

**Minutes of the WADA Foundation Board Meeting
17 November 2007
Madrid, Spain**

The meeting began at 9.30 a.m.

1. Welcome, Roll Call and Observers

The following members attended the meeting: Mr Richard Pound, President and Chairman of WADA; Professor Arne Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Dr Jiri Dvorak, representing Mr Joseph Blatter, IOC Member and President of FIFA; Ms Rania Elwani, Member of the IOC and Member of the IOC Athletes' Commission; Ms Beckie Scott, Member of the IOC and Member of the IOC Athletes' Commission; Mr Alexander Popov, Member of the IOC and Member of the IOC Athletes' Commission; Mr Kenshiro Matsunami, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Vyacheslav Fetisov, Chairman of the WADA Athlete Committee and the State Committee of the Russian Federation for Physical Culture and Sport; Mr Scott Burns, Deputy Director of the ONDCP; Sir Craig Reddie, IOC Member; Mr Makhenkesi Stofile, Minister of Sport and Recreation, South Africa; Mr Gian Franco Kasper, IOC Member and President of the FIS; Mr Mustapha Larfaoui, IOC Member and President of FINA; Mr Clayton Cosgrove, Minister for Sport and Recreation, New Zealand; Mr René Bouchard, representing Ms Helena Guergis, Secretary of State (Foreign Affairs and International Trade) (Sport), Canada; Sir Phil Craven, President of the International Paralympic Committee; Mr Willi Kaltschmitt Lujan, Member of the IOC and Member of the IOC Press Commission; Mr Rich Young, Representative of the ANOC; Dr Patrick Schamasch, representing Dr Robin Mitchell, Member of the IOC, President of the NOC of Fiji; Mr Patrick Chamunda, Member of the IOC; Professor Eduardo Henrique de Rose, President of the PASO Medical Commission; Dr Tamas Aján, Member of the IOC; Mr Francesco Ricci Bitti, President of the International Tennis Federation; Mr Anders Besseberg, President of the International Biathlon Union; Dr Christophe Bergner, Vice Minister of the Interior, Germany; Prof. Luis Horta, representing Laurentino Dias, Secretary of State for Youth and Sport, Portugal; Mr Zoran Verovnik, representing Mr Milan Zver, Minister of Education and Sport, Republic of Slovenia; Mrs Maud de Boer-Buquicchio, representing Mr Terry Davis, Secretary General, Council of Europe; Mr Ali Rezgui, representing Mr Hachemi Dijar, Minister of Youth and Sports, Algeria; Mr Sylvio Tang Wah Hing, Minister of Youth and Sports, Mauritius; Professor Claudio Morresi, President of CONSUDE; Dr Adrian Lorde, representing Mr Anthony Wood, Minister of Education, Youth Affairs and Sports, Barbados; Mr Duan Shije, Vice Minister, State Sport General Administration, China; Mr Bill Rowe, representing Mr George Brandis, Minister for the Arts and Sport, Australia; Mr David Howman, WADA Director General; Mr Rune Andersen, Standards and Harmonisation Director, WADA; Mr Jean-Pierre Moser, Director of the WADA European Regional Office; Mr Rodney Swigelaar, Director of the WADA African Regional Office; Mr Diego Torres Villegas, Director of the WADA Latin American Regional Office; Mr Kazuhiro Hayashi, Director of the WADA Asian/Oceania Regional Office; Ms Elizabeth Hunter, Communications Director, WADA; Dr Alain Garnier, WADA Medical Director; Dr Olivier Rabin, Science Director, WADA; Ms Julie Carter, Education Director, WADA; and Mr Olivier Niggli, Finance and Legal Director, WADA.

The following observers signed the roll call: Rob Koehler; Yuan Hong; Wang Yuan; Jiang Zhi Xue; Shi Kancheng; Zhao Jian

2. World Anti-Doping Code – Version 3.0 with Amendments

THE CHAIRMAN thanked the members for arriving earlier than planned; he had wanted to make sure that nothing was unduly rushed as the Foundation Board did its work. This was a single purpose meeting to hear a report from the Code Project Team and the changes that had developed in the course of the World Conference on Doping in Sport to version 3.0 of the World Anti-Doping Code distributed following the process of consultation. The Code Project Team would recommend a number of changes following the decision of the Executive Committee the previous night. Some changes would be recommended for consideration, some had been suggested but would not be recommended, and there was one change more appropriate for amendment to the WADA statutes rather than World Anti-Doping Code itself. He would then ask for comments and ultimately a decision to approve the amended version 3.0.

MR YOUNG said that, consistent with the direction received from Executive Committee, he would recommend the following changes to the Code and he would build in the statute changes at the same time.

The first was a change to the definition of specified substances, to add hormone antagonists and modulators to the groups of substances that were not specified substances. The purpose of that was that steroids were not specified substances and using hormone antagonists and modulators had the same effect as using steroids.

THE CHAIRMAN asked whether the members had any comments or concerns. Were they disposed to accept the proposal? The meeting agreed.

MR YOUNG said that the next one was in response to a comment made by international basketball; in version 3.0, the team had tried to be more global by including the Union of European Leagues, but it had been pointed out that this was an inappropriate reference and that the team should have referred to the National Basketball Association.

THE CHAIRMAN asked whether anybody wished to add anything. The meeting agreed.

MR YOUNG said that the next one concerned the fact that, when identifying the persons and entities entitled to appeal to the CAS, the team had talked about the NADO of a person's country of residence; however, as had been pointed out by Italy, it should also have included countries in which the person was either a national or licence holder. The idea was that there could be a Canadian water polo player who could be on the Canadian Olympic team but was playing in Italy, and Canada ought to have an opportunity to make the appeal.

THE CHAIRMAN asked whether there were any comments. The meeting agreed.

MR YOUNG said that, in version 3.0, the team had removed the role and responsibility of WADA to conduct doping controls, but had put that back in the way it had been in the old Code.

THE CHAIRMAN asked if anybody wished to make any comments. He would rely on people to raise their hands if they objected to this. There had been a fair amount of discussion on this the previous day.

PROFESSOR LJUNGQVIST asked whether out-of-competition testing was included in this paragraph.

MR YOUNG replied that it was. The decision was that one of WADA's roles and responsibilities was to conduct doping controls and then, because it was out-of-competition in the different sports, it was the status quo as authorised by the different

sports. The meeting agreed.

The next one had to do with monitoring compliance by UNESCO; this was the language that had been suggested by UNESCO to accurately reflect how the convention worked. From the sports point of view, the important point was that it was monitored by UNESCO but following consultation with WADA.

THE CHAIRMAN thought that some of the sports representatives had not been entirely clear as to how international conventions operated and had been asking WADA to do more than was proper or legal in respect of an international convention.

MR YOUNG said that there had been a lot of discussion about the clause in there that said that, if an anti-doping organisation had accepted the Code and its rules were inconsistent with the Code, the Code would prevail. That had been taken out.

THE CHAIRMAN noted that a number of sports movement representatives had wanted that out, and WADA had agreed with that, although what would come with that was a much more accelerated and aggressive monitoring of the rules of the IFs because, if the rules were not consistent, the sport would be non-compliant, and there would be consequences flowing from that, so there would immediate follow-up on it, not necessarily on the standard monitoring cycle of two years. This was a very important issue as he was sure the members understood.

MR YOUNG referred to the issue of what happened when a government had not ratified the UNESCO convention; before, the Code had said that IFs would not accept bids and major event organisations would not accept bids from that country. The language had been changed to reflect the fact that they would do everything possible to award bids only to countries that had ratified. That was Article 23.10 for IFs and Article 20.6.6 for the major event organisations.

THE CHAIRMAN said that the Executive Committee had thought that there should be some onus on the sports authorities to look for host countries that had ratified the convention but, if they could not find one, they should not necessarily be stopped from going there. The meeting agreed.

MR YOUNG said that the language in Article 22.5 had been mandatory previously; to be consistent with the two changes that had just been made for IFs and major event organisations, the language had been changed to "may", as it did not necessarily happen. The meeting agreed.

The next change was not to the Code but was in response to a number of comments made. It had been felt that the appropriate place to talk about what happened to a Foundation Board member whose government had not ratified the convention was to deal with that not in the Code but rather in the WADA constitution, so this change had been made to the constitution to deal with that, in much the same way as it did with Foundation Board members whose countries had not paid their dues.

THE CHAIRMAN noted that this was a recommendation from the Executive Committee to the Foundation Board; it would be more appropriate in the statutes than in the Code. The meeting agreed.

MR YOUNG referred to the concern expressed by a number of the team sports that they would be able to use certain teams or levels of teams for purposes of establishing a registered testing pool; that issue was best dealt with in the International Standard for Testing. However, to give those organisations assurance, he suggested that there be a recommendation from the Foundation Board that this language be incorporated in a direction or recommendation to those drafting the International Standard for Testing. On the second to last line, the text should read "on certain teams or levels of teams".

PROFESSOR DVORAK said that this issue had been addressed with other team sports federations and they saw no reason why this could not be included in the Code because the standard had not yet been released.

MR YOUNG replied that it should not be mandatory for the team sports to use teams for their registered testing pool. All of those discussions about how to establish a registered testing pool were dealt with for individual and team sports in the international standard, so it was an appropriate place to put it. It was true that nobody knew for sure what the international standard would say, just as nobody knew what the List or the other international standards, which could always be changed, would say, but the team had thought that this was an appropriate way to give assurance to the team sports, which had had some concern.

PROFESSOR DVORAK said, in reference to Article 10.1, that this had not been an intervention by basketball; it had also been an intervention by all team sports about the issue of training. Would it be possible to go back to this point?

THE CHAIRMAN replied that the Foundation Board was dealing with the proposed changes. There were others that the Executive Committee proposed not to make. Mr Young would deal with those next.

MR YOUNG said that the two other significant issues discussed at the Executive Committee meeting and about which there had been no decision directing the Code Project Team to make changes were the issue of training, which was that, if an athlete was ineligible, he or she was clearly not allowed to compete. However, would he or she be allowed to train with the team that was a member of a member, meaning an IF or an NF? The second issue for which the Code Project Team had been directed not to make a change was whether, if an anti-doping organisation wanted to change its rules to accept the Code amendments and start immediately, the organisation should be able to do that. The Code Project Team had felt strongly that doing that would result in a significant mess of conflicting rules.

PROFESSOR DVORAK said that he had not understood the training point.

MR YOUNG explained that version 3.0 said that, if an athlete was ineligible, he or she would not be allowed to participate in any activities of a signatory, which would be an IF, or a member of a signatory, which would be a NF, or a member of a member of a signatory, which would be a club, which meant that the athlete would not be allowed to train with a member club. The concern expressed by some organisations was that that was too harsh; the sentiment expressed by other organisations was that, if ineligible, an athlete should not be allowed to have half of the cake, which was to train with the team. The team had not been directed by the Executive Committee to make any change there.

THE CHAIRMAN clarified that there had been a strong consensus among the members of the Executive Committee that no change should be made, which was not ignoring some of the representations made on behalf of team sports; however, having considered those in the context of everything in the Code and the various perspectives represented around the Foundation Board and Executive Committee table, it was not warranted to make a change.

PROFESSOR DVORAK said that this was a very difficult issue and the team sports were of the very strong opinion that some kind of compromise should be reached in this respect because, if a football, ice hockey or basketball player was not allowed to train, he or she would be out of a job. There was a significant difference between individual and team sports.

THE CHAIRMAN thought that the team sports should undertake the onus. This was

not carved in stone and, if there was a better solution that did not create two levels of compliance, of the course the Foundation Board would be willing to consider amendments to the Code but, right then, the case had not been made convincingly enough to persuade the other stakeholders in WADA that that was appropriate. The onus should be taken back to the team sports with a proposal that made it clear that there were not two standards applicable to cheating, one in the team sports and one in the individual sports. For the time being, that was the decision of the Executive Committee.

PROFESSOR MORRESI said that the situation would create problems with the players' trade unions in various countries, because of the contractual agreements that the players had, so he asked for this situation to be reviewed.

MR RICCI BITTI thought that this was a delicate matter, but he did not see many differences between the team sports and the individual sports. The problem had to be considered because an ineligible tennis player would have to train in a club, which would be a member of an NF, so there should be a general framework and then some specificity. Also, the individual sports had some problems regarding training. He would consider the issue generally and then consider more specific points in relation to the team sports. Even a swimmer or tennis player had to find a place to train. For the moment, the interpretation was that the athletes were banned from everything in the individual sports. This was a matter that had to be studied further.

MR LARFAOUI agreed with what had just been said. Already, if a sanction was issued, an athlete could not participate in a competition, be this national or international. Also, if this sanction was a year, the athlete's career would be halted if the athlete were prevented from training. For team sports, perhaps there would be the additional issue of salaries, but this point also affected the individual sports. He thought that the issue should be reviewed and that WADA should ban athletes only from participating in any kind of competition.

MR STOFILÉ said that he was pleased that Professor Morresi had made that input, as he had been trying to figure out the real issues, coming from team sports himself, and he had been suspecting, which the speaker had confirmed, that the real issue was the contractual agreements existing between the players and their teams. The same applied to tennis players. He thought that the Foundation Board needed first to remember the strenuous input by different stakeholders the previous day about the need to send a very clear and strong message to the cheats. He thought that this had been mentioned by each and every conference participant who had spoken. To be true to that spirit, and also to take care of the contractual complications that might arise as a result of excluding contracted players from participating in the facilities of the entities to which they were contracted, the contracts should be amended and one of the compulsory elements of any contract should be that, should the player be found to have been cheating, that would constitute a breach of such contract. WADA could not protect the athletes simply because the trade unions would kick up a fuss. That would be one of the elements of keeping their players clean during membership and also an element of protecting those who should be protected against the cheats.

MR BESSEBERG said that, if what Mr Larfaoui had said were accepted, athletes would then have to be excluded from all types of competition, not only international competitions, but also on a national level. Athletes should not be prevented from training, and that was a compromise he could follow, because there would also be problems controlling whether athletes were taking part in training activities; either they would have a personal trainer in individual sports or they would train with the team if they were members of a national club. Therefore, if such rules were being put into effect, there should be the possibility to control. It would be easy to control whether

they were entering competitions on any level. That could be a compromise.

PROFESSOR DE ROSE agreed with the concept of dealing with cheats, but sometimes an athlete was suspended for three months, and wanted to train, so he thought that it was not fair to prevent athletes from training, especially if an athlete expected to have a second chance; so, in terms of cheating, WADA should be against it, but it should enable the athlete the opportunity to recover and play again and be fit to play again. If a tennis player were suspended for three months and prevented from training, in reality such athlete would be suspended for six months, because the athlete would need to train before competing. He was sympathetic to the team and individual sports that did not want to prevent the athletes from training.

MR RICCI BITTI said that a move to the issue of competition and licences might be more appropriate, because talking about training was a delicate issue. People could train unofficially, for example. He thought that WADA should ban any kind of competition and perhaps membership of an organisation for a certain period of time, but talking about training was complicated.

MR REEDIE said that the wording in the new Code was an attempt to make clearer what had been in the old Code, and he was not entirely sure that the Foundation Board should be reacting to some of the comments that had been made around the table at that point. This was a very significant weakening of the Code that everybody had wanted in place the previous day; the principles of the Code were that WADA would be firm. If an issue that caused a problem had been identified, he would be perfectly happy to discuss the issue, and WADA could change the Code at a future date. If the Foundation Board went out with a significant weakening of the Code without thinking it through carefully it would undo a lot of the good work that had been done the previous day. He was in favour of leaving it where it was and then putting a group of people together to ask whether it was going to completely destroy the future of team sports, or tennis, swimming, badminton or whatever else it might be and, if it was, this could be changed, but he did not think that this should be changed at the meeting.

DR LORDE thought that everybody was present to fight against doping in sport and, if an athlete recognised that, if he or she cheated, he or she would not be able to compete or train for a period of time, this would be a strong deterrent. He supported the Executive Committee's recommendation to keep the statement as it was. If the problem was a contractual one, he thought that the contracts should be worked on prior to signature, but the present wording of the Code should be maintained.

THE CHAIRMAN thought that Mr Reddie's observation was worth thinking about; that this would be a significant backward step at a time when everybody was talking about zero tolerance in the fight against doping in sport, and he did not think that WADA should be drafting the principles of the Code based on some professional contracts. That seemed to be going at it the wrong way and the message that WADA would be giving if it were to do that would be that an athlete had been cheating and caught, but nothing changed, except that the athlete would not be able to play in the games on Saturday. The athlete would be able to work out with the team, be a member, and get all of the other advantages; that was not a good message for WADA to send. That said, it was up to the Foundation Board to decide, but he asked the members to think about it in the overall context of the fight against doping in sport and the message that WADA would be delivering if it weakened the rule. Did the members wish to vote or was there consensus to go ahead?

PROFESSOR DVORAK thought that this might have a significant impact on team sports and he proposed a vote.

THE CHAIRMAN reminded him that it was already there; he was proposing a weakening of what was already there. What was his proposal?

PROFESSOR DVORAK said that, as had been suggested the previous day, he proposed that the issue be reconsidered. Individual case management had been implemented, and this was for team sports not to be excluded from all sporting activities during the sanction period, and he did not see a weakening of the Code. He stressed his support for the activities in the fight against doping in sport, but would also like to differentiate between specified substances; in this respect, it was obvious if somebody was taking a performance enhancing substance such as nandrolone systematically.

THE CHAIRMAN asked whether Mr Dvorak would be satisfied with expressing strong reservations about this and urging WADA to set up a committee for urgent reconsideration of the particular problems of team sports.

MR DVORAK responded that he would be happy to do so.

THE CHAIRMAN said that he was sure that the Foundation Board would be happy with that. There would be particular focus on the team sports, but this would include everything. As a temporary solution, that appeared to be satisfactory. The meeting agreed.

PROFESSOR DVORAK emphasised that he wanted to support the Code and was happy with most of the points. To put it in perspective, there had been almost no positive cases with 25,000 sampling procedures a year in his sport, so it was a theoretical point, but he did not want to cause major problems and issues with many member associations, leagues and clubs.

THE CHAIRMAN said that he understood, but thought that WADA had to deal with the perception in the public at large that nothing happened and that clean athletes were training alongside others convicted of a doping offence. If there was no real problem in football, perhaps WADA was being overly concerned at that stage; however, with an urgent reconsideration of the issues after the adoption of the Code, the onus would be on both parties to find a solution that might be better than the one being adopted that day.

MR ROWE stated this was not a problem for any athlete who did not dope. It was simple. The second thing was the concern about imagery of a high-level professional athlete who had been banned for an ADRV and was then seen training on television in his country. In his country, at times, there were 10,000 people watching a team train, and it would send a terribly disappointing message to the public and children and those who supported sport to see somebody who had incurred an infraction training with the team as though nothing had happened.

THE CHAIRMAN said that WADA was not unaware of the issues affecting team sports and would try and find a better solution if possible; in the meantime, this version of the Code would be adopted.

There were two things to do: amend the WADA statutes and then make amendments to the Code. The Code should be done first as the amendment to the statutes followed on from that. Was the Foundation Board in favour of the proposals put forward? Was the Foundation Board in favour of the proposed amendment to statutes?

He appreciated the spirit of cooperation expressed; he knew that there were a lot of different perspectives on a lot of these questions. WADA was an international group with a stunning variety of stakeholders, and the willingness to discuss and make the necessary compromises was a sign of a very healthy organisation, and he thanked the members for their agreement. The Foundation Board members would go down to the conference and announce what had been done. The Executive Committee would be on

stage. There would be another meeting that afternoon.

DECISION

- Proposed amendments to the Code and the WADA statutes approved.
- Revised Code with amendments as approved accepted.

The meeting adjourned at 10.10 a.m.

FOR APPROVAL

RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA