
**Minutes of the WADA Executive Committee Meeting
2 March 2003, Copenhagen, Denmark**

The meeting began at 9 a.m.

1. Welcome

THE CHAIRMAN welcomed the members to the meeting of WADA's Executive Committee in Copenhagen. The meeting would provide the members with a good opportunity to discuss issues prior to the World Conference on Doping in Sport. He thanked Minister Brian Mikkelsen for arranging the meeting and for all of the assistance provided for hosting the meeting. He was sure that the World Conference on Doping in Sport would be well organised.

The plan for the morning was to concentrate on the World Anti-Doping Code and the arrangements for the World Conference on Doping in Sport. The issue of WADA committee chairs would also be discussed.

2. Roll Call

THE CHAIRMAN said that an attendance sheet would be circulated for those who were present in an official capacity (Annex).

3. Observers

THE CHAIRMAN asked any observers who wished for their names to be recorded to sign the attendance sheet which was being passed around (Annex).

4. Minutes of the Executive Committee meeting on 24 November 2002 in Montreal

THE CHAIRMAN noted that the minutes would be considered approved as distributed and would be signed accordingly, unless, by the end of the meeting that day, anybody wished to make any amendments.

DECISION

Minutes of the Executive Committee meeting
on 24 November 2002 in Montreal approved
and duly signed.

5. Government role

5.1 2002-2003 contributions

THE CHAIRMAN asked the staff to bring the members up to date with the 2002 and 2003 contributions.

MR NIGGLI referred the members to the documents in their files (Annex).

Oceania had fully paid its contribution, and he thanked those responsible. The US payments for 2002 were on their way; it was simply a question of technicalities. Two major payments were still required from Italy and Russia. The remainder of the documents was self-explanatory.

THE CHAIRMAN thought that a percentage split had been agreed upon in the Americas.

MR DEVILLERS replied that, in Santo Domingo, an agreement had been made with regard to the OAS formula.

DR BARTHWELL noted that the USA had not made any agreement regarding a split, nor had it been present at the meeting in Santo Domingo. This issue needed to be taken up.

MR DEVILLERS thought that a US representative had been present at the meeting.

DR BARTHWELL reiterated that no split affecting the United States had been agreed to at the meeting, at which she, representing the President of the United States, had not been present.

THE CHAIRMAN urged all continents to organise their percentage splits.

MR TAKASUGI noted that, with regard to the contributions, the total was less than he had expected. Japan had contributed according to the allotment, but he had been told that, if it did not have a clear-cut total budget, then it would not be able to increase its own contribution. WADA would therefore have to have a realistic budget and base it on realistic contributions.

THE CHAIRMAN noted that the overall budgets had been approved by the Foundation Board over a year ago, at the request of the governments to provide a maximum five-year budget. The governments had an agreed overall maximum amount, beyond which WADA would not go without approval. WADA would not act until it knew that the governments would contribute their shares, which the Olympic Movement would then match. The Olympic Movement formula was simple. He urged all of the government members to get their contribution mechanisms in place so that the contributions could be made in a timely manner.

MR BALFOUR said that he was a cricketer, and he did not like betting on a back foot. In Africa, the issue did not regard splits; rather, it involved trying to get the continent to get the other countries to pay.

A meeting of the Supreme Council for Sport in Africa had taken place on 28 February, and all of the countries had been asked to quicken the pace in getting their contributions in.

It would also be necessary to look and see if this would assist WADA.

Africa was trying to address the problems regarding contributions.

MR MIKKELSEN informed the Executive Committee that he had recently met with his European colleagues, and he thought that the payments would be made.

THE CHAIRMAN noted that, unless WADA had the money, it would not be able to do its work. Each time one party did not pay, this had a double effect, as the Olympic Movement would not match a government payment not made. The WADA Statutes stipulated that payments be made before the year began. He asked members to do whatever was necessary to make the payments timely.

MR DEVILLERS highlighted the relation between the issue under discussion and item 5.2 of the agenda. An instrument was needed to avoid the situation which the members currently faced. Item 5.2 was very important, and a mechanism needed to be put in place.

THE CHAIRMAN referred to the suggestion that a person could not be a Foundation Board member if he or she came from a country which did not pay. This was a good idea.

MR TAKASUGI noted that each country in Asia had an allotment in order to be more proactive, and seven countries were currently bearing the cost, however a new system was being considered in order to enlarge the base.

THE CHAIRMAN noted that it was good to hear that the base was being broadened.

He asked whether it would be possible to discuss the budget.

MR REEDIE informed the Executive Committee that the figures had been drawn up from the point of view of indicating the contributions paid or not for both of the years.

WADA was still substantially short of the US\$ 17 million originally budgeted for, but he was hopeful that the USA and the two European countries mentioned earlier would change that.

With regard to the 2003 budget, the figures were the maximum figures agreed and on which WADA had been operating. Not all of the governments wanted to continue with the five- or six-year budgeting.

At the start of 2003, with the Olympic Movement's advance payments, WADA had sufficient funds, but in order to maintain the range of obligations, all of the contributions would need to be paid.

THE CHAIRMAN asked at what time of the year the governments would make up their 2004 budgets. He asked the members to tell WADA if anybody was not in a position to commit after September, in order to avoid embarrassment on both sides.

DECISION

2002 – 2003 contributions update approved.

5.2 Instrument / Memorandum of Understanding

SENATOR KEMP noted that the governments would be in a better position to report to WADA on the overall government position following the IICGADS meeting that afternoon. A great deal of work had gone into drafting the Declaration, which he hoped would receive government support. He thought that it would but, if significant changes were made to the Code, it might be necessary to go back in order to check that the Declaration was consistent.

He hoped that there would be very strong government commitment to the Code. Governments had been fairly critical of sports bodies in the past but, through WADA, the sports movement had made a huge step forward, sending a clear message to the community. He hoped that the governments would also be able to transmit a strong message.

The Declaration was also a big step forward. There had been work towards creating an instrument to support the Code, and he hoped that the Declaration would be signed. What was the next step for the governments, assuming that everybody signed?

Timeframes were short for the governments, and the ship of state sailed slowly, due to complex legal procedures. He hoped that progress would be made that afternoon. He thanked all of those governments involved in the process, and hoped that the Declaration would be signed at the end of the World Conference on Doping in Sport.

He thanked the Danish hosts and Mr Mikkelsen for the hospitality shown to WADA. The arrangements for the World Conference on Doping in Sport looked superb.

MR DEVILLERS said that his information was similar to that provided by Senator Kemp. He believed that the governments were present to sign a Declaration which would formalise the IICGADS operating arrangements. They were now struggling with the issue of how to ensure transparency and democratic processes.

THE CHAIRMAN thought that, as Senator Kemp had pointed out, the timelines were indeed short; the members had seen how these timelines became problems just in organising a little bit of money; getting legalisation together was that much more difficult. He hoped that the governments would identify the champions to carry this forward for the next step, as somebody had to take ownership of the project and make it happen. He also hoped that the governments' deliberations would not founder on the particular method of achieving harmonisation; the key was to make sure that everybody, somehow or another, reached the stage of harmonisation.

PROFESSOR LJUNGQVIST noted that the governments had criticised the sports movement and its way of conducting the fight against doping over the years. Nevertheless, the sports movement needed the governments' support and help. What practical effects would such a memorandum of understanding have with regard to the problems that sport faced when it came to the fight against doping? Was it just a paper or did it mean something?

THE CHAIRMAN replied that it would be of enormous help on a practical level. It would reflect the agreement between the governments of the world and the sports movement as to what was appropriate when dealing with sanctions, for example. It would be very difficult for a civil court judge to ignore that kind of evidence, and he thought that, in the interim, there would be a huge practical advantage for the sports authorities. Even a declaration without legislation would be of huge assistance.

MR DEVILLERS added that the governments could then provide WADA with international legal recognition, which was a very significant part of the process.

DECISION

Instrument / Memorandum of Understanding
update approved.

6. Code – third draft and standards

THE CHAIRMAN said that no major issues of which the WADA members were unaware were likely to be raised during the World Conference on Doping in Sport. There were some questions to be discussed, to which the responses were easy. Mr Young would bring the members up to date.

MR YOUNG said that the process of developing the Code had been open and collaborative. He would therefore be surprised if anyone at the World Conference on Doping in Sport said that the Code was terrible. He was optimistic about the process of the Code. If there was a risk, the risk was of “death by a thousand small cuts” because there were many people who were very supportive of the Code and thought that it was a vast improvement over the status quo, but who thought that “this issue or that issue” could be changed. It did not seem significant to such people to change “this issue or that issue”, but then there would be somebody who felt very strongly exactly the opposite. The risk, if there was one, concerned a lot of these small issues being raised, which would lead to the suggestion to go back and study the Code further. If this happened, the whole thing would be a disaster, as this would lead to a loss of momentum. It was essential not to lose time or momentum. There were six issues of discussion. At the end of the day, people might have issues but, in the big picture, they would hopefully see how the process worked and accept it, because the Code was a work in progress. If things did not work out, they could be changed. It would be useful if the Executive Committee members could talk to their colleagues and get them on to this track rather than the “death by a thousand small cuts” one.

The six issues identified about which he thought that members would hear the most were: the criteria for putting something on the prohibited substances list, and particularly whether performance enhancement had to be a criteria in every case; the Therapeutic Use Exemptions; the relationship of sanctions (especially exceptional circumstances); appeals to the CAS, and how well that system worked, especially regarding domestic tests; the slight power struggle between the IFs and the national anti-doping agencies and other national bodies over who controlled the doping control process; and finally, what the Code did about professional leagues that were not part of the Olympic Movement, and should the Code do more.

MR YOUNG referred the members to the document in their files (Annex), which highlighted particular areas of the Code that he wished to go over with them.

THE CHAIRMAN asked whether anybody had any comments or questions.

PROFESSOR LJUNGQVIST praised the work done by Mr Young and his team over such a long period of time. They had come up with an attractive Code for both the sporting world and the governments.

It was important to emphasise that this was a work in progress. It needed to be made clear at the World Conference on Doping in Sport that this Code would not be final as, if some people were not fully satisfied with some aspects of the Code, they might be relieved to know that there would be opportunities to come up with suggestions as to amendments.

With regard to the six points made by Mr Young, he felt that the last was the most important: the unequal treatment of professional and non-professional league athletes. There were many professional athletes in North America who could go on playing in leagues, such as the NHL, even if they tested positive in a world championship doping control, and this was unacceptable. This issue needed to be worked on, and was a major concern from the point of view of the IOC.

There was a seventh point to be taken into account. Version 3.0 of the Code had come out ten days previously, and the major changes between versions 2.0 and 3.0 should be highlighted in order to avoid criticism at the World Conference on Doping in Sport.

As an IOC member and an IAAF official, he and his committee members felt that the performance enhancement criteria should be there for all substances, however this view had not been fully approved, which was why the end result had been the need for two out of three criteria. Nevertheless, in the general perception of the public, a doped athlete was an athlete who had taken something to enhance his or her performance, and was therefore a cheat. He thought that there would be a pedagogic problem with people who might have committed a doping violation without having taken a drug which was performance enhancing. This would be a problem in the future, and it changed the perception of what doping really was.

With regard to the Therapeutic Use Exemptions, Article 15.4 mentioned the matter of mutual recognition, but he was not sure that he fully understood this. A national exemption could only be valid on a national level. Perhaps it would be possible to clarify the difference between international and national authorities.

With regard to Article 10.5 and the width of the crack in the door regarding the reduction in penalties below two years, he was happy that his request regarding only truly exceptional circumstances had been included.

The members should remember that, when the athletes were asked for their opinions, the athletes believed that a sanction of two years was not enough. He noted the experience of the unwelcome attitude by athletes towards those athletes who became re-eligible to compete following a sanction.

MR LARFAOUI supported the comments made by Professor Ljungqvist and congratulated Mr Young and his team on the improvement of the Code.

He thought that the third Code would be modified over time.

With regard to the problem of the sanctions, he repeated that the addition of the term *minimum* should be added to the term *two years*.

As for the problem of exemptions, FINA had a doping panel made up of experts who would be consulted regarding exemptions. There was great demand to increase the exemptions, in particular for salbutamol (the experience in Sydney should be recalled), and this problem should be dealt with.

As for appeals against decisions, from whom did these come?

MR MIKKELSEN noted that, from a political point of view, he was very impressed with the transparent and highly qualified process, and the recent progress made from Version 2.0 to Version 3.0 of the Code. From a European point of view, splendid results had been obtained, and all Europeans were ready to recognise the Code and work together.

There was a small problem with regard to the fact that, in the Netherlands, marijuana was legal, and a solution was necessary in this respect. No country should be prevented from supporting the Code or signing the Declaration for technical reasons. The problem in the Netherlands was that marijuana could be smoked and eaten, so a solution needed to be found. Perhaps only two out of the three criteria mentioned in Mr Young's presentation could be dealt with.

MR REEDIE congratulated the Code Project Team on the formidable effort made. If the interest in the work was as great as had been indicated, he suspected that the Communications Director should be given the job to make sure that everybody understood the interest that existed regarding the Code.

With regard to the matter of the Code being a work in progress, he thought that the issue was approving the Code immediately and giving people satisfaction and having the will to deal with the practical difficulties.

As for the issue of national and international athletes, and an international athlete being tested by a NADO, who had the ultimate responsibility and how would that system work? There was particular concern among the national agencies to see the effect of their work being dealt with by an IF as part of the same process.

In relation to the issue of the clearing house was the matter of sufficient data protection rules in place in Montreal. Were there rules? WADA needed to be prepared to state that there was sufficient legal protection.

MR DEVILLERS appreciated the intent of the fight against doping, which was to prevent performance enhancing, and he could appreciate the concerns expressed, but when he looked at the definition in the Code of the *Spirit of Sport*, and saw what behaviour or misbehaviour one would be sanctioning, he did not have any particular difficulty with the two out of three tests. All of the issues, if there was evidence of contravention, were worthy of sanctioning. Canada understood that this was a process and that significant players were needed to sign on. It was sometimes better to have an imperfect agreement than no agreement at all.

With regard to professional teams, this was an issue that should be worked on, particularly in North America. Most of the professional teams in North America were

not government subsidised. Some government levels might nevertheless have some influence on these professional teams.

Where sanctions were concerned, Canada had a four-year minimum sanction, and might be seen as stepping down to the two-year minimum required by the Code, although it would support the Code in the interests of the uniformity and harmonisation at which the Code was aiming.

MS ELWANI did not quite understand some of the issues. The athletes did not like to differentiate between professional and non-professional athletes.

Some athletes did not qualify until one month prior to the Olympic Games, and it was therefore unfair that these were not tested when other athletes were tested over the four years prior to the event.

With regard to the two-year sanction, the athletes still wanted this to be increased. Would it be possible to state, during the World Conference on Doping in Sport, that WADA was working to increase the sanction?

Athletes never really accepted previously-caught cheats, as had been mentioned earlier.

MR TAKASUGI thought that harmonisation in world anti-doping was very important, therefore this Code was important and needed to be supported. Considerable changes had been made to the Code, but the problem of multiple testing of athletes needed to be resolved.

The athlete's agreement was necessary in Japan for arbitration to take place, and he thought that this point should be specified.

With regard to Article 22, stipulations assuming the existence of certain conventions in a country were problematic.

SENATOR KEMP referred to the changes to Article 4. He had been asked to make a comment following a conversation he had had with the representative of the New Zealand minister. New Zealand and a number of other stakeholders had indicated that they would be monitoring the development of the list. Australia had looked very closely at Article 4 and was prepared to sign and endorse the Code as it was, although some Australian bodies had raised concerns.

MR YOUNG thanked the members for their extremely useful comments.

He told Professor Ljungqvist that a document had been distributed and posted on the website which listed all of the major changes between versions 2.0 and 3.0 of the Code. These changes would all be highlighted in the conference documents.

With regard to the mutual recognition of Therapeutic Use Exemptions, the intent was exactly what Professor Ljungqvist had expressed. There was recognition at a national level, but IFs and the IOC did not need to recognise national exemptions. That was the reason why there were international level exemptions for international athletes and national level exemptions for national level athletes.

With regard to the issue of longer suspensions, the team had tried, in the first draft of the Code, to have an article entitled *Optional sanctions* and, in the interests of harmonisation, this had not been well received. The Code did stipulate two

years. It did not stipulate a minimum of two years and, if it did, in fairness, and to keep the level of clarity that there had been throughout the Code, WADA would need to say under what circumstances the minimum would be exceeded, and so, if it were the sense of the Foundation Board or the delegates over the next few days, an aggravated circumstances clause could be added that would allow the minimum to be exceeded. It would not just be intentional doping, but a number of other factors were involved, and there were many criteria which could be considered.

In response to the question as to who could appeal with regard to Therapeutic Use Exemptions, it could be the athlete who had been denied or, if WADA thought that a Therapeutic Use Exemption had not been properly granted, WADA could appeal.

MR YOUNG told Mr Mikkelsen that, with regard to the issue of marijuana in the Netherlands, he did not know for sure which substances would be on the list. There were many things on the current list that were not illegal, such as cold medicines. If marijuana was on the list, it would be among the other legal drugs that, if taken, would constitute a violation of the anti-doping rules.

In response to Mr Reddie's comments about the difference between national level and international athletes, everybody had the authority to test, but the Code required that everybody coordinate their efforts in order to avoid repeat sampling.

With regard to the Therapeutic Use Exemptions, if international level athletes (such as Paula Radcliffe) were involved, then it would be the responsibility of the IF concerned to create a list or grant an exemption. If Paula Radcliffe were to have a case on appeal, her case would end up in the CAS.

As for data protection issues, the importance of the confidentiality of the information was emphasised, and WADA was extremely sensitive to the high-profile nature of the people with whom it was dealing. This was a level of detail which did not belong in the Code, however it was very important in WADA's policies, practices and standards.

In response to Ms Elwani's comments regarding professional and non-professional athletes, this was a distinction between sports where athletes competed outside the jurisdiction of their IFs and others competed inside the jurisdiction of their IFs. He understood that it was not fair that everybody was tested all year round whilst other athletes, such as snowboarders, were not, but the Code required that athletes be available at least one year in advance of the Olympic Games for testing if they wished to be on the Olympic team.

With regard to Article 22 and the convention, it had been extremely carefully worded, with the help of his Canadian and Australian colleagues, where it said that the Declaration would be followed by a convention or other obligation. The convention was a route which would be acceptable to many governments, but there were some governments for whom it was not an acceptable route, so if there were another form of obligation that would satisfy their needs, then that would be fine from the point of view of WADA and the sports movement.

THE CHAIRMAN noted that there were sports in which substances such as marijuana were viewed as performance enhancing.

With regard to the issue of the list, people thought that there was a WADA list, but there was not. An IOC list had gone forward for 2003, based on WADA's and the IOC Medical Commission's recommendations, and all of the things about which people were concerned were on that list, but WADA was talking about taking substances off the list. People needed to be made to understand that there was not yet a WADA list. All of the substances being discussed were on the existing list, and had been for many years, so this was not something new.

All of the members should have a list of the changes made to the previous version of the Code.

He agreed that the Code was a living document and would evolve over time. It was not something that would be carved in stone forever.

The Executive Committee members needed to make sure that they knew where all of their constituents were and to find out about any pockets of resistance in order to let himself or the Director General know about them.

He hoped to have a short meeting on Wednesday morning, and did not want to have to reinvent the wheel or have a major examination of the Code article by article. The vote should be obtained for Wednesday, as a Code was necessary in order to get out a resolution or a declaration.

With regard to the issue of professional sports, WADA would be able to go to the leagues once it had a Code and a Declaration, and invite them to sign on voluntarily. There were many things that WADA would be able to use to put pressure on the leagues, but it would have to get its own act together first.

With regard to the comment made by Mr Reddie, the degree of interest in the Code had been unbelievable. Over 22,000 people had downloaded the Code and the Standards from the WADA website. There had also been huge media interest, and WADA had generated a great deal of public interest in the event.

For the World Conference on Doping in Sport, he hoped that the WADA Executive Committee members would be on the stage, as he certainly did not wish to sit up there all by himself. It was important that they show some solidarity.

With regard to consensus, if WADA could get people to say that they were satisfied and supported the Code with a view to achieving harmonisation, he thought that most people would agree as long as their point was heard.

The drafting committee for the Conference Resolution was chaired by Mr François Carrard, and included Mr Valéry Genniges, from France; Mr Raymond Hack, from South Africa; Mr Denis Oswald, from ASOIF; Mr Ichiro Kono, from Japan; and Mr Jean-Pierre Blais of Canada. From WADA, he, Mr David Howman, Mr Olivier Niggli and Dr Angela Schneider were also members of the drafting committee and had worked on several drafts for the Resolution.

The Resolution would generally address the acceptance of the Code as the basic platform from which the fight against doping would be carried out. It would refer to the government declarations, WADA funding, recognition of WADA's role in the fight against doping in sport and, he hoped, a recommitment of the efforts towards harmonisation and the desire to get unregulated sports (professional sports) on the same level. The broad outlines would be made by early Tuesday, and the

Resolution would be presented to the conference participants on Wednesday morning.

Did anybody have any questions regarding the World Conference on Doping in Sport?

There was a list of speakers who would be making major speeches. The plan was to have all of the major speeches available for delegates at the conference.

MR MIKKELSEN noted that the Crown Prince of Denmark would not be making a speech, although he would attend the conference and the reception that same evening at Denmark's national art gallery.

THE DIRECTOR GENERAL informed the members that their correct accreditation badges would be delivered to their rooms prior to the conference.

DECISION

World Anti-Doping Code – third draft and standards approved.

7. Nomination of committee chairpersons

THE CHAIRMAN recalled that Dr Barthwell had been appointed as Chairperson of the Ethics and Education Committee. He asked the members to approve the reappointment of Mr Reddie as Chairperson of the Finance and Administration Committee and Professor Ljungqvist as Chairperson of the Health, Medical and Research Committee.

The Chairpersons would be required to work at filling out the committee members by June 2003, or earlier if possible. He saw no reason why this should not be done by electronic mail.

MR BALFOUR asked whether it would be possible to include representatives and experts from Africa on the committees.

THE DIRECTOR GENERAL responded that this would be one of the main criteria.

Also, at the June meeting of the Executive Committee, the members would discuss the possible need for ad hoc committees.

DECISIONS

1. Dr Barthwell appointed Chairperson of the Ethics and Education Committee; Mr Reddie reappointed as Chairperson of the Finance and Administration Committee; and Professor Ljungqvist reappointed as Chairperson of the Health, Medical and Research Committee.
2. Chairpersons to nominate committee members by June 2003 at the latest, and by e-mail where possible, bearing in mind the need for representation from the five continents of the world.

3. Possible need for ad hoc committees to be discussed at the Executive Committee meeting in June 2003.

8. Next meetings

THE CHAIRMAN noted that the forthcoming WADA meetings had been scheduled as follows: Executive Committee meeting - 7 June 2003; Executive Committee meeting to discuss the working practices of the Executive Committee - 22 to 23 September 2003; Executive Committee meeting to discuss the budget - 20 November 2003; Foundation Board meeting - 21 November 2003. Unless anybody had major problems with those dates, plans would be made accordingly.

DR BARTHWELL noted that there was to be a world prevention conference in Italy on 22 September. This was a major meeting and was likely to prevent her from attending the WADA meeting in Montreal on the same date.

THE CHAIRMAN took note of the comment made by Dr Barthwell.

There would be a media conference at 1 p.m. that day, and the IICGADS meeting would be taking place at 2 p.m.

He thanked the members for attending the meeting, and asked them to make sure that their players were on side.

DECISION

Next Executive Committee meetings to take place in Montreal on 7 June, 2003; 22 and 23 September, 2003; and 20 November, 2003.

The meeting adjourned at 11.15 a.m.

FOR APPROVAL

MR RICHARD W. POUND, QC
PRESIDENT AND CHAIRMAN OF WADA