

International Convention against Doping in Sport

UNESCO Headquarters, Fontenoy Meeting Room VIII

BUREAU OF THE 4TH SESSION OF THE CONFERENCE OF PARTIES – Meeting 30 April 2014

Introductions

Mr Phillippe Quéau, Assistant-Director General for the Social and Human Sciences Sector a.i., UNESCO, welcomed the Bureau Members and Observers to the meeting.

The main purpose of the ad hoc meeting of the Bureau was to discuss next Conference of Parties in 2015 ('the COP'). Although the last Conference of Parties enjoyed the highest level of participation by States Parties, it has been noted that there are some gaps in fulfillment of obligations under Convention. These need to be explored. A review of the implementation data and how this is to be used is desirable.

Data obtained from compliance reports shows that there are gaps in implementation and application of Convention responsibilities. The absence of binding obligations makes compliance 'policing' difficult, specifically with regard to Articles 8 and 10, which have been identified as being of particular relevance. The Bureau had experts attending the meeting to offer some thoughts on assisting with this.

Article 10

States Parties, where appropriate, shall encourage producers and distributors of nutritional supplements to establish best practices in the marketing and distribution of nutritional supplements, including information regarding their analytic composition and quality assurance.

Dorian Martinez, the CEO of Sport Protect, made a presentation to the Bureau regarding Sport Protect and its operations.

Mr. Martinez highlighted the fact that most Athletes use some form of supplements. It is an established part of sport practice. Supplement use is problematic because Sport protect estimate that 10-15% of supplements available in France contain banned substances, complicated by the fact that the Prohibited List is fluid, complex and difficult to use as a prevention tool. Athletes can feel trapped by the rules and the double standards applied to supplement use.

Sport Protect recommends that the Prohibited List be made more accessible and easier for Athletes to understand. For supplements, standards on labeling are essential to provide a

consistent message. Work done so far has resulted in a number of supplements being identified as being risk supplements as far as doping is concerned.

Sport Protect's proposal is to create a worldwide database to be used by States Parties, to help eradicate involuntary doping. States Parties would contribute to the database from their own experiences. Access to the data is via a mobile application that States Parties can localize and make available to their athletes.

Sport Protect has not spoken directly with WADA about the project, but recognizes that this is essential. It is aware that some countries like the UK have similar databases, albeit for medications and not supplements. Ideally there will be to have some sort of integration of existing databases to enable as much information as possible to be made available to Athletes.

The Secretariat commented that UNESCO is in hands of public authorities. They are tasked with prevention and education work and this project is interesting in that respect. The Chairperson commented that the proposal is excellent. It would make a big difference to Athletes. Some legal certainty around what will happen if a positive test follows the use of Sport Protect is required.

Sport Protect's strategy is to make sure that Athletes have a link with them to make clear that they have access to support in situations such as the supply of counterfeit products that contain banned substances. They recognized the best solution that would be to impose international standards for labeling, but realized that this is a long way off.

The Secretariat agreed that it will be useful to position compliance questionnaire around supplements and Article 10 – and ask what measures are adopted, if none then why not. The Secretariat will consult with its legal advisors to see how the Bureau might take a lead on notifying the COP. Secretariat will make sure that States Parties report specifically on Article 10. Secretariat will discuss with Sport Protect as to how this initiative might be flagged to 'pilot countries', ideally with the assistance and involvement of WADA.

Sport Protect in France works with sports federations, and regional bodies. It would like to work directly with French Sports Ministry, but the recent change in Government has put a hold on this. Sport Protect is not a quasi-supplements regulator but could adopt a role that assists in this respect.

The Sport Protect site was demonstrated to the Bureau – see www.dopage.com. It includes a sign-up service for alerts, etc., regarding supplements/medications contamination, and has >300,000 members signed up. The Service is not geo-blocked and can be used by athletes, coaches, clubs, advisors.

Article 8

- 1. States Parties shall, where appropriate, adopt measures to restrict the availability of prohibited substances and methods in order to restrict their use in sport by athletes, unless the use is based upon a therapeutic use exemption. These include measures against trafficking to athletes and, to this end, measures to control production, movement, importation, distribution and sale.*

2. *States Parties shall adopt, or encourage, where appropriate, the relevant entities within their jurisdictions to adopt measures to prevent and to restrict the use and possession of prohibited substances and methods by athletes in sport, unless the use is based upon a therapeutic use exemption.*

Professor Patrick Trabal is a specialist in social sciences and doping at Paris West University.

Professor Trabal proposes to examine the compliance of 5 countries in 2014, with a further 25 states in 2015-16, funded by the UNESCO Voluntary Fund. The outcomes would be available to all States Parties. The research will focus on the social realities of prevention work and how cooperation between different agencies works in practice. The overall goal is to assess the realities of anti-doping work and the difficulties faced in countries where there is a centralized system of government or a federal system, and to identify what works and what can work.

The proposal for the initial 5 countries will involve identification of social sciences teams, and identify how those states are implementing their Convention responsibilities, and then engage with the Secretariat and synthesize good practices for dissemination to other States Parties in time for the COP.

The Secretariat vision for this proposal is to research into the national, legal and social frameworks that exist to enable or block the implementation of the Convention. The research would be complimentary to the AD Logic Questionnaire which gives broad data without specifics. This will enable both opportunities and obstacles to be identified when implementation is being examined ; provide some data on practical implementation points that might arise ;and assist the Secretariat in monitoring compliance on prevention as key indicator in ADLogic.

This will be something that can be discussed at the WADA Foundation Board in May.

Professor Trabal commented that so far, research has focused on athletes, particularly that funded by WADA: there is a deficit in relation to research as to how anti-doping prevention works. He noted that mapping compliance is fine, but the detail in how actual work is done and by who is absent. In other words, how do States Parties do what they do? Qualitative data is captured by AD Logic but the narrative to this data is absent. Some can be obtained by the Secretariat, but not for 176 countries. Supplementing the qualitative data by targeted research will be helpful.

The Chairperson commented that it is not clear how uniform the concept of social science research is across all States Parties. Can the research be expanded to include interrelation with health promotion undertaken by States Parties? The Secretariat recognized that social science research is valuable in terms of informing the COP as to challenges and opportunities that exist in relation to implementation of the Convention. At present the only tool to do this is AD Logic, which is not adequate. This is a proposal that may help to be approved/discussed at the next COP. It also assists with the engagement and cooperation with WADA on its compliance work.

The Secretariat added that one of the problems of assessing the quality of anti-doping work is that UNESCO's brief is limited to sport, whereas anti-doping work in the field involves a broader spectrum of players – including in particular health agencies. UNESCO has no visibility into

what health agencies do in relation to anti-doping and this research will provide more insight in that regard. Peer learning is not happening through UNESCO, but this is one of the ways in which to do this. For example, the Code makes using testosterone an anti-doping rule violation. The WADA compliance review investigates what is being done to stop Athletes using testosterone. The Secretariat will ask a broader question – what are States Parties doing to stop everyone using testosterone? Different countries do different things – ranging from heavy regulation to very little. That research then helps countries form their own strategies. Similarly, with the Convention, this research can help States Parties understand more deeply how obligations can be implemented, and how existing implementation steps can be improved. For example, what is being done to prevent health damage caused by recreational use of steroids?

AD Logic

Olivier Dumetz, an expert in the AD Logic system, presented to the Bureau. The current AD Logic system records current and historical compliance. The COP is the last time that this system will be used – it will be adapted to a web-based model thereafter. Questions will be modified given the introduction of the 2015 Code but not for the 2015 COP.

Convention and Article 22 World Anti-Doping Code 2015

Article 3 – Means to achieve the purpose of the Convention

In order to achieve the purpose of the Convention, States Parties undertake to:

(a) adopt appropriate measures at the national and international levels which are consistent with the principles of the Code;

Article 4 – Relationship of the Convention to the Code

In order to coordinate the implementation, at the national and international levels, of the fight against doping in sport, States Parties commit themselves to the principles of the Code as the basis for the measures provided for in Article 5 of this Convention.

Article 5 – Measures to achieve the objectives of the Convention

In abiding by the obligations contained in this Convention, each State Party undertakes to adopt appropriate measures. Such measures may include legislation, regulation, policies or administrative practices.

The Rapporteur noted that Article 22 of the Code establishes ‘expectations’ on the part of States Parties to take certain steps to facilitate the delivery by Signatories to the Code of their responsibilities. For example, Signatories are required to share data with law enforcement agencies so as to be able to investigate the sale and supply of banned substances by Athletes and/or Athlete Support Personnel. They cannot do this unless their relevant domestic laws permit such sharing: Article 22 creates an ‘expectation’ that such laws will be put in place by States Parties.

The COP will be asked what steps they have taken to comply with Article 22, but also whether they consider that compliance with Article 22 is required pursuant to the Convention. If it is assumed that delivering the expectations contained in Article 22 are consistent with States ‘adopting measures’, then it is likely that compliance with Article 22 is required by States Parties as a Convention responsibility.

In any event, compliance with (in effect) Article 22 issues can be explored very usefully by UNESCO through the compliance questionnaire, because UNESCO assesses States Parties compliance with Code principles, and can drive a greater openness in terms of information sharing to comply with Art 22.

The Chairperson noted that there is more work that needs to be done on what Governments are required to do re Article 22. and whether they signed up to this when they ratified the Convention. This must be addressed at the COP.

COP Venue

UNESCO estimates that it will cost approximately \$100K cost to host the COP. UNESCO has offered States Parties an opportunity to host the COP. This would enhance the visibility of the work of UNESCO.

A proposal has been received from Brazil, although it is not a firm indication. Secretariat is not in a position to accept it yet. Romania stated that it has sounded out countries in its region – feedback was very against change of venue, because of cost implications. The Dominican Republic and Iran were of the same view. Cameroon recognized that it might assist UNESCO regarding costs and visibility of work, and so it was perhaps premature to discard the proposal (if made) and some investigation as to its feasibility might be merited.

Finally, the Bureau recommended maintaining the COP 2015 at UNESCO headquarters and will propose during the 5th session to consider adopting a position eventually to call for the host of COP 2017 away from Paris.

The meeting was concluded by the President, Dr. Saleh El-Konbaz with thanks to all participants and the Secretariat.

The Bureau agreed that Dr. Saleh El-Konbaz provides to the WADA Foundation Board meeting on 18 May 2014 in Montreal the key outcomes of the Bureau meeting and explores how best WADA can cooperate on the legal dimension of the revised Code and its eventual implication with the UNESCO's Convention.

End of the meeting.

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OF THE 4TH SESSION OF THE CONFERENCE OF PARTIES**

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