

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

The meeting began at 8.30 a.m.

1. Welcome, Roll Call and Observers

The following members attended the meeting: Mr Richard Pound, President and Chairman of WADA; Prof. 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 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 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 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; Mr Klaus Pöhle, representing Dr Christophe Bergner, Vice Minister of the Interior, Germany; Mr Ali Rezgui, representing Mr Hachemi Dijar, Minister of Youth and Sports, Algeria; Mr Sylvio Tang Wah Hing, Minister of Youth and Sports, Mauritius; Dr Adrian Lorde, representing Mr Anthony Wood, Minister of Education, Youth Affairs and Sports, Barbados; 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/Oceanian Regional Office; Ms Elizabeth Hunter, Communications Director, WADA; Dr Alain Garnier, WADA Medical Director, European Regional Office; 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.

2. Code Briefing

THE CHAIRMAN apologised for getting everybody out of bed and adding to the length of the day; however, he thought that it might be helpful to have a briefing prior to the conference sessions dealing with the proposed amendments to the Code. The Foundation Board was the legislative body and would have to decide the following day on the amendments to the Code and whether or not they would be adopted. In the process, the Executive Committee had acted as the policy determining body, helping to guide the work of the Code Project Team. In the draft circulated prior to the World Conference on Doping in Sport in Madrid, the members would see the written version of what the Code Project Team had been asked to produce. The conference would provide an opportunity

that day for the various stakeholders to speak and give comments or make recommendations as to what the Code should contain. The members should listen to the interventions from the point of view of the body that had to make decisions the following day and understand that they would be listening to the pleadings of special interests. They were not necessarily consensus positions and, in many cases, stakeholders would be repeating submissions made one, two or even three times previously, either incorporated in a somewhat different way or rejected for policy or other reasons. The Foundation Board members would have to sort that out. They would be helped by Messrs Young and Hass, who would be guiding the discussions and responding to questions asked, and the members should pay special attention to what these two experts said as to how a particular point or position had been considered and dealt with. Those answers would be particularly important when the members considered what would be the final document. The Code Project Team would also be listening to these submissions. Some had been legitimately made at the last minute, as the final version of the Code was only a month old, but the team would be listening and making last minute adjustments to reflect the views that did make sense. The Foundation Board would meet the following day to approve the Code and then go back to the conference and say that there was now a revised Code. There would then be a final conference declaration, which he hoped would be approved unanimously. Mr Young would take the members briefly through what would unfold that day and what had been done to date. It was good to be up to speed.

He was expecting the Executive Committee members to be on the stage during the process. This would involve Messrs Young and Hass going through the major changes so that the conference participants could be certain they understood them, and then there would be interventions. These had been divided into two sections. The first portion would be the government and public authorities' perspective, to take them through the morning session and, after lunch, the sport movement's perspective on the Code would be heard.

MR YOUNG said that the Code Project Team presentation would provide an overview of the highlights of the Code. If anybody had any questions, the team would be able to answer these. It would be useful to give the Foundation Board an idea of the issues that he thought would be discussed and where the Foundation Board would be asked to make changes to the Code. There would be a handful of minor technical changes suggested.

One had been made at the Executive Committee meeting the previous day regarding the definition of specified substances; the Executive Committee had added hormone antagonists and modulators to the list of things that would not be specified substances. Steroids were not specified substances for special treatment, and this was another way of getting the same effect as that obtained with a steroid.

He outlined five categories in which the members would hear arguments of a substantive nature that the Code ought to be changed. One had to do with the provision that said that, if a country had not ratified the UNESCO convention by 1 January 2010, it would not be eligible to bid for world championships. The Foundation Board would hear an argument that this was not a good idea as it put the burden on sport instead of on government.

Secondly, Article 24.6 said that, if an anti-doping organisation had accepted the Code and the language in its rules was different to the Code, the Code trumped. That was a very good idea for harmonisation; the counter argument was that the athlete should be held responsible only for reading his or her own rules and not inconsistent rules in the Code.

The third area in which some contention was expected concerned the change made between versions 2 and 3 of the Code; that change said that, when serving a period of ineligibility, an athlete could not participate or compete in any activities of a member or a member of a member, which basically meant that an athlete could not practise with his or her team or club. That was good insofar as it was a very strong deterrent to doping

and keeping dopers out of the mainstream of sporting practice, but bad in that, in some sports, it could mean the end of a career.

The members would hear a suggestion. At that moment, the Code amendments and all of the international standards would be going into effect on the same day, 1 January 2009. It was important that this happen because all of the parts were interrelated; for example, if Code language were adopted without the new List, which identified which stimulants were specified substances, there would be a big gap. The members would hear a response that the stakeholders understood why the Code and the international standards all needed to be adopted together, but wondered why they should wait until 1 January 2009 if, for example, an IF would like to implement the new Code as soon as possible, and why WADA could not get its international standards and List done earlier.

The last area had to do with the relationship between UNESCO, monitoring, and WADA and the Code. Members would recall that, as a non-governmental entity, WADA had no power over the governments to monitor them, which was why UNESCO monitored government compliance with the UNESCO convention, which paralleled the Code. There was some frustration on the part of the sports movement that WADA could not monitor the governments through UNESCO in the same way as it monitored the sports. There would be pressure to try to increase the way in which WADA would be involved in the UNESCO monitoring process. There were things that WADA could do, such as keep track of who had ratified and pass on UNESCO monitoring reports, but he did not think that WADA could do a lot more than that. There would be one change from UNESCO to clarify that WADA's role was simply advisory. In the past month, there had been suggestions coming in every day, and there had been a few technical suggestions (typos, numbering, etc.) for which he had asked permission to make non-substantive changes.

THE CHAIRMAN said that that was the way in which things would unfold during the course of the day. The Code Project Team would do its best to respond to questions of a technical nature, and would explain why the particular policy decisions had been taken to date as reflected in the Code, and the Foundation Board would have to figure out generally the direction in which WADA wanted to go.

There was certainly division on how to characterise what would happen if a country that had promised to adopt the convention had not done so three years from then. Some had said that sport would suffer. He had never fully understood that. The issue was whether WADA (through the Code) should be seen to be rewarding bad conduct on the part of a country that refused to ratify the convention but was still encouraged to apply for and host world championship events.

As to the Code trumping the local rule, the issue there was whether or not WADA wanted harmonisation or whether it would allow various organisations to have their own rule and then face the issue of whether or not they were Code-compliant, which was a far more difficult position to take than simply to say whether the Code should trump. He thought that advice would be needed from the Code Project Team as to whether such a rule could be enforceable. What might happen if it went to the CAS?

The issue of participating in all other activities except for competitions whilst serving a suspension for a doping infraction was a policy matter. Could somebody suspended for a year, during which there were 30 game days, partake in everything relating to the sport except from the games? Was that the right kind of message to be sending out?

As to the timing regarding all of this coming into effect, he had heard that maybe the language should be that all of this would come into force not later than 1 January 2009, so that federations and other organisations that saw these rules as improvements and wanted to get them in place as soon as possible could do so.

On the issue of UNESCO and WADA monitoring, he thought that WADA had to inject some element of realism there; there were certain things that WADA had not been invited to do and was not legally able to do, other than keep track of who had ratified the convention, but the monitoring between governments of the activities of governments

had been reserved by governments for governments and whether WADA would like to do something more or not was really beside the point. The members would hear all of this and their job would be to separate the wheat from the chaff with the guidance and advice of the Code Project Team.

MR BESSEBERG said that he supported the use of the wording “not later than”, as many federations had congresses in the summer and autumn of 2008 and many changes had to be confirmed or decided by congresses, so then they could come into effect earlier. Normally, congresses were held every second year, and a decision could not simply be taken by an executive board, so he thought that WADA should use the wording “not later than 1 January 2009”.

THE CHAIRMAN suggested that the members keep their powder dry on that and listen to the arguments for and against. That was something that was out there that allowed those federations that were able and willing to act faster than 1 January 2009 to do so. He would have thought that WADA should encourage that if it did not create insurmountable harmonisation problems.

PROFESSOR LJUNGOVIST said that he thought that the monitoring problem had been better understood by the sports movement and that there was a division of power, in that UNESCO monitored what the governments were doing through the UNESCO convention and WADA monitored what the sports movement was doing. That might not be an issue after all.

THE CHAIRMAN said that, the following day, there would be a very tightly constructed meeting schedule, so he wanted all of the Foundation Board members present at 9.59 a.m. ready to go, as they would have to do their job and get back to the conference very quickly. The Executive Committee members should be in their seats in the conference hall at 9.25 a.m. so that they looked enthusiastic and ready to go.

MR ANDERSEN said that the Executive Committee would meet right after the conference that day to look at the interventions made during the day so that there would be a recommendation to the Foundation Board the following day from the Executive Committee.

THE CHAIRMAN advised the members to drink two cups of coffee and ensure that they were suitably stimulated for the day ahead!

He thanked everybody and declared the meeting adjourned.

The meeting adjourned at 9.00 a.m.

FOR APPROVAL

RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA