



VIA EMAIL

November 19, 2024

President
Witold Bańka
World Anti-Doping Agency

Director General
Olivier Niggli
World Anti-Doping Agency

Dear President, Dear Witold
Dear Director General, Dear Olivier,

As you know, we have made numerous efforts to open a good-faith dialogue with you to attempt to restore confidence in WADA as the leader of the global anti-doping system. We continue to remain open to doing so, but as you read in the attached letter from USADA Chair Dr. Tobie Smith to you on November 14, 2024, we remain committed to ensuring clean athletes are served first and foremost. And they deserve answers.

When you eventually responded to our requests for dialogue, you declined offers of collaboration, and you mischaracterized our statements, pursued a costly and unfounded lawsuit against USADA, and sought to exclude Dr. Gupta, the White House Director and the duly elected representative of the America's region to the WADA Executive Committee, from discussions on the failures of WADA outlined in the Cottier report based on a bad-faith ethics complaint, which you later agreed to withdraw. While you state in your September 6, 2024 letter that you stand ready to collaborate, your actions indicate otherwise, which is regrettable for the collective efforts to support clean athletes and to strengthen the global anti-doping movement.

It is concerning that significant time and resources, including U.S. taxpayer funds, are being directed toward ongoing criticisms and unfounded, defamatory statements about the United States, USADA, and U.S. athletes. These efforts to create a false narrative are both evident and counterproductive. Your decision not to engage with the U.S. Congress, German Bundestag, and the Council of Europe has raised concerns, and your continued efforts to discredit the United States only further damages WADA and the credibility of the global anti-doping system.

It is unfortunate that the political and legal efforts devoted to casting aspersions on the United States, USADA, and U.S. athletes was not directed toward ensuring that all nations, including China, played by the rules. Your letter, which was publicly released as it was being sent to USADA Board Chair Dr. Tobie Smith, came as an unexpected surprise. It is fair to say that both she and our entire Board found your actions deeply concerning and unacceptable.



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Your letter references an inquiry from the Central European Anti-Doping Organization (CEADO) and others; however, we understand that this letter was, in fact, initiated by WADA. Further, we understand certain signatories to the letter did not even authorize it. Many within the anti-doping community are fully aware of WADA's previous use of CEADO to advance its political and public image objectives. For instance, as we understand it, CEADO seemingly following WADA's lead, contributed to divisions within the NADO community when member countries abruptly withdrew from iNADO, a global association of NADOs, after iNADO joined South American NADOs and others in signing a letter requesting specific actions from WADA's leadership to strengthen the global anti-doping movement. We further understand that WADA, working with these Central European countries' NADOs, conveyed their disapproval of iNADO's decision to sign the letter, which contributed to the resignation of iNADO's CEO.

The concerns raised by CEADO and others in the region about the United States, USADA, and the U.S. program are deeply ironic. The NADOs and RADO that signed the letter would benefit more from focusing on their own programs, and your efforts should be directed toward supporting them in that endeavor. Notably, over 15% of the signatories to the letter referenced by WADA conducted zero (0) out-of-competition tests according to WADA's own statistics. It is worth highlighting that the CEADO Chair did engage with USADA and played a role in facilitating our invitation to the NADO Expert Advisory Group where we had an informed, fact-based discussion of the issues you have sought to politicize.

It has become evident that the United States has been singled out for seeking accountability regarding WADA's lack of enforcement of its own rules following the positive tests of 23 elite-level Chinese swimmers for a powerful performance enhancer in the lead-up to the 2021 Games. Leveraging these NADOs to support a strategy of division and retaliation runs counter to the kind of leadership essential for strengthening the global anti-doping system.

Equally as disappointing, the defamatory letter WADA published is riddled with falsehoods and gross mischaracterizations. Your claim that "90% of American athletes compete outside the protection of the Code" is unfounded and lacks any factual basis. This figure appears to have been created for effect, as no evidence supports it. In fact, millions of athletes are under the jurisdiction of the World Anti-Doping Code in the United States. And all U.S. college athletes competing at the elite Olympic level are fully subject to the WADA Code. At this summer's Paris Olympic Games, one hundred percent (100%) of U.S. college athletes who participated were tested in accordance with the WADA Code. Your unfounded statements can only be explained as another deliberate misrepresentation aimed at diverting attention from WADA's own failings and advancing your agenda of division.

With respect to WADA's false attack regarding the testing of U.S. athletes competing in international competition including World Championships and the Olympic Games, the responsibility for testing international-level athletes is shared between International Federations and NADOs to ensure comprehensive and equitable testing for athletes worldwide.¹ If there is a misunderstanding about

¹ See ITA Paris 2024 Pre-Games Report (<https://ita.sport/resource/ita-paris-2024-pre-games-report/>).



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the global system, it is important for you to know that any critique of testing of U.S. international-level athletes directly extends to the International Olympic Committee (IOC) and all International Federations. Under the WADA Code, these organizations hold both the jurisdiction and the responsibility for testing athletes competing in their international events. Did you also address your letter questioning the testing programs to the IOC or to all International Federations? You must not know that many NADOs specifically exclude International-level athletes from their testing pools. Have you similarly inquired with these NADOs about their testing practices for athletes competing internationally? We understand that you did not, which reveals the true intentions behind your defamatory letter and highlights concerns regarding the current leadership's judgment and approach to the global fight against doping.

Should you take the time to review the facts, you would find that USADA is fully compliant with the WADA Code, including WADA's Technical Document for Sport Specific Analysis. This was further confirmed during your organization's in-person audit of USADA in 2022. We successfully implemented the ITA's Pre-Games Expert Group testing recommendations for U.S. athletes leading into the Games, achieving outstanding results ranking in the top of all countries. In the Pre-Games period, 8.3 samples were collected from U.S. athletes who won individual gold medals, 6.9 samples collected from U.S. athletes who won individual silver medals, and 6.5 samples collected from U.S. athletes who won individual bronze medals. Our average per athlete test number per Olympian was as high as any country at the Games, and our delegation is the largest with over 600 athletes.²

It would be insightful to compare these averages with those of your home country's NADO and those that signed the CEADO letter. This highlights the importance of transparency, which is why we have long advocated for publication of individual test numbers by athlete name in real-time—a practice we have done on our website since the early 2000s. With the ITA's Pre-Games report, we can now compare compliance with the ITA's Pre-Games testing recommendations, and we note the compliance rate of your home county is merely 76% compared with the 98% compliance rate for the United States. Again, this highlights how your defamatory and retaliatory remarks and actions toward the United States, USADA, and U.S. athletes are misguided, unlawful, and counterproductive.

While we recognize that you have been involved in anti-doping since 2020, it is quite important to note that measuring the effectiveness of a country's anti-doping efforts solely through testing is a fool's errand. In fact, one of your predecessors convened a group of experts that produced the document entitled, "Lack of Effectiveness of Testing Programs". We encourage you to review it, as it provides insights that may help you reassess your position.

Furthermore, USADA conducts a higher percentage of out-of-competition testing (75% in 2023) than most Anti-Doping Organizations. The overwhelming majority of our OOC tests occur outside the defined 60-minute window, as this approach is widely recognized as the most effective way to deter and detect dopers, rather than simply increasing testing numbers. Additionally, we rarely conduct "camp testing", which as you may know is characterized by WADA as OOC. You might not be aware

² *Id.*



that Russia was known for targeting mass recreational training events, such as sailing, to conduct large volumes of testing—primarily to inflate their testing statistics. These camp testing settings typically involve high-volume, low cost, tests but were done when it was unlikely that any athlete present would be using prohibited substances. These are hardly effective strategies if you actually want to stop cheaters, but they go far in playing testing volume charades.

Similarly, your letter’s characterization of USADA’s testing numbers relies on inaccurate comparisons and flawed assumptions. Specifically, WADA has referenced USADA’s total budget, including funding from non-Olympic and non-Paralympic sport programs, while only accounting for testing numbers from our Olympic and Paralympic programs. You conveniently left out over 6,000 of our tests, leading to a deceitful representation of our efforts and the testing of U.S. athletes. If a proper apples-to-apples comparison was made—considering our full budget alongside our comprehensive testing numbers and types of tests relative to others—it would be clear that your statements are false and misleading.

As you may know, our budget supports a comprehensive approach that includes significant investment in prevention, research, and cutting-edge science. Additionally, it funds a robust intelligence and investigations (I&I) program with our investigators playing a critical role in every positive case we handle. It is unfortunate that you have spent so much effort crafting a misleading narrative about the United States, USADA, and U.S athletes, rather than focusing on ensuring that your own investigative team has the appropriate policies and procedures in place to, at a minimum, address positive samples effectively.

For example, it would have been easy for someone from your 16-member I&I department to engage on the 28 positive Chinese TMZ cases when WADA was first notified of them in March 2021. Yet, according to the Cottier Report, “the I&I Department was not involved in the handling of the case.” Cottier then recommended developing “criteria that determine whether or not to get [I&I] involved” as “useful, if not indispensable, for cases that appear to be more complex from the outset, . . . especially a few months before major competitions such as the Olympic Games or world or continental championships.” This seems to be good advice given we have been involving I&I in all our cases for many years.

You seem uninformed regarding the application of the WADA Code to college athletes. To be sure, USADA has jurisdiction over college athletes who represent the U.S. in Olympic competition or at an international event. Additionally, college athletes are included in our testing pool when they meet the qualifying standard and other criteria established by USADA in collaboration with the appropriate National Federation. All NCAA athletes who participated in the Paris Games on Team USA were tested in accordance with the WADA Code. For athletes from other countries who come to the United States to attend and compete in college, their testing falls under the responsibility of their International Federation and their NADO. These athletes should be a primary focus because their IF or NADO may not be testing them while they are in the United States. USADA can test these athletes if WADA would provide real-time whereabouts information as USADA has requested. WADA has thus



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far rejected USADA's requests, and without this real-time visibility into their whereabouts, it becomes impossible to ensure proper testing.

In addition to USADA's repeated requests for real-time whereabouts information from WADA to facilitate testing of college athletes from other countries, we have previously communicated in writing that we "welcome[] further collaboration with WADA on any methods by which USADA can become more involved to improve the NCAA's anti-doping program." Unfortunately, similar to our request for real-time whereabouts information, our invitation to collaborate with WADA on this issue has not yielded any action. USADA is not aware of any recent and repeated attempts by WADA that have gone unanswered by USADA. In fact, the truth has been quite the opposite.

For its part, USADA has actively worked to highlight the issues within the college system, as reflected in my statements on the matter. While it is clear that the college anti-doping system does not meet the high standards set by USADA, it is important to note that, in many instances, the college program surpasses the quality of some of the programs being implemented globally under the WADA Code. As you are likely aware, USADA has engaged with members of Congress and collaborated closely with the USOPC to support the advancement of the college system's overall anti-doping efforts. However, challenges such as your handling of the Chinese positive cases and the recent criticisms directed at the college system, have significantly, if not irreparably, damaged efforts to build trust in WADA's governance as a viable solution for the collegiate system with the United States and U.S. athletes.

It also appears you and your team misunderstand the history of professional athletes from around the world being subject to the WADA Code. In the early 2000s, the USOPC and USADA implemented a rule requiring that all professional athletes, not otherwise subject to the WADA Code, be in a testing pool under the WADA Code 12 months before the Games. WADA eventually incorporated this rule into the WADA Code;³ however, under pressure from various stakeholders including the professional Russian hockey league and other sport organizations, the requirement was later removed. Now the requirement for whereabouts can be as short as the date upon which the National Olympic or Paralympic Committee submits the entry document for the Olympic or Paralympic Games.⁴ Other than this minimal requirement, WADA has given International Federations and Major Event Organizers complete discretion as to the length of time athletes must provide whereabouts and be subject to testing prior to a major event.⁵ We support a revision to the WADA Code to establish a uniform timeframe during which all athletes would be subject to the WADA Code in advance of the

³ Compare 2003 Code Article 20.4.3 (making the filing of whereabouts the year before the Olympic Games conditional, "if required") with 2009 Code Article 20.4.3 (removing the "if required" wording and mandating "accurate and up-to-date whereabouts information . . . during the year before the Olympic and Paralympic Games as a condition of participation in the Olympic and Paralympic Games").

⁴ 2021 Code Article 20.4.5 (permitting athletes to be available for testing "as soon as the *Athlete* is identified on the long list or subsequent entry document submitted in connection with the Olympic Games or Paralympic Games").

⁵ 2021 Code Article 20.3.6. The Comment to this Article specifically states that it is intended to apply to "*Athletes* from professional leagues."



Games. Additionally, you should note that all U.S. professional athletes were subject to WADA Code testing prior to the Paris Games, as required by the respective International Federations.

Finally, regarding your repeated and defamatory attacks on USADA's use of confidential sources in collaboration with law enforcement investigations, we encourage you to read the New York Times article quoting your former Chief Investigative Officer, Jack Robertson.⁶ In the article, Mr. Robertson acknowledges his role and approval of USADA's use of these individuals on behalf of WADA. Additionally, your former Director General is quoted as stating "all [Mr. Robertson] says about his work with me was as it happened." This was and is expressly permitted under the Code.⁷ While your current team has expressed its narrow view of the Code, which USADA believes results in a softening approach to doping, corruption, and fraud, you cannot re-write history to fit this new, flawed strategy.

It is profoundly regrettable that USADA's strong and collaborative relationship with prior WADA leadership, which spearheaded innovative and creative tactics in the fight against doping, has changed so drastically. As I have said to you both on several prior occasions, USADA has not changed, we continue to stay focused and committed to what is best for clean athletes, but unfortunately, WADA has changed. We look forward to the day when WADA leadership can reclaim the mantle for clean athletes and clean sport.

Until that time, USADA demands an apology and immediate retraction of your letter to Dr. Tobie Smith. USADA reserves all rights against WADA and its officials and representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Tygart", with a horizontal line extending to the right.

Travis T. Tygart
Chief Executive Officer, U.S. Anti-Doping Agency

CC: Gene Sykes, Chair, USOPC
Sarah Hirshland, CEO, USOPC
Rahul Gupta, Director, ONDCP

⁶ New York Times, *Former Investigator Assails World Anti-Doping Agency* (19 August 2024) (<https://www.nytimes.com/2024/08/19/us/politics/world-anti-doping-agency.html>).

⁷ 2015 Code Article 10.6.1.2: "WADA may agree to suspensions of the period of *Ineligibility* and other *Consequences* . . ." Other "*Consequences*" includes "*Provisional Suspensions*."



VIA EMAIL

November 14, 2024

Witold Banka
President
World Anti-Doping Agency

Dear Mr. Banka,

I have received your letter of early September which references a letter that you received from the Central European Anti-Doping Organization (CEADO) and other anti-doping organizations. You also released this letter to the press shortly after we received it in what seems to have been a deliberate effort to publicly defame USADA and U.S. athletes.

As you know, we have repeatedly offered to meet with you and even offered to have others from sport and/or the anti-doping community join in such a meeting, but you continue to refuse. Your rejection of dialogue in favor of a steadfast campaign of division shows the lengths you will go to avoid answering basic questions about your failed handling of the 23 Chinese TMZ positives.

Since your letter, we have attempted to obtain answers while also continuing to search for ways to restore much needed credibility to the global anti-doping system. In this spirit, and contrary to WADA's position, the Chair of CEADO was willing to meet, and we discussed the issues referenced in your letter. Additionally, at their invitation, we have had a productive discussion at the NADO Expert Working Group, which is co-Chaired by the Chair of CEADO.

What we now clearly see is that your defamatory letter in September was not merely an attempt to undermine the credibility of USADA and Travis Tygart but also a baseless and false attack on the integrity of U.S. athletes and their athletic accomplishments. It is difficult to reconcile your actions with your background as a former athlete and your current responsibility to lead the global fight for clean sport. The Olympic and Paralympic movements, and all athletes, deserve a higher standard of leadership and integrity.

As a former elite collegiate swimmer, I find your accusations particularly offensive. As you should know, collegiate athletes who represent the United States, including those



competing in the Olympics, are all tested under USADA and are subject to the rules under the WADA Code. Your letter reflects not just a misunderstanding, but what appears to be an intentional misrepresentation of the U.S. sports system which has caused harm to USADA and to U.S. athletes.

Fortunately, both our Board and, most importantly, our athletes, fully comprehend the integrity and thoroughness of USADA's anti-doping programs. As well, the CEADO Chair directly and through the NADO EAG has now engaged in an informed, fact-based discussion, bringing to light the extent of the falsehoods in CEADO's letter to you, which we now understand was prompted by WADA. The baseless and defamatory claims outlined in your letter and the CEADO letter are being revealed for what they are—a politically motivated diversion to undermine the credibility of USADA and to attempt to weaken trust in the U.S. sports governance at the very time the world is demanding answers from you as to why you allowed China to violate the rules.

While the USADA staff will provide a substantive response to your false assertions, I want to be clear that the USADA Board stands firmly behind Travis and the entire USADA leadership team. These misguided claims will not distract or deter us from our mission. Our athletes, like all athletes, deserve respect, and we will continue to fight for their protection and for the integrity of sport in the United States and around the world.

Sincerely,

A handwritten signature in black ink, appearing to read "Tobie Smith".

Tobie Smith, MD
U.S. Anti-Doping Agency Board Chair

CC: Dr. Rahul Gupta, Director, Office of National Drug Control Policy
Mr. Gene Sykes, Chairman, U.S. Olympic & Paralympic Committee