

## **LEARNING FROM THE PAST: The Need for Independent Doping Control**

John Hoberman

Presented at the Duke Conference on Doping, Durham, North Carolina, May 7, 1999.

The need for independent doping control is a direct result of the international Doping System that has evolved over the past thirty years.<sup>1</sup> It is now clear that this complex network of organizations and relationships has both accommodated and promoted the practice of doping, even as national and international federations have implemented antidoping programs that have proven to be, and in some cases were intended to be, inadequate to the task. We can think of this Doping System as a homeostatic organism that has adapted over time to the doping control regimens that have been put in place. The internal economy of this organism regulates the relationships that bind together athletes, trainers, physicians, and the federation bureaucrats who populate the global hierarchy that has been headed by the International Olympic Committee (IOC). Yet the Doping System described above is not an abstract process, it is not an autonomous organism that is beyond human control. When, for example, the head of the IOC Medical Commission, Prince Alexandre de Merode, referred vaguely to the “doping phenomenon” at the World Antidoping Conference in February, his apparent purpose was to deflect criticism away from prominent decision-makers inside the IOC whose evident failure as antidoping policymakers had contributed to the need for this hastily arranged event. In a partly humorous attempt to shift the doping burden into another venue, Merode suggested that the real dopers were “people in show business and the arts, truck drivers, and government ministers after long parliamentary sessions.”<sup>2</sup> “I don’t understand the mistrust,” he lamented on another occasion.<sup>3</sup> But mistrust of the IOC was high on the agendas of the most politically powerful participants at the IOC’s conference. “Let me sadly but respectfully note,” said Gen. Barry McCaffrey, the director of White House drug policy, “that recent examples of alleged corruption, lack of accountability, and failure of leadership have challenged the legitimacy of this institution.”<sup>4</sup> Otto Schily, the new Social Democratic German interior minister, spoke disapprovingly of “a kind of constitutional monarchy” and “feudal conditions” at the IOC. He and the British and Italian sport ministers, Tony Banks and Giovanna Melandri, demanded an antidoping agency wholly independent of the IOC.<sup>5</sup> Gen. McCaffrey called for an agency “under the control of the United Nations.”<sup>6</sup> In the pre-conference agenda it had released in November 1998, the IOC had proposed an “independent” antidoping agency headed by IOC-president Juan Antonio Samaranch and Merode, and it was precisely this model of pseudo-independence that would be soundly repudiated a few months later at the Lausanne conference.<sup>7</sup> It was during this period that contending claims to the term “independent” came to embody the struggle between an entrenched and embattled IOC and outsiders whose independence Samaranch and IOC insiders came to regard as an improper and potentially ruinous intrusion into their traditional sphere of influence.

Yet the need for genuinely independent surveillance and operating control of the antidoping campaign had been evident to many people for many years. Only weeks before the Olympic bribery scandal erupted toward the end of 1998, several important German actors in the doping drama had already spoken out to this effect. The politically prominent president of the German Track and Field Federation (DLV), Prof. Helmut Digel, insisted that research on a test for erythropoietin (EPO) doping not be conducted in IOC-accredited laboratories.<sup>8</sup> The 1992 Olympic champion at 5000 meters, Dieter Baumann, called on the German federal government to fund and accelerate work on an EPO test.<sup>9</sup> Baumann and two German scientists who are also antidoping experts, Wilhelm Schänzer and Werner Franke, met to plan a voluntary doping control system employing a blood test.<sup>10</sup>

The misbehavior of sports bureaucrats has prompted many German athletes to appeal for doping control reforms during the 1990s. In 1990 the high jumper Dietmar Mögenburg called for steroid profiling.<sup>11</sup> In 1990 the German decathletes demanded regular doping tests.<sup>12</sup> In 1993 they formed a “Decathlon Team” independent of their sports officials, sought their own sponsors, and promulgated a doctrine of drug-free sport. Together with Dr. Manfred Donike, they developed a pilot project for steroid profiling.<sup>13</sup> In 1994 they expelled their only foreign member, the Frenchman William Motti, when he refused to take a drug test.<sup>14</sup> In 1997 German athletes’ representatives demanded the consistent application of antidoping rules following the misbehavior of Greek athletes and coaches vis-à-vis an IAAF drug inspector that was ignored by the IAAF and the IOC.<sup>15</sup> In March 1999 the representative of the German swimmers, Chris-Carol Bremer, called for state intervention against doping, while the swimmer Sandra Völker expressed a lack of confidence in the official antidoping campaign and called for the introduction of blood tests.<sup>16</sup>

In 1994 more than 100 French athletes send an open letter to IOC-president Samaranch asking for protection from the threat presented by criminals involved in the black market for steroids.<sup>17</sup> All of these initiatives point to the need for outside intervention both in the doping control process and in the underground drug market that both serves and threatens the careers of elite athletes around the world. (The IOC that impulsively summoned the pharmaceutical companies to the Lausanne antidoping conference in February 1999 has never lifted a finger to investigate or protest the systematic diversion of large quantities of synthetic hormones to the black market that makes doping possible.<sup>18</sup>) The fact that athlete initiatives have remained virtually unknown is one more sign of the monopoly on power enjoyed by Olympic and federation officials whose passivity toward and complicity in doping have driven athletes into this sort of desperate activism. Athlete initiatives alone cannot work, however, because the elite athlete population is too young, too transient, and too disorganized. As Sandra Völker put it only a month ago: “We athletes are all solitary fighters. We lack a charismatic leader, a spokesperson who is fighting for our cause and unifying many voices. And we don’t communicate with each other.”<sup>19</sup> This political weakness is why the most significant aspect of the OATH initiative recently launched in Canada is the formation of an alliance between athlete activists and a corporate sponsor that can provide funding (and, therefore, publicity) over a significant period of time.

Another development that requires outside intervention by independent parties is the IOC's increasing acceptance of a professional athletic model that treats doping as a necessary adjunct to job-related stress. In December 1996, the head of the IOC Medical Commission addressed the problem of doping penalties in the following manner: "The level of sanctions is, in my opinion, excessive. In some respects, it is completely obsolete and, if we really want to be realistic today, it is necessary to reform sanctions. Strict sanctions were appropriate when we were dealing with top amateurs, but since sport has become a profession, we are faced with a major social problem. These sanctions have deep repercussions on people and their standard of living." The Prince de Merode recommended a sliding scale of sanctions. "Perhaps suspension (for a short time) that allows the person, in spite of everything, to practise his or her profession but with less intensity. By this, I mean forbidding them from competing in major international competitions."<sup>20</sup>

In September 1998, at the height of the Tour de France furor, Merode declared that the high-performance athlete had become a worker pure and simple: "We need labour laws for high-level athletes," he said, "something like putting limits on their working time. We are going toward something of that sort." Asked about doping scandals, Merode replied that elite athletes had not been granted the protections enjoyed by industrial workers: "Labour is protected in all trades, why not in sport? High-level sport has become a trade like any other. One can imagine that we will not authorize whatever event in whatever conditions."<sup>21</sup> In January 1999, just prior to the Lausanne conference, Merode expressed once again his conviction that harsh sanctions to deter doping were outmoded in an age of Olympic professionalism. Opposing minimum two-year suspensions for serious doping offenses, Merode proposed that athletes caught doping be allowed to compete in some events even as they were serving out their sentences for doping violations.<sup>22</sup>

This model triumphed at the Lausanne antidoping conference in the form of a provision that permits the modification of two-year penalties given "special, extraordinary circumstances" to be established by the athlete's national federation.<sup>23</sup> It appears that such special circumstances already include an athlete's need to earn a living. Another well-placed supporter of flexible penalties for worker-athletes is Harm Beyer, the German judge who serves as the chairman of FINA's Doping Panel. In 1991 Beyer was calling for the legalization of medically supervised doping and expediting the hiring of doping-compromised East German coaches by the German Swimming Federation.<sup>24</sup> More recently the Berlin prosecutors had to issue a subpoena to force Beyer to surrender documents pertaining to the doping of East German swimmers by their coaches.<sup>25</sup> Now Beyer is concerned about doping penalties that create legal vulnerability to European right-to-work laws.<sup>26</sup> In a similar vein, Thomas Bach of the IOC Executive Board invoked "legal reality" at the Lausanne conference in February to argue against the two-year minimum doping penalty.<sup>27</sup> The irony in the case of the much-compromised Beyer is that he occupies the top antidoping position in the one major sports federation that has pursued a hard line, thanks to years of activism by members of the World Swimming Coaches Association (WSCA) such as Forbes Carlile (Australia) and John Leonard (United States). The WSCA campaign, and in particular its activities at the January 1998

World Swimming Championships in Perth, demonstrate what outraged insiders acting as independent outsiders can do to counter the weak doping policies pursued by a corrupt federation leadership.

One major drama at Lausanne was the IOC's capitulation to the demands of the International Cycling Federation (UCI) and of the International Soccer Federation (FIFA) on behalf of their fully professional athletes. The president of the UCI, Hein Verbruggen, declared: "We want flexibility for professionals." FIFA-president Joseph Blatter, opposed the two-year minimum in the following terms: "Here we are dealing with penal law, and in every democracy the judge has some flexibility regarding the penalty. Why should sport be an exception? We are strongly opposed to doping, but you cannot treat a 16-year-old as though he were 30, and you can't compare amateurs with professionals."<sup>28</sup> Rather than take a principled stand by standing up to Verbruggen and Blatter, the IOC leadership legitimized their pharmacological realism by caving in. By April UCI-president Verbruggen, apparently unchastened by the enormity of the Tour de France scandal, was already protesting the plan of the French Cycling Federation (FFC) to introduce a blood test for EPO.<sup>29</sup> Only independent supervision of doping controls can resolve such political disputes in the direction of stricter standards.

Independent surveillance of pharmaceutical companies producing synthetic hormones is essential. During the Tour de France scandal of 1998 one member of the IOC Executive Board declared: "It's time we made it clear to major drug manufacturers of steroids, EPO's, human growth hormones, that if they're not careful and don't apply more stringent controls, and the public perceives that drugs are bringing down the character of sport, their reputation is at stake."<sup>30</sup> This naïve threat came from Kevan Gosper, an Australian who underestimated both the power of the drug companies and their indifference to the doping issue. In fact, Gosper would do well to investigate the multiple robberies that have hit steroid manufacturers in Sydney and Melbourne whose inventory controls also leave much to be desired.<sup>31</sup> The IOC's lack of coordination on this issue became apparent only a month later when another member of the Executive Board, Richard Pound, announced that the IOC would be soliciting funds from pharmaceutical companies to finance the proposed drug agency.<sup>32</sup> Yet Pound and others who envision such an alliance should be aware of potential conflicts of interest that might influence the behavior of drug company employees who are called upon to deal with doping issues. For example, during one of the Berlin doping trials last year, the former East German swimmer Manuela Schubert refused to subject herself to a gynecological examination by the hormone expert Horst Lübbert. It turns out that Lübbert, who is head of the Division of Gynecological Endocrinology at the Free University in Berlin, has recently been doing steroid experiments in partnership with the major drug company Schering AG. In 1996 Schering bought the former East German drug firm Jenapharm, the longtime manufacturer of the Oral-Turinabol that medically harmed Manuela Schubert and many other female athletes.<sup>33</sup> Lübbert's expert testimony at the Berlin trials bears directly on the claims for damages by women who were fed steroids by their East German handlers. One research director at the newly acquired Jenapharm is Dr. Michael Oettel, former head of the East German Central Institute for Microbiology and Experimental Therapy (ZIMET) and one of the major figures in the State Plan 14.25 doping program. Oettel was

also a co-developer of androstenedione for use by East German athletes.<sup>34</sup> Now Oettel is developing new hormone products for Schering.

Another institution whose doping policies are in urgent need of independent review and reform is the United States Olympic Committee (USOC). Following the horrific blood-doping scandal at the 1984 Los Angeles Olympic Games, the USOC imposed no sanctions on any of the doctors, officials, or athletes involved, leaving it to the U.S. Cycling Federation to hand out 30-day suspensions.<sup>35</sup> The Kerry Lynch blood doping scandal that erupted at the end of 1987 involved Jim Page, the chief U.S. Nordic coach, and Doug Petersen, head coach of the U.S. Nordic combined team. Both men knew about and covered up Lynch's cheating. The response of the International Ski Federation (FIS) was to impose lifetime suspensions on the two Americans. The USOC response was to give Page a job, and he remains at the USOC to this day.<sup>36</sup> On October 15, 1987, Dr. Robert O. Voy, chief medical officer of the USOC, gave a candid speech on the realities of doping to the General Assembly of International Sports Federations in Colorado Springs.<sup>37</sup> For this act of integrity Dr. Voy was vilified and marginalized, and he eventually left the USOC in 1989. For anyone interested in the mentality of the USOC regarding the doping issue, Dr. Voy's book is essential reading from the perspective of an insider who was forced into a position of independence vis-à-vis the sports bureaucracy he attempted to serve.

In October 1989 The New York Times published the following account of antidoping activism at the USOC: "The executive board of the United States Olympic Committee today approved an aggressive out-of-competition drug-testing program, which includes oversight by an independent auditor and the hiring of an officer to investigate drug-related accusations. It is, by far, the most complete and far-reaching drug program ever attempted by the U.S.O.C., and it is being designed to complement other programs in place or in preparation. Edwin Moses, chairman of the U.S.O.C. substance-abuse committee, said the new program would probably not be ready until next spring because of logistical problems."<sup>38</sup> Seven years later Baaron Pittenger, co-chairman of the USOC's antidoping task force, announced that "it is unlikely that no-advance-notice testing will be implemented by Atlanta" – a statement that enraged German athletes and sports officials whose antidoping measures had been mercilessly scrutinized for years.<sup>39</sup> Last September John Powers of The Boston Globe reported that "roughly half of American athletes picked for random tests by the US Olympic Committee get off because it costs too much to find them."<sup>40</sup> Most recently, the executive director of the USOC, Richard Schultz, announced that drug testing of American Olympic athletes by an independent agency is expected to begin by this summer and that nine companies are bidding for this assignment. Schultz noted without apparent concern that one of the companies bidding for this contract already has ties to the NCAA, the organization he headed before moving to the USOC.<sup>41</sup> His major project now is a \$10 million image-building program to recover whatever audience share has been lost to the Olympic corruption scandal.<sup>42</sup>

In summary, the USOC has no credibility on the doping issue. There has been no reckoning with its disgraceful record, no sign that this organization either intends or is

capable of self-reform. On the contrary, the USOC clearly believes that it has already adjusted, more or less effortlessly, to a new order that in reality has not even taken shape.

So what is independence and who are the independents who might guarantee the integrity of a global drug-testing program? We have already seen that independence is not always synonymous with outsider status. Insiders can turn into independents, and outside institutions (like drug companies) may lack real independence. In the last analysis, effective doping control will require an organization comparable to Interpol that has been purged of the passive and active sympathizers with doping who have managed to neutralize most drug testing programs so effectively up to this point.

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<sup>1</sup> On the Doping System as a global arrangement see John Hoberman, "A Conspiracy So Vast: The Politics of Doping," in Mortal Engines: The Science of Performance and the Dehumanization of Sport (New York: Free Press, 1992): 229-268; "How Drug Testing Fails: The Politics of Doping Control," in Wayne Wilson, ed., Doping in Elite Sport (Champaign: Human Kinetics, forthcoming 1999).

<sup>2</sup> "Europas Sportminister setzen IOC unter Druck," Süddeutsche Zeitung [hereafter SZ] (February 3, 1999).

<sup>3</sup> "Treffen der empörten," SZ (February 4, 1999).

<sup>4</sup> "I.O.C. Credibility Questioned as Drug Meeting Starts," New York Times (February 3, 1999).

<sup>5</sup> "Europas Sportminister setzen IOC unter Druck," SZ (February 3, 1999); "Schreckt Schily das Plauderforum auf?" SZ (January 30/31, 1999).

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<sup>6</sup> “Schreckt Schily das Plauderforum auf?” SZ (January 30/31, 1999).

<sup>7</sup> In fact, the “Lausanne Declaration” issued by the IOC following the World Antidoping Conference (February 2-4, 1999) includes a resolution calling for an “independent international antidoping agency to be fully operational by the 2000 Sydney Olympic Games” and with start-up capital amounting to US\$25,000,000. See “Lausanner Deklaration,” SZ (February 5, 1999).

<sup>8</sup> “DLV berät Konzeption gegen EPO-Doping,” SZ (November 9, 1998).

<sup>9</sup> “Das Schweigen der Verdächtigen,” SZ (November 19, 1998). In 1992 Baumann had accused DLV officials of stonewalling on the doping issue and expressed the feeling of many athletes that no one in power endorsed effective international controls that would guarantee fair competition. See “Schüsse aus der Wasserpistole,” Der Spiegel (September 7, 1992): 238.

<sup>10</sup> “Wie ein Knall,” Der Spiegel (November 23, 1998): 198.

<sup>11</sup> “Dietmar Mögenburg (29): Olympiasieger 1984 im Hochsprung,” SZ (December 1/2, 1990).

<sup>12</sup> “Boykott nicht ausgeschlossen,” SZ (December 10, 1990).

<sup>13</sup> “Schwarzbrot und Möhren,” Der Spiegel (August 16, 1993): 135.

<sup>14</sup> “Zehnkampf-Team schießt Motti aus,” SZ (March 2, 1994).

<sup>15</sup> “Der Wortgefechte überdrüssig,” SZ (April 28, 1997).

<sup>16</sup> “Gesellschaft bedroht,” SZ (March 27/28 1999); “Völkers laute Signale,” SZ (March 29, 1999).

<sup>17</sup> “Schweig oder stirb,” Der Spiegel (January 24, 1994): 147.

<sup>18</sup> “Drug Companies Invited to Meeting,” New York Times (August 15, 1998).

<sup>19</sup> “Von Fairneß keine Spur,” SZ (April 7, 1999).

<sup>20</sup> “We’re too hard on drug cheats: Olympic boss,” The Weekend Australian (December 21-22, 1996).

<sup>21</sup> Reuters (September 3, 1998 [JF 614]).

<sup>22</sup> “I.O.C. Drug Chief Calls for Major Shift in Ban for Substance Abuse,” New York Times (January 29, 1999).

<sup>23</sup> “Lausanner Deklaration,” SZ (February 5, 1999).

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- <sup>24</sup> “Jobs für Täter,” Der Spiegel (June 15, 1998): 62.
- <sup>25</sup> “Beyer soll aussagen,” SZ (June 16, 1998).
- <sup>26</sup> “Fina behält umstrittene Vier-Jahres-Sperre,” SZ (April 1/2, 1999).
- <sup>27</sup> “Die Deutschen in Lausanne – zerrissen und streitend,” SZ February 4, 1999).
- <sup>28</sup> “Flexibilität für Profis,” SZ (February 3, 1999).
- <sup>29</sup> “Zwist im Dopingkampf,” SZ (April 12, 1999).
- <sup>30</sup> “Drug Companies Invited to Meeting,” New York Times (August 15, 1998).
- <sup>31</sup> Unidentified wire service report (September 12, 1998) [JF 674].
- <sup>32</sup> Associated Press (September 15, 1998 [JF 693]).
- <sup>33</sup> “Bärte nach hinten,” Der Spiegel (August 10, 1998): 106-107.
- <sup>34</sup> “Viagra für den ganzen Körper,” Der Spiegel (November 9, 1998): 242, 244, 245.
- <sup>35</sup> See, for example, Bjarne Rostaing and Robert Sullivan, “Triumphs Tainted With Blood,” Sports Illustrated (January 21, 1985): 12-17; Richard Ben Cramer, “Olympic Cheating: The inside story of illicit doping and the U.S. cycling team,” Rolling Stone (February 14, 1985): 25, 26, 30; Harvey G. Klein, “Blood Transfusion and Athletics,” The New England Journal of Medicine 312 (March 28, 1985): 854-856; Robert O. Voy, Drugs, Sport, and Politics (Champaign: Leisure Press, 1991): 70-72.
- <sup>36</sup> “U.S. Skier Suspended for 2 Years,” Chicago Tribune (June 9, 1988); see also Voy, Drugs, Sport, and Politics, 72-73.
- <sup>37</sup> This speech was published as “Education As a Means Against Doping,” The Olympian (December 1987): 43-46.
- <sup>38</sup> “U.S. Committee Adopts Drug Plan,” New York Times (October 23, 1989).
- <sup>39</sup> Associated Press (AP Sports) (April 3, 1996).
- <sup>40</sup> “Supplement user striking out,” Boston Globe (September 6, 1998). [JF 620]
- <sup>41</sup> Wire service reports (March 27, 1999). [JF]
- <sup>42</sup> “Ads to help polish image, USOC says,” USA Today (April 30-May 2, 1999).