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Anti-Doping Convention (T-DO)

**Project on compliance with commitments
Respect by Switzerland of the Anti-Doping Convention**

Report by:

- Switzerland**
- the evaluation team**

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Abbreviations

ADC	European Convention Against Doping of the Council of Europe of 1989, “Anti-Doping-Convention”
ADS	Anti-Doping Switzerland (Anti-Doping Schweiz), referring to a planned national anti-doping agency
ANADO	Association of National Anti-Doping Organisations
CAS	Court of Arbitration for Sport (Court of Arbitration for Sport)
CoE	Council of Europe
DFSC	Drug Free Sport Consortium, consisting of the national anti-doping agencies of Norway, Canada and Australia and entrusted with the co-ordination of the WADA's own doping controls until the end of 2003
DK	Disciplinary Chamber for Doping Offences of the Swiss Olympic Association
DUK	Doping Fact-Finding Commission (Doping-Untersuchungskommission)
FBDK	Anti-Doping Section of the FOSPO
FDB	Anti-Doping Commission of the SOA
FDDCS	Federal Department for Defence, Civil Protection and Sports (Eidgenössisches Departement für Verteidigung, Bevölkerungsschutz und Sport)
FLPGS	Federal Law on the Promotion of Gymnastics and Sport (Bundesgesetz zur Förderung von Turnen und Sport)
FOPH	Swiss Federal Office of Public Health (Bundesamt für Gesundheit)
FOSPO	Federal Office for Sport (Bundesamt für Sport); the term FOSPO is also used for earlier names of the same organisation such as Federal School for Gymnastics and Sport (Eidgenössische Turn- und Sportschule, ETS) and Federal Sports School (Eidgenössische Sportschule Magglingen, ESSM).
FSC	Federal Sports Commission (Eidgenössische Sportkommission, senior body of control and co-ordination of the federal sports involvement)
IOC	International Olympic Committee
IPT	International Project Team
ISS	Institute of sport sciences at the FOSPO
LAD	Swiss Anti-Doping Laboratory (Laboratoire Suisse d'Analyse du Dopage)
SOA	Swiss Olympic Association, umbrella organisation of the Swiss sports associations, currently including 82 member associations. The SOA has undergone several name changes during the past few decades. To avoid confusion these earlier names – such as Schweizerischer Landesverband für Leibesübungen (SLL), Schweizerischer Landesverband für Sport (SLS) and Schweizerischer Olympischer Verband (SOV) – are not being used in this study.
WADA	World Anti-Doping Agency

A. Report by Switzerland

1. Introduction and overview

This study focuses on Switzerland's compliance with the Anti-Doping Convention (ADC) of the Council of Europe (CoE) about ten years after it has become effective in Switzerland (January 1, 1993). In 19 articles the convention lists a number of measures to be taken by the signatory states to fight and prevent doping in a comprehensive way. In 2000 an additional protocol regarding international co-operation and the evaluation of national efforts by the CoE was accepted and was subsequently signed by Switzerland (on February 28, 2002). As it is most likely that the Swiss National Assembly will ratify this additional protocol in early 2004, it will also be examined in this study.

When the Federal Office for Sport (FOSPO) decided in mid-2003 to contract a team of external experts to examine Switzerland's compliance with the ADC, it was clear that the results of the evaluation study would not only be of interest for the CoE but also for the Swiss actors involved in anti-doping even if they do not have a direct interest in the ADC. In fact, as the study offers an up-to-date assessment of the state of anti-doping efforts in Switzerland, it was believed that it could also serve as a basis for the optimisation of current and the planning of future strategies. Against this background, the initial mandate of evaluating Switzerland's compliance with the ADC was extended to include a more general assessment of the problems and development perspectives of anti-doping affairs in Switzerland. As a result, the present report contains a number of additional considerations regarding the structure and the quality of the co-operation between different organisations and actors in Switzerland, which may serve as a basis for assessing problems and planning future anti-doping strategies in Switzerland.

The report is divided into the following sections: After a brief overview of the methodology used in the study (chapter 2), chapter 3 offers a general description of the organisational framework in which anti-doping efforts takes place in Switzerland, as well as a historical overview of Swiss anti-doping measures from the 1960s to the present. The main section, chapter 4, contains a detailed evaluation of current anti-doping efforts with regard to the provisions of the ADC and its additional protocol. It is important to note, however, that the evaluation only takes into account articles containing effective requirements regarding national anti-doping policy (i.e. articles 1, 3, 4, 5, 6, 7, and 8 of the ADC as well as article 1 of the additional protocol), whereas the articles referring to legal and organisational procedures in handling the ADC and the relationship between signatory states shall not be discussed. Against the background of the analysis in chapter 4, the two remaining chapters offer a brief summary of the main results (chapter 5) and an outlook focussing on the planned creation of a National Anti-Doping Agency. Finally, some additional information is provided in a number of appendices.

2. Method

The evaluation of Swiss anti-doping efforts was based on the combination of methods, namely:

a) *Analysis of documents*: Documents included legal texts, regulations, procedural rules and further official documents as well as internal reports, messages and media reports. Most of these documents were provided in printed or electronic format by M. Kamber (FOSPO) and O. Hintz (SOA).

b) *Analysis of statistical data from existing data-bases*: As will be shown in chapter 4, during the past few years several studies concerning the perception of doping by the Swiss population as well as within the group of athletes have been carried out. Where appropriate, selected results of these studies will be discussed.

c) *Expert interviews I*: Structured interviews lasting for one to two hours and concerning the Swiss anti-doping efforts were conducted with a total of nine persons. Apart from representatives of the Federal Office for Sport (FOSPO), the Swiss Olympic Association (SOA) and the Lausanne doping laboratory (LAD), persons responsible for the anti-doping strategy at the level of the sport associations, athletes as well as external experts without direct connections to the Swiss anti-doping strategy were interviewed.¹ The expert interviews were intended to provide additional insights into the structure of co-operation and the functioning of anti-doping efforts in Switzerland as well as to detect possible problems. One or more of the following issues were discussed:

- Organisation of anti-doping efforts in Switzerland with special reference to the division of labour between public and non-governmental organisations
- Legal framework, structure of controls, and disciplinary measures
- Laboratories
- Information, prevention, and research
- International comparison
- Current problems in the fight against doping and in doping prevention

d) *Expert interviews II*: After the conclusion of the evaluation study, the directors of the FOSOP and the SOA as well as the president of the anti-doping commission (FDB) were invited to meetings in which the main results of the study were discussed. This also included an assessment of current problems and development perspectives of anti-doping in Switzerland.

e) *Written survey of persons responsible for anti-doping at the level of sports associations*: As will be shown in the following chapter, sports associations and clubs play an important role in the Swiss sports system. Even though the associations had to hand over many of their former responsibilities in doping matters to their umbrella organisation, the SOA, and to the FOSPO, they still are an important connecting link between the centrally located organisations on the one hand, and clubs, functionaries and individual athletes on the other hand. At the initiative of the FOSPO, a written survey of 60 persons responsible for the anti-doping efforts at the level of sports associations was carried out to get a better understanding of the role played by the sport associations in the current situation as well as of their response to their changing role.

¹ A list of the interview partners can be found in appendix 3.

The questionnaire included the following issues (for a copy of the questionnaire see appendix 4):

- General assessment of doping problems at different levels of the sports system
- Assessment of current anti-doping measures (including an international comparison)
- Fight against doping and doping prevention at the level of the association
- Co-operation within the association as well as with national and international organisations (including the need for further support)

The survey was carried out between late September and early November 2003. Even though a reminder was sent to all persons involved two weeks after the initial mailing of the questionnaires, only 35 persons (58 percent) responded. A closer look at the responding and non-responding associations shows that the low response rate may to some extent be a result of the already mentioned delegation of responsibility to the SOA/FDB. It appears that a number of persons no longer saw much sense in responding to a survey aimed at issues which seemed not to matter much to their associations any more.

However, a comparison of the associations that responded with the list of associations included in the control concept 2003 of the anti-doping commission (FDB, see chapter 4) reveals that 85 percent of the associations belonging to the highest “doping risk category” did in fact respond. On the other hand, only 10 percent of the associations regarded as more or less “unproblematic” by the FDB responded. Thus, there is a strong correlation between participation in the survey and the extent to which an association is subject to doping problems. As these associations are of particular interest in the framework of the present study, the results of the survey are definitely relevant despite the comparatively low response rate. As stated above, the different research methods described in this chapter have been combined to construct a differentiated picture of current anti-doping efforts in Switzerland that is as comprehensive as possible within the space limitations set by the CoE.

3. Sports and anti-doping policy in Switzerland – an overview

Under normal circumstances, regulations and policy programmes by international organisations such as the CoE are not created on a legal drawing board, but arise from a number of real-life problems and relevant developments, which are analysed and structured and lead to action strategies and guidelines. A particular challenge in this process is the formulation of action plans that can be implemented under very different political and societal conditions in the member countries. To the extent that member countries see a possibility to implement the requirements of the international organisation within their existing structures, their willingness to sign and ratify the relevant documents and to participate in the initiative increases.

These general observations also hold true for the Anti-Doping Convention (ADC). When it was agreed on in 1989 and subsequently put forward for ratification in the member countries, it marked a first culmination point in a long process of analysing the doping problem in sports. The ADC reflected, on one hand, the growing importance of the doping problem in the eyes of politics, public and sports, and, on the other hand, the need for a joint and co-ordinated strategy to combat the problem. Most member countries of the CoE had already established anti-doping measures prior to the ADC, but there were marked national differences in the extent and quality of the anti-doping efforts. One of the main aims of the ADC was thus to structure and co-ordinate national anti-doping policies by establishing requirements for an effective anti-doping policy in different areas that could be implemented under the different political and structural conditions in the member countries. In this connection, one of the most striking features of the ADC is the fact that it is signed by governments but explicitly takes into account the fact that sport is mainly organised by non-governmental organisations and individuals in many countries. As a result, the ADC contains numerous passages that ask the signatory governments to “support” or “co-operate with” non-governmental actors.

In Switzerland, the co-operation between public and non-governmental organisations has a long tradition. The particular shape of this arrangement as well as the anti-doping measures already in place before the ADC explain a great deal of Switzerland’s particular approach to the implementation of the ADC. As a result, and to facilitate comprehension of the following chapters, it is necessary to give a short overview of the structure of the Swiss sport system as well as the historical development of the Swiss anti-doping policy since the 1960s. Against the background of this general description, chapter 4 will then provide an in-depth examination of the state of Switzerland’s current anti-doping efforts with respect to the provisions of the ADC.

3.1. The organisational structure of Swiss sport

The basic principles underlying the current organisational structures of Swiss sport already evolved in the 19th century and are largely based on a division of responsibilities between public and private actors. Historically, private actors – sport clubs and associations – were the first promoters of sport in Switzerland. At a very early stage already they began to take over certain public duties in school sports and military education (shooting), and were subsidised by the government for performing these services.

However, direct and substantial funding of sports by governmental organisations only began during the 20th century with a gradually more explicit division of responsibilities between

public and private actors. Co-operation was (and is) complicated by some general features of the Swiss political system, however. There is a high degree of autonomy at the regional (cantons) and local (communities) levels (federalism) which restricts direct interventions by the federal government. The latter mainly performs tasks of co-ordination and guidance whereas the “real” work is done at the level of the cantons and the communities. Something similar applies to the private actors in sport: here, the top level organisation – the Swiss Olympic Association (SOA) as the umbrella organisation of about 80 sports associations – is heavily dependent on the work done by more or less autonomous local clubs and regional associations.

As a result, the federal government as the signatory of the ADC is restricted in its ability to intervene directly in sports. In fact, according to article 68 of the Swiss constitution of 1999, it has only the following principal tasks in sports:

"¹ The Confederation shall promote sport, particularly sport education.

² It shall operate a sport school.

³ It may legislate on youth sport, and may make sport education in schools compulsory."

A more extensive and precise formulation of these general principles can be found in the “Federal law on the promotion of gymnastics and sport” (FLPGS) that has undergone several revisions and extensions – most notably the inclusion of an article on doping in 2002 (see section 3.2 and chapter 4) – since its taking effect in 1972. A look at the law confirms the general principles of public intervention in sports mentioned above: public organisations are mainly responsible for the education of sports teachers, for school sports and – in co-operation with clubs and associations – for voluntary youth sports as well as for research. In addition, the Confederation can subsidise sports organisations, the construction of sports facilities and sports events. In doing so, however, it relies heavily on the non-governmental sports system and the regional and local authorities.

This basic approach is also confirmed in the new “Concept of the Federal Council² for Swiss sports policy” which will be the starting point for a total revision of the FLPGS. Even though the Concept of the Federal Council also mentions issues of health, performance, economics and sustainable development in addition to the “traditional” educational dimension, the basic principles still hold:

"Mass sports constitute the focal point of public sports promotion. [...]

Clubs and associations (private sector), on the one hand, and schools and universities (public sector), on the other hand, are the main promoters of Swiss sport. The autonomy of private sector sports is being preserved, its own initiative is being promoted. [...]

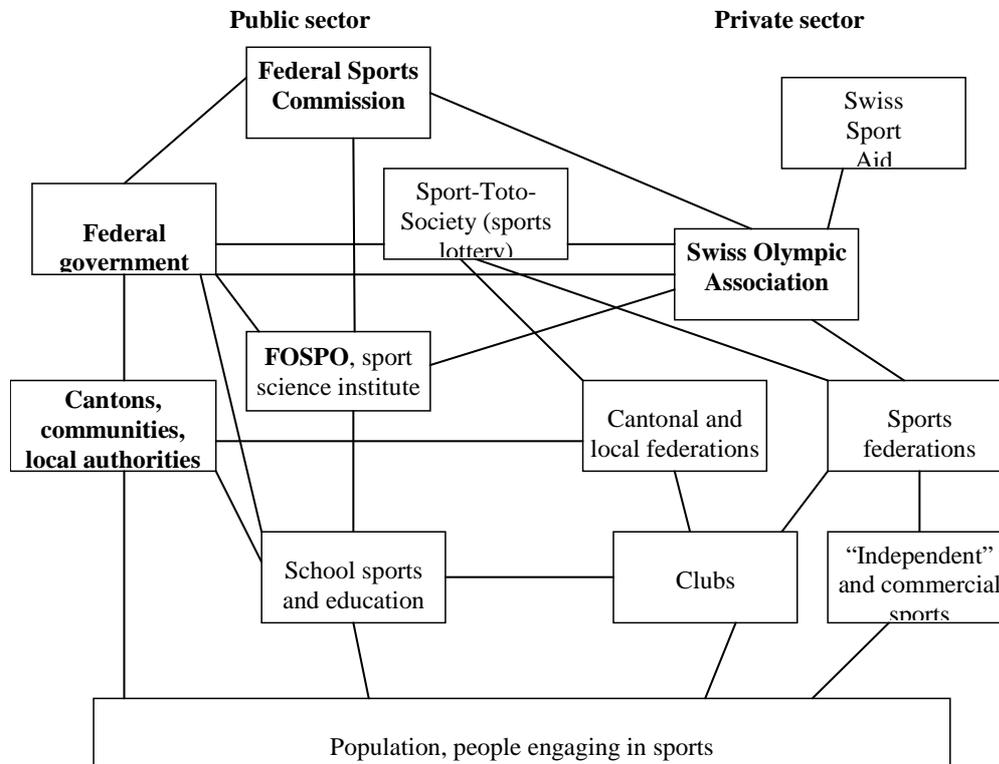
The main obligation of the state is the promotion of good overall conditions in which sport can develop. " (Concept of the Federal Council for Swiss sports policy of November 30, p. 3f.)

Whereas the Confederation as well as the regional and local authorities concentrate on school and mass sports, sports clubs and associations – and increasingly also private sports suppliers – are responsible for competitive and elite sports. As it is impossible to make a clear separation of mass and competitive sports at the level of clubs and associations, however, and

² The Swiss Government consists of the seven members of the Federal Council who are elected by the United Federal Assembly for a four-year term.

as elite sports are also dependent upon educational services, there is a multitude of linkages between the public and the private sector actors in sport. These linkages are schematically shown in figure 1.

Figure 1: Actors and their linkages in Swiss sports



Source: Lamprecht and Stamm (2002)

Within this comparatively complicated system of division of labour and co-operation, there are currently two key actors, namely the Federal Office for Sport (FOSPO) on the part of the public sector³, and the Swiss Olympic Association (SOA) that resulted from the merger of top level sports association in Switzerland with the National Olympic Committee in 1997 and is the umbrella organisation of private sector sports.⁴ As can be seen from figure 1, there are various direct and indirect linkages between the FOSPO and the SOA (e.g. there is an indirect link via the Federal Sports Commission (FSC) which acts as the highest co-ordinating and controlling body of the federal sports involvement) to co-ordinate the different activities. Financial subsidies that are either distributed directly by the Confederation via the FSC and the FOSPO to private sector actors or are invested in a way that also benefits private actors – e.g. by subsidising the infrastructure of the FOSPO – play an important role in this system. In

³ The Federal Office for Sport has changed its name several times during the past decades from Federal School for Gymnastics and Sport (Eidgenössische Turn- und Sportschule, ETS) to Federal Sports School (Eidgenössische Sportschule Magglingen, ESSM) and finally to the current name FOSPO. For the sake of simplicity we are only using the current term even if we refer to earlier phases of the development when the other names still applied.

⁴ The umbrella organisation of private sector sports, too, has changed its name several times over the past century from "Schweizerischer Landesverband für Leibesübungen" (SLL) to "Schweizerischer Landesverband für Sport" (SLS) and "Schweizerischer Olympischer Verband" (SOV) to the current name "Swiss Olympic Association" (SOA). For the sake of simplicity we use only the designation "SOA" in this report, even if we are referring to events that have happened prior to the latest name change.

addition, the lottery money of the Sport-Toto-Society is allocated to private sector sports under the supervision of public actors (federal or cantonal authorities).

With respect to doping prevention and anti-doping measures, we can thus draw a first, tentative conclusion indicating that the general political and organisational framework of sports in Switzerland only offers very limited action possibilities to public actors. As competitive and elite sports are the domain of private sector sports, clubs and associations would be the “natural” leaders in the fight against doping. As will be shown in the following section, the public sector has acted true to these organisational principles for a long time and has not intervened directly in doping matters. Only recently – and partly due to the ADC – has the Confederation taken on more responsibility in the fight against doping which, however, still is very much organized along the traditional lines of an extensive division of responsibilities between public and private actors.

3.2. A chronology of anti-doping efforts in Switzerland

In the 1960s, at a time when several international scandals led to an increased public awareness for doping, the doping problem was seen as an exclusive concern of elite-level sports. Consequently, the struggle against doping was assigned to the private sector sport organisations at the national and international level who focused on controlling and sanctioning elite athletes. Athletes were controlled during competitive national and international events organised by the associations and offenders were punished according to the individual associations’ regulations. At the national level, the anti-doping drive was coordinated by the SOA.

At the initiative of the Swiss Cycling and Motor-Biking Association (Schweizerischer Rad- und Motorfahrer-Bund) a first committee for the study of the doping problem was established in 1960. The committee’s work led to a first set of regulations on combating doping (“Weisungen zur Bekämpfung des Dopings”) in 1963, which were revised and brought into line with the anti-doping regulations of the IOC in 1967 and were subsequently left more or less unchanged until the 1980s. The only modifications concerned the lists of banned substances that were received directly from the IOC (Kamber 2000, p. 172). The rules obliged the member associations of the SOA to carry out doping controls either as soon as there was a suspicion that doping practices were used, or when they were asked to do so by the steering committee of the SOA. In the sanctioning of doping offences, the national associations and their international umbrella organisations were largely autonomous.⁵

Until the late 1980s the Confederation and its organisations were only marginally involved in the fight against doping. Their standing aside was mainly due to the principle of subsidiarity, which calls for public intervention only when private sector actors cannot deliver sufficient services on their own. Still, there was some co-operation in research and doping analysis provided by the FOSPO’s sport science institute in Macolin, which also houses a laboratory for doping analysis.

A number of occurrences led to a significant change in the SOA’s anti-doping strategy during the late 1980s and the early 1990s, such as the positive doping result of the medium-distance

⁵ Usually, the international umbrella organisation agreed upon a set of anti-doping regulations that was adopted by the national associations and included a description of forbidden substances and methods, set out the principles of control procedures and determined the measures and sanctions to result from a positive control result.

runner Sandra Gasser at the Athletics World Championship in Rome (1987). Even though the result was challenged without success by Ms. Gasser and the Swiss Athletics Association, there was some concern that the SOA's anti-doping strategy was flawed. As a result, an interdisciplinary project team started to look at the anti-doping strategy. In a report published in 1988 it identified several areas for improvement.

The recommendations of the project group led to a new "Doping Statute" in 1990, which already integrated a number of the requirements included in the ADC that, in turn, was ratified by the Swiss National Assembly in 1993. For example, doping controls outside of competitions were introduced (at first as announced controls during training sessions) and all member associations of the SOA were required to carry out a predetermined number of competition controls. To determine the number of controls and to carry out the out-of-competition controls, an interdisciplinary "Anti-Doping Commission" (FDB) attached to the SOA was created. Apart from co-ordinating the controls and advising associations and athletes, the FDB was also entrusted with a number of information and prevention tasks (Kamber 2000, p. 175).

When the ADC was ratified and put into effect by the Swiss National Assembly in January 1993, the role of public actors in the efforts against doping started to change. Even though the principle of subsidiarity that is also mentioned in the ADC was explicitly emphasized (Federal Council 1992, p. 1351), the Confederation was determined to take on the responsibility for the fight against doping in a joint effort with the SOA by contributing to the funding of the doping controls and engaging in prevention and research. As a direct consequence of the ADC the "Three Pillar Concept" of anti-doping in Switzerland consisting of i) controls, ii) education and prevention, and iii) research was established. Within this framework the work was divided between the private (controls) and the public sector (education and prevention, research).

At about the same time a Doping Fact-Finding Commission (DUK) was established as a reaction to a number of allegations put forward by the German magazine "Der Spiegel" referring to the existence of a "secret society" for the cover-up of doping practices in Switzerland.⁶ Even though the DUK rejected these reproaches, it identified several areas in which there was a need for action, and subsequently formulated a number of recommendations that, in some instances, were put into effect immediately.⁷ However, other DUK recommendations were only followed up as a result of the Tour de France doping scandal of 1998.⁸

The Tour de France of 1998 marks a turning point in the sense that there was an increased pressure for legal regulations with respect to doping. However, the Swiss parliament rejected the idea of an independent anti-doping law in favour of the integration of anti-doping regulations in a forthcoming law on medicaments. The regulations agreed upon in connection with this law were also integrated as a new article into the FLPGS and put into effect in 2002. The new article refers to the Confederation's responsibility for doping prevention, the obligation of associations financially supported by the public sector to carry out the necessary

⁶ The reproaches mainly involved the "therapeutic use" of anabolica by the shot put athlete Werner Günthör between 1984 and 1988.

⁷ The so-called "therapeutic window" that allowed the use of forbidden substances for therapeutic reasons under certain conditions and pending the endorsement of the FDB was closed by the Doping Statute of 1993.

⁸ These included the introduction of a central disciplinary body, the proclamation of anti-doping regulations by the medical professional organisations and the reduction of competition controls in favour of unannounced controls.

controls, and the ban of producing, importing, procuring, prescribing and supplying substances for doping purposes and subjecting third parties to doping methods.

The SOA and the FDB also introduced a number of new measures following the Tour de France scandal. From that time on, all competition controls were carried out by the FDB without notice. In addition, the number of out-of-competition controls was increased and the system was changed so that on-the-spot controls without notice were increasingly performed by professional personnel. In 2001, all member associations of the SOA renounced their disciplinary power and delegated it to a central disciplinary chamber. This step resulted in a unification of sanctions, an acceleration of the procedure and an increase in the reliability of the mode of proceeding for athletes and associations.

Currently, the system of controls is being standardised and embedded into a system of quality control in the context of a co-operative effort of four European countries (IPT 3). The aim of this effort is to reach the certification of controls according to the international protocol for doping control (ISO/PAS 18873) and ISO 9001:2000 in January 2004. Finally, as a result of the intensification of international co-operation as well as the problems of clearly separating the tasks of SOA and FOSPO in the fight against doping, there is an intensive discussion under way regarding the creation of a National Anti-Doping Agency that would be operated jointly by the private and the public sector. A decision on the ADS is due for 2004 (see chapter 6).

4. Evaluation of the Swiss anti-doping efforts against the background of the Council of Europe's convention

This chapter contains a detailed analysis of different elements of the Swiss anti-doping strategy. The provisions of the ADC were used as a basis for ordering these elements. However, it is important to note that not all articles of the ADC have been analysed. The analysis only refers to articles with a direct reference to anti-doping measures, whereas articles referring to procedural matters and the legal basis of the ADC have not been considered.

Article 1 – Aim of the Convention

1. The Parties, with a view to the reduction and eventual elimination of doping in sport, undertake, within the limits of their respective constitutional provisions, to take the steps necessary to apply the provisions of this Convention.

As described in chapter 3, the ADC became effective in Switzerland on January 1, 1993. At the time of ratification, a number of measures aimed at fighting and preventing the use of doping had already been implemented but were now increasingly brought into line with the provisions of the ADC.

Subsequently, a number of new measures were established either as a direct result of the ADC or as a consequence of the fast and changing development of the doping problem. A key event in this connection was the Tour de France of 1998, which led to a more decisive anti-doping policy in Switzerland characterised by the emergence of a number of new legal provisions, financial improvements and the current project of establishing a National Anti-Doping Agency (see chapter 6). Furthermore, the additional protocol of the ADC is scheduled for ratification in 2004.

Article 3 – Domestic co-ordination

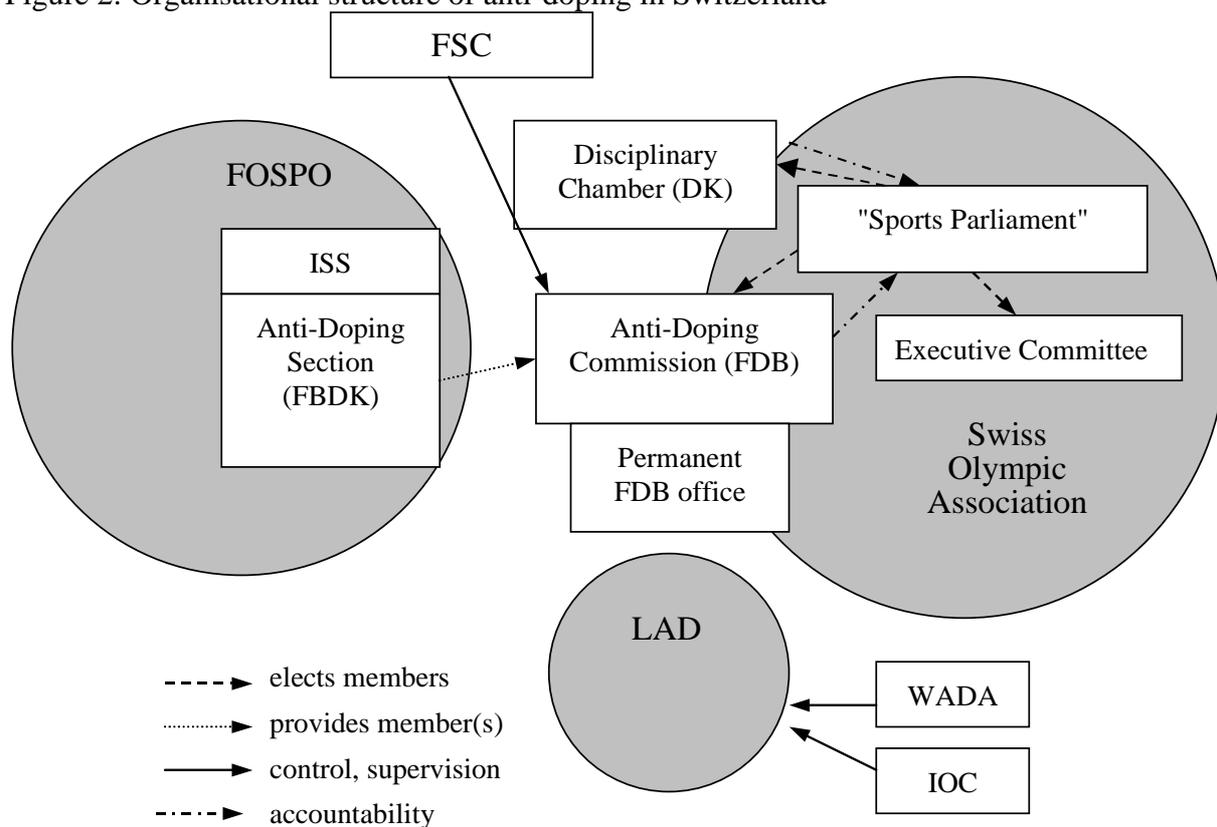
3.1 The Parties shall co-ordinate the policies and actions of their government departments and other public agencies concerned with combating doping in sport.

3.2 They shall ensure that there is practical application of this Convention, and in particular that the requirements under Article 7 are met, by entrusting, where appropriate, the implementation of some of the provisions of this Convention to a designated governmental or non-governmental sports authority or to a sports organisation.

Since the ADC came into force in 1993 there has been a strong co-operation in the battle against doping between the Confederation, its organisations and the SOA. Basically, the responsibility is divided according to the Swiss “Three-Pillar-Concept” of anti-doping: The public sector is responsible for education/prevention and research whereas the private sector is mainly concerned with doping controls and the sanctioning of offences against the “Doping Statute”.

The central organisational unit aimed at fighting doping in the SOA is the Anti-Doping Commission (FDB), whereas the Anti-Doping section (FBDK) at the FOSPO is responsible for information and prevention activities as well as for research. Both organisations co-operate closely and are also connected by strong personal ties. The most important actors as well as their links to other parts of the sport system are shown in figure 2.

Figure 2: Organisational structure of anti-doping in Switzerland



a) The Anti-Doping Commission (FDB) of the SOA

The Anti-Doping Commission (FDB) consists of a chairperson and six to eight members representing medicine, pharmaceuticals, chemistry and law. Since the commission was established in 1990, the FOSPO has been represented in it by the current head of the FBDK; since 1994 the commission also has also included an athletes' representative. For a short time – between 1992 and 1993 – the then head of the anti-doping laboratory in Lausanne (LAD) was also a member of the commission. In the first few years (1990-1993) the chair of the commission was held by the president of the Swiss Athletics Association, since 1994, however, attention has been paid to avoiding chairpersons that also hold important positions in elite sports. As a consequence, between 1994 and 2001 the FDB was headed by two independent attorneys. Since 2002 it has been chaired by a university professor of (sports) medicine. Members of the commission are elected (and confirmed) for a duration of four years by the Sports Parliament of the SOA.⁹

The tasks and competences of the FDB are laid down in the "Doping-Statute" of the SOA and include:

- the planning, organisation and carrying-out of competition and out-of-competition doping controls;
- the publication of a list of banned substances and methods;

⁹ Delegates of the member associations of the SOA, the Swiss members of the IOC and three to five athletes' representatives are entitled to vote in the Sports Parliament (see statutes of the SOA, article 4.1)

- the recruitment and training (including advanced training) of the controlling personnel;
- the selection of the laboratory entrusted with carrying out the analyses;
- the evaluation of positive doping results and counselling in connection with such results;
- the securing of contacts to the authorities as well as to national and international organisations involved in combating doping;
- the organisation of conferences for and with athletes, medical doctors and functionaries.

Currently, the FDB has a total budget of about CHF 1.2 million, two thirds of which are contributed by the Confederation. Most of the budget is spent on the collection and analysis of doping samples (see also article 4). At the operative level, the FDB has a permanent office that has increased in size over time and currently consists of a total of 2.3 full-time positions. The FDB usually meets four times per year. Following the election of a new chairman in 2002 a steering committee was established meeting once a month and consisting of the chairman, the head of the FDB's permanent office, the representative of the FOSPO and a medical doctor working with the SOA.¹⁰

The FDB is independent of the executive committee of the SOA and its administrative office. Since 2000 the FDB has been under direct supervision of the Sports Parliament to which it has to submit an annual report detailing its activities and the use of its financial resources. The Sports Parliament in turn can withhold financial means or not re-elect members of the FDB. In addition, changes of the statutes of the SOA concerning the organisation of the FDB as well as changes of the Doping Statutes regarding the Tasks of the FDB have to be agreed upon by the Sports Parliament.

In addition to the FDB there is the disciplinary chamber for doping cases (DK) as a second SOA body in the battle against doping. The DK is independent from all other sections of the SOA (including the FDB), has a budget of its own, and its members are elected by the Sports Parliament to whom the DK reports on an annual basis (more information on the DK is provided below in connection with article 7.2d).

b) The Anti-Doping Section (FBDK) of the FOSPO

The Anti-Doping Section (Fachbereich Dopingbekämpfung, FBDK) at the Institute for Sports Science (ISS) of the FOSPO was established following the ratification of the ADC. Between 1985 and 1988 the ISS had operated a doping laboratory accredited by the IOC and thus had long-standing experience in the analysis of doping samples. After the laboratory was closed down (see article 5), its former head was involved in the preparation of the 1990 Doping Statute of the SOA, contributed as an expert to the ADC, and was also a member of the Doping Fact-Finding Commission (DUK) installed in 1992. Finally, he was also entrusted with the new tasks that the Confederation had to perform in connection with fighting doping and which led to the establishment of the FBDK.

In accordance with the "three-pillar" anti-doping concept in Switzerland, the FBDK is mainly involved in information, prevention and research activities and also represents Switzerland in a number of international working groups and organisations. Formally, the FBDK is part of the ISS. Since 2000, the staffing of the FBDK has increased to currently 2.4 full-time

¹⁰ The medical doctor of the SOA only plays an advisory role and is responsible for, among other things, the evaluation of asthma prescriptions. In connection with the ISO certification of the doping controls, the tasks and competences of the steering committee are currently being formalised in the framework of a so-called management manual.

positions. The budget of the FBDK is about CHF 0.5 million (direct project costs only, excluding salaries and infrastructure) per year. Twice a year the FBDK has to submit a progress report, with information on the extent to which set goals have been reached, to the board of directors of the FOSPO, which in turn has to discuss and approve these reports.

c) The Federal Sports Commission's (FSC) supervision of doping controls

As a result of the inclusion of an anti-doping article into the FLPGS, the Confederation has to supervise the carrying out of doping controls. Thus, the "Directive Regarding Doping Controls" of January 1, 2002, establishes minimal standards on the carrying out of doping controls and identifies the FSC as supervising body for the compliance with these standards. To this end, the FDB has to submit a report detailing the controls that have been carried out at least once a year to the FSC which, in turn, has established a working group with supervisory functions. If the need should arise, the FSC and its working group can "ask for further information, inspect the controls and carry out hearings" (Directive Regarding Doping Controls, article 2). Up to now, the working group of the FSC has not seen any need to intervene in the work of the FDB.

d) The co-operation between FDB and FBDK

The division of responsibilities between the FDB (SOA) and the FBDK (FOSPO) is based on the "three-pillar" anti-doping concept in Switzerland that guides the actions and specific tasks of the organisations involved under "normal circumstances". However, due to the fact that many tasks involve more than one "pillar" at the time and that there are strong formal, co-operative and personal ties between the different organisations involved in the fight against doping, there is often a practical need to be flexible and establish specific arrangements (Kamber 2003, p. 4). For example, the annual planning of doping controls is currently done by the head of the FBDK for the FDB. Another example of a task involving a flexible arrangement between the organisations is the ISO certification of the doping controls in which the FBDK has to carry out a number of audits.

The co-operation between the two organisations is characterised by a high degree of mutual appreciation, which is also evidenced by the fact that both organisations describe their co-operation as highly successful. As there is some "natural suspicion" built into the institutional arrangement between the private and public sector actors in Swiss sport, the high degree of mutual trust and the good co-operation found with respect to the fight against doping is not self-evident. In fact, the current good relationship had to be built up over the years and is to a large extent due to the fact that the highest levels of the SOA and the FOSPO have always fully and unconditionally supported the goal of an effective fight against doping.

e) National co-ordination in the fight against doping

At a general level, responsibility for co-ordinating the anti-doping efforts in Switzerland lies with the FDB of the SOA. Yet, for a long time the FDB focussed its efforts mainly on controls and analyses of samples and saw itself primarily as a "centre of competence" whose task it was to advise other actors and organisations. However, after the Tour de France 1998 events and in connection with the change of leadership in the FDB, the interpretation of its role as well as its conduct changed notably. The FDB was increasingly seen as a pivotal organisation responsible more for taking strategic decisions than for reacting to day-to-day developments. Since the steering committee has been established, performing this task has become easier.

The head of the FBDK plays an important role in the co-ordination of the activities in the three areas of control, education/prevention and research. As he is also a member of the FDB and its steering committee, a high degree of co-ordination of the two organisations' activities is guaranteed. Still, the fact that the co-ordination is mainly due to the efforts of one single person also entails some dangers in the sense that there might be too much (work) pressure on this person or that the whole system might run into problems should this person no longer be available. These problems are well-known, however, and consequently there are plans to improve the situation by, for example, formalising the work procedures in the context of the planned certification of controls and quality assurance of the Swiss anti-doping efforts.

In the public sector, the co-ordination of the activities between different federal offices, on the one hand, and between selected federal and cantonal (regional) offices is characterised by a number of problems. First, the doping problem is interpreted differently in different federal organisations and as a result there are different approaches to coping with the problem. For example, the Swiss Federal Office of Public Health (FOPH) does not see doping as an "issue of public health" but rather interprets it as a problem mainly concerning elite sports. As a result, the FOPH does not see any need for action but rather thinks that the problem should be addressed by the FOSPO and by the private sector organisations responsible for elite sports. Thus, the FOPH is only marginally involved in the fight against doping in Switzerland.¹¹ Even though there is some exchange of information and opinions in the framework of occasional meetings between the directors of the FOPH, the FOSPO and the Federal Justice Department (EJPD), these three offices have never seen a need to establish a permanent working group on doping.

A second problem in the co-ordination of public activities is due to the federal structure of Switzerland. In several areas involved in the anti-doping efforts, such as education, health, jurisdiction and police matters, the cantons' authority takes precedence over federal regulations. As a result, the cantons are in charge of, for example, the prosecution of doping offences as established in the anti-doping article of the FLPGS or of including the doping problem into the school curricula.

With respect to the prosecution of doping offences, an expert report on the new anti-doping article recently described the appropriate procedures and presented a number of case studies (Bohnenblust et al. 2002), which were communicated to the cantonal authorities at a special information event. In addition, special "guidelines for the customs' authorities regarding doping" were established to assure a uniform enforcement of federal law.

Finally, a national "Doping Prevention Network" was initiated in 2002 to co-ordinate educational and preventive efforts. The network is aimed at providing sports and education authorities at the cantonal level, a number of sports associations and other interested organisations with a platform for the exchange of information and experience. However, as the interpretation of the doping problem varies substantially between different organisations, the network has up to now faced considerable difficulties in organising a continuous exchange.

Summary and appraisal: With respect to domestic co-ordination we can thus conclude that private as well as public sector actors are integrated into a co-operative network whose core is

¹¹ The lack of involvement on the part of the FOPH has been mentioned several times in the expert interviews and might well constitute an occasion for criticism if one takes the ADC as a basis for an assessment and takes into account that doping also occurs in mass sports (e.g. the consumption of anabolic steroids).

made up by two organisations, namely the FDB and the FBDK. Even though this relatively simple organisational structure facilitates the decision-making process and the implementation of measures at the heart of the anti-doping policy, it has in some instances been difficult to systematically integrate actors and organisations with some distance to the core such as other Federal offices, the doping laboratory in Lausanne or the cantonal and local authorities. In addition, fear has been voiced that the FDB might not be independent enough from the SOA, of which it is a formal part. Even though there is no evidence that the work of the FDB has been affected adversely by the SOA or other sport organisations during the past few years, the potential lack of independence is an important driving force behind the current initiative for the establishment of an autonomous National Anti-Doping Agency (see chapter 6).

Article 4 – Measures to restrict the availability and use of banned doping agents and methods

4.1 The Parties shall adopt where appropriate legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.

When the ADC was ratified, the availability of medical substances – including those which might be used for doping purposes – was primarily controlled by the cantons. Between the cantons the licensing and control of remedies was co-ordinated by an “inter-cantonal agreement” (IKV). An “inter-cantonal office for the control of medicaments” (IKS) was responsible for the admission and supervision of most substances destined for men or animals. Yet, as its decisions were not binding for the cantons, a uniform implementation of the IKS’ recommendations was not assured. After an attempt to find a better solution had failed in 1988, the cantons promised to support the Federal Council in an attempt to introduce a new national legislation on medicaments (Bundesrat 1999, p. 3455).

When the ADC was ratified, the Federal Council intended to examine whether it was possible to integrate import restrictions for doping substances into this new legislation (Bundesrat 1992, p. 1352). There were several difficulties involved, however: on the one hand, the new legislation primarily focused on products, on the other hand, it was primarily intended to protect consumers’ health. As long as the use of substances for doping purposes did not interfere with this aim, it could not be addressed in the framework of the new legislation. Against this background, it was agreed that it would be more effective to integrate the fight against doping into a revised version of the FLPGS (Bundesrat 1999, p. 3570). Consequently, when the new legislation on medicaments was introduced, a number of amendments were made to the FLPGS which became effective simultaneously in January 2002 (see the text of the revision in appendix 1).

The new article 11d of the FLPGS prohibits the “production, importation, procurement, sale, prescription and delivery of substances for doping purposes” as well as the “use of methods for doping purposes on third parties”. Banned substances and methods are to be defined and publicly listed by the Federal Department for Defence, Civil Protection and Sport (FDPCS)(article 11c). The law also states that offences – to be prosecuted by the cantons - may be punished with either prison sentences or fines amounting to up to CHF 100,000 (article 11f). Due to constitutional considerations there was no prohibition and corresponding criminal prosecution of the consumption of doping substances, however (see Netzle 2000, p.

268). As in most other European countries, the consumption of doping substances is only prosecuted and sanctioned in competitive sports by the private sector sport organisations (in Switzerland by the DK of the SOA).

The penal clauses of the FLPGS are in accordance with the ADC's demand that there should be legal provisions to punish the production, importation and delivery of medical substances for doping purposes. Yet, as in other countries with a similar legislation, there are several problems with the execution of these legal provisions. First, it is often difficult to prove that a given substance has effectively been imported or sold for doping purposes. As a result, proceedings taken up on the basis of customs' notices often have to be dismissed by the prosecuting authorities because conclusive evidence is lacking. Secondly, there have to be enough suspicious facts available before the cantonal authorities can trigger police investigations. And finally, since none of the athletes subject to doping charges have given any information regarding the source of the substances they used in the past few years, it has not been possible to start investigations under the new law against individuals or organised groups producing, importing or distributing doping substances.¹²

4.2 To this end, the Parties or, where appropriate, the relevant non-governmental organisations shall make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.

Article 10 of the FLPGS refers to the way in which sport associations and their umbrella organisations are financially supported by the Confederation. Financial support by the government takes two ways: direct contributions to individual sport associations, and contributions to the SOA. The former contributions are meant to be spent for the education and the training of coaches and instructors and are assigned by the FSC according to certain criteria, such as the size of the association or its international success. Up until very recently, these criteria did not involve the existence of an effective anti-doping strategy within the association. Yet the revision of the FLPGS of 2002 also incorporates the possibility to take into account the sport associations' commitment for the fight against doping. Associations that are financially supported under the FLPGS are under obligation to comply with the minimal standards regarding doping controls mentioned above. If they fail to comply, their financial support may be reduced or even cancelled (article 11e).

In addition to public-sector support, the sports associations are also supported by the SOA which, in turn, receives substantial contributions from the Swiss Sports Lottery fund. The Doping Statute of 1990 already stipulated that associations not co-operating in the fight against doping might no longer be supported by the SOA or at least have to face a substantial reduction of their financial support.¹³ Up to the present, financial support was only reduced in one instance after functionaries of the Swiss Cycling Association had kept SOA controlling personnel from carrying-out competition controls in 1999 on the grounds that the SOA procedure was not in line with UCI regulations. The FDB's request to reduce financial support was granted by the executive committee of the SOA and, consequently, the Swiss Cycling Association received CHF 50,000 less in the following year.

¹² WADA's World Anti-Doping Code suggests the introduction of "key witnesses" to break down the wall of silence on the part of athletes.

¹³ In the final paragraphs of the Doping Statute the SOA's member associations were obligated to prohibit doping in their own regulations, to create and name organisational units to implement the anti-doping strategy and to inform active sportspeople as well as other personnel about the „harmfulness and lack of ethics" of doping. These measures were deemed sufficient for complying with the ADC by the Federal Council in its statement on behalf of the National Assembly concerning the ratification of the ADC.

Even though this has been the only case in which the FDB requested a reduction of financial support, threatening associations with reducing or even withholding financial support may have gained additional weight recently because the Doping Statute of 2000 explicitly asks the FDB to use this measure in its work.

A financial stimulus to promote anti-doping at the level of the associations was created in connection with the “Ethics Charter for Sport” of the SOA. The charter that was presented to the sports parliament in 2002 consists of seven principles regarding ethical problems in sport. One of these principles refers to the “refusal of doping and drugs” in sport. The charter demands sustainable information efforts and immediate action if doping or drugs are being consumed. To facilitate the adoption of these principles in the member associations, they have been linked to a set of financial stimuli: Sport associations are encouraged to take up one principle they deem particularly relevant and to develop a concept for putting it into effect. The concept and the measures taken are then examined by the SOA, who will make available an additional 15 percent of the normal subsidies in the case of a positive evaluation result.

4.3 Furthermore, the Parties shall:

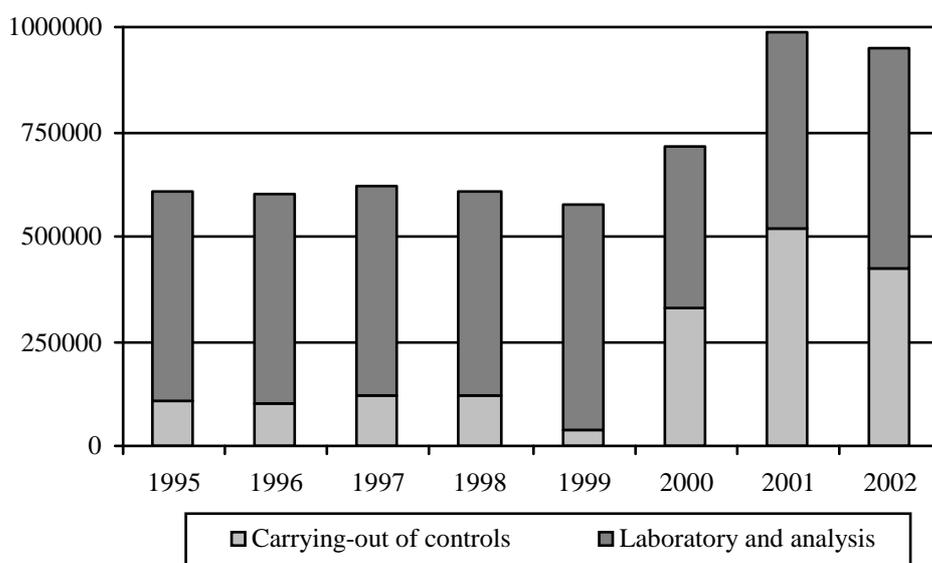
a) assist their sports organisations to finance doping controls and analyses, either by direct subsidies or grants, or by recognising the costs of such controls and analyses when determining the overall subsidies or grants to be awarded to those organisations;

Up until 1993 the funding of doping controls was the exclusive duty of the SOA and its member associations. The associations themselves had to pay for the competition controls they had to carry out according to the contingents fixed by the SOA. The SOA was allowed to give financial support for these controls, but mainly it had to bear the cost of additional competition controls (so-called systemic controls) and out-of-competition controls (Doping Statute 1990, article 17). Due to the increasing number of controls, the high cost of out-of-competition controls and the rising laboratory fees, the annual cost of controls amounted to over half a million Swiss Francs at the end of the 1980s. After the laboratory in Macolin was closed down in 1988, the Confederation started to channel a contribution of about CHF 50,000 per year through the FOSPO.

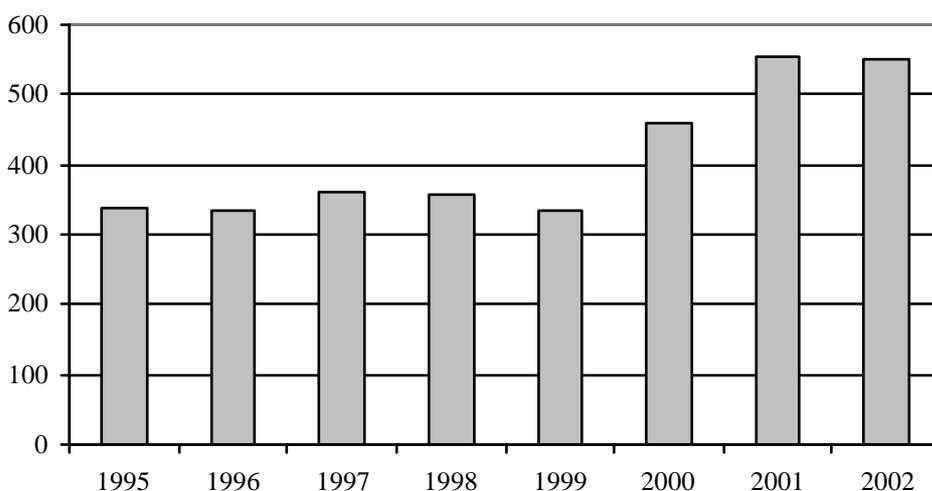
Since the ADC was ratified in 1993, the Confederation has been contributing an annual CHF 500,000 to the financing of the controls and it thus pays for about two thirds of the total cost of the administration, carrying-out and analysis of the controls. The remaining third of the total cost stays with the SOA. From the year 2001 onwards the professionalisation of the controls, the increasing number of out-of-competition controls and the continuous increase in laboratory costs has resulted in a further surge in the total cost as well as in the average unit cost per control (increasing from about CHF 300 per sample during the mid-1990s to about CHF 500 in more recent times) which is also evident from figure 3. As a consequence the Confederation has recently stepped up its financial support to about CHF 770,000 per year. In this connection it is important to note that the public financial support for doping controls is formally classified as a “subvention grant”. As such grants are particularly prone to budget cuts this situation makes the long-term planning more difficult for the FDB. A reduction of financial support would directly influence the number of possible controls and thus also the overall quality of the Swiss anti-doping strategy.

Figure 3: The cost of doping controls, 1995 – 2002 (in CHF)

a) Control and analysis cost



b) Total cost per control (unit cost including the carrying out of control, materials and analysis cost)



Source: Council of Europe, Database on Anti-Doping-Initiatives (several years)

b) take appropriate steps to withhold the grant of subsidies from public funds, for training purposes, to individual sportsmen and sportswomen who have been suspended following a doping offence in sport, during the period of their suspension;

Public financial support for individual athletes plays only a marginal role in Switzerland. Rather athletes are either supported by the SOA or by “Sport Aid Switzerland”. Doping offences lead to the withdrawal of the SOA’s “Swiss Olympic Card” which is a formal sign showing that an athlete is part of the “elite” and entitles its holders to a number of privileges. “Sport Aid Switzerland”, on the other hand, suspends and eventually cancels the contracts with athletes that have been convicted for doping offences. Currently, and based on the provisions of WADA’s World Anti-Doping Code, there is also a plan to include the

possibility of claiming back already paid financial support into an adapted version of the Doping Statute.

c) encourage and, where appropriate, facilitate the carrying out by their sports organisations of the doping controls required by the competent international sports organisations whether during or outside competitions;

According to the expert interviews and the written sources consulted, doping controls carried out by the SOA on behalf of international sport organisations have never been impeded by public or other actors. In most international competitions that are held in Switzerland the controls are carried out by professional SOA/FDB staff, in other instances (e.g. the Tour de Suisse or the UEFA Cup) the organising international association is responsible for the controls.¹⁴ Since 2002, the FDB has also been carrying out out-of-competition controls on behalf of the WADA.

d) encourage and facilitate the negotiation by sports organisations of agreements permitting their members to be tested by duly authorised doping control teams in other countries.

There are only a few agreements between the SOA and foreign sport organisations regarding the control of Swiss athletes abroad. For example, such an agreement existed before the Sydney Olympic Games with the Australian anti-doping authorities to enable them to carry out controls in training camps that were held for Swiss elite athletes in Australia. From case to case partner organisations abroad are asked to control Swiss athletes training in these countries.

The additional protocol of the ADC that Switzerland is set to ratify in early 2004 will bring a further improvement in that it will render possible out-of-competition controls by authorised personnel without prior bilateral agreements.

4.4 Parties reserve the right to adopt anti-doping regulations and to organise doping controls on their own initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.

In its statement accompanying the ratification of the ADC the Federal Council acknowledged the work done by the private sector sport organisations in the fight against doping and stressed that the Confederation did not intend to change the traditional division of responsibilities between private and public sector actors, in which the former were responsible for carrying out of the controls and for sanctioning doping offences (Bundesrat 1992, 1352).

However, after the events of the Tour de France 1998 trust in the sport organisations was severely undermined and there was a number of parliamentary initiatives demanding the introduction of an anti-doping legislation which would render possible the prosecution of non-sportspeople associated with the athletes. One statement in parliament suggested that the controls carried out and analysed by national and international associations were insufficient. Consequently, there was a call for establishing a better control and analytical infrastructure

¹⁴ WADA's World Anti-Doping Code will lead to a simplification of the co-ordination of controls between international sport associations and the FDB. The code stipulates that the FDB has the right to carry out controls in cases where the international organisation does not do its own controls.

that would have to be independent of the sport organisations.¹⁵ This opinion was quite isolated in parliament, however. Since then, however, trust and credibility has been substantially increased thanks to the revision of the FLPGS of 2002. The revision included penal provisions for doping offenders associated with athletes, “minimal standards for the controls and their supervision” and established the FSC as supervising body. Public trust was further enhanced by a number of measures introduced by the SOA, such as the professionalisation of controls, the increase in the number of out-of-competition controls and the establishment of a special disciplinary chamber.

Summary and assessment: With respect to article 4 of the ADC we can thus conclude that Switzerland has implemented a number of different measures to restrict doping. There is room for further improvement in some of these measures, however. For example, it is not yet clear whether the current legal provisions will be effective enough for the anti-doping efforts or whether they need to be supplemented by further legislation in the future. Whereas the controls have reached a very good level (see also article 7), the long-term financing of the controls and analyses has not yet been secured and this creates a considerable amount of uncertainty. Still, there are some indications that the implementation of WADA’s World Anti-Doping Programme might lead to further improvements in the Swiss anti-doping strategy.

Article 5 – Laboratories

5.1 Each Party undertakes:

- a) either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the monitoring group under the terms of Article 11.1.b; or*
- b) to assist its sports organisations to gain access to such a laboratory on the territory of another Party.*

Between 1985 and 1988 Switzerland had its own, IOC-accredited laboratory situated at the FOSPO. Increasing quality demands on the part of the IOC would have resulted in a substantially higher cost and the need to recruit additional personnel in 1988. As neither the Confederation nor the private sector organisations were able or ready to provide the necessary funding the laboratory was closed down at the end of 1988. Between 1989 and 1993 the samples were sent to the laboratory in Cologne (Germany) for analysis.

Since the beginning of the 1990s, however, there were attempts to re-establish a Swiss doping laboratory. Finally, a new laboratory (LAD) was established at the Institute for Legal Medicine of the University of Lausanne. The laboratory was accredited by the IOC in 1991 and started its operation in 1992. In 2000 the laboratory received the ISO 17025 certification currently required by the IOC.

The laboratory is partially financed by the Canton of Vaud, which provides for the offices and the infrastructure and guarantees the salaries on the basis of a operation budget. Additional income is generated by the billing of analyses. The laboratory is obliged to attain an equilibrium between the operation budget and the income generated from analyses. Currently, about half of all the analyses performed by the LAD come from the SOA, and about half from other international sport and anti-doping organisations.

¹⁵ Urgent parliamentary interpellation "Fight against Doping" (Interpellation Guisan 98.3370).

5.2 These laboratories shall be encouraged to:

- a) take appropriate action to employ and retain, train and retrain qualified staff;*
- b) undertake appropriate programmes of research and development into doping agents and methods used, or thought to be used, for the purposes of doping in sport and into analytical biochemistry and pharmacology with a view to obtaining a better understanding of the effects of various substances upon the human body and their consequences for athletic performance;*
- c) publish and circulate promptly new data from their research.*

A total of 16 persons currently work for the LAD.¹⁶ About half of the personnel is employed on an extraordinary budget based on agreements with a number of international sport organisations, the FOSPO, and the WADA.¹⁷ Due to the increase in staff and the technological apparatus in a context of a constant and not very advantageous space situation (small, mostly windowless rooms) the laboratory currently works under quite difficult conditions.

(Continuous) education of the LAD's personnel that is also mentioned under the ISO norm 17025 has two dimensions: on the one hand, there are internal courses for practitioners and technicians, on the other hand, the (academic) staff can attend conferences or further training courses offered by the canton. In addition, the suppliers of the technical equipment occasionally offer training programmes. In an interview, the head of the laboratory stressed the importance of such programmes but also pointed to time and financial limitations that hamper training efforts.

Most experts interviewed in the course of the evaluation study mention the extraordinary quality of the services provided by the laboratory with respect to the analysis of samples. The LAD has good international contacts and a very good reputation abroad. According to the experts, the research done by the LAD – particularly with respect to the analysis of blood samples and food supplements – is of very high quality.

Summary and assessment: We may conclude that the Swiss doping laboratory has reached a high, internationally acknowledged standard. However, the uncertainty regarding financial resources, the sub-optimal situation with respect to the localities, and scope for improvement regarding further training must also be mentioned.

Article 6 – Education

6.1 The Parties undertake to devise and implement, where appropriate in co-operation with the sports organisations concerned and the mass media, educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport. Such programmes and campaigns shall be directed at both young people in schools and sports clubs and their parents and at adult sportsmen and sportswomen, sports officials, coaches and trainers. For those involved in medicine, such educational programmes will emphasise respect for medical ethics.

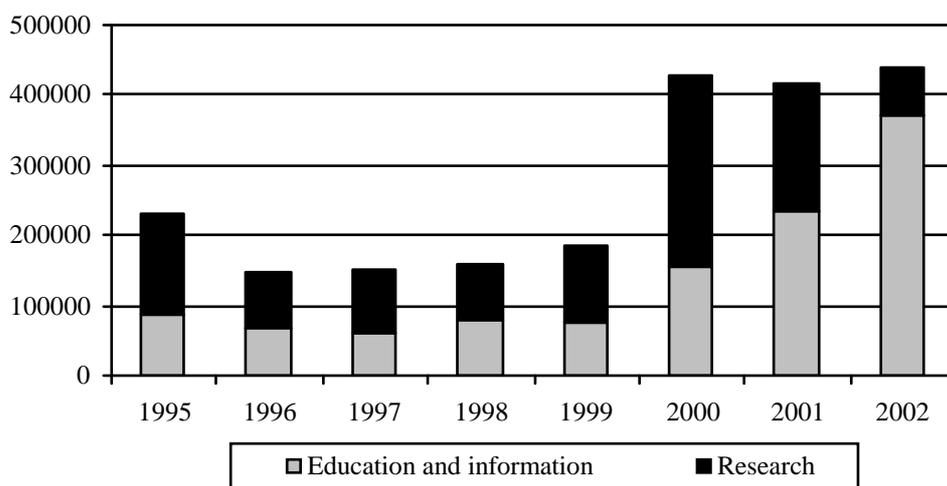
¹⁶ The personnel consists of five technicians, three academically educated supervisors, one chemist, three trainees, one Ph.D student, two secretaries and the head of the laboratory. A further position for quality control was vacant when the evaluation study was carried out.

¹⁷ As the additional budget is not assured by the canton, the laboratory has to plan its actions under considerable uncertainty.

Compared to the actual doping controls, information and prevention played only a marginal role in Switzerland until the late 1980s. In 1990, the newly established FDB was asked to engage in information activities, too. At the outset, these activities were restricted to elite athletes and their doctors.

In view of the low commitment level in this area, the final report of the Doping Fact-Finding Commission (DUK 1993, p. 9) suggested the elaboration of an “education and prevention programme encompassing all areas of sport”. The Federal Council also saw a need for action in this field, expressed in its considerations accompanying the ratification of the ADC (Bundesrat 1992, 1353) and charged the SSI of the FOSPO with this task. The Federal responsibility for doping prevention is also laid down in the revised FLPGS: “The Confederation promotes the prevention of doping on the basis of education, information, consultations, documentation efforts and research.” (article 11b of the FLPGS). As can be seen from figure 4, the revised law has led to a substantial increase in the corresponding expenditure from about CHF 150,000 during the 1990s to more than CHF 400,000 at present.

Figure 4: Federal government expenditure for education, information and research in the fight against doping, 1995-2002 (in CHF, figures refer to direct project costs excluding salaries and the cost of infrastructure)



Source: Council of Europe, Database on Anti-Doping Initiatives (several years)

Since 1993 the FBDK together with other organisations has carried out a multitude of campaigns and projects aimed at different groups and has established extensive educational and informational activities. Until 1995 information materials as well as a video movie for the public, young people and athletes were produced under a uniform visual concept (*DOPINGinfo*). For elite athletes an “information fan” (from 2002 onwards it was substituted by a “booklet”) was produced.¹⁸ Until 1997 this basic information had been supplemented with educational materials aimed at the secondary school level (see below). Due to the rapid development of the doping problem and on the basis of systematic evaluations, all these information materials were regularly renewed and supplemented and also transferred to new media (internet, CD-ROMs, DVDs). In 2000 an extensive website on the doping problem (www.doping-info.ch) went online. Parallel to the website, which constitutes one of the most

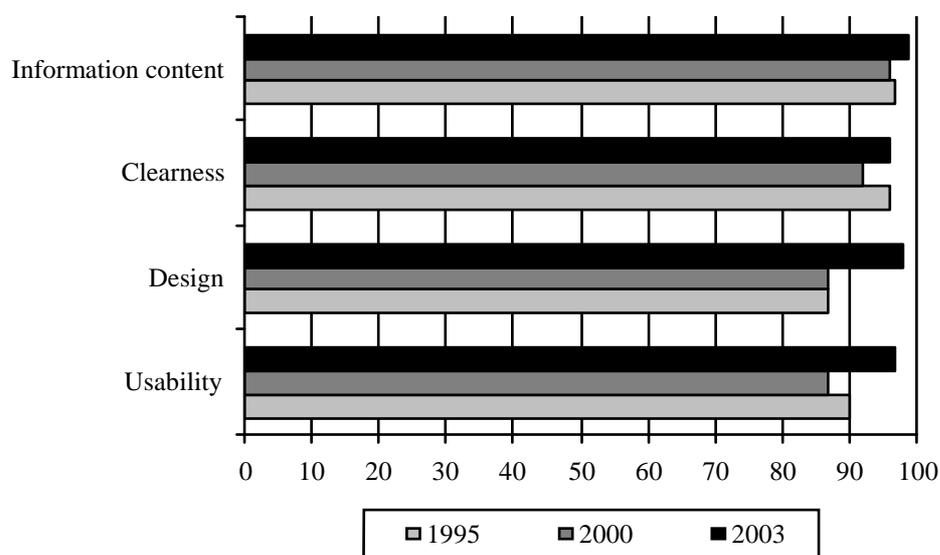
¹⁸ The „booklet“ contains information regarding the duties of the athletes, a list of banned substances and a list of acceptable medicaments for the treatment of normal illnesses, information regarding supplements, a description of the control procedure and a collection of references and internet links for further information.

important cornerstones of the current information strategy, a 24-hour telephone hotline is operated by the Swiss centre for toxicological information on behalf of the FBDK.

The printed and electronically available information as well as the website have reached a high quality level and are greatly appreciated by target group of the elite athletes. Figure 5 contains a number of results from evaluations of the “DOPINGinfo” information strategy that were carried out between 1995 and 2003. Figure 5 shows that the level of acceptance of different elements of the information campaign was already very high in 1995 but increased further until 2003: at the beginning of 2003, almost a hundred percent of all responding athletes claimed that the information content, clearness, design and usability of the “DOPINGinfo” booklet was “good” or even “very good”.

Despite a considerable increase in the number of persons aware of the telephone hotline and the website between 2000 and 2003, only about 40 percent of the athletes responding to the evaluation questionnaire claimed to know them. However, persons who use the two services are finding them very useful (once again, about 90 percent of all respondents cast a positive vote) and wish for them to be continued. After a very promising start in 2001 with an average of about 2,000 to 3,000 visitors per month, traffic on the website increased substantially to about 7,000 to almost 10,000 visitors – many of them from educational institutions – per month in 2003.

Figure 5: Assessment of the „DOPINGinfo“ information, 1995, 2000, 2003 (% of responding athletes which state that the corresponding element is “good” or “very good”)



Source: Evaluation DopingInfo, 1995-2003

Apart from these activities aimed at athletes and their coaches, doctors etc. the FBDK has also initiated a number of further activities (see the list in appendix 3). For years there has been regular co-operation with the “Berner Schulverlag” (a company editing educational materials for schools) in the development and publication of educational material and supplementary products aimed at pupils in secondary schools. The quality and diffusion of these materials were evaluated in a joint effort with the editor and a number of educational experts. This led to the elaboration of a comprehensive educational programme “No Excuses”, which will not only contain textbooks and similar publications but also additional information for teachers. The sales figures of the textbooks and the additional products are very promising, yet the

attempt to establish an active network of teachers interested in doping issues has proved difficult.

The preventive efforts at schools and in youth and mass sports suggest a concept of doping that goes beyond the drive against doping in competitive sports and also considers, for example, the use of anabolic steroids in fitness centres or the use of medicaments in leisure sports and mass sports events. In fact, under the heading “CleanSportinfo” the FOSPO originally planned to raise issues such as these (Dopingprävention, p. 14). Due to scarce resources, however, this project was not realized.

The “Doping Prevention Network” has already been mentioned in connection with the co-ordination efforts at national level (see article 3). The network publishes a newsletter twice a year that carries information on current national and international developments as well as on projects carried out at regional level.

Apart from the production and diffusion of educational and information material, the FBDK's staff is also involved in giving speeches and schooling the members of a variety of institutions. Doping and its prevention are also given mention in the training courses of SOA coaches and in the diploma courses for sports students at the university of applied science in Macolin and at the universities of Berne, Basel, Zurich and Lausanne.

A number of measures have been implemented in Switzerland to raise the awareness of the medical profession for doping issues. As a result of the new legal provisions on control measures and the punishment of doping offenders from the athletes' entourage, the regulatory body of the medical profession (FMH-Standesordnung) was supplemented with an article concerning sports. In addition, a guideline setting behavioural standards for the medical treatment of “the sporting population in general” as well as competitive athletes was elaborated. This document emphasizes the harm that doping can inflict on people's health and highlights the contradiction of doping to the ethics of the medical profession. The text also includes information regarding the legal provisions and urges doctors to explain the hazards of doping to people who actively participate in sports as well as to sports organisations, to support the controlling authorities and to protect athletes against external pressure. The subject of doping is also part of a compulsory educational module for doctors specialising in sports medicine. Finally, there is a special educational course for pharmacists, and articles concerning the doping problem are published regularly in the journals of the medical and pharmaceutical professional associations.

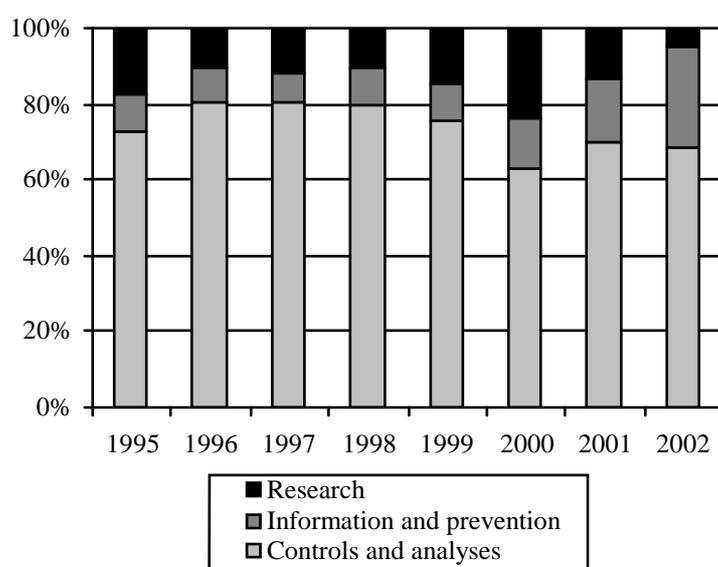
6.2 The Parties undertake to encourage and promote research, in co-operation with the regional, national and international sports organisations concerned, into ways and means of devising scientifically-based physiological and psychological training programmes that respect the integrity of the human person.

The final report of the DUK of 1993 takes up a common criticism among athletes referring to the fact that doping controls use up a large proportion of the available financial resources while, at the same time, there is a lack of well-trained doctors specialising in sports medicine and of scientific efforts to examine optimal training methods (DUK 1993, p. 6). The problem of allocating the scarce resources to the three areas control/analysis, information/prevention and research in a way that satisfies different needs and interests has persisted following the DUK report and has not been entirely resolved up to the present. As shown in figure 6, the share of information and research in the total budget has increased from about a fifth to about a third but controls still claim the biggest part of the available resources. During the past few

years, research has lost ground to information activities after a short-lived upswing in the year 2000.

As to research, the ISS had to set priorities due to the scarce resources (Kamber 2000, p. 182). Priority was given, for instance, to socio-demographic studies that examined the consumption of anabolic steroids by youths and young adults, the public's and athletes' assessment of the doping problem and the anti-doping strategy (partly in the framework of the already mentioned evaluation studies) as well as the demand and supply of doping substances in pharmacies and surgeries. In 2000/2001 there was another research project focussing on new training methods and looking at the use of artificial altitude to optimise physical performance. Tests with athletes from endurance sports in an "altitude house" gave rise to a better understanding of biochemical and haematological processes and aimed at optimising the use made of artificial altitude for the improvement of athletic performance. In addition, a number of projects focusing on the analysis of blood samples, the introduction of new analysis methods and the contamination of food supplements have been carried out in co-operation with the LAD.

Figure 6: Share of resources invested in control/analysis, information/prevention, and research, 1995-2002 (percentages)



Note: The figures for control/analysis cover the full cost whereas the other figures only include direct project costs and exclude salaries and infrastructure costs.

Currently, there is a project entitled "Doping freier Spitzensport" (doping-free elite sports) that is carried out as a joint effort by ISS, SOA and LAD. In this project, the effects of intensive training and competition on the metabolism and the blood counts of 21 elite athletes from four endurance sports are being monitored for about two years (i.e. until the Athens' Olympic Games).

Summary and assessment: With respect to the state of educational efforts and research in Switzerland we can conclude that the area of "information and prevention" has witnessed a positive development over the course of the past few years despite scarce resources and the problems attached to the federalistic structure of Switzerland. Several experts interviewed for this study have described the Swiss efforts in this area as very good or even "exemplary", even though some persons questioned their efficacy and pointed out a relatively low level of

interest on the part of the athletes or the excessive demand by a great number of different actors for preventive activities at schools. Correspondently, the establishment of networks is very difficult. In addition, some experts suggested that the current efforts concentrate too much on "information" whereas "prevention" in the true sense of the word plays a minor role. Contrary to the information and educational efforts, there appears to be a lot of scope for improvement with respect to the research situation in Switzerland. Even though there have been a number of promising projects apart from the LAD's ongoing efforts, both experts and the results of our survey of persons responsible for the anti-doping strategy at association level suggest that research merits additional attention.

Article 7 – Co-operation with sports organisations on measures they need to take

7.1 The Parties undertake to encourage their sports organisations and through them the international sports organisations to formulate and apply all appropriate measures, falling within their competence, against doping in sport.

In Switzerland, private sector sport organisations became involved in the battle against doping at a comparatively early stage. Due to the principle of subsidiarity, the Confederation only accepted its public responsibility and contributed to the financing of the Swiss anti-doping efforts after the ratification of the ADC. Even though the SOA welcomed the involvement of the public sector, it has also tried to preserve its autonomy in its own sphere of influence. As a result, the reactions to the inclusion of a FOSPO representative in the FDB varied from scepticism to outright rejection. Yet, these reservations started to disappear when an independent attorney at law took over the leading position in the commission. Thanks to its financial involvement, its representation in the FDB, the clear-cut division of labour between different actors and the high level of mutual trust that had been established over the years, the Confederation was able to influence the doping-related decisions of private sector sport and to play a controlling as well as supporting role which helped the further development of a number of processes concerning the organisation of controls and sanctions and aspects of international co-operation.

7.2 To this end, they shall encourage their sports organisations to clarify and harmonise their respective rights, obligations and duties, in particular by harmonising their:

a) anti-doping regulations on the basis of the regulations agreed by the relevant international sports organisations;

The Doping Statute of 1990 asks the member organisations of the SOA to "establish the prohibition of doping in their regulations and to name the organisational units responsible for carrying out the anti-doping strategy" (Dopingstatut 1999, concluding regulations). However, in 1993 the DUK concluded: "There is an urgent need to harmonise the respective regulations of the sport associations with regard to doping controls and sanctions against doping offenders." (DUK 1993, p.5)

Yet, this problem was only tackled in a more decisive fashion in connection with the establishment of a disciplinary chamber and the introduction of the compulsory declaration of subordination for elite athletes. The Doping Statute of 2002 obliges the member associations to bring their own regulations into line with the Statute and its procedural provisions. Associations are asked not to formulate their own doping regulations but to refer to the regulations of the SOA and the international federations. Against this background, every set

of rules proposed by the associations is reviewed by the FDB, which can also ask for revisions.

b) lists of banned pharmacological classes of doping agents and banned doping methods on the basis of the lists agreed by the relevant international sports organisations;

The Doping Statute of 1990 already included instruments to harmonise the associations' lists of doping substances and to bring them into line with international standards. At that time, the SOA published its own list of substances that was identical to the IOC's list. The SOA's member associations were free to either use these lists or to refer to the lists of their own international federation. The latter had to be deposited with the SOA, however. If they did not conform to the international standards and the current state of knowledge, they were liable to be refused by the FDB (Doping Statute 1990, article 2). This mode of operation still applies today.

c) doping control procedures;

The standardisation of various associations' doping controls was reached on the basis of the procedural provisions of the Doping Statutes concerning the "guidelines for carrying out doping controls" , and on the basis of the centralised training of the controlling staff. Until 2001, the controls were carried out by volunteers who had been trained by the FDB. These volunteers were put forward by the sport associations, trained by the SOA and appointed for controls in "foreign" sports. In several instances this system involving about 180 volunteers ran into problems and was criticised harshly by the media. From 2001 onwards, the number of volunteers was reduced in two stages to currently 56 persons, who are now gradually being replaced by professional staff. The professional staff currently includes five persons sharing 3.2 full-time positions. Also in 2001, the WADA carried out two audits to find out whether the control procedure conformed to international standards. As the results of these audits were positive, Switzerland was subsequently allowed to carry out controls on behalf of the WADA on its own territory.

It should also be noted that the Confederation has the possibility to supervise and intervene in the controlling procedure on the basis of the "Regulations Concerning Doping Controls" that set minimal standards for the carrying out of doping controls, and by ways of the supervising function of the FSC.

A further step in the harmonisation of control procedures is currently underway in connection with the ISO certification. Switzerland is currently organising its control procedure according to the provisions of ISO/PAS 18873¹⁹ and ISO 9001: 2000 and is elaborating corresponding control manuals. The introduction of these changes is taking place within an International Project Team (IPT 3), which Switzerland has been a member of since November 2001.

d) disciplinary procedures, applying agreed international principles of natural justice and ensuring respect for the fundamental rights of suspected sportsmen and sportswomen; these principles will include:

i) the reporting and disciplinary bodies to be distinct from one another;

¹⁹ In 1995 seven countries decided to co-operate in the standardisation and harmonisation of doping controls under the heading of "International Anti-Doping Arrangement" (IADA). Between 1995 and 1998 the IADA developed a quality concept that is based on ISO standards. The main aims of this "International Protocol for the Control of Doping" include standardised control procedures, the full documentation of the control process and the implementation of a system to manage quality control.

- ii) the right of such persons to a fair hearing and to be assisted or represented;*
- iii) clear and enforceable provisions for appealing against any judgment made;*

Switzerland has chosen a series of remarkable steps regarding the harmonisation of disciplinary procedures. Up until 2002, doping offences were usually judged and sanctioned by the sport associations in which the offence had occurred. For associations that did not have a disciplinary body of their own, the SOA stepped in by establishing its own disciplinary body.

To secure the legal status of athletes, the Doping Statutes of the 1990s asked the member associations to “establish procedural provisions aimed at respecting the integrity of the persons involved, the recognition of basic legal principles, the granting of legal hearings, the right to consult the records, the right to name evidence and the right to an opinion on the sentence” (Doping Statute 1990, article 16). In addition, the associations were recommended to include into their doping regulations the possibility to call upon a neutral arbitration authority. In 1995 this recommendation was changed into a formal requirement.

As a result of the changes of the 2000 Doping Statute the SOA introduced a “delegate for doping cases” who had to review the judgements passed by the associations and was entitled to appeal to a higher instance (Doping Statute 2000, article 2.3). In a final step, the member associations of the SOA delegated their penal authority to their umbrella organisation in 2002. The "Disciplinary Chamber for Doping Cases" (DK) is independent of the FDB and is the first instance to examine doping offences. Next up the line of appeal are the international "Court of Arbitration for Sport" or the disciplinary authorities of the relevant international federations.

The DK consists of a "pool" of about 20 members who have been elected by the sport parliament. If there is a positive doping sample, three persons are drawn from this pool to examine the case. The members of the DK are formally independent and are not allowed to hold any office in any sport association. The procedures of the DK are established in a special document that is based on the already mentioned basic principles of the Doping Statutes of the 1990s. To secure the procedure legally and to avoid law suits in public courts, athletes are required by the Doping Statute of 2002 to sign a declaration of subordination with which they accept the DK's right to examine doping offences in the first place and recognise the CAS as independent arbitration authority.²⁰

Even though the introduction of a central disciplinary chamber resulted in a loss of autonomy for the associations – initially, a number of associations reacted sceptically or even negatively to the proposal – the separation of power is currently regarded in a positive light because previously the associations had been faced with the contradictory task of sanctioning doping offenders and assisting and advising them at the same time.

²⁰ The group of persons required to sign the declaration of subordination differs from association to association. Usually the members of a national team or of the two highest national leagues belong to this group. In some associations, however, the respective coaches also have to sign the declaration. Usually, the signing of the declaration is linked to the granting of competition licenses. Experience shows that the procedure causes a lot of administrative work in some associations and that, in some instances, athletes have not signed the declaration. Should one of these athletes be confronted with a positive doping result, he or she is asked to sign the declaration retroactively. If they refuse to sign the declaration, the examination and penal procedure has to be carried out by their own association.

e) procedures for the imposition of effective penalties for officials, doctors, veterinary doctors, coaches, physiotherapists and other officials or accessories associated with infringements of the anti-doping regulations by sportsmen and sportswomen;

The Doping Statute of 1990 already envisaged the punishment of persons associated with athletes if they should be aiding them in the procurement or consumption of doping substances. Yet the real-life possibilities to sanction such behaviour were very limited within the sphere of private sector sport. Apart from firing coaches and other persons that are employed by a club or an association, sanctions can only put into effect if the persons in question have signed corresponding contracts. This practice has only been put into effect in a small number of associations, however.

The new legal provisions under the FLPGS include the possibility to officially prosecute persons associated with the athletes. The relevant paragraphs as well as the problems in putting this law into practice have already been described in connection with article 4 of the ADC. As a consequence, members of the FDB now hope that further improvements will result from the WADA Anti-Doping Code that also identifies the possession and procurement of forbidden substances as offences.²¹

f) procedures for the mutual recognition of suspensions and other penalties imposed by other sports organisations in the same or other countries.

As a result of the introduction of the disciplinary chamber, sanctions are now centrally imposed. National and international sport associations can act as parties in this procedure and can also appeal to the "Court of Arbitration for Sport".

7.3 Moreover, the Parties shall encourage their sports organisations:

a) to introduce, on an effective scale, doping controls not only at, but also without advance warning at any appropriate time outside, competitions, such controls to be conducted in a way which is equitable for all sportsmen and sportswomen and which include testing and retesting of persons selected, where appropriate, on a random basis;

Since ratification of the ADC, an average of about 1,800 doping controls per year have been carried out in Switzerland. Figure 7 shows that the share of different kinds of controls has changed substantially recently. During the 1990s about two thirds of all controls were carried out at competitive events, the remainder outside of competitions. Since 2000 the share of out-of-competition controls has increased substantially to currently about half of all controls.

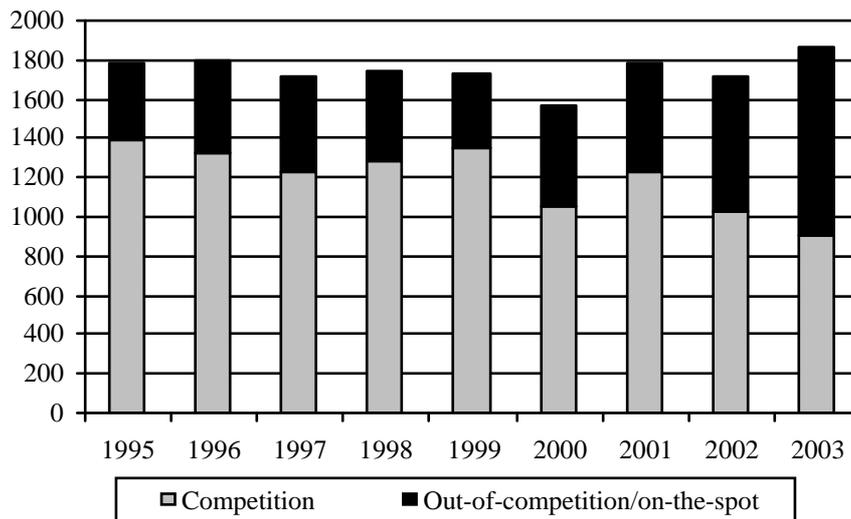
At the same time, the nature of controls has changed dramatically. Up to the year 2000 the associations were ordered to carry out a certain number of competition controls but were free to decide where and when they were to do so. As a result, it became quite easy in some sports to ascertain the time and place of controls in advance. Since 2000, the competition controls have been fixed by the FDB and not announced. Out-of-competition controls took place in the form of announced controls during training times²² between 1990 and 1998 but were substituted by on-the-spot controls without notice in 1998.

²¹ As the WADA Code has to be ratified and put into effect by the national anti-doping agencies prior to the 2004 Olympic Games, the Swiss Doping Statute has to be revised by the end of 2003 and submitted to the sports parliament by early 2004 for acceptance.

²² Athletes promoted by the SOA could be asked to appear within a time span of up to 36 hours at one of ten regional control centres.

The controls are planned on the basis of an annual control concept which, in turn, is based on various features of the Swiss sport associations including the number of active elite athletes, the risk of doping use during the preparation phase, the imminence of important international competitions, the amount of subsidies received from the SOA and the results of doping controls from earlier years. The control concept also draws on the provisions taken from ISO/PAS 18873 in the course of the certification process according to which unannounced controls, out-of-competition controls and target testing should receive priority.

Figure 7: Number of competition and out-of-competition controls in Switzerland, 1995-2003



Note: From 1999 onwards the out-of-competition controls were no longer announced in advance; as the reference year for the controls lasts from October through September, the full year 2003 can be included in the figure.

b) to negotiate agreements with sports organisations of other countries permitting a sportsman or sportswoman training in another country to be tested by a duly authorised doping control team of that country;

Under article 4.3d we already mentioned the agreement with Australia. There have been no further agreements with other countries. If the need should arise, partner organisations in other countries will be directly approached to carry out controls on behalf of the FDB. On occasion of the ratification of the additional protocol to the ADC, Switzerland will undertake to recognise and accept controls carried out in other countries that have signed the ADC and its additional protocol.

c) to clarify and harmonise regulations on eligibility to take part in sports events which will include anti-doping criteria;

Eligibility to take part in national and international competitions is governed by specific regulations within the sport associations and is usually bound to the possession of a "competition license". As a rule, athletes are required to sign a "declaration of submission" under the FDB to receive one of these licenses. In team sports, athletes which only play occasionally are asked to sign the declaration before the start of the game. Athletes suspended for doping offences lose their license.

d) to promote active participation by sportsmen and sportswomen themselves in the anti-doping work of international sports organisations;

The already mentioned project "doping free elite sports", which was jointly launched by the FOSPO, the LAD and the SOA in 2002, is an example of the involvement of Swiss elite athletes in the struggle against doping. In this project, the blood and urine samples of a total of 21 voluntary male and female athletes from five endurance sports are regularly tested. Apart from the knowledge to be gained from a comparison of the development of blood profiles over time, one of the main aims of the project is to show the public by means of a media campaign that exceptional performances can be achieved without resorting to doping practices. Originally, the project was intended to be carried out with a smaller group of athletes but it received such positive feedback from the athletes that a larger group of well-known and internationally successful athletes could be integrated into the project.²³ Asked for their reasons for taking part in the project, athletes mention the possibility to set an example for young athletes and to show the public and the sponsors that their performance is not based on fraud (swiss-sport 5/03, p. 12).

The experts interview in the framework of the evaluation study reflects a positive overall assessment of the project, but also highlights the fact that publicity and media coverage were a lot lower than expected. That the project is still not very well known is also evidenced by the survey of persons responsible for anti-doping in the Swiss sport associations: about a quarter of all respondents claim not to have heard of the project.

e) to make full and efficient use of the facilities available for doping analysis at the laboratories provided for by Article 5, both during and outside sports competitions;

All controls carried out by the FDB in Switzerland are analysed by the LAD. For the LAD, the Swiss doping samples make up about half of their total volume of analyses, the remainder originating from other sport organisations such as the Union Cycliste International (UCI) and the Women's Tennis Association (WTA). The present volume of analyses keeps the LAD working at capacity; it is currently examining the possibility of expansion.

f) to study scientific training methods and to devise guidelines to protect sportsmen and sportswomen of all ages appropriate for each sport.

The SOA does not do systematic research into training methods on its own. However, there is a position of a "co-ordinator for sport sciences" and in some instances the SOA also takes part in scientific projects of universities or the FOSPO. According to the SOA, the low level of research is due to a lack of staff and financial resources as well as to the fact that the FOSPO and the SSI are responsible for this kind of research in Switzerland.

As regards the prevention of doping and the protection of athletes, the SOA and its member associations have hardly started yet. Still, the delegation of the controls and the disciplinary measures from the individual associations to the SOA has set free some work capacity in the associations that could be used for prevention work. Consequently, the duties of the persons responsible for the anti-doping efforts in the associations have been modified to include preventive efforts, too. The persons in question are thus required, in co-operation with other

²³ The following sports take part in the project: athletics, orienteering, cycling (mountain bike), cross country skiing, and triathlon.

association officials, to work out an information concept adapted to the needs of their association and to co-operate with the FBDK in the prevention of doping. With respect to youth sports, the SOA has recently started the campaign "Cool and Clean", which attempts to empower young athletes and to get them to commit themselves to the ethic principles of sport.

Summary and assessment: Within the well-established division of responsibilities and thanks to the specific organisational set-up, its financial contribution and the high level of trust between the relevant actors, the Confederation has been able to play a supportive role in the SOA's battle against doping. The harmonisation of regulations, doping lists, controls and disciplinary procedures has advanced substantially over the past few years. Regarding the prevention of doping at association level, some work has already been done, but this needs to be expanded in view of a variety of groups (young athletes, coaches and other staff, sponsors).

Article 8 – International co-operation

8.1. *The Parties shall co-operate closely on the matters covered by this Convention and shall encourage similar co-operation amongst their sports organisations.*

8.2 *The Parties undertake:*

a) to encourage their sports organisations to operate in a manner that promotes application of the provisions of this Convention within all the appropriate international sports organisations to which they are affiliated, including the refusal to ratify claims for world or regional records unless accompanied by an authenticated negative doping control report;

b) to promote co-operation between the staffs of their doping control laboratories established or operating in pursuance of Article 5; and

c) to initiate bilateral and multilateral co-operation between their appropriate agencies, authorities and organisations in order to achieve, at the international level as well, the purposes set out in Article 4.1.

During the 1990s, international contacts and co-operation were mainly channelled through the FBDK and its head who is, among others, a member of the expert group for education and information of the ADC. The head of the FBDK urged the FDB to improve its international contacts and to join the International Project Team 2 (IPT 2, 1999-2000). Even though the FDB initially decided against joining the IPT 2, it has since become a member of the IPT 3. IPT 3 includes several countries, lasts from 2001 to 2003, aims at the certification of controls and the establishment of a system for assuring quality, and is managed jointly by the FOSPO and the SOA in Switzerland.

Apart from IPT 3, a number of other steps were taken to improve the international presence of Swiss anti-doping organisations: Since August 2002 the FDB has been contractually bound to the "Drug Free Sport Consortium" (DFSC) and has since then been carrying out controls for the WADA. In April 2003 the "Association of National Anti-Doping Organizations" (ANADO) was founded in Strasbourg.²⁴ The FDB is a founding member of this association, which currently consists of organisations from 22 countries. The head of the FDB has been elected into the executive committee of ANADO, an act that can be interpreted as an international acknowledgement of the FDB's efforts.

²⁴ The organisation has several goals, such as the transfer of know-how between national anti-doping organisations, the strengthening of international communications and the development of quality standards and professional methods.

On the part of the FOSPO, particular attention has been given to continuing international co-operation with respect to education and prevention. The head of the FBDK is a member of the WADA working group on "ethics and education" and has chaired the ADC group on "education and information" for four years. In addition, the FOSPO has contributed substantially to the establishment of an anti-doping organisation in Luxembourg by holding training courses in Luxembourg and by letting Luxembourg use the Swiss information material. Switzerland also contributed to the establishment of WADA in Lausanne, and even though WADA has since shifted its headquarters to Montreal, the regional office in Lausanne still enjoys support by Switzerland in the form of, for example, tax reductions. Switzerland is honouring all its responsibilities towards WADA, has signed the Copenhagen declaration and has paid all its annual dues.

8.3 The Parties with laboratories established or operating in pursuance of Article 5 undertake to assist other Parties to enable them to acquire the experience, skills and techniques necessary to establish their own laboratories.

Due to a shortage of staff and financial resources the LAD is currently not engaged in helping other countries establish their own laboratories. In addition, such development efforts would have to be supported by the relevant foreign governments and ministries. However, Switzerland does support other countries by making trainee positions at the LAD available to foreigners, too.

Summary and assessment: As far as international co-operation is concerned, Switzerland has taken decisive steps towards increased integration during the past few years. The head of the FBDK had been a member of various international organisations and groups as well as the FDB for many years, but now the FDB has started to become internationally active on its own by joining the IPT 3 and by becoming a founding member of ANDADO. As a result, a greater number of people are involved in the international exchange of information and knowledge than before. The LAD, too, is well integrated into international networks of communication. Due to a lack of resources, the LAD cannot substantially contribute to the establishment of laboratories in other countries, however.

Additional Protocol to the Anti-Doping-Convention (Warsaw, 12.9.2002)

Article 1 – Mutual recognition of doping controls

1.1 Bearing in mind the provisions of Articles 3.2, 4.3.d and 7.3.b of the Convention, the Parties shall mutually recognise the competence of sports or national anti-doping organisations to conduct doping controls on their territory, in compliance with the national regulations of the host country, on sportsmen and women coming from other Parties to the Convention. The result of such controls shall be communicated simultaneously to the national anti-doping organisation and national sports federation of the sportsman or sportswoman concerned, to the national anti-doping organisation of the host country, and to the international sports federation.

In 2001 the organisation of doping controls in Switzerland was examined in two international audits. As the results of these audits were positive, Switzerland has become a full partner of the DFSC and has been allowed to perform doping controls for WADA from 2002 onwards. These also include controls in neighbouring countries. The information flow specified by WADA is being observed.

1.2 The Parties shall take such measures as are necessary for the conduct of such controls, which may be in addition to those carried out by virtue of a previous bilateral or other specific agreement. In order to ensure compliance with internationally recognised standards, the sports or national anti-doping organisations shall be certified to the ISO quality standards for doping control recognised by the Monitoring Group, set up by virtue of Article 10 of the Convention.

As already mentioned, the FDB is currently in the process of obtaining the ISO certification in the framework of IPT 3. This procedure is set to be concluded by January 2004.

1.3. The Parties shall similarly recognise the competence of the World Anti-Doping Agency (WADA) and of other doping control organisations operating under its authority to conduct out-of-competition controls on their sportsmen and women, whether on their territory or elsewhere. The results of these tests shall be communicated to the national anti-doping organisation of the sportsmen and women concerned. Any such controls shall be carried out, in agreement with the sports organisations referred to in Article 4.3.c of the Convention, in accordance with regulations in force and with the provisions of national law of the host country.

The FDB carries out controls for WADA and, in turn, recognises the controls carried out by other organisations authorised by WADA in Switzerland as well as abroad.

Summary and assessment: The FDB works for WADA and recognises the controls performed by other organisations authorised by WADA. Currently, the ISO certification of controls is being obtained in the framework of IPT 3.

5. Summary: Strengths and limitations of the Swiss anti-doping strategy

The analyses in chapters 3 and 4 showed that the ADC did not find Switzerland unprepared at the end of the 1980s. When the ADC was ratified in 1993, Switzerland had already been active in combating and preventing doping for about 30 years. The Doping Statute of 1990 was of particular relevance in this connection because it already included a number of the provisions for national anti-doping policies set forth in the ADC.

Nonetheless, the ADC has led to two important qualitative changes in the Swiss anti-doping strategy. *First*, the ADC asks public actors to assume a more decisive role in the struggle against doping. Up to that time, the anti-doping efforts were almost entirely a matter of the private sector sport organisations while public actors – particularly the FOSPO in Macolin – only contributed on a voluntary and subsidiary basis. As a consequence of the ADC, public bodies started to carry out a number of important duties and the Confederation contributed substantially to the financing of the Swiss anti-doping efforts. Thus, the ADC initiated a phase of intensive co-operation between public and private organisations.

Second, the provisions and tasks set forth in the ADC were an important frame of reference for the formulation of an effective anti-doping policy. An important feature of the ADC in this connection is the fact that it does not only refer to controls, analyses and disciplinary measures but also addresses the context of doping as well as its prevention and the educational measures to be taken. By including all these aspects, the ADC is a good basis for an integrated and systematic fight against and the prevention of doping. The ADC "anti-

doping programme" has been a source of inspiration for the Swiss actors insofar as it clearly set out the areas in which action was needed. Against this background, it is not surprising that the Confederation primarily engages in the "new" areas – prevention and research – within the Swiss three-pillar anti-doping concept, whereas the "traditional" task of controlling and penalising athletes has been left to private sector organisations which had already performed these tasks before the ADC was ratified.

As the battle against doping had already been waged for quite some time in Switzerland at the time of the ADC ratification, and as the ADC explicitly leaves the signatory countries the possibility to delegate the implementation of measures to non-governmental organisations, the anti-doping efforts of Switzerland at first continued in line with its Doping Statute after the ratification of the ADC. Apart from greater government engagement in prevention and research, there were at first no major revisions in the established anti-doping policy. In this context, the Tour de France scandal of 1998 marked a major turning point. Many organisations and persons involved in sport and the fight against doping suddenly became aware that the problem was more serious than they had previously assumed and that, consequently, the Swiss anti-doping efforts had to be stepped up. This meant, among other things, putting them on a more coherent legal foundation. The SOA initiated important changes regarding the control concept and the sanctioning of doping offences, and at federal level new provisions aimed at clarifying the responsibility of public bodies in the fight against doping and at facilitating the prosecution of offences committed in the athletes' entourage were included in the FLPGS.

As a result of these changes, but also due to greater international co-operation in doping matters, in which Switzerland is becoming increasingly active (e.g. in the Council of Europe, the WADA, the ANADO or the IPT 3), the Swiss anti-doping drive has advanced significantly during the past few years and has thus come closer to fulfilling the provisions of the ADC.

In the following paragraphs, the most important results from the previous chapters shall be summarized. The overview in table 1 below shows that Switzerland currently complies with most of the ADC's provisions or has at least initiated steps towards fulfilling them. However, a closer look at the results reveals that there are also some areas in which the Swiss anti-doping strategy is not yet entirely satisfactory and that there is room for improvement in a number of further areas, too.

Table 1: Summary of the major strengths and limitations of the Swiss anti-doping efforts

Article	<i>Strengths</i>	<i>Limitations and omissions</i>	<i>Room for improvement</i>
3. <i>Domestic co-ordination</i>	- good co-operation and division of responsibilities between public and private sector organisations		- limited involvement of federal authorities outside of the FOSPO in the anti-doping efforts - simplification of funding and co-ordination in the framework of a

			National Anti-Doping Agency
4. <i>Measures to restrict the availability and use of banned doping agents and methods</i>	<ul style="list-style-type: none"> - anti-doping legislation (FLPGS, Art. 11) - high standard of doping controls (ISO certification) 		<ul style="list-style-type: none"> - unclear whether legal provisions regarding persons in the athletes' entourage will prove effective
5. <i>Laboratories</i>	<ul style="list-style-type: none"> - IOC-accredited and ISO-certified laboratory - good integration in international networks 		<ul style="list-style-type: none"> - better integration of the laboratory in the anti-doping efforts - on-going training of laboratory staff
6. <i>Education</i>	<ul style="list-style-type: none"> - good information and educational material - socio-demographic research focusing on different aspects of the doping problem 	<ul style="list-style-type: none"> - target groups not yet fully reached - limited resources for research, research only in selected areas 	<ul style="list-style-type: none"> - preventive efforts could be stepped up
7. <i>Co-operation with sports organisations</i>	<ul style="list-style-type: none"> - effective co-operation, supportive of the sport organisations' commitment - control concept, organisation and carrying out of controls - establishment of an independent disciplinary chamber 	<ul style="list-style-type: none"> - hardly any research done by the sport organisations (e.g. concerning training methods) 	<ul style="list-style-type: none"> - sport associations and clubs only marginally involved in the anti-doping efforts (problem of a top-down approach) - co-ordination of current prevention campaigns
8. <i>International co-operation</i>	<ul style="list-style-type: none"> - Switzerland is an active member in a number of international anti-doping organisations 	<ul style="list-style-type: none"> - no support for the establishment of laboratories abroad 	
<i>Additional Protocol (mutual recognition of doping controls)</i>	<ul style="list-style-type: none"> - ISO certification expected at the end of 2003 		

Strengths of the Swiss strategy

There are a number of strong points in the Swiss anti-doping strategy, including the well-established co-operation between public and non-governmental organisations, the organisation of the controls and the sanctioning of offences, and the Swiss contribution to

international co-operative efforts. With respect to the ADC, the following positive points must be mentioned in particular:

- *Co-operation between public and non-governmental actors*: The traditional division of responsibilities between public and private sport organisations (see section 3.1) is also visible in the fight against doping and in the prevention of doping. Even though there is a clear-cut separation of responsibilities between different organisations based on the Swiss “three pillar concept”, there are several areas in which the activities of different organisations overlap and thus require a high degree of co-operation. As a result, the most important organisation concerned with the fight against doping – the FDB – integrates members of different organisations into a co-operative arrangement that works very well according to statements of its members.
- *Doping controls*: Against the background of the ISO certification, the doping controls have been professionalised and standardised during the past few years. The current control concept emphasises out-of-competition controls without notice and is a good basis for the planning of controls.²⁵
- *Disciplinary measures*: The establishment of a disciplinary chamber that is independent from the sport associations is among the most important achievements of the past few years, in that it secures a transparent and fast procedure which circumvents association and personal interests and guarantees coherent sentences.
- *Doping laboratory*: The LAD in Lausanne is ISO-certified, accredited by the IOC and well integrated in the international network of doping laboratories. As the LAD's performance meets the highest analytical and scientific standards, it not only carries out analyses for Switzerland but also for a number of international federations and the WADA.
- *Information and prevention*: On the basis of a series of systematic evaluations, the information and educational material aimed at athletes has been continuously improved during the past few years and has now reached a high quality level and is well-accepted by the athletes. The increasing relevance of electronic media has been taken into account for the information and education strategy. In addition, the attempts to integrate the discussion of the doping problem into school curricula by creating specific text books are promising. Finally, a number of specific campaigns (e.g. "Doping free elite sports", "Cool and Clean") aimed at specific target groups (youth, audience of sport events) have been carried out.
- *International co-operation*: Switzerland is an active participant in a number of international organisations dedicated to the fight against doping, such as the Council of Europe (ADC), the WADA or the ANADO. These international linkages result in an increased possibility to learn from the experience of other countries and in a quick transfer of information regarding new trends in doping and possible counter-measures from other countries to Switzerland and vice versa.

²⁵ However, there will have to be an even more pronounced focus on "target testing" to refute the assumption that the low number of positive control results (usually less than one percent of all samples) in Switzerland might be due to a control concept that is too transparent and off target.

Limitations and omissions in the Swiss strategy

There are some areas in which Switzerland's achievements regarding the ADC are not yet satisfactory. In these areas there is a clear need for improvement:

- *Research*: Scientific research on the prevention of and the fight against doping is only done in a very limited number of areas in Switzerland – examples include the LAD's research into the analysis of doping samples or the socio-demographic studies performed by the FOSPO. There is no research centre in the true sense of the word that systematically and continuously examines training methods or the psychological, social and economic causes and effects of doping. With respect to research one has to ask, however, whether isolated efforts at national level constitute the best solution or whether it would be preferable to look for ways to improve international co-operation.

- *Targeting of prevention and diffusion of information*: Even though the information available in Switzerland is very good, it does not yet reach all target groups. Whereas elite athletes are very well covered by the current information efforts, there is room for improvement with respect to youth, mass and non-elite competitive sports.²⁶ As is evidenced by the campaign "Doping free elite sports", there appears to be a problem in getting pertinent and constructive information across to the public. Some of the experts interviewed for this study suggest that the mass media as an important interface between the information and the public are not interested in this kind of information, preferring spectacular scandals. In addition, the current anti-doping strategy still very much focuses on information. Apart from a number of interventions in the area of youth sports ("Cool and Clean", educational materials for schools) Switzerland has not yet systematically engaged in prevention efforts in the true sense of the word (see also below). Finally, in some instances the spread of information and campaigns from the top to the sport clubs does not work satisfactorily. This problem may have to do with the fact that the information has to cross the boundaries between the areas of competence of the SOA (associations and clubs) and the FOSPO (information) but also that the flow of information has not yet been optimally organised.

- *Helping other countries in the establishment of their own laboratories*: Switzerland is not contributing systematically to the establishment of laboratories in foreign countries. It is important to note, however, that such efforts cannot be carried out by the LAD alone, but would have to rely on the support of government bodies in Switzerland and abroad. The lack of support and initiative by the LAD is mainly due to the scarce financial and personnel resources.

Room for improvement and optimisation

Finally, in a number of areas there is "room for improvement" in the sense that the current measures are quite promising but might be further improved:

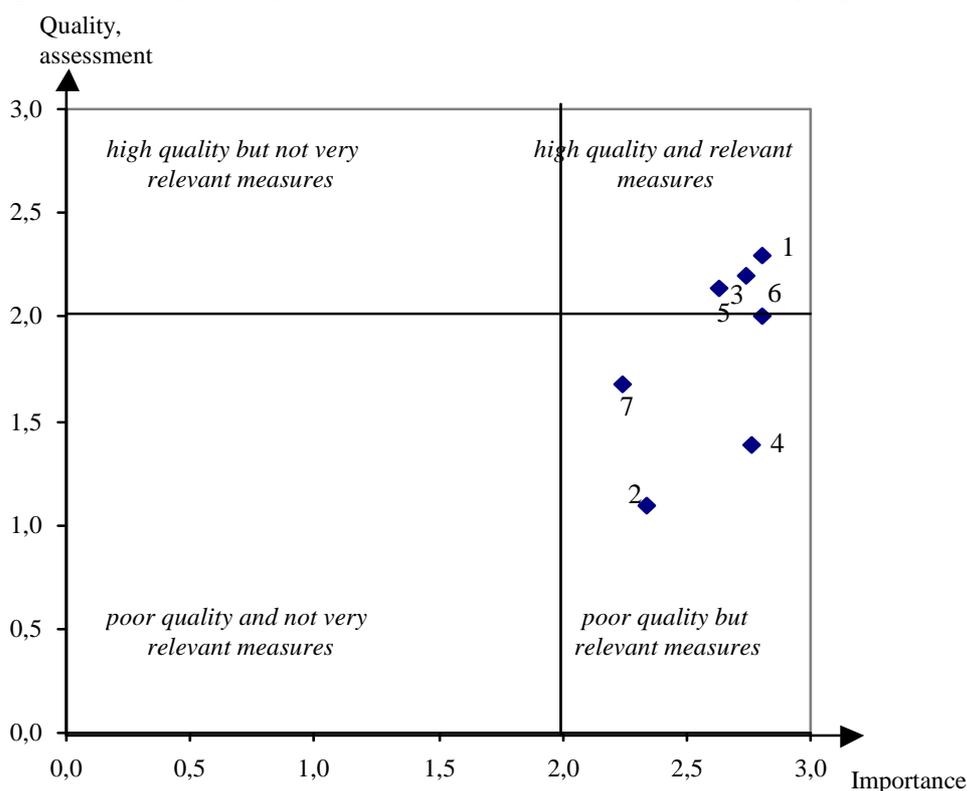
- *Legislation and penal measures*: The current legal provisions have brought about a vast improvement compared to the "legal vacuum" that existed before the revision of the FLPGS.

²⁶ In the written survey of persons responsible for the anti-doping efforts at the level of the Swiss sport associations, the sport spectators and the general public were identified as the groups with the biggest lack of knowledge and problem awareness.

Still, it is too early yet for a clear assessment of whether the legal provisions are effective. As in other instances, one problem is Swiss federalism that makes relatively complicated co-operation with and between cantonal authorities necessary, which in turn may impede or render it more difficult to implement the legislation. In this context it is still unclear whether the supply or sale of doping substances can effectively be prosecuted.

• *Context in which doping takes place:* The problems just mentioned become particularly difficult to overcome in connection with the wider context in which doping is practiced. Whether the existing legislation will make a real change in this respect is questionable. Here, mention must be made of the problems attached to using the term “for doping purposes” and to the need of having “sufficient initial suspicious facts”. At present, the investigation authorities are faced with the problem to construct chains of evidence – a task that is made more difficult by convicted athletes’ reluctance to co-operate. Even though the introduction of key witnesses as suggested by the WADA might bring matters forward, it also poses a number of constitutional problems whose seriousness is difficult to judge at the present moment. In addition, and apart from penal and disciplinary measures, prevention and information activities aimed at the context of doping would also have to be intensified.

Figure 8: Analysis of quality and relevance of different anti-doping measures (n=35)



Dot labels:

- 1 Control of athletes
- 2 Control of persons in the athletes' entourage
- 3 Punishment of athletes
- 4 Punishment of persons in the athletes' entourage
- 5 Information and prevention
- 6 Research concerning the proof of doping use
- 7 Research concerning training methods

Values: Importance: 0: unimportant; 1: not very important; 2: important; 3: very important

Quality: 0: insufficient; 1: poor; 2: good; 3: very good

In this connection it is noteworthy that the persons responsible for the sport associations' anti-doping measures have also identified, in a written survey, the "context of doping" – along with doping-related research – as one of the major problem areas of the current Swiss anti-doping strategy. Figure 8 contains a quality-relevance analysis of seven potential problems in connection with the doping strategy. As is evident from the figure, only three of these problem areas are currently seen as insufficient even though respondents believe them to be highly relevant: the control (no. 2 in figure 8) and the punishment of persons in the athletes' entourage (4) as well as research efforts concerning training methods (7) fall into this category. Compared to these three problem areas, the control (1) and punishment of athletes (3), the current information and prevention efforts (5) and the research concerning the analysis of doping samples are not only seen as important but also as being in a good state. Figure 8 also shows that none of the measures is seen as irrelevant. This result is an important indication that people engaged in anti-doping efforts are highly supportive of a differentiated approach, as stipulated in the Swiss "three Pillar concept" and in the ADC.

- *Integration of Federal authorities outside of the FOSPO into the fight against doping:* When the Confederation delegated its anti-doping efforts to the FOSPO, this entailed a comprehensive and efficient arrangement for the carrying out of necessary measures. However, the same arrangement has rendered the co-operation with other Federal authorities more difficult, as it has become easier for them to claim that they are neither responsible nor competent for the matter at hand. The Swiss Federal Office of Public Health, for example, argues that "doping is not a matter of public health" and, consequently, there appears to be no need for special action on the part of this office. As even the mobilisation of Health Office support for measures already initiated by the FOSPO appears to be very difficult, an intensification of the co-operation between these two offices is in order. With respect to the co-operation between the FOSPO, the Federal Department of Justice and the cantonal authorities regarding the new legislation, it is still too early for a conclusive comment on the quality of the relationships. Mention must be made of the newly established co-operation between the FOSPO and the Customs authorities, however, which already appears to be working very well.

- *Integration of associations, clubs and private suppliers in the battle against doping:* The current anti-doping system is characterised by a comparatively high degree of centralisation for Swiss circumstances. The concentration of responsibilities in a limited number of organisations and persons brings about short reaction times and relief for individual sport associations and clubs. Yet exactly this relief can also lead to a situation in which the lower levels of the system no longer feel responsible. Currently, such processes appear to be at work in the Swiss sport associations. The associations have recently delegated the doping controls and the disciplinary authority to their umbrella organisation (SOA) and currently seem to interpret their role in anti-doping mainly as an administrative one (collecting the athletes' declarations of submission etc.). It would be worthwhile to examine whether the resources that were formerly used for the associations' own anti-doping efforts could be put to another use by, for example, improving the integration of the individual sport clubs into the strategy or by stepping up preventive efforts. In a medium term perspective, such initiatives would also have to include private sports and fitness centres.

- *Co-ordination of current prevention campaigns:* During the past few years a number of campaigns have been initiated in Switzerland that also (but not exclusively) touch upon the doping problem. These include the ethics charter of the SOA, the “Cool and Clean” and “La Ola” (against the use of tobacco and alcohol in sports) campaigns as well as a number of initiatives addressing violence and fair-play in sports. These campaigns were initiated by different organisations such as the SOA and a number of different Federal offices. Yet there is a danger that a proliferation of different campaigns leads to some fatigue on the part of the targeted associations, clubs and persons. Thus, people and organisations planning new initiatives should bear in mind that a moderate and sustainable use and a careful co-ordination of different campaigns are a cornerstone of their success.
- *Finances:* The financial means available for the fight against doping and the prevention of doping are very limited and not secured in a mid- to long-term perspective. The funding by the FOSPO is mainly based on subsidies (contribution to the SOA for carrying out doping controls) and the budget position “services from third parties” (information/prevention and research). Subsidies as well as “services from third parties” are the subject of above-average cuts by parliament when it attempts to save resources. The examples of the 2000 budget cuts and the current precarious financial situation of the laboratory in Lausanne show that the current efforts are threatened by the fact that their funding has to be negotiated anew every year. As the fight against doping becomes ever more expensive – key words in this connections are the increased demands on resources made by professional and targeted controls, the more complex analysis of doping samples and the necessary long-term perspective in prevention and research – the situation can deteriorate very quickly if the long-term financing cannot be secured.
- *Staff:* The FOSPO’s and SOA’s organisational units dedicated to the fight against doping are relatively scarcely staffed. Carrying out additional tasks (e.g. the ISO certification, the implementation of the WADA code or the conceptualisation of a National Anti-Doping Agency) has only been possible by cutting down on other tasks and by overstraining the personnel. Apart from the permanent office of the FDB at the SOA, the FOSPO’s FDBK, the LAD and the increasingly professionalised control personnel, most people engaged in the fight against doping and the prevention of doping are doing a remarkable amount of voluntary work. As a result, there is a low degree of professional expertise and a high degree of concentration of competence because only a small number of persons have the knowledge *and* the time for an in-depth analysis of the doping problem. This situation puts the Swiss anti-doping efforts in danger in two ways. On the one hand, there is the danger of a substantial loss of competence and steering capacity if one of the central persons should suddenly retire from his or her functions. On the other hand, personal problems between different members of the organisations may have a negative influence on the work. Even though these personal relationships appear to very good at the moment, examples from the past indicate that the balance within the organisations is somewhat precarious.

6. Outlook: Towards a National Anti-Doping Agency?

The present study refers to the state of the Swiss anti-doping efforts at the end of 2003. Against the background of the results discussed in the previous chapters, we can conclude that Switzerland has a functioning and effective anti-doping system that can, however, be improved in several areas.

The problems and possibilities for improvement mentioned in chapter 5 are hardly news to the persons responsible for the Swiss anti-doping efforts. In fact, there is a number of ideas and propositions to improve the current situation. Particularly promising is the idea of creating a National Anti-Doping Agency Switzerland (Anti-Doping Switzerland, ADS) as proposed by M. Kamber in June 2003 on the instructions of the FDB in a "strategy paper". In the framework of the ADS, the administratively separated activities of FDB and FBDK would be concentrated under a common roof and with a common identity. The strategy paper identifies a number of advantages of such an integrated organisation, namely:

"Integration of all areas of the fight against doping (apart from the sanctioning of doping offences) and made-to-measure solutions, optimal external communication, synergies in co-operation, flexible use of available resources, cost transparency, long-term securing of resources, more extensive support for the fight against doping, better possibilities to mobilise resources from third parties (e.g. from business enterprises). (Kamber 2003, p. 6).

There are also some problems with the new approach, however. Most important is the higher cost of the new organisation, even though it should also be mentioned that a part of the current cost has been hidden by voluntary work and the use of other budget positions not primarily dedicated to the fight against doping. As a consequence, the strategy paper suggests that it is important to develop a long-term financing strategy which would also be necessary if the existing system were kept on.

The ADS may constitute a good basis for the solution of some of the problems mentioned above. Apart from the financing, one of the main problems of the ADS appears to be getting other actors engaged in Swiss sport interested in its work and involved in its activities. The strategy paper as well as some of the experts interviewed for the present study fear that "a totally independent organisation without good linkages to the sport system" may become an isolated strategic and control authority whose general effect will be very limited. This danger may be counteracted on the basis of careful planning, transparent information and maybe also by introducing a system of stimuli for potential partners. Ideally, the new ADC can thus contribute to an even better compliance with the ADC and the new WADA provisions.

References

A Legislation, regulations and statutes

a) Federal legislation

Bundesgesetz über die Förderung von Turnen und Sport

Verordnung über die Mindestanforderung bei der Durchführung von Dopingkontrollen (Dopingkontrollverordnung)

Verordnung des FDDCS über Dopingmittel und –methoden (Dopingmittelverordnung)

b) Swiss Olympic Association

Doping-Statut (1990, 1995, 1999, 2000, 2002)

Doping Ausführungsbestimmungen (1990, 1995, 2000)

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Appendix 1

The doping regulations in the Federal law on the promotion of gymnastics and sports

Vb. Measures against doping

Art. 11b Doping prevention

The Confederation promotes the prevention of doping by means of education, information, consultations, documentation and research.

Art. 11c Lists of doping substances

¹ The Federal Department for Defence, Civil Protection and Sport decrees lists of substances and methods whose use counts as doping in certain sports.

² In the establishment of the lists the Department takes into account international developments.

Art 11d Prohibited actions

The following actions are prohibited: a. the production, importation, procurement, sale, prescription and passing on of substances for doping use, b. the use of doping methods on third parties.

Art. 11e Controls

¹ National sport organisations, the relevant umbrella organisation and organisers of sport events that are being promoted in the framework of the present legislation are obliged to provide for the necessary doping controls in their context.

² The Confederation can financially subsidise the relevant control authorities.

³ The Federal Council sets minimal standards for controls and their supervision. In case of non-compliance with these minimal standards, federal grants can be reduced or denied according to article 10.1.

Art. 11f Penal regulation

¹ Persons producing, importing, procuring, selling, prescribing or passing on doping substances or using doping methods on third parties are to be punished by either imprisonment or a fine of up to CHF 100,000.

² The prosecution is the responsibility of the cantons.

Appendix 2**The FBDK's educational activities and instruments for different target groups**

Specialised personnel	
Doctors	Module in the framework of educational courses for sports medicine and military health officers
Pharmacists	Further training (2h)
Experts for prevention	Information and presentation of the educational and information materials in the framework of an annual meeting
Coaches and managers	
Coaches	Courses in the framework of diploma training courses (6h)
Sports students	Lectures in different universities
Coaches of the Swiss "Youth and Sport" organisation	Further training
Media/Public	Media workshop (one half day) Lectures at different events (e.g. at universities, in the framework of public education courses etc.)
Associations	Information of the persons responsible for anti-doping efforts Information events at the request of the sport associations
"Sports colleges"	Lectures on request
Athletes	
Young athletes	Lectures for elite athletes
Military training for elite athletes	Information event (3h)

Appendix 3

List of participants in the expert interviews

Expert interviews I (personal interviews)

Walter Blumenthal

Person responsible for the anti-doping strategy of the Swiss Ice-Hockey Association

Alain Garnier

Director for science, WADA regional office, Lausanne

Robin Gerber

Manager, Handball section of the Grasshoppers Club, Zurich

Thomas Frischknecht

"Transparent athlete" in the campaign "Doping free elite sports", multiple medal winner in mountain-biking

Oliver Hintz

Head of the permanent office of the FDB, SOA

Roland Hunziker

Person responsible for the anti-doping strategy of the Swiss Swimming Association

Matthias Kamber

Head of the FBDK, FOSPO

Jan Mühlethaler

Journalist, Neue Zürcher Zeitung, Zurich

Marie-Luce Romanens

Athletes' representative in the FDB, multiple medal winner in orienteering

Martial Saugy

Head of the LAD, Lausanne

Urs Scherrer

Member of the Swiss Handball National Team and member of the Grasshoppers Club, Zurich

Expert interviews II (information on the study and discussion of its results)

Hans Hoppeler

President of the FDB

Heinz Keller

Director of the FOSPO

Marco Blatter

Director of the SOA

Appendix 4

Questionnaire on the state of doping prevention and anti-doping measures in Swiss sport associations and in Switzerland.

Note: The questionnaire has not been translated due to methodological considerations.

A. Dopingproblematik und Dopingbekämpfung allgemein

Als wie gravierend schätzen Sie persönlich die Dopingproblematik heute ein?

	sehr gravierend	gravierend	teilweise problematisch	kein Problem
...im internationalen Spitzensport allgemein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...im Schweizer Spitzensport allgemein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...international in der Sportart Ihres Verbandes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...in Ihrem eigenen Verband	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Als wie wichtig schätzen Sie die folgenden Massnahmen zur Dopingprävention und -bekämpfung ein?

	sehr wichtig	wichtig	weniger wichtig	unwichtig
Dopingkontrollen bei den Athlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kontrolle des Umfeldes der Spitzenathlet/-innen (Trainer, Ärzte, Pfleger etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bestrafung fehlbarer Athlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bestrafung fehlbarer Betreuer/-innen etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information, Aufklärung und Prävention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forschung im Bereich Dopingnachweis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forschung im Bereich Trainingsmethoden	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Wie gut, glauben Sie, funktionieren diese Massnahmen in der Schweiz?

	sehr gut	gut	weniger gut	ungenügend
Dopingkontrollen bei den Athlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nachweis verbotener Substanzen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kontrolle des Umfeldes der Spitzenathlet/-innen (Trainer, Ärzte, Pfleger etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bestrafung fehlbarer Athlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bestrafung fehlbarer Betreuer/-innen etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information, Aufklärung und Prävention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forschung im Bereich Dopingnachweis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forschung im Bereich Trainingsmethoden	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Wo sehen Sie bei der Dopingbekämpfung in der Schweiz zusätzlichen Handlungsbedarf?

- _____
- _____
- _____

B. Dopingbekämpfung in Ihrem Verband

Welchen Verband vertreten Sie? _____

Seit welchem Jahr gibt es die Position des Dopingverantwortlichen in Ihrem Verband? _____

Seit welchem Jahr bekleiden Sie selbst diese Position? _____

Wieviel Zeit wenden Sie und Ihre Mitarbeiter/-innen pro Woche im Durchschnitt für die Dopingbekämpfung und -prävention auf?

Ihr persönlicher Arbeitsaufwand: _____ Stunden pro Woche

Gesamter Arbeitsaufwand im Verband: _____ Stunden pro Woche
(alle mit der Dopingprävention betrauten Mitarbeiter/-innen):

Wieviele Dopingkontrollen wurden in den vergangenen Jahren in Ihrem Verband durchgeführt? Wieviele Athlet/-innen wurden kontrolliert? Wieviele Tests fielen positiv aus? Falls Sie die exakten Zahlen nicht wissen, können Sie auch eine Schätzung vornehmen. Markieren Sie in diesem Falle das Kästchen „Schätzung“.

	Anzahl Kontrollen	Anzahl kontrollierter Athlet/-innen	Anzahl positiver Tests	Schätzung
2000				<input type="checkbox"/>
2001				<input type="checkbox"/>
2002				<input type="checkbox"/>
2003 (bis Sept.)				<input type="checkbox"/>

Welche Massnahmen mit Blick auf die Dopingbekämpfung wurden in Ihrem Verband zusätzlich zu den obligatorischen Kontrollen in den vergangenen 12 Monaten durchgeführt? Bitte führen Sie die wichtigsten Massnahmen auf:

- _____
- _____
- _____
- _____

Wie schätzen Sie das Problembewusstsein für Dopingfragen bei den folgenden Personengruppen in Ihrem Verband ein?

	grosses Problembewusstsein	mittleres Problembewusstsein	geringes Problembewusstsein	kein Problembewusstsein
...bei den Spitzenathlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...bei den Nachwuchsathlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

...bei den Breitensportler/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...bei den Trainer/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...bei den Fans und Zuschauer/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...bei den Funktionär/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...im internationalen Dachverband	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Wie beurteilen Sie die Zusammenarbeit mit den folgenden Personen und Organisationen?

	sehr gut	gut	weniger gut	unge-nügend	keine direkte Zusammenarbeit
...mit den Spitzenathlet/-innen Ihres Verbandes	<input type="checkbox"/>				
...mit den Nachwuchsathlet/-innen Ihres Verbandes	<input type="checkbox"/>				
...mit den Breitensportler/-innen Ihres Verbandes	<input type="checkbox"/>				
...mit den Trainer/-innen in Ihrem Verband	<input type="checkbox"/>				
...mit der Verbandsspitze	<input type="checkbox"/>				
...mit den Vereinen Ihres Verbandes	<input type="checkbox"/>				
...mit der FDB von Swiss Olympic	<input type="checkbox"/>				
...mit dem Fachbereich Dopingbekämpfung des BASPO	<input type="checkbox"/>				
...mit dem Dopinglabor in Lausanne	<input type="checkbox"/>				
...mit der internationalen Anti-Dopingagentur WADA	<input type="checkbox"/>				
...mit dem internationalen Dachverband	<input type="checkbox"/>				
...mit anderen Schweizer Sportverbänden	<input type="checkbox"/>				

In welchen Bereichen wünschen Sie sich in Ihrer Arbeit mehr Unterstützung? (mehrere Antworten möglich)

Informationsmaterial	<input type="checkbox"/>
Aufklärung und Ausbildung von Athlet/-innen, Trainer/-innen, Funktionär/-innen und Ärzten	<input type="checkbox"/>
Finanzielle Unterstützung zur Dopingbekämpfung	<input type="checkbox"/>
Informationsaustausch mit anderen Verbänden und Fachleuten	<input type="checkbox"/>
Andere Unterstützung, nämlich: _____ _____	

Wie beurteilen Sie das Informationsangebot zur Dopingproblematik (Veranstaltungen und Informationsmaterialien), welches die FDB (Swiss Olympic) und der Fachbereich Dopingbekämpfung des BASPO dem Verband und den Athlet/-innen offeriert?

	sehr gut	gut	weniger gut	ungenügend
Informationsangebot für Spitzenathlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Informationsangebot für Nachwuchsathlet/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Informationsangebot für Trainer/-innen und Ärzte	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Informationsangebot für Verbands- und Vereinsfunktionär/-innen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
----------------------------------------------------------------	--------------------------	--------------------------	--------------------------	--------------------------

Wie beurteilen sie die folgenden Informationsmittel und Projekte?

	sehr gut	gut	weniger gut	ungenügend
Website dopinginfo.ch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24-Stunden Hotline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Booklet für Athletinnen und Athleten	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Projekt "Doping freier Spitzensport" ("gläserne Athleten")	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nachwuchs Präventionsprojekt "Cool & Clean"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C. Zum Abschluss noch eine Frage zur Situation der Dopingbekämpfung in der Schweiz im Vergleich zu anderen Ländern.

Wenn Sie die Schweizer Anstrengungen zur Dopingbekämpfung mit denjenigen anderer Länder vergleichen, welcher der folgenden Aussagen würden Sie dann am ehesten zustimmen?

Die Dopingbekämpfung in der Schweiz ist vorbildlich.	<input type="checkbox"/>
Die Dopingbekämpfung in der Schweiz entspricht etwa dem internationalen Durchschnitt.	<input type="checkbox"/>
Die Schweiz hat noch erheblichen Nachholbedarf in Sachen Dopingbekämpfung.	<input type="checkbox"/>

Hier ist noch Platz für weitere Anregungen und Bemerkungen im Zusammenhang mit der Dopingbekämpfung in der Schweiz. (Falls der Platz nicht ausreicht, können Sie auch problemlos auf einem separaten Blatt weiterfahren):

Herzlichen Dank für Ihre Mithilfe

B. Report on the Evaluation visit

The Evaluation team would like to start with some general remarks concerning the visit from 6 to 8 April 2004. The visit was very well prepared and organised. The Swiss national report, prepared by Lamprecht and Stamm (the consulting firm which had prepared the Swiss national report for the evaluation visit with regard to the European Sports Charter in 1998: cf document CDDS(98)40) was thorough and comprehensive. It also raised some pointers which the evaluation team found very helpful when exploring policy issues with the experts and authorities in person. Early in the programme the team had a productive session with the authors of the report. This evaluation report tries not to duplicate information contained in the national report which is regarded as essential reading for setting the context for the evaluation report. The discussions with the Swiss authorities and experts were well structured and all their powerpoint presentations were accompanied by printed handouts. The experts were extremely cooperative and this gave real possibilities to discuss questions with all the relevant stakeholders.

We wish to acknowledge with gratitude the Federal Councillor, Mr S. Schmid, with whom we had a very open discussion towards the end of the visit during a very constructive meeting, devoted mainly to future political anti-doping strategies, both national and international.

Our special thanks are due to Dr Matthias Kamber, Head of Doping Prevention at the Federal Office of Sports, who accompanied the team throughout the visit and provided much supplementary information. His colleague Ms Nadja Mahler was also most attentive. The Director of the Federal Office of Sports, Mr Heinz Keller, was very welcoming, open, and receptive to our queries and suggestions. From the side of Swiss Olympic, we would like to thank especially Mr Oliver Hintz, Head of the Anti-Doping Commission Office, who devoted much time to the visit; and to the Chair of the Swiss Anti-Doping Commission, Prof Dr Hans Hoppeler, with whom the team had several in-depth conversations. Our gratitude also extends to all those other persons who assisted the team during the visit and/or made their time available to make presentations and answer the team's questions. Their names are listed in the programme (see appendix).

Article 1

Aim of the Convention

The Parties, with a view to the reduction and eventual elimination of doping in sport, undertake, within the limits of their respective constitutional provisions, to take the steps necessary to apply the provisions of this Convention.

Legal framework: The legal framework for Swiss governmental anti-doping strategy and policy consists of two elements, namely the tasks laid down in Article 68 of the Constitution (1999), with its emphases on education, youth sport and physical education; and the Swiss Law promoting Gymnastics and Sports dating back to 1971 (and amended with effect from 1.1.2002, as well as the different implementing ordinances). Furthermore the legal environment for combating doping in sports is strongly influenced by the separation of public competences between the Confederations and the Cantons on the one hand, and the traditional division of responsibilities in matters of sport in Switzerland between the public authorities and the private sports organisations on the other hand.

Anti-doping strategy: Swiss anti-doping policy is based on a three pillar concept, viz doping control, education and information, and research. These three fields of anti-doping work correspond to the core parts of the Council of Europe's Convention and thus of a comprehensive national anti-doping policy in the light of the Convention.

Characteristics of Swiss anti-doping policy:

- **Long tradition, steady improvement:** Swiss anti-doping policy has a long history dating back to 1967. Changes and improvements of strategies and policies were provoked – as in most other countries – from scandals within the sports world and a very firm (and increasing) public opinion of the necessity to combat doping in sports. The changes in the past have come about in waves (e.g. 1992/1993, following the ratification of the Anti-Doping Convention; 1998, following the *Tour de France* scandal, leading to the revised law in 2001) and have affected the internal structures within the sports movement as well as government involvement in the field of anti-doping. These changes can be characterised as follows:
 - . on the side of the sports movement there is a tendency towards centralisation of the main tasks concerning the fight against doping in order to use economies of scale and achieve more professionalism and efficiency. Competences were surrendered by the individual federations (doping controls in and out of competition, sanctioning of athletes, etc.) and entrusted (2001) to specific bodies/committees within the umbrella organisation for all sports federations (the Swiss Olympic Association). This makes sense in a country with restricted human resources (7.3 million population; 82 sports federations; 2.6 million members). This development of centralisation has not come to an end and is still a continuing process.
 - . on the side of the government the process can be described – as in most other countries – as an increasing involvement of government (both at federal and cantonal level) in the fight against doping. This is reflected in both new legislative acts as well as in increasing public financial resources allocated to the sector.
- **Priority:** The priority given to anti-doping policy within the sport political portfolio of the government has been throughout the last 10 years consistently high. Since changes in anti-doping strategies – like in most countries – tend to come in waves, mostly as a reaction to certain outside factors, periods of change in which the anti-doping policy has an absolute top priority within the sport political portfolio alternate with periods of evaluation and assessment. Right now the Swiss anti-doping policy is in a stable period of assessment and reflection with the consequence that within the sport political portfolio anti-doping occupies a middle priority. There are certain threats related to this priority level. The most eminent one comes from the danger of governmental expenditures cuts. These tend to hit items of middle or low priority activities/sectors particularly hard.
- **Approach:** The Swiss anti-doping policy can be characterized as a comprehensive approach. Emphasis is laid not just on repressive means to combat doping but also on research and education. Unlike in many other countries, education, information and research form a very important part of the Swiss overall strategy to fight doping in sport. The Swiss approach is also a very structured one. Extensive research and evaluation are the basis of the various instruments applied in the fight against doping. This is in particular true for the information and education campaigns.

Conclusion: Switzerland implements Article 1 in a coherent and satisfactory fashion.

Recommendation: Switzerland should continue its processes of continual review and assessment with a view to improving existing, and developing new, instruments for the anti-doping sector. (3)

Article 2

Definition and scope of the Convention

1. *For the purposes of this Convention:*

a. *"doping in sport" means the administration to sportsmen or sportswomen, or the use by them, of pharmacological classes of doping agents or doping methods;*

b. *"pharmacological classes of doping agents or doping methods" means, subject to paragraph 2 below, those classes of doping agents or doping methods banned by the relevant international sports organisations and appearing in lists that have been approved by the Monitoring Group under the terms of Article 11.1.b;*

c. *"sportsmen and sportswomen" means those persons who participate regularly in organised sports activities.*

2. *Until such time as a list of banned pharmacological classes of doping agents and doping methods is approved by the Monitoring Group under the terms of Article 11.1.b, the reference list in the appendix to this Convention shall apply.*

The Convention does not distinguish between elite athletes and low-level athletes but instead speaks of combating “doping in sports”. From this it does not follow that all the different tools to fight doping have to be applied equally to all sorts of athletes. Also the World Anti-Doping Code makes distinctions in this respect. Concerning education and information, Swiss anti-doping policy pursues a very broad ambit including sports in schools and even (in part) in gyms. The same applies as far as combating trafficking (Art. 4 Convention) is concerned. Here again not only the entourage of elite athletes is targeted. Things are different, however, concerning doping controls. Of course this tool is because of its very nature only targeted at organised sports. Still, test distribution planning shows that only elite athletes are targeted. The Anti-Doping Commission considers that this target group is well covered and that not enough resources remain to be allocated to testing lower-level (or young) athletes. More attention could be given to this aspect (cf also comments and recommendations under article 7.3).

With regard to the implementation of the Prohibited List, there is an unusual division of responsibilities (following the legal framework, Article 1) in Switzerland: as far as athletes are concerned, the promulgation of the Prohibited List by Swiss Olympic brings it into force; as far as the “entourage” is concerned, it is the revised law of 2002 which applies to such persons.

On the other hand, the policy of international sports organisations with regard to recreational drugs is regarded as “fudgy” and difficult to implement while keeping athletes’ credibility in the system.

Conclusion: Article 2, with the exception of 2.1.c, is fully implemented by Switzerland.

Recommendation: with regard to Article 2.1.c, Switzerland should adopt, for doping control purposes, a wider definition than the current limit to elite level athletes of “persons who participate regularly in organised sports activities”. (cf Article 7.3.a) (1)

Article 3

Domestic co-ordination

1. *The Parties shall co-ordinate the policies and actions of their government departments and other public agencies concerned with combating doping in sport.*
2. *They shall ensure that there is practical application of this Convention, and in particular that the requirements under Article 7 are met, by entrusting, where appropriate, the implementation of some of the provisions of this Convention to a designated governmental or non-governmental sports authority or to a sports organisation.*

The national report and our meetings show that there is a high level of domestic coordination both at governmental level (with one notable exception mentioned below) and between the governmental and non-governmental sides.

The various players in the fight against anti-doping: The nature of the various players involved in the fight against doping is strongly related to historical reasons on the one hand and the legal environment on the other hand. In Switzerland both reasons have led to a rather complex situation. The Confederation is mainly involved through the Federal Sports Commission and the Federal Office of Sports (FOSPO) which is under the supervision of the Ministry of Defence, Civil Protection and Sports. The cantons are involved at various levels (justice, education, schools, infrastructure, financing of laboratory, etc.). On the sports side the main actor in the fight against doping is the umbrella organisation Swiss Olympic and, to a lesser extent, the national sports federations.

Coordination: The coordination of the work of these various players in the field of anti-doping is facilitated by a transparent distribution of tasks laid down in the so-called Swiss Sports Concept dating back to 1993 and in the law on promotion of gymnastics and sport (including the ordinances). According to this concept:

- . Anti-doping policy forms an integral part of the government’s involvement in sport. Education, information and research are the responsibility of the government and are delegated to FOSPO.
- . Doping controls are of the responsibility of the sports movement.
- **Within Government:** FOSPO has a pivotal role in coordinating government efforts in the field of anti-doping (on a federal and cantonal level). No initiative on the government level is taken without the involvement of the FOSPO. However, some institutions outside FOSPO are only involved marginally. This applies in particular to the Federal Office of

Health. Its resources are not used at all, and there appeared to be little interest from the side of FOH of being involved in doping questions, even when these questions fall outside sport (for example, non-sports use of prohibited substances)²⁷. We regretted not being able to discuss this question with a representative of the Office. On the other hand, cooperation with Swiss customs is promising (cf Article 4.1). Cooperation with the justice and police departments is more difficult, at least in practice, since the application of the federal law on the promotion of sports falls within the competence of the 26 cantons. This is the case with regard to prosecutions under the revised law of 2002. Thus, so far, a totally comprehensive and harmonised approach is still missing. However the FOSPO tries to raise awareness of the cantonal authorities by providing them with information and advice and is prepared to do more in this respect. One area that will be tackled is the sharing of intelligence with regard to the importation of sports drugs.

- **Within the sports movement:** On the sports movement side the main role for coordinating the anti-doping efforts (testing, sanctions, etc) lies with Swiss Olympic (SOA), which is the designated non-governmental body under Article 3.2. In order to achieve this SOA has established the Anti-Doping Commission (ADC) and the Disciplinary Chamber (DC). The Anti-Doping Commission has a medical commission which deals with all Therapeutic Use Exemption applications in all sports. With the delegation of competences from the federations to the SOA (and keeping in mind that some of the tasks being taken care of by the government), some federations no longer feel a strong responsibility in the fight against doping. A need is felt to involve the federations more closely in the anti-doping efforts. The same applies for the anti-doping laboratory in Lausanne. There are only contractual relationships between the SOA and the laboratory at this point in time. The laboratory is therefore somewhat isolated from the rest of the anti-doping efforts. Some thought should be given to this fact whether this is a matter to be improved (see also under Article 5 and § *Future*).
- **Between the sports movement and government:** The Swiss anti-doping policy has recognized that there has to be effective coordination between the sports movement and the government in order to formulate and implement an efficient anti-doping strategy. This cooperation is based on:
 - . including members of the government side in the respective Commissions and institutions of Swiss Olympic (e.g. Anti Doping Commission, the SOA's General Assembly ("Sports Parliament"));
 - . an extensive reporting system which allows the government and the sports side to review and assess in a timely manner the overall strategy;
 - . a contract between SOA and the Confederation laying down minimum requirements and obligations including in the anti-doping and ethical fields as a condition for receiving state financing;
 - . formulating a number of minimum standards for the various fields of work (education and information, doping controls, etc.) in Art. 4-6 of the Ordinance of 17.10.2001. This is a main responsibility of the Federal Sports Commission (see Article 7.1).

Coordination is facilitated by the fact that the headquarters of FOSPO and Swiss Olympic are only some 40 km apart. Thus the various anti-doping issues are discussed in good time and are dealt with constructively.

²⁷ *But see under Article 6.1, the "Cool and Clean" project.*

Conclusion: Switzerland fully implements the spirit of Article 3, and does so in accordance with its “sport-political” traditions.

Recommendation: The Swiss authorities should encourage a more active involvement in anti-doping by the Federal Office of Health. (5)

See also the remarks at the section on the “Future”.

Article 4

Measures to restrict the availability and use of banned doping agents and methods

- 1. The Parties shall adopt, where appropriate, legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.*

Switzerland introduced in 2002 in the amended law to promote gymnastics and sports provisions that deal with the entourage of athletes and are aimed at restricting the availability of banned doping agents and doping methods in sport. The law prohibits the “production, trade, import and prescription of doping compounds in the [athlete’s] entourage”. The law is now two years in force, so it is quite difficult and probably premature to draw definitive conclusions on its effectiveness. (see Art. 11d and f of the Law on promotion of gymnastics and sports). However, the first impressions of those involved in applying the law are that there are doubts about its effectiveness.

Application of that law falls on the one hand within the responsibility of the police which is a matter up to the Cantons and on the other hand within the responsibility of the Customs (which in turn is a matter up to the Confederation). The authority of the Customs under this law also extends to Liechtenstein. However, customs can only help detect infractions of the law. Customs are not responsible for prosecuting or even investigating infractions beyond an initial suspicion.

Customs play a very important part in the detection of possible infractions of the law. In order to facilitate the work for customs (to detect suspicious cases) the list of prohibited substances which is published in the ordinance of 18.11.2003 is split into different categories. Those that raise by their mere existence suspicion of an infraction (because there is hardly any medical use for the substance) are categorised as class 1 substances (eg, steroids, peptide hormones) and others as class 2 substances (eg, stimulants, beta-blockers). The latter when found raise suspicion of an infraction only if further instances can be established (in particular shipment to certain persons). So far, there have been several (150) small and a few big seizures (38 so far in 2004), including one in connection with the World Ski Championships in St Moritz 2003 (though it was finally determined that the shipment was for medical purposes). Once a probable infraction is established by customs the case is deferred to the police and prosecuting instances of the cantons for further investigation. In most cases those authorities come to the conclusion that there is no infraction. Only a few cases have been prosecuted, and so far only small fines imposed (CHF 200-1500). Customs are becoming rather demotivated in implementing this law as there has been so little follow up. This also contributes to giving this question a lower priority.

One of the reasons for this is that “personal consumption” is permitted under the law and the mere possession of doping substances is not considered an infraction. So even in cases where shipments of doping substances are detected by customs, indictments are rare as long as there is the possibility of self-consumption. Practice has not yet established thresholds to distinguish trafficking from self-consumption. The coordination between customs and cantonal prosecuting authorities does not seem to function very well at this point in time. Cases have been deferred to the cantonal authorities as suspicious but – in quite a few instances – have not provoked any further investigation.

In addition customs seems to be the only authority trying to detect infractions. No cases were reported to us in which the Police have stepped in to investigate for the trafficking of doping substances (e.g. at tournaments or events).

This deficit – in the view of the examining team - is not a problem of a lack of willingness by the authorities to apply the law. The problem is the wording of the law itself. It is flawed in ways – notably the drafting on “personal consumption”, which is permitted; and defining legally who is a member of the “entourage”; – as well as the problem of establishing a sufficiently strong preliminary suspicion - which prevents its effective use to combat doping in the entourage of the athlete.

*

An interesting initiative to reduce the availability of doping agents in private Swiss health and fitness centres should also be mentioned. In conjunction with several health insurance companies – who largely pay for use of such centres – a private quality control association, “Qualitop”, has introduced measures which include non-availability criteria when certifying such centres. For example, the contracts between the insurance companies and the owners will specify that the owners will take all possible steps to prevent trafficking in banned substances on the premises; and that the owner has to ban any nutritional supplements on sale at the premises that do not fulfil the requirements of the Swiss ordinance for foodstuffs. This certification now applies to approximately 40% of such clubs, which have about 80% of the market. One consequence of this self-regulation is to concentrate the non-sporting use of banned substances in unregulated and fringe gyms and fitness centres, or ones specialising in body-building. One consequence of this situation is that it could make policing of possible trafficking easier.

Conclusion: The implementation of Article 4.1 demonstrates the good intentions of the Swiss authorities, and their willingness to adopt legislative measures appropriate for the aim. However, the law seems to have had relatively little practical impact.

Recommendations: As is already recognised by Swiss authorities, cantonal prosecutors need more information on how to follow up cases deriving from the 2002 law. Customs could concentrate on monitoring the traffic in Class I substances. Consideration should be given to providing more legally watertight and operational definitions of two terms under the said law: “the entourage” and “personal consumption” (to make the terms more precise and useable); and including “possession” (to forbid possession without medical justification) amongst the prohibited acts. The police are encouraged to investigate possible offences under the 2002 law at fringe and body-building gyms. (2)

2. *To this end, the Parties or, where appropriate, the relevant non-governmental organisations shall make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.*

Whether or not federations comply with the anti-doping regulations is monitored – on the sports side - by the ADC. In case of non-compliance the ADC will make appropriate suggestions to the executive committee of Swiss Olympic, which in turn will contact the relevant federation. If the federation still does not comply with the rules, the General Assembly of SOA will take the appropriate decisions. This may include a substantial cut in sports-related subsidies to the federation. In the past this tool has been applied successfully in relation to a federation (cycling, 1999, subsidy cut by 50%) which did not fulfil its anti-doping obligations.

Whether or not Swiss Olympic and its ADC comply with the minimum standards formulated in Article 7 of the ordinance 17.10.2001 is monitored on the state's side by the Federal Sports Commission which can ask for information and make on-site visits. If the minimum standards are not complied with, the Department of Defence, Civil Protection and Sports may cut or retain some or all subsidies to Swiss Olympic and its ADC on the recommendation of the Commission.

- a. assist their sports organisations to finance doping controls and analyses, either by direct subsidies or grants, or by recognising the costs of such controls and analyses when determining the overall subsidies or grants to be awarded to those organisations;*

The commitment under Article 4.2 and 4.2.a is implemented by FOSPO through an annual (since 2003) business agreement with SOA whereby of the general grant of CHF6m to SOA (2004), CHF800,000 is specifically to be used for anti-doping. This corresponds more or less to SOA's costs for the ADC's annual testing programme. The FOSPO grant also requires SOA to work on ethical issues in sport each year. Swiss Olympic allocates a further CHF700,000 to the work of the ADC from within its own resources. FOSPO also helps to fund the laboratory with money for research projects. The overall national budget for anti-doping is estimated at just over CHF3m per year.

- b. take appropriate steps to withhold the grant of subsidies from public funds, for training purposes, to individual sportsmen and sportswomen who have been suspended following a doping offence in sport, during the period of their suspension;*

Elite athletes funded by SOA lose their card, and thus their licence to compete, if found positive.

- c. encourage and, where appropriate, facilitate the carrying out by their sports organisations of the doping controls required by the competent international sports organisations whether during or outside competitions; and*

The Swiss ADC is ISO 9001-2000 (ISO-PAS 18873) certified, which facilitates the execution of this requirement. The World Anti-Doping Agency (WADA), and various international federations, already conduct, mainly through Swiss Olympic, out-of-competition controls on Swiss athletes in Switzerland and is necessary in order to implement the Additional Protocol.

- d. encourage and facilitate the negotiation by sports organisations of agreements permitting their members to be tested by duly authorised doping control teams in other countries.*

Our meetings showed that at the moment there are few such agreements with other national anti-doping organisations allowing for testing of Swiss athletes that are abroad. The Additional Protocol has been approved by the Council of State, and it is anticipated that ratification of the protocol will follow soon.

4. *Parties reserve the right to adopt anti-doping regulations and to organise doping controls on their own initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.*

This provision is not applicable in the case of Switzerland (cf under Article 3.2).

Conclusion: Switzerland fully implements Article 4.2. a, b and c.

With regard to Article 4.2.d the situation is less clear. The entry into force of the additional protocol should help to improve the situation.

Recommendation: that Switzerland ratifies the Additional Protocol as soon as possible. (4)

Article 5 *Laboratories*

1. *Each Party undertakes:*

- a. either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the Monitoring Group under the terms of Article 11.1.b;*
- b. or to assist its sports organisations to gain access to such a laboratory on the territory of another Party.*

The Swiss anti-doping laboratory, formerly at Macolin, is now situated in Lausanne since 1992. The laboratory is WADA accredited (IOC accredited since 1991; ISO 17025 certification since 2000). The basis of its work is the analysis of Swiss Olympic Association samples (approximately 1800 pa) – which is done through a contract (approximately CHF550,000 in 2004). The laboratory therefore needs, and obtains, additional work from international federations, international competitions in Switzerland, and WADA. A total of c. 4,000 samples are analysed each year.

2. *These laboratories shall be encouraged to:*

- a. take appropriate action to employ and retain, train and retrain qualified staff;*

The laboratory employs 18 staff members. There appear to be some potential problems in other respects of this article. Though many laboratory staff regularly attend international scientific congresses and have other training programmes, the laboratory's resources, and in particular its

income from doping analysis, do not appear to allow for sufficient long-term commitments with regard to staffing levels, training and qualifications.

- b. undertake appropriate programmes of research and development into doping agents and methods used, or thought to be used, for the purposes of doping in sport and into analytical biochemistry and pharmacology with a view to obtaining a better understanding of the effects of various substances upon the human body and their consequences for athletic performance;*

The Federal Office of Sports has sponsored, to the tune of CHF600,000, several research projects (use of analgesics in mass sport events; optimal parameters for blood sampling; IRMS techniques; analysis of nutritional supplements, Drug Free Sport project). The laboratory was in the forefront of developing analytical techniques for the detection of erythropoietin. The laboratory devotes 7% of its budget to research. The long-term future of research there is dependent on the laboratory's stability, including financial.

- c. publish and circulate promptly new data from their research.*

The team was not able to evaluate this requirement but it seems to be the case.

Conclusion: Switzerland complies with Article 5 of the convention.

Recommendation: the Swiss authorities are encouraged to develop following an inclusive discussion process a clear long-term strategy for the anti-doping laboratory and its place in the national anti-doping programme. (9).

Article 6 *Education*

- 1. The Parties undertake to devise and implement, where appropriate in co-operation with the sports organisations concerned and the mass media, educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport. Such programmes and campaigns shall be directed at both young people in schools and sports clubs and their parents, and at adult sportsmen and sportswomen, sports officials, coaches and trainers. For those involved in medicine, such educational programmes will emphasise respect for medical ethics.*

Importance: Education and information are one of the three basic pillars in Swiss anti-doping policy. Over half of the human and financial resources in the fight against doping are allocated to education/information and research (whereas in one year the focus is more on education/information, in another year more on research). Education and information are, therefore - unlike in most other countries - on a nearly equal footing with the other tools in combating doping.

Strategy: Switzerland has a very comprehensive strategy. Information and education tools are developed on research and evidence and periodically evaluated to improve them further. The

persons targeted by various information and education campaigns include all the main target groups, namely:

- information for top level athletes
- education and information of young athletes
- education and information of pupils in school
- the athlete's entourage (teachers, coaches, pharmacists, medical doctors, etc.)
- the general public to show (to the benefit of athletes) that high level sport can be achieved without doping. The public's desire to be tough on doping has increased from 58% in 1998 to 75% in 2001.

Elite athletes: DOPINGinfo

With various educational interventions under the heading *DOPINGinfo*, FOSPO provides education and information targeting elite athletes. The materials are being further developed based on the outcome of earlier evaluations. By doing so FOSPO is able to reach a very high level of education and athlete satisfaction. The issues addressed are among others doping control procedures, rights and responsibilities, prohibited list, therapeutic use exemptions, nutritional supplements. Based on a long educational tradition, continuous evaluation and a structured approach, the elite athlete education of FOSPO is of outstanding quality.

Elite athletes: "Doping Frei"

Under this heading FOSPO is running an innovative education campaign especially targeting elite endurance athletes. Twenty-one volunteer top level athletes from various endurance disciplines such as mountain biking, cycling, triathlon and marathon are demonstrating their full commitment to anti-doping by means of posters, postcards, TV appearances and interviews in magazines. In addition to the regular medical controls (4 times a year, urine and blood sampling) they are controlled at least more than four extra times per year (on an irregular time schedule, always unannounced) for doping including EPO and the like by means of urine sampling. These ambassadors for a doping free sport aim to prove that they can perform at top level without the use of doping by means of proper training, nutrition and medical control as provided by the Institute for Sport Sciences at Macolin. The preliminary results of the doping free project look very promising. The poster and postcard materials are very well perceived by the national sports federations and there were more elite endurance athletes interested in joining the project than could practically, because of capacity and financial reasons, be allowed. The Doping Free project, which is a complex and demanding one, is run on an annual budget. The continuation of the project cannot therefore be guaranteed.

Coach education

Within the Swiss Olympic coach education programme, doping is integrated at various levels. With at least two hours on doping in the first degree coach education level, to a full day on doping for the coach education program at the third level, 30 to 40 top coaches from various sports federations are each year educated on doping issues. Based on evaluation outcome and feedback the coach education programme is further being developed and improved. Besides such issues as the prohibited list and doping control procedures, discussions on ethical and moral reasons for the fight against doping are incorporated in the training programme. The athletes told us that in their experience, coaches were much better informed now and took greater precautions, especially with potentially vulnerable young athletes.

Cool and Clean (sic)

Under this heading Swiss Olympic and FOSPO and in partnership with the Federal Office of Health are targeting young talented athletes by means of a broad variety of interventions and materials. The young athletes sign up to the project' commitments to 1) perform at their best, 2) play fair, 3) use no doping, 4) use no recreational drugs/tobacco/alcohol (this is the reason for involvement by the FOH), together with a fifth commitment of their choice. These commitments are expressed by means of posters that are signed by the athletes themselves by which they become ambassadors of Cool and Clean. Judging by the posters that we saw, "no doping" was the most popular commitment. The campaign is supported through T-shirts, gadgets, internet (www.coolandclean.ch) CD-roms and video material. Within a couple of months the organizing parties reached out to 5000 people (young athletes, students, schools) and 500 young people became ambassadors for Cool and Clean. The project was launched within a short period of time with great enthusiasm using the financial possibilities available. The continuation of the project is dependent on financial resources.

Fair Play

With the support of many partners, Swiss Olympic and FOSPO on the initiative of the first organisation, are running a fair play campaign. Anti-doping is integrated as one of the seven 'rules' being addressed in this campaign. The exact goals and objectives are not clear.

Schools

Following the terms of the Constitution and the Law on Gymnastics and Sport, education of schoolchildren is one of FOSPO's main tasks. This also applies to anti-doping education, and the FOSPO has always treated this target group as a priority. Research surveys into schoolchildren's attitudes and use were the basis for this action, and further research and evaluation of preceding work underlies the continuous development of new programmes. Materials for both teachers and schoolchildren have been produced, and the leitmotiv of the work is the slogan "No Excuses". It is not clear how this material is used by sport itself with its younger members.

Evaluation

1. Broad variety of high-quality education interventions. Education in anti-doping has a long history in Switzerland. The Federal Office for Sports (FOSPO) in Switzerland provides a broad range of education activities and services of an outstanding quality. Based on research FOSPO provides an overwhelming amount of education materials and services including DVDs, booklets, hotline services, internet, training courses and poster materials aimed at various target groups among which are youngsters, elite athletes, sports doctors, teachers and coaches. Some of the education activities such as the internet website www.dopinginfo.ch with 14.000 visitors monthly and the *DOPINGinfo* booklet sent free to elite athletes which is perceived as very informative and accurate by over 95% of the elite athletes, are without any doubt a big success.
2. Thoroughly evaluated. The greater part of the education activities in Switzerland are thoroughly evaluated. With surveys among the general population, schools, the military and athletes, the organizing parties get a good and clear sight on the opinion of the various populations on doping and their appreciation for the educational activities.
3. Enthusiasm challenges overall strategy. Although launched with great enthusiasm some educational projects appear to be of an ad hoc character, mainly due to the

haemoglobin g/dl). This is a potentially interesting project, considering the ethical and medical questions that have been raised about the use of altitude rooms/hyperbaric chambers (cf also the statement by the Monitoring Group in March 2000, T-DO (2000) 21 rev 1, p 12). The evaluation team wondered whether the potential conflicts of interest in this project (doctor/athlete; research/experimentation) had been adequately addressed.

The matter of research in general is discussed at §6.2 (and at figure 8) of the National Report. Research into anti-doping is recognised as being important and, as we have remarked in the preceding section, it underlies much of the work on education and information. The scientific research community thinks that the research effort is adequate and that it is appreciated outside Switzerland. However, it should be remarked that we were told that sports research in general has a very low esteem and position in Switzerland. (This confirms the impression gained during the evaluation visit on the European Sports Charter in 1998.)

Conclusion: Switzerland has made good efforts in anti-doping research, particularly in the context of education and information, but in the area set out in Article 6.2 of the convention, such efforts remain modest.

Recommendation: Switzerland is encouraged to do more to raise the status of anti-doping research and to devise schemes for encouraging the research community to develop research proposals. (10).

Article 7

Co-operation with sports organisations on measures to be taken by them

- 1. The Parties undertake to encourage their sports organisations and through them the international sports organisations to formulate and apply all appropriate measures, falling within their competence, against doping in sport.*

Harmonisation amongst the international sports organisations now takes places in the context of implementing the World Anti-Doping Code.

Both the SOA and the FOSPO are conscious of the need to counter an apparent lack of involvement and motivation for anti-doping by the individual sports federations now that many functions have been assumed by the central sports bodies (Swiss Olympic Association, Anti-Doping Commission, Disciplinary Chamber). Sports federations should take active responsibilities in the field of education and information and in keeping their athletes “up to the mark” in anti-doping questions. The possible creation of a new independent national anti-doping organisation could make this task even more difficult.

The SOA's Doping Statute is a compulsory requirement for SOA membership and has been signed by all its 82 sports federations. In addition, in the context of funding elite sport, SOA has contracts with upwards of 2000 athletes which have specific anti-doping provisions. Signing such a contract is also a requirement to obtain the specific sport federation's licence to compete. However, we did hear of one case, of a weightlifter, where such provisions proved to be empty of force, as the federation was unwilling to pursue a potential doping violation. This case was brought by SOA to CAS which ruled that the federation has to prosecute the athlete.

In addition to measures described earlier, the government encourages the federations to apply and formulate measures against doping in this field, namely:

- by requiring the Federal Sports Commission to formulate minimum standards (see Art. 11 para 3 law on the promotion of sports together with ordinance of 17.10.2001);
- by monitoring all activities of the sports movement via the Federal Sports Commission (see Art 3 of the ordinance of 17.10.2001).

Both the Anti-Doping Commission and the Disciplinary Chamber set up by the SOA have a great deal of autonomy within Swiss Olympic. In principle they are not responsible to the executive board of Swiss Olympic but only to the General Assembly (this Sports Parliament is mainly made up by the federations and meets once a year). The quality standard in both commissions is very high. This can be seen by the fact that the Swiss sport movement is quite well prepared for the challenges posed by the forthcoming implementation of the World Anti-Doping Code. Not many changes have been necessary to implement various provisions of the Code (e.g. practices with regard to authorising TUEs, the national reviewing body, result management, etc. are in place already). The Swiss solutions in these respects are perceived by many countries as a kind of model of best practice (a workshop in February 2004 at the Council of Europe showcased such efforts). However, other elements are not yet in place and need to be developed (notably, athletes' whereabouts information).

The ADC includes members from different backgrounds in order to include as much expertise as possible (with the exception of laboratory expertise). The commission is supported by permanent staff that does the day to day work. The commission meets on a very regular basis.

2. *To this end, they shall encourage their sports organisations to clarify and harmonise their respective rights, obligations and duties, in particular by harmonising their:*
 - a. *anti-doping regulations on the basis of the regulations agreed by the relevant international sports organisations;*

This is now achieved under the umbrella of the World Anti-Doping Code.

- b. *lists of banned pharmacological classes of doping agents and banned doping methods, on the basis of the lists agreed by the relevant international sports organisations;*

The former IOC and now WADA Prohibited List is promulgated by the Anti-Doping Commission to apply to all Swiss sports.

- c. *doping control procedures;*

The Code's provisions and standards will apply in future. Switzerland has traditionally been a country which pays attention to international sport regulations. The controls by the ADC are very professionally conducted by 5 nearly full-time Doping Control Officers and 55 part-time ones. The ADC was certified in January 2004 to ISO 9001:2000 and ISO-PAS 18873 standards. The operational manuals are complete.

d. disciplinary procedures, applying agreed international principles of natural justice and ensuring respect for the fundamental rights of suspected sportsmen and sportswomen; these principles will include:

- (i) the reporting and disciplinary bodies to be distinct from one another;*
- (ii) the right of such persons to a fair hearing and to be assisted or represented;*
- (iii) clear and enforceable provisions for appealing against any judgement made;*

The Disciplinary Chamber (DC) was set up in March 2002; it has dealt with 19 doping cases and rendered 18 convictions. It is a very sophisticated hearing and sanctioning body that perfectly serves the needs of the athletes as well as the needs of the federations. It is entirely independent of the ADC (which latter is the “reporting body” in the sense of the convention). Its jurisdiction applies to all sports, federations and athletes. The DC thus ensures a uniform national application of the anti-doping regulations. It adds to the credibility of the system and assures fair and equal treatment among the athletes. The effect of the Swiss double degree review (by DC and CAS) is that national courts are ousted (nearly) completely from all doping-related proceedings. This allows for very speedy proceedings. Nevertheless this advantage is not achieved at the expense of quality.

The size of the DC is such that availability of judges is guaranteed at all times for all language groups and that the necessary expertise is available to decide doping cases. There are three language sections and each hearing panel consists of three members, including a lawyer and a “medical scientist”. Since the members are elected by the General Assembly of Swiss Olympic there is also some influence of athletes on the composition of the chamber (they have representatives in the General Assembly).

Not only the composition of the chamber but also the proceedings before it meet high quality criteria (including the principle of natural justice, etc.). The proceedings provide for a hearing, a very low cost barrier for athletes and the possibility of athletes to be represented in the proceedings. The acceptance of the DC by the parties is very high as can be seen by the extremely low number of appeals (2, neither of which was wholly successful). The length of the proceedings is extremely short (average of 25 days from start to finish) which is in the interest of all parties involved.

Appeals may be lodged by individuals against decisions of the DC to CAS.

It seems that the ADC, besides its “reporting body” function, has no role as prosecutor during hearings at the DC; nor does it seem that the ADC as a body can appeal a decision of the disciplinary chamber.

e. procedures for the imposition of effective penalties for officials, doctors, veterinary doctors, coaches, physiotherapists and other officials or accessories associated with infringements of the anti-doping regulations by sportsmen and sportswomen;

This requirement of the convention still presents a challenge to fulfil. As noticed under Article 4.1, the legal definition of the “entourage” poses a problem to the courts when seized of cases under the 2002 law.

- f. procedures for the mutual recognition of suspensions and other penalties imposed by other sports organisations in the same or other countries.*

The Swiss Olympic Association contracts with athletes mentioned earlier provide for this requirement if an athlete is convicted of a doping offence.

It is less clear what regime applies to non-contracted athletes, or when federations are unwilling to discharge their responsibilities in this matter.

3. *Moreover, the Parties shall encourage their sports organisations:*

- a. to introduce, on an effective scale, doping controls not only at, but also without advance warning at any appropriate time outside, competitions, such controls to be conducted in a way which is equitable for all sportsmen and sportswomen and which include testing and retesting of persons selected, where appropriate, on a random basis;*

Since 1994 through 2003 the numbers of doping controls per year vary between 1654 and 1870, thus showing a 13 % increase over the decade. The test distribution planning is quite sophisticated for reaching athletes and sports at risk. Switzerland has considerably increased its numbers of out-of-competition testing. About half of the tests in 2003 were out-of-competition tests compared to only 23 % in 1994. Since out-of-competition testing is – when handled properly – one of the most efficient tools in the fight against doping, this increase in number is a significant amelioration. The quality of the out-of-competition tests is high. No advance notice is made a priority. Testing is also done abroad. Furthermore, the test distribution system is flexible enough to allow for some target and repeat testing.

Nevertheless the overall number of controls could be improved. 1800 tests are in the lower margin for a country with such a strong and large sporting population. Since there are more than 2000 athletes in the “pool of athletes” the ratio – in particular for out-of-competition testing – is in our view insufficient. That is particularly true, if one takes into account, that high-level athletes are tested more frequently than others. This means that in particular the sub-elite and “lower ranks” of young athletes who are quite vulnerable to doping (especially the age group around 15 and over according to the survey) are not tested enough.

The ADC considers that it does enough tests to have control of the situation at elite level, and that its resources are fully used for testing that category. Therefore, to extend the testing system to include at least some sub-elite level athletes additional resources are required.

- b. to negotiate agreements with sports organisations of other countries permitting a sportsman or sportswoman training in another country to be tested by a duly authorised doping control team of that country;*

See under Article 4.3

- c. to clarify and harmonise regulations on eligibility to take part in sports events which will include anti-doping criteria;*

The SOA contracts with elite athletes cover this provision, also by including the requirement for retired athletes to be available for testing and in the testing pool for one year before being entitled to re-enter international competition.

d. to promote active participation by sportsmen and sportswomen themselves in the anti-doping work of international sports organisations;

The Doping Free Sport campaign (see under Article 6.1) is an excellent example of active participation at national level.

e. to make full and efficient use of the facilities available for doping analysis at the laboratories provided for by Article 5, both during and outside sports competitions;

This requirement is met (see under Article 5). However, the laboratory obviously has spare capacity, and a higher number of controls and thus of samples to analyse would not be a problem for the laboratory.

f. to study scientific training methods and to devise guidelines to protect sportsmen and sportswomen of all ages appropriate for each sport.

See under Article 6.b for state funded research. We are not aware of any research sponsored or funded from the side of sport, nor of any guidelines developed by sport in Switzerland.

Conclusion: The provisions of Article 7 are fully complied with in Switzerland.

The Anti-Doping Committee and the Disciplinary Chamber have marked, since their creation in 2002, a huge improvement in the efficiency of the anti-doping programme in Switzerland, not least by giving much more credibility to this programme in the eyes of the athletes, the sports organisations and the public.

Recommendations:

For Article 7.2: Consideration should be given to enabling the ADC to act as a prosecuting authority and to appeal judgments from the Disciplinary Chamber. (8)

For Article 7.3: Swiss Sports Federations should contribute more actively to the anti-doping programme and assume their share of responsibilities (for example, financial; educational). (7)

For Article 7.3.a: We believe that the ADC should aim to increase its number of controls by say 250 per year over a period of four years. (1)
(see also Article 2.1.c)

Article 8

International co-operation

1. *The Parties shall co-operate closely on the matters covered by this Convention and shall encourage similar co-operation amongst their sports organisations.*
2. *The Parties undertake:*
 - a. *to encourage their sports organisations to operate in a manner that promotes application of the provisions of this Convention within all the appropriate*

international sports organisations to which they are affiliated, including the refusal to ratify claims for world or regional records unless accompanied by an authenticated negative doping control report;

- b. to promote co-operation between the staffs of their doping control laboratories established or operating in pursuance of Article 5;*
- c. to initiate bilateral and multilateral co-operation between their appropriate agencies, authorities and organisations in order to achieve, at the international level as well, the purposes set out in Article 4.1.*

The Swiss authorities consider that the cooperation developed within the Monitoring Group is “vital” for the national anti-doping programme and they attach the highest priority to it, followed by cooperation with WADA.

They have granted the WADA office at Lausanne certain tax exemptions and have fully paid their contributions to WADA.

The Swiss Olympic Association is an active member and currently on the executive board of the Association of National Anti-Doping Organisations and hopes the government will become a member of the International Anti-doping Agreement, where a good deal of work on standards is carried out. Both these bodies play an important role in preparing for the implementation at national level of the World Anti-Doping Code.

There are also bilateral agreements with other NADOS covering the training of DCOs and concerning the exchange of education materials.

The Lausanne laboratory staff has regular cooperation with counterparts in other anti-doping laboratories.

- 3. The Parties with laboratories established or operating in pursuance of Article 5 undertake to assist other Parties to enable them to acquire the experience, skills and techniques necessary to establish their own laboratories.*

This question is addressed in the National Report, where financial restrictions have been singled out as the reason for a possible non-conformity with the convention. However, it should also be pointed out that the situation with regard to anti-doping laboratories in Europe and the rest of the world is now very different from the time the convention was adopted (1990). The Lausanne laboratory has received requests for such assistance from countries in North Africa and South America, which it has not been able to accept because of staff constraints and a lack of capacity.

Conclusion: with the possible exception of Article 8.3, Switzerland complies with this article.

Recommendation for Article 8.3: The Swiss authorities could stimulate and provide better opportunities for the anti-doping laboratory to assist other Parties in the region (whether they have accredited laboratories or not) to acquire relevant laboratory skills. (11)

Article 9

Provision of information

Each Party shall forward to the Secretary General of the Council of Europe, in one of the official languages of the Council of Europe, all relevant information concerning legislative and other measures taken by it for the purpose of complying with the terms of this Convention.

The Swiss authorities have consistently provided the information required. Since 1995, this has mainly been in the form of completing the Monitoring Group's database on national anti-doping initiatives.

The Swiss authorities have also been generous in sharing with other Parties their rich store of educational materials.

The new Swiss "Observatory on Sport" will include the collection of anti-doping data. With regard to the requirements of the additional protocol (CETS 188), the Anti-Doping Commission has, as mentioned before, already obtained ISO certification.

Conclusion: Switzerland fully complies with article 9.

The Future

It is clear from the national and this evaluation report that Switzerland is in very large measure fully in compliance with the requirements of the convention and that in some fields it occupies a leading position. There is however, no self-satisfaction amongst the parties that we met. Indeed, a determination to do even better is common to them all. In that context, we were on many occasions asked for our opinion and advice on possible future developments. Some ideas for a future national policy and structure for anti-doping are beginning to take shape and were outlined to us. It seems reasonable therefore, as one of the objectives of the Compliance with Commitments project is also to be of use and help to those countries who volunteer to be evaluated, that we should offer our comments.

Under Article 3 (Domestic Coordination) we examined the measures taken to ensure this coordination. It is indicative of the spirit of self-criticism in Switzerland that there is some scepticism amongst those directly responsible for or otherwise daily involved in the fight against doping as to whether these measures are enough to formulate, coordinate and implement on a national and international level an effective anti-doping policy. Much of the effective coordination today is done in an informal way on the basis of personal friendships, respect and trust (between Swiss Olympic and FOSPO) and is, therefore, tied to specific persons. This interdependence does not affect the independence and the accountability of the various partners. But what would happen if some of these persons change functions or move? Is this compatible with a long term sustainable strategy? Switzerland is, therefore, looking for ways to improve the situation and to structure and to facilitate coordination on a deeper level.

The direction of future policy is also linked to the preparation of a new comprehensive anti-doping bill for possible discussion in 2007. Nor do the Swiss authorities underestimate the likelihood of growing obligations deriving from various WADA initiatives (notably in implementing the Code and its standards). Consideration is also being given to widening the

traditional dual source of financing to englobe the commercial sector too, in a “public-private partnership”.

It is in this context that the fears expressed under Article 1 (Policy) on secure long-term financial resources are of relevance, because, if proved correct, it would of course have an effect on the long-term stability of the anti-doping policy and programme and on the further development of the fight against doping in Switzerland.

One of middle-term goals which is being discussed is to establish an anti-doping agency (or centre for ethics in sport) with a very broad range of competences and, thus, to centralise in a further step all tasks in the fight against doping under one roof. It is thought that it would be helpful for the athletes and for the perception of the general public, if there would be one door and voice to speak up in anti-doping matters and one address to go to for anti-doping questions, also in matters of international cooperation. A step like this has to be planned carefully and due consideration given to what other “sport ethical” matters besides anti-doping such a centre would deal with. Centralisation by itself is of no intrinsic value. Switzerland is well aware of all the pros and cons of such a development. Any reform needs to be based on thorough discussion with all partners; to have a clear mandate, structure and adequate financial resources. It has to be at least as good as the system it will replace and the decision to change has to be accompanied by cast-iron financial guarantees, otherwise it is mere window-dressing. An independent anti-doping organisation will inevitably cost more (though not necessarily substantially more) than the present system, which is infrastructurally and humanly subsidised by the two parent organisations.

In the context of such a proposed centre for ethics in sport, and referring to our remarks under Article 7.1, it was noted that Swiss Olympic is the umbrella organisation for (nearly) all sports federations in Switzerland. Its goal is inter alia to promote top level sports. The question therefore arises as to whether there is a conflict of interest if the same institution is responsible to promote high level athletes, choose the Olympic team, organise training facilities, etc on the one hand and be responsible for important tasks in the field of anti-doping on the other hand. Swiss Olympic has put tools in place to avoid a conflict of interest (see also the minimum standards in the ordinance 17.10.2001). Members of the ADC and the DC are not allowed to have any other positions in the executive board of Swiss Olympic or other high-level positions in the member federations. Furthermore, the allocation of the committees within Swiss Olympic is such that the executive board cannot interfere with its work. Still the question arises whether the degree of independence is sufficient. At the international level it was always one of the major issues that WADA had to be separated institutionally from the sports world, in particular from the IOC, in order to achieve sufficient independence. We heard no criticisms of the commissions’ independence nor with the way that they conduct their business. If both commissions were moved outside Swiss Olympic the concept of independence would be reinforced both from inside the system, and from the point of view of those outside it, for whom questions of credibility, transparency and trust are important. In respect of funding, it should be noted in this respect that Swiss Olympic currently pays for the work of the two commissions and that contributions from the federations could be channelled through Swiss Olympic as their share of responsibility.

Following from our analysis at article 5, it appears to us that the place of laboratory in the national anti-doping system appears to be somewhat unclear and that it feels isolated. There are advantages in it being a pure service provider working on the basis of a contract (the professional deontology of the laboratory and its staff is less threatened); there are also

advantages in it being more integrated into the national anti-doping system (as a partner, as a source of intelligence, and to ensure long-term stability). The laboratory withdrew from its position within the ADC in the mid 90s to reinforce its independence. The financial concerns expressed to us are of course common in the public sector and often difficult to overcome. Resources at present do not recognise the ever-increasing demands and costs of constantly improving quality control requirements and demands. The WADA accreditation process will not lead to a reduction in such demands, indeed the opposite. We think that the question of the future long-term scientific, policy and financial stability of the laboratory is one for the Swiss stakeholders to discuss and resolve so that whatever decision is reached - particularly so in the context of a possible reform of the whole national anti-doping system – is clear and accepted.

*

The arguments discussed above (sustainability, transparency in managing possible conflicts of interest, new perspectives and obligations, coherence, cohesion and stability) tend to favour the proposal to set up a new independent national anti-doping organisation as an option that would contribute to uphold the high standards in Swiss anti-doping policy. A number of countries have gone down the route of establishing an independent national anti-doping agency and many have shown that this is a very promising model. But it is not the only model. The ethos and tradition of sports policy making and governmental-sport cooperation in Switzerland is of high standard and works efficiently already. Precedent is not a guide in this matter. But, in conclusion, the examining team feels that in view of the nature and depth of the interrogations being put on the table in a country which has already by almost all standards a highly performing national anti-doping system an independent agency is one sensible option.

EXECUTIVE SUMMARY

In the opinion of the Evaluation Team, Switzerland very largely fulfils the obligations under the Anti-Doping Convention.

Cooperation and coordination between the public authorities and the sports movement is exemplary and based on sound complementary regulations.

In some fields, notably Education, it is implementing programmes well in advance of other countries.

In matters connected with the organisation of the anti-doping processes it can show model procedures and systems.

The national anti-doping programme is financed correctly, is well structured, and is comprehensive.

The fields where improvements could be made are:

- In tightening up certain legislative provisions.
- In increasing the scope of the doping control programme.
- In strengthening the place of the anti-doping laboratory and research programmes.

SUMMARY OF RECOMMENDATIONS

in order of priority

1. Switzerland should adopt, for doping control purposes, a wider definition than the current limit to elite level athletes of “persons who participate regularly in organised sports activities” (Article 2.1.c)
The Anti-Doping Committee should aim to increase its number of controls by say 250 controls per year over the next four years. (Article 2.1.c and 7.3.a)
2. As is already recognised by the Swiss authorities, cantonal prosecutors need more information on how to follow up cases deriving from the 2002 law. Customs should concentrate on Class I substances.
Consideration should be given to providing more watertight and operational definitions of two terms under the said law: “the athlete’s entourage” and “personal consumption” (to make the term more precise and useable) and “possession” (to forbid possession without medical justification).
The police are encouraged to investigate possible offences under the 2002 law at fringe and body-building gyms. (All recommendations refer to Article 4.1)
3. Switzerland should continue its process of continual review and assessment with a view to improving existing and developing new instruments for the anti-doping sector. (Article 1)
4. That Switzerland ratifies the Additional Protocol (CETS 188) as soon as possible. (Article 4.2)
5. The Swiss authorities should encourage a more active involvement in anti-doping by the Federal Office of Health. (Article 3)
6. The Swiss authorities are encouraged to maintain the high quality and standard of their work on Education and Information. Effectiveness would be further improved with an overall strategic plan involving all partners. (Article 6)
7. Swiss sports federations should contribute more actively to the anti-doping programme and assume their share of responsibilities (for example, financial; educational). (Article 7.3)
8. Consideration should be given to enabling the Anti-Doping Committee to act as a prosecuting authority and to appeal judgments from the Disciplinary Chamber. (Article 7.2)
9. The Swiss authorities are encouraged to develop following an inclusive discussion process a clear long-term strategy for the anti-doping laboratory and its place in the national anti-doping programme. (Article 5.1)
10. Switzerland is recommended to do more to raise the status of anti-doping research and to devise schemes for encouraging the scientific community to develop research proposals. (Articles 5.2 and 6.2)

11. The Swiss authorities could stimulate and provide better opportunities for the anti-doping laboratory to assist other Parties in the region (whether or not they have accredited laboratories) to acquire relevant laboratory skills. (Article 8.3)

Composition of the Evaluation team:

Prof Dr Ulrich HAAS, National Anti-Doping Commission, Germany
Mr Rens van KLEIJ, Netherlands Centre for Doping affairs (NeCeDo), Netherlands
Mr Tomas JOHANSSON, Ministry of Justice, Sweden
Mr George WALKER, Council of Europe

Programme of the visit:**5 April 2004***Evening:*

Coordination meeting

6 April 2004*Morning:*

- Welcome at the Federal Office of Sports in Magglingen by Mr Heinz Keller, Director of FOSPO
Swiss Sports Concept, Structure of Swiss Sports
- Overview of responsibilities to fight doping in Switzerland by Dr Matthias Kamber, Head of Doping Prevention, FOSPO
- Meeting with the authors of the Swiss report, Mr HP Stamm and Mr A. Fischer, Sozialforschung und Beratung
- Education and Prevention: Concept, Projects, Evaluation by Dr Matthias Kamber

Afternoon:

- Cool and Clean, school project, Mr E. Hanselmann, Head of talent development for Switzerland, Mrs Nadja Mahler and Dr Matthias Kamber
- International Cooperation, Mrs Nadja Mahler and Dr Matthias Kamber
- Strategies and future developments, Mr Heinz Keller, Dr Matthias Kamber and Mr Oliver Hintz
- Visit of Institute of Sport Sciences, Swiss Olympic Medical Center, with Mr B. Marti, delegate of the Director for research

7 April 2004

Morning:

- Visit of Swiss Olympic and meeting with Vice-Director of Swiss Olympic
- Meeting with the Swiss Anti-Doping Commission, Mr Hans Hoppeler, President of the SADC
- Organisation, regulations, control, concept, doping controls, quality control, Mr Oliver Hintz, Head of Office SADC and Mr B. Walther, Doping Control Coordination
- Disciplinary procedures, Mr G. Walter, Head of the Disciplinary Chamber and Mr B. Welten, Lawyer SADC
- Domestic coordination, availability of banned substances, Dr Matthias Kamber, Mr B. Frei, Swiss customs and Mr P. Eigenmann, Director Qualitop

Afternoon:

- Meeting with the Sports Minister, Mr Samuel Schmid
- Research and Laboratory, Mr Saugy, Head of the Laboratory of Anti-Doping, Lausanne and Dr Matthias Kamber and Mrs Nadja Mahler

8 April 2004

Morning:

- Future developments, Mr Heinz Keller
- Education of coaches, meeting with athletes (Mr Gianni Hablütgel-Bürki (fencing) and Mr Sergeï Aschwanden (judo) and with the Head of coaches development, Mr A. Bürgi

C. Comments from Switzerland

The Swiss authorities' comments on the evaluation report are as follows:

We do not have objections to the report and accept that we will have to deal with the proposals, which are clear. Some will be easier to carry out than others (for example, with regard to the ratification of the Additional Protocol, the two chambers of Parliament have agreed and the ratification can be foreseen in the next two months). Other points, such as increasing the number of controls, or the legislative proposals, will be harder to fulfill. Switzerland will keep the Monitoring Group informed of all follow-up measures. We are grateful to the evaluation team for its report. The work in preparing the national report and in conducting the evaluation visit was challenging for us. However, the scrutiny of outside experts on our entire anti-doping programme allows us to advance at national level.

