



**EXECUTIVE OFFICE OF THE PRESIDENT**  
**OFFICE OF NATIONAL DRUG CONTROL POLICY**  
Washington, D.C. 20503

June 17, 2020

The Honorable John Kennedy  
Chairman  
Subcommittee on Financial Services and  
General Government  
Committee on Appropriations  
United States Senate  
133 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mike Quigley  
Chairman  
Subcommittee on Financial Services and  
General Government  
Committee on Appropriations  
United States House of Representatives  
2000 Rayburn House Office Building  
Washington, DC 20515

The Honorable Christopher Coons  
Ranking Member  
Subcommittee on Financial Services and  
General Government  
Committee on Appropriations  
United States Senate  
125 Hart Senate Office Building  
Washington, DC 20510

The Honorable Tom Graves  
Ranking Member  
Subcommittee on Financial Services and  
General Government  
Committee on Appropriations  
United States House of Representatives  
1016 Longworth House Office Building  
Washington, DC 20515

Dear Chairmen and Ranking Members:

Pursuant to Senate Report 116-111 under P.L. 116-93, the *Consolidated Appropriations Act, 2020*, the Office of National Drug Control Policy (ONDCP) is hereby submitting a report on reform efforts undertaken by the World Anti-Doping Agency (WADA) in the wake of the Russian doping scandal. The Committee directed ONDCP to write a report “on the implementation of WADA governance reforms necessary to enhance the role of athletes in WADA decision-making, increase the independence and transparency of its operations, and restore confidence in clean competition.” Sen. Rep. No. 116-111, 116th Cong., 1st Sess. at 41-42 (Sept. 19, 2019). The report provides information about the reform measures that WADA has implemented and whether they are sufficient to improve the world anti-doping system.

Should you have questions or concerns, please contact me at (202) 395-6700 or have your staff contact Natasha Eby of ONDCP’s Office of External & Legislative Affairs at (202) 395-6650. Please accept my sincere appreciation for your continued support of the U.S. anti-doping programs.

Respectfully,

James W. Carroll  
Director

Enclosure: ONDCP Report to Congress on WADA Reform Efforts

**Report to Congress on World Anti-Doping Agency Reform Efforts**  
**Office of National Drug Control Policy**  
**June 17, 2020**

**A. Background**

*1. World Anti-Doping Agency*

The International Olympic Committee (IOC) established the World Anti-Doping Agency (WADA) in 1999. WADA is the “international independent organization monitoring the global fight against doping in sport and the custodian of the World Anti-Doping Code (Code).”<sup>1</sup> The Code has generally been effective at establishing a consistent international standard against which anti-doping policies in all sports and all countries can be measured. Given the important public interest in athlete health and well-being, the significant public funding allocated to sports organizations, and the financial contributions made by governments to WADA’s operations since 1999, the issues of WADA’s effectiveness and adherence to its mission are matters of public concern in which the Administration, including the Office of National Drug Control Policy, take an active interest.

WADA’s primary responsibilities include setting anti-doping standards of general applicability, monitoring the compliance of Code signatories and WADA-accredited laboratories with these standards and the Code, and upholding the rights and interests of clean athletes through seeking to build global anti-doping capacity; promoting collaboration to achieve anti-doping priorities; and conducting large scale investigations, scientific research, and education.<sup>2</sup>

*2. WADA Funding*

Half of the agency’s funding comes from the Olympic Movement, while the other half comes from governments of the world.<sup>3</sup> The United States is by far the single largest contributor nation to WADA.<sup>4</sup> The United States contributed \$2,714,744 in membership dues in 2020, and U.S. contributions constitute 14.5% of the governmental contributions made to WADA’s 2020 budget.<sup>5</sup> WADA’s 2020 annual operating budget is approximately \$37.4 million.<sup>6</sup> As a result of the IOC’s match of government contributions, U. S. participation will generate more than \$5.4 million to WADA in 2020.

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<sup>1</sup> H.R. Rep. No. 116-251, 116th Cong., 1st Sess. at 3 (Oct. 22, 2019).

<sup>2</sup> *Id.* at 4. See World Anti-Doping Code Article 20.7 (Roles and Responsibilities of WADA); See also <https://www.wada-ama.org/en/what-we-do>

<sup>3</sup> *Contributions to WADA’s Budget 2020*, World Anti-Doping Agency, (Mar. 27, 2020), available at, <https://www.wada-ama.org/en/resources/finance/contributions-funding>. The three main constituents of the Olympic Movement are the International Olympic Committee (IOC), the International Sports Federations (IFs) and the National Olympic Committees (NOCs). WADA membership fees are paid by these three sport constituencies.

<sup>4</sup> The top ten national contributors to WADA are: (1) United States - \$ 2,714,744; (2) Japan - \$1,502,800; (3) Canada - \$1,357,372; (4) France - \$1,015,977; (5) Germany - \$1,015,977; (6) Italy - \$1,015,977; (7) Russia - \$1,015,977; (8) United Kingdom - \$1,015,977; (9) Spain - \$534,512; and (10) China - \$493,399. *Id.* at 1-5.

<sup>5</sup> See Footnote 3, supra.

<sup>6</sup> *Id.*

### 3. WADA Governance and Organizational Structure

#### a. WADA Foundation Board

WADA's governance is evenly divided, with one-half of WADA's 38 member Foundation Board (FB) coming from sport and one-half from the world's governments.<sup>7</sup> The 19 government representatives currently on the WADA FB consist of a geographically diverse group of sport ministers, vice-ministers, or other high ranking government officials from around the globe, including 6 from Europe, 3 from Asia, 3 from Africa, 2 from Oceania, 2 from South America, 1 from North America (U.S.), 1 from Central America, and 1 from the Middle East.

In contrast, sport representation on the WADA FB is less diverse. Eighteen out of 19 sport representatives (95%) on the WADA FB have leadership positions in the IOC or its member organizations, including 10 IOC members, 7 Presidents of international sport organizations, and 4 chairs or vice chairs of national Olympic committees. Geographically, 12 sport representatives (63%) are from Europe, and there are: 2 from Africa, 2 from Asia, 1 from South America, 1 from North America (Canada), and 1 from Oceania.

Foundation Board members serve three-year terms. Europe currently has 18 representatives (12 from sport and 6 from governments) on the 39-member WADA FB (46%). Of the world's continents, all but Europe and Oceania are under-represented. The IOC is the dominant institution represented at the WADA FB, having effective control over the selection of 50% of the representatives.<sup>8</sup>

With respect to governments, there is no correlation between financial contributions to WADA and membership on the WADA FB. For instance, the United States has only a single representative on the WADA FB, constituting less than 5.3% of the governmental representation at WADA, despite the U.S. contributing more than 14.5% of governmental support to WADA's 2020 budget.<sup>9</sup> The WADA FB meets twice a year and does *not* exercise operational control over WADA. Rather, WADA Statutes provide:

The Foundation Board delegates to an Executive Committee of twelve members, the majority chosen from amongst the Foundation Board members, the actual

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<sup>7</sup> WADA Statutes provide for 18 Foundation Board members from the Olympic Movement and 18 from Public Authorities. In addition, the Chairman and Vice Chairman of WADA are members of the Foundation Board. In practice and as a result of the operation Article 7 of the WADA Statutes, the Chairman and Vice Chairman have alternated between the Olympic Movement and Public Authorities resulting in 19 Foundation Board members from the Olympic Movement and 19 from the Public Authorities. See WADA, Statutes, available at, [https://www.wada-ama.org/sites/default/files/resources/files/new\\_statutes\\_-\\_modified\\_november\\_2016\\_approved\\_dec\\_2017.pdf](https://www.wada-ama.org/sites/default/files/resources/files/new_statutes_-_modified_november_2016_approved_dec_2017.pdf) While the WADA Statutes refer to the "Chairman" and "Vice Chairman" of the Foundation Board, WADA has taken to referring to these individuals as WADA's "President" and "Vice President." See, e.g., <https://www.wada-ama.org/en/foundation-board>

<sup>8</sup> WADA Statutes, Article 6.1, available at, [https://www.wada-ama.org/sites/default/files/resources/files/new\\_statutes\\_-\\_modified\\_november\\_2016\\_approved\\_dec\\_2017.pdf](https://www.wada-ama.org/sites/default/files/resources/files/new_statutes_-_modified_november_2016_approved_dec_2017.pdf)

<sup>9</sup> Indeed, as of May 1, 2020, the United States contribution was 21.45% of the total governmental contributions actually received by WADA in 2020.

management and running of the Foundation, the performance of all its activities and the actual administration of its assets.<sup>10</sup>

*b. WADA Executive Committee*

As noted above, the actual authority to manage WADA's affairs is currently vested exclusively in a 12 member executive committee (the "WADA Ex Co"). The Chairman and Vice Chairman of WADA are automatically members of the WADA Ex Co.<sup>11</sup> In the event of a tie vote on the Ex Co, the Chairman "has the casting vote," meaning in the event of a tie the Chairman is effectively able to cast two votes.<sup>12</sup> Aside from the WADA Chairman and Vice Chairman, the remaining 10 members of the WADA Ex Co are appointed by the WADA FB for one-year terms.

The current WADA Ex Co is even less diverse than the WADA FB. Seven WADA Ex Co members are from Europe. None are from North America. The only other continent with more than a single Ex Co member is Asia which has two members (China, Japan). There are 4 IOC members on the WADA Ex Co, 3 Presidents of international sport organizations and 1 national Olympic committee President.

*c. United States' Limited Influence in WADA Governance*

The United States currently has only 1 representative on the WADA FB, constituting 5.3% of the public authorities despite providing at least 14.5% of the public authorities' funding. Moreover, the United States is not a member of the WADA Ex Co, which is WADA's actual governing body. The United States' disproportionate lack of representation within WADA governance is not offset through inclusion of a U.S. perspective in other areas of WADA's governance. For example, WADA's 17 member senior management team includes no one from the United States.<sup>13</sup> Similarly, none of the 12 members of the important WADA Athletes Committee are from the United States.<sup>14</sup>

Much of WADA's work is accomplished through its 6 key standing committees.

- The Compliance Review Committee (CRC) monitors Anti-Doping Organizations' compliance with the Code. The CRC provides advice, guidance, and recommendations to WADA's Executive Committee on compliance matters.<sup>15</sup>

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<sup>10</sup> WADA Statutes, Article 11, available at, [https://www.wada-ama.org/sites/default/files/resources/files/new\\_statutes\\_-\\_modified\\_november\\_2016\\_approved\\_dec\\_2017.pdf](https://www.wada-ama.org/sites/default/files/resources/files/new_statutes_-_modified_november_2016_approved_dec_2017.pdf)

<sup>11</sup> *Id.* WADA Chairman, Witold Bank, is from Poland and Vice Chair, Yang Yang, is from China.

<sup>12</sup> *Id.*

<sup>13</sup> WADA Management, available at, <https://www.wada-ama.org/en/who-we-are/governance/wada-management>

<sup>14</sup> WADA Athlete Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/athlete-committee>

<sup>15</sup> WADA Compliance Review Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/compliance-review-committee>

- The WADA Athlete Committee provides an athlete perspective to WADA Management, the WADA Ex Co, and WADA FB on all relevant anti-doping matters, and represents the views and rights of athletes.<sup>16</sup>
- The Education Committee provides expert advice, recommendations and guidance to WADA's Management with respect to short-term education strategies and activities and longer-term approaches to WADA's education programs. The Committee is also involved in the selection process of WADA-funded social science research projects.<sup>17</sup>
- WADA Finance and Administration Committee provides expert advice, recommendations and guidance to WADA's Management and the WADA Ex Co with respect to budget development, funding, and financial and administrative policy.<sup>18</sup>
- The Health, Medical and Research Committee's activities include monitoring scientific developments in sport with the aim to safeguard doping-free sport practice, as well as the overseeing of the following Expert Groups: Prohibited List, Therapeutic Use Exemptions (TUE), Laboratory accreditation, and Gene Doping. The Committee also participates in the selection process of WADA-funded scientific research projects.<sup>19</sup>
- The Inaugural Nominations Committee is responsible for ensuring that the appropriate people in terms of skills and independence serve in senior governance roles within WADA. The Committee recommends qualified persons to serve in various positions within WADA and vets such candidates.<sup>20</sup>

Members of these Committees are appointed for three-year terms.<sup>21</sup> However, the selections to these Committees are made in an insular, tightly controlled, and undemocratic fashion. The WADA Ex Co only appoints the Chair of each committee.<sup>22</sup> The composition of the remainder of the committee is then determined by "the Chair of the . . . committee in consultation with the Foundation Board Chair and the Director General."<sup>23</sup>

This selection process has often excluded the United States government and independent anti-doping stakeholders, like the United States Anti-Doping Agency (USADA), from involvement on the six key WADA standing committees. Not a single representative of the United States

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<sup>16</sup> WADA Athletes Committee, *available at*, <https://www.wada-ama.org/en/who-we-are/governance/athlete-committee>

<sup>17</sup> WADA Education Committee, *available at*, <https://www.wada-ama.org/en/who-we-are/governance/education-committee>

<sup>18</sup> WADA Finance and Administration Committee, *available at*, <https://www.wada-ama.org/en/who-we-are/governance/finance-administration-committee>

<sup>19</sup> WADA Health, Medical & Research Committee, *available at*, <https://www.wada-ama.org/en/who-we-are/governance/health-medical-research-committee>

<sup>20</sup> WADA Inaugural Nominations Committee, *available at*, <https://www.wada-ama.org/en/who-we-are/governance/wada-inaugural-nominations-committee>

<sup>21</sup> WADA Statutes, Article 11, *available at*, [https://www.wada-ama.org/sites/default/files/resources/files/new\\_statutes\\_-\\_modified\\_november\\_2016\\_approved\\_dec\\_2017.pdf](https://www.wada-ama.org/sites/default/files/resources/files/new_statutes_-_modified_november_2016_approved_dec_2017.pdf)

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

government or of U.S. anti-doping organizations is currently appointed to a WADA standing committee. In fact, only one U.S. representative serves on any of WADA's 6 standing committees and that person is a sport appointee.<sup>24</sup> This means that on all of the key WADA committees, the United States government and U.S. anti-doping stakeholders are currently omitted from participation.<sup>25</sup>

As discussed below, WADA is attempting to change its governance, including the recent creation of a Nominations Committee. However, the inaugural Nominations Committee has no U.S. members. In all, the United States only has a 1% inclusion rate in WADA governance positions; of the 76 persons involved in WADA's senior management or key standing committees, a total of 46 (61%) are collectively from Europe (32), Canada (9), and Australia (5).<sup>26</sup>

*d. WADA's Governance Processes Reflect Bloc Voting, Inadequate Representation of Athletes, and Other Practices Which Suppress Minority Viewpoints*

ONDCP believes that several of WADA's governance processes favor a cohesive IOC-backed, European, sport organization voting bloc, which results in the elimination of competing viewpoints.

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<sup>24</sup> WADA Finance & Administration Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/finance-administration-committee>

<sup>25</sup> None of the 6 members of WADA's Compliance Review Committee are from the United States. See WADA Compliance Review Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/compliance-review-committee>. None of the 12 members of WADA's Education Committee are from the United States. See WADA Education Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/education-committee>. None of the 12 members of WADA's Health, Medical & Research Committee are from the United States. See WADA Health, Medical & Research Committee, available at, <https://www.wada-ama.org/en/who-we-are/governance/health-medical-research-committee>

<sup>26</sup> WADA also maintains six expert groups, involving 66 experts, to provide guidance on technical aspects of WADA's mission. Only 7 of these 66 experts is from the U.S., and only one such expert is connected to USADA. None of the 6 members of the WADA Ethics Expert Group is from the United States. See WADA Ethics Expert Group, available at, <https://www.wada-ama.org/en/who-we-are/governance/wada-ethics-expert-group>. Two of the 6 members of the WADA Gene and Cell Doping Expert Group are from the United States. See WADA Gene and Cell Doping Expert Group, available at, <https://www.wada-ama.org/en/gene-doping-expert-group>. None of the 13 members of the WADA Laboratory Expert Group is from the United States. See WADA Laboratory Expert Group, available at, <https://www.wada-ama.org/en/who-we-are/governance/laboratory-expert-group>. Three of the 13 members of the WADA Prohibited List Expert Group are from the United States. See WADA Prohibited List Expert Group, available at, <https://www.wada-ama.org/en/prohibited-list-expert-group>. One of the 8 members of the WADA Technical Document for Sport Specific Analysis Expert Group is from the United States. See WADA Technical Document for Sport Specific Analysis Expert Group, available at, <https://www.wada-ama.org/en/who-we-are/governance/technical-document-for-sport-specific-analysis-expert-group>. One of the 10 members of the WADA Therapeutic Use Exemption Expert Group is from the United States. See WADA Therapeutic Use Exemption Expert Group, available at, <https://www.wada-ama.org/en/who-we-are/governance/tue-expert-group>. None of the 10 members of the WADA National Anti-Doping Organization Advisory Group is from the United States. See WADA National Anti-Doping Organization Advisory Group, available at, <https://www.wada-ama.org/en/who-we-are/governance/nado-advisory-group>

*i. Bloc Voting*

As noted throughout this Report, ONDCP believes that many of WADA's current governing structures and processes minimize the ability of governments to exercise influence in proportion to the financial contributions they make to WADA. While government representation on the WADA FB and WADA Ex Co is equal to that of sport organizations, in practice, a number of factors work to favor control of WADA by institutional sport interests.

First, sport representation at WADA is determined by the IOC. Sport representatives on the WADA FB and Ex Co consist largely of a group of long time sport executives who are either IOC members themselves and/or are the heads of sport organizations that depend upon the IOC for their livelihood and the continuing economic viability of their organizations. While government ministers and representatives ordinarily participate in WADA governance as one among many duties in wide-ranging portfolios, sport representatives are different. For most sport representatives, the issues addressed by WADA may have a direct financial impact on the sport(s) they run as sport executives. Moreover, sport representatives sit on the WADA FB and Ex Co largely at the pleasure of the IOC, which has its own financial interests at stake in many of the decisions made by WADA.

Second, given the homogeneity of sport representatives in terms of background, geography, and other interests, they have a much higher likelihood of being able to achieve bloc voting. This means that on many issues sport interests are likely able to control a voting majority at the WADA Ex Co or WADA FB simply by swaying a single governmental vote to their side.

Third, a large majority of sport representatives are concentrated in Europe, potentially creating commonalities and consequent influence with European governmental representatives. Accordingly, the large concentration of European representatives in WADA's governance further increases the potential for a monolithic voting bloc of sport representatives to dominate decision-making merely by being able to draw a single governmental vote to their side

*ii. Procedural Barriers to Active Participation and Transparency*

WADA has a practice of not taking roll-call votes at WADA FB and Ex Co meetings. The lack of roll-call votes, particularly when dealing with controversial topics, is indicative of bloc voting by the majority. A review of meeting minutes from all 15 Ex Co and all 8 FB meetings since January 1, 2015—a period when WADA considered the most controversial topics in its history—reflects not a single roll-call vote was taken by either body.<sup>27</sup> The lack of roll-call votes has a tendency to stifle open debate and discourage the robust articulation of minority viewpoints and accountability of FB and Ex Co members for votes taken. It also serves to decrease the transparency of the divide between governments and sport on key issues.

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<sup>27</sup> Although not a roll-call vote, the minutes of the September 20, 2018, Ex Co meeting reflect those voting against the initial decision to reinstate RUSADA. A subsequent press release issued by WADA identified by title the two members voting against the recommendation to reinstate RUSADA and that one member from Europe abstained. The minutes from this Ex Co meeting reflect that a member voting against reinstatement specifically requested that his vote be recorded, confirming the general practice of not taking roll-call votes.

The manner in which controversial topics are submitted to the WADA Ex Co also frequently works against public accountability, further disadvantaging minority viewpoints. For example, the rules of the WADA Compliance Review Committee (CRC) provide that where the CRC makes a recommendation to the WADA Ex Co, that “recommendation may not be made public . . . prior to the meeting of the WADA [Ex Co] where it is to be considered[.]” This rule is contrary to good governance principles, embodied for instance in Sunshine and Open Meetings laws, and means that CRC recommendations are considered in a vacuum without opportunity to consider viewpoints outside those presented by the limited number of individuals involved with the WADA Ex Co.<sup>28</sup>

An example of how these restrictive processes—lack of roll-call votes, lack of amendments, bloc voting, lack of voting by WADA Athletes Committee members—work together to suppress input can be shown from the December 9, 2019 meeting of the WADA Ex Co.<sup>29</sup> This meeting was conducted for the sole purpose of considering the CRC’s recommendation on the status of the Russian Anti-Doping Agency (RUSADA) and any sanctions to be imposed on Russia in light of the discovery that Moscow laboratory data submitted by Russia to WADA in January 2019 had been intentionally manipulated. Several government representatives— notably Linda Hofstad Helleland of Norway and Richard Colbeck of Australia—stated they believed the sanctions proposed by the CRC were not sufficiently strong. However, amendments that could have increased the proposed sanctions could not be offered, due to the CRC rule discussed above. In spite of the important objections raised by the public authority representatives noted above, the Ex Co did not take a roll call vote on the CRC’s recommendation concerning RUSADA.

### *iii. Athlete Representation*

No members of the WADA Athletes Committee (WADA AC) sit on either the WADA FB or Ex Co, although 4 members of the IOC Athlete’s Commission (IOC AC) sit on the WADA FB, and 1 of these members sits on the WADA Ex Co. The lack of WADA AC members in WADA governance is particularly important because the positions of the WADA AC and IOC AC can diverge as was seen in relation to the Russian doping scandal. At the December 9, 2019, meeting where the WADA Ex Co considered sanctions to be imposed on Russia for manipulating laboratory data, the WADA AC Chair (who was unable to vote) observed that the sanctions under consideration by the Ex Co were “a disappointing outcome from the WADA Athlete Committee’s perspective, and most of the members of the committee felt that it could and should have been stronger.”<sup>30</sup> In contrast, the IOC AC representative (who was able to vote) immediately responded that, “the position of the IOC athletes’ commission was to support the recommendation.”<sup>31</sup> The non-voting status of WADA AC members has meant that although the WADA AC Chair has attended Ex Co meetings, on key issues the comments of the WADA AC

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<sup>28</sup> WADA Compliance Review Committee Terms of Reference, p. 5 (Confidentiality), *available at*, [https://www.wada-ama.org/sites/default/files/resources/files/crc\\_tor\\_23sept2019.pdf](https://www.wada-ama.org/sites/default/files/resources/files/crc_tor_23sept2019.pdf)

<sup>29</sup> Minutes of the WADA Executive Committee, 9 December 2019, Lausanne, Switzerland, p. 6/9, *available at*, [https://www.wada-ama.org/sites/default/files/resources/files/excominutes\\_9december2019.pdf](https://www.wada-ama.org/sites/default/files/resources/files/excominutes_9december2019.pdf)

<sup>30</sup> Minutes of the WADA Executive Committee, 9 December 2019, Lausanne, Switzerland, pp. 6-7, (Statement by WADA Athletes Committee Chair Beckie Scott), *available at*, [https://www.wada-ama.org/sites/default/files/resources/files/excominutes\\_9december2019.pdf](https://www.wada-ama.org/sites/default/files/resources/files/excominutes_9december2019.pdf)

<sup>31</sup> *Id.* at p. 7 (Statement of Emma Terho).



Chair have not been taken into account until deliberations of the voting members have largely concluded. Marginalization of the athlete voice in WADA decision-making is a serious issue on which, as discussed below, many governments have taken a strong position in favor of robust athlete participation.

#### *4. International Convention Against Doping in Sport*

The United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the International Convention against Doping in Sport (the Convention) in 2005.<sup>32</sup> The United States ratified the Convention effective August 25, 2008.<sup>33</sup> The purpose of the Convention is “to promote the prevention of and the fight against doping in sport, with a view to its elimination.” The Convention is a multilateral treaty to which approximately 187 countries, including the United States, have agreed “to commit themselves to the principles of the Code” as the basis for “legislation, regulation, policies, or administrative practices” in order to achieve the objectives of the Convention. The World Anti-Doping Code (Code) and WADA International Standards provide the international legal framework for addressing doping cases and compliance or non-compliance with the Code and Standards by Signatories.<sup>34</sup> The Convention is the document by which individual countries subscribe to the Code and Standards.

There is no explicit requirement in the Convention that State Parties fund WADA. The Convention provides that “States Parties undertake to support the important mission of the World Anti-Doping Agency in the international fight against doping.”<sup>35</sup> State Parties also agree to “support the principle of equal funding of the World Anti-Doping Agency’s approved annual core budget by public authorities and the Olympic Movement.”<sup>36</sup> However, there is no requirement within the Code that a government provide a particular level of funding to WADA.

State Parties commit to “provide funding within their respective budgets to support a national testing programme across all sports or assist sports organizations and anti-doping organizations in financing doping controls either by direct subsidies or grants, or by recognizing the costs of such controls when determining the overall subsidies or grants to be awarded to those organizations.”<sup>37</sup> The United States fulfills this commitment through an annual grant to USADA. Convention Article 11(c) also provides that “where appropriate” State Parties shall “withhold some or all financial or other sport-related support from any sports organization or anti-doping organization not in compliance with the Code or applicable anti-doping rules adopted pursuant to the Code.”<sup>38</sup>

Article 11 makes clear that funding is to be withheld from WADA upon a State Party’s determination that WADA has not acted in compliance with the Code or anti-doping rules.

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<sup>32</sup> The full text of the Convention can be found at, [http://portal.unesco.org/en/ev.php-URL\\_ID=31037&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=31037&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<sup>33</sup> A list of the States accepting or ratifying the Convention can be found at, <http://www.unesco.org/eri/la/convention.asp?KO=31037&language=E>

<sup>34</sup> H.R. Rep. No 116-251 at 4.

<sup>35</sup> Convention, Article 14.

<sup>36</sup> Convention, Article 15.

<sup>37</sup> Convention, Article 11(a).

<sup>38</sup> Convention, Article 11(c).

However, even absent this provision, funding of WADA and each government's level of funding is within the sound discretion of the State Parties as discussed above.

## **B. The Russian Doping Scandal**

Evidence of a Russian state-sponsored doping system had been mounting for years, well before Russian whistleblowers were publicly identified in late 2014 and in 2016. In 2008, a 16-month investigation conducted by the International Association of Athletics Federations (IAAF) resulted in the doping suspension of seven female Russian track and field athletes, five of whom were Olympians.<sup>39</sup> IAAF is Track and Field's world governing body, and their investigation found that the seven Russian athletes had illicitly substituted someone else's urine for their own in an attempt to subvert anti-doping controls. The number of suspensions, together with the varied sports involved, raised concerns at the time "about whether a deliberate, systematic attempt was made by coaches or officials to undermine drug-testing protocols."<sup>40</sup> For the next seven years, Russian athletes continued to be disproportionately represented in positive tests, resulting from doping controls conducted by independent international testers.<sup>41</sup> The continuing high number of positive tests from Russian athletes fed calls for investigation by WADA and international sport organizations.

In 2013, WADA began publishing an annual report entitled the *Anti-Doping Rules Violation Report* (ADVRS).<sup>42</sup> The ADVRS keeps track of adverse analytical findings by sport and country. Adverse analytical findings are positive test results, *i.e.*, doping violations, for various prohibited performance enhancing substances or methods in a particular sample. WADA's inaugural 2013 ADVRS demonstrated that Russia was the world's leader in doping violations, with a staggering 225 adverse analytical findings, which was 20 percent more than the second ranked country on the list.<sup>43</sup> Russia's 225 total adverse analytical findings represented 12 percent of all violations globally. The 2014 ADVRS would again show that Russia led the world in doping violations with 148 adverse analytical findings, 20 percent above the next-highest ranked country.<sup>44</sup> On WADA's 2015 ADVRS, Russia had 176 adverse analytical findings, which represented 36 percent more doping violations than the next highest rated country.<sup>45</sup> Between 2013 and 2015, Russia had almost 550 doping violations across a wide variety of sports, which was highly

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<sup>39</sup> *Russian Athletes are Suspended for Doping* (Aug. 1, 2008), N.Y. Times, available at, <https://www.nytimes.com/2008/08/01/sports/olympics/01doping>

<sup>40</sup> *Id.*

<sup>41</sup> *IAAF suspends 9 for doping*, (Jul. 25, 2012), available at, <https://www.vanguardngr.com/2012/07/iaaf-suspends-9-for-doping/>; *Russian long jumper Kotova suspended for doping* (Feb. 8, 2013) ("Kotova's case has been the latest in a series of recent doping offences by Russian athletes"), available at, <https://www.rediff.com/sports/report/russian-long-jumper-kotova-suspended-for-doping/20130208.htm>; *Russian Athletics Federation President Defends Country's Doping Record* (Apr. 12, 2013), *The Sport Digest*, ("nearly 40 Russian athletes currently serving doping bans), available at, <http://thesportdigest.com/2013/04/russian-athletics-federation-president-defends-countrys-doping-record/>

<sup>42</sup> See WADA Anti-Doping Rules Violation Reports (ADVRS), 2013 – 2015, available at, <https://www.wada-ama.org/en/resources/general-anti-doping-information/anti-doping-rule-violations-adrvs-report>

<sup>43</sup> Commission on Security and Cooperation in Europe, *The Russian Doping Scandal: Protecting Whistleblowers and Combatting Fraud in Sports*, at 5, 115th Cong., 2nd Sess. (Feb. 22, 2018).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

indicative of a state-sponsored doping program.<sup>46</sup> For purposes of comparison, the United States had a total of 127 adverse analytical findings and Australia had 107 total adverse analytical findings during this same three-year period.<sup>47</sup> While the foregoing statistics are just some of what was visible to the general and sporting public, WADA had long known much more. In fact, Russian whistleblowers, including an employee of the Russian National Anti-Doping Agency (RUSADA), first came forward to WADA in 2010 and began working undercover with Jack Robertson, a former decorated United States Drug Enforcement Administration agent who had become the Chief Investigator at WADA.

### *Russian Whistleblowers*

After the 2014 Winter Olympics in Sochi, Russia, Yuliya Stepanova, a former Russian track star, and her husband Vitaly Stepanov, a former doping-control officer for RUSADA, exposed the Russian government's vast state-sponsored doping system in a televised German documentary, which led to further revelations by Dr. Grigory Rodchenkov. Dr. Rodchenkov, who has a Ph.D. in analytical chemistry, became the director of the Russian drug testing laboratory in 2005 and was widely considered a top expert in performing-enhancing drugs. In May 2016, Dr. Rodchenkov became a whistleblower and told the *New York Times* that dozens of Russian athletes participating in the 2014 Winter Olympics, including 15 medal winners, were part of a state-run doping program. Dr. Rodchenkov developed an undetectable three-drug cocktail of banned anabolic steroids that he mixed with alcohol and provided to athletes. In addition, Dr. Rodchenkov and his team, with the help of Russian intelligence (*i.e.*, the FSB, successor of the KGB), switched steroid-tainted urine of the Russian national team with clean samples, evading positive detection.<sup>48</sup> This allowed Russian athletes to continue to dope right through the Olympic Games without detection.

### *Independent McLaren Report*

After Dr. Rodchenkov went public, WADA commissioned an independent investigation and appointed Professor Richard McLaren to conduct the investigation. The two-part "McLaren Report," completed in December 2016, identified several key findings, including that an institutional conspiracy existed between summer and winter sports athletes and Russian officials within the Ministry of Sport and its infrastructure, such as RUSADA, the Russian Centre of Sports Preparation (CSP), along with the drug testing laboratory and the FSB, which enabled Russian athletes to compete while engaging in the use of doping substances and resulted in the manipulation of more than 1,000 samples. Days after the release of the First McLaren Report, Russian intelligence officers prepared to hack into the networks of WADA, USADA, and the Court for Arbitration of Sport (CAS), and were later indicted by the U.S. Department of Justice for, among other things, hacking into computer systems used by anti-doping organizations and officials and stealing credentials, medical records, and other data.<sup>49</sup> In August of 2017, WADA published what it called its RUSADA Roadmap to Code Compliance, setting forth the basis upon

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<sup>46</sup> *Id.* at 6.

<sup>47</sup> See WADA Anti-Doping Rules Violation Reports (ADVRs), 2013 – 2015, available at, <https://www.wada-ama.org/en/resources/general-anti-doping-information/anti-doping-rule-violations-adrvs-report>

<sup>48</sup> H.R. Rep. No. 116-251 at 6.

<sup>49</sup> *Id.* at 6-7.

which Russia could be declared compliant with the Code, re-enter the international sport community and not face continuing sanctions for the institutional doping program identified by Professor McLaren.<sup>50</sup>

*WADA Ultimately Fails to Hold RUSADA to the RUSADA Roadmap to Code Compliance*

In December 2017, the IOC decided that as punishment for the doping scandal at the 2014 Sochi Winter Olympics, Russia would not be allowed to play its anthem, fly its flag, or accrue any medals in the overall count at the 2018 Winter Olympics in PyeongChang, South Korea. The IOC disqualified 43 Russian athletes that competed at the 2014 Sochi Olympics for doping violations and banned them for life from future sporting events. The IOC also stripped 13 medals won by Russian athletes in Sochi.<sup>51</sup> Approximately 168 Russian athletes were cleared to participate in the 2018 Winter Olympics in PyeongChang. The IOC also imposed a lifetime ban on Russian Sports Minister Vitaly Mutko (currently the Deputy Prime Minister of Russia), whose department was implicated in the doping scandal. However, on February 1, 2018, a few days before the start of the 2018 Games, the Court of Arbitration for Sport (CAS) overturned the IOC's bans issued to 28 Russian athletes. Three days after the 2018 Games ended, the IOC reinstated Russia's Olympic Committee even though two athletes had failed drug tests during the 2018 Games.<sup>52</sup>

On September 20, 2018, WADA voted to reinstate RUSADA even though RUSADA had not met all of WADA's Roadmap to Code Compliance conditions required for reinstatement, such as the turnover of data and samples on which WADA had been waiting for years. At that time, WADA set a December 31, 2018 deadline to turn over to WADA data and approximately 10,000 suspicious doping samples, which Russia had declined to submit to WADA since 2015 and which would potentially permit the prosecution of hundreds, if not thousands, of Russian athletes for past doping offenses. However, the deadline came and went without Russia complying with WADA's requirements.

In January 2019, the WADA Ex Co declined to punish RUSADA for missing WADA's deadline. WADA announced instead that RUSADA eventually provided the data and also that an audit of RUSADA was completed in December 2018 with "very positive" results. The WADA CRC accepted the late submission of Russia's information on January 9, 2019. However, it was later discovered that much of the data submitted by Russia had been manipulated and falsified.<sup>53</sup> The decision to reinstate RUSADA met fierce opposition from USADA, athletes, and others including Dr. Rodchenkov. Subsequently, the IOC's lifetime ban on Mutko was overturned by the CAS in July 2019.<sup>54</sup>

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<sup>50</sup> WADA publishes RUSADA Roadmap to Code Compliance, (Aug. 2, 2017), available at, <https://www.wada-ama.org/en/media/news/2017-08/wada-publishes-rusada-roadmap-to-code-compliance>

<sup>51</sup> IOC Bans 11 More Russian Athletes for Life, available at, <https://www.npr.org/sections/thetwo-way/2017/12/22/572886569/ioc-bans-11-russian-athletes-for-life> (Dec. 22, 2017)

<sup>52</sup> H.R. Rep. No. 116-251 at 7.

<sup>53</sup> WADA provisionally suspends approved status of Moscow Laboratory, (Jan. 22, 2020), available at, <https://www.wada-ama.org/en/media/news/2020-01/wada-provisionally-suspends-approved-status-of-moscow-laboratory> (This step was taken "due to the discovery by WADA of manipulation of some of the data extracted from the Moscow Laboratory in January 2019").

<sup>54</sup> H.R. Rep. No. 116-251 at 7.

After WADA investigators discovered that the data submitted by Russia in early 2019 contained numerous falsifications and manipulations, WADA had to then consider what punishment would be imposed for Russia's continuing failure to flout its anti-doping obligations. As discussed above, given Russia's continuing recalcitrance and prior promises by WADA that WADA would deal firmly with any failure by RUSADA to strictly follow the Roadmap conditions, many anticipated that WADA would recommend, as a matter of course, the complete exclusion of the Russian Olympic team from the 2020 Olympic Games as a sanction. However, as explained above, WADA once again imposed more lenient sanctions upon Russia than WADA had previously indicated.

On December 9, 2019, the WADA Ex Co accepted the WADA CRC's recommendation to adopt those sanctions against Russia which have been widely criticized as insufficient. The WADA AC Chair and some public authority representatives had advocated for a four-year period of full expulsion of Russian athletes from all international sporting events including the 2020 Tokyo Summer Olympics and the 2022 Beijing Winter Games, with no exceptions, as punishment for the flagrant, institutional nature of the Russian doping scheme.<sup>55</sup> The sanctions ultimately endorsed by the WADA Ex Co consisted of, among other things, a four-year ban from international sporting events but allowed Russian athletes to compete at such competitions if they are not implicated in positive doping tests or if their data was not manipulated.<sup>56</sup> However, even these more lenient sanctions have been appealed by Russia to the Court of Arbitration for Sport (CAS). The Russia doping scandal, which has been lingering for more than a decade since Russian whistleblowers brought evidence of state sponsored doping to WADA in 2010, still remains unresolved.

The Russian doping scandal thus continues to demonstrate inadequacies in WADA's independence and capacity to firmly, effectively, and in a timely manner enforce compliance with the Code, hold major countries accountable under the rules and uphold the expectations of clean athletes.

### **C. WADA Reform Efforts**

#### *American Leadership*

In response to WADA's decision on September 20, 2018 to reinstate RUSADA without meeting WADA's own previously issued RUSADA Roadmap conditions for reinstatement, the White House Office of National Drug Control Policy, together with USADA, convened a meeting with Olympic athletes and ministers from eight countries to discuss the urgent need to reform WADA.<sup>57</sup> The October 13, 2018, White House meeting was entitled, *Advancing International*

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<sup>55</sup> *Anti-Doping Agency Imposes 4-Year Ban on Russia*, (Dec. 9, 2019), available at, <https://www.usnews.com/news/sports/articles/2019-12-09/russia-awaits-sanctions-from-world-anti-doping-agency>

<sup>56</sup> *WADA Executive Committee unanimously endorses four-year period of non-compliance for the Russian Anti-Doping Agency*, (Dec. 9, 2019), available at, <https://www.wada-ama.org/en/media/news/2019-12/wada-executive-committee-unanimously-endorses-four-year-period-of-non-compliance>

<sup>57</sup> *Global Athletic Community Calls for Reform of World Anti-Doping Agency*, White House Office of National Drug Control Policy (Oct. 31, 2018), available at, <https://www.whitehouse.gov/briefings-statements/global-athletic-community-calls-reform-world-anti-doping-agency/>

*Commitment to Clean Sport and Fair-Play: Reforming the World Anti-Doping Agency.* Representatives in attendance included Linda Helleland, WADA Vice President and Norway's Minister of Youth; Shane Ross, the Irish Minister for Transport, Tourism and Sport; fourteen members of the global athletic community; and Ministers of Sport and the leaders of National Anti-Doping Organizations from Australia, Canada, Germany, Ireland, New Zealand, Norway, and the United Kingdom. American Olympic athlete Katie Ledecky sent a video message of support to the attendees, all of whom were united in their call for widespread, athlete-centered reform of WADA's anti-doping system.

The Summit concluded with the *Washington Anti-Doping Summit Declaration (the Washington Declaration)*,<sup>58</sup> which stated, in relevant part:

As a result of the recent state-sponsored doping crisis in Russia, and widespread athlete and public disillusionment in how the crisis was handled, confidence in clean sport is at an all-time low. Athletes and sports fans across the globe have lost confidence in the commitment, resolve, and willingness of WADA to stand up for the ideals upon which it was founded.

WADA must be reformed to make it stronger and more accountable to clean athletes in order for governments, the public, and athletes to continue to support and believe in it.

The Washington Declaration urged WADA to undertake the following governance reforms.<sup>59</sup>

- WADA must commit to govern and operate in a respectful, accountable, democratic, and transparent manner.
- WADA must undertake greater efforts to listen to and respect the voice of athletes.
- WADA must include athletes as full voting members on its Executive Committee and in other essential governance functions.
- Call for a robust independent inquiry to examine WADA's culture, leadership, and operations following the recent allegations of bullying and acts of intimidation at WADA.
- The governance structure of WADA must be overhauled in a significant and meaningful way. Individuals with active roles in sport must not simultaneously serve in leadership positions at WADA.
- WADA must ensure an open and transparent process regarding securing all of the anti-doping samples and laboratory data in Russia, and the WADA Compliance Review Committee must convene and make a recommendation immediately after the December 31, 2018, deadline for compliance.

As a result of WADA's mismanagement of the Russian doping scandal, ONDCP began to reassess the United States' continued financial support for WADA. Accordingly, President Trump's FY 2020 and FY 2021 budget requests proposed consolidating anti-doping activities

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<sup>58</sup> *The Washington Anti-Doping Summit Declaration*, United States Anti-Doping Agency (Oct. 31, 2018), available at, <https://www.usada.org/announcement/the-washington-anti-doping-summit/>

<sup>59</sup> *Id.*

funding for both domestic anti-doping activities, along with funding for WADA dues payments, in order to allow for a more rigorous review process of resources provided to WADA.

### *WADA's Response to Calls for Reform*

A large number of anti-doping stakeholders, including a group of National Anti-Doping Organizations (NADO) from seventeen nations, called for urgent reforms to WADA and the global anti-doping system in a document that has come to be known as the *Copenhagen Declaration*.<sup>60</sup> In March 2017, the United States Olympic and Paralympic Committee added its voice to calls for reform at WADA by issuing a position paper on anti-doping reform.<sup>61</sup> Among their recommended reforms, these stakeholders emphasized that WADA should take action to remove conflicts of interests among the sports organization representatives serving in governance roles within WADA. These calls came not just from the United States but from governments across the globe, from athletes, sport organizations, and independent anti-doping organizations.

In November 2016, WADA announced the formation of the WADA Governance Working Group (Working Group) that was charged with considering possible improvements to WADA's governance system.<sup>62</sup> The Working Group was selected by the WADA President and staff and made up of five representatives from the Olympic Movement, five from Public Authorities, two representatives from NADOs, and two athlete representatives. No representative of the United States government was asked to participate.<sup>63</sup> The Working Group had a series of meetings throughout 2017 and 2018. In September 2018, after meeting for nearly two years, the Working Group decided that it would submit key principles for change and improvement to the WADA Board for its approval, rather than detailed recommendations for changes to current WADA processes and protocols.<sup>64</sup>

The Working Group's key principles for improving WADA's governance included, but were not limited to: 1) Increasing independence among WADA officers and Committee members; 2) Improving WADA's governance structures (Working Groups, Expert Groups, Standing Committees, and Nominations Committee) by increasing independence and levels of expertise;

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<sup>60</sup> USADA Fully Endorses Reform Proposals Following Special NADO Summit in Copenhagen, (Aug. 31, 2016), available at, <https://www.usada.org/announcement/usada-endorses-anti-doping-reform-following-nado-summit/>. These reforms were subsequently endorsed by dozen of additional national anti-doping agencies. See *The Institute of National Anti-Doping Organisations (iNADO) today proposed what it described as "concrete measures" aimed at reforming the governing structures of the World Anti-Doping Agency (WADA)*, (March 12, 2017), Inside the Games, available at, <https://www.insidethegames.biz/articles/1047989/inado-publishes-list-of-measures-aimed-at-reforming-wadas-governing-structures>

<sup>61</sup> *Anti-Doping Reform – USOC Position Paper*, (March 2017), available at, <https://www.teamusa.org/Anti-Doping-Reform-USOC-Position-Paper>

<sup>62</sup> *WADA Working Group on Governance Matters: Recommendations for Consideration by the WADA Foundation Board, Agenda Item #4.1, Attachment 1* (Oct. 26, 2018), available at, [https://www.wada-ama.org/sites/default/files/resources/files/item\\_4\\_1\\_attach\\_1\\_wggov\\_recommendations\\_and\\_annexes\\_26102018\\_final.pdf](https://www.wada-ama.org/sites/default/files/resources/files/item_4_1_attach_1_wggov_recommendations_and_annexes_26102018_final.pdf)

<sup>63</sup> However, two of the government representatives were also candidates for the WADA Presidency. For a short time in 2017, U.S. athlete Angela Ruggiero, then IOC AC Chair, was a part of this group.

<sup>64</sup> Footnote 62, *supra*, at 1.

and 3) Establishing a new set of Rules for Ethical Conduct that mandate high standards of conduct required of WADA officials.<sup>65</sup>

After further deliberations, the Working Group developed a series of recommendations for improvements to WADA's governance systems. The WADA FB voted to adopt some of the Working Group's recommendations on November 15, 2018, at its meeting in Baku, Azerbaijan.<sup>66</sup> Among the concepts approved by the FB at that time were:<sup>67</sup>

- An independent President and Vice-President, with a remuneration associated with the role of the President;
- Formation of a Nominations Committee to ensure the right people in terms of skills and independence serve in senior governance roles within WADA;
- The addition of two independent seats – with full voting rights – to the Executive Committee. Nominations for these positions could be proposed by the Sports Movement and the Governments, but the candidates should have no link to either group in accordance with criteria that will be vetted by the Nominations Committee;
- A limit of three three-year terms (nine years in total) for all members of the Foundation Board, Executive Committee, and the Standing Committees, with no possibility of stepping out for a term and returning;
- Formation of an Independent Ethics Board to ensure compliance with the standards of conduct required for good governance; and
- A minimum of one seat each for both athlete and NADO representation in all Standing Committees.

Increasing athlete representation on decision-making bodies and advisory committees was an objective reportedly widely discussed within the Working Group, but the specific manner of achieving this objective was not included in the concepts approved in the FB vote on November 15, 2018. Nor has WADA subsequently adopted a clear means of incorporating independent athlete representative voices in WADA decision-making.

Although the November 2018 WADA FB approval was then described in a WADA press release as “wide-ranging governance reform,”<sup>68</sup> it is clear that none of the key elements of the *Washington Declaration* were adopted. Moreover, in the year and a half since WADA's limited proposals were approved by the FB, there appears to have been only minimal progress toward implementation of even those steps that were approved in 2018 by the WADA FB.

For example, an Independent Ethics Board has not been adopted by WADA, and there is no indication that the Ethics Board will be established by a date certain. While an inaugural Nominations Committee has been newly formed, at present, it ensures only that candidates for board positions receive some vetting. Recently, the new Nominations Committee refused to

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<sup>65</sup> *Id.* at 3 – 8.

<sup>66</sup> As noted above, the *Washington Declaration* was issued on October 13, 2018, about one month before this action by the WADA FB.

<sup>67</sup> WADA Foundation Board approves wide-ranging governance reform, available at, <https://www.wada-ama.org/en/media/news/2018-11/wada-foundation-board-approves-wide-ranging-governance-reform> (Nov. 15, 2018).

<sup>68</sup> *Id.*



move forward names for the two proposed independent members of the WADA Ex Co because there was so few nominees put forward that the Nominations Committee concluded that those put forward could not be considered truly independent.

Moreover, as the governance reform process moved forward within WADA, it picked up a concept not endorsed by the FB in its 2018 vote: requiring nominees for the independent positions to be endorsed by both the sport representatives and the public authorities. Of course, this concept actually runs counter to independence and merely gives the sport representatives and the public authorities veto power over proposed “independent” members. Therefore, outside establishing the Nominations Committee, the only “reform” proposed in 2018 that appears to have been fully implemented to date is the proposal to pay the WADA President an annual stipend, and this has been supplemented through including a stipend for the WADA Vice President as well.

Most importantly, the strong call in the *Washington Declaration* for WADA to make reforms to be responsive to the athlete’s voice has not been realized. Three years after WADA publicly announced it was initiating a process to implement significant governance reforms, based upon publicly available documents and information, it does not appear that these stated goals have been realized. There has been no material change on three key criteria that ONDCP believes should be guiding lights in terms of United States policy towards WADA:

1. There has been no change on including independent athlete representatives on WADA decision-making bodies;
2. There has been no change in increasing the independence of WADA’s governance from control by the sports organizations with a financial interest in WADA decisions; and
3. There has been no change in providing the United States a voice within WADA that is proportionate with U.S. financial contributions and with U.S. contributions to the global anti-doping movement.

#### **D. Conclusions and Recommendations**

America’s athletes devote years of effort and passion to prepare to represent the United States in international competition. They rightly dream of competing on a level playing field where the outcome of their competition will be determined on the field of play and not in a laboratory, through chemical manipulation. America’s athletes, as well as all of the world’s clean athletes, need and deserve our urgent intervention to make WADA independent of conflicts of interests, more effective in protecting clean athletes, and more capable of standing up against institutionalized doping. In line with the *Washington Declaration*, ONDCP believes that there are three benchmarks of progress at WADA that should be evaluated by the United States Government:

1. WADA must include independent athlete and independent anti-doping stakeholder representatives on WADA's committees and other decision-making bodies,<sup>69</sup>
2. WADA's governance must be free from undue influence by sports organizations with a direct financial interest in WADA decisions. This can be accomplished by reducing the number of sport organization representatives in current governance, policymaking, or executive positions within sport organizations on WADA committees and decision-making bodies. The decrease in sports organization representatives should be offset by increases in independent athletes and anti-doping stakeholders on WADA committees and decision-making bodies; and
3. Representation on the WADA FB and WADA Ex Co should be proportionate to financial contributions, and likewise a proportionate number of WADA standing committee members should be from the United States.

ONDCP recommends that the U.S. Government continue to monitor WADA's reforms to see if they satisfy the foregoing benchmarks to restore confidence in global anti-doping practices and provide a greater voice to athletes and independent anti-doping stakeholders in the process. This will enable Congress, together with ONDCP, to monitor and evaluate whether WADA is effectively discharging its responsibility to enforce the World Anti-Doping Code and uphold the rights of clean athletes.

Moreover, ONDCP recommends that Congress provide ONDCP with discretion in paying annual WADA membership dues. As noted above, the United States is the single largest contributor nation to WADA, with an annual dues bill of nearly \$3 million. The United States Government has a duty to ensure that American taxpayer dollars are spent effectively for the purpose to which they are appropriated. The United States government also has a responsibility to ensure that American interests are adequately represented in institutions funded by U.S. taxpayers. American taxpayers should receive a tangible return on their investment in WADA in the form of clean sport, fair play, effective administration of the world anti-doping system and a proportionate voice in WADA decision-making.

ONDCP should have the explicit authority to withhold and/or decrease funding if WADA fails to meet basic standards for effectiveness, independence, transparency, and responsiveness to the athlete voice, and fails to promote U.S. representation commensurate with the United States' financial contributions to WADA. The authority to reduce or withhold funding is a powerful tool that could incentivize WADA to adopt reforms to achieve the purposes for which it was created and prevent similar Russian-type scandals from re-occurring. The governance reforms urged in this Report could help to restore confidence that WADA is dedicated to its original mission and open to the viewpoints of key stakeholders, including athletes and governments.

ONDCP continues to encourage reform and partnership, but at this point, WADA has made insufficient progress, despite having been given considerable time in which to shift course.

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<sup>69</sup> Independent anti-doping stakeholders include NADOs and regional anti-doping organizations that are operationally independent of sport and anti-doping academics who do not have ties to sport organizations or receive funding from sport organizations.

ONDCP hopes that WADA's new leadership will implement necessary reforms to repair the damage done to WADA's reputation and credibility in the wake of the Russian doping scandal. However, the U.S. Government will not rely merely on hope but will continue to insist upon structural reform of WADA and closely scrutinize WADA's future actions to ensure it reforms and thereafter remains committed to faithfully discharging its duty to enforce the World Anti-Doping Code and to independence, freedom from conflict of interests and other good governance principles. The true victims hurt by doping scandals are the hardworking and dedicated athletes from around the world who play by the rules and strive to achieve their goals the right way. Institutionalized and other forms of doping cheats clean athletes from benefitting from the fruit of their labor. With the date of the rescheduled 2020 Olympic Games in July 2021 quickly approaching, it is imperative that WADA undertake additional governance reforms that will strengthen its ability to promote a clean, doping-free playing field.