

OFFICIAL STATEMENT FROM WADA ON THE VRIJMAN REPORT

Background

WADA is effectively, the world watchdog for all matters related to anti-doping. WADA was formed in 1999 and, pursuant to its mandate delivered by its governance, 50 percent of whom come from the Sports Movement and 50 percent from world Governments, it has been responsible for the introduction of the World Anti-Doping Code which took effect from 1 January 2004. WADA has no other interest or mandate but to fight against doping in sport and to provide for all athletes a level playing field. WADA in this particular case is not a concerned party, such as Lance Armstrong, not a lawyer mandated and paid by UCI, like Mr. Vrijman, nor is it responsible for the sport of cycling, like UCI. In 1999 EPO was not detectable in the urine sample of the athletes. A valid test was only available as of the year 2000.

In 2004 the French Laboratory decided, on its own initiative, to start a project on stored samples from the 1999 Tour de France in order to evaluate a number of scientific facts, including the use of EPO prior to the test being in place and the stability of EPO in urine samples.



When informed about the project WADA expressed its interest in its outcome.

Neither WADA nor the French Laboratory had any possibility of linking any sample involved in this project with any particular individual and therefore any sanctioning process was out of question. It was very clear for both entities that this was a research project. Linking a sample with a name could only be done by UCI who was in possession of the doping control forms used in the 1999 Tour de France. As far as WADA and the French Laboratory were concerned, confidentiality of the results was fully guaranteed.

The result of the research was sent to WADA headquarters in Montreal by the French Laboratory on 22 August and opened by WADA on 25 August.

L'Equipe published an article in its newspaper on 23 August 2005 headlined "*The Armstrong Lie.*" The article published six doping control forms pertaining to Mr. Armstrong and a summary of the finding from the French laboratory in conducting its research from samples collected during the 1999 Tour de France. The article suggested that Mr. Armstrong had not been truthful in his many utterances that he had never taken performance enhancing drugs, as the author was suggesting he could show through the items exposed during his personal research and discovery, that on six occasions, during the 1999 Tour,



Mr. Armstrong's samples showed EPO. The contents of the article need no clarification here, but suffice to say it led to voices of outrage from various quarters, including Mr. Armstrong and UCI.

WADA had nothing to do with *l'Equipe's* publication and learned about it by reading the paper.

It appeared later, and this fact is not contested now by UCI, that 15 doping control forms from Mr. Armstrong had been given with his consent and UCI consent to *l'Equipe*.

Following such publication which linked six samples containing EPO with the name of Lance Armstrong WADA did nothing else but ask UCI, as the responsible international sport federation for the sport of cycling, to look carefully into the matter.

Process

- a In respect of newspaper articles containing defamation or alleged defamation of individuals, the person so defamed can exercise the process provided by law and sue for damages. This is the right of the individual and the process



accorded by most countries, including France. In France, where the article was published, Mr. Armstrong did not issue proceedings for defamation against *L'Equipe*. We are not aware of any proceedings elsewhere either. There are time limits provided for the initiation of such proceedings, and in this case they have now expired. In other situations involving newspaper articles and books, in varying jurisdictions around the world, Mr. Armstrong has sued and some of these proceedings are still awaiting hearings in courts. One involving *The Sunday Times* in England has a hearing shortly.

- b As part of its role, WADA accepts the responsibility for ensuring that all allegations of breach(es) of anti-doping rules are properly and professionally investigated. On this occasion, WADA immediately suggested that the responsible organization, namely the international federation for cycling, UCI, conduct an appropriate enquiry to determine whether the facts revealed by the article could lead to any sanction process or to any other steps within the jurisdiction of that federation.

- c After the exchange of several letters between WADA and UCI, it became obvious to WADA that UCI was not interested in accepting such responsibility. Accordingly, on 5 October 2005, WADA determined that it would accept the responsibility and embarked upon an enquiry by seeking



responses to questions issued by it from each of the interested parties, Mr. Armstrong, UCI, the French Ministry, and the French Laboratory as well as *L'Equipe*. Letters were sent to all on 5 October 2005.

- d After receiving this correspondence from WADA, on 6 October 2005, UCI announced that it would conduct an “independent” enquiry through the offices of a lawyer, Emile Vrijman.

- e UCI neglected, in making this announcement, to prepare and agree to terms of reference for this enquiry and to properly mandate Mr. Vrijman, pursuant to its rules, to carry out such an investigation. Accordingly, when Mr. Vrijman wrote to WADA on 6 October 2005, WADA replied, on 13 October 2005, seeking the terms of reference and seeking his legal mandate to carry out an investigation.

- f It was not until 24 November 2005 that WADA had any further correspondence in relation to this matter. On that day, WADA received a letter from UCI, not Mr. Vrijman, with the contents being its mandate to Mr. Vrijman and terms of reference, which seemingly had been issued on 15 November 2005. WADA replied to this correspondence from UCI on 15 December 2005.



g Over the next months there was no approach made by Mr. Vrijman to WADA, nor any approach made by UCI. At the Winter Olympic Games in Torino, in February 2006, a pre-arranged meeting between the former President of UCI, Hein Verbruggen, and the President of WADA, Richard Pound, was convened under the auspices of the IOC President, Jacques Rogge. This meeting was convened as one of conciliation to ensure that any differences between the two Presidents could be resolved. At that meeting, Mr. Pound showed Mr. Verbruggen copies of 15 doping control forms relating to samples collected from Armstrong in the 1999 Tour de France. All 15 doping control forms had been released from UCI with the consent of Mr. Armstrong to the author of the article in *L'Equipe*. Mr. Verbruggen accepted these facts. Prior to this revelation, Mr. Verbruggen had denied publicly on many occasions that any doping control forms had been released by him, and that perhaps only one had been released by UCI. Consequently, UCI issued a statement indicating a member of its staff would be suspended for the releasing of this confidential information to a newspaper reporter. Dr. Mario Zorzoli was suspended immediately (but later reinstated in March 2006).

Also at this meeting, Mr. Verbruggen advised Mr. Pound that he had sighted



a draft report authored by Mr. Vrijman, in which WADA was severely criticized and the report would make extremely bad reading for the World Anti-Doping Agency. In response Mr. Pound advised Mr. Verbruggen that WADA had not yet been approached by Mr. Vrijman with any requests for information nor for interviews.

- h On 10 March 2006, Mr. Vrijman wrote to WADA. Mr. Vrijman wrote again on 15 March. These letters included a list of questions which Mr. Vrijman asked WADA to respond to. WADA responded in full to the list of questions.
- i WADA subsequently provided, through UCI, two boxes of materials which WADA felt would be of interest to Mr. Vrijman.
- j WADA heard no more from Mr. Vrijman. WADA received no request for any personal interview, nor any follow up to the responses to the questions that WADA had provided to Mr. Vrijman. WADA was not shown the report in draft form (although this was accorded to UCI, with at least two drafts being provided to the federation), nor was it asked to respond to allegations made against WADA within the report so that its comments would be fully and properly investigated and recorded. In most jurisdictions around the world,



this blatant demonstration of bias and lack of proper and professional process is seen as a breach of natural justice.

- k This breach of natural justice is further exacerbated by Mr. Vrijman's allegations that WADA refused to participate in the inquiry. As noted above, WADA responded to all two of Mr. Vrijman's letters in a complete and timely manner and offered to provide additional information. WADA cannot be faulted for the inquirer's lack of follow up.

- l The report was published and personally announced by Mr. Vrijman, so that the media received copies prior to it even being delivered to UCI. WADA learned of this publication through the media.

Substance of report

- a The process used by the French Laboratory in conducting its research was not the process used for analysing samples for the purpose of sanctions. Mr. Vrijman, at all times, confuses this fundamental difference and seems to indicate that, in conducting research, the laboratory was required to carry it out in the same manner as for analysing samples for adverse analytical findings. This is not the case, and Mr. Vrijman, in directing himself to the



rules relating to samples collected for analysis rather than understanding the difference for research, has totally misdirected himself in his inquiry. This very basic error leads to ill-informed and incorrect outcomes. The laboratory has indicated publicly that it has no doubt whatsoever in the results of its analysis, and that no sample used for the research project was contaminated, manipulated or interfered with. There may be appropriately stored residue still available for DNA and other further analysis.

- b Mr. Vrijman does not inquire at all into why Mr. Armstrong gave his consent, through his advisers, to UCI to provide 15 doping control forms to the *L'Equipe* reporter who was the author of the article published on 23 August. Mr. Vrijman does not likewise ask or inquire in any depth of UCI management and executives of why they sought Mr. Armstrong's consent, and why they authorized the release of the documents with some redactions in relation to medication. That failure indicates both a lack of professionalism and a distinct lack of impartiality in conducting a full review of all the facts. Indeed, despite Mr. Verbruggen's concession that all 15 forms came from UCI, Mr. Vrijman only suggests it may have been more than one. Why did he fail to review all the files, and interview the responsible personnel?



Mr. Vrijman suggests that the article would have been published by *L'Equipe* without these doping control forms, and therefore he did not need to enquire further into why, how, and when they were released. This is a serious factual and process deficiency, which cannot now be remedied in any fashion.

- c Mr. Vrijman forms views he calls conclusions, based on speculation and the threading together of comments made by various individuals to various journalists. He does not ask any of the individuals, whom he quotes, whether the quotes were accurate, truthful, or otherwise. He does not establish facts, as necessarily required by lawyers before reaching conclusions on the law.
- d As there are no proper factual conclusions, there can be no proper legal analysis. In this case, however, it is even worse. Mr. Vrijman fails to cite any rule or regulation, by number nor reference, where he can establish that his speculations show a breach. Without a breach of rule, there cannot be allegations of misbehaviour or wrongdoings. There have not been any.
- e Mr. Vrijman suggests that WADA was formed in 2003. As any expert in anti-doping matters knows, WADA was formed in 1999. The Code, for which



WADA is responsible, and its allied Standards, have been in place since 1 January 2004. The events at issue which led to the research occurred in 1999. Mr. Vrijman does not establish the rules and laws, which were fully in place at that time. He does not, therefore, establish the facts which lead to proper analysis of those rules, but he reaches conclusions which simply become farfetched and chooses rules which he hopes might be in place but does not specify nor determine when or how they are applicable.

- f There was no pressure put on the laboratory by WADA. There was no leak from WADA. There has been no discussion of matters with the journalist prior to the publication of the article, and there has been no information given to the journalist which would lead to the identification of the individual, Mr. Armstrong. WADA condoned a research project carried out by the laboratory in an appropriate manner, and sought the results of such research as part of its mandate to continue the fight against doping in sport. Mr. Vrijman insists that WADA exercised inappropriate pressure on the French laboratory. WADA solely advised the laboratory it would be interested in the findings, and disclosed this in the response WADA gave to Mr. Vrijman's questions. There was no other action taken by WADA in relation to the publication of the results of the research.



- g When the facts are wrong the conclusions that are built on these facts are wrong. Mr. Vrijman's report is fallacious in many aspects and misleading. WADA is presently looking at all its available legal recourses in respect of the report .

- h UCI now asks questions publicly of WADA. Whilst surmising that UCI cannot be happy with the conduct of its investigator, WADA has no difficulty in answering the questions, and making the answers public. However, when the process is so flawed as it is to date, there can no longer be professional confidence in the author. Therefore, providing further answers to more questions, surprisingly not asked during the inquiry leading to the report, does not remedy a flawed and partial document.