited, 18 were in Europe, and everybody knew that, to ensure that the skill set was maintained, a minimum of 3,000 tests had to be done each year, so that spread it a little thin in Europe in some cases. On the other hand, there were parts of the world in which WADA would welcome more laboratories, for fairly obvious geographical reasons, so the strategy that had been the subject of discussion for some time had been developed with that particular objective in mind, as well as a few others. The other factor was that he would not dare to suggest what any bid city might want to do when it came to putting together a bid to get summer or winter Olympic Games. A satellite laboratory process had been developed and he believed it was important to send a message that, from WADA's perspective, for a period of two weeks, an enormous amount of money went into

it, and was there another way of enhancing the major 52 weeks of the year, year in year out, with the sort of money to be spent for the two-week period of the Olympic Games, and it would be clear to all of the members when they attended the Sochi Olympic Games, if they did attend them the following February, would the successful bid cities put the same money into their major laboratory if they did not create a satellite laboratory? WADA would never know, but WADA would much prefer to see that sort of money being there for future use rather than for very brief use, and that was the message behind that. He had made a confession that morning and suggested that, when one city was successful, all other cities in the future looked back to see how that city had won. For the Sydney bid, it had been decided that Sydney was so far away that the IOC would never give Sydney the Olympic Games unless Sydney overcame the tyranny of distance, so those involved in the bid had come up with the idea of paying for everybody to get there, and he did not think that any bid city subsequently had been game to leave that out of their bid, so Sydney had created that precedent and a similar precedent was being seen in the context of the satellite laboratory. This was not essential or urgent; it was an important step to give clarity as to where WADA was going, but some constructive suggestions had been made by the Vice-Chairman and, if the members wished for more work to be done in the context of the suggestions made in that discussion, he would be happy to agree to note that the recommendations were approved in principle and there were no objections to any specific one but there was a feeling that a better outcome might be achieved if there were more information for the Executive Committee to consider in relation to the networks.

MR ROWE picked up on Mr Reddie's suggestion, which was a fairly critical component. He knew that there had been an application from a laboratory in his country which, for one reason or another, had not been processed, and that particular laboratory had lost interest and decided to withdraw. It was crucial in areas, particularly in his region, where there was such a significant difference and the transportation time became critical, particularly for blood tests.

THE CHAIRMAN said that only one blood laboratory had been approved outside the accredited laboratories, and that was the mobile one in Japan, and everybody would like to see a mobile laboratory like that one in their country but he was not expecting it to happen in the near future. It was important to talk about this and the Executive Committee had approved some years previously the Science Department's recommendation that there be specific laboratory approval for blood laboratories to assist with the ABP, but there had been no or very little take-up. It was certainly what WADA needed to see in the future.

DR RABIN said that WADA had come to the conclusion that, for the blood laboratories, it would really need to work with the ADOs interested in particular regions and with the local authorities, be they health authorities or academic authorities, to bring the laboratories to life, and a couple of projects were being worked on (e.g. Kenya), and WADA received a limited number of applications, so he thought that, in the end, WADA might target some territories, where there was a need from the country or sport organisations to support the blood laboratories, to ensure that they would come to life and be sustainable, and that would be a good idea and a model to pursue in the future.

MR RICCI BITTI had a question: were many people using non-accredited laboratories? How could this be?

DR RABIN responded that there were quite a few non-accredited laboratories operating in different regions in the world and this had been of concern to WADA, as it diverted some samples from going to the WADA-accredited laboratories with some serious questions about the quality of the analysis, plus the fact that some of the results



might not be supported before a court, and such cases had occurred in the past, so he encouraged the countries to use WADA-accredited laboratories. Of course, WADA tried to send incentives for some of the laboratories to declare their interest to be accredited by WADA, but it was necessary to conclude that some of the laboratories were happy doing what they were currently doing without WADA accreditation, so WADA would probably have to be a bit stronger vis-à-vis those laboratories and the countries hosting them.

THE CHAIRMAN said that he understood that that was fairly widespread with football in South America, and WADA would love to have additional accredited laboratories in South America to be able to overcome that particular issue for the greater certainty to which Dr Rabin had referred.

He put the resolution as simply as possible: that the Executive Committee had approved in principle the ten recommendations contained in the paper but sought to adjourn a final decision until there was additional information and perhaps recommendations brought forward to the next Executive Committee meeting that related specifically to the matters raised by the Vice-Chairman and the expansion on the network issue.

PROFESSOR LJUNGOVIST said that he had asked for this to be tabled in full, but that was fine; if WADA expressed satisfaction or approval in principle, he did have some reservations with regard to point 9 and the two last sentences relating to the satellite laboratories during major events such as the Olympic Games. He would then recommend that the final two sentences be deleted, with the introduction of the word 'normally' in the first sentence.

THE CHAIRMAN repeated that there would be no final approval that day. He suggested that there be no approval in principle but a statement that the Executive Committee had expressed broad support for the ten recommendations but sought an adjournment until the next Executive Committee meeting to allow for some additional material to be provided with regard to the network issue.

#### DECISION

Strategy for the development of the Anti-Doping Laboratory Network noted. Recommendation to adjourn decision on the ten recommendations until the next Executive Committee meeting to allow for additional material to be provided with regard to the network issue approved.

#### – 9.3 Mexico Laboratory

DR RABIN stated that he wanted to specify that there were two pending conditions to the approval of the laboratory that had been identified by the Laboratory Committee. The first was that the laboratory receive the remaining 11 reference materials that would allow the laboratory to complete accurate determination of all the required doping substances and the second pending condition was that written proof that the insurance policy was in place be received by WADA. That was the recommendation of the Laboratory Committee: that the two pending conditions be mentioned to the Executive Committee before the approval of the laboratory was proposed.

THE CHAIRMAN said that the members would see a two-page revised document for item 9.3, and a rider had been added to the original papers which was in the decision request that, subject to proof of insurance policy and receipt of final reference materials, the Executive Committee would grant WADA laboratory accreditation to the laboratory in

Mexico City and, if the members turned the page on that sheet, they would see in the last paragraph, in bold type, some reference to that before the conclusion (3) and the attachments (4) in bold type. There was a little bit more material, so there was an approval conditional to some paperwork being tidied up, and that would give authority to WADA to say that, once satisfactory evidence had been produced, and the additional papers and documentation were in order, the approval would be granted. This particular laboratory had been in the process of coming to the landing for some time and had done a lot of work over a few years. He took it that the members were happy to approve the decision.

#### DECISION

Proposal regarding accreditation of the Mexico Laboratory approved.

#### – 9.4 Tunisia Laboratory

THE CHAIRMAN said that a paper had been distributed on 6 May in respect of the Tunisia laboratory, and it was of course on the iPads. This had come late. The committee, whose report the members had in their papers, had dealt with the matter only very recently and had conveyed its decision to him the previous Friday. He had accepted the recommendations and consequently a letter had been forwarded immediately to the laboratory in Tunisia, indicating that the current suspension of the laboratory as an accredited laboratory was to be extended. The second recommendation, which could be approved only by the Executive Committee, was that there was no alternative but to revoke that accreditation, and therefore the question was whether the committee was prepared to accept the recommendation. It was certainly his indication that the members should. There was, however, a protocol whereby WADA endeavoured to give the members some 15 days' notice of any particular document that came before them, so he asked first that the members waive the 15-day protocol notice requirement to be able to move to the second recommendation, which was that the members support the recommendation brought forward by the committee established for that purpose to revoke the accreditation of the Tunisia laboratory. Were the members happy to discuss and deal with the matter that day at short notice? Would anybody like to make any comments or ask any questions about the issue? Were the members satisfied with the material? He asked that the accreditation be revoked in respect of the Tunisia laboratory.

PROFESSOR LJUNGQVIST observed that it was unfortunate that there was now only one laboratory left on the African continent. There was no laboratory in the Middle East. He had just come from an anti-doping conference in Doha, Qatar, which was very far on its way to accreditation. How far away was it? That laboratory was currently headed technically and scientifically by the former chief of the Athens laboratory, and it was in very good scientific hands.

DR RABIN said that the Doha laboratory was growing very well, with a superb facility, and he expected that it would apply to enter the WADA probationary phase the following month according to the latest information he had received from the director, and he expected that, if all went well, it would enter the probationary phase by the end of the year depending on the review of the initial information by the Laboratory Committee, so it was imminent.

THE CHAIRMAN observed that that was good news.

#### DECISION

Proposal to revoke accreditation of Tunisia Laboratory approved.

## **10. International Federations**

### **– 10.1 Anti-Doping Organisation Symposium**

MR DONZÉ said that the members all had in their folders/iPads a fairly comprehensive report on the 2013 WADA symposium for ADOs held on 19 and 20 March that year in Lausanne. He would therefore not go into great detail, but wished to highlight the importance of the annual event for the anti-doping community and the benefits it had in relation to one of the key issues discussed that morning and raised a number of times, namely the cooperation between NADOs and IFs. The members might remember that WADA had launched an annual symposium for ADOs, first for IFs in 2005, and the event had become a global event for all categories of ADOs, IFs, NADOs, RADOs and major event organisers back in 2009. Currently, it was clear that the event had become the most important and sought-after annual gathering for the anti-doping community, and one that greatly enhanced cooperation and trust among ADOs and the sharing of expertise among anti-doping personnel and global knowledge in terms of anti-doping development. This had been highlighted that year by the fact that, once again, there had been a record number of participants, more than 310 from all over the world, representing over 160 ADOs, close to 70 IFs, close to 70 NADOs and the remainder representing RADOs and major event organisations. The theme that year had been 'Ten years of the World Anti-Doping Code, ten years into the future – the need for new strategies to enhance the fight against doping'. The members would see the agenda, which had covered important matters, one of which was the ongoing review of the World Anti-Doping Code and International Standards. The agenda had also focused on the development and implementation of intelligence and investigation tools, as well as the development of the ABP, but most importantly this was a great opportunity for anti-doping personnel from all over the world to gather, network, interact, get to know one another better and ultimately enhance the trust and cooperation between the various ADOs. That year, great feedback had been received from all the participants. Every year, an online survey was sent out after the symposium, and overwhelmingly positive feedback had been received from all participants, not only in terms of the quality of the presentations and various formats of sessions (there had been a number of breakout discussions and parallel sessions to cater as much as possible to the varying degree of knowledge and development of the various ADOs), and WADA would take on board all of the feedback received to try as much as possible to take it into account in the development of the 2014 agenda. WADA had already secured the same venue as that year, the Palais de Beaulieu in Lausanne, which was larger and more flexible than the venue for previous years. Dates had been set for the symposium, and he had no doubt that it would be a very popular one in 2014, also taking into account the developments and importance of the following year in particular concerning the implementation of the revised World Anti-Doping Code and international standards. He looked forward to organising the next symposium from the regional office in Lausanne and he would be more than happy to answer any questions on the 2013 anti-doping organisation symposium.

### DECISION

Anti-Doping Organisation Symposium  
update noted.

### **11. Education Committee Chair report**

MR JURITH said that, the previous month, from 25 to 26 April, the committee had met in that room to discuss current and future WADA education programmes. It had been a very active meeting with a lot of good discussion and a number of

recommendations would be put to the Executive Committee for consideration. The committee had been pleased to welcome Mr Tyler Hamilton as a speaker to kick off the committee's deliberations. It was felt that Mr Hamilton had provided information that would further assist WADA in the development of an effective anti-doping education programme. Some of the areas he had stressed based on his own experience were the need for education to be mandatory for all athletes, and he thought that the Code was beginning to address that issue, to ensure that athletes understood and were educated about the decisions that they made and the long-term effects that these would have on their careers when they were exposed (not if they were exposed but when they were exposed). More needed to be done to educate the athletes' entourage and to also think about how to have better education, thinking and consideration of team sports and the unique pressure that being part of a team might bring to bear on a decision to dope or not to dope. Mr Hamilton's involvement and advice had been very helpful.

In terms of specific recommendations, it was no surprise that, over the past few years, many on the committee and in WADA generally had felt that the social science research programme could be better targeted, so the Education Committee was recommending that the research programme take on a more targeted approach and, instead of having a lot of proposals come in and deciding what looked good and to fund them, the Education Committee recommended going out to the research community with the subjects that it wanted the research community to respond to WADA on. In this way, the Education Committee would be able to look at its budget and make a more considered effort as to the projects it wanted to fund that would be helpful to the long-term mission of WADA, particularly in terms of what would be helpful to athletes and the overall education effort and spending money more wisely, as he was sure Mr Reddie wanted.

It was recommended that the Education Department continue to work with partners to minimise translation costs.

The Education Committee recommended that a representative from ASOIF attend the education work group meeting in Lausanne. The group was looking at creating a single education resource for all stakeholders.

It had also been recommended that WADA reach out to Olympic Solidarity to encourage it to include anti-doping education as a mandatory element in its training programmes.

The Education Committee had also thought that there was a need for governments to play a more active role in championing the needs of values-based education, including anti-doping in schools, and that was something that the government members of the Education Committee would start to look at, working with the education authorities to see how to step up such a programme.

It was also recommended that the education team place a focus on working with and assisting stakeholders in implementing the various education programmes and educating the entourage. Based on the outcomes of the Latin American education symposium and the Montevideo declaration, it was recommended that WADA develop a moral pledge for athletes and the entourage; that notion would be moved forward under Mr Koehler's leadership.

The Education Committee had stressed that anti-doping education had to play an important role at the forthcoming MINEPS meeting. The Education Committee was also recommending that a regional education symposium be held in 2014, but would have to look at a proper venue for that symposium in terms of maximising objectives, not just holding a meeting to hold a meeting, but holding one that would be truly effective.

In terms of the issue raised by Ms Scott earlier, it had been recommended by WADA that the Education Committee and the Athlete Committee remain in close contact, sharing agendas and having at least one member of each committee attend respective committee meetings. The Education Committee thought that, particularly in light of the information that Tyler Hamilton had given, that type of dialogue between the two committees was important.

The next meeting of the Ad Hoc Social Science Working Group would take place in Montreal on 4 October, followed by a teleconference with the committee members on 5 October, and the members would be looking at the research proposals currently in the funding stream; that did not include the new money which would be subject to the new way in which the committee would solicit research ideas. He would be happy to take any questions that the members might have.

THE CHAIRMAN said that WADA's Education Department had been developing for some time a module that would hopefully be taken up by every university in the world, the thought being that it would be extraordinarily difficult to get that module into schools based on the values of anti-doping and the values of sport, but it had been thought that there was some chance that WADA could train the trainers, and educate those who would educate the young and spread that to the universities and all those courses that ultimately sent out teachers to schools, the message being 'no cheating, no doping'. That module was very close to release and had been worked on in conjunction with a number of sporting organisations and the universities themselves, so he was hoping to see an announcement on that before the year was out. It was another tool in the fight, based on the education component, which as everybody knew was so important.

#### DECISION

Education Committee Chair report noted.

### **12. Athlete Committee Chair report**

MS SCOTT informed the Executive Committee that WADA's Athlete Committee had met in New York at the end of January, and the main objective had been to discuss the latest draft of the 2015 Code and prepare submissions, discuss key topics and current issues and matters relevant to athletes.

At the meeting, the Athlete Committee had concluded that there was great concern regarding the capacity of the anti-doping laboratories worldwide and committee members encouraged the approval of laboratories and clinics to analyse blood samples to help countries without that capacity and without accredited laboratories.

There was deep concern from the athlete community about the recent allegations of doping in Kenya, and the Athlete Committee members had called on the Kenyan Government to put in place an independent inquiry.

The Athlete Committee had acknowledged that the RADO in Nairobi had increased its programme capacity and appreciated that, but was keen to see more development in that area alongside Jamaica, which was also enhancing its activities since a change in leadership.

With respect to the Code review, it was recommended that ways be found to enhance the accountability of IFs in applying their anti-doping programmes, and the athletes did acknowledge and appreciate that there were many IFs doing a great job, but there was particular disappointment in the discovery of the UCI and the allegations and information that continued to come out about the role the UCI had played in what was now appearing to be decades of doping activity in that sport. She hoped she could accurately reflect the

frustration and disappointment felt by the athlete community upon the discovery of complicity with an IF in that role, which was so important.

Members had strongly suggested that the 2015 Code be communicated in easier-to-understand language to help better explain the major changes. The Athlete Committee knew that the Code Drafting Team would be working on an athlete-friendly explanatory version of the 2015 Code and would engage with the committee on that aspect, and that was a very important component of the new Code. The athlete community was seeing a trend towards more engagement and attention to those matters that affected athletes directly, and the greater the effort to appear accessible to athletes, the better the engagement and the less likelihood there would be of athletes speaking out in the media against whereabouts and the one-hour stipulation in the ADAMS programme. More simplicity would lead to greater buy-in by athletes.

Other discussion highlights included the costs of the CAS and the challenges to athletes to gain access to a fair hearing when they had limited means.

The Athlete Committee had received a presentation on the need to increase the role of education and all members had agreed across the board on the importance of reaching out to athletes and educating them on the dangers of doping and why it was morally wrong, and were calling on their own anti-doping organisations to raise the levels of education and information on their anti-doping programmes.

On the Lance Armstrong case, which so many athletes had followed so closely, the members applauded the work of USADA and Travis Tygart in particular in taking the case to the level that he had, but they also called on Lance Armstrong to make a full confession to the anti-doping authorities for the sake of clean athletes around the world. This meeting had taken place shortly after the Oprah interview; most athletes had been disappointed at the level of disclosure in that interview and perhaps the intention behind it as well, but this case highlighted the fact that not only testing caught cheats, but also the investigation process behind it and the reality that ADOs had to continue to develop their investigation capacity.

Robert Manfred of Major League Baseball had given a presentation on the advances made and the implementation of a stronger anti-doping programme and the league's shift in culture, which had been very interesting and impressive, demonstrating what could happen when there was a change and a real shift in attitude, and the determination to embrace the most important aspect of sport, which was integrity and fair play, and what could happen when that was embraced and taken full throttle.

On the World Conference on Doping in Sport, all the Athlete Committee members had agreed on the importance of being there and were looking into ways of attending.

The next Athlete Committee meeting would be held in conjunction with the next IOC Athlete Commission meeting in Singapore at the end of June at the time of the International Athletes' Forum.

She extended the Athlete Committee's appreciation to Major League Baseball for hosting the meeting in January in New York City. It had been a very well attended and productive meeting and everybody had been given a lovely baseball to take home, so had been quite happy.

THE CHAIRMAN thanked Ms Scott for her report and the contribution from the athletes.

## DECISION

Athlete Committee Chair report noted.

### **13. Any other business/future meetings**

THE CHAIRMAN said that the Director General had indicated that WADA would be seeking some chairs for the committee work relating to the international standards, and he had had the opportunity to approach Executive Committee members during the course of the day and could indicate that, subject to anything further they wished to say, it was likely that Professor Ljungqvist would chair the ISL meeting, Mme Fourneyron would chair the ISPPPI meeting, Dr Erdener would chair the TUE meeting and Mr Rowe would chair the IST meeting. There would be two chairs from sport and two from public authorities. The support would be given to those concerned for background material and information and support during the course of the deliberations in South Africa. He thanked those who had indicated a willingness to assist at the World Conference on Doping in Sport.

He reminded the members of the dates of the upcoming meetings. The Executive Committee meeting would be in Buenos Aires in September, and that would be linked to the IOC meeting that would be there. He hoped that there would be more convenience, and he was sure that there would be a great deal of interest from those Executive Committee members who were not part of the IOC, with the events and subject matter of the IOC meeting that would be taking place at that time.

In November, the meetings would be in Johannesburg, and the Director General had gone through the dates that morning. On Friday 15 November, the Foundation Board would meet in the afternoon following an earlier morning meeting to undertake the final process of approval for the Code revisions before the end of the Conference.

In August there might be not quite the 15 days available to get the proposed 2014 List circulated simply because of the dates of the meetings in advance of the September meeting, so he asked for the members' patience.

Lastly, for that day's big effort, he thanked the drafting team and noted that, in addition to the two or three speaking at the table, there were others behind the scenes: Mr Donzé, Mr Sieveking, Mr Thill, Mr Kemp and Mr Haas. The team was more than the people at the table and it had done some extraordinary work. He thanked them and the rest of the people who had put the meeting together that day: the WADA team members who gave up their weekends to attend the WADA meetings and spent a considerable amount of time ensuring that the members were given good material in hard copy and now with the latest technology to ensure that they could follow proceedings and reach conclusions. He did not think that it had been too difficult to follow the meeting on the iPad that day. He also thanked the audio-visual providers and the interpreters.

It had been a long meeting, but he thought it had been worthwhile and the Foundation Board would be able to take some assurance from the work done that day. He thanked everybody for their contribution.

## DECISION

Executive Committee - 11 September 2013,  
Buenos Aires, Argentina;  
Executive Committee - 12 November 2013,  
Johannesburg, South Africa;  
World Conference - 12, 13, 14 and 15  
November 2013, Johannesburg, South Africa;

Foundation Board - 15 November 2013,  
Johannesburg, South Africa.  
Executive Committee - 17 May 2014, Montreal;  
Foundation Board - 18 May 2014, Montreal;  
Executive Committee - 20 September 2014,  
Montreal;  
Executive Committee - 15 November 2014,  
Montreal;  
Foundation Board - 16 November 2014,  
Montreal.

The meeting adjourned at 5.55 p.m.

FOR APPROVAL

JOHN FAHEY, AC  
PRESIDENT AND CHAIRMAN OF WADA