

# WORLD ANTI-DOPING CODE



#### World Anti-Doping Code

The World Anti-Doping Code was first adopted in 2003 and became effective in 2004. The enclosed incorporates revisions to the World Anti-Doping Code that were approved by the World Anti-Doping Agency Foundation Board on November 17, 2007. The revised World Anti-Doping Code is effective as of January 1, 2009.

#### Published by:

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# PURPOSE, SCOPE AND ORGANIZATION OF THE WORLD ANTI-DOPING PROGRAM AND THE CODE

The purposes of the World Anti-Doping *Code* and the World Anti-Doping Program which supports it are:

- To protect the *Athletes*' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for *Athletes* worldwide, and
- To ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.

#### The Code

The *Code* is the fundamental and universal document upon which the World Anti-Doping Program in sport is based. The purpose of the *Code* is to advance the anti-doping effort through universal harmonization of core anti-doping elements. It is intended to be specific enough to achieve complete harmonization on issues where uniformity is required, yet general enough in other areas to permit flexibility on how agreed-upon anti-doping principles are implemented.

[Comment: The Olympic Charter in force as from July 7, 2007, and the UNESCO Convention adopted in Paris on October 19, 2005, both recognize the prevention of and the fight against doping in sport as a critical part of the mission of the International Olympic Committee and UNESCO and also recognize the fundamental role of the Code.1

#### The World Anti-Doping Program

The World Anti-Doping Program encompasses all of the elements needed in order to ensure optimal harmonization and best practice in international and national anti-doping programs. The main elements are:

Level 1: The Code

Level 2: International Standards

Level 3: Models of Best Practice and Guidelines

#### International Standards

International Standards for different technical and operational areas within the anti-doping program will be developed in consultation with the Signatories and governments and approved by WADA. The purpose of the International Standards is harmonization among Anti-Doping Organizations responsible for specific technical and operational parts of the anti-doping programs. Adherence to the International Standards is mandatory for compliance with the Code. The International Standards may be revised from time to time by the WADA Executive Committee after reasonable consultation with the Signatories and governments. Unless provided otherwise in the Code, International Standards and all revisions shall become effective on the date specified in the International Standard or revision.

[Comment: The International Standards contain much of the technical detail necessary for implementing the Code. International Standards, while expressly incorporated into the Code by reference, will, in consultation with the Signatories and governments, be developed by experts and set forth in separate technical documents. It is important that the WADA Executive Committee be able to make timely changes to the International Standards without requiring any amendment of the Code or individual stakeholder rules and regulations.]

#### Models of Best Practice and Guidelines

Models of best practice and guidelines based on the *Code* have been and will be developed to provide solutions in different areas of anti-doping. The models will be recommended by *WADA* and made available to *Signatories* upon request but will not be mandatory. In addition to providing models of anti-doping documentation, *WADA* will also make some training assistance available to the *Signatories*.

[Comment: Following the adoption of the 2009 Code. WADA will prepare amended model anti-doping rules and regulations tailored to the needs of each of the major groups of Signatories (e.g., International Federations and National Anti-Doping Organizations, etc.). These model rules and regulations will conform with and be based on the Code. will be state of the art examples of best practices and will contain all of the detail (including reference to International Standards) necessary to conduct an effective anti-doping program.

These model rules and regulations will provide alternatives from which stakeholders may select. Some stakeholders may choose to adopt the model rules and regulations and other models of best practices

verbatim. Others may decide to adopt the models with modifications. Still other stakeholders may choose to develop their own rules and regulations consistent with the general principles and specific requirements set forth in the Code.

Other model documents or guidelines for specific parts of the anti-doping work may be developed based on generally recognized stakeholder needs and expectations. This could include models or guidelines for national anti-doping programs, results management, Testing (beyond the specific requirements set forth in the International Standard for Testing), education programs, etc. All models of best practice will be reviewed and approved by WADA before they are included in the World Anti-Doping Program.]

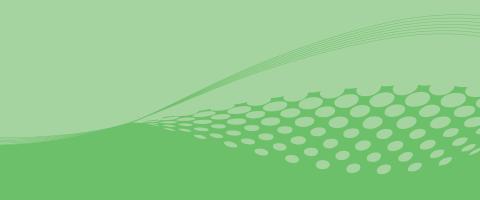
## FUNDAMENTAL RATIONALE FOR THE WORLD ANTI-DOPING CODE

Anti-doping programs seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as "the spirit of sport", it is the essence of Olympism; it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is characterized by the following values:

- Ethics, fair play and honesty
- Health
- Excellence in performance
- Character and education
- Fun and joy
- Teamwork
- Dedication and commitment
- Respect for rules and laws
- Respect for self and other *Participants*
- Courage
- Community and solidarity

Doping is fundamentally contrary to the spirit of sport.

To fight doping by promoting the spirit of sport, the *Code* requires each *Anti-Doping Organization* to develop and implement educational programs for *Athletes*, including youth, and *Athlete Support Personnel*.



# PART ONE: DOPING CONTROL



#### INTRODUCTION

Part One of the *Code* sets forth specific anti-doping rules and principles that are to be followed by organizations responsible for adopting, implementing or enforcing anti-doping rules within their authority, e.g., the International Olympic Committee, International Paralympic Committee, International Federations, *Major Event Organizations*, and *National Anti-Doping Organizations*. All such organizations are collectively referred to as *Anti-Doping Organizations*.

All provisions of the *Code* are mandatory in substance and must be followed as applicable by each *Anti-Doping Organization* and *Athlete* or other *Person*. The *Code* does not, however, replace or eliminate the need for comprehensive anti-doping rules adopted by each *Anti-Doping Organization*. While some provisions of the *Code* must be incorporated without substantive change by each *Anti-Doping Organization* in its own anti-doping rules, other provisions of the *Code* establish mandatory guiding principles that allow flexibility in the formulation of rules by each *Anti-Doping Organization* or establish requirements that must be followed by each *Anti-Doping Organization* but need not be repeated in its own anti-doping rules.

[Comment: Those Articles of the Code which must be incorporated into each Anti-Doping Organization's rules without substantive change are set forth in Article 23.2.2. For example, it is critical for purposes of harmonization that all Signatories base their decisions on the same list of anti-doping rule violations, the same burdens of proof and impose the same Consequences for the same anti-doping rule violations. These rules must be the same whether a hearing takes place before an International Federation.

at the national level or before the Court of Arbitration for Sport.

Code provisions not listed in Article 23.2.2 are still mandatory in substance even though an Anti-Doping Organization is not required to incorporate them verbatim. Those provisions generally fall into two categories. First, some provisions direct Anti-Doping Organizations to take certain actions but there is no need to restate the provision in the Anti-Doping Organization's

continued

Anti-doping rules, like *Competition* rules, are sport rules governing the conditions under which sport is played. *Athletes* or other *Persons* accept these rules as a condition of participation and shall be bound by these rules. Each *Signatory* shall establish rules and procedures to ensure that all *Athletes* or other *Persons* under the authority of the *Signatory* and its member organizations are informed of and agree to be bound by anti-doping rules in force of the relevant *Anti-Doping Organizations*.

Each Signatory shall establish rules and procedures to ensure that all Athletes or other Persons under the authority of the Signatory and its member organizations consent to the dissemination of their private data as required or authorized by the Code and are bound by and compliant with Code anti-

own anti-doping rules. As an example, each Anti-Doping Organization must plan and conduct Testing as required by Article 5, but these directives to the Anti-Doping Organization need not be repeated in the Anti-Doping Organization's own rules. Second, some provisions are mandatory in substance but give each Anti-Doping Organization some flexibility in the implementation of the principles stated in the provision. As an example, it is not necessary for effective harmonization to force all

Signatories to use one single results management and hearing process. At present, there are many different, yet equally effective processes for results management and hearings within different International Federations and different national bodies. The Code does not require absolute uniformity in results management and hearing procedures; it does, however, require that the diverse approaches of the Signatories satisfy principles stated in the Code.]

[Comment: By their participation in sport, Athletes are bound by the competitive rules of their sport. In the same manner, Athletes and Athlete Support Personnel should be bound by anti-doping rules based on Article 2 of the Code by virtue of their agreements for membership, accreditation, or participation in

sports organizations or sports Events subject to the Code. Each Signatory, however, shall take the necessary steps to ensure that all Athletes and Athlete Support Personnel within its authority are bound by the relevant Anti-Doping Organization's anti-doping rules.]

doping rules, and that the appropriate *Consequences* are imposed on those *Athletes* or other *Persons* who are not in conformity with those rules. These sport-specific rules and procedures aimed at enforcing anti-doping rules in a global and harmonized way are distinct in nature from and are, therefore, not intended to be subject to or limited by any national requirements and legal standards applicable to criminal proceedings or employment matters. When reviewing the facts and the law of a given case, all courts, arbitral hearing panels and other adjudicating bodies should be aware and respect the distinct nature of the anti-doping rules in the *Code* and the fact that those rules represent the consensus of a broad spectrum of stakeholders around the world with an interest in fair sport.

#### **ARTICLE 1: DEFINITION OF DOPING**

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.8 of the *Code*.

#### **ARTICLE 2: ANTI-DOPING RULE VIOLATIONS**

Athletes or other *Persons* shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the *Prohibited List*.

The following constitute anti-doping rule violations:

[Comment 'a' to Article 2: The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules has been violated.]

# 2.1 Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping violation under Article 2.1.

[Comment to Article 2.1.1: For purposes of anti-doping rule violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), the Code adopts the rule of strict liability which was found in the Olympic Movement Anti-Doping Code ("OMADC") and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, an Athlete is responsible, and an anti-doping rule violation occurs, whenever a Prohibited Substance is found in an Athlete's Sample. The violation occurs whether or not the Athlete intentionally or unintentionally Used a Prohibited Substance or was negligent or otherwise at fault. If the positive Sample came from an In-Competition test, then the results of that Competition are automatically invalidated (Article 9 (Automatic Disqualification of Individual Results)). However, the Athlete then has the possibility to avoid or reduce sanctions if the Athlete can demonstrate that he or she was not at fault or significant fault (Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on

Exceptional Circumstances)) or in certain circumstances did not intend to enhance his or her sport performance (Article 10.4 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances)).

The strict liability rule for the finding of a Prohibited Substance in an Athlete's Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all "clean" Athletes and fairness in the exceptional circumstance where a Prohibited Substance entered an Athlete's system through No Fault or Negligence or No Significant Fault or Negligence on the Athlete's part. It is important to emphasize that while the determination of whether the anti-doping rule violation has occurred is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict liability principle set forth in the Code has been consistently upheld in the decisions of CAS.]

- 2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete*'s A *Sample* where the *Athlete* waives analysis of the B *Sample* and the B *Sample* is not analyzed; or, where the *Athlete*'s B *Sample* is analyzed and the analysis of the *Athlete*'s B *Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete*'s A *Sample*.
- 2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the *Prohibited List*, the presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.
- 2.1.4 As an exception to the general rule of Article 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

[Comment to Article 2.1.2: The Anti-Doping Organization with results management responsibility may in its discretion choose to have the B Sample analyzed even if the Athlete does not request the analysis of the B Sample.]

#### 2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

2.2.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

[Comment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2 (Methods of Establishing Facts and Presumptions), unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from

longitudinal profiling, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]

- 2.2.2 The success or failure of the *Use* or *Attempt*ed Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an antidoping rule violation to be committed.
- 2.3 Refusing or failing without compelling justification to submit to Sample collection after notification as authorized in applicable anti-doping rules, or otherwise evading Sample collection

[Comment to Article 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the strict liability principle established for violations of Article 2.1 and violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method.

An Athlete's Use of a Prohibited Substance constitutes an anti-doping

rule violation unless such substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)]

[Comment to Article 2.3: Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Article expands the typical pre-Code rule to include "otherwise evading Sample collection" as prohibited conduct. Thus, for example, it would be an anti-doping rule violation if it were established

that an Athlete was hiding from a Doping Control official to evade notification or Testing. A violation of "refusing or failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" Sample collection contemplates intentional conduct by the Athlete.]

- 2.4 Violation of applicable requirements regarding Athlete availability for Out-of-Competition Testing, including failure to file required whereabouts information and missed tests which are declared based on rules which comply with the International Standard for Testing. Any combination of three missed tests and/or filing failures within an eighteen-month period as determined by Anti-Doping Organizations with jurisdiction over the Athlete shall constitute an anti-doping rule violation
- 2.5 Tampering or Attempted Tampering with any part of Doping Control

[Comment to Article 2.4: Separate whereabouts filing failures and missed tests declared under the rules of the Athlete's International Federation or any other Anti-Doping Organization with authority to declare whereabouts filing failures and

missed tests in accordance with the International Standard for Testing shall be combined in applying this Article. In appropriate circumstances, missed tests or filing failures may also constitute an anti-doping rule violation under Article 2.3 or Article 2.5.1

[Comment to Article 2.5: This Article prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. For example, altering identification

numbers on a Doping Control form during Testing, breaking the B Bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organization.]

#### 2.6 Possession of Prohibited Substances and Prohibited Methods

- 2.6.1 Possession by an Athlete In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is pursuant to a therapeutic use exemption granted in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.
- 2.6.2 Possession by an Athlete Support Personnel In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Support Personnel Out-of-Competition of any Prohibited Method or any Prohibited Substance which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Personnel establishes that the Possession is pursuant to a therapeutic use exemption granted to an Athlete in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.

[Comment to Article 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, e.g., buying Insulin for a diabetic child.

[Comment to Article 2.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]

- 2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method
- 2.8 Administration or Attempted administration to any Athlete In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation

[Comment 'b' to Article 2: The Code does not make it an anti-doping rule violation for an Athlete or other Person to work or associate with Athlete Support Personnel who are serving a period of Ineligibility. However, a sport organization may adopt its own rules which prohibit such conduct.]

#### **ARTICLE 3: PROOF OF DOPING**

#### 3.1 Burdens and Standards of Proof

The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Anti-Doping Organization has established an antidoping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where the Code places the burden of proof upon the Athlete or other *Person* alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Articles 10.4 and 10.6 where the Athlete must satisfy a higher burden of proof.

#### 3.2 Methods of Establishing Facts and Presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

[Comment to Article 3.1: This standard of proof required to be met by the Anti-Doping Organization is comparable to the standard which is applied in most countries to cases involving professional misconduct.

It has also been widely applied by courts and hearing panels in doping cases. See, for example, the CAS decision in N., J., Y., W. v. FINA, CAS 98/208, 22 December 1998.]

[Comment to Article 3.2: For example, an Anti-Doping Organization may establish an anti-doping rule violation under Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) based on the Athlete's admissions, the credible

testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples.]

3.2.1 WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.

If the Athlete or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the Anti-Doping Organization shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.2 Departures from any other International Standard or other anti-doping rule or policy which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the Athlete or other Person establishes that a departure from another International Standard or other anti-doping rule or policy which could reasonably have caused the Adverse Analytical Finding or

[Comment to Article 3.2.1: The burden is on the Athlete or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Athlete or

other Person does so, the burden shifts to the Anti-Doping Organization to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]

other anti-doping rule violation occurred, then the *Anti-Doping Organization* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.

- 3.2.3 The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.
- 3.2.4 The hearing panel in a hearing on an antidoping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete*'s or other *Person*'s refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the *Anti-Doping Organization* asserting the anti-doping rule violation.

[Comment to Article 3.2.4: Drawing an adverse inference under these

circumstances has been recognized in numerous CAS decisions.1

#### ARTICLE 4: THE PROHIBITED LIST

#### 4.1 Publication and Revision of the *Prohibited List*

WADA shall, as often as necessary and no less often than annually, publish the Prohibited List as an International Standard. The proposed content of the Prohibited List and all revisions shall be provided in writing promptly to all Signatories and governments for comment and consultation. Each annual version of the *Prohibited List* and all revisions shall be distributed promptly by WADA to each Signatory and government and shall be published on WADA's Web site, and each Signatory shall take appropriate steps to distribute the Prohibited List to its members and constituents. The rules of each Anti-Doping Organization shall specify that, unless provided otherwise in the Prohibited List or a revision, the Prohibited List and revisions shall go into effect under the Anti-Doping Organization's rules three (3) months after publication of the Prohibited List by WADA without requiring any further action by the Anti-Doping Organization.

[Comment to Article 4.1: The Prohibited List will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made. WADA will always have the most current Prohibited List published on its Web site. The Prohibited List is an integral part of the International Convention against Doping in Sport. WADA will inform the Director-General of UNESCO of any change to the Prohibited List.]

### 4.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List

#### 4.2.1 Prohibited Substances and Prohibited Methods

The Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future Competitions or their masking potential and those substances and methods which are prohibited In-Competition only. The Prohibited List may be expanded by WADA for a particular sport. Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (e.g., anabolic agents) or by specific reference to a particular substance or method.

**IComment to Article 4.2.1: There** will be one Prohibited List. The substances which are prohibited at all times would include masking agents and those substances which, when Used in training, may have long-term performance enhancing effects such as anabolics. All substances and methods on the Prohibited List are prohibited In-Competition. Out-of-Competition Use (Article 2.2) of a substance which is only prohibited In-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the substance or its Metabolites is reported for a Sample collected In-Competition (Article 2.1).

There will be only one document called the "Prohibited List." WADA may add additional substances or methods to the Prohibited List for particular sports (e.g. the inclusion of beta-blockers for shooting) but this will also be reflected on the single Prohibited List. A particular sport is not permitted to seek exemption from the basic list of Prohibited Substances (e.g. eliminating anabolics from the Prohibited List for "mind sports"). The premise of this decision is that there are certain basic doping agents which anyone who chooses to call himself or herself an Athlete should not take.]

#### 4.2.2 Specified Substances

For purposes of the application of Article 10 (Sanctions on Individuals), all *Prohibited Substances* shall be "Specified Substances" except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the *Prohibited List. Prohibited Methods* shall not be Specified Substances.

#### 4.2.3 New Classes of Prohibited Substances

In the event WADA expands the Prohibited List by adding a new class of Prohibited Substances in accordance with Article 4.1, WADA's Executive Committee shall determine whether any or all Prohibited Substances within the new class of Prohibited Substances shall be considered Specified Substances under Article 4.2.2.

[Comment to Article 4.2.2: In drafting the Code there was considerable debate among stakeholders over the appropriate balance between inflexible sanctions which promote harmonization in the application of the rules and more flexible sanctions which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the Code. After three years experience with the Code, the strong consensus of stakeholders is that while the occurrence of an antidoping rule violation under Articles 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) and 2.2 (Use of a Prohibited Substance or Prohibited Method) should still be based on the principle

of strict liability, the Code sanctions should be made more flexible where the Athlete or other Person can clearly demonstrate that he or she did not intend to enhance sport performance. The change to Article 4.2 and related changes to Article 10 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances) would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones. as well as the stimulants and the hormone antagonists and modulators so identified on the Prohibited List. or Prohibited Methods.1

#### 4.3 Criteria for Including Substances and Methods on the *Prohibited List*

WADA shall consider the following criteria in deciding whether to include a substance or method on the *Prohibited List*.

- 4.3.1 A substance or method shall be considered for inclusion on the *Prohibited List* if *WADA* determines that the substance or method meets any two of the following three criteria:
  - 4.3.1.1 Medical or other scientific evidence, pharmacological effect or experience that the substance or method, alone or in combination with other substances or methods, has the potential to enhance or enhances sport performance;
  - 4.3.1.2 Medical or other scientific evidence, pharmacological effect or experience that the *Use* of the substance or method represents an actual or potential health risk to the *Athlete*;

[Comment to Article 4.3.1.1: This Article anticipates that there may be substances that, when used alone, are not prohibited but which will be prohibited if used in combination with certain other substances. A substance which is added to the

Prohibited List because it has the potential to enhance performance only in combination with another substance shall be so noted and shall be prohibited only if there is evidence relating to both substances in combination.

- 4.3.1.3 *WADA*'s determination that the *Use* of the substance or method violates the spirit of sport described in the Introduction to the *Code*
- 4.3.2 A substance or method shall also be included on the *Prohibited List* if *WADA* determines there is medical or other scientific evidence, pharmacological effect or experience that the substance or method has the potential to mask the *Use* of other *Prohibited Substances* or *Prohibited Methods*.

[Comment to Article 4.3.2: A substance shall be considered for inclusion on the Prohibited List if the substance is a masking agent or meets two of the following three criteria: (1) it has the potential to enhance or enhances sport performance; (2) it represents a potential or actual health risk: or (3) it is contrary to the spirit of sport. None of the three criteria alone is a sufficient basis for adding a substance to the Prohibited List. Using the potential to enhance performance as the sole criterion would include, for example, physical and mental training, red meat, carbohydrate loading and training at altitude. Risk of harm would include smoking. Requiring all three criteria would also be unsatisfactory. For example, the Use of genetic transfer technology to dramatically enhance sport performance should be prohibited as contrary to the spirit of sport even if it is not harmful. Similarly, the potentially unhealthy abuse of certain substances without therapeutic justification based on the mistaken belief they enhance performance is certainly contrary to the spirit of sport regardless of whether the expectation of performance enhancement is realistic. As part of the process each year, all Signatories, governments and other interested Persons are invited to provide comments to WADA on the content of the Prohibited List 1

433 *WADA*'s determination οf the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List and the classification of substances into categories on the Prohibited List is final and shall not be subject to challenge by an Athlete or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

#### 4.4 Therapeutic Use

WADA has adopted an International Standard for the process of granting therapeutic use exemptions.

Each International Federation shall ensure, for International-Level Athletes or any other Athlete who is entered in an International Event, that a process is in place whereby Athletes with documented medical conditions requiring the Use of a Prohibited Substance or a *Prohibited Method* may request a therapeutic use exemption. Athletes who have been identified as included in their International Federation's Registered Testing Pool may only obtain therapeutic use exemptions in accordance with the rules of their International Federation, Fach International Federation shall publish a list of those *International Events* for which a therapeutic use exemption from the International Federation is required. Each National Anti-Doping Organization shall ensure, for all Athletes

[Comment to Article 4.3.3: The question of whether a substance meets the criteria in Article 4.3 (Criteria for Including Substances and Methods on the Prohibited List) in a particular case cannot be raised as a defense to an anti-doping rule violation. For example, it cannot be argued that the Prohibited Substance

detected would not have been performance enhancing in that particular sport. Rather, doping occurs when a substance on the Prohibited List is found in an Athlete's Sample. Similarly, it cannot be argued that a substance listed in the class of anabolic agents does not belong in that class.1

within its jurisdiction that have not been included in an International Federation Registered Testing Pool, that a process is in place whereby Athletes with documented medical conditions requiring the Use of a Prohibited Substance or a Prohibited Method may request a therapeutic use exemption. Such requests shall be evaluated in accordance with the *International* Standard for Therapeutic Use Exemptions. International Federations and National Anti-Doping Organizations shall promptly report to WADA through ADAMS the granting of any therapeutic use exemption except as regards national-level Athletes who are not included in the National Anti-Doping Organization's Registered Testing Pool.

WADA, on its own initiative, may review at any time the granting of a therapeutic use exemption to any International-Level Athlete or national-level Athlete who is included in his or her National Anti-Doping Organization's Registered Testing Pool. Further, upon the request of any such Athlete who has been denied a therapeutic use exemption, WADA may review such denial. If WADA determines that such granting or denial of a therapeutic use exemption did not comply with the International Standard for Therapeutic Use Exemptions, WADA may reverse the decision.

If, contrary to the requirement of this Article, an International Federation does not have a process in place where *Athletes* may request therapeutic use exemptions, an *International-Level Athlete* may request *WADA* to review the application as if it had been denied.

Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (Article 2.1), *Use* or *Attempted Use* of a *Prohibited Substance* or a *Prohibited Method* (Article 2.2), *Possession* of *Prohibited Substances* and *Prohibited Methods* (Article 2.6) or Administration or *Attempted Administration of a Prohibited Substance* or

Prohibited Method (Article 2.8) consistent with the provisions of an applicable therapeutic use exemption issued pursuant to the *International Standard* for Therapeutic Use Exemptions shall not be considered an anti-doping rule violation.

#### 4.5 Monitoring Program

WADA, in consultation with Signatories governments, shall establish a monitoring program regarding substances which are not on the Prohibited List, but which WADA wishes to monitor in order to detect patterns of misuse in sport. WADA shall publish. in advance of any Testing, the substances that will be monitored. Laboratories will report the instances of reported *Use* or detected presence of these substances to WADA periodically on an aggregate basis by sport and whether the Samples were collected In-Competition or Out-of-Competition. Such reports shall not contain additional information regarding specific Samples. WADA shall make available to International Federations and National Anti-Doping Organizations, on at least an annual basis, aggregate statistical information by sport regarding the additional substances. WADA shall implement measures to ensure that strict anonymity of individual Athletes is maintained with respect to such reports. The reported Use or detected presence of a monitored substance shall not constitute an anti-doping rule violation.

#### **ARTICLE 5: TESTING**

#### 5.1 Test Distribution Planning

Subject to the jurisdictional limitations for *In-Competition Testing* in Article 15.1, each *National Anti-Doping Organization* shall have *Testing* jurisdiction over all *Athletes* who are present in that *National Anti-Doping Organization*'s country or who are nationals, residents, license-holders or members of sport organizations of that country. Each International Federation shall have *Testing* jurisdiction over all *Athletes* who are members of their member National Federations or who participate in their *Events*. All *Athletes* must comply with any request for *Testing* by any *Anti-Doping Organization* with *Testing* jurisdiction. In coordination with other *Anti-Doping Organizations* conducting *Testing* on the same *Athletes*, and consistent with the *International Standard* for *Testing*, each *Anti-Doping Organization* shall:

5.1.1 Plan and conduct an effective number of In-Competition and Out-of-Competition tests on Athletes over whom they have jurisdiction, including but not limited to Athletes in their respective Registered Testing Pools. Each International Federation shall establish a Registered Testing Pool for International-Level Athletes in its sport, and each National Anti-Doping Organization shall establish a national Registered Testing Pool for Athletes who are that National Anti-Dopina present in Organization's country or who are nationals, residents, license-holders or members of sport organizations of that country. In accordance with Article 14.3, any Athlete included in a Registered Testing Pool shall be subject to the whereabouts requirements set out in the International Standard for Testing.

- 5.1.2 Except in exceptional circumstances all *Out-of-Competition Testing* shall be *No Advance Notice*.
- 5.1.3 Make Target Testing a priority.
- 5.1.4 Conduct *Testing* on *Athletes* serving a period of *Ineligibility* or a *Provisional Suspension*.

#### 5.2 Standards for Testing

Anti-Doping Organizations with Testing jurisdiction shall conduct such Testing in conformity with the International Standard for Testing.

### 5.3 Retired Athletes Returning to Competition

Each Anti-Doping Organization shall establish a rule addressing eligibility requirements for Athletes who are not Ineligible and retire from sport while included in a Registered Testing Pool and then seek to return to active participation in sport.

[Comment to Article 5.1.3: Target
Testing is specified because random
Testing, or even weighted random
Testing, does not ensure that all of the
appropriate Athletes will be tested (e.g.,
world-class Athletes, Athletes whose
performances have dramatically
improved over a short period of time,
Athletes whose coaches have had other
Athletes test positive, etc.).

Obviously, Target Testing must not be used for any purpose other than legitimate Doping Control. The Code makes it clear that Athletes have no right to expect that they will be tested only on a random basis. Similarly, it does not impose any reasonable suspicion or probable cause requirement for Target Testing.]

### ARTICLE 6: ANALYSIS OF SAMPLES

Samples shall be analyzed in accordance with the following principles:

#### 6.1 Use of Approved Laboratories

For purposes of Article 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*), *Samples* shall be analyzed only in *WADA*-accredited laboratories or as otherwise approved by *WADA*. The choice of the *WADA*-accredited laboratory (or other laboratory or method approved by *WADA*) used for the *Sample* analysis shall be determined exclusively by the *Anti-Doping Organization* responsible for results management.

#### 6.2 Purpose of Collection and Analysis of Samples

Samples shall be analyzed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* and other substances as may be directed by *WADA* pursuant to Article 4.5 (Monitoring Program), or to assist an *Anti-Doping Organization* in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.

[Comment to Article 6.1: Violations of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) may be established only by Sample analysis performed by a WADA-approved laboratory or another laboratory specifically authorized by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.]

[Comment to Article 6.2: For example, relevant profile information could be used to direct Target Testing or to support an anti-doping rule violation

proceeding under Article 2.2 (Use or Attempted Use of a Prohibited Substance), or both.



#### 6.3 Research on Samples

No Sample may be used for any purpose other than as described in Article 6.2 without the Athlete's written consent. Samples used for purposes other than Article 6.2 shall have any means of identification removed such that they cannot be traced back to a particular Athlete.

#### 6.4 Standards for Sample Analysis and Reporting

Laboratories shall analyze Doping Control Samples and report results in conformity with the International Standard for Laboratories.

#### 6.5 Retesting Samples

A Sample may be reanalyzed for the purpose of Article 6.2 at any time exclusively at the direction of the Anti-Doping Organization that collected the Sample or WADA. The circumstances and conditions for retesting Samples shall conform with the requirements of the International Standard for Laboratories

[Comment to Article 6.5: Although this Article is new, Anti-Doping Organizations have always had the authority to reanalyze Samples. The International Standard for

Laboratories or a new technical document which is made a part of the International Standard will harmonize the protocol for such retestina.1

### **ARTICLE 7: RESULTS MANAGEMENT**

Each Anti-Doping Organization conducting results management shall establish a process for the pre-hearing administration of potential anti-doping rule violations that respects the following principles:

#### 7.1 Initial Review Regarding Adverse Analytical Findings

Upon receipt of an A Sample Adverse Analytical Finding, the Anti-Doping Organization responsible for results management shall conduct a review to determine whether: (a) an applicable therapeutic use exemption has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or (b) there is any apparent departure from the International Standard for Testing or International Standard for Laboratories that caused the Adverse Analytical Finding.

### 7.2 Notification After Initial Review Regarding Adverse Analytical Findings

If the initial review of an Adverse Analytical Finding under Article 7.1 does not reveal an applicable therapeutic use exemption or entitlement to a therapeutic use exemption as provided in the International Standard for Therapeutic Use Exemptions, or departure that caused the Adverse

[Comment to Article 7: Various Signatories have created their own approaches to results management. While the various approaches have not been entirely uniform, many have proven to be fair and effective systems for results management. The Code does not supplant each of the Signatories' results management

systems. This Article does, however, specify basic principles in order to ensure the fundamental fairness of the results management process which must be observed by each Signatory. The specific anti-doping rules of each Signatory shall be consistent with these basic principles.]

Analytical Finding, the Anti-Doping Organization shall promptly notify the Athlete, in the manner set out in its rules, of: (a) the Adverse Analytical Finding; (b) the anti-doping rule violated; (c) the Athlete's right to promptly request the analysis of the B Sample or, failing such request, that the B Sample analysis may be deemed waived: (d) the scheduled date, time and place for the B Sample analysis if the Athlete or Anti-Doping Organization chooses to request an analysis of the B Sample; (e) the opportunity for the Athlete and/or the Athlete's representative to attend the B Sample opening and analysis within the time period specified in the *International Standard* for Laboratories if such analysis is requested: and (f) the Athlete's right to request copies of the A and B Sample laboratory documentation package which includes information as required by the International Standard for Laboratories. The Anti-Doping Organization shall also notify the other *Anti-Doping Organizations* described in Article 14.1.2. If the Anti-Doping Organization decides not to bring forward the Adverse Analytical Finding as an anti-doping rule violation, it shall so notify the Athlete and the Anti-Doping Organizations as described in Article 14.1.2.

### 7.3 Review of Atypical Findings

As provided in the *International Standards*, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously, as *Atypical Findings* subject to further investigation. Upon receipt of an A *Sample Atypical Finding*, the *Anti-Doping Organization* responsible for results management

shall conduct a review to determine whether: (a) an applicable therapeutic use exemption has been granted, or (b) there is any apparent departure from the *International Standard* for *Testing* or *International Standard* for Laboratories that caused the *Atypical Finding*. If that review does not reveal an applicable therapeutic use exemption or departure that caused the *Atypical Finding*, the *Anti-Doping Organization* shall conduct the required investigation. After the investigation is completed, the *Athlete* and other *Anti-Doping Organizations* identified in Article 14.1.2 shall be notified whether or not the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*. The *Athlete* shall be notified as provided in Article 7.2.

- 7.3.1 The Anti-Doping Organization will not provide notice of an Atypical Finding until it has completed its investigation and decided whether it will bring the Atypical Finding forward as an Adverse Analytical Finding unless one of the following circumstances exist:
  - (a) If the Anti-Doping Organization determines the B Sample should be analyzed prior to the conclusion of its investigation under Article 7.3, the Anti-Doping Organization may conduct the B Sample analysis after notifying the Athlete, with such notice to include a description of the Atypical Finding and the information described in Article 7.2(b)-(f).

(b) If the Anti-Doping Organization receives a request, either from a Major Event Organization shortly before one of its International Events or a request from a sport organization responsible for meeting an imminent deadline for selecting team members for an International Event, to disclose whether any Athlete identified on a list provided by the Major Event Organization or sport organization has a pending Atypical Finding, the Anti-Doping Organization shall so identify any such Athlete after first providing notice of the Atypical Finding to the Athlete.

### 7.4 Review of Other Anti-Doping Rule Violations Not Covered by Articles 7.1–7.3

The Anti-Doping Organization or other reviewing body established by such organization shall conduct any follow-up investigation into a possible anti-doping rule violation as may be required under applicable anti-doping policies and rules adopted pursuant to the Code or which the Anti-Doping Organization otherwise considers appropriate. At such time as the Anti-Doping Organization is satisfied that an anti-doping rule violation has occurred, it shall promptly give the Athlete or other Person subject to sanction notice, in the manner set out in its rules, of the anti-doping rule violated, and the basis of the violation. Other Anti-Doping Organizations shall be notified as provided in Article 14.1.2.

[Comment to Article 7.3.1(b): Under the circumstance described in Article 7.3.1(b), the option to take action would be left to the Major Event Organization or sport organization consistent with its rules.]

[Comment to Article 7.4: As an example, an International Federation typically

would notify the Athlete through the Athlete's national sports federation.]

#### 7.5 Principles Applicable to Provisional Suspensions

7.5.1 Mandatory *Provisional Suspension* after A *Sample Adverse Analytical Finding* 

Signatories shall adopt rules, applicable to any Event for which the Signatory is the ruling body or for any team selection process for which the Signatory is responsible or where the Signatory is the applicable International Federation or has results management authority over the alleged anti-doping rule violation, providing that when an A Sample Adverse Analytical Finding is received for a Prohibited Substance, other than a Specified Substance, a Provisional Suspension shall be imposed promptly after the review and notification described in Articles 7.1 and 7.2.

Provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* is given either: (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis

[Comment to Article 7.5: Before a Provisional Suspension can be unilaterally imposed by an Anti-Doping Organization, the internal review specified in the Code must first be completed. In addition, a Signatory imposing a Provisional Suspension is required to give the Athlete an opportunity for a Provisional Hearing either before or promptly after the imposition of the Provisional Suspension, or an expedited final hearing under Article 8 promptly after imposition of the Provisional Suspension. The Athlete has a right to appeal under Article 13.2.

In the rare circumstance where the B Sample analysis does not confirm the A Sample finding, the Athlete who had been provisionally suspended will be allowed, where circumstances permit, to participate in subsequent Competitions during the Event. Similarly, depending upon the relevant rules of the International Federation in a Team Sport, if the team is still in Competition, the Athlete may be able to take part in future Competitions.

Athletes shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed as provided in Article 10.9.3.] after imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.

7.5.2 Optional *Provisional Suspension* based on A Sample Adverse Analytical Finding for Specified Substances or other anti-doping rule violations

A Signatory may adopt rules, applicable to any Event for which the Signatory is the ruling body or for any team selection process for which the Signatory is responsible or where the Signatory is the applicable International Federation or has results management authority over the alleged anti-doping rule violation, permitting Provisional Suspensions to be imposed for anti-doping rule violations other than an Adverse Analytical Finding, or after the review and notification described in Articles 7.1 and 7.2 for Specified Substances, but prior to the analysis of the Athlete's B Sample or the final hearing as described in Article 8 (Right to a Fair Hearing).

Provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* or other *Person* is given either: (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.

If a *Provisional Suspension* is imposed based on an A *Sample Adverse Analytical Finding* and a

subsequent B Sample analysis (if requested by the Athlete or Anti-Doping Organization) does not confirm the A Sample analysis, then the Athlete shall not be subject to any further Provisional Suspension on account of a violation of Article 2.1 (Presence of a *Prohibited* Substance or its Metabolites or Markersl. In circumstances where the Athlete for the Athlete's team as may be provided in the rules of the applicable International Federation) has been removed from a *Competition* based on a violation of Article 2.1 and the subsequent B Sample analysis does not confirm the A Sample finding, if, without otherwise affecting the Competition, it is still possible for the Athlete or team to be reinserted, the Athlete or team may continue to take part in the Competition.

#### 7.6 Retirement from Sport

If an Athlete or other Person retires while a results. management process is underway, the Anti-Doping Organization conducting the results management process retains jurisdiction to complete its results management process. If an Athlete or other Person retires before any results management process has begun, the Anti-Doping Organization which would have had results management jurisdiction over the Athlete or other Person at the time the Athlete or other *Person* committed an anti-doping rule violation. has jurisdiction to conduct results management.

[Comment to Article 7.6: Conduct by anti-doping rule violation but could be an Athlete or other Person before the Athlete or other Person was subject to Athlete or other Person membership the jurisdiction of any Anti-Doping Organization would not constitute an

a legitimate basis for denying the in a sports organization.]

# **ARTICLE 8: RIGHT TO A FAIR HEARING**

#### 8.1 Fair Hearings

Each Anti-Doping Organization with responsibility for results management shall provide a hearing process for any Person who is asserted to have committed an anti-doping rule violation. Such hearing process shall address whether an anti-doping rule violation was committed and, if so, the appropriate Consequences. The hearing process shall respect the following principles:

- a timely hearing;
- a fair and impartial hearing panel;
- the right to be represented by counsel at the *Person*'s own expense;
- the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;
- the right to respond to the asserted anti-doping rule violation and resulting *Consequences*;
- the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing panel's discretion to accept testimony by telephone or written submission);
- the Person's right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost, of the interpreter; and

[Comment to Article 8.1: This Article contains basic principles relative to ensuring a fair hearing for Persons asserted to have committed antidoping rule violations. This Article is

not intended to supplant each Signatory's own rules for hearings but rather to ensure that each Signatory provides a hearing process consistent with these principles.]  a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of *Ineligibility*.

### 8.2 Event Hearings

Hearings held in connection with *Events* may be conducted by an expedited process as permitted by the rules of the relevant *Anti-Doping Organization* and the hearing panel.

### 8.3 Waiver of Hearing

The right to a hearing may be waived either expressly or by the *Athlete*'s or other *Person*'s failure to challenge an *Anti-Doping Organization*'s assertion that an anti-doping rule violation has occurred within the specific time period provided in the *Anti-Doping Organization*'s rules. Where no hearing occurs, the *Anti-Doping Organization* with results management responsibility shall submit to the *Person*s described in Article 13.2.3 a reasoned decision explaining the action taken.

[Comment to Article 8.2: For example, a hearing could be expedited on the eve of a major Event where the resolution of the anti-doping rule violation is necessary to determine the

Athlete's eligibility to participate in the Event or during an Event where the resolution of the case will affect the validity of the Athlete's results or continued participation in the Event.]

# ARTICLE 9: AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

[Comment to Article 9: When an Athlete wins a gold medal with a Prohibited Substance in his or her system, that is unfair to the other Athletes in that Competition regardless of whether the gold medalist was at fault in any way. Only a "clean" Athlete should be allowed to benefit from his or her competitive results.

For Team Sports, see Article 11 (Consequences to Teams). In sports which are not Team Sports but where awards are given to teams, Disqualification or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the International Federation.]

## **ARTICLE 10: SANCTIONS ON INDIVIDUALS**

# 10.1 Disqualification of Results in the Event During which an Anti-Doping Rule Violation Occurs

An anti-doping rule violation occurring during or in connection with an *Event* may, upon the decision of the ruling body of the *Event*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Event* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.

10.1.1 If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete's individual results in the other Competitions shall not be Disqualified unless the Athlete's results in Competitions other than the Competition in which the antidoping rule violation occurred were likely to have been affected by the Athlete's antidoping rule violation.

[Comment to Article 10.1: Whereas Article 9 (Automatic Disqualification of Individual Results) Disqualifies the result in a single Competition in which the Athlete tested positive (e.g., the 100 meter backstroke), this Article may lead to Disqualification of all results in all races during the Event

(e.g., the FINA World Championships). Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the severity of the Athlete's antidoping rule violation and whether the Athlete tested negative in the other Competitions.]

# 10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

The period of *Ineligibility* imposed for a violation of Article 2.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Article 2.2 (*Use* or *Attempted Use* of *Prohibited Substance* or *Prohibited Method*) or Article 2.6 (*Possession* of *Prohibited Substances* and *Prohibited Methods*) shall be as follows, unless the conditions for eliminating or reducing the period of *Ineligibility*, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of *Ineligibility*, as provided in Article 10.6, are met:

First violation: Two (2) years Ineligibility.

[Comment to Article 10.2: Harmonization of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonization of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are professionals making a sizable income from the sport and in others the Athletes are true amateurs: in those sports where an Athlete's career is short (e.g., artistic gymnastics) a two-year Disqualification has a much more significant effect on the Athlete than in sports where careers are traditionally much longer (e.g., equestrian and shooting); in Individual Sports, the Athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favor of harmonization is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organizations to be more lenient with dopers. The lack of harmonization of sanctions has also frequently been the source of iurisdictional conflicts between International Federations and National Anti-Doping Organizations.]

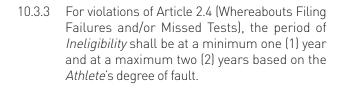
#### 10.3 Ineligibility for Other Anti-Doping Rule Violations

The period of *Ineligibility* for anti-doping rule violations other than as provided in Article 10.2 shall be as follows:

- 10.3.1 For violations of Article 2.3 (Refusing or Failing to Submit to Sample Collection) or Article 2.5 (Tampering with Doping Control), the Ineligibility period shall be two (2) years unless the conditions provided in Article 10.5, or the conditions provided in Article 10.6, are met.
- 10 3 2 For violations of Articles 2.7 (Trafficking or Attempted Trafficking) or 2.8 (Administration or Attempted Administration of Prohibited Substance or Prohibited Method), the period of *Ineliaibility* imposed shall be a minimum of four (4) years up to lifetime *Ineliaibility* unless the conditions provided in Article 10.5 are met. An anti-doping rule violation involving a Minor shall be considered a particularly serious violation and, if committed by Athlete Support Personnel for violations other than Specified Substances referenced in Article 4.2.2. shall result in lifetime *Ineliaibility* for Athlete Support Personnel. In addition. significant violations of Articles 2.7 or 2.8 which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

[Comment to Article 10.3.2: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organizations is generally limited to

Ineligibility for credentials, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]



# 10.4 Elimination or Reduction of the Period of *Ineligibility* for Specified Substances under Specific Circumstances

Where an Athlete or other Person can establish how a Specified Substance entered his or her body or came into his or her Possession and that such Specified Substance was not intended to enhance the Athlete's sport performance or mask the Use of a performance-enhancing substance, the period of Ineligibility found in Article 10.2 shall be replaced with the following:

[Comment to Article 10.3.3: The sanction under Article 10.3.3 shall be two years where all three filing failures or missed tests are

inexcusable. Otherwise, the sanction shall be assessed in the range of two years to one year, based on the circumstances of the case.

[Comment to Article 10.4: Specified Substances are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a Specified Substance could be very effective to an Athlete in competition); for that reason, an Athlete who does not meet the criteria under this Article would receive a two-year period of Ineligibility and could receive up to a four-year period of Ineligibility

under Article 10.6. However, there is a greater likelihood that Specified Substances, as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation. This Article applies only in those cases where the hearing panel is comfortably satisfied by the objective circumstances of the case that the Athlete in taking or Possessing a Prohibited Substance did not intend to enhance his or her sport

<u>First violation</u>: At a minimum, a reprimand and no period of *Ineligibility* from future *Events*, and at a maximum, two (2) years of *Ineligibility*.

To justify any elimination or reduction, the *Athlete* or other *Person* must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the *Use* of a performance-enhancing substance. The *Athlete's* or other *Person's* degree of fault shall be the criterion considered in assessing any reduction of the period of *Ineligibility*.

performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete: the Athlete's open Use or disclosure of his or her Use of the Specified Substance; and a contemporaneous medical records file substantiating the non sport-related prescription for the Specified Substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Athlete to prove lack of an intent to enhance sport performance.

While the absence of intent to enhance sport performance must be established to the comfortable satisfaction of the hearing panel, the Athlete may establish how the Specified Substance entered the body by a balance of probability.

In assessing the Athlete's or other Person's degree of fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article. It is anticipated that the period of Ineligibility will be eliminated entirely in only the most exceptional cases.]

# 10.5 Elimination or Reduction of Period of *Ineligibility*Based on Exceptional Circumstances

### 10.5.1 No Fault or Negligence

If an Athlete establishes in an individual case that he or she bears *No Fault or Negligence*, the otherwise applicable period of *Ineligibility* shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 [Presence of Prohibited Substance], the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of *Ineligibility* eliminated. In the event this Article is applied and the period of *Ineligibility* otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.7.

[Comment to Articles 10.5.1 and 10.5.2: The Code provides for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organizations that argue for a much narrower exception, or none at all, and those that would reduce a two-year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred Article 10.5.2

may be applied to any anti-doping rule violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.

Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a

### 10.5.2 No Significant Fault or Negligence

If an Athlete or other Person establishes in an individual case that he or she bears No. Significant Fault or Negligence, then the otherwise applicable period of *Ineligibility* may be reduced, but the reduced period of Ineliaibility may not be less than one-half of period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineliaibility* is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 Presence of a *Prohibited Substance* or its Metabolites or Markers) the Athlete must

positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination): (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse. coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction

may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.) For purposes of assessing the Athlete's or other Person's fault under Articles 10.5.1 and 10.5.2, the evidence considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article.

also establish how the Prohibited Substance entered his or her system in order to have the period of *Ineligibility* reduced.

#### 1053 Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations

An Anti-Doping Organization with results management responsibility for an anti-doping rule violation may, prior to a final appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the period of *Ineligibility* imposed in an individual case where the Athlete or other Person has provided Substantial Assistance to an Anti-Doping Organization, criminal authority or professional disciplinary body which results in the Anti-Doping Organization discovering or establishing an anti-doping rule violation by another *Person* or which results in a criminal or disciplinary body discovering or establishing criminal offense or the breach

While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete's or other Person's fault under Article 10.5.2. as well as Articles 10.3.3, 10.4 and 10.5.1

Article 10.5.2 should not be applied in cases where Articles 10.3.3 or 10.4 apply, as those Articles already take into consideration the Athlete's or other Person's degree of fault for purposes of establishing the applicable period of Ineliaibility.]

[Comment to Article 10.5.3: The cooperation of Athletes. Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other antidoping rule violations to light is important to clean sport.

Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involvina Traffickina under Article 2.7 or administration under

professional rules by another Person. After a final appellate decision under Article 13 or the expiration of time to appeal, an Anti-Doping Organization may only suspend a part of the otherwise applicable period of *Ineligibility* with the approval of WADA and the applicable International Federation. The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the Athlete or other Person and the significance of the Substantial Assistance provided by the Athlete or other Person to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* suspended. If the otherwise mav be applicable period of *Ineligibility* is a lifetime, the non-suspended period under this section must be no less than eight (8) years. If the Anti-Doping Organization suspends any part of the otherwise applicable period of Ineligibility under this Article, the Anti-Doping Organization shall promptly provide a written justification for its decision to each Anti-Doping Organization having a right to appeal the decision. If the Anti-Doping Organization subsequently reinstates any part of

Article 2.8 is involved and whether the violation involved a substance or method which is not readily detectible in Testing. The maximum suspension of the Ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit which the Person providing

Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the greater the percentage of the otherwise applicable period of Ineligibility may be suspended.

If the Athlete or other Person who is asserted to have committed an anti-doping rule violation claims

the suspended period of *Ineligibility* because the *Athlete* or other *Person* has failed to provide the *Substantial Assistance* which was anticipated, the *Athlete* or other *Person* may appeal the reinstatement pursuant to Article 13.2.

entitlement to a suspended period of Ineligibility under this Article in connection with the Athlete's or other Person's waiver of a hearing under Article 8.3 (Waiver of Hearing), the Anti-Doping Organization shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Article. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility before the conclusion of a hearing under Article 8 on the anti-doping rule violation, the hearing panel shall determine whether a suspension of a portion of the otherwise applicable period of Ineligibility is appropriate under this Article at the same time the hearing panel decides whether the Athlete or other Person has committed an anti-doping rule violation. If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the anti-doping rule violation or other offense. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility after

a final decision finding an anti-doping rule violation has been rendered and is not subject to appeal under Article 13. but the Athlete or other Person is still serving the period of Ineligibility. the Athlete or other Person may apply to the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation to consider a suspension in the period of Ineligibility under this Article. Any such suspension of the otherwise applicable period of Ineligibility shall require the approval of WADA and the applicable International Federation. If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, the Anti-Doping Organization with results management authority shall reinstate the period of Ineligibility which would otherwise be applicable. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.

This is the only circumstance under the Code where the suspension of an otherwise applicable period of Ineligibility is authorized.]

# 10.5.4 Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence

Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.

10.5.5 Where an Athlete or Other Person
Establishes Entitlement to Reduction
in Sanction Under More than One
Provision of this Article

Before applying any reduction or suspension under Articles 10.5.2, 10.5.3 or 10.5.4, the otherwise applicable period of *Ineligibility* 

[Comment to Article 10.5.4: This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organization is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught.]

[Comment to Article 10.5.5: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Article 10.2, Article 10.3. Article 10.4 or Article

10.6) applies to the particular antidoping rule violation. In a second step, the hearing panel establishes whether there is a basis for suspension, elimination or reduction of the sanction (Articles 10.5.1

shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.6. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under two or more of Articles 10.5.2, 10.5.3 or 10.5.4, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

through 10.5.4). Note, however, not all grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Article 10.5.2 does not apply in cases involving Articles 10.3.3 or 10.4, since the hearing panel, under Articles 10.3.3 and 10.4, will already have determined the period of Ineligibility based on the Athlete's or other Person's degree of fault. In a third step, the hearing panel determines under Article 10.5.5 whether the Athlete or other Person is entitled to elimination, reduction or suspension under more than one provision of Article 10.5. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 10.9.

The following four examples demonstrate the proper sequence of analysis:

#### Example 1:

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; the Athlete promptly admits the anti-doping rule violation as asserted; the Athlete establishes No Significant Fault (Article 10.5.2); and the Athlete provides Substantial Assistance (Article 10.5.3).

#### Application of Article 10:

- 1. The basic sanction would be two years under Article 10.2. (Aggravating Circumstances (Article 10.6) would not be considered because the Athlete promptly admitted the violation. Article 10.4 would not apply because a steroid is not a Specified Substance.)
- Based on No Significant Fault alone, the sanction could be reduced up to one-half of the two years. Based on Substantial Assistance alone, the sanction could be reduced up to threequarters of the two years.
- 3. Under Article 10.5.5, in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three-quarters of the two years. Thus, the minimum sanction would be a six-month period of Ineligibility.
- 4. Under Article 10.9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the

Athlete would have to serve at least one-half of the Ineligibility period (minimum three months) after the date of the hearing decision.

#### Example 2:

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; aggravating circumstances exist and the Athlete is unable to establish that he did not knowingly commit the anti-doping rule violation; the Athlete does not promptly admit the anti-doping rule violation as alleged; but the Athlete does provide Substantial Assistance (Article 10.5.3).

#### Application of Article 10:

- The basic sanction would be between two and four years Ineligibility as provided in Article 10.6
- Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the maximum four years.
- 3. Article 10.5.5 does not apply.
- 4. Under Article 10.9.2, the period of Ineligibility would start on the date of the hearing decision.

#### Example 3:

Facts: An Adverse Analytical Finding involves the presence of a Specified Substance; the Athlete establishes how the Specified Substance entered his body and that he had no intent to enhance his sport performance; the Athlete establishes that he had very little fault; and the Athlete provides Substantial Assistance (Article 10.5.3).

#### Application of Article 10:

- 1. Because the Adverse Analytical Finding involved a Specified Substance and the Athlete has satisfied the other conditions of Article 10.4, the basic sanction would fall in the range between a reprimand and two years Ineligibility. The hearing panel would assess the Athlete's fault in imposing a sanction within that range. (Assume for illustration in this example that the panel would otherwise impose a period of Ineligibility of eight months.)
- 2. Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the eight months. (No less than two months.) No Significant Fault (Article 10.2) would not be applicable because the Athlete's degree of fault was already taken into consideration in establishing the eight-month period of Ineligibility in step 1.
- 3. Article 10.5.5 does not apply.
- 4. Under Article 10.9.2. because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Athlete would have to serve at least half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)

#### Example 4:

<u>Facts</u>: An Athlete who has never had an Adverse Analytical Finding or been confronted with an anti-doping

rule violation spontaneously admits that he intentionally used multiple Prohibited Substances to enhance his performance. The Athlete also provides Substantial Assistance (Article 10.5.3).

#### Application of Article 10:

- 1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances (Article 10.6), the Athlete's spontaneous admission means that Article 10.6 would not apply. The fact that the Athlete's Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Article 10.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus. Article 10.2 would be applicable and the basic period of Ineligibility imposed would be two years.
- Based on the Athlete's spontaneous admissions (Article 10.5.4) alone, the period of Ineligibility could be reduced up to one-half of the two years.

- Based on the Athlete's Substantial Assistance (Article 10.5.3) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.
- 3. Under Article 10.5.5, in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three-quarters of the two years. (The minimum period of Ineligibility would be six months.)
- 4. If Article 10.5.4 was considered by the hearing panel in arriving at the minimum six-month period of Ineligibility at step 3, the period of Ineligibility would start on the date the hearing panel imposed the sanction. If. however, the hearing panel did not consider the application of Article 10.5.4 in reducing the period of Ineligibility in step 3, then under Article 10.9.2, the commencement of the period of Ineligibility could be started as early as the date the anti-doping rule violation was committed, provided that at least half of that period (minimum of three months) would have to be served after the date of the hearing decision.]

# 10.6 Aggravating Circumstances Which May Increase the Period of *Ineligibility*

If the Anti-Doping Organization establishes in an individual case involving an anti-doping rule violation other than violations under Articles 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four (4) years unless the Athlete or other Person can prove to the comfortable satisfaction of the hearing panel that he or she did not knowingly commit the anti-doping rule violation.

An Athlete or other Person can avoid the application of this Article by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by an Anti-Doping Organization.

[Comment to Article 10.6: Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the antidoping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions: a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person

engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation.

For the avoidance of doubt, the examples of aggravating circumstances described in this Comment to Article 10.6 are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Articles 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) are not included in the application of Article 10.6 because the sanctions for these violations (from four years to lifetime Ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.]

### 10.7 Multiple Violations

### 10.7.1 Second Anti-Doping Rule Violation

For an Athlete's or other Person's first antidoping rule violation, the period of Ineligibility is set forth in Articles 10.2 and 10.3 (subject to elimination, reduction or suspension under Articles 10.4 or 10.5, or to an increase under Article 10.6). For a second anti-doping rule violation the period of Ineligibility shall be within the range set forth in the table below.

Second Violation First Violation	RS	FFMT	NSF	St	AS	TRA
RS	1-4	2-4	2-4	4-6	8-10	10-life
FFMT	1-4	4-8	4-8	6-8	10-life	life
NSF	1-4	4-8	4-8	6-8	10-life	life
St	2-4	6-8	6-8	8-life	life	life
AS	4-5	10-life	10-life	life	life	life
TRA	8-life	life	life	life	life	life

[Comment to Article 10.7.1: The table is applied by locating the Athlete's or other Person's first anti-doping rule violation in the left-hand column and then moving across the table to the right to the column representing the second violation. By way of example, assume an Athlete receives the standard period of Ineligibility for a first violation under Article 10.2 and then commits a second violation for which he receives a reduced sanction for a Specified Substance under Article 10.4. The table is used to determine the period of Ineligibility

for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row which is "St" for standard sanction, then moving across the table to the first column which is "RS" for reduced sanction for a Specified Substance, thus resulting in a 2-4 year range for the period of Ineligibility for the second violation. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing a period of Ineligibility within the applicable range.]

Definitions for purposes of the second antidoping rule violation table:

**RS** (Reduced sanction for Specified Substance under Article 10.4): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.4 because it involved a Specified Substance and the other conditions under Article 10.4 were met.

**FFMT** (Filing Failures and/or Missed Tests): The anti-doping rule violation was or should be sanctioned under Article 10.3.3 (Filing Failures and/or Missed Tests).

**NSF** (Reduced sanction for *No Significant Fault* or *Negligence*): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.5.2 because *No Significant Fault* or *Negligence* under Article 10.5.2 was proved by the *Athlete*.

**St** (Standard sanction under Articles 10.2 or 10.3.1): The anti-doping rule violation was or should be sanctioned by the standard sanction of two (2) years under Articles 10.2 or 10.3.1.

**AS** (Aggravated sanction): The anti-doping rule violation was or should be sanctioned by an aggravated sanction under Article 10.6 because the *Anti-Doping Organization* established the conditions set forth under Article 10.6.

**TRA** (*Trafficking* or *Attempt*ed *Trafficking* and administration or *Attempt*ed administration): The anti-doping rule violation was or should be sanctioned by a sanction under Article 10.3.2.

[Comment to Article 10.7.1 RS Definition: See Article 25.4 with

respect to application of Article 10.7.1 to pre-Code anti-doping rule violations.]

# 10.7.2 Application of Articles 10.5.3 and 10.5.4 to Second Anti-Doping Rule Violation

Where an Athlete or other Person who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of Ineliaibility under Article 10.5.3 or Article 10.5.4, the hearing panel shall first determine otherwise applicable period *Ineliaibility* within the range established in the table in Article 10.7.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of *Ineligibility*, after applying any suspension or reduction under Articles 10.5.3 and 10.5.4 must be at least one-fourth of the otherwise applicable period of Ineligibility.

### 10.7.3 Third Anti-Doping Rule Violation

A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfills the condition for elimination or reduction of the period of *Ineligibility* under Article 10.4 or involves a violation of Article 2.4 (Filing Failures and/or and Missed Tests). In these particular cases, the period of *Ineligibility* shall be from eight (8) years to life ban.

# 10.7.4 Additional Rules for Certain Potential Multiple Violations

- For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if the Anti-Doping Organization can establish that the Athlete or other Person committed the second antidoping rule violation after the Athlete or other *Person* received notice pursuant to Article 7 (Results Management), or after the Anti-Doping Organization made reasonable efforts to give notice, of the first anti-doping rule violation; if the Anti-Dopina Organization cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction: however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances (Article 10.6).
- If, after the resolution of a first anti-doping rule violation, an Anti-Doping Organization discovers facts involving an anti-doping

[Comment to Article 10.7.4: In a hypothetical situation, an Athlete commits an anti-doping rule violation on January 1, 2008, which the Anti-Doping Organization does not discover until December 1, 2008. In the meantime, the Athlete commits another anti-doping rule violation on March 1, 2008, and the Athlete is notified of this violation by the Anti-Doping Organization on March 30, 2008, and a hearing panel rules

on June 30, 2008 that the Athlete committed the March 1, 2008 anti-doping rule violation. The later-discovered violation which occurred on January 1, 2008 will provide the basis for aggravating circumstances because the Athlete did not voluntarily admit the violation in a timely basis after the Athlete received notification of the later violation on March 30, 2008.

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rule violation by the Athlete or other which Person occurred prior notification regarding the first violation, then the Anti-Doping Organization shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have been adjudicated at the same time. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Article 10.8. To avoid the possibility of a finding of aggravating circumstances (Article 10.6) on account of the earlier-in-time but later-discovered violation, the Athlete or other *Person* must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged. The same rule shall also apply when the Anti-Doping Organization discovers facts involving another prior violation after the resolution of a second anti-doping rule violation.

# 10.7.5 Multiple Anti-Doping Rule Violations During an Eight-Year Period

For purposes of Article 10.7, each anti-doping rule violation must take place within the same eight-year period in order to be considered multiple violations.

# 10.8 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9 (Automatic Disqualification of Individual Results), all other competitive results obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.

10.8.1 As a condition of regaining eligibility after being found to have committed an anti-doping rule violation, the *Athlete* must first repay all prize money forfeited under this Article.

# 10.8.2 Allocation of Forfeited Prize Money

Unless the rules of the International Federation provide that forfeited prize money shall be reallocated to other *Athletes*, it shall be allocated first to reimburse the collection expenses of the *Anti-Doping Organization* that performed the necessary steps to collect the prize money back, then to reimburse the expenses of the *Anti-Doping Organization* that conducted results management in the case, with the balance, if any, allocated in accordance with the International Federation's rules

[Comment to Article 10.8.2: Nothing in the Code precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]

### 10.9 Commencement of Ineligibility Period

Except as provided below, the period of *Ineligibility* shall start on the date of the hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* imposed.

# 10.9.1 Delays Not Attributable to the *Athlete* or other *Person*

Where there have been substantial delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete* or other *Person*, the body imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another antidoping rule violation last occurred.

### 10.9.2 Timely Admission

Where the Athlete or other Person promptly (which, in all events, for an Athlete means before the Athlete competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by the Anti-Doping Organization, the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Article is applied, the Athlete or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date

[Comment to Article 10.9.2: This Article shall not apply where the period of Ineligibility already has been reduced under Article 10.5.4 (Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence).]

- of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.
- 10.9.3 If a *Provisional Suspension* is imposed and respected by the *Athlete*, then the *Athlete* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed.
- 10.9.4 If an Athlete voluntarily accepts a Provisional Suspension in writing from an Anti-Doping Organization with results management authority and thereafter refrains from competing, the Athlete shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of a potential anti-doping rule violation under Article 14.1.
- 10.9.5 No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary *Provisional Suspension* regardless of whether the *Athlete* elected not to compete or was suspended by his or her team.

[Comment to Article 10.9.4: An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.]

[Comment to Article 10.9: The text of Article 10.9 has been revised to make clear that delays not attributable to the Athlete, timely admission by the Athlete and Provisional Suspension are the only justifications for starting the period of Ineligibility earlier than the date of the hearing decision. This amendment corrects inconsistent interpretation and application of the previous text.]

#### 10.10 Status During Ineligibility

# 10.10.1 Prohibition Against Participation During *Ineligibility*

No Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorized anti-doping education or rehabilitation programs) authorized or organized by any Signatory, Signatory's member organization, or a club or other member organization of a Signatory's member organization, or in Competitions authorized or organized by any professional league or any international- or national-level Event organization.

An Athlete or other Person subject to a period of Ineligibility longer than four (4) years may, after completing four (4) years of the period of Ineligibility, participate in local sport events in a sport other than the sport in which the Athlete or other Person committed the anti-doping rule violation, but only so long as the local sport event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in (or accumulate points toward) a national championship or International Event.

An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing.

[Comment to Article 10.10.1: For example, an ineligible Athlete cannot participate in a training camp, exhibition or practice organized by his or her National Federation or a club which is a member of that National Federation. Further, an ineligible Athlete may not compete in a non-Signatory professional league (e.g., the National Hockey League, the

National Basketball Association, etc.), Events organized by a non-Signatory International Event organization or a non-Signatory national-level event organization without triggering the consequences set forth in Article 10.10.2. Sanctions in one sport will also be recognized by other sports (see Article 15.4 Mutual Recognition).]

# 10.10.2 Violation of the Prohibition of Participation During *Ineligibility*

Where an Athlete or other Person who has been declared *Ineligible* violates the prohibition against participation during Ineligibility described in Article 10.10.1, the results of such participation shall be Disqualified and the period of Ineligibility which was originally imposed shall start over again as of the date of the violation. The new period of *Ineligibility* may be reduced under Article 10.5.2 if the Athlete or other *Person* establishes he or she bears *No* Significant Fault or Negligence for violating the prohibition against participation. determination of whether an Athlete or other Person has violated the prohibition against participation, and whether a reduction under Article 10.5.2 is appropriate, shall be made by the Anti-Doping Organization whose results management led to the imposition of the initial period of Ineligibility.

# 10.10.3 Withholding of Financial Support during *Ineligibility*

In addition, for any anti-doping rule violation not involving a reduced sanction for Specified

[Comment to Article 10.10.2: If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation which resulted in the period of Ineligibility shall determine whether the Athlete or other Person violated the prohibition and, if so, whether the Athlete or other Person has established grounds for a reduction in the restarted period of Ineligibility

under Article 10.5.2. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.

Where an Athlete Support Personnel or other Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, an Anti-Doping Organization with jurisdiction over such Athlete Support Personnel or other Person may appropriately impose sanctions under its own disciplinary rules for such assistance.]

Substances as described in Article 10.4, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *Signatories*, *Signatories* member organizations and governments.

#### 10.11 Reinstatement Testing

As a condition to regaining eligibility at the end of a specified period of *Ineligibility*, an *Athlete* must, during any period of *Provisional Suspension* or Ineligibility, make him or herself available for Out-of-Competition Testing by any Anti-Doping Organization having Testing jurisdiction, and must, if requested, current and accurate whereahouts information. If an Athlete subject to a period of *Ineligibility* retires from sport and is removed from Out-of-Competition Testing pools and later seeks reinstatement, the Athlete shall not be eligible for reinstatement until the Athlete has notified relevant Anti-Doping Organizations and has been subject to Out-of-Competition Testing for a period of time equal to the period of *Ineligibility* remaining as of the date the Athlete had retired

#### 10.12 Imposition of Financial Sanctions

Anti-Doping Organizations may, in their own rules, provide for financial sanctions on account of anti-doping rule violations. However, no financial sanction may be considered a basis for reducing the period of *Ineligibility* or other sanction which would otherwise be applicable under the *Code*.

[Comment to Article 10.12: For example, if a hearing panel were to find in a case that the cumulative effect of the sanction applicable under the Code and a financial sanction provided in the rules of

an Anti-Doping Organization would result in too harsh a consequence, then the Anti-Doping Organization's financial sanction, not the other Code sanctions (e.g., Ineligibility and loss of results), would give way.]

#### **ARTICLE 11: CONSEQUENCES TO TEAMS**

#### 11.1 Testing of Team Sports

Where more than one member of a team in a *Team Sport* has been notified of an anti-doping rule violation under Article 7 in connection with an *Event*, the ruling body for the *Event* shall conduct appropriate *Target Testing* of the team during the *Event Period*.

#### 11.2 Consequences for Team Sports

If more than two members of a team in a *Team Sport* are found to have committed an anti-doping rule violation during an *Event Period*, the ruling body of the *Event* shall impose an appropriate sanction on the team (e.g., loss of points, *Disqualification* from a *Competition* or *Event*, or other sanction) in addition to any *Consequences* imposed upon the individual *Athletes* committing the anti-doping rule violation.

#### 11.3 Event Ruling Body May Establish Stricter Consequences for Team Sports

The ruling body for an *Event* may elect to establish rules for the *Event* which impose *Consequences* for *Team Sports* stricter than those in Article 11.2 for purposes of the *Event*.

[Comment to Article 11.3: For example, the International Olympic Committee could establish rules which would require Disqualification of a team from the Games of the Olympiad based on a lesser number of anti-doping rule violations during the period of the Games of the Olympiad.]

#### ARTICLE 12: SANCTIONS AGAINST SPORTING BODIES

Nothing in the Code precludes any Signatory or government accepting the Code from enforcing its own rules for the purpose of imposing sanctions on another sporting body over which the Signatory or government has authority.

#### **ARTICLE 13: APPEALS**

#### 13.1 **Decisions Subject to Appeal**

Decisions made under the *Code* or rules adopted pursuant to the Code may be appealed as set forth below in Articles 13.2 through 13.4 or as otherwise provided in the Code. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in the Anti-Doping Organization's rules must be exhausted, provided that such review respects the principles set forth in Article 13.2.2 below (except as provided in Article 13.1.1).

[Comment to Article 12: This Article makes it clear that the Code does not restrict whatever disciplinary rights

between organizations may otherwise exist.1

## 13.1.1 WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within the Anti-Doping Organization's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the Anti-Doping Organization process.

# 13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions

A decision that an anti-doping rule violation was committed, a decision imposing Consequences for an anti-doping rule violation, or a decision that no antidoping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision under Article 10.10.2 (Violation of the Prohibition of Participation during Ineligibility); a decision that an Anti-Doping Organization lacks jurisdiction to rule on an alleged anti-doping rule violation or its Consequences; a decision by an Anti-Doping Organization not to bring forward an Adverse Analytical Finding or an Atypical Finding as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under Article 7.4; and a decision to impose a Provisional Suspension as a result of a Provisional Hearing or in violation of Article 7.5, may be appealed exclusively as provided in this Article 13.2.

[Comment to Article 13.1.1: Where a decision has been rendered before the final stage of an Anti-Doping Organization's process (e.g., a first hearing) and no party elects to appeal that decision to the next level of the

Anti-Doping Organization's process (e.g., the Managing Board), then WADA may bypass the remaining steps in the Anti-Doping Organization's internal process and appeal directly to CAS.]

### 13.2.1 Appeals Involving International-Level Athletes

In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court

#### 13.2.2 Appeals Involving National-Level Athletes

In cases involving national-level Athletes, as defined by each National Anti-Doping Organization, who do not have a right to appeal under Article 13.2.1, the decision may be appealed to an independent and impartial body in accordance with rules established by the National Anti-Doping Organization. The rules for such appeal shall respect the following principles:

- a timely hearing;
- a fair, impartial and independent hearing panel;
- the right to be represented by counsel at the Person's own expense; and
- a timely, written, reasoned decision.

[Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by

law applicable to the annulment or enforcement of arbitral awards.]

[Comment to Article 13.2.2: An Anti-Doping Organization may elect to comply with this Article by giving its national-level Athletes the right to appeal directly to CAS.]

#### 13.2.3 Persons Entitled to Appeal

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS: (a) the Athlete or other Person who is the subject of the decision being appealed: (b) the other party to the case in which the decision was rendered: (c) the relevant International Federation; (d) the National Anti-Doping Organization of the Person's country of residence or countries where the Person is a national or license holder: (e) the International Olympic Committee International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games: and (f) WADA.

In cases under Article 13.2.2, the parties having the right to appeal to the nationallevel reviewing body shall be as provided in the National Anti-Doping Organization's rules but, at a minimum, shall include the following parties: (a) the Athlete or other Person who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered: (c) the relevant International Federation: (d) the National Anti-Doping Organization of the Person's country of residence; and (e) WADA. For cases under Article 13.2.2. WADA and the International Federation shall also have the right to appeal to CAS with respect to the decision of the national-level reviewing body. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organization whose decision is being appealed and the information shall be provided if *CAS* so directs.

The filing deadline for an appeal or intervention filed by WADA shall be the later of:

- (a) Twenty-one (21) days after the last day on which any other party in the case could have appealed, or
- (b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision.

Notwithstanding any other provision herein, the only *Person* who may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

# 13.3 Failure to Render a Timely Decision by an *Anti-Doping Organization*

Where, in a particular case, an *Anti-Doping Organization* fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by *WADA*, *WADA* may elect to appeal directly to *CAS* as if the *Anti-Doping Organization* had rendered a decision finding no anti-doping rule violation. If the *CAS* hearing panel determines that an anti-doping rule violation was

[Comment to Article 13.3: Given the different circumstances of each antidoping rule violation investigation and results management process, it is not feasible to establish a fixed time period for an Anti-Doping Organization to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping

Organization and give the Anti-Doping Organization an opportunity to explain why it has not yet rendered a decision. Nothing in this Article prohibits an International Federation from also having rules which authorize it to assume jurisdiction for matters in which the results management performed by one of its National Federations has been inappropriately delayed.] committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorneys fees in prosecuting the appeal shall be reimbursed to WADA by the Anti-Doping Organization.

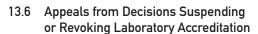
# 13.4 Appeals from Decisions Granting or Denying a Therapeutic Use Exemption

Decisions by WADA reversing the grant or denial of a therapeutic use exemption may be appealed exclusively to CAS by the Athlete or the Anti-Doping Organization whose decision was reversed. Decisions by Anti-Doping Organizations other than WADA denying therapeutic use exemptions, which are not reversed by WADA, may be appealed by International-Level Athletes to CAS and by other Athletes to the national-level reviewing body described in Article 13.2.2. If the national-level reviewing body reverses the decision to deny a therapeutic use exemption, that decision may be appealed to CAS by WADA.

When an Anti-Doping Organization fails to take action on a properly submitted therapeutic use exemption application within a reasonable time, the Anti-Doping Organization's failure to decide may be considered a denial for purposes of the appeal rights provided in this Article

### 13.5 Appeals from Decisions under Part Three and Part Four of the *Code*

With respect to a WADA report of noncompliance under Article 23.4.5 or any Consequences imposed under Part Three (Roles and Responsibilities) of the Code, the entity to which the WADA report pertains or upon which Consequences are imposed under Part Three of the Code shall have the right to appeal exclusively to CAS in accordance with the provisions applicable before such court.



Decisions by WADA to suspend or revoke a laboratory's WADA accreditation may be appealed only by that laboratory with the appeal being exclusively to CAS.

# ARTICLE 14: CONFIDENTIALITY AND REPORTING

The principles of coordination of anti-doping results, public transparency and accountability and respect for the privacy interests of individuals alleged to have violated anti-doping rules are:

#### 14.1 Information Concerning Adverse Analytical Findings, Atypical Findings, and Other Potential Anti-Doping Rule Violations

#### 14.1.1 Notice to Athletes and Other Persons

An Athlete whose Sample is brought forward as an Adverse Analytical Finding after the initial review under Articles 7.1 or 7.3, or an Athlete or other Person who is asserted to have committed an anti-doping rule violation after the initial review under Article 7.4, shall be notified by the Anti-Doping Organization with results management responsibility as provided in Article 7 (Results Management).

[Comment to Article 13: The object of the Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by Anti-Doping Organizations are made transparent in Article 14. Specified Persons and organizations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organizations with a right to appeal under Article 13 does not include Athletes, or their federations, who might benefit from having another competitor disqualified.]

## 14.1.2 Notice to *National Anti-Doping Organizations*, International Federations and *WADA*

The same Anti-Doping Organization shall also notify the Athlete's National Anti-Doping Organization, International Federation and WADA not later than the completion of the process described in Articles 7.1 through 7.4.

#### 14.1.3 Content of Notification

Notification shall include: the *Athlete*'s name, country, sport and discipline within the sport, the *Athlete*'s competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection and the analytical result reported by the laboratory.

#### 14.1.4 Status Reports

The same *Persons* and *Anti-Doping Organizations* shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Articles 7 (Results Management), 8 (Right to a Fair Hearing) or 13 (Appeals) and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### 14.1.5 Confidentiality

The recipient organizations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *National Olympic Committee*, National Federation, and team in a *Team Sport*) until

[Comment to Article 14.1.5: Each Anti-Doping Organization shall provide, in its own anti-doping rules, procedures for the protection of confidential information and for investigating and disciplining improper disclosure of confidential information by any employee or agent of the Anti-Doping Organization.]

the Anti-Doping Organization with results management responsibility has made public disclosure or has failed to make public disclosure as required in Article 14.2 below.

#### 14.2 Public Disclosure

- 14.2.1 The identity of any Athlete or other Person who is asserted by an Anti-Doping Organization to have committed an anti-doping rule violation, may be publicly disclosed by the Anti-Doping Organization with results management responsibility only after notice has been provided to the Athlete or other Person in accordance with Articles 7.2, 7.3 or 7.4, and to the applicable Anti-Doping Organizations in accordance with Article 14.1.2
- 14.2.2 No later than twenty (20) days after it has been determined in a hearing in accordance with Article 8 that an anti-doping rule violation has occurred, or such hearing has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, the Anti-Doping Organization responsible for results management must publicly report the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the Athlete or other Person committing the violation, the Prohibited Substance or Prohibited Method involved and the Consequences imposed. The same Anti-Doping Organization must also publicly report within twenty (20) days appeal decisions concerning anti-doping rule violations. The Anti-Doping Organization shall also, within the time period for publication, send all hearing and appeal decisions to WADA.

- 14.2.3 In any case where it is determined, after a hearing or appeal, that the Athlete or other Person did not commit an anti-doping rule violation, the decision may be disclosed publicly only with the consent of the Athlete or other Person who is the subject of the decision. The Anti-Doping Organization with results management responsibility shall use reasonable efforts to obtain such consent, and if consent is obtained, shall publicly disclose the decision in its entirety or in such redacted form as the Athlete or other Person may approve.
- 14.2.4 For purposes of Article 14.2, publication shall be accomplished at a minimum by placing the required information on the *Anti-Doping Organization*'s Web site and leaving the information up for at least one (1) year.
- 14.2.5 No Anti-Doping Organization or WADA-accredited laboratory, or official of either, shall publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the Athlete, other Person or their representatives.

#### 14.3 Athlete Whereabouts Information

As further provided in the International Standard for Testing, Athletes who have been identified by their International Federation or National Anti-Doping Organization for inclusion in a Registered Testing Pool shall provide accurate, current location information. The International Federations and National Anti-Doping Organizations shall coordinate the identification of Athletes and the collecting of current location information and shall submit these to WADA.

This information will be accessible, through *ADAMS* where reasonably feasible, to other *Anti-Doping Organizations* having jurisdiction to test the *Athlete* as provided in Article 15. This information shall be maintained in strict confidence at all times; shall be used exclusively for purposes of planning, coordinating or conducting *Testing*; and shall be destroyed after it is no longer relevant for these purposes.

#### 14.4 Statistical Reporting

Anti-Doping Organizations shall, at least annually, publish publicly a general statistical report of their Doping Control activities with a copy provided to WADA. Anti-Doping Organizations may also publish reports showing the name of each Athlete tested and the date of each Testing.

#### 14.5 Doping Control Information Clearinghouse

WADA shall act as a central clearinghouse for Doping Control Testing data and results for International-Level Athletes and national-level Athletes who have been included in their National Anti-Doping Organization's Registered Testing Pool. To facilitate coordinated test distribution planning and to avoid unnecessary duplication in *Testing* by the various Anti-Doping Organizations, each Anti-Doping Organization shall report all In-Competition and Outof-Competition tests on such Athletes to the WADA clearinghouse as soon as possible after such tests have been conducted. This information will be made accessible to the Athlete, the Athlete's National Federation, National Olympic Committee or National Paralympic Committee, National Anti-Doping Organization, International Federation, and the International Olympic Committee or International Paralympic Committee.

To enable it to serve as a clearinghouse for Doping Control Testing data. WADA has developed a database management tool. ADAMS, that reflects emerging data privacy principles. In particular, WADA has developed ADAMS to be consistent with data privacy statutes and norms applicable to WADA and usina ADAMS. organizations information regarding an Athlete, Athlete Support Personnel, or others involved in anti-doping activities shall be maintained by WADA, which is supervised by Canadian privacy authorities, in strict confidence and in accordance with the *International Standard* for the protection of privacy. WADA shall, at least annually. publish statistical reports summarizing information that it receives, ensuring at all times that the privacy of *Athletes* is fully respected and make itself available for discussions with national and regional data privacy authorities.

#### 14.6 Data Privacy

When performing obligations under the *Code*, *Anti-Doping Organizations* may collect, store, process or disclose personal information relating to *Athletes* and third parties. Each *Anti-Doping Organization* shall ensure that it complies with applicable data protection and privacy laws with respect to their handling of such information, as well as the *International Standard* for the protection of privacy that *WADA* shall adopt to ensure *Athletes* and non-athletes are fully informed of and, where necessary, agree to the handling of their personal information in connection with anti-doping activities arising under the *Code*.

#### ARTICLE 15: CLARIFICATION OF DOPING CONTROL RESPONSIBILITIES

#### 15.1 Event Testing

The collection of Samples for Doping Control does and should take place at both International Events and National Events. However, except as otherwise provided below, only a single organization should be responsible for initiating and directing Testing during the Event Period. At International Events, the collection of *Doping Control Samples* shall be initiated and directed by the international organization which is the ruling body for the Event (e.g., the International Olympic Committee for the Olympic Games, the International Federation for a World Championship, and Pan-American Sports Organisation for the Pan American Games). At National Events, the collection of Doping Control Samples shall be initiated and directed by the designated National Anti-Doping Organization of that country.

[Comment to Article 15: To be effective, the anti-doping effort must involve many Anti-Doping Organizations conducting strong programs at both the international and national levels. Rather than limiting the responsibilities of one group in favor of the exclusive

competency of the other, the Code manages potential problems associated with overlapping responsibilities, first by creating a much higher level of overall harmonization and, second, by establishing rules of precedence and cooperation in specific areas.]

15 1 1 If an Anti-Doping Organization which is not responsible for initiating and directing Testing at an Event nevertheless desires to conduct additional *Testing* of *Athletes* at the Event during the Event Period, the Anti-Doping Organization shall first confer with the ruling body of the *Event* to obtain permission to conduct, and to coordinate, any additional Testing. If the Anti-Doping Organization is not satisfied with the response from the ruling body of the *Event*, the Anti-Doping Organization may ask WADA for permission to conduct additional Testina and to determine how to coordinate such additional *Testing*. WADA shall not grant approval for such additional *Testing* before consulting with and informing the ruling body for the *Fvent* 

#### 15.2 Out-of-Competition Testing

Out-of-Competition Testing shall be initiated and directed by both international and national organizations. Out-of-Competition Testing may be initiated and directed by: (a) WADA; (b) the International Olympic Committee or International Paralympic Committee in connection with

[Comment to Article 15.1.1: Before giving approval to a National Anti-Doping Organization to initiate and conduct Testing at an International Event. WADA shall consult with the international organization which is the ruling body for the Event. Before giving approval to an International Federation to initiate and conduct Testing at a National Event, WADA shall consult with

the National Anti-Doping Organization of the country where the Event takes place. The Anti-Doping Organization "initiating and directing Testing" may, if it chooses, enter into agreements with other organizations to which it delegates responsibility for Sample collection or other aspects of the Doping Control process.]

[Comment to Article 15.2: Additional authority to conduct Testing may be authorized by means of bilateral or

multilateral agreements among Signatories and governments.]

the Olympic Games or Paralympic Games; (c) the Athlete's International Federation; or (d) any other Anti-Doping Organization that has Testing jurisdiction over the Athlete as provided in Article 5.1 (Test Distribution Planning). Out-of-Competition Testing shall be coordinated through ADAMS where reasonably feasible in order to maximize the effectiveness of the combined Testing effort and to avoid unnecessary repetitive Testing of individual Athletes.

#### 15.3 Results Management, Hearings and Sanctions

Except as provided in Article 15.3.1 below, results management and hearings shall be the responsibility of and shall be governed by the procedural rules of the Anti-Doping Organization that initiated and directed Sample collection (or, if no Sample collection is involved, the organization which discovered the violation). If that Anti-Doping Organization does not have the authority to conduct results management, then results management authority shall default to the applicable International Federation. Regardless of which organization conducts results management or hearings, the principles set forth in Articles 7 and 8 shall be respected and the rules identified in the Introduction to Part One to be incorporated without substantive change must be followed.

[Comment to Article 15.3: In some cases, the procedural rules of the Anti-Doping Organization which initiated and directed the Sample collection may specify that results management will be handled by another organization (e.g., the Athlete's National Federation). In such event, it shall be the Anti-Doping Organization's responsibility to confirm that the other organization's rules are consistent with the Code.

The Athlete's or other Person's International Federation has been made the authority of last resort for results management to avoid the possibility that no Anti-Doping Organization would have authority to conduct results management. Of course, an International Federation is free to provide in its own anti-doping rules that the Athlete's or other Person's National Federation shall conduct results management.]

15 3 1 Results management and the conduct of hearings for an anti-doping rule violation arising from a test by, or discovered by, a National Anti-Doping Organization involving an Athlete who is not a national, resident. license-holder or member of a sport organization of that country shall be administered as directed by the rules of the applicable International Federation, Results management and the conduct of hearings from a test by the International Olympic Committee, the International Paralympic Committee, or a Major Event Organization, shall be referred to the applicable International Federation as far as sanctions beyond Disqualification from the Event or the results of the *Event* 

[Comment to Article 15.3.1: No absolute rule is established for managing results and conducting hearings where a National Anti-Doping Organization tests a foreign national Athlete over whom it would have had no jurisdiction but for the Athlete's presence in the National Anti-Doping Organization's country. Under this Article. it is left to the

International Federation to determine under its own rules whether, for example, management of the case should be referred to the Athlete's National Anti-Doping Organization, remain with the Anti-Doping Organization that collected the Sample, or be taken over by the International Federation.

#### 15.4 Mutual Recognition

- 15.4.1 Subject to the right to appeal provided in Article 13, *Testing*, therapeutic use exemptions and hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within that *Signatory*'s authority, shall be recognized and respected by all other *Signatories*.
- 15.4.2 *Signatories* shall recognize the same actions of other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

[Comment to Article 15.4.1: There has in the past been some confusion in the interpretation of this Article with regard to therapeutic use exemptions. Unless provided otherwise by the rules of an

International Federation or an agreement with an International Federation, National Anti-Doping Organizations do not have "authority" to grant therapeutic use exemptions to International-Level Athletes.]

[Comment to Article 15.4.2: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, Signatories should attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the

presence of a Prohibited Substance in his body but the period of Ineligibility applied is shorter than the period provided for in the Code, then all Signatories should recognize the finding of an anti-doping rule violation and the Athlete's National Anti-Doping Organization should conduct a hearing consistent with Article 8 to determine whether the longer period of Ineligibility provided in the Code should be imposed.]

# ARTICLE 16: *DOPING CONTROL* FOR ANIMALS COMPETING IN SPORT

- 16.1 In any sport that includes animals in *Competition*, the International Federation for that sport shall establish and implement anti-doping rules for the animals included in that sport. The anti-doping rules shall include a list of *Prohibited Substances*, appropriate *Testing* procedures and a list of approved laboratories for *Sample* analysis.
- **16.2** With respect to determining anti-doping rule violations, results management, fair hearings, *Consequences*, and appeals for animals involved in sport, the International Federation for that sport shall establish and implement rules that are generally consistent with Articles 1, 2, 3, 9, 10, 11, 13 and 17 of the *Code*.

#### **ARTICLE 17: STATUTE OF LIMITATIONS**

No action may be commenced against an *Athlete* or other *Person* for an anti-doping rule violation contained in the *Code* unless such action is commenced within eight (8) years from the date the violation is asserted to have occurred



# PART TWO: EDUCATION AND RESEARCH



#### **ARTICLE 18: EDUCATION**

#### 18.1 Basic Principle and Primary Goal

The basic principle for information and education programs for doping-free sport is to preserve the spirit of sport, as described in the Introduction to the *Code*, from being undermined by doping. The primary goal of such programs is prevention. The objective shall be to prevent the intentional or unintentional *Use* by *Athletes* of *Prohibited Substances* and *Prohibited Methods* 

All *Signatories* shall within their means and scope of responsibility and in cooperation with each other, plan, implement, evaluate and monitor information and education programs for doping-free sport.

#### 18.2 Programs and Activities

These programs shall provide *Athletes* and other *Persons* with updated and accurate information on at least the following issues:

[Comment to Article 18.2: Antidoping informational and educational programs should not be limited to national- or International-Level Athletes but should include all Persons, including youth, who participate in sport under the authority of any Signatory, government or other sports organization accepting the Code. (See definition of Athlete.) These programs should also include Athlete Support Personnel.

These principles are consistent with the UNESCO Convention with respect to education and training.]

- Substances and methods on the Prohibited List
- Anti-doping rule violations
- Consequences of doping, including sanctions, health and social consequences
- Doping Control procedures
- Athletes' and Athlete Support Personnel's rights and responsibilities
- Therapeutic use exemptions
- Managing the risks of nutritional supplements
- Harm of doping to the spirit of sport

The programs should promote the spirit of sport in order to establish an environment that is strongly conducive to doping-free sport and will have a positive and long-term influence on the choices made by *Athletes* and other *Persons*.

These programs should be directed at young people, appropriate to their stage of development, in school and sports clubs, parents, adult athletes, sport officials, coaches, medical personnel and the media. (The media should also cooperate in supporting and diffusing this information.)

Athlete Support Personnel should educate and counsel Athletes regarding anti-doping policies and rules adopted pursuant to the Code.

All *Signatories* shall promote and support active participation by *Athletes* and *Athlete Support Personnel* in education programs for doping-free sport.

#### 18.3 Professional Codes of Conduct

All Signatories shall cooperate with each other and governments to encourage relevant, competent professional associations and institutions to develop and implement appropriate Codes of Conduct, good practice and ethics related to sport practice regarding anti-doping, as well as sanctions, which are consistent with the Code

#### 18.4 Coordination and Cooperation

*WADA* shall act as a central clearinghouse for informational and educational resources and/or programs developed by *WADA* or *Anti-Doping Organizations*.

All Signatories and Athletes and other Persons shall cooperate with each other and governments to coordinate their efforts in anti-doping information and education in order to share experience and ensure the effectiveness of these programs in preventing doping in sport.

#### **ARTICLE 19: RESEARCH**

#### 19.1 Purpose and Aims of Anti-Doping Research

Anti-doping research contributes to the development and implementation of efficient programs within *Doping Control* and to information and education regarding doping-free sport.

All Signatories shall, in cooperation with each other and governments, encourage and promote such research and take all reasonable measures to ensure that the results of such research are used for the promotion of the goals that are consistent with the principles of the Code.

#### 19.2 Types of Research

Relevant anti-doping research may include, for example, sociological, behavioral, juridical and ethical studies in addition to medical, analytical and physiological investigation. Studies on devising and evaluating the efficacy of scientifically-based physiological and psychological training programs that are consistent with the principles of the *Code* and respectful of the integrity of the human subjects, as well as studies on the *Use* of emerging substances or methods resulting from scientific developments should be conducted.

#### 19.3 Coordination of Research and Sharing of Results

Coordination of anti-doping research through WADA is encouraged. Subject to intellectual property rights, copies of anti-doping research results should be provided to WADA and, where appropriate, shared with relevant Signatories and Athletes and other Persons.

#### 19.4 Research Practices

Anti-doping research shall comply with internationally-recognized ethical practices.

### 19.5 Research Using Prohibited Substances and Prohibited Methods

Research efforts should avoid the administration of *Prohibited Substances* or *Prohibited Methods* to *Athletes*.

#### 19.6 Misuse of Results

Adequate precautions should be taken so that the results of anti-doping research are not misused and applied for doping.



All Signatories shall act in a spirit of partnership and collaboration in order to ensure the success of the fight against doping in sport and the respect of the Code.

[Comment: Responsibilities for Signatories and Athletes or other Persons are addressed in various Articles in the Code and the responsibilities listed in this part are additional to these responsibilities.



# ARTICLE 20: ADDITIONAL ROLES AND RESPONSIBILITIES OF SIGNATORIES

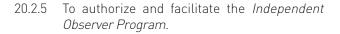
#### 20.1 Roles and Responsibilities of the International Olympic Committee

- 20.1.1 To adopt and implement anti-doping policies and rules for the Olympic Games which conform with the *Code*.
- 20.1.2 To require as a condition of recognition by the International Olympic Committee, that International Federations within the Olympic Movement are in compliance with the *Code*.
- 20.1.3 To withhold some or all Olympic funding of sport organizations that are not in compliance with the *Code*.
- 20.1.4 To take appropriate action to discourage noncompliance with the *Code* as provided in Article 23.5.
- 20.1.5 To authorize and facilitate the *Independent Observer Program*.
- 20.1.6 To require all Athletes and each Athlete Support Personnel who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in the Olympic Games to agree to be bound by anti-doping rules in conformity with the Code as a condition of such participation.
- 20.1.7 To vigorously pursue all potential anti-doping rule violations within its jurisdiction including

- investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- 20.1.8 To accept bids for the Olympic Games only from countries where the government has ratified, accepted, approved or acceded to the UNESCO Convention and the National Olympic Committee, National Paralympic Committee and National Anti-Doping Organization are in compliance with the Code.
- 20.1.9 To promote anti-doping education.
- 20.1.10 To cooperate with relevant national organizations and agencies and other *Anti-Doping Organizations*.

#### 20.2 Roles and Responsibilities of the International Paralympic Committee

- 20.2.1 To adopt and implement anti-doping policies and rules for the Paralympic Games which conform with the *Code*
- 20.2.2 To require as a condition of recognition by the International Paralympic Committee, that National Paralympic Committees within the Paralympic Movement are in compliance with the *Code*.
- 20.2.3 To withhold some or all Paralympic funding of sport organizations that are not in compliance with the *Code*.
- 20.2.4 To take appropriate action to discourage noncompliance with the *Code* as provided in Article 23.5.



- 20.2.6 To require all Athletes and each Athlete Support Personnel who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in the Paralympic Games to agree to be bound by anti-doping rules in conformity with the Code as a condition of such participation.
- 20.2.7 To vigorously pursue all potential anti-doping rule violations within its jurisdiction including investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- 20.2.8 To promote anti-doping education.
- 20.2.9 To cooperate with relevant national organizations and agencies and other *Anti-Doping Organizations*.

#### 20.3 Roles and Responsibilities of International Federations

- 20.3.1 To adopt and implement anti-doping policies and rules which conform with the *Code*.
- 20.3.2 To require as a condition of membership that the policies, rules and programs of National Federations are in compliance with the *Code*.
- 20.3.3 To require all Athletes and each Athlete Support Personnel who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in a Competition or activity authorized or organized by the International Federation or one of its member organizations to agree to be bound by anti-

- doping rules in conformity with the *Code* as a condition of such participation.
- 20.3.4 To require Athletes who are not regular members of the International Federation or one of its member National Federations to be available for Sample collection and to provide accurate and up-to-date whereabouts information as part of the International Federation's Registered Testing Pool consistent with the conditions for eligibility established by the International Federation or, as applicable, the Major Event Organization.
- 20.3.5 To require each of its National Federations to establish rules requiring all *Athletes* and each *Athlete Support Personnel* who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in a *Competition* or activity authorized or organized by a National Federation or one of its member organizations to agree to be bound by antidoping rules in conformity with the *Code* as a condition of such participation.
- 20.3.6 To take appropriate action to discourage noncompliance with the *Code* as provided in Article 23.5
- 20.3.7 To authorize and facilitate the *Independent Observer Program* at *International Events*.
- 20.3.8 To withhold some or all funding to its member National Federations that are not in compliance with the *Code*.
- 20.3.9 To vigorously pursue all potential anti-doping

rule violations within its jurisdiction including investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.

- 20.3.10 After 1 January 2010, to do everything possible to award World Championships only to countries where the government has ratified, accepted, approved or acceded to the UNESCO Convention and the National Olympic Committee, National Paralympic Committee and National Anti-Doping Organization are in compliance with the Code.
- 20.3.11 To promote anti-doping education.
- 20.3.12 To cooperate with relevant national organizations and agencies and other *Anti-Doping Organizations*.

# 20.4 Roles and Responsibilities of *National Olympic*Committees and National Paralympic Committees

- 20.4.1 To ensure that their anti-doping policies and rules conform with the *Code*.
- 20.4.2 To require as a condition of membership or recognition that National Federations' anti-doping policies and rules are in compliance with the applicable provisions of the *Code*.
- 20.4.3 To require Athletes who are not regular members of a National Federation to be available for Sample collection and to provide accurate and up-to-date whereabouts information as part of the National Registered Testing Pool during the year before the Olympic

- Games and Paralympic Games as a condition of participation in the Olympic Games and Paralympic Games.
- 20.4.4 To cooperate with their *National Anti-Doping Organization*.
- 20.4.5 To require each of its National Federations to establish rules requiring each *Athlete Support Personnel* who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in a *Competition* or activity authorized or organized by a National Federation or one of its member organizations to agree to be bound by anti-doping rules in conformity with the *Code* as a condition of such participation.
- 20.4.6 To withhold some or all funding, during any period of his or her *Ineligibility*, to any *Athlete* or *Athlete Support Personnel* who has violated anti-doping rules.
- 20.4.7 To withhold some or all funding to its member or recognized National Federations that are not in compliance with the *Code*.
- 20.4.8 To vigorously pursue all potential anti-doping rule violations within its jurisdiction including investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- 20.4.9 To promote anti-doping education.
- 20.4.10 To cooperate with relevant national organizations and agencies and other *Anti-Doping Organizations*.

#### 20.5 Roles and Responsibilities of National Anti-Doping Organizations

- 20.5.1 To adopt and implement anti-doping rules and polices which conform with the *Code*.
- 20.5.2 To cooperate with other relevant national organizations and agencies and other *Anti-Doping Organizations*.
- 20.5.3 To encourage reciprocal *Testing* between *National Anti-Doping Organizations*.
- 20.5.4 To promote anti-doping research.
- 20.5.5 Where funding is provided, to withhold some or all funding, during any period of his or her *Ineligibility*, to any *Athlete* or *Athlete Support Personnel* who has violated anti-doping rules.
- 20.5.6 To vigorously pursue all potential anti-doping rule violations within its jurisdiction including investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- 20.5.7 To promote anti-doping education.

#### 20.6 Roles and Responsibilities of *Major Event Organization*s

- 20.6.1 To adopt and implement anti-doping policies and rules for their *Event*s which conform with the *Code*
- 20.6.2 To take appropriate action to discourage noncompliance with the *Code* as provided in Article 23.5.

- 20.6.3 To authorize and facilitate the *Independent Observer Program*.
- 20.6.4 To require all *Athletes* and each *Athlete Support Personnel* who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel in the *Event* to agree to be bound by anti-doping rules in conformity with the *Code* as a condition of such participation.
- 20.6.5 To vigorously pursue all potential anti-doping rule violations within its jurisdiction including investigation into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- 20.6.6 After 1 January 2010, to do everything possible to award *Events* only to countries where the government has ratified, accepted, approved or acceded to the *UNESCO Convention* and the *National Olympic Committee*, National Paralympic Committee and *National Anti-Doping Organization* are in compliance with the *Code*.
- 20.6.7 To promote anti-doping education.
- 20.6.8 To cooperate with relevant national organizations and agencies and other *Anti-Doping Organizations*.

#### 20.7 Roles and Responsibilities of WADA

- 20.7.1 To adopt and implement policies and procedures which conform with the *Code*.
- 20.7.2 To monitor *Code* compliance by *Signatories*.

- 20.7.3 To approve *International Standards* applicable to the implementation of the *Code*.
- 20.7.4 To accredit and reaccredit laboratories to conduct *Sample* analysis or to approve others to conduct *Sample* analysis.
- 20.7.5 To develop and approve models of best practice.
- 20.7.6 To promote, conduct, commission, fund and coordinate anti-doping research and to promote anti-doping education.
- 20.7.7 To design and conduct an effective *Independent Observer Program*.
- 20.7.8 To conduct *Doping Controls* as authorized by other *Anti-Doping Organizations* and to cooperate with relevant national and international organizations and agencies, including but not limited to, facilitating inquiries and investigations.

# ARTICLE 21: ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS

#### 21.1 Roles and Responsibilities of Athletes

- 21.1.1 To be knowledgeable of and comply with all applicable anti-doping policies and rules adopted pursuant to the *Code*.
- 21.1.2 To be available for *Sample* collection.

- 21.1.3 To take responsibility, in the context of antidoping, for what they ingest and use.
- 21.1.4 To inform medical personnel of their obligation not to *Use Prohibited Substances* and *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate anti-doping policies and rules adopted pursuant to the *Code*.

#### 21.2 Roles and Responsibilities of Athlete Support Personnel

- 21.2.1 To be knowledgeable of and comply with all anti-doping policies and rules adopted pursuant to the *Code* and which are applicable to them or the *Athletes* whom they support.
- 21.2.2 To cooperate with the *Athlete Testing* program.
- 21.2.3 To use their influence on *Athlete* values and behavior to foster anti-doping attitudes.

#### **ARTICLE 22: INVOLVEMENT OF GOVERNMENTS**

Each government's commitment to the *Code* will be evidenced by its signing the Copenhagen Declaration on Anti-Doping in Sport of March 3, 2003, and by ratifying, accepting, approving or acceding to the *UNESCO Convention*. The following Articles set forth the expectations of the *Signatories*.

- **22.1** Each government will take all actions and measures necessary to comply with the *UNESCO Convention*.
- **22.2** Each government will encourage all of its public services or agencies to share information with *Anti-Doping Organizations* which would be useful in the

fight against doping and where to do so would not otherwise be legally prohibited.

- **22.3** Each government will respect arbitration as the preferred means of resolving doping-related disputes.
- **22.4** All other governmental involvement with anti-doping will be brought into harmony with the *Code*.
- **22.5** Governments should meet the expectations of this Article by January 1, 2010.
- 22.6 Failure by a government to ratify, accept, approve or accede to the *UNESCO Convention* by January 1, 2010, or to comply with the *UNESCO Convention* thereafter may result in ineligibility to bid for *Events* as provided in Articles 20.1.8 (International Olympic Committee), 20.3.10 (International Federation), and 20.6.6 (*Major Event Organizations*) and may result in additional consequences, e.g., forfeiture of offices and positions within *WADA*; ineligibility or non-admission of any candidature to hold any *International Event* in a country, cancellation of *International Events*; symbolic consequences and other consequences pursuant to the Olympic Charter.

[Comment to Article 22: Most governments cannot be parties to, or be bound by, private nongovernmental instruments such as the Code. For that reason, governments are not asked to be Signatories to the Code but rather to sign the Copenhagen Declaration and ratify, accept, approve or accede to

the UNESCO Convention. Although the acceptance mechanisms may be different, the effort to combat doping through the coordinated and harmonized program reflected in the Code is very much a joint effort between the sport movement and governments.]



INTERPRETATION



## ARTICLE 23: ACCEPTANCE, COMPLIANCE AND MODIFICATION

#### 23.1 Acceptance of the Code

- 23.1.1 The following entities shall be Signatories accepting the Code: WADA, The International Olympic Committee, International Federations, The International Paralympic Committee, National Olympic Committees, National Paralympic Committees, Major Event Organizations, and National Anti-Doping Organizations. These entities shall accept the Code by signing a declaration of acceptance upon approval by each of their respective governing bodies.
- 23.1.2 Other sport organizations that may not be under the control of a *Signatory* may, upon *WADA*'s invitation, also accept the *Code*.
- 23.1.3 A list of all acceptances will be made public by *WADA*.

[Comment to Article 23.1.1: Each accepting Signatory will separately sign an identical copy of the standard form common declaration of acceptance and deliver it to WADA. The act of acceptance will be as

authorized by the organic documents of each organization. For example, an International Federation by its Congress and WADA by its Foundation Board.]

[Comment to Article 23.1.2: Those professional leagues that are not currently under the jurisdiction of

any government or International Federation will be encouraged to accept the Code.]

#### 23.2 Implementation of the Code

- 23.2.1 The *Signatories* shall implement applicable *Code* provisions through policies, statutes, rules or regulations according to their authority and within their relevant spheres of responsibility.
- 23.2.2 The following Articles (and corresponding Comments) as applicable to the scope of the anti-doping activity which the Anti-Doping Organization performs must be implemented by Signatories without substantive change (allowing for any non-substantive changes to the language in order to refer to the organization's name, sport, section numbers, etc.):
  - Article 1 (Definition of Doping)
  - Article 2 (Anti-Doping Rule Violations)
  - Article 3 (Proof of Doping)
  - Article 4.2.2 (Specified Substances)
  - Article 4.3.3 (WADA's Determination of the *Prohibited List*)
  - Article 7.6 (Retirement from Sport)
  - Article 9 (Automatic Disqualification of Individual Results)
  - Article 10 (Sanctions on Individuals)

(continued)

[Comment to Article 23.2.2: Nothing in the Code precludes an Anti-Doping Organization from adopting and enforcing its own specific disciplinary rules for conduct by Athlete Support Personnel related to doping but which does not, in and of itself, constitute an anti-doping rule

violation under the Code. For example, a National or International Federation could refuse to renew the license of a coach when multiple Athletes have committed anti-doping rule violations while under that coach's supervision.]

- Article 11 (Consequences to Teams)
- Article 13 (Appeals) with the exception of 13.2.2 and 13.5
- Article 15.4 (Mutual Recognition)
- Article 17 (Statute of Limitations)
- Article 24 (Interpretation of the Code)
- Appendix 1 Definitions

No additional provision may be added to a *Signatory*'s rules which changes the effect of the Articles enumerated in this Article.

23.2.3 In implementing the *Code*, the *Signatories* are encouraged to use the models of best practice recommended by *WADA*.

#### 23.3 Compliance with the Code

23.3.1 Signatories shall not be considered in compliance with the Code until they have accepted and implemented the Code in accordance with Articles 23.1 and 23.2. They shall no longer be considered in compliance once acceptance has been withdrawn.

## 23.4 Monitoring Compliance with the Code and UNESCO Convention

23.4.1 Compliance with the *Code* shall be monitored by *WADA* or as otherwise agreed by *WADA*. Compliance with the commitments reflected in the *UNESCO Convention* will be monitored as determined by the Conference of Parties to the *UNESCO Convention*, following consultation with the state parties and *WADA*.

- WADA shall advise governments on the implementation of the Code by the Signatories and shall advise Signatories on the ratification, acceptance, approval or accession to the UNESCO Convention by governments.
- 23.4.2 To facilitate monitoring, each *Signatory* shall report to *WADA* on its compliance with the *Code* every second year and shall explain reasons for noncompliance.
- 23.4.3 Failure by a *Signatory* to provide compliance information requested by *WADA* for purposes of Article 23.4.2, or failure by a *Signatory* to submit information to *WADA* as required by other articles of the *Code*, may be considered noncompliance with the *Code*.
- 23.4.4 All WADA compliance reports shall be approved by the WADA Foundation Board. WADA shall dialog with a Signatory before reporting that Signatory noncompliant. Any WADA report which concludes that a Signatory is noncompliant must be approved by the WADA Foundation Board at a meeting held after the Signatory has been given an opportunity to submit its written arguments to the Foundation Board. The conclusion by the WADA Foundation Board that a Signatory is noncompliant may be appealed pursuant to Article 13.5.
- 23.4.5 WADA shall make reports on compliance to the International Olympic Committee, the International Paralympic Committee, International Federations, and Major Event Organizations. These reports shall also be made available to the public.

23.4.6 WADA shall consider explanations for noncompliance and, in extraordinary situations, may recommend to the International Olympic Committee, International Paralympic Committee, International Federations, and Major Event Organizations that they provisionally excuse the noncompliance.

## 23.5 Additional Consequences of a *Signatory's*Noncompliance with the *Code*

Noncompliance with the *Code* by any *Signatory* may result in consequences in addition to ineligibility to bid for *Events* as set forth in Articles 20.1.8 (International Olympic Committee), 20.3.10 (International Federations) and 20.6.6 (*Major Event Organizations*), for example: forfeiture of offices and positions within *WADA*; ineligibility or non-admission of any candidature to hold any *International Event* in a country; cancellation of *International Events*; symbolic consequences and other consequences pursuant to the Olympic Charter.

The imposition of such consequences may be appealed to *CAS* by the affected *Signatory* pursuant to Article 13.5.

[Comment to Article 23.4.6: WADA recognizes that amongst Signatories and governments, there will be significant differences in anti-doping experience, resources, and the legal

context in which anti-doping activities are carried out. In considering whether an organization is compliant, WADA will consider these differences.1

#### 23.6 Modification of the Code

- 23.6.1 WADA shall be responsible for overseeing the evolution and improvement of the Code. Athletes and all Signatories and governments shall be invited to participate in such process.
- 23.6.2 WADA shall initiate proposed amendments to the Code and shall ensure a consultative process to both receive and respond to recommendations and to facilitate review and feedback from Athletes, Signatories and governments on recommended amendments.
- 23.6.3 Amendments to the *Code* shall, after appropriate consultation, be approved by a two-thirds majority of the *WADA* Foundation Board including a majority of both the public sector and Olympic Movement members casting votes. Amendments shall, unless provided otherwise, go into effect three (3) months after such approval.
- 23.6.4 Signatories shall modify their rules to incorporate the 2009 Code on or before January 1, 2009, to take effect on January 1, 2009. Signatories shall implement any subsequent applicable amendment to the Code within one (1) year of approval by the WADA Foundation Board

#### 23.7 Withdrawal of Acceptance of the Code

Signatories may withdraw acceptance of the Code after providing WADA six-month written notice of their intent to withdraw

#### ARTICLE 24: INTERPRETATION OF THE CODE

- **24.1** The official text of the *Code* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.
- **24.2** The comments annotating various provisions of the *Code* shall be used to interpret the *Code*.
- **24.3** The *Code* shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the *Signatories* or governments.
- 24.4 The headings used for the various Parts and Articles of the *Code* are for convenience only and shall not be deemed part of the substance of the *Code* or to affect in any way the language of the provisions to which they refer.
- 24.5 The *Code* shall not apply retrospectively to matters pending before the date the *Code* is accepted by a *Signatory* and implemented in its rules. However, pre-*Code* anti-doping rule violations would continue to count as "First violations" or "Second violations" for purposes of determining sanctions under Article 10 for subsequent post-*Code* violations.
- **24.6** The Purpose, Scope and Organization of the World Anti-Doping Program and the *Code* and APPENDIX I DEFINITIONS shall be considered integral parts of the *Code*.

#### **ARTICLE 25: TRANSITIONAL PROVISIONS**

#### 25.1 General Application of the 2009 Code

The 2009 *Code* shall apply in full after January 1, 2009 (the "Effective Date").

#### 25.2 Non-Retroactive Unless Principle of "Lex Mitior" Applies

With respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred unless the panel hearing the case determines the principle of "lex mitior" appropriately applies under the circumstances of the case.

#### 25.3 Application to Decisions Rendered Prior to the 2009 Code

With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the Athlete or other Person is still serving the period of *Ineligibility* as of the Effective Date, the Athlete or other Person may apply to the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of the 2009 *Code*. Such application must be made before the period of *Ineligibility* has expired. The decision rendered by the Anti-Doping Organization may be appealed pursuant to Article 13.2. The 2009 *Code* shall have no application to any anti-doping rule violation case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

#### 25.4 Application to Specific Pre-Code Violations

For purposes of applying Article 10.7.1, a pre-Code anti-doping rule violation where the violation involved a substance which is categorized as a Specified Substance under the 2009 Code and the period of Ineligibility imposed was less than two (2) years, the pre-Code violation shall be considered a Reduced Sanction (RS).

#### 25.5 Additional Code Amendments

Any additional *Code* Amendments shall go into effect as provided in Article 23.6.

[Comment to Article 25.4: Other than the situation described in Article 25.3, where a final decision finding an anti-doping rule violation has been rendered prior to the Code or under the Code before the 2009 Code and the period of Ineligibility imposed has been completely served, the 2009 Code may not be used to re-characterize the prior violation.]



## APPENDIX ONE: DEFINITIONS



#### **APPENDIX 1: DEFINITIONS**

ADAMS: The Anti-Doping Administration and Management System is a Web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

Adverse Analytical Finding: A report from a laboratory or other WADA-approved entity that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method.

Anti-Doping Organization: A Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organizations that conduct Testing at their Events, WADA, International Federations, and National Anti-Doping Organizations.

Athlete: Any Person who participates in sport at the international level (as defined by each International Federation), the national level (as defined by each National Anti-Doping Organization, including but not limited to those Persons in its Registered Testing Pool), and any other competitor in sport who is otherwise subject to the jurisdiction of any Signatory or other sports organization accepting the Code. All provisions of the Code, including, for example, Testing and therapeutic use exemptions, must be applied to international- and national-level competitors. Some National Anti-Doping Organizations may elect to test and apply anti-doping rules to recreational-level or masters

competitors who are not current or potential national caliber competitors. National Anti-Doping Organizations are not required, however, to apply all aspects of the Code to such *Persons*. Specific national rules may be established for Doping Control for non-international-level or nonnational-level competitors without being in conflict with the Code. Thus, a country could elect to test recreational-level competitors but not require therapeutic use exemptions or whereabouts information. In the same manner, a Major Event Organization holding an Event only for masters-level competitors could elect to test the competitors but not require advance therapeutic use exemptions whereabouts information. For purposes of Article 2.8 (Administration or Attempted Administration) and for purposes of anti-doping information and education, any Person who participates in sport under the authority of any Signatory, government, or other sports organization accepting the Code is an Athlete.

[Comment to Athlete: This definition makes it clear that all international-and national-caliber athletes are subject to the anti-doping rules of the Code, with the precise definitions of international- and national-level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organizations, respectively. At the national level, anti-doping rules adopted pursuant to the Code shall apply, at a minimum, to all persons on national teams and all persons qualified to compete in any national

championship in any sport. That does not mean, however, that all such Athletes must be included in a National Anti-Doping Organization's Registered Testing Pool. The definition also allows each National Anti-Doping Organization, if it chooses to do so, to expand its anti-doping program beyond national-caliber athletes to competitors at lower levels of competition. Competitors at all levels of competition should receive the benefit of anti-doping information and education.]

Athlete Support Personnel: Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports Competition.

Attempt: Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an Attempt to commit a violation if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the Attempt.

Atypical Finding: A report from a laboratory or other WADAapproved entity which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding.

CAS: The Court of Arbitration for Sport.

Code: The World Anti-Doping Code.

Competition: A single race, match, game or singular athletic contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis the distinction between a Competition and an Event will be as provided in the rules of the applicable International Federation.

Consequences of Anti-Doping Rules Violations: An Athlete's or other *Person*'s violation of an anti-doping rule may result in one or more of the following: (a) Disqualification means the Athlete's results in a particular Competition or Event are invalidated, with all resulting Consequences including forfeiture of any medals, points and prizes; (b) Ineligibility means the Athlete or other Person is barred for a specified period of time from participating in any Competition or

other activity or funding as provided in Article 10.9; and (c) <u>Provisional Suspension</u> means the Athlete or other Person is barred temporarily from participating in any Competition prior to the final decision at a hearing conducted under Article 8 (Right to a Fair Hearing).

**Disqualification:** See Consequences of Anti-Doping Rules Violations above.

**Doping Control:** All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, *Sample* collection and handling, laboratory analysis, therapeutic use exemptions, results management and hearings.

**Event:** A series of individual *Competitions* conducted together under one ruling body (e.g., the Olympic Games, FINA World Championships, or Pan American Games).

**Event Period:** The time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.

In-Competition: Unless provided otherwise in the rules of an International Federation or other relevant Anti-Doping Organization, "In-Competition" means the period commencing twelve hours before a Competition in which the Athlete is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition.

**Independent Observer Program:** A team of observers, under the supervision of *WADA*, who observe and may provide guidance on the *Doping Control* process at certain *Events* and report on their observations.

*Ineligibility:* See *Consequences of Anti-Doping Rules Violations*, above.

*Individual Sport:* Any sport that is not a *Team Sport*.

International Event: An Event where the International Olympic Committee, the International Paralympic Committee, an International Federation, a Major Event Organization, or another international sport organization is the ruling body for the Event or appoints the technical officials for the *Event* 

International-Level Athlete: Athletes designated by one or more International Federations as being within the Registered Testing Pool for an International Federation.

International Standard: A standard adopted by WADA in support of the Code. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. International Standards shall include any Technical Documents issued pursuant to the International Standard

Major Event Organizations: The continental associations of National Olympic Committees and other international multi-sport organizations that function as the ruling body for any continental, regional or other *International Event*.

Marker: A compound, group of compounds or biological parameter(s) that indicates the *Use* of a *Prohibited Substance* or Prohibited Method

*Metabolite:* Any substance produced by a biotransformation process.

Minor: A natural Person who has not reached the age of majority as established by the applicable laws of his or her country of residence.

National Anti-Doping Organization: The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of Samples, the management of test results, and the conduct of hearings, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional Anti-Doping Organization for such countries. If this designation has not been made by the competent public authority(ies), the entity shall be the country's National Olympic Committee or its designee.

**National Event:** A sport *Event* involving international- or national-level *Athletes* that is not an *International Event*.

National Olympic Committee: The organization recognized by the International Olympic Committee. The term National Olympic Committee shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical National Olympic Committee responsibilities in the anti-doping area.

**No Advance Notice:** A Doping Control which takes place with no advance warning to the Athlete and where the Athlete is continuously chaperoned from the moment of notification through Sample provision.

**No Fault or Negligence:** The Athlete's establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method*.

**No Significant Fault or Negligence:** The Athlete's establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation.

Out-of-Competition: Any Doping Control which is not In-Competition.

**Participant:** Any Athlete or Athlete Support Personnel.

**Person:** A natural *Person* or an organization or other entity.

**Possession:** The actual, physical Possession, or the constructive Possession (which shall be found only if the Person has exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists): provided, however. that if the *Person* does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive *Possession* shall only be found if the *Person* knew about the presence of the *Prohibited Substance or* Prohibited Method and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation. based solely on *Possession* if, prior to receiving notification of any kind that the Person has committed an anti-doping rule violation, the *Person* has taken concrete demonstrating that the Person never intended to have Possession and has renounced Possession by explicitly declaring it to an Anti-Doping Organization. Notwithstanding anything to the contrary in this definition, the purchase fincluding by any electronic or other means) of a *Prohibited* Substance or Prohibited Method constitutes Possession by the *Person* who makes the purchase.

[Comment to Possesion: Under this definition, steroids found in an Athlete's car would constitute a violation unless the Athlete establishes that someone else used the car; in that event, the Anti-Doping Organization must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the steroids and

intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, the Anti-Doping Organization must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids.1

**Prohibited List:** The List identifying the *Prohibited Substances* and *Prohibited Methods*.

**Prohibited Method:** Any method so described on the Prohibited List.

**Prohibited Substance:** Any substance so described on the **Prohibited List.** 

**Provisional Hearing:** For purposes of Article 7.5, an expedited abbreviated hearing occurring prior to a hearing under Article 8 (Right to a Fair Hearing) that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

**Provisional Suspension:** See Consequences of Anti-Doping Rules Violations above.

**Publicly Disclose or Publicly Report:** To disseminate or distribute information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Article 14.

Registered Testing Pool: The pool of top-level Athletes established separately by each International Federation and National Anti-Doping Organization who are subject to both In-Competition and Out-of-Competition Testing as part of that International Federation's or National Anti-Doping Organization's test distribution plan. Each International Federation shall publish a list which identifies those Athletes included in its Registered Testing Pool either by name or by clearly defined, specific criteria.

**Sample or Specimen:** Any biological material collected for the purposes of *Doping Control*.

[Comment to Sample or Specimen: It has sometimes been claimed that the collection of blood Samples violates the

tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.] Signatories: Those entities signing the Code and agreeing to comply with the Code, including the International Olympic Committee. International Federations. International Paralympic Committee, National Olympic Committees, National Paralympic Committees, Major Event Organizations, National Anti-Doping Organizations, and WADA.

Substantial Assistance: For purposes of Article 10.5.3, a Person providing Substantial Assistance must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully cooperate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an Anti-Doping Organization or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

Tampering: Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring; or providing fraudulent information to an Anti-Doping Organization.

Target Testing: Selection of Athletes for Testing where specific Athletes or groups of Athletes are selected on a non-random basis for *Testing* at a specified time.

Team Sport: A sport in which the substitution of players is permitted during a Competition.

**Testing:** The parts of the *Doping Control* process involving test distribution planning, Sample collection, Sample handling, and Sample transport to the laboratory.

Trafficking: Selling, giving, transporting, sending, delivering or distributing a Prohibited Substance or Prohibited Method leither physically or by any electronic or other means) by an Athlete, Athlete Support Personnel or any other Person subject to the jurisdiction of an Anti-Doping Organization to any third party; provided, however, this definition shall not include the actions of "bona fide" medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving Prohibited Substances which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substances are not intended for genuine and legal therapeutic purposes.

**UNESCO Convention:** The International Convention against Doping in Sport adopted by the 33<sup>rd</sup> session of the UNESCO General Conference on October 19, 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

**Use:** The utilization, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method* 

WADA: The World Anti-Doping Agency.

## **AFL Competition**

## **Anti-Doping Code**

#### **WARNING**

By this Code the AFL prohibits the classes of substances and methods which are prohibited under the World Anti-Doping Code Prohibited List.

This Code also sets out various restrictions and requirements that apply in relation to the use and administration of certain substances and methods that are not prohibited under the WADA Anti-Doping Code Prohibited List.

Substances are prohibited if they fall into the prohibited classes identified in this Code. The substances described in each prohibited class are examples only. Substances which are not included as examples are prohibited if they fall within a prohibited class.

It is the responsibility of each person to whom this Code applies to ensure that he or she does not Use or Administer prohibited substances or prohibited methods, whether or not included as examples, other than in strict compliance with this Code.

Amended 7 March 2014

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#### 1. Objectives

The AFL subscribes to a philosophy and adopts a stance that:

- (a) ensures that the AFL Competition is conducted upon the basis of athletic prowess and natural levels of fitness and development and not on any pharmacologically enhanced performance;
- (b) protects Players from using substances which may cause acute or long term harm to their bodies;
- (c) educates the Players to understand the dangers and consequences of the use of performance enhancing substances; and
- (d) sets an example for all participants in the sport of Australian football by condemning the use of performance enhancing substances.

#### 2. Definitions and Interpretation

#### 2.1 Definitions

In this Code, the following words have the following respective meanings:

**Administer** for the purpose of Clause 11 of this Code only, includes cause, encourage, assist, refer or recommend a person to use any Treatment.

Adverse Analytical Finding means a report from a laboratory or other WADA-approved entity that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method.

AFL means Australian Football League ABN 97 489 912 318.

**AFL Club** or **Club** means an entity from time to time licensed to field a team in the AFL Competition.

**AFL Competition** means the events and competitions conducted by or under the auspices of the AFL including the Pre-Season Competition, the Premiership Season and the Final Series.

**AFL General Counsel** means the person appointed as such by the AFL from time to time.

**AFL Prohibited Treatment** means any Treatment listed on the AFL Prohibited Treatment List from time to time.

**AFL Prohibited Treatment List** means the list of AFL Prohibited Treatments published by the AFL from time to time in accordance with clause 11.2.

**AFL Rules** means the AFL Rules and AFL Regulations adopted by the AFL from time to time pursuant to its Constitution.

**AFL Season** means the period in each year commencing with the first match of the Pre-Season Competition and ending with the last Finals Series match in that year;

AFL Treatment Rules means the rules set out in clause 11.

**Anti-Doping Organisation** means a Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organisations that conduct Testing at their Events, WADA, International Federations, and National Anti-Doping Organisations.

**Anti-Doping Rule Violation** means a breach of this Code pursuant to Clause 10.

**ASADA** means, where the context requires based on functions, powers and responsibilities conferred under the ASADA Act:

- (a) the CEO of ASADA appointed under the ASADA Act;
- (b) Australian Sports Anti-Doping Authority established under the ASADA Act;
- (c) the Anti-Doping Rule Violation Panel (ADRVP) established under the ASADA Act.

**ASADA** Act means the Australian Sports Anti-Doping Authority Act 2006 (Cth) as amended from time to time, and includes the ASADA Regulations and any statutory or subordinate legislative instrument that replaces or supersedes the Australian Sports Anti-Doping Authority Act 2006 (Cth) and/or the ASADA Regulations from time to time.

**ASADA Regulations** means the Australian Sports Anti-Doping Authority Regulations 2006 (Cth), as amended from time to time (and which includes, for the avoidance of doubt, the NAD Scheme promulgated by those regulations).

**ASC** means the Australian Sports Commission, an Australian Government body established under the Australian Sports Commission Act 1989 (Cth), and includes the Australian Institute of Sport.

**ASDMAC** means the Australian Sports Drug Medical Advisory Committee, Australia's TUE Committee, established by the Australian Sports Drug Agency Act 1990 (Cth) and continued by the ASADA Act.

**Attempt** means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation. Provided, however, there shall be no Anti-Doping Rule Violation based solely on an Attempt to commit a violation if the Person enunciates the Attempt prior to it being discovered by a third party not involved in the Attempt.

**Atypical Finding** means a report from an accredited laboratory or other WADA-approved entity which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding.

CAS means the Court of Arbitration for Sport (Oceania Registry).

**Coach** means a person appointed by a Club to coach the teams of the Club and includes assistant coaches.

**Code** means this Anti-Doping Code including the Appendices.

**Consequences of Anti-Doping Rule Violations** means a Player's or other Person's violation of an anti-doping rule may result in one or more of the following:

- (a) **Ineligibility** means the Player or other Person is barred for a specified period of time from participating in any AFL Competition or other activity or funding as provided in Clause 14.7; and
- (b) **Provisional Suspension** means the Player or other Person is barred for a specified period of time from participating in any AFL Competition prior to the final decision at a hearing conducted under Clause 16.

**Controlled Treatment** means any Treatment listed on the Controlled Treatments List from time to time.

**Controlled Treatments List** means the list of Controlled Treatments published by the AFL from time to time in accordance with clause 11.2.

**Doping** is defined as the occurrence of one or more of the Anti-Doping Rule Violations set forth in Article 2.1 through 2.8 of the WADA Code and Clause 10 of this Code.

**Doping Control** means all steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps in between such as provision of whereabouts information, Sample collection and handling, laboratory analysis, TUEs, results management, hearings and appeals.

**Filing Failure** means a failure by a Player to file current and accurate whereabouts information in accordance with this Code and/or the rules of ASADA if applicable.

**Finals Series** means each match in the series of Australian football matches between a number of the most successful AFL Clubs (as determined by the AFL from year to year) at the completion of the Premiership Season, including the Grand Final.

**Grand Final** means the last of the Finals Series matches played in each AFL Season to determine the most successful AFL Club in the AFL Competition;

**Home and Away Match** means an Australian football match between AFL Clubs played during the Premiership Season;

**In-Competition** means, for the purposes of differentiating between In-Competition and Out-of-Competition Testing, the period commencing twelve hours before the commencement of a match conducted in the AFL Competition or the International Rules Series in which the Player is to participate, until the end of that match and the Sample collection process is completed relating to such match.

**Ineligibility** see Consequences of Anti-Doping Rule Violations above.

**International Event** means an event where the International Olympic Committee, the International Paralympic Committee, an International Federation, a Major Event Organisation or another international sports organisation is the ruling body for the event or appoints technical officers for the event, however, for the avoidance of doubt the International Rules Series is not considered an International Event.

**International Rules Series** means the series of matches played between Australia and Ireland using modified rules of Australian football.

**International Standard** means a standard adopted by WADA in support of the WADA Code as updated from time to time. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed

properly. International Standards shall include any Technical Documents issued pursuant to the International Standard.

**Major Event Organisations** means the continental associations of National Olympic Committees and other international multi-sport organisations that function as the ruling body for any continental, regional or other international event.

**Marker** means a compound, group of compounds or biological parameter(s) that indicates the Use of a Prohibited Substance or Prohibited Method.

Metabolite means any substance produced by a biotransformation process.

**Missed Test** means a failure by a Player to be available for Testing on any given day at the location and time specified in the timeslot identified in his whereabouts information for that day, in accordance with this code and/or the rules of ASADA if applicable.

**National Anti-Doping Organisation (NADO)** means the entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of Samples, the management of test results, and the conduct of hearings, all at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's National Olympic Committee or its designee. In Australia, the NADO as designated by the Australian Government is ASADA.

**National Anti-Doping (NAD) Scheme** means the NAD Scheme as defined under the ASADA Act as amended from time to time.

**No Fault or Negligence** means the Player's establishing that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method.

**No Significant Fault or Negligence** means the Player's establishing that his fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation.

Officer means an Officer as defined in the Corporations Act 2001 and without limitation shall include the President, Chairman, Vice President, Vice Chairman, General manager, Chief Executive, Football manager, Coach, any Board or Committee member and any servant or agent who makes or participates in the making of decisions that affect the whole, or a substantial part, of the business of the Club.

**Official** means a Coach, trainer, manager, agent, team staff, official, medical or paramedical personnel, sports scientist, parent or any other Person working with, treating or assisting a Player participating in or preparing for the AFL Competition.

**Out-of-Competition** means any Doping Control that is not In-Competition.

**Person** means a natural person, entity, body corporate or organisation.

**Player** means a person who is or has been included on a Club's list, a person eligible to be so included, a person bound to a Club or a person who has nominated for any AFL draft:

Possession means the actual, physical possession, or the constructive possession (which shall be found only if the Person has exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists); provided, however, that if the Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive possession shall only be found if the Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. Provided, however, there shall be no Anti-Doping Rule Violation based solely on Possession if, prior to receiving notification of any kind that the Person has committed an Anti-Doping Rule Violation, the Person has taken concrete action demonstrating that the Person never intended to have Possession and has renounced the Possession by explicitly declaring it to an Anti-Doping Organisation. Notwithstanding anything to the contrary in this definition, the purchase (including by electronic or other means) of a Prohibited Substance or Prohibited Methods constitutes Possession by the Person who makes the purchase.

**Premiership Season** means the series of Home and Away Matches between the AFL Clubs, which at the date of this Code, consists of 23 rounds (provided that the number of rounds may vary from year to year at the AFL's discretion);

**Pre-Season Competition** means a series of Australian football matches between AFL Clubs played in the period preceding the Premiership Season.

Prohibited Method means any method so described on the WADA Prohibited List.

**Prohibited Substance** means any substance so described on the WADA Prohibited List.

**Provider** means any Person who:

- (a) Administers a Treatment to a Player; or
- (b) supplies, prepares or manufactures a substance for the purpose of Administration of the substance to a Player as a Treatment..

**Prohibited Provider** means a Provider who is listed on the AFL Prohibited Providers List from time to time.

**Prohibited Providers List** means the list of Prohibited Providers published by the AFL from time to time in accordance with clause 11.2.

Provisional Suspension see Consequences of Anti-Doping Rule Violations above.

**Publicly Disclose** means to disseminate or distribute information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with Article 14 of the WADA Code.

**Register of Controlled Treatments** means the Register required to be maintained by each Club in accordance with clause 11.7.

<sup>&</sup>lt;sup>1</sup> Under this definition, steroids found in a Players car would constitute a violation unless the Player establishes that someone else used the car, in that event, ASADA or AFL must establish that, even though the Player did not have exclusive control of the car, the Player knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of a Player and spouse, ASADA or AFL must establish that the Player knew the steroids were in the cabinet and that the Player intended to exercise control over the steroids.

**Registered Testing Pool** means the pool of top level Players established separately by ASADA who are subject to both In-Competition and Out-of-Competition Testing as part of ASADA's test distribution plan.

**Sample** or **Specimen** means any biological material collected for the purposes of Doping Control.<sup>2</sup>

**Signatory** means an entity signing the WADA Code and agreeing to comply with the WADA Code, including the International Olympic Committee, international federations, International Paralympic committee, national Olympic committees, national Paralympic committees, major event organisations, National Anti-Doping Organisations and WADA.

**Specified Substance** means substances identified as specified substances in the WADA Prohibited List.

**Substantial Assistance** means, for the purposes of clause 14.4, a Person providing Substantial Assistance must:

- (a) fully disclose in a signed written statement all information he or she possesses in relation to Anti-Doping Rule Violations; and
- (b) fully cooperate with the investigation and adjudication of any case related to that information, including for example, presenting testimony at a hearing if requested to do so by ASADA, AFL or a hearing panel.

Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

**Tampering** means altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring; or providing fraudulent information to an Anti-Doping Organisation.

**Target Testing** means selection of Players for Testing where specific Players or groups of Players are selected on a non-random basis for Testing at a specified time.

**Testing** means the parts of the Doping Control process involving test distribution planning, Sample collection, Sample handling, and Sample transport to the laboratory.

**Therapeutic Use** means the permitted use of a prohibited substance for genuine medical reasons.

**TUE** means Therapeutic Use Exemption granted in accordance with the International Standard for Therapeutic Use Exemptions.

**Trafficking** means selling, giving, transporting, sending, delivering or distributing a Prohibited Substance or Prohibited Method(either physically or by any electronic or other means) by a Player, Official or other Person subject to the jurisdiction of an Anti-Doping Organisation to any third party; provided, however, this definition shall not include the actions of 'bona fide' medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification, and shall not

<sup>&</sup>lt;sup>2</sup> It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.

include actions involving Prohibited Substance which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substance are not intended for genuine and legal therapeutic purposes.

**Treatment** means the provision of any:

- (a) substance:
- (b) treatment, method or service;
- (c) process or intervention,
- (d) remedy, or
- (e) conditioning, management or care practice;

for any one or more of the following purposes:

- (f) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons;
- (g) influencing, inhibiting or modifying a person's physiological process;
- (h) testing a person's susceptibility to a disease or ailment;
- (i) the replacement or modification of parts of a person's anatomy.

**Use** means the utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Methods, or pursuant to clause 11, the utilisation, application, ingestion, injection or consumption by any means whatsoever of any AFL Prohibited Treatment.

**WADA** means the World Anti-Doping Agency.

WADA Code means the World Anti-Doping Code.

**WADA Prohibited List** means the List identifying the Prohibited Substances and Prohibited Methods which is published and revised by WADA as described in Article 4.1 of the WADA Code as amended from time to time.

# 2.2 Interpretation

- (a) Reference to:
  - (i) the singular includes the plural and the plural includes the singular;
  - (ii) one gender includes the other genders; and
  - (iii) a person includes a body corporate or other legal entity.
- (b) If a person to whom this Code applies consists of more than one natural person, then this Code binds them jointly and severally.
- (c) Headings are for convenience only and do not form part of this Code or affect its interpretation.

- (d) "Including" and similar words are not words of limitation.
- (e) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (f) Any word or phrase not defined in this Code but defined in the AFL Player Rules will have a corresponding meaning unless the context requires otherwise.
- (g) The official text of the WADA Code shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version will prevail.

# 2.3 Delegation/AFL Rules

- (a) The AFL General Counsel may delegate any of his obligations and powers under this Code to any corporation, person or entity as he deems appropriate, and in which instance references to "AFL General Counsel" in this Code will be deemed to include the corporation, person or entity to whom the obligations and powers have been so delegated.
- (b) This Code is deemed to form part of the AFL Player Rules.

# 3. Application of Code

- (a) This Code applies to:
  - (i) Players, whether in or out of competition;
  - (ii) Clubs and their Officers;
  - (iii) Officials; and
  - (iv) any other Person who is required to comply with this Code from time to time.
- (b) Any Player, Club, Officer, Official or other Person to whom this Code applies who commits an Anti-Doping Rule Violation or otherwise breaches the provisions of this Code is liable to the sanctions provided by the Code.
- (c) A Club will be deemed to have breached this Code should any of its Officers or Officials breach this Code and the Club may be sanctioned by the AFL in addition to the Officers or Officials concerned.

# 4. Powers of AFL and ASADA

- (a) Under the ASADA Act and the NAD Scheme established under that Act, ASADA has the legislative authority to:
  - investigate possible violations of the anti-doping rules under the ASADA Act and the NAD Scheme for Players and Officials under the jurisdiction of the AFL;
  - (ii) make findings in relation to such investigations;

- (iii) notify the Player, Official and the AFL of its findings and its recommendations as to the consequences of such findings; and
- (iv) present its findings and its recommendations as to consequences at hearings of the AFL Tribunal, the AFL Appeals Board or CAS, either at the AFL's request or on its own initiative.
- (b) AFL has a responsibility to encourage and promote competition free from Prohibited Substances and Methods and to prevent doping practices in sport. To facilitate this object, the AFL specifically recognises ASADA and its functions and powers. ASADA agrees that the AFL retains all functions and powers relating to this Code, including all functions and powers relating to investigations, the issuing of an infraction notice, the convening of hearings, the presentation of allegations of an Anti-Doping Rule Violations at a hearing and all matters incidental thereto.
- (c) The AFL will provide ASADA a copy of all notices of hearings to be conducted pursuant to this Code. ASADA has provided an undertaking to the AFL to keep this information confidential unless otherwise required to disclose by law and/or to the extent required under the ASADA Act, the NAD Scheme and this Code.
- (d) The AFL recognises that ASADA may carry out its own investigations of possible Anti-Doping Rule Violations.
- (e) The AFL will facilitate the presentation of relevant information obtained during investigations conducted by ASADA to the AFL Tribunal or AFL Appeals Board. For this purpose, the AFL will provide reasonable notice to ASADA of matters to be heard by the Tribunal or Appeals Board.
- (f) Where reasonable and as soon as the AFL becomes aware that a possible Anti-Doping Rule Violation may have occurred, the AFL will immediately advise ASADA of the possible violation. The AFL will provide ASADA with all information pertaining to the possible Anti-Doping Rule Violation and will, as may be reasonably required by ASADA, assist, cooperate and liaise with ASADA in relation to any investigation conducted by ASADA at no cost to the AFL.
- (g) In recognising ASADA's charter to conduct its own investigations, the AFL and ASADA agree that:
  - (i) any investigations undertaken by ASADA will be at no cost to the AFL;
  - (ii) the AFL will act on ASADA's findings on such investigations in good faith in accordance with this Code;
  - (iii) ASADA will inform the AFL of any intention to conduct an investigation that might reasonably be expected to result in an Anti-Doping Rule Violation under this Code and will provide regular reports to the AFL on ASADA's conduct of the anti-doping functions subject to ASADA's enabling legislation;
  - (iv) the AFL will inform ASADA of any investigation that might reasonably be expected to result in an Anti-Doping Rule Violation under this Code and will provide regular reports to ASADA on the AFL's conduct of its antidoping functions subject to this Code, including any with respect to clause 11.

- (h) ASADA will perform and conduct anti-doping functions and powers in accordance with this Code in so far as it does not conflict with the ASADA Act and the NAD Scheme.
- (i) The AFL agrees to provide such reports to ASADA on the AFL's conduct of any anti-doping functions under this Code, as may be reasonably agreed between the AFL and ASADA from time to time.
- (j) The AFL will recognise and enforce any sanction applied by the Tribunal or the Appeals Board in respect of an Anti-Doping Rule Violation and will recognise and enforce any finding by or on behalf of any Signatory that a breach has occurred of its anti-doping policy and the Player or Person concerned will be subject to sanction under this Code as if that Player or Person has committed an Anti-Doping Rule Violation under this Code.

# 5. Prohibited Classes of Substances and Prohibited Methods

- (a) The classes of substances and methods prohibited under this Code are those described in the WADA Prohibited List.
- (b) A copy of the current WADA Prohibited List is detailed in Annexure B. All amendments or additions to the WADA Prohibited List will be automatically prohibited under this Code.
- (c) Persons to whom this Code applies are specifically cautioned:
  - (i) The WADA Prohibited List describes, amongst other things, prohibited classes of substances. The naming of substances in the WADA Prohibited List is by way of example only and the fact that a substance is not so named does not affect its prohibition if the substance is within a prohibited class.
  - (ii) Amendments or additions to the WADA Prohibited List take effect under this Code at the same time as they take effect under the WADA Prohibited List and notwithstanding that any amendment or addition to the WADA Prohibited List is not included as an amendment to Annexure B.
  - (iii) It is the obligation of each Person to whom this Code applies to inform himself of all substances and methods prohibited under this Code. It is not a defence to any claim that a Person has breached this Code for that Person to contend:
    - (A) ignorance that a substance or method is prohibited;
    - (B) an honest and reasonable, but mistaken, belief that a substance or method is not prohibited under this Code;
    - (C) lack of intention to use or administer a Prohibited Substance or Prohibited Method;
    - (D) inadvertent use or administration of a Prohibited Substance or Prohibited Method;

- (E) that the substance or method was used or administered for therapeutic purposes unless permission has been given on behalf of the AFL under clause 9; or
- (F) that the substance or method in question did not enhance the performance of the Player concerned or was otherwise not performance enhancing.

### 6. The WADA Prohibited List

# 6.1 Incorporation of the WADA Prohibited List

This Code incorporates the WADA Prohibited List which is published and revised by WADA and changes from time to time.

# 6.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List

#### (a) Prohibited Substances and Prohibited Methods

The WADA Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future competitions or their masking potential and those substances and methods which are prohibited In-Competition only. Prohibited Substances and Prohibited Methods may be included in the WADA Prohibited List by general category (eg. Anabolic agents) or by specific reference to a particular substance or methods.<sup>3</sup>

#### (b) Specified Substances

For the purpose of the application of Clause 14 (Sanctions), all Prohibited Substances shall be "Specified Substances" except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the WADA Prohibited List. Prohibited Methods shall not be Specified Substances.<sup>4</sup>

There will be only <u>one</u> document called the "Prohibited List". WADA may add additional substances or methods to the WADA Prohibited List for particular sports (eg the inclusion of beta-blockers for shooting) but this will also be reflected on the single WADA Prohibited List. A particular sport is not permitted to seek exemption from the basic list of Prohibited Substances (eg eliminating anabolics from the WADA Prohibited List for "mind sports"). The premise of this decision is that there are certain basic doping agents which anyone who chooses to call himself a Player should not take.

<sup>&</sup>lt;sup>3</sup>There will be one WADA Prohibited List. The substances which are prohibited at all times would include masking agents and those substances which, when Used in training, may have long-term performance enhancing effects such as anabolics. All substances and methods on the WADA Prohibited List are prohibited In-Competition. Out-of-Competition Use of a substance which is only prohibited In-Competition is not an Anti-Doping Rule Violation unless an Adverse Analytical Finding for the substance or its Metabolites is reported for a Sample collected In-Competition.

<sup>&</sup>lt;sup>4</sup>In drafting the WADA Code there was considerable debate among stakeholders over the appropriate balance between inflexible sanctions which promote harmonisation in the application of the rules and more flexible sanctions which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the WADA Code. After three years experience with the WADA Code, the strong consensus of stakeholders is that while the occurrence of an Anti-Doping Rule Violation under Clauses 10(a) (Presence of a Prohibited Substance or its Metabolites or Markers) and 10(b) (Use of a Prohibited Substance or Prohibited Method) should still be based on the principle of strict liability, the WADA Code sanctions should be made more flexible where the Player or other Person can clearly demonstrate that he did not

# 6.3 Criteria for Including Substances and Methods on the WADA Prohibited List

WADA's determination of the Prohibited Substances and Prohibited Methods that will be included on the WADA Prohibited List and the classification of substances into categories on the WADA Prohibited List is final and shall not be subject to challenge by a Player or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.<sup>5</sup>

# 7. Obligations

- (a) All Players, Clubs, Officers and Officials must comply with and observe this Code.
- (b) All Players must give Samples for Testing at the request of either ASADA or the AFL Medical Officer.
- (c) Except as otherwise authorised in writing by the AFL General Counsel, a Player drafted or listed by a Club may be required to provide ASADA with a Sample for Testing and is ineligible to participate in the Premiership Season and the Finals Series until that Sample has been analysed and has not resulted in a Adverse Analytical Finding. This Testing of each Player will be conducted on behalf of both the AFL and the Club concerned who will both be provided with the results thereof.
- (d) Each Player must upon request, promptly provide to their Club their address and telephone numbers and other up to date details of their whereabouts so as to permit Out-of-Competition testing. The minimum required details in order to comply with this Clause are set out in the "Whereabouts Form" in Annexure A. A Player who has lodged with his Club a "Whereabouts Form" in accordance with Annexure A which contains information that continues to be up to date and which provides a current telephone number of the Player is deemed to have complied with this Clause.
- (e) The applicable requirements for the purposes of Clause 10(d) are that Players must:
  - (i) provide whereabouts information to their Club at the beginning of each season;
  - (ii) not deliberately or recklessly provide incorrect whereabouts information;
  - (iii) not fail on more than three occasions in any twelve month period to update the whereabouts information within ten (10) days of the whereabouts information previously provided to the Club becoming out of date;

intend to enhance sport performance. The rules set forth in Clause 14.4] (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances) would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones, as well as the stimulants and the hormone antagonists and modulators so identified on the WADA Prohibited List, or Prohibited Methods.

<sup>&</sup>lt;sup>5</sup>The question of whether a substance meets the criteria in this Clause(Criteria for Including Substances and Methods on the Prohibited List) in a particular case cannot be raised as a defence to an Anti-Doping Rule Violation. For example, it cannot be argued that the Prohibited Substance detected would not have been performance enhancing in that particular sport. Rather, doping occurs when a substance on the WADA Prohibited List is found in a Player's Sample. Similarly, it cannot be argued that a substance listed in the class of anabolic agents does not belong in that class.

- (iv) not refuse to update the whereabouts information previously provided to the Club within three (3) days of being requested to do so;
- (v) not be unavailable for Out-of-Competition Testing on a total of three (or more) occasions during a calendar year;<sup>6</sup> and
- (vi) if included in ASADA's Registered Testing Pool, comply with ASADA's requirements relating to athlete whereabouts.

### (f) Each Club must:

- (i) notify its Players that they are liable for selection to provide Samples for Testing of Doping whether In-Competition or Out-of-Competition;
- (ii) educate its Players, Officers and Officials in respect of:
- (iii) the dangers and consequences of the use of performance enhancing substances and to this end will ensure that all such persons attend all drug awareness or education lectures given by the AFL in conjunction with ASADA to the Club and will maintain and keep a written record of all such attendees which will be signed by all attendees and certified by the Club's Chief Executive Officer. This record will be provided upon request to the AFL;
- (iv) their respective obligations under this Code; and
- (v) the sanctions which are applicable for a breach of this Code.
- (g) advise the AFL in writing of all steps, actions and other matters undertaken by it pursuant to clause 7(f)
- (h) permit and assist ASADA to attend Matches and training sessions in order to obtain Samples from Players for Testing and provide the facilities required to enable ASADA to obtain such Samples;
- (i) permit ASADA to obtain Samples from Players for Testing other than at Matches and training sessions and provide all necessary assistance and allow the ASADA representatives unlimited access to the training and changing rooms and other Match facilities for this purpose;
- (j) require and cause its Players and Officers and Officials to permit ASADA to collect Samples for testing and provide all necessary assistance for this purpose;
- (k) arrange for completion and return of forms required for the purposes of ASADA at the request of ASADA;

<sup>&</sup>lt;sup>6</sup> Note 1: A player is unavailable for Out-of-Competition Testing if and only if the player for a period of 72 hours is not with his team, not at any of the places specified in the Whereabouts Form previously provided to the Club and does not answer the telephone when called on the current telephone number specified in the Whereabouts Form previously provided to the Club or respond to any message from the relevant Anti-Doping Organisation with respect to availability for Out-of-Competition Testing.

Note 2: A player cannot be regarded as having been unavailable for a 2<sup>nd</sup> or subsequent occasion unless the player has received written notice from the relevant Anti-Doping Organisation, the AFL or their Club of the 1<sup>st</sup> (or 2<sup>nd</sup> as the case may be) occasion the player was unavailable and has not provided an explanation, which is satisfactory to the relevant Anti-Doping Organisation or the AFL as to the circumstances of the 1<sup>st</sup> (or 2<sup>nd</sup> as the case may be) occasion.

- (I) promptly notify the AFL General Counsel of any circumstances which may be or are a breach of this Code;
- (m) upon request promptly provide to the AFL such information and assistance as they may request concerning the application of this Code, any alleged breach of this Code or any practice concerning the use of drugs in Australian football;
- (n) permit and assist the AFL to access the players' room at each Match, the facility provided by the Club for the collection of samples by ASADA, the written record kept and maintained under clause 5(b) and to any other information he requires in performing his duties;
- (o) appoint a Club Liaison Officer whose responsibilities are described in this Code;
- (p) ensure that its Players and Club Medical Officers comply with their obligations under clauses 5(b), 7(d) and 7(e);
- (q) upon request, promptly provide to ASADA the names, addresses and telephone numbers of the Players listed on its Lists;
- (r) upon request, promptly provide to ASADA the Club's training schedule, inclusive of the date, time and place where the Players of the Club will train; and
- (s) promptly advise ASADA of any change to the information provided by the Club under Clauses 7(q) and 7(r)

# 8. Testing for Doping

Sampling and Testing of Players must be conducted substantially in conformity with the WADA International Standard for Testing. Sample analysis and custodial procedures shall be conducted in accordance with the International Standard for Laboratories. Minor irregularities, which cannot reasonably be considered to have affected the results of otherwise valid tests, will not invalidate such results. Minor irregularities do not include the chain of custody of the Sample, improper sealing of the container(s) in which the Sample is stored, failure to request the signature of the Player or failure to provide the Player with an opportunity to be present or be represented at the opening and analysis of the 'B' Sample is requested.

# 9. Therapeutic Use

- (a) Where a Player through his Club and the AFL has received authorisation from the ASDMAC to use a substance otherwise prohibited under this Code then, solely for the Player concerned and subject to the conditions attaching to the authorisation, the substance concerned will be deemed not to be prohibited under this Code. The authorisation must be in force before the Player concerned uses or administers the said substance, except under emergency medical situations.
- (b) All applications for Therapeutic Use of an otherwise prohibited substance must be made using the application process as outlined by ASDMAC. The application must include a description of the Player's medical condition, objective medical data to support the medical condition, length of treatment and verification there is no alternative available and practical medication that does not contain prohibited substances.

- (c) ASDMAC will determine the application according to the International Standard for TUEs and its usual criteria.
- (d) ASDMAC's authority will include the name of any prohibited substance, usage and method of administration, duration of and any specific condition attached to the approval.
- (e) Subject to Clause 9(f) ASDMAC will forward the written authorisation by the doctor making the application with a copy to the AFL.
- (f) Where the administration of a Prohibited Substance or Prohibited Method to a Player is deemed as being urgent by a qualified medical practitioner or it is impractical in the interests of the Player's health to obtain prior written authorisation from ASDMAC or due to exceptional circumstances, there was insufficient time or opportunity to submit, or for ASDMAC to consider, an application prior to Doping Control, then the Player's Club Medical Officer must request verbally, followed by in writing approval from ASDMAC which may give permission for temporary administration only of the substance Any player granted "Therapeutic Use" must state details of the use of the prohibited drug and the ASDMAC approved number on the Drug Testing Form.
- (g) A Player who is denied a TUE by ASDMAC must seek review by WADA of the decision before any appeal may be commenced under Clause 17.4.
- (h) Should a Club Medical Officer provide incorrect information or information which is incomplete, misleading or likely to mislead or if the Club Medical Officer omits to provide any relevant information in respect of an application, this will be a breach of this Code for which both the Club Medical Officer and the Club will be severally liable.

# 10. Anti-Doping Rule Violations

The following constitute Anti-Doping Rule Violations, provided however, that each of the Anti-Doping Rule Violations set out in Clauses 10(a), 10(b), 10(f) and 10(h) shall be deemed not to be Anti-Doping Rule Violations by a Person if the Person has previously obtained a Therapeutic Use Exemption from an AFL or Club Medical Officer or a Recognised Medical Authority in accordance with this Code.

An Anti-Doping Rule Violation occurs even if the Player does not know the Prohibited Substance or Prohibited Method is prohibited under this Code. The onus is on the Player to check all substances and methods.

- (a) The presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample
  - (i) It is each Player's personal duty to ensure that no Prohibited Substance enters his body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Sample. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an Anti-Doping Rule Violation under Clause 10(a).

<sup>&</sup>lt;sup>7</sup>For purposes of Anti-Doping Rule Violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), the WADA Code (and therefore this Code) adopts the rule of strict liability which was found in the Olympic Movement Anti-Doping Code

- (ii) Sufficient proof of an Anti-Doping Rule Violation under this Clause is established by either of the following:
  - (A) presence of a Prohibited Substance or its Metabolites or Markers in the Players A Sample where a Player waives analysis of the B Sample and the B Sample is not analysed; or
  - (B) where the Player's B Sample is analysed and the analysis of the Player's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Player's A Sample.8
- (iii) Excepting those substances for which a quantitative reporting threshold is specifically identified in the WADA Prohibited List, the detected presence of any quantity of a Prohibited Substance or its Metabolites or Markers in a Player's Sample shall constitute an Anti-Doping Rule Violation.
- (iv) As an exception to the general rule of this Clause, the WADA Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.
- (b) Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method<sup>9</sup>
  - (i) It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an Anti-Doping Rule Violation for Use of a Prohibited Substance or Prohibited Method.

("OMADC") and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, a Player is responsible, and an Anti-Doping Rule Violation occurs, whenever a Prohibited Substance is found in a Player's Sample. The violation occurs whether or not the Player intentionally or unintentionally Used a Prohibited Substance or was negligent or otherwise at fault. However, the Player then has the possibility to reduce sanctions if the Player can demonstrate that he was not at fault or significant fault (Clause 14.4 (Elimination or Reduction of period of Ineligibility Based on Exceptional Circumstances)) or in certain circumstances did not intend to enhance his sport performance (Clause 14.3 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances)).

The strict liability rule for the finding of a Prohibited Substance in an Player's Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all "clean" Players and fairness in the exceptional circumstance where a Prohibited Substance entered an Player's system through No Fault or Negligence or No Significant Fault or Negligence on the Player's part. It is important to emphasise that while the determination of whether the Anti-Doping Rule Violation has occurred is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict liability principle set forth in the WADA Code has been consistently upheld in the decisions of CAS.

<sup>&</sup>lt;sup>8</sup> The Anti-Doping Organisation with results management responsibility may in its discretion choose to have the B Sample analysed even if the Player does not request the analysis of the B Sample.

<sup>&</sup>lt;sup>9</sup> It has always been the case that Use or Attempted use of a Prohibited Substance or Prohibited Method may be established by any reliable means. Unlike the proof required to establish an Anti-Doping Rule Violation under Clause 10(a), Use or Attempted use may also be established by other reliable means such as admissions by the Player, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Clause 10(a). For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.

- (ii) The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an Anti-Doping Rule Violation to be committed.<sup>10</sup>
- (c) Refusing or failing without compelling justification to submit to Sample collection after notification as authorised in these Anti-Doping Rules, or otherwise evading Sample collection.<sup>11</sup>
- (d) Violation of the requirements regarding Player availability for Out-of-Competition Testing including failure to provide required whereabouts information and Missed Tests which are declared based on reasonable rules which comply with the International Standard for Testing. Any combination of three (3) Missed Test and/or Filing Failures within an eighteen (18) month period as determined by Anti-Doping Organisation with jurisdiction over the Player shall constitute an Anti-Doping rule Violation.<sup>12</sup>
- (e) Tampering, or Attempted Tampering with any part of Doping Control. 13
- (f) Possession of Prohibited Substances or Prohibited Methods
  - (i) Possession by a Player In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by a Player Out-of-Competition of any Prohibited Method or Prohibited Substance that is prohibited Out-of-Competition unless the Player establishes that the Possession is pursuant to a Therapeutic Use Exemption granted in accordance with Clause 9 (Therapeutic Use) or other acceptable justification.<sup>14</sup>

<sup>&</sup>lt;sup>10</sup> Demonstrating the "Attempted Use" of a Prohibited Substance requires proof of intent on the Player's part. The fact that intent may be required to prove this particular Anti-Doping Rule Violation does not undermine the strict liability principle established for violations of Clause 10(a) and violations of Clause 10(b) in respect of Use of a Prohibited Substance or Prohibited Method.

A Player's Use of a Prohibited Substance constitutes an Ant Doping Rule Violation unless such substance is not prohibited Out-of-Competition and the Player's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Clause 10(a) (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)

<sup>&</sup>lt;sup>11</sup> Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Clause expands the typical pre-Code rule to include "otherwise evading Sample collection" as prohibited conduct. Thus, for example, it would be an Anti-Doping Rule Violation if it were established that a Player was hiding from a Doping Control official to evade notification or Testing. A violation of "refusing or failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Player, while "evading" Sample collection contemplates intentional conduct by the Player.

<sup>&</sup>lt;sup>12</sup> Separate Whereabouts Filing Failures and Missed Tests declared under the rules of the Player's International Federation, ASADA or any other Anti-Doping Organisation with authority to declare Whereabouts Filing Failures and Missed Tests in accordance with the International Standard for Testing shall be combined in applying this Clause. In appropriate circumstances, Missed Tests or Filing Failures may also constitute an Anti-Doping Rule Violation under Clause 10(c) or Clause 10(e).

<sup>&</sup>lt;sup>13</sup> This Clause prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. For example, altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organisation.

<sup>&</sup>lt;sup>14</sup> Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, eg buying insulin for a diabetic child.

- (ii) Possession by an Official In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Official Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition in connection with a Player or training, unless the Official establishes that the Possession is pursuant to a Therapeutic Use Exemption granted to a Player in accordance with Clause 9 (Therapeutic Use) or other acceptable justification.<sup>15</sup>
- (g) Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method.
- (h) Administration or Attempted administration to any Player In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Player Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an Anti-Doping Rule Violation or any Attempted Anti-Doping Rule Violation.
- (i) It is a breach of this Code for a Club to permit a Player to participate in the AFL Competition where the Player is ineligible to so participate under this Code.

# 11. AFL Treatment Rules

# 11.1 Application of This Clause

- (a) This clause 11 sets out the AFL's rules in relation to the Use of Treatments by, and Administration of Treatments to, various persons and is a key component of the AFL's integrity program.
- (b) This clause operates independently from the Anti-Doping Rule Violations set out in clause 10 and the sanctions that may be imposed by the AFL in accordance with clause 11.10 in relation to any contravention of this clause 11 are separate and independent from the sanctions which apply under clause 14.
- (c) For the avoidance of doubt, the AFL is responsible for implementation of, and monitoring compliance with, this clause 11 including issuing any sanctions for non-compliance and neither ASADA nor WADA has any power, function or jurisdiction in relation to the matters set out in this clause 11.
- (d) For the purposes of this clause 11, if a Player, Club or Official assists, encourages, aids, abets, covers up or is complicit in a breach of this clause, the relevant Player, Club or Official will be in breach of the relevant clause and liable to be sanctioned by the AFL in accordance with clause 11.10.

# 11.2 Certain Treatments and Providers Prohibited or Controlled

- (a) The General Counsel may determine from time to time, in its sole discretion and subject to such conditions as it deems fit, that:
  - a Treatment or class of Treatment is to be an AFL Prohibited Treatment by including the relevant Treatment or class of Treatment on the AFL Prohibited Treatments List;

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<sup>&</sup>lt;sup>15</sup> Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.

- (ii) a person or class of person is a Prohibited Provider by including the relevant person or class of person on the Prohibited Providers List;
- (iii) a Treatment or class of Treatment is a Controlled Treatment by including the relevant Treatment or class of Treatment on the Controlled Treatments List:
- (b) The General Counsel may amend the AFL Prohibited Treatments List, the Controlled Treatments List and the Prohibited Providers List from time to time by giving notice in writing to each Club.

#### 11.3 Offence to Use AFL Prohibited Treatments or Prohibited Providers

- (a) No Player may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Player to be Administered any AFL Prohibited Treatment.
- (b) No Player, and no Official or Club by itself or its Officers, servants or agents, may permit or allow a Prohibited Provider to act as a Provider with respect to a Player.

### 11.4 Offence to possess AFL Prohibited Treatments and Prohibited Substances

- (a) A Player must not have in his Possession or control at any time an AFL Prohibited Treatment without the prior written approval of the General Counsel.
- (b) A Club must not have on its premises any Prohibited Substance or AFL Prohibited Treatment at any time without the prior written approval of the General Counsel.
- (c) No Person may permit a Prohibited Substance or AFL Prohibited Treatment to be brought onto the premises of the Club or to any AFL Venue without the prior written approval of the General Counsel.
- (d) A Club must take reasonable steps to ensure that all substances to be provided to Players as a Treatment are stored in a central, secure location, access to which is limited to authorised persons and that a proper inventory system for such substances is maintained. The General Counsel may issue minimum standards with respect to this requirement.

# 11.5 No Needles Policy

- (a) Subject to clause 11.5(b), no Player may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Player to be Administered any substance by injection without the prior approval of the General Counsel.
- (b) Clause 11.5(a) does not apply to an injection that is:
  - (i) administered by an appropriately qualified medical professional in accordance with this clause 11; and
  - (ii) necessary to treat a legitimate medical condition meaning that there is no reasonable alternative way of treating the legitimate medical condition other than by injection.

- (c) Save for the Club Medical Officer, no Person may have in their Possession any object or material used for an injection or any injectable substance without the prior approval of the General Counsel.
- (d) For the purpose of this clause 11, "injection" includes any type of injection including intravenous, intra-articular, subcutaneous, peri-articular, peri-tendonous, epidural, intradermal, etc, but does not include "dry needling".

# 11.6 Approval of Controlled Treatments by Club Medical Officer

- (a) Subject to clause 11.6(c) and (d), no Player may use, and no Official, or Club by itself or its Officers, servants or agents, may, fund, permit or allow any Player to be Administered any Controlled Treatment, unless the relevant Club Medical Officer has provided prior written approval of the Controlled Treatment in a meeting the criteria prescribed by the General Counsel.
- (b) Prior written approval referred to in clause 11.6(a) may be in terms general or specific as determined at the discretion of the Club Medical Officer.
- (c) Clause 11.6(a) does not apply to a medical emergency situation where it is not possible to first seek the approval of the Club Medical Officer.
- (d) Where it is not reasonably practicable for the Club Medical Officer to provide his or her prior approval in writing under clause 11.6(a), the Club Medical Officer may initially provide his or her approval verbally, with written approval to follow as soon as reasonably practicable and no later than 24 hours after the verbal approval is given.

# 11.7 Register of Controlled Treatments

- (a) Each Club must keep and maintain a complete, accurate and up to date Register of Controlled Treatments.
- (b) The Register of Controlled Treatments shall include in relation to each Club:
  - (i) a record of all Controlled Treatments Administered to Players which the Club funds or authorises.
  - (ii) such details as are prescribed by the General Counsel with respect to such Treatments.
- (c) The Register of Controlled Treatments shall be maintained in the form prescribed by the General Counsel from time to time.
- (d) A Club must procure from relevant Providers such details as are required to be maintained in the Register of Controlled Treatments.
- (e) The register outlined in this clause 11.7 must be made available to the AFL at all times.

### 11.8 Doping Control Form Declarations

Each Player must record all Treatments used by or administered to him on the doping control form at the time of providing a Sample.

# 11.9 Conduct Unbecoming

No Person may engage in conduct in relation to any AFL Prohibited Treatment, Prohibited Substance or Prohibited Method that is unbecoming or likely to prejudice the interests or reputation of the AFL or bring the game of football into disrepute.

#### 11.10 Sanctions for AFL Treatment Rules

Where the AFL Commission or General Counsel determines that a Club or Person has committed a breach of this clause 11, the Club or Person will be sanctioned as the AFL Commission or General Counsel deems appropriate in their sole and absolute discretion, unless the AFL Commission or General Counsel determines such breach should be referred to the Tribunal for determination, in which case the Tribunal may determine the sanction in its sole and absolute discretion. For the avoidance of doubt, clause 14 of this Code will not apply to breaches of this clause 11.

### 11.11 Appeals Regarding Contravention of AFL Treatment Rules

A Player, Club or other person to whom the AFL Treatment Rules apply may appeal a decision of the AFL General Counsel in respect of a breach of the AFL Treatment Rules to the Appeals Board on a question of law only. For the avoidance of doubt, neither WADA nor ASADA shall have any right of appeal with respect to any matters involving the AFL Treatment Rules unless the conduct also falls under the Anti-Doping Violation section. For the avoidance of doubt, clause 17 of this Code will not apply to breaches of this clause 11.

# 12. Advice of Alleged Breach and Investigations

- (a) Anti-Doping Organisations will notify in writing the AFL General Counsel of the names and results of any Player or Person who returns an Adverse Analytical Finding for Doping or who fails to comply with the requirement to provide a Sample for Testing or who may have been involved in an Anti-Doping Rule Violation.
- (b) Players, Clubs, Officers and Officials must notify the AFL General Counsel of all facts and circumstances where the Player, Club, Officer or Official believes there is or may be an Anti-Doping Rule Violation or other breach of this Code.
- (c) Subject to the provisions of the ASADA Act, immediately upon receipt of notification from ASADA of the Adverse Analytical Finding for the A Sample, the Player concerned will advise the General Counsel and his Club in writing of this fact.
- (d) Subject to Clause 12(e) or unless otherwise determined by the AFL Commission in any case, a Player will be ineligible to participate in any Match from the earlier of:
  - (i) notification from ASADA to him of the Adverse Analytical Finding for the A Sample (where applicable); or
  - (ii) the issuing to him of an infraction notice by the AFL General Counsel under Clause 13:

until either:

- (iii) ASADA advising the Player and the AFL General Counsel of the result of the Testing of the B Sample, should that Testing fail to confirm the positive A Sample test result; or
- (iv) the determination of the Tribunal.
- (e) Provisional Suspension
  - (i) Clause 12(d) only applies to an Adverse Analytical Finding for the A Sample or an infraction notice for or relating to any Prohibited Substance or Prohibited Method that is not a Specified Substance, with such ineligibility known as a Provisional Suspension. If the Adverse Analytical Finding for the A Sample or infraction notice does not relate to such substances or prohibited methods and does relate to some other substance, a Player may continue to participate in any Match until the determination of the Tribunal.
  - (ii) Where a Player remains eligible to participate in a Match by reason of sub-Clause 11.3(a) the AFL may, at its discretion, subject the Player to directed sampling and testing at any time up to the Tribunal hearing. If a further test is conducted and the Tribunal ultimately determines that Doping has occurred following the results of this further test, then that determination will be deemed to be a subsequent offence to any Anti-Doping Rule Violation already proven against the Player and he will be liable for the appropriate sanction described in Clause 14.1.
- (f) The AFL shall investigate the facts and/or circumstances surrounding any actual or alleged Anti-Doping Rule Violation, or any actual or alleged other breach of this Code. Where ASADA does not already have knowledge of the alleged Anti-Doping Rule Violation, the AFL will immediately advise ASADA of the matter.
- (g) Each Player, Club, Officer and Official must upon the request of the AFL:
  - (i) fully co-operate with any investigation;
  - (ii) fully and truthfully answer any question asked for the purpose of such investigation; and
  - (iii) provide any document in their possession or control relevant to such investigation.
- (h) No Player, Club, Officer or Official will provide to the AFL any information which is in any respect incomplete, false or misleading or likely to mislead.
- (i) Where the Player or person who is or may have been involved in an Anti-Doping Rule Violation is an Australian Institute of Sport Scholarship Holder or bound by the ASC Anti-Doping Policy, the ASC may jointly take part in the investigation and/or Tribunal hearing and following a Tribunal hearing may independently review the outcome of the process and take such further action as it considers appropriate under the ASC Anti-Doping Policy, including reviewing or appealing a decision of the Tribunal. The AIS may require the Player or other Person to repay all funding and grants received from the AIS subsequent to the occurrence of the Anti-Doping Rule Violation.

(j) If a Player or other Person retires while a results management process is underway, the AFL and ASADA retain jurisdiction to complete their results management processes. If a Player or other Person retires before any results management process has begun, so long as the AFL and/or ASADA would have had results management jurisdiction over the Player or other Person at the time the Player or other Person committed an Anti-Doping Rule Violation, the AFL and ASADA will have jurisdiction to conduct results management.

# 13. Infraction Notice

- (a) As soon as possible after the AFL General Counsel has received notification from ASADA of an Adverse Analytical Finding or he believes on other grounds that there may have been committed an Anti-Doping Rule Violation or a breach of this Code (other than as described in Clauses 13(d) and 13(e), he will give to the Person an infraction notice, together with a copy of this Code, and refer the matter to the Tribunal for hearing and determination.
- (b) The infraction notice given pursuant to this Clause must:
  - (i) be in writing and be delivered to the Person's address as last known to the AFL;
  - (ii) set out the nature and particulars of the alleged Anti-Doping Rule Violation; and
  - (iii) state the date, time and place at which the Tribunal will conduct its hearing into the Anti-Doping Rule Violation.
- (c) In the event that a Player advises ASADA and the AFL General Counsel that he does not require the B Sample to be tested and admits the Anti-Doping Rule Violation, the Tribunal's hearing will be conducted solely as to the applicable sanction to be imposed.
- (d) Where the AFL General Counsel believes a Club and/or any other Person may have committed a breach of this Code as described in clause 14.6,, he will give written notice thereof to the Club's Chief Executive Officer and/or the other Person concerned stating the relevant facts alleged by him to constitute such breach and requiring the Chief Executive Officer and/or the other person concerned to show cause within seven (7) days why the breach should not be established.
- (e) If the Club through its Chief Executive Officer and/or the other Person concerned fails to satisfy the AFL General Counsel that the breach should not be established or the Player or other Person waives their right to a hearing, the AFL General Counsel will give the Club and/or the other Person concerned written notice of the imposition of the automatic sanction.

### 14. Sanctions

Nothing in this clause 14 operates in relation to any breach of clause 11 of this Code.

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# 14.1 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

The period of Ineligibility imposed for a violation of Clause 10(a) (presence of Prohibited Substance or its Metabolites or Markers), Clause 10(b) (Use or Attempted Use of Prohibited Substance or Prohibited Method) and Clause 10(f) (Possession of Prohibited Substances and Methods) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Clauses 14.3 and 14.4, or the conditions for increasing the period of Ineligibility, as provided in Clause 14.5, are met:

First violation: Two (2) years' Ineligibility<sup>16</sup>

# 14.2 Ineligibility for Other Anti-Doping Rule Violations

The period of Ineligibility for Anti-Doping Rule Violations other than as provided in Clause 13(a) of this Code shall be:

- (a) For violations of Clause 10(c) (Refusing or Failing to Submit to Sample Collection) or Clause 10(e) (Tampering or Attempted Tampering with Doping Control) the period of Ineligibility imposed shall be two (2) years unless the conditions provided in Clause 14.4, or conditions provided in Clause 14.5 are met.
- (b) For violations of Clause 10(g) (Trafficking or Attempted Trafficking) or Clause 10(h) (Administration or Attempted Administration of Prohibited Substance or Prohibited Method), the period of Ineligibility imposed shall be a minimum of four (4) years and a maximum lifetime Ineligibility, unless the conditions provided in Clause 14.4 are met.
- (c) An Anti-Doping Rule Violation involving a Minor shall be considered a particularly serious violation and, if committed by an Official for violations other than Specified Substances shall result in lifetime Ineligibility for such Official. In addition, significant violations of Clauses 10(g) and 10(h) that also violate non-sporting laws and regulations may be reported to the competent administrative, professional or judicial authorities.<sup>17</sup>
- (d) For violations of Clause 10(d) (Whereabouts Filing Failures or Missed Tests), the period of Ineligibility shall be at a minimum one (1) year and at a maximum two (2) years based on the Player's degree of fault.<sup>18</sup>

<sup>16</sup> Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the athletes are professionals making a sizable income from the sport and in others the athletes are true amateurs; in those sports where an athlete's career is short (eg artistic gymnastics) a two-year Disqualification has a much more significant effect on the athlete than in sports where careers are traditionally much longer (eg equestrian and shooting); in Individual Sports, the athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favour of harmonisation is that it is simply not right that two athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for

some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the

source of jurisdictional conflicts between International Federations and National Anti-Doping Organisations.

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<sup>&</sup>lt;sup>17</sup> Those who are involved in doping Players or covering up doping should be subject to sanctions which are more severe than the Players who test positive. Since the authority of Sporting Organisations is generally limited to Ineligibility for credentials, membership and other sport benefits, reporting Officials to competent authorities is an important step in the deterrence of doping.

<sup>&</sup>lt;sup>18</sup> The sanction under this Clause shall be two years where all three Filing Failures or Missed Tests are inexcusable. Otherwise, the sanction shall be assessed in the range of two years to one year, based on the circumstances of the case.

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# 14.3 Elimination or Reduction of Period of Ineligibility for Specified Substances under Specific Circumstances

Where a Player or other Person can establish how a Specified Substance entered his body or came into his Possession and that such Specified Substance was not intended to enhance the Player's sport performance or mask the Use of a performance-enhancing substance, the period of Ineligibility found in Clause 14.1 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of Ineligibility, and at a

maximum, two (2) years of Ineligibility.

To justify any elimination or reduction, the Player or other Person must produce corroborating evidence in addition to his word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the Use of a performance-enhancing substance. The Player's or other Person's degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.<sup>19</sup>

# 14.4 Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances

### (a) No Fault or No Negligence

If the Player establishes in an individual case that he bears No Fault or Negligence for the violation, the otherwise period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in a Player's Sample in violation of Clause 10(a) (Presence of Prohibited Substance), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility eliminated. In the event this Clause is applied and the period of Ineligibility otherwise applicable is eliminated, the Anti-Doping Rule Violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Clause 14.6.

#### (b) No Significant Fault or No Significant Negligence

If a Player or other Person establishes in an individual case that he or she bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the minimum period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under

<sup>&</sup>lt;sup>19</sup> Specified Substances are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a Specified Substance could be very effective to a Player In Competition); for that reason, a Player who does not meet the criteria under this Clause would receive a two-year period of Ineligibility and could receive up to a four-year period of Ineligibility under Clause 14.5. However, there is a greater likelihood that Specified Substances, as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation. This Clause applies only in those cases where the Tribunal is comfortably satisfied by the objective circumstances of the case that the Player in taking or Possessing a Prohibited Substance did not intend to enhance his sport performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Player; the Player's open Use or disclosure of his Use of the Specified Substance; and a contemporaneous medical records file substantiating the non sport-related prescription for the Specified Substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Player to prove lack of an intent to enhance sport performance.

this section may be no less than eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in a Player's Sample in violation of Clause 10(a) (Presence of Prohibited Substance), the Player must also establish how the Prohibited Substance entered his system in order to have the period of Ineligibility reduced.<sup>20</sup>

(c) Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations

CAS or the Tribunal may, prior to a final appellate decision under Clause 17 or the expiration of the time to appeal, suspend a part of the period of Ineligibility imposed in an individual case where the Player or other Person has provided substantial assistance to the AFL, ASADA or another Anti-Doping Organisation which results in that organisation discovering or establishing an Anti-Doping Rule Violation by another Person which results in a criminal or disciplinary body discovering or establishing a criminal offence or the breach of professional rules by another Person. After a final appellate decision under Clause 17 or the expiration of time to appeal, the AFL may suspend part of the otherwise applicable period of Ineligibility but only with the approval of WADA. The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Anti-Doping Rule Violation committed by the Player or other Person and the significance of the Substantial Assistance provided by the Player or other Person to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the non-suspended period under this Clause may be no less than eight (8) years. If any part of the otherwise applicable period of Ineligibility is suspended under this

<sup>20</sup> The WADA Code provides for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Player can establish that he had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organisations that argue for a much narrower exception, or none at all, and those that would reduce a two-year suspension based on a range of other factors even when the Player was admittedly at fault. These Clauses apply only to the imposition of sanctions; they are not applicable to the determination of whether an Anti-Doping Rule Violation has occurred.

Clause 14.4(b) may be applied to any Anti-Doping Rule Violation even though it will be especially difficult to meet the criteria for a reduction for those Anti-Doping Rule Violations where knowledge is an element of the violation.

The Clauses are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Clause 14.4(a), an example where No Fault or Negligence would result in the total elimination of a sanction is where a Player could prove that, despite all due care, he was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Players are responsible for what they ingest and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Player's personal physician or trainer without disclosure to the Player (Players are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Player's food or drink by a spouse, coach, or other Person within the Player's circle of associates. (Players are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Player clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Player exercised care in not taking other nutritional supplements.) For purposes of assessing the Player's or other Person's fault under these clauses, the evidence considered must be specific and relevant to explain the Player's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that a Player would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Player only has a short time left in his career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Clause.

While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Player's or other Person's fault under Clause 14.4(b).

Clause 14.4(b) should not be applied in cases where Clauses 14.2(c) or 14.3 apply, as those Clauses already take into consideration the Player's or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility.

Clause, the AFL shall promptly provide a written justification for its decision to each Anti-Doping Organisation having a right to appeal the decision. If any part of the suspended period of Ineligibility is subsequently reinstated because the Player or other Person has failed to provide the Substantial Assistance which was anticipated, the Player or other Person may appeal the reinstatement pursuant to Clause 17.<sup>21</sup>

(d) Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence

Where a player or other Person voluntarily admits the commission of an Anti-Doping Rule Violation before having received notice of a Sample collection which could establish an Anti-Doping Rule violation (or, in the case of an Anti-Doping rule violation other than Clause 10(a), before first receiving notice of the admitted violation) and that admission is the only reliable evidence of the violation at the time of the admission, then the period of Ineligibility may be reduced, but not below one half of the period of Ineligibility otherwise applicable.<sup>22</sup>

(e) Where a Player or Other Person Establishes Entitlements to Reduction in Sanction Under More than One Provision of this Clause

Before applying any reduction or suspension under Clause 14.4(b),(c) or (d), the otherwise applicable period of Ineligibility shall be determined in accordance with Clauses 14.1,, 14.2, 14.3 or 14.5, then the period of Ineligibility may be reduced or suspended, but not below one quarter of the otherwise applicable period of Ineligibility.<sup>23</sup>

<sup>21</sup> The cooperation of Players, Officials and other Persons who acknowledge their mistakes and are willing to bring other Anti-Doping Rule Violations to light is important to clean sport.

Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving Trafficking under Clause 10(g) or administration under Clause 10(h) is involved and whether the violation involved a substance or method which is not readily detectible in Testing. The maximum suspension of the Ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the Anti-Doping Rule Violation is any performance-enhancing benefit which the Person providing Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the greater the percentage of the otherwise applicable period of Ineligibility may be suspended.

If the Player or other Person who is asserted to have committed an Anti-Doping Rule Violation claims entitlement to a suspended period of Ineligibility under this Clause in connection with the Player's or other Person's waiver of a hearing, the AFL shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Clause. If the Player or other Person claims entitlement to a suspended period of Ineligibility before the conclusion of a hearing on the Anti-Doping Rule Violation, the Tribunal shall determine whether a suspension of a portion of the otherwise applicable period of Ineligibility is appropriate under this Clause at the same time the Tribunal decides whether the Player or other Person has committed an Anti-Doping Rule Violation. If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the Anti-Doping Rule Violation or other offence. If the Player or other Person claims entitlement to a suspended period of Ineligibility after a final decision finding an Anti-Doping Rule Violation has been rendered and is not subject to appeal, but the Player or other Person is still serving the period of Ineligibility, the Player or other Person may apply to AFL to consider a suspension in the period of Ineligibility under this Clause. Any such suspension of the otherwise applicable period of Ineligibility shall require the approval of WADA and AFL. If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, AFL, in consultation with ASADA, shall reinstate the period of Ineligibility which would otherwise be applicable. Decisions rendered by AFL under this Clause may be appealed.

This is the only circumstance under the WADA Code where the suspension of an otherwise applicable period of Ineligibility is authorised

<sup>&</sup>lt;sup>22</sup> This Clause is intended to apply when a Player or other Person comes forward and admits to an Anti-Doping Rule Violation in circumstances where no Anti-Doping Organisation is aware that an Anti-Doping Rule Violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Player or other Person believes he is about to be caught.

<sup>23</sup> The appropriate sanction is determined in a sequence of four steps. First, the Tribunal determines which of the basic sanctions (Clause 14.1, Clause 14.2, Clause 14.3 or Clause 14.5) applies to the particular Anti-Doping Rule Violation. In a second step, the Tribunal establishes whether there is a basis for suspension, elimination or reduction of the sanction. Note, however, not all

grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Clause 14.4(b) does not apply in cases involving Clause 14.2(c) or 14.3, since the Tribunal will already have determined the period of Ineligibility based on the Player's or other Person's degree of fault. In a third step, the Tribunal determines under Clause 14.4(e) whether the Player or other Person is entitled to elimination, reduction or suspension under more than one provision of Clause 14.4. Finally, the Tribunal decides on the commencement of the period of Ineligibility.

The following four examples demonstrate the proper sequence of analysis:

#### Example 1

<u>Facts</u>: An Adverse Analytical Finding involves the presence of an anabolic steroid; the Player promptly admits the Anti-Doping Rule Violation as asserted; the Player establishes No Significant Fault (Clause 14.4(b)); and the Player provides Substantial Assistance (Clause 14.4(c)).

#### Application of Clause 14:

- 1. The basic sanction would be two years under Clause 14.1. (Aggravating Circumstances (Clause 14.5) would not be considered because the Player promptly admitted the violation. Clause 14.3 would not apply because a steroid is not a Specified Substance.)
- 2. Based on No Significant Fault alone, the sanction could be reduced up to one-half of the two years. Based on Substantial Assistance alone, the sanction could be reduced up to three-quarters of the two years.
- 3. Under Clause 14.4(e), in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three-quarters of the two years. Thus, the minimum sanction would be a six-month period of Ineligibility.
- 4. Under Clause 14.7(b), because the Player promptly admitted the Anti-Doping Rule Violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the Player would have to serve at least one-half of the Ineligibility period (minimum three months) after the date of the hearing decision.

#### Example 2

<u>Facts</u>: An Adverse Analytical Finding involves the presence of an anabolic steroid; aggravating circumstances exist and the Player is unable to establish that he did not knowingly commit the Anti-Doping Rule Violation; the Player does not promptly admit the Anti-Doping Rule Violation as alleged; but the Player does provide Substantial Assistance (Clause 14.4(c)).

#### Application of Clause 14:

- 1. The basic sanction would be between two and four years Ineligibility as provided in Clause 14.5.
- 2. Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the maximum four years.
- 3. Clause 14.4(e) does not apply.
- 4. Under Clause 14.7(b), the period of Ineligibility would start on the date of the hearing decision.

#### Example 3

<u>Facts</u>: An Adverse Analytical Finding involves the presence of a Specified Substance; the Player establishes how the Specified Substance entered his body and that he had no intent to enhance his sport performance; the Player establishes that he had very little fault; and the Player provides Substantial Assistance (Clause 14.4(c)).

#### Application of Clause 14:

- 1. Because the Adverse Analytical Finding involved a Specified Substance and the Player has satisfied the other conditions of Clause 14.4, the basic sanction would fall in the range between a reprimand and two years Ineligibility. The Tribunal would assess the Player's fault in imposing a sanction within that range. (Assume for illustration in this example that the Tribunal would otherwise impose a period of Ineligibility of eight months.)
- 2. Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the eight months. (No less than two months.) No Significant Fault (Clause 14.4(b)) would not be applicable because the Player's degree of fault was already taken into consideration in establishing the eight-month period of Ineligibility in step 1.
- 3. Clause 14.4(e) does not apply.
- 4. Under Clause 14.7(b), because the Player promptly admitted the Anti-Doping Rule Violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Player would have to serve at least half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)

#### Example 4

# 14.5 Aggravating Circumstances Which May Increase the Period of Ineligibility

- (a) If the AFL establishes in an individual case involving an Anti-Doping Rule Violation other than violations under Clause 10(g) (Trafficking or Attempted Trafficking) and 10(h) (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four (4) years unless the Player or other Person can prove to the comfortable satisfaction of the Tribunal that he did not knowingly commit the Anti-Doping Rule Violation.
- (b) A Player or other Person can avoid the application of this Clause by admitting the Anti-Doping Rule Violation as asserted promptly after being confronted with the Anti-Doping Rule Violation by ASADA or the AFL.<sup>24</sup>

### 14.6 Multiple Violations

(a) Second Anti-Doping Rule Violation

<u>Facts</u>: A Player who has never had an Adverse Analytical Finding or been confronted with an Anti-Doping Rule Violation spontaneously admits that he intentionally Used multiple Prohibited Substances to enhance his performance. The Player also provides Substantial Assistance (Clause 14.4(c)).

#### Application of Clause 14:

- 1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances (Clause 14.5), the Player's spontaneous admission means that Clause 14.5 would not apply. The fact that the Player's Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Clause 14.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Clause 14.1 would be applicable and the basic period of Ineligibility imposed would be two years.
- 2. Based on the Player's spontaneous admissions (Clause 14.4(d)) alone, the period of Ineligibility could be reduced up to one-half of the two years. Based on the Player's Substantial Assistance (Clause 14.4(c)) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.
- 3. Under Clause 14.4(e), in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three-quarters of the two years. (The minimum period of Ineligibility would be six months.)
- 4. If Clause 14.4(d) was considered by the Tribunal in arriving at the minimum six-month period of Ineligibility at step 3, the period of Ineligibility would start on the date the Tribunal imposed the sanction. If, however, the Tribunal did not consider the application of Clause 14.4(d) in reducing the period of Ineligibility in step 3, then under Clause 14.7(b), the commencement of the period of Ineligibility could be started as early as the date the Anti-Doping Rule Violation was committed, provided that at least half of that period (minimum of three months) would have to be served after the date of the hearing decision.
- <sup>24</sup> Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Player or other Person committed the Anti-Doping Rule Violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit Anti-Doping Rule Violations; the Player or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy the performance-enhancing effects of the Anti-Doping Rule Violation(s) beyond the otherwise applicable period of Ineligibility; the Player or Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an Anti-Doping Rule Violation.

For the avoidance of doubt, the examples of aggravating circumstances described in this above are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Clause 10(g) (Trafficking or Attempted Trafficking) and 10(h) (Administration or Attempted Administration) are not included in the application of Clause 14.5 because the sanctions for these violations (from four years to lifetime Ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.

For a Player's or other Person's first Anti-Doping Rule Violation, the period of Ineligibility is set forth in Clause 14.1 and 14.2 (subject to elimination, reduction or suspension under Clause 14.4(b) or 14.4(c), or to increase under Clause 14.5). For a second Anti-Doping Rule Violation the period of Ineligibility shall be within the range set forth in the table below.<sup>25</sup>

Second Violation	RS	FFMT	NSF	St	AS	TRA
First						
Violation						
RS	1-4	2-4	2-4	4-6	8-10	10-life
FFMT	1-4	4-8	4-8	6-8	10-life	life
NSF	1-4	4-8	4-8	6-8	10-life	life
St	2-4	6-8	6-8	8-life	life	life
AS	4-5	10-life	10-life	life	life	life
TRA	8-life	life	life	life	life	life

Definitions for purposes of the second anti-doping rule violation table:

**RS** (Reduced sanction for Specified Substance under Clause 14.3): The Anti-Doping Rule Violation was or should be sanctioned by a reduced sanction under Clause 15.3 because it involved a Specified Substance and the other conditions under Clause 14.3 were met.<sup>26</sup>

**FFMT** (Filing Failures and/or Missed Tests): The Anti-Doping Rule Violation was or should be sanctioned under Clause 10(d) (Filing Failures and/or Missed Tests).

**NSF** (Reduced sanction for No Significant Fault or Negligence): The Anti-Doping Rule Violation was or should be sanctioned by a reduced sanction under Clause 15.4(b) because No Significant Fault or Negligence under Clause 14.4(b) was proved by the Player.

**St** (Standard sanction under Clauses 14.1 or 14.2(a): The Anti-Doping Rule Violation was or should be sanctioned by the standard sanction of two (2) years under Clauses 14.1 or 14.2(a).

**AS** (Aggravated sanction): The Anti-Doping Rule Violation was or should be sanctioned by an aggravated sanction under Clause 14.5 because AFL established the conditions set forth under Clause 14.5.

<sup>&</sup>lt;sup>25</sup> The table is applied by locating the Player's or other Person's first Anti-Doping Rule Violation in the left-hand column and then moving across the table to the right to the column representing the second violation. By way of example, assume a Player receives the standard period of Ineligibility for a first violation and then commits a second violation for which he receives a reduced sanction for a Specified Substance. The table is used to determine the period of Ineligibility for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row which is "St" for standard sanction, then moving across the table to the first column which is "RS" for reduced sanction for a Specified Substance, thus resulting in a 2-4 year range for the period of Ineligibility for the second violation. The Player's or other Person's degree of fault shall be the criterion considered in assessing a period of Ineligibility within the applicable range.

<sup>26</sup> See Article 25.4 of the WADA Code with respect to application of this Clause to pre-WADA-Code Anti-Doping Rule Violations.

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**TRA** (Trafficking or Attempted Trafficking and administration or Attempted administration): The Anti-Doping Rule Violation was or should be sanctioned by a sanction under Clause 14.2(b)

(b) Application of Clauses 14.4(c) and 14.4(d) to Second Anti-Doping Rule Violation

Where a Player or other Person who commits a second Anti-Doping Rule Violation establishes entitlement to suspension or reduction of a portion of the period of Ineligibility the Tribunal shall first determine the otherwise applicable period of Ineligibility within the range established in the table in Clause 14.6(a), and then apply the appropriate suspension or reduction of the period of Ineligibility. The remaining period of Ineligibility, after applying any suspension or reduction must be at least one-fourth of the otherwise applicable period of Ineligibility.

(c) Third Anti-Doping Rule Violation

A third Anti-Doping Rule Violation will always result in a lifetime period of Ineligibility, except if the third violation fulfils the condition for elimination or reduction of the period of Ineligibility under Clause 14.3 or involves a violation of Clause 10(d) (Filing Failures and/or Missed Tests). In these particular cases, the period of Ineligibility shall be from eight (8) years to life ban.

- (d) Additional rules for Certain Potential Multiple Violations
  - (i) For purposes of imposing sanctions under Clause 14.6, an Anti-Doping Rule Violation will only be considered a second violation if the AFL can establish that the Player or other Person committed the second Anti-Doping Rule Violation after the Player or other Person received notice, or after AFL made reasonable efforts to give notice, of the first Anti-Doping Rule Violation; if the AFL cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction; however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances (Clause 14.5).
  - (ii) If, after the resolution of a first Anti-Doping Rule Violation, AFL discovers facts involving an Anti-Doping Rule Violation by the Player or other Person which occurred prior to notification regarding the first violation, then the AFL shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have been adjudicated at the same time. To avoid the possibility of a finding of aggravating circumstances (Clause 14.5) on account of the earlier-in-time but later-discovered violation, the Player or other Person must voluntarily admit the earlier Anti-Doping Rule Violation on a timely basis after notice of the violation for which he is first charged. The same rule shall also apply when AFL discovers facts involving another prior violation after the resolution of a second Anti-Doping Rule Violation.<sup>27</sup>

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<sup>&</sup>lt;sup>27</sup> In a hypothetical situation, a Player commits an Anti-Doping Rule Violation on January 1, 2008, which the Anti-Doping Organisation does not discover until December 1, 2008. In the meantime, the Player commits another Anti-Doping Rule Violation on March 1, 2008, and the Player is notified of this violation by the Anti-Doping Organisation on March 30, 2008, and a Tribunal rules on June 30, 2008 that the Player committed the March 1, 2008 Anti-Doping Rule Violation. The later-discovered violation which occurred on January 1, 2008 will provide the basis for aggravating circumstances because the Player did not voluntarily admit the violation in a timely basis after the Player received notification of the later violation on March 30, 2008.

(e) Multiple Anti-Doping Rule Violations During an Eight-Year Period

For purposes of Clause 14.6, each Anti-Doping Rule Violation must take place within the same eight (8) year period in order to be considered multiple violations.

### 14.7 Commencement of Ineligibility Period

Except as provided below, the period of Ineligibility shall start on the date of the hearing decision providing for Ineligibility or, if the hearing is waived, on the date Ineligibility is accepted or otherwise imposed. Any period of Provisional Suspension (whether imposed or voluntarily accepted) shall be credited against the total period of Ineligibility imposed.

(a) Delays Not Attributable to the Athlete or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Player or other Person, the Tribunal determining the sanction may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred.

### (b) Timely Admission

Where the Player or other Person promptly (which, in all events, for a Player means before the Player competes again) admits the Anti-Doping Rule Violation after being confronted with the Anti-Doping Rule Violation by ASADA, the period of Ineligibility may start as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred. In each case, however, where this Clause is applied, the Player or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Player or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.<sup>28</sup>

- (c) If a Provisional Suspension is imposed and respected by the Player, then the Player shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed.
- (d) If a Player voluntarily accepts a Provisional Suspension in writing from the AFL and thereafter refrains from competing, the Player shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Player's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of a potential Anti-Doping Rule Violation under the Code.<sup>29</sup>
- (e) No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension regardless of whether the Player elected not to compete or was suspended by his team.

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<sup>&</sup>lt;sup>28</sup> This Clause shall not apply where the period of Ineligibility already has been reduced under Clause 14.4(d)(Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence).

<sup>&</sup>lt;sup>29</sup> A Player's voluntary acceptance of a Provisional Suspension is not an admission by the Player and shall not be used in any way as to draw an adverse inference against the Player.

### 14.8 Drug Rehabilitation Program

A Player who is found to have returned an Adverse Analytical Finding for Doping may be required by the Tribunal to undergo a drug rehabilitation programme in addition to any other sanction imposed. A first time offending Player who refuses or fails to undertake any required drug rehabilitation programme will automatically receive a 22 Match suspension in addition to any other sanction already imposed by the Tribunal. Any subsequent refusal or failure by a first time offending Player, or a refusal by a second time offending Player, will automatically incur a lifetime suspension.

#### 14.9 AFL Sanctions

- (a) Where the AFL General Counsel determines that a Club and/or any other person has committed a breach of:
  - (i) clause 3(b);
  - (ii) clause 5(a);
  - (iii) clause 7(d);
  - (iv) clause 7(g);
  - (v) clause 9(h);
  - (vi) clause 12(b);
  - (vii) clause 12(c);
  - (viii) clause 12(g); or
  - (ix) clause 12(h),

of this Code, the Club and/or the other person concerned are subject to a fine of 10 Penalty Units, provided that if the AFL General Counsel believes a greater sanction ought apply, he may refer the matter to the Tribunal for its determination as to whether any greater sanction ought be imposed.

- (b) Where the AFL General Counsel determines that a Club has committed a breach of clause 10(i), the Club is subject to a fine of up to 100 Penalty Units and may be excluded from one or more selections at the next National Draft Selection Meeting as determined by the AFL General Counsel in his sole and absolute discretion, provided that if the AFL General Counsel believes a greater sanction ought apply, he may refer the matter to the Tribunal for its determination as to whether any greater sanction ought be imposed.
- (c) Where the Tribunal determines a Club has committed a breach of this Code other than as described in clause 14.9 or clause 11, or where the AFL General Counsel has referred a matter to the Tribunal pursuant to Clause 14.9, the Club is liable for the following sanctions:
  - (i) in the case of a Anti-Doping Rule Violation or in the case of a referral under clause 14.9(b):
    - (A) a fine of up to 200 Penalty Units; and/or

- (B) excluded from one or more selections at the next National Draft Selection Meeting;
- (ii) otherwise:
  - (A) a fine of at least 10 Penalty Units but not more than 200 Penalty Units; and/or
  - (B) excluded from one or more selections in a Draft Selection Meeting;

as the Tribunal determines and considers appropriate in its absolute discretion.

(d) Where the Tribunal determines that a Person (other than a Club) has committed a breach of this Code other than a Anti-Doping Rule Violation or a breach of clause 11, or where the AFL General Counsel has referred a matter to the Tribunal pursuant to clause 14.9, the Person is liable for a sanction of at least 10 Penalty Units and suspension or disqualification from holding any office with the AFL and a Club for such period as the Tribunal considers appropriate in its absolute discretion.

# 14.10 Status During Ineligibility

- (a) Prohibition Against Participation During Ineligibility
  - (i) No Player or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a competition or activity (other than authorised anti-doping education or rehabilitation programs) authorised by the AFL or AFL Clubs, any Signatory or Signatory's member organisation or a club or other member organisation of a Signatory's member organisation, or in competitions organised by any professional league or any international or national level event organisation. A Player or other Person subject to a period of Ineligibility longer than four (4) years may after completing four years of the period of Ineligibility, participate in local sports events in a sport other than the sport in which the person committed the Anti-Doping Rule Violation, but only so long as the local sport event is not at a level that could otherwise qualify such Person directly or indirectly to compete in a national championship or international event.
  - (ii) A Player or other Person subject to a period of Ineligibility shall remain subject to Testing.
- (b) Violation of the Prohibition of Participation During Ineligibility

Where a Player or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in Clause 14.10,, the results of such participation shall be disqualified and the period of Ineligibility which was originally imposed shall start over again as of the date of the violation. The new period of Ineligibility may be reduced under Clause 14.4(b) if the Player or other Person establishes he bears No Significant Fault or Negligence for violating the prohibition against participation. The determination of whether a Player has violated the prohibition against participation, and whether a reduction under Clause 14.4(b) is appropriate, shall be made by the Anti-Doping Organisation whose results management led to the imposition of the initial period of Ineligibility.

(c) Withholding of Financial Support during Ineligibility

In addition for any Anti-Doping Rule Violation not involving Specified Substances, some or all sport related financial support or other sport related benefits received by such Player will be withheld by the AFL or the AFL Club.

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# 14.11 Reinstatement Testing

As a condition of regaining eligibility at the end of a specified period of Ineligibility, a Player must, during any period of Provisional Suspension or Ineligibility, make him or herself available for Out-of-Competition Testing by the AFL and any other Anti-Doping Organisation having Testing jurisdiction and must, if requested, provide current and accurate whereabouts information as provided for in clause 10(d). If a Player subject to a period of Ineligibility retires from sport and is removed from the Registered Testing Pool and later seeks reinstatement, the player shall not be eligible for reinstatement until the Player has notified ASADA and has been subject to Out-of-Competition Testing for a period of time equal to the period of Ineligibility remaining as of the date the Player had retired.

# 15. Proof of Doping

#### 15.1 Burden and Standard of Proof

AFL shall have the burden of establishing that an Anti-Doping Rule Violation has occurred. The standard of proof shall be whether AFL has established an Anti-Doping Rule Violation to the comfortable satisfaction of CAS or the Tribunal bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability, but less than proof beyond a reasonable doubt. Where this Code places the burden of proof upon the Player or other Person alleged to have committed an Anti-Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Clauses 14.3 and 14.5 where the Player must satisfy a higher burden of proof.<sup>30</sup>

### 15.2 Methods of Establishing Facts and Presumptions

- (a) Facts related to Anti-Doping Rule Violations may be established by any reliable means, including admissions.<sup>31</sup>The following rules of proof shall be applicable in Doping cases:
  - (i) WADA accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Player or other Person may rebut this presumption by establishing that a departure from the International Standard occurred which could reasonably have caused the Adverse Analytical Finding. If the Player or other Person rebuts the preceding presumption by showing that a departure from the International Standard

<sup>30</sup> This standard of proof required to be met by the Anti-Doping Organisation is comparable to the standard which is applied in most countries to cases involving professional misconduct. It has also been widely applied by courts and hearing panels in doping cases. See, for example, the CAS decision in N, J, Y, W v FINA, CAS 98/208, 22 December 1998.

<sup>31</sup> For example, an Anti-Doping Organisation may establish an Anti-Doping Rule Violation under Clause 11.2 (Use or Attempted Use

<sup>&</sup>lt;sup>31</sup> For example, an Anti-Doping Organisation may establish an Anti-Doping Rule Violation under Clause 11.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) based on the Player's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample or conclusions drawn from the profile of a series of the Player's blood or urine Samples.

- occurred, then AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.<sup>32</sup>
- (ii) Departures from any other International Standard or other anti-doping rule or policy which did not cause an Adverse Analytical Finding or other Anti-Doping Rule Violation shall not invalidate such results. If the Player or other Person establishes that a departure from the International Standard or other anti-doping rule or policy which could have reasonably have caused the Adverse Analytical Finding or other Anti-Doping Rule Violation occurred, then AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the Anti-Doping Rule Violation.
- (iii) The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the Player or other Person to whom the decision pertained of those facts unless the Player or other Person establishes that the decision violated principles of natural justice.
- (iv) The Tribunal in a hearing on an Anti-Doping Rule Violation may draw an inference adverse to the Player or other Person who is asserted to have committed an Anti-Doping Rule Violation based on the Player's or other Person's refusal, after a request made in a reasonable time in advance of the Tribunal, to appear at the Tribunal (either in person or telephonically as directed by the Tribunal panel) and to answer questions from the Tribunal or the Anti-Doping Organisation asserting the Anti-Doping Rule Violation.<sup>33</sup>
- (b) Where a Person admits to having committed an Anti-Doping Rule Violation or other breach of this Code, then that admission constitutes proof of the Anti-Doping Rule Violation or other breach of this Code (as the case may be) by that Person.

# 16. Nature of Hearing

- (a) Where the alleged Anti-Doping Rule Violation arises out of an Adverse Analytical Finding, the Tribunal may only determine that an Anti-Doping Rule Violation has not occurred if the Player establishes to the satisfaction of the Tribunal that:
  - (i) the Sampling or Testing procedure was not conducted in accordance with this Code;
  - (ii) the Samples which led to the Adverse Analytical Finding were not those of the Player; or
  - (iii) the Samples which led to the Adverse Analytical Finding were so contaminated as to materially affect the result of the test;

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<sup>&</sup>lt;sup>32</sup> The burden is on the Player or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Player or other Person does so, the burden shifts to the Anti-Doping Organisation to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.

<sup>33</sup> Drawing an adverse inference under these circumstances has been recognised in numerous CAS decisions

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- (iv) or any combination of these factors. This Clause will not apply where the Player has admitted the Anti-Doping Rule Violation and Clause 10(i) applies.
- (b) An entry on the Register of Findings by ASADA under the ASADA Act will be recognised by the Tribunal as proof, and without the need for further enquiry, that the applicable procedures have been observed.
- (c) A Person may appear in Person or by a Players' Advocate, an Officer of a Club appointed according to the AFL Player Rules or a Legal Practitioner. The AFL may be represented by a Reporting Officer or Legal Practitioner. The costs and expenses of any such advocate (including a Legal Practitioner) will be borne by the Person on whose behalf they appear. The costs and expenses of any Official of a Club or Officer in attending a hearing of the Tribunal will be borne by the relevant Club even if such attendance was at the request or direction of the AFL.
- (d) All hearings before the Tribunal in relation to this Code will be conducted in private unless otherwise authorised by the Tribunal Chairman.
- (e) All hearings and appeals conducted will respect in principle the rules applicable to the Tribunal and Appeals Board.
- (f) If a Player or other Person retires while a result management process is underway, the AFL retains the jurisdiction to complete its results management process. If the Player or other Person retires before any results management process has begun, the AFL will have jurisdiction to conduct results management.

# 17. Appeals<sup>34</sup>

Nothing in this clause 17 operates in relation to any breach of clause 11 of this Code.

### 17.1 Decisions Subject to Appeal

Decisions made under this Code may be appealed as set out below. Such decisions shall remain in effect while under appeal unless CAS or the Appeals Board orders otherwise. Before an appeal is commenced, any post-decision review authorised in the NAD Scheme must be exhausted.

(a) WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under this Clause and no other party has appealed a final decision within the process set out in this Code, WADA may appeal such decision directly to CAS without having to exhaust other remedies set out in this Code.<sup>35</sup>

<sup>&</sup>lt;sup>34</sup> The object of the WADA Code and this Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Specified Persons and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organisations with a right to appeal under this Clause does not include Players, or their federations, who might benefit from having another competitor disqualified.

<sup>&</sup>lt;sup>35</sup> Where a decision has been rendered before the final stage of an Anti-Doping Organisation's process (for example, a first hearing) and no party elects to appeal that decision to the next level of the Anti-Doping Organisation's process (e.g., the Appeals tribunal), then WADA may bypass the remaining steps in the Anti-Doping Organisation's internal process and appeal directly to CAS.

# 17.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions

A decision that an Anti-Doping Rule Violation was committed, a decision imposing Consequences for an Anti-Doping Rule Violation, or a decision that no Anti-Doping Rule Violation was committed; a decision that an Anti-Doping Rule Violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision under Clause 14.10(b) (Violation of the Prohibition of Participation during Ineligibility); a decision that AFL lacks jurisdiction to rule on an alleged Anti-Doping Rule Violation or its Consequences; a decision by ASADA or AFL not to bring forward an Adverse Analytical Finding or an Atypical Finding as an Anti-Doping Rule Violation after an investigation; and a decision to impose a Provisional Suspension may be appealed exclusively as provided in this sub-Clause.

(a) Appeals Involving International Events

In cases arising from participation in an international event, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

- (b) All other appeals shall be to the Appeals Board, constituted differently than for the original hearing and shall respect the following principles:
  - (i) a timely hearing;
  - (ii) a fair, impartial and independent Tribunal;
  - (iii) the right to be represented by a counsel at the Person's expense; and
  - (iv) a timely, written, reasoned decision.
- (c) The determination of the Appeals Board will be final and binding on the parties to the appeal and no Person may institute or maintain proceedings in any court or tribunal.
- (d) AFL must inform any Person or organisation informed of the original determination the outcome of any appeal within seven (7) days of the release by the Appeals Board of the written decision of the appeal.
- (e) Persons Entitled to Appeal

The parties having the right to appeal to the Appeals Board shall be as provided in the NAD Scheme but, at a minimum, shall include the following parties:

- (i) the Player or other Person who is the subject of the decision being appealed;
- (ii) the other party to the case in which the decision was rendered;
- (iii) AFL;
- (iv) ASADA; and
- (v) WADA.

ASADA, WADA and a Player shall also have the right to appeal to CAS with respect to the decision of the Appeals Board. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being appealed and the information shall be provided if CAS so directs.

## 17.3 Failure to Render a Timely Decision by an Anti-Doping Organisation

Where, in a particular case, an Anti-Doping Organisation fails to render a decision with respect to whether an Anti-Doping Rule Violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if the Anti-Doping Organisation had rendered a decision finding no Anti-Doping Rule Violation.<sup>36</sup>

# 17.4 Appeals from Decisions Granting or Denying a Therapeutic Use Exemption

- (a) Decisions by WADA reversing the grant or denial of a TUE may be appealed exclusively to CAS by the Player or ASDMAC or other TUE Committee whose decision was reversed. Decisions denying TUEs which are not reversed by WADA, may be appealed by the Player to the Tribunal. If the Tribunal reverses the decision to deny a TUE, that decision may be appealed to the CAS by WADA. Before an appeal is commenced under this Clause, any review of the TUE as authorised under this Code must be exhausted.
- (b) When WADA, ASDMAC, or other TUE Committee fails to take action on a properly submitted TUE application within a reasonable time, the failure to decide may be considered a denial for purposes of the appeal rights provided in this Clause.

### 17.5 Time for Filing Appeals

- (a) The time to file an appeal to CAS or the Tribunal shall be within twenty one (21) days of the release by the original Tribunal of the written decision of the initial hearing.
- (b) The filing deadline for an appeal or intervention filed by ASADA or WADA shall be the later of:
  - (i) Twenty-one (21) days after the last day on which any other party in the case could have appealed; or
  - (ii) Twenty-one (21) days after ASADA's or WADA's receipt of the complete file relating to the decision.

# 18. Confidentiality

(a) The identity of any Player or other Person who is asserted to have committed an Anti-Doping Rule Violation may only be Publicly Disclosed by the AFL or ASADA in accordance with this Code, the WADA Code, the ASADA Act, the NAD scheme, the Tribunal rules or the terms of the Confidentiality Undertaking signed between the AFL and ASADA.

<sup>&</sup>lt;sup>36</sup> Given the different circumstances of each Anti-Doping Rule Violation investigation and results management process, it is not feasible to establish a fixed time period for an Anti-Doping Organisation to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping Organisation and give the Anti-Doping Organisation an opportunity to explain why it has not yet rendered a decision.

(b) The AFL or ASADA, or any official of either, will not publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the Player, other Person or their representatives.

### 19. Notification and Public Disclosure

Upon the imposition of a sanction for an Anti-Doping Rule Violation, the AFL will send details of the Anti-Doping Rule Violation and the sanction imposed to:

- (a) the Responsible Authority for any sport in which the AFL believes the Player or person also competes, participates or is otherwise involved;
- (b) ASADA;
- (c) ASC; and
- (d) any other person or organisation the AFL believes should be informed.

In addition, no later than twenty (20) days after it has been determined in a hearing in accordance with this Code that an Anti-Doping Rule Violation has occurred and the time to appeal such decision has expired, or such hearing has been waived and the time to appeal the decision has expired, or the assertion of an Anti-Doping Rule Violation has not been challenged in a timely fashion, the AFL must Publicly Disclose at least: the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the Player or other Person committing the violation, the Prohibited Substance or Prohibited Method involved and the Consequences imposed. The AFL must also Publicly Disclose within twenty (20) days any appeal decision concerning Anti-Doping Rule Violations. The AFL or ASADA will also, within the time period for publication, send all hearing and appeal decisions to WADA

### 20. ASADA

- (a) Each Player, Club, Officer and Official acknowledges that ASADA may perform functions under this Code, including without limitation:
  - (i) the provision of drug awareness or education lectures; and
  - (ii) the functions specified under the ASADA Act.
- (b) In performing its functions under this Code or otherwise, ASADA is not and must not be deemed to be the agent of the AFL. For the avoidance of doubt, it is expressly stated that ASADA has no authority or capacity on behalf of the AFL to:
  - (i) authorise or approve the use of any substance or method prohibited under this Code:
  - (ii) give advice as to the application or interpretation of this Code; and
  - (iii) bind or commit the AFL in any manner.
- (c) In providing all drug awareness or education lectures and in respect of its Drugs in Sport Hotline, ASADA does not and will not be deemed to represent the AFL. All such services are provided by ASADA in its own right pursuant to its objects and functions under the ASADA Act.

# 21. Statistical Analysis

ASADA may screen all Samples provided by Players for the presence of substances not prohibited under this Code at the request of the AFL from time to time. This screening will be for statistical and research purposes. ASADA will notify the AFL General Counsel of the results of the screening and the Player's Club. ASADA must not notify any other person of the name of any Player, or details from which the identity of the Player might reasonably be determined, whose sample is found to have contained such substances or to take any other steps arising from the presence of such substances.

# 22. Consequences to Teams

Where more than one Player from a Club has been notified of a possible Anti-Doping Rule Violation in any one season, the Club shall be subject to Target Testing for the remainder of the season. If more than one Player in a Club is found to have committed an Anti-Doping Rule Violation during a season, the Club may be subject to sanctions to be determined, in their absolute discretion, by the Commission.

# 23. Retirement of Players

- (a) A Player who wants to retire from AFL Competition must do so by notifying the AFL as required under the AFL Player Rules.
- (b) Upon receipt of the notification in accordance with clause 23(a), the AFL will, as soon as reasonably practicable, provide ASADA with notification of the retirement of the Player.
- (c) Retirement does not:
  - (i) excuse a Player from giving a Sample requested on or before their retirement date, or a Sample required as part of an investigation commenced prior to their retirement date;
  - (ii) excuse a Player from assisting, cooperating and liaising with the AFL, ASADA or other Anti-Doping Organisation in relation to conduct of any investigation or hearing into an alleged Anti-Doping Rule Violation;
  - (iii) prevent analysis of a Sample given by the Player on or before their retirement date;
  - (iv) affect the results of Testing under (i) or (ii) above:
  - (v) exempt the player from this Code in relation to an Anti-Doping Rule Violation committed on or before their retirement date; or
  - (vi) affect the AFL's power to conduct results management.
- (d) A Player who has retired in accordance with clause 23(a) and who wishes to return to AFL Competition must do so by notifying the AFL in accordance with the AFL Player Rules. The Player's reinstatement request date will be the date the AFL approves the Player's return to AFL Competition.
- (e) Upon receipt of notification under clause 23(d), the AFL will, as soon as reasonably practicable, notify ASADA of the reinstatement date.

- (f) If reinstatement is granted, then this Code will apply to the Player from the date of their reinstatement.
- (g) A Player who is reinstated pursuant to clause 23(d) may not compete in the AFL Competition for a period of three (3) months from the date of reinstatement.
- (h) Subject to consultation with ASADA, the AFL may reduce or extend the time period stated in clause 23(g), at its absolute discretion, in circumstances where the AFL considers special treatment is required.
- (i) A Player must be available for unannounced Out Of Competition Testing in accordance with this Code from the date of their reinstatement.

# 24. Mutual Recognition

- (a) Subject to the right to appeal under Clause 17, the Testing, TUE's and hearing results or other financial adjudications of any Signatory to the WADA Code which are consistent with the WADA Code and are within that Signatory's authority, shall be recognised and respected by the AFL.
- (b) The AFL may recognise the same determinations of other bodies which have not accepted the WADA Code if the rules of those bodies are otherwise consistent with the WADA Code. On being advised of such determination, the AFL shall take all necessary action to render the determination effective.

# 25. Statute of Limitations

No action may be commenced under this Code against a Player or other person for an a breach of this Code unless such action is commenced within eight (8) years from the date the breach is asserted to have occurred.

# 26. Interpretation of the WADA Code

- (a) The official text of the WADA Code shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.
- (b) The comments annotating various provisions of the WADA Code shall be used to interpret the WADA Code.
- (c) The WADA Code shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Signatories or governments.
- (d) The headings used for the various Parts and Articles of the WADA Code are for convenience only and shall not be deemed part of the substance of the WADA Code or to affect in any way the language of the provisions to which they refer.
- (e) The WADA Code shall not apply retrospectively to matters pending before the date the WADA Code is accepted by a Signatory and implemented in its rules. However, pre-WADA Code Anti-Doping Rule Violations would continue to count as "First violations" or "Second violations" for purposes of determining sanctions under Article 10 of the WADA Code for subsequent post-WADA Code violations.

(f) The Purpose, Scope and Organisation of the World Anti-Doping Program and the WADA Code and APPENDIX I DEFINITIONS shall be considered integral parts of the WADA Code.

# 27. AFL Screening and Risk Analysis

- (a) Notwithstanding any other provision of this Code, the AFL may conduct its own sample collection from Players and the screening/analysis of such samples for intelligence purposes and developing the strategic direction of the AFL's antidoping program.
- (b) Samples not collected and Tested in accordance with clause 8 of this Code cannot be used to establish a violation of this Code.

#### 28. Notification

- (a) Any person who directly or indirectly, formally or informally receives an approach or invitation from any other person to engage in any conduct prohibited by this Code, must as soon as practicable, advise and provide a written statement containing full details of such approach or invitation to the General Counsel.
- (b) A person must as soon as practicable advise and provide full details to the General Counsel of any incident, fact, or matter that comes to their attention that may evidence an offence under this Code by another party, including, without limitation, approaches or invitations that have been received by any other party engaged in conduct that may amount to a breach of this Code.

# **Annexure A – Whereabouts Form**

# Player's Contact Details:

Player's Name:	
Club:	
Address:	
Telephone home	· · · · · · · · · · · · · · · · · · ·
Mobile telephone	:
Email:	
match/training ve	rise my Club to provide details of my whereabouts, including enues, schedules and times, to all relevant Anti-Doping Organisations lical Commissioners.
I agree to comp above change.	lete a new whereabouts form immediately should any details listed
Player's signature	ə:
Date:	

# **Annexure B – WADA Prohibited List**

Refer to WADA Website:

http://www.wada-ama.org/en/World-Anti-Doping-Program/Sports-and-Anti-Doping-Organizations/International-Standards/Prohibited-List/

# Australian Football Anti-Doping Code

#### WARNING

By this Code the AFL prohibits the classes of substances and methods which are prohibited under the World Anti-Doping Code Prohibited List.

This Code also sets out various restrictions and requirements that apply in relation to the use and administration of certain substances and methods that are not prohibited under the WADA Anti-Doping Code Prohibited List.

Substances are prohibited if they fall into the prohibited classes identified in this Code. The substances described in each prohibited class are examples only. Substances which are not included as examples are prohibited if they fall within a prohibited class.

It is the responsibility of each person to whom this Code applies to ensure that he or she does not Use or Administer prohibited substances or prohibited methods, whether or not included as examples, other than in strict compliance with this Code.

Amended 1 January 2015

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# Part 1

# 1. Objectives

The AFL subscribes to a philosophy and adopts a stance that:

- ensures that AFL Competitions are conducted upon the basis of athletic prowess and natural levels of fitness and development and not on any pharmacologically enhanced performance;
- (b) protects Players from using substances which may cause acute or long term harm to their bodies:
- (c) educates the Players to understand the dangers and consequences of the use of performance enhancing substances; and
- (d) sets an example for all participants in the sport of Australian football by condemning the use of performance enhancing substances.

# 2. Definitions and Interpretation

#### 2.1 Definitions

In this Code, the following words have the following respective meanings:

**Administer** for the purpose of clause 31 of this Code only, includes cause, encourage, assist, refer or recommend a person to use any Treatment.

Administration means providing, supplying, supervising, facilitating, or otherwise participating in the Use or Attempted Use by another Person of a Prohibited Substance or Prohibited Method. However, this definition shall not include the actions of bona fide medical personnel involving a Prohibited Substance or Prohibited Method used for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving Prohibited Substances which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate that such Prohibited Substances are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Adverse Analytical Finding** means a report from a laboratory or other WADA-approved entity that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method.

**Adverse Passport Finding** means a report identified as an Adverse Passport Finding as described in the applicable International Standards.

**ADRVP** means the Anti-Doping Rule Violation Panel constituted pursuant to the ASADA Act.

#### Affiliated State or Territory Body means any of:

(a) AFL (NSW/ACT) Commission Limited ACN 086 839 385;

- (b) AFL Northern Territory Limited ACN 097 620 525;
- (c) AFL Queensland Limited ABN 66 090 629 342;
- (d) South Australian Football League Inc ABN 59 518 757 737;
- (e) Football Tasmania Limited ACN 085 213 350;
- (f) Australian Football League (Victoria) Limited ACN 147 664 579;
- (g) West Australian Football Commission Inc ABN 51 167 923 136

AFL means Australian Football League ABN 97 489 912 318.

**AFL Competition** means the competitions conducted pursuant to the Laws of Australian Football.

**AFL General Counsel** means the person appointed as such by the AFL from time to time.

**AFL Prohibited Treatment** means any Treatment listed on the AFL Prohibited Treatment List from time to time.

**AFL Prohibited Treatment List** means the list of AFL Prohibited Treatments published by the AFL from time to time in accordance with clause 31.

**AFL Rules** means the AFL Rules and AFL Regulations adopted by the AFL from time to time pursuant to its Constitution.

AFL Treatment Rules means the rules set out in clause 31.

**Anti-Doping Organisation** means a Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other major event organisations that conduct Testing at their events, WADA, International Federations, and National Anti-Doping Organisations. For the avoidance of doubt, ASADA and AFL are Anti-Doping Organisations.

Anti-Doping Rule Violation means a breach of this Code pursuant to Clause 10.

**Appeal Board** means the body hearing any appeal pursuant to clause 20.

**ASADA** means, where the context requires based on functions, powers and responsibilities conferred under the ASADA Act:

- (h) the CEO of ASADA appointed under the ASADA Act;
- (i) Australian Sports Anti-Doping Authority established under the ASADA Act;
- (j) the Anti-Doping Rule Violation Panel (ADRVP) established under the ASADA Act.

**ASADA** Act means the *Australian Sports Anti-Doping Authority Act* 2006 (Cth) as amended from time to time, and includes the ASADA Regulations and any statutory or subordinate legislative instrument that replaces or supersedes the *Australian Sports Anti-Doping Authority* Act 2006 (Cth) and/or the ASADA Regulations from time to time.

**ASADA Regulations** means the *Australian Sports Anti-Doping Authority Regulations* 2006 (Cth) (the National Anti-Doping scheme is contained in Schedule 1 to the Regulations).

**ASDMAC** means the Australian Sports Drug Medical Advisory Committee constituted pursuant to the ASADA Act.

**Athlete Biological Passport** means the program and methods of gathering and collating data as described in the International Standard for Testing and Investigations and International Standard for Laboratories.

**Athlete Support Person** means any coach, trainer, manager, sport scientists, agent, club staff, official, medical, paramedical personnel, parent or any other Person working with, treating or assisting a Player participating in or preparing for an AFL Competition.

**Attempt** means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation. Provided, however, there shall be no Anti-Doping Rule Violation based solely on an Attempt to commit a violation if the Person enunciates the Attempt prior to it being discovered by a third party not involved in the Attempt.

**Atypical Finding** means a report from an accredited laboratory or other WADA-approved entity which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding.

**Atypical Passport Finding** means a report described as an Atypical Passport Finding as described in the applicable International Standards.

**CAS** means the Court of Arbitration for Sport (Oceania Registry).

**Club** means an entity from time to time licensed or authorised to field a team in an AFL Competition.

**Code** means this Anti-Doping Code including the Appendices.

**Consequences of Anti-Doping Rule Violations** or **Consequences** means a Player's or other Person's violation of an anti-doping rule may result in one or more of the following:

- (a) **Ineligibility** means the Player or other Person is barred for a specified period of time from participating in any AFL Competition or other activity or funding as provided in clause 22;
- (b) **Provisional Suspension** means the Player or other Person is barred for a specified period of time from participating as a Player in any AFL Competition match prior to the final decision at a hearing conducted under clause 18;
- (c) Financial Consequences means a financial sanction imposed for an Anti-Doping Rule Violation or to recover costs associated with an anti-doping rule violation; and
- (d) **Public Disclosure** or **Public Reporting** means the dissemination or distribution of information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with clause 23.

**Contaminated Product** means a product that contains a Prohibited Substance that is not disclosed on the product label or in information available in a reasonable internet search.

**Controlled Treatment** means any Treatment listed on the Controlled Treatments List from time to time.

**Controlled Treatments List** means the list of Controlled Treatments published by the AFL from time to time in accordance with clause 31.

**Doping** is defined as the occurrence of one or more of the Anti-Doping Rule Violations of the WADA Code and clause 10 of this Code.

**Doping Control** means all steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps in between such as provision of whereabouts information, Sample collection and handling, laboratory analysis, TUEs, results management, hearings and appeals.

Fault means any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Player or other Person's degree of Fault include, for example, the Player's or other Person's experience, whether the Player or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Player and the level of care and investigation exercised by the Player in relation to what should have been the perceived level of risk. In assessing the Player's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Player's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that a Player would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Player only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under clause 17.4 or 17.5<sup>1</sup>.

**Filing Failure** means a failure by a Player to file current and accurate whereabouts information in accordance with this Code.

**In-Competition** means, for the purposes of differentiating between In-Competition and Out-of-Competition, the period commencing twelve hours before the commencement of a match conducted in an AFL Competition or the International Rules Series in which the Player is to participate, until the end of that match and the Sample collection process is completed relating to such match.

**Ineligibility** see Consequences of Anti-Doping Rule Violations above.

**International Rules Series** means the series of matches played between Australia and Ireland using modified rules of Australian football.

**International Standard** means a standard adopted by WADA in support of the WADA Code. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed properly. International

<sup>&</sup>lt;sup>1</sup> The criteria for assessing a Player's degree of Fault is the same under all clauses where Fault is to be considered. However, under Clause 17.5, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Player or other Person was involved.

Standards shall include any Technical Documents issued pursuant to the International Standard.

**Laws of Australian Football** means the "Laws of Australian Football" published by the AFL from time to time.

**Marker** means a compound, group of compounds or biological variable(s) that indicates the Use of a Prohibited Substance or Prohibited Method.

**Metabolite** means any substance produced by a biotransformation process.

Minor means a natural Person who has not reached the age of eighteen years.

**Missed Test** means a failure by a Player to be available for Testing on any given day at the location and time specified in the timeslot identified in his whereabouts information for that day, in accordance with this Code.

**National Anti-Doping (NAD) Scheme** means the National Anti-Doping scheme which is contained in Schedule 1 to the *Australian Sports Anti-Doping Authority Regulations 2006* (Cth).

**No Fault or Negligence** means the Player of other Person establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, for any violation of Clause 10.1(b), the Player must also establish how the Prohibited Substance entered his or her system.

**No Significant Fault or Negligence** means the Player or other Person's establishing that his or her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation. Except in the case of a Minor, for any violation of Clause 10.2, the Player must also establish how the Prohibited Substance entered his or her system.<sup>2</sup>

Officer means an Officer as defined in the Corporations Act 2001 and without limitation shall include the president, chairman, vice president, vice chairman, general manager, chief executive, football manager, coach, any board or committee member and any servant or agent who makes or participates in the making of decisions that affect the whole, or a substantial part, of the business of the Club.

**Out-of-Competition** means any period that is not In-Competition.

**Person** means a natural person, or an organisation or other entity. For the avoidance of doubt, Person includes a Player and Athlete Support Person.

**Player** means a person who competes, or is preparing to compete, in an AFL Competition. For the purposes of clauses 10.7, 10.9 and 10.10 of this Code, any Person who participates in sport under the authority of any Signatory, government or other sports organisation accepting the WADA Code is a Player.

<sup>&</sup>lt;sup>2</sup> For Cannabinoids, a Player may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance.

**Possession** means the actual, physical possession, or the constructive possession (which shall be found only if the Person has exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists); provided, however, that if the Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive possession shall only be found if the Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. Provided, however, there shall be no Anti-Doping Rule Violation based solely on Possession if, prior to receiving notification of any kind that the Person has committed an Anti-Doping Rule Violation, the Person has taken concrete action demonstrating that the Person never intended to have Possession and has renounced the Possession by explicitly declaring it to an Anti-Doping Organisation. Notwithstanding anything to the contrary in this definition, the purchase (including by electronic or other means) of a Prohibited Substance or Prohibited Methods constitutes Possession by the Person who makes the purchase.<sup>3</sup>

**Prohibited Method** means any method so described on the WADA Prohibited List.

**Prohibited Substance** means any substance so described on the WADA Prohibited List.

**Provisional Hearing** means for the purpose of clause 14.9, and expedited abbreviated hearing occurring prior to a hearing under clause 18 that provides the Player with notice and an opportunity to be heard in either writing or oral form.

Provider means any Person who:

- (a) Administers a Treatment to a Player; or
- (b) supplies, prepares or manufactures a substance for the purpose of Administration of the substance to a Player as a Treatment.

**Prohibited Provider** means a Provider who is listed on the AFL Prohibited Providers List from time to time.

**Prohibited Providers List** means the list of Prohibited Providers published by the AFL from time to time in accordance with clause 31.

Provisional Suspension see Consequences of Anti-Doping Rule Violations above.

**Publicly Disclose** means to disseminate or distribute information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with clause 23.

**Register of Controlled Treatments** means the Register required to be maintained by each Club in accordance with clause 31.

<sup>&</sup>lt;sup>3</sup> Under this definition, steroids found in a Players car would constitute a violation unless the Player establishes that someone else used the car, in that event, the Anti-Doping Organisation or AFL must establish that, even though the Player did not have exclusive control of the car, the Player knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of a Player and spouse, the Anti-Doping Organisation or AFL must establish that the Player knew the steroids were in the cabinet and that the Player intended to exercise control over the steroids.

**Registered Testing Pool** means the pool of top level Players established separately by AFL who are subject to both In-Competition and Out-of-Competition Testing as part of AFL's test distribution plan.

**Sample** or **Specimen** means any biological material collected for the purposes of Doping Control.<sup>4</sup>

**Signatory** means those entities signing the WADA Code and agreeing to comply with the WADA Code, as provided in Article 23 of the WADA Code.

**Specified Substance** means substances identified as specified substances in the WADA Prohibited List.

**Substantial Assistance** means, for the purposes of clause 17.6, a Person providing Substantial Assistance must:

- (c) fully disclose in a signed written statement all information he or she possesses in relation to Anti-Doping Rule Violations; and
- (d) fully cooperate with the investigation and adjudication of any case related to that information, including for example, presenting testimony at a hearing if requested to do so by ASADA, AFL or a hearing panel.

Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

**Tampering** means altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring.

**Target Testing** means selection of Players for Testing where specific Players or groups of Players are selected on a non-random basis for Testing at a specified time.

**Testing** means the parts of the Doping Control process involving test distribution planning, Sample collection, Sample handling, and Sample transport to the laboratory.

**Testing Authority** means the testing agency or body appointed by the AFL from time to time to undertake Testing.

**Therapeutic Use** means the permitted use of a prohibited substance for genuine medical reasons.

**TUE** means Therapeutic Use Exemption granted in accordance with the International Standard for Therapeutic Use Exemptions.

**Trafficking** means selling, giving, transporting, sending, delivering or distributing (or Possessing for any such purpose) a Prohibited Substance or Prohibited Method (either physically or by any electronic or other means) by a Player, Athlete Support Person, Official or other Person subject to the jurisdiction of an Anti-Doping Organisation to any third party; provided, however, this definition shall not include the actions of 'bona fide' medical personnel involving a Prohibited Substance used for genuine and legal

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<sup>&</sup>lt;sup>4</sup> It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.

therapeutic purposes or other acceptable justification, and shall not include actions involving Prohibited Substance which are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substance are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Treatment** means, for the purposes of clause 31, the provision of any:

- (a) substance;
- (b) treatment, method or service;
- (c) process or intervention,
- (d) remedy, or
- (e) conditioning, management or care practice;

for any one or more of the following purposes:

- (f) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons;
- (g) influencing, inhibiting or modifying a person's physiological process;
- (h) testing a person's susceptibility to a disease or ailment;
- (i) the replacement or modification of parts of a person's anatomy.

**Tribunal** means the body hearing any matter under this Code pursuant to clause 18.

**Use** means the utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Methods, or pursuant to clause 31, the utilisation, application, ingestion, injection or consumption by any means whatsoever of any AFL Prohibited Treatment.

WADA means the World Anti-Doping Agency.

**WADA Code** means the World Anti-Doping Code.

**WADA Prohibited List** means the WADA list identifying the Prohibited Substances and Prohibited Methods as amended from time to time.

#### 2.2 Interpretation

- (a) Reference to:
  - (i) the singular includes the plural and the plural includes the singular;
  - (ii) one gender includes the other genders; and
  - (iii) a person includes a body corporate or other legal entity.
- (b) "Including" and similar words are not words of limitation.

- (c) Any word or phrase not defined in this Code but defined in the AFL Rules will, where applicable, have a corresponding meaning unless the context requires otherwise.
- (d) The official text of the WADA Code shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version will prevail.
- (e) The provisions set out in Part 2 of this Code only apply to the elite eighteen team AFL Competition and the relevant Clubs.

#### 2.3 Delegation

- (a) The AFL General Counsel may delegate any of his obligations and powers under this Code in writing to any corporation, person or entity as he deems appropriate, and in which instance references to "AFL General Counsel" in this Code will be deemed to include the corporation, person or entity to whom the obligations and powers have been so delegated.
- (b) For the avoidance of doubt, AFL may delegate any of its rights and obligations under this Code to any Affiliated State or Territory Body. In such case, any reference to AFL General Counsel will be deemed a reference to the General Manager or CEO of that Affiliated State or Territory Body.
- (c) AFL will advise ASADA of any delegation under this clause.
- (d) This Code is deemed to form part of the AFL Rules, where applicable.

#### 2.4 Sporting Administration Body Rules

The AFL agrees to be bound by the Sporting Administration Body Rules as contained in clause 2.04 of the ASADA Regulations.

# 3. Application of Code

- (a) This Code applies to:
  - (i) Players, whether in or out of competition;
  - (ii) Clubs and their Officers;
  - (iii) Athlete Support Persons; and
  - (iv) any other Person who is required to comply with this Code from time to time.
- (b) Any Player, Club, Officer, Athlete Support Person or other Person to whom this Code applies who commits an Anti-Doping Rule Violation or otherwise breaches the provisions of this Code is liable to the sanctions provided by this Code.
- (c) A Club will be deemed to have breached this Code should any of its Officers or Athlete Support Person breach this Code and the Club may be sanctioned by the AFL in addition to the Officers or Athlete Support Person concerned.

(d) This Code shall apply to the AFL and all its member or affiliate organisations, including competitions conducted by or under the auspice of an Affiliated State or Territory Body.

#### 4. Powers of AFL and ASADA

- (a) Under the ASADA Act and the NAD Scheme, ASADA has the legislative authority to:
  - (i) investigate possible violations of the anti-doping rules under the ASADA Act and the NAD Scheme for Players and Athlete Support Person under the jurisdiction of the AFL;
  - (ii) make findings in relation to such investigations;
  - (iii) notify the Player, Athlete Support Person and the AFL of its findings and its recommendations as to the consequences of such findings; and
  - (iv) present its findings and its recommendations as to consequences at hearings of the AFL Tribunal, the AFL Appeals Board or CAS, either at the AFL's request or on its own initiative.
- (b) The AFL has a responsibility to encourage and promote competition free from Prohibited Substances and Methods and to prevent doping practices in sport. To facilitate this object, the AFL specifically recognises ASADA and its functions and powers. ASADA agrees, unless advised otherwise by the AFL, that the AFL retains all functions and powers relating to this Code, including all functions and powers relating to investigations, the issuing of an infraction notice, the convening of hearings, the presentation of allegations of an Anti-Doping Rule Violations at a hearing and all matters incidental thereto.
- (c) The AFL will provide ASADA a copy of all notices of hearings to be conducted pursuant to this Code. ASADA has provided an undertaking to the AFL to keep this information confidential unless otherwise required to disclose by law and/or to the extent required under the ASADA Act, the NAD Scheme and this Code.
- (d) The AFL recognises that ASADA may carry out its own investigations of possible Anti-Doping Rule Violations.
- (e) The AFL will facilitate the presentation of relevant information obtained during investigations conducted by ASADA to the Tribunal or Appeals Board. For this purpose, the AFL will provide reasonable notice to ASADA of matters to be heard by the Tribunal or Appeals Board.
- (f) Where reasonable and as soon as the AFL becomes aware that a possible Anti-Doping Rule Violation may have occurred, the AFL will immediately advise ASADA of the possible violation. The AFL will provide ASADA with all information pertaining to the possible Anti-Doping Rule Violation and will, as may be reasonably required by ASADA, assist, cooperate and liaise with ASADA in relation to any investigation conducted by ASADA at no cost to the AFL.
- (g) In recognising ASADA's charter to conduct its own investigations, the AFL and ASADA agree that:
  - (i) any investigations undertaken by ASADA will be at no cost to the AFL;

- (ii) the AFL will act on ASADA's findings on such investigations in good faith in accordance with this Code;
- (iii) ASADA will inform the AFL of any intention to conduct an investigation that might reasonably be expected to result in an Anti-Doping Rule Violation under this Code and will provide regular reports to the AFL on ASADA's conduct of the anti-doping functions subject to ASADA's enabling legislation;
- (iv) the AFL will inform ASADA of any investigation that might reasonably be expected to result in an Anti-Doping Rule Violation under this Code and will provide regular reports to ASADA on the AFL's conduct of its antidoping functions subject to this Code, including any with respect to clause 11.
- (h) ASADA will perform and conduct anti-doping functions and powers in accordance with this Code in so far as it does not conflict with the ASADA Act and the NAD Scheme.
- (i) The AFL agrees to provide such reports to ASADA on the AFL's conduct of any anti-doping functions under this Code, as may be reasonably agreed between the AFL and ASADA from time to time.
- (j) The AFL will recognise and enforce any sanction applied by the Tribunal or the Appeals Board in respect of an Anti-Doping Rule Violation and will recognise and enforce any finding by or on behalf of any Signatory that a breach has occurred of its anti-doping policy and the Player or Person concerned will be subject to sanction under this Code as if that Player or Person has committed an Anti-Doping Rule Violation under this Code.

#### 5. Prohibited Classes of Substances and Prohibited Methods

- (a) The classes of substances and methods prohibited under this Code are those described in the WADA Prohibited List.
- (b) Persons to whom this Code applies are specifically cautioned:
  - (i) The WADA Prohibited List describes, amongst other things, prohibited classes of substances. The naming of substances in the WADA Prohibited List is by way of example only and the fact that a substance is not so named does not affect its prohibition if the substance is within a prohibited class.
  - (ii) Amendments or additions to the WADA Prohibited List take effect under this Code at the same time as they take effect under the WADA Prohibited List.
  - (iii) It is the obligation of each Person to whom this Code applies to inform himself or herself of all substances and methods prohibited under this Code. It is not a defence to any claim that a Person has breached this Code for that Person to contend:
    - (A) ignorance that a substance or method is prohibited;

- (B) an honest and reasonable, but mistaken, belief that a substance or method is not prohibited under this Code;
- (C) lack of intention to use or administer a Prohibited Substance or Prohibited Method;
- (D) inadvertent use or administration of a Prohibited Substance or Prohibited Method:
- (E) that the substance or method was Used or Administered for therapeutic purposes unless permission has been granted under clause 9; or
- (F) that the substance or method in question did not enhance the performance of the Player concerned or was otherwise not performance enhancing.

#### 6. The WADA Prohibited List

# 6.1 Incorporation of the WADA Prohibited List<sup>5</sup>

- (a) This Code incorporates the WADA Prohibited List which is published and revised by WADA from time to time.
- (b) Unless provided otherwise in the WADA Prohibited List and/or a revision, the WADA Prohibited List and revisions shall go into effect under this Code three months after publication by WADA without requiring any further action by an Anti-Doping Organisation. All Players and other Persons shall be bound by the WADA Prohibited List, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Players and other Persons to familiarise themselves with the most up-to-date version of the WADA Prohibited List and all revisions.

# 6.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List<sup>6</sup>

(a) Prohibited Substances and Prohibited Methods

The WADA Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future competitions or their masking potential and those substances and methods which are prohibited In-Competition only. Prohibited Substances and Prohibited Methods may be included in the WADA Prohibited List by general category (eg. Anabolic agents) or by specific reference to a particular substance or methods.

(b) Specified Substances

website at www.wada-ama.org.

<sup>5</sup> For the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made. WADA will always have the most current Prohibited List published on its website. The current Prohibited List is available on WADA's

<sup>&</sup>lt;sup>6</sup> Out-of-Competition Use of a substance which is only prohibited In-Competition is not an Anti-Doping Rule Violation unless an Adverse Analytical Finding for the substance or its Metabolites or Markers is reported for a Sample collected In-Competition.

For the purpose of the application of Clause 17 (Sanctions), all Prohibited Substances shall be "Specified Substances" except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the WADA Prohibited List. Prohibited Methods shall not be Specified Substances.<sup>7</sup>

## 6.3 Criteria for Including Substances and Methods on the WADA Prohibited List

WADA's determination of the Prohibited Substances and Prohibited Methods that will be included on the WADA Prohibited List, the classification of substances into categories on the WADA Prohibited List, and the classification of a substance as prohibited at all times or In-Competition only, is final and shall not be subject to challenge by a Player or other Person.

# 7. Obligations

- (a) All Players, Clubs, Officers and Athlete Support Person must comply with and observe this Code.
- (b) All Players must give Samples for Testing at the request of either the Testing Authority or the AFL.
- (c) If required by the AFL, each Player must upon request, promptly provide to their Club their address and telephone numbers and other up to date details of their whereabouts so as to permit Out-of-Competition testing. The minimum required details in order to comply with this Clause are set out in the "Whereabouts Form" in Annexure A. A Player who has lodged with his Club a "Whereabouts Form" in accordance with Annexure A which contains information that continues to be up to date and which provides a current telephone number of the Player is deemed to have complied with this clause.
- (d) The applicable requirements for the purposes of clause 10.5 are that Players must:
  - (i) provide whereabouts information to their Club at the beginning of each season;
  - (ii) not deliberately or recklessly provide incorrect whereabouts information;
  - (iii) not fail on more than three occasions in any twelve month period to update the whereabouts information within ten (10) days of the whereabouts information previously provided to the Club becoming out of date;
  - (iv) not refuse to update the whereabouts information previously provided to the Club within three (3) days of being requested to do so;
  - (v) not be unavailable for Out-of-Competition Testing on a total of three (or more) occasions during any twelve month period.
- (e) Each Club must:

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<sup>&</sup>lt;sup>7</sup> The Specified Substances identified in clause 6.2 should not in any way be considered less important or less dangerous than other doping substances. Rather, they are simply substances which are more likely to have been consumed by a Player for a purpose other than the enhancement of sport performance.

- (i) notify its Players that they are liable for selection to provide Samples for Testing of Doping whether In-Competition or Out-of-Competition;
- (ii) educate its Players, Officers and Athlete Support Person in respect of:
  - (A) the dangers and consequences of the use of performance enhancing substances and to this end will ensure that all such persons attend all drug awareness or education lectures and will maintain and keep a written record of all such attendees which will be signed by all attendees and certified by the Club's Chief Executive Officer. This record will be provided upon request to the AFL:
  - (B) their respective obligations under this Code; and
  - (C) the sanctions which are applicable for a breach of this Code.
- (iii) upon request, advise the AFL in writing of all steps, actions and other matters undertaken by it pursuant to clause 7(e)(ii);
- (iv) permit and assist the Testing Authority to attend Matches and training sessions in order to obtain Samples from Players for Testing and provide the facilities required to enable the Testing Authority to obtain such Samples;
- (v) permit the Testing Authority to obtain Samples from Players for Testing other than at Matches and training sessions and provide all necessary assistance and allow the Testing Authority representatives unlimited access to the training and changing rooms and other Match facilities for this purpose;
- (vi) require and cause its Players, Officers and Athlete Support Person to permit the Testing Authority to collect Samples for testing and provide all necessary assistance for this purpose;
- (vii) arrange for completion and return of forms required for the purposes of the Testing Authority at the request of the Testing Authority or AFL;
- (viii) promptly notify the AFL General Counsel of any circumstances which may be or are a breach of this Code;
- (ix) upon request promptly provide to the AFL such information and assistance as they may request concerning the application of this Code, any alleged breach of this Code or any practice concerning the use of drugs in Australian football;
- (x) permit and assist the AFL to access the Players' room at each Match, the facility provided by the Club for the collection of samples by the Testing Authority and to any other information required;
- (xi) ensure that its Players and Club Medical Officers comply with their obligations under this Code;
- (xii) upon request, promptly provide to the Testing Authority and AFL the names, addresses and telephone numbers of their Players;

- (xiii) upon request, promptly provide to the Testing Authority and AFL the Club's training schedule, inclusive of the date, time and place where the Players of the Club will train; and
- (xiv) promptly advise the Testing Authority and AFL of any change to the information provided by the Club under Clauses 7(e)(xii) and 7(e)(xiii).

# 8. Testing for Doping

Sampling and Testing of Players must be conducted substantially in conformity with the WADA International Standard for Testing. Sample analysis and custodial procedures shall be conducted in accordance with the International Standard for Laboratories. Minor irregularities, which cannot reasonably be considered to have affected the results of otherwise valid tests, will not invalidate such results. Minor irregularities do not include the chain of custody of the Sample, improper sealing of the container(s) in which the Sample is stored, failure to request the signature of the Player or failure to provide the Player with an opportunity to be present or be represented at the opening and analysis of the 'B' Sample is requested.

#### 9. Therapeutic Use

#### 9.1 Application

- (a) The presence of a Prohibited Substance or its Metabolites or Markers, and/or the Use or Attempted Use, Possession or Administration or Attempted Administration of a Prohibited Substance or Prohibited Method shall not be considered an Anti-Doping Rule Violation if it is consistent with the provisions of a TUE granted in accordance with the International Standard for Therapeutic Use Exemptions.
- (b) The TUE Committee for Australia is the Australian Sports Drug Medical Advisory Committee (ASDMAC). Unless otherwise specified by ASDMAC in a notice posted on its website, any Player who needs to Use a Prohibited Substance or Prohibited Method for therapeutic purposes should apply to ASDMAC for a TUE as soon as the need arises by completing the form at www.asdmac.gov.au with assistance from their doctor. ASDMAC will consider applications for the grant or recognition of TUEs. ASDMAC shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the International Standard for Therapeutic Use Exemptions and the specific ASDMAC protocols posted on its website at http://www.asdmac.gov.au. ASDMAC's decision shall be final and where ASDMAC has granted a TUE, the decision shall be reported to WADA and other relevant Anti-Doping Organisations in accordance with the International Standard for Therapeutic Use Exemptions.<sup>8</sup>
- (c) If an Anti-Doping Organisation chooses to test a Player, the Player may apply for a retroactive TUE for any Prohibited Substance or Prohibited Method that he or she is using for therapeutic reasons.

<sup>8</sup> The submission of false or misleading information in support of a TUE application (including but not limited to the failure to advise of the unsuccessful outcome of a prior application to another Anti-Doping Organisation for such a TUE) may result in a charge of Tampering or Attempted Tampering.

A Player should not assume that his/her application for grant or recognition of a TUE (or for renewal of a TUE) will be granted. Any Use or Possession or administration of a Prohibited Substance or Prohibited Method before an application has been granted is entirely at the Player's own risk.

#### 9.2 Expiration, cancellation, withdrawal or reversal of a TUE

- (a) A TUE granted pursuant to this Code:
  - (i) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality;
  - (ii) may be cancelled if the Player does not promptly comply with any requirements or conditions imposed by the TUE committee upon grant of the TUE;
  - (iii) may be withdrawn by the TUE committee if it is subsequently determined that the criteria for grant of a TUE are not in fact met; or
  - (iv) may be reversed on review by WADA or on appeal.
- (b) In such event, the Player shall not be subject to any Consequences based on his or her Use or Possession or Administration of the Prohibited Substance or Prohibited Method in question in accordance with the TUE prior to the effective date of expiry, cancellation, withdrawal or reversal of the TUE. The review of any subsequent Adverse Analytical Finding shall include consideration of whether such finding is consistent with Use of the Prohibited Substance or Prohibited Method prior to that date, in which event no Anti-Doping Rule Violation shall be asserted.

#### 9.3 Reviews and appeals of TUE decisions

- (a) If ASDMAC denies an application for a TUE, the Player may appeal exclusively to the Therapeutic Use Exemption Review Committee (**TUERC**).
- (b) WADA may review any TUE decisions at any time, whether upon request by those affected or on its own initiative. If the TUE decision being reviewed meets the criteria set out in the International Standard for Therapeutic Use Exemptions, WADA will not interfere with it. If the TUE decision does not meet those criteria, WADA will reverse it.
- (c) A decision by WADA to reverse a TUE decision may be appealed by the Player, ASDMAC and/or the AFL exclusively to CAS.
- (d) A failure to take action within a reasonable time on a properly submitted application for grant recognition of a TUE or for review of a TUE decision shall be considered a denial of the application.

# 10. Anti-Doping Rule Violations

#### 10.1 General

- (a) The purpose of Clause 10 is to specify the circumstances and conduct which constitute Anti-Doping Rule Violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules have been violated.
- (b) Players or other Persons shall be responsible for knowing what constitutes an Anti-Doping Rule Violation and the substances and methods which have been included on the WADA Prohibited List.

# 10.2 Presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample

- (a) It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Player's part be demonstrated in order to establish an Anti-Doping Rule Violation under Clause 10.2.9
- (b) Sufficient proof of an Anti-Doping Rule Violation under this Clause is established by either of the following:
  - (i) presence of a Prohibited Substance or its Metabolites or Markers in the Players A Sample where the Player waives analysis of the B Sample and the B Sample is not analysed; or
  - (ii) where the Player's B Sample is analysed and the analysis of the Player's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Player's A Sample 10; or
  - (iii) where the Player's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.
- (c) Excepting those substances for which a quantitative reporting threshold is specifically identified in the WADA Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in a Player's Sample shall constitute an Anti-Doping Rule Violation.
- (d) As an exception to the general rule of this Clause 10.2, the WADA Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.

# 10.3 Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method<sup>11</sup>

(a) It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body and that no Prohibited Method is Used. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Player's part be

<sup>&</sup>lt;sup>9</sup> An Anti-Doping Rule Violation is committed under this clause without regard to a Player's Fault. This rule has been referred to in various CAS decisions as 'Strict Liability'. A Player's Fault is taken into consideration in determining the Consequences of this Anti-Doping Rule Violation. This principle has consistently been upheld by CAS.

<sup>&</sup>lt;sup>10</sup> The Anti-Doping Organisation with results management responsibility may in its discretion choose to have the B Sample analysed even if the Player does not request the analysis of the B Sample.

It has always been the case that Use or Attempted use of a Prohibited Substance or Prohibited Method may be established by any reliable means. Unlike the proof required to establish an Anti-Doping Rule Violation under Clause 10.2, Use or Attempted use may also be established by other reliable means such as admissions by the Player, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Clause 10.2. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.

demonstrated in order to establish an Anti-Doping Rule Violation for Use of a Prohibited Substance or Prohibited Method.

(b) The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an Anti-Doping Rule Violation to be committed.<sup>12</sup>

#### 10.4 Evading, Refusing or Failing to Submit to Sample Collection

Evading Sample collection, or without compelling justification, refusing or failing to submit to Sample collection after notification as authorised in applicable Anti-Doping Rules.<sup>13</sup>

#### 10.5 Whereabouts failures

Any combination of three missed tests and/or filing failures, as defined in the International Standard for Testing and Investigations, within a twelve-month period by a Player in a Registered Testing Pool.

#### 10.6 Tampering, or Attempted Tampering with any part of Doping Control

Tampering, or Attempted Tampering with any part of Doping Control means conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, intentionally interfering or attempting to interfere with a Doping Control official, providing fraudulent information to an Anti-Doping Organisation or intimidating or attempting to intimidate a potential witness.<sup>14</sup>

#### 10.7 Possession of Prohibited Substances or a Prohibited Method

(a) Possession by a Player In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by a Player Out-of-Competition of any Prohibited Method or Prohibited Substance which is prohibited Out-of-Competition unless the Player establishes that the Possession is consistent with a TUE granted in accordance with Clause 9 (Therapeutic Use) or other acceptable justification.<sup>15</sup>

A Player's Use of a Prohibited Substance constitutes an Ant Doping Rule Violation unless such substance is not prohibited Out-of-Competition and the Player's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Clause 10.2 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)

<sup>&</sup>lt;sup>12</sup> Demonstrating the "Attempted Use" of a Prohibited Substance requires proof of intent on the Player's part. The fact that intent may be required to prove this particular Anti-Doping Rule Violation does not undermine the strict liability principle established for violations of Clause 10.2 and violations of Clause 10.3 in respect of Use of a Prohibited Substance or Prohibited Method.

<sup>&</sup>lt;sup>13</sup>For example, it would be an Anti-Doping Rule Violation of 'evading Sample collection' if it were established that a Player was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of 'failing to submit to Sample collection' may be based on either intentional or negligent conduct of the Player, while 'evading' or 'refusing' Sample collection contemplates intentional conduct by the Player.

<sup>&</sup>lt;sup>14</sup> For example, this clause would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, or altering a Sample by the addition of a foreign substance. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering may be addressed in the code of conduct.

<sup>&</sup>lt;sup>15</sup> Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, eg buying insulin for a diabetic child.

(b) Possession by an Athlete Support Person In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Method or any Prohibited Substance which is prohibited Out-of-Competition in connection with a Player, AFL Competition or training, unless the Athlete Support Person establishes that the Possession is pursuant to a TUE granted to a Player in accordance with Clause 9 (Therapeutic Use) or other acceptable justification.<sup>16</sup>

#### 10.8 Trafficking or Attempted Trafficking

Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method.

#### 10.9 Administration or Attempted Administration

Administration or Attempted Administration to any Player In-Competition of any Prohibited Method or Prohibited Substance, or Administration or Attempted Administration to any Player Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition.

#### **10.10 Complicity**

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an Anti-Doping Rule Violation, Attempted Anti-Doping Rule violation or violation of clause 22.1 by another Person.

#### 10.11 Prohibited Association

- (a) Association by a Player or other Person subject to the authority of an Anti-Doping Organisation in a professional or sport-related capacity with any Athlete Support Person who:
  - (i) If subject to the authority of an Anti-Doping Organisation, is serving a period of Ineligibility; or
  - (ii) If not subject to the authority of an Anti-Doping Organisation, and where Ineligibility has not been addressed in a results management process pursuant to the WADA Code, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if WADA Code-compliant rules had been applicable to such Person. The disqualifying status of such Person shall be in force for the longer of six years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or
  - (iii) Is serving as a front or intermediary for an individual described in clause 10.11(a)(i) or 10.11(a)(ii).
- (b) In order for this clause 10.11 to apply, it is necessary that the Player or other Person has previously been advised in writing by an Anti-Doping Organisation with jurisdiction over the Player or other Person, or by WADA, of the Athlete Support Person's disgualifying status and the potential Consequence of prohibited

<sup>&</sup>lt;sup>16</sup> Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.

association and that the Player or other Person can reasonably avoid the association. An Anti-Doping Organisation shall also use reasonable efforts to advise the Athlete Support Person who is the subject of the notice to the Player or other Person that the Athlete Support Person may, within 15 days, come forward to the Anti-Doping Organisation to explain that the criteria described in clause 10.11(a)(i) and 10.11(a)(ii) do not apply to him or her. (Notwithstanding clause 10.11, this Clause applies even when the Athlete Support Person's disqualifying conduct occurred prior to the effective date of this Code).

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- (c) The burden shall be on the Player or other Person to establish that any association with an Athlete Support Person described in clause 10.11(a)(i) or 10.11(a)(ii) is not in a professional or sport-related capacity.
- (d) If an Anti-Doping Organisation is aware of Athlete Support Person who meets the criteria described in clause 10.11(a)(i), 10.11(a)(ii) or 10.11(a)(iii) they shall submit that information to WADA.<sup>17</sup>

## 11. Testing and Investigations

#### 11.1 Purpose of Testing and investigations

- (a) Testing and investigations, where applicable, shall be conducted in conformity with the provisions of the International Standard for Testing and Investigations. For the avoidance of doubt, nothing in this Code prevents or restricts the AFL from conducting any investigation, with an Anti-Doping Organisation or independently, for anti-doping or related purposes.
- (b) All Players must comply with any request for Testing by a Testing Authority or the AFL.
- (c) Testing shall be undertaken to obtain analytical evidence as to the Player's compliance (or non-compliance) with the strict WADA Code prohibition on the Presence/Use of a Prohibited Substance or Prohibited Method.
- (d) Investigations shall be undertaken:
  - (i) in relation to Atypical Findings, Atypical Passport Findings and Adverse Passport Findings, in accordance with clause 14.4 and 14.5 respectively, gathering intelligence or evidence (including, in particular, analytical evidence) in order to determine whether an Anti-Doping Rule Violation has occurred under clause 10.2 and/or clause 10.3; and
  - (ii) in relation to other indications of potential Anti-Doping Rule Violations, in accordance with clauses 14.6 and 14.7, gathering intelligence or evidence (including, in particular, non-analytical evidence) in order to determine whether an anti-doping rule violation has occurred under any of clauses 10.3 to 10.11.

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<sup>&</sup>lt;sup>17</sup> Players and other Persons must not work with coaches, trainers, physicians or other Officials who are Ineligible on account of an Anti-Doping Rule Violation or who have been criminally convicted or professionally disciplined in relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Official to serve as an agent or representative. Prohibited association need not involve any form of compensation.

- (e) AFL or an Anti-Doping Organisation may obtain, assess and process anti-doping intelligence from all available sources, to inform the development of an effective, intelligent and proportionate test distribution plan, to plan Target Testing, and/or to form the basis of an investigation into a possible Anti-Doping Rule Violation(s).
- (f) The AFL must refer all information and intelligence relating to instances of possible Anti-Doping Rule Violations under this Code to an Anti-Doping Organisation and jointly work with any investigation by an Anti-Doping Organisation as required.

# 11.2 Authority to conduct Testing<sup>18</sup>

- (a) Any Player may be required to provide a Sample at any time and at any place by a Testing Authority or the AFL.
- (b) For the avoidance of doubt, ASADA may require any Player (including any Player serving a period of Ineligibility) to provide a Sample at any time and at any place.
- (c) WADA shall have In-Competition and Out-of-Competition Testing authority as set out in Article 20.7.8 of the WADA Code.
- (d) If the AFL delegates or contracts any part of Testing to a National Anti-Doping Organisation, that National Anti-Doping Organisation may collect additional Samples or direct the laboratory to perform additional types of analysis at the National Anti-Doping Organisation's expense. If additional Samples are collected or additional types of analysis are performed, the AFL shall be notified.

# 12. Analysis of Samples

Samples shall be analysed in accordance with the following principles.

# 12.1 Use of accredited and approved laboratories 19

For purposes of clause 10.2, Samples shall be analysed only in laboratories accredited or otherwise approved by WADA.

# 12.2 Purpose of analysis of samples<sup>20</sup>

(a) Samples shall be analysed to detect Prohibited Substances and Prohibited Methods and other substances as may be directed by WADA pursuant to the monitoring program described in Article 4.5 of the WADA Code; or to assist in profiling relevant parameters in a Player's urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose.

<sup>&</sup>lt;sup>18</sup> Unless the Player has identified a 60-minute time-slot for Testing between the hours of 11pm and 6am, or has otherwise consented to Testing during that period, the Anti-Doping Organisation will not test an Athlete during that period unless it has a serious and specific suspicion that the Player may be engaged in doping. A challenge to whether the Anti-Doping Organisation had sufficient suspicion for Testing in that period shall not be a defence to an Anti-Doping Rule Violation based on such test or attempted test.

<sup>&</sup>lt;sup>19</sup> Violations of clause 10.2 may be established only by Sample analysis performed by a laboratory accredited or otherwise approved by WADA. Violations of other clause may be established using analytical results from other laboratories so long as the results are reliable.

<sup>&</sup>lt;sup>20</sup> For example, relevant profile information could be used to direct Target Testing or to support an Anti-Doping Rule Violation proceeding under clause10.3, or both.

(b) Samples may be collected and stored for future analysis.

#### 12.3 Research on Samples

No Sample may be used for research without the Player's written consent. Samples used for purposes other than clause 12.2 shall have any means of identification removed such that they cannot be traced back to a particular Player.

#### 12.4 Standards for Sample analysis and reporting<sup>21</sup>

Laboratories shall analyse Samples and report results in conformity with the International Standard for Laboratories. To ensure effective Testing, the Technical Document referenced at Article 5.4.1 of the WADA Code will establish risk assessment-based Sample analysis menus appropriate for particular sports and sport disciplines, and laboratories shall analyse Samples in conformity with those menus, except as follows:

- (a) Anti-Doping Organisations or AFL may request that laboratories analyse its Samples using more extensive menus than those described in the Technical Document:
- (b) Anti-Doping Organisations or AFL may request that laboratories analyse its Samples using less extensive menus than those described in the Technical Document only if they have satisfied WADA that, because of the particular circumstances of its country or of the sport in question, as set out in their test distribution plan, less extensive analysis would be appropriate;
- (c) As provided in the International Standard for Laboratories, laboratories at their own initiative and expense may analyse Samples for Prohibited Substances or Prohibited Methods not included on the Sample analysis menu described in the Technical Document or specified by the Testing Authority. Results from any such analysis shall be reported and have the same validity and consequence as any other analytical result.

#### 12.5 Further analysis of Samples

- (a) Any Sample may be subject to further analysis by the Anti-Doping Organisation responsible for results management or the AFL at any time before both the A and B Sample analytical results (or A Sample result where B Sample analysis has been waived or will not be performed) have been communicated by the Anti-Doping Organisation or AFL to the Player as the asserted basis for a clause 12.2 Anti-Doping Rule Violation.
- (b) Samples may be stored and subjected to further analyses for the purpose of clause 12.2 at any time at the direction of the Anti-Doping Organisation that initiated and directed Sample collection, AFL or WADA. (Any Sample storage or further analysis initiated by WADA shall be at WADA's expense.) Further analysis of Samples shall conform with the requirements of the International Standard for Laboratories and the International Standard for Testing and Investigations.

<sup>&</sup>lt;sup>21</sup> The objective of this clause is to extend the principle of 'intelligent Testing' to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognised that the resources available to fight doping are limited and that increasing the Sample analysis menu may, in some sports and countries, reduce the number of Samples which can be analysed.

#### 13. Non-Analytical Investigation Process

#### 13.1 Roles and responsibilities of parties

- (a) Where an investigation is required to determine whether an Anti-Doping Rule Violation may have occurred under this Code, unless otherwise agreed between ASADA and the AFL, either of the AFL or ASADA may conduct an investigation.
- (b) ASADA will, as soon as reasonably practicable, advise the AFL of an ASADA investigation. ASADA may also consult affected or interested parties about their participation in any investigation.
- (c) Where AFL conducts its own investigation, the AFL must do so in coordination with any investigation being undertaken by ASADA and seek ASADA's input into such investigation undertaken by the AFL.
- (d) All Persons bound by this Code must assist, cooperate, and liaise with the AFL and ASADA (as applicable), or any party nominated by the AFL or ASADA, in relation to any investigation into a potential Anti-Doping Rule Violation. Specifically, all Persons must cooperate with and assist ASADA or the AFL (where relevant), including by:
  - (i) attending an interview to fully and truthfully answer questions;
  - (ii) giving information; and
  - (iii) producing documents or things,

in an investigation being conducted by ASADA or the AFL (where relevant)

# 14. Results Management

#### 14.1 Responsibility for conducting results management

- (a) The AFL, the Testing Authority or an Anti-Doping Organisation, as determined by the AFL, shall take responsibility for results management of all potential Anti-Doping Rule Violations under this Code in accordance with the WADA Code, the ASADA Act, the ASADA Regulations, and the NAD scheme as applicable and in force from time to time. This includes any matters referred to the AFL by other Anti-Doping Organisations for results management.
- (b) Where ASADA elects to collect additional Samples in the circumstances set out in this Code, then it shall have results management responsibility. However, where ASADA only directs the laboratory to perform additional types of analysis at ASADA's expense, then the AFL will have results management responsibility.

#### 14.2 Review regarding Adverse Analytical Findings

Results management in respect of the results of tests initiated by an Anti-Doping Organisation or the AFL shall proceed as follows:

(a) Upon receipt of an Adverse Analytical Finding, the Anti-Doping Organisation or the AFL shall conduct a review to determine whether:

- (i) an applicable TUE has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or
- (ii) there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the Adverse Analytical Finding.
- (b) If the review of an Adverse Analytical Finding reveals an applicable TUE or departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Adverse Analytical Finding, the entire test shall be considered negative. The Anti-Doping Organisation will inform, in accordance with the WADA Code and the NAD scheme, the Player, the AFL and WADA.

#### 14.3 Notification after review regarding Adverse Analytical Findings

- (a) If the review of an Adverse Analytical Finding under clause 14.2 does not reveal an applicable TUE or entitlement to a TUE as provided in the International Standard for Therapeutic Use Exemptions, or departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Adverse Analytical Finding, the Anti-Doping Organisation shall promptly notify the Player, and simultaneously the AFL and WADA, of:
  - (i) the Adverse Analytical Finding;
  - (ii) the Anti-Doping Rule Violated;
  - (iii) the Player's right to request the analysis of the B Sample or, failing such request by the specified deadline, that the B Sample analysis may be deemed waived;
  - (iv) the scheduled date, time and place for the B Sample analysis if the Player or Anti-Doping Organisation chooses to request an analysis of the B Sample;
  - (v) the opportunity for the Player and/or the Player's representative to attend the B Sample opening and analysis in accordance with the International Standard for Laboratories: and
  - (vi) the Player's right to request copies of the A and B Sample laboratory documentation package which includes information as required by the International Standard for Laboratories.
- (b) If the Anti-Doping Organisation decides not to bring forward the Adverse Analytical Finding as an Anti-Doping Rule Violation, it will notify the Player, the AFL and WADA.
- (c) In all cases where a Player has been notified of an Anti-Doping Rule Violation that does not result in a mandatory Provisional Suspension under clause 14.9(a), the Player shall be offered the opportunity to accept a Provisional Suspension pending the resolution of the matter.
- (d) Where requested by the Player or an Anti-Doping Organisation, arrangements shall be made to analyse the B Sample in accordance with the International

Standard for Laboratories. A Player may accept the A Sample analytical results by waiving the requirement for B Sample analysis. The Anti-Doping Organisation may nonetheless elect to proceed with the B Sample analysis even where the Player has waived this requirement.

- (e) The Player and/or his or her representative shall be allowed to be present at the analysis of the B Sample. Also, a representative of the Anti-Doping Organisation shall be allowed to be present.
- (f) If the B Sample analysis does not confirm the A Sample analysis, then (unless Anti-Doping Organisation takes the case forward as an Anti-Doping Rule Violation under clause 10.3) the entire test shall be considered negative and the Player, the AFL and WADA shall be so informed.
- (g) If the B Sample analysis confirms the A Sample analysis, the findings shall be reported to the Player, the AFL and WADA in accordance with the WADA Code and the NAD scheme.

#### 14.4 Review of Atypical Findings

- (a) As provided in the International Standard for Laboratories, in some circumstances laboratories are directed to report the presence of Prohibited Substances, which may also be produced endogenously, as Atypical Findings subject to further investigation.
- (b) Upon receipt of an Atypical Finding, the Anti-Doping Organisation shall conduct a review to determine whether:
  - (i) an applicable TUE has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions; or
  - (ii) there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the Atypical Finding.
- (c) If the review of an Atypical Finding reveals an applicable TUE or a departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Atypical Finding, the entire test shall be considered negative and the Player, the AFL and WADA shall be so informed in accordance with the WADA Code and the NAD scheme.
- (d) If that review does not reveal an applicable TUE or a departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Atypical Finding, the Anti-Doping Organisation or AFL shall conduct the required investigation. After the investigation is completed, either the Atypical Finding will be brought forward as an Adverse Analytical Finding, in accordance with this Code, or else the Player, the AFL and WADA shall be notified that the Atypical Finding will not be brought forward as an Adverse Analytical Finding.
- (e) The Anti-Doping Organisation will not provide notice of an Atypical Finding until it has completed its investigation and has decided whether it will bring the Atypical Finding forward as an Adverse Analytical Finding unless one of the following circumstances exists:

- (i) If the Anti-Doping Organisation determines the B Sample should be analysed prior to the conclusion of its investigation, it may conduct the B Sample analysis after notifying the Player, with such notice to include a description of the Atypical Finding and the information described in clause 14.3(a).
- (ii) If asked by the AFL.

#### 14.5 Review of Atypical Passport Findings and Adverse Passport Findings

Review of Atypical Passport Findings and Adverse Passport Findings shall take place as provided in the International Standard for Testing and Investigations and International Standard for Laboratories. At such time as the Anti-Doping Organisation is satisfied that an Anti-Doping Rule Violation has occurred, it shall promptly give the Player (and simultaneously, the AFL and WADA) notice of the Anti-Doping Rule Violation asserted and the basis of that assertion.

#### 14.6 Review of whereabouts failures

The Anti-Doping Organisation shall review potential filing failures and missed tests (as defined in the International Standard for Testing and Investigations and any Player whereabouts policy) in respect of Players who file their whereabouts information in accordance with this Code. At such time as the Anti-Doping Organisation is satisfied that a clause 10.5 Anti-Doping Rule Violation has occurred, it shall promptly give the Player (and simultaneously, the AFL and WADA) notice that it is asserting a violation and the basis of that assertion.

# 14.7 Review of other anti-doping rule violations not covered by Causes 14.2 to 14.6

The Anti-Doping Organisation or AFL may conduct any follow-up investigation required into a possible Anti-Doping Rule Violation not covered by clause 14.2 to 14.6. At such time as the Anti-Doping Organisation is satisfied that an Anti-Doping Rule Violation has occurred, it shall promptly give the Player or other Person (and simultaneously the AFL and WADA) notice of the Anti-Doping Rule Violation asserted, and the basis of that assertion.

#### 14.8 Identification of prior Anti-Doping Rule Violations

Before giving a Player or other Person notice of an Asserted Anti-Doping Rule Violation, the Anti-Doping Organisation shall refer to its own records as well as ADAMS, and contact WADA and other relevant Anti-Doping Organisations to determine whether any prior Anti-doping Rule Violation exists.

# 14.9 Provisional Suspensions<sup>22</sup>

(a) Mandatory Provisional Suspension: If analysis of an A Sample has resulted in an Adverse Analytical Finding for a Prohibited Substance that is not a Specified Substance, or for a Prohibited Method, and a review in accordance with this Code does not reveal an applicable TUE or departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that

<sup>&</sup>lt;sup>22</sup> Players and other Persons shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed.

- caused the Adverse Analytical Finding, a Provisional Suspension shall be imposed by the AFL upon, or promptly after, the notification described in clauses 14.2, 14.3 or 14.5.
- (b) Optional Provisional Suspension: In the case of an Adverse Analytical Finding for a Specified Substance, or in the case of any other Anti-Doping Rule Violations not covered by clause 14.9(a), the AFL may impose a Provisional Suspension on the Player or other Person against whom the Anti-Doping Rule Violation is asserted at any time after the review and notification described in clause 14.2 to 14.7 and prior to the final hearing.
- (c) Where a Provisional Suspension is imposed pursuant to clause 14.9(a) or 14.9(b), the Player or other Person shall be given either:
  - (i) an opportunity for a Provisional Hearing either before or on a timely basis after imposition of the Provisional Suspension; or
  - (ii) an opportunity for an expedited final hearing on a timely basis after imposition of the Provisional Suspension.
- (d) The Player or other Person has a right to appeal the Provisional Suspension in accordance with this Code.
- (e) The Provisional Suspension may be lifted if the Player demonstrates to the hearing panel that the violation is likely to have involved a Contaminated Product. A hearing panel's decision not to lift a mandatory Provisional Suspension on account of the Player's assertion regarding a Contaminated Product shall not be appealable.
- (f) The mandatory Provisional Suspension shall be imposed, unless determined otherwise by the AFL Commission, unless the Player or other Person establishes at a Provisional Hearing that:
  - (i) the assertion of an Anti-Doping Rule Violation has no reasonable prospect of being upheld, for example, because of a patent flaw in the case against the Player or other Person;
  - (ii) the Player or other Person has a strong arguable case that he/she bears No Fault or Negligence for the Anti-doping Rule Violation(s) asserted, so that any period of Ineligibility that might otherwise be imposed for such a violation is likely to be completely eliminated; or
  - (iii) some other facts exist that make it clearly unfair, in all of the circumstances, to impose a Provisional Suspension prior to a final hearing.
- (g) If a Provisional Suspension is imposed based on an A Sample Adverse Analytical Finding and subsequent analysis of the B Sample does not confirm the A Sample analysis, then the Player shall not be subject to any further Provisional Suspension on account of a violation. In circumstances where the Player (or the Player's Club) has been removed from an AFL Competition based on a violation and the subsequent B Sample analysis does not confirm the A Sample finding, then if it is still possible for the Player or Club to be reinstated without otherwise affecting the AFL Competition, the Player or Club may continue to take part in the AFL Competition.

(h) In all cases where a Player or other Person has been notified of an asserted Anti-Doping Rule Violation but a Provisional Suspension has not been imposed on him or her, the Player or other Person shall be offered the opportunity to accept a Provisional Suspension voluntarily pending the resolution of the matter.

#### 15. Infraction Notice

- (a) As soon as possible after the AFL General Counsel has received notification from ASADA of an Adverse Analytical Finding or he believes on other grounds that there may have been committed an Anti-Doping Rule Violation or a breach of this Code, he or she will give to the Person an infraction notice, together with a copy of this Code, and refer the matter to the Tribunal for hearing and determination.
- (b) The infraction notice given pursuant to this Clause must:
  - (i) be in writing and be delivered to the Person's address as last known to the AFL;
  - (ii) set out the nature and particulars of the alleged Anti-Doping Rule Violation; and
  - (iii) state the date, time and place at which the Tribunal will conduct its hearing into the Anti-Doping Rule Violation.
- (c) In the event that a Player advises the AFL General Counsel that he or she does not require the B Sample to be tested and admits the Anti-Doping Rule Violation, the Tribunal's hearing will be conducted solely as to the applicable sanction to be imposed.

# 16. Proof of Doping

#### 16.1 Burdens and standards of proof

The Anti-Doping Organisation or AFL, as determined by the AFL, shall have the burden of establishing that an Anti-Doping Rule Violation has occurred. The standard of proof shall be whether the Anti-Doping Organisation or AFL has established an Anti-Doping Rule Violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where this Code places the burden of proof upon the Player or other Person alleged to have committed an Anti-Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.<sup>23</sup>

#### 16.2 Methods of establishing facts and presumptions

Facts related to Anti-Doping Rule Violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:<sup>24</sup>

<sup>&</sup>lt;sup>23</sup> This standard of proof required to be met by the Anti-Doping Organisation is comparable to the standard which is applied in most countries to cases involving professional misconduct.

<sup>&</sup>lt;sup>24</sup> For example, an Anti-Doping Organisation may establish an Anti-Doping Rule Violation under clause 10.3 based on the Player's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B

- (a) Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any Player or other Person seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. The Tribunal on its own initiative may also inform WADA of any such challenge. At WADA's request, the Tribunal panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA's receipt of such notice, and WADA's receipt of the Tribunal file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.
- (b) WADA accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Player or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding. If the Player or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the Anti-Doping Organisation or AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.<sup>25</sup>
- (c) Departures from any other International Standard or other anti-doping rule or policy set forth in the WADA Code or this Code which did not cause an Adverse Analytical Finding or other Anti-Doping Rule Violation shall not invalidate such evidence or results.
- (d) If the Player or other Person establishes a departure from another International Standard or other anti-doping rule or policy which could reasonably have caused an Anti-Doping Rule Violation based on an Adverse Analytical Finding or other Anti-Doping Rule Violation, then the Anti-Doping Organisation or AFL shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the Anti-Doping Rule Violation.
- (e) The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the Player or other Person to whom the decision pertained of those facts unless the Player or other Person establishes that the decision violated principles of natural justice.
- (f) The Tribunal in a hearing on an Anti-Doping Rule Violation may draw an inference adverse to the Player or other Person who is asserted to have committed an Anti-Doping Rule Violation based on the Player's or other Person's refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in Person or telephonically as directed by the hearing panel) and

Sample as provided in the Comments to clause 10.3, or conclusions drawn from the profile of a series of the Player's blood or urine Samples, such as data from the Athlete Biological Passport.

<sup>&</sup>lt;sup>25</sup> The burden is on the Player or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Player or other Person does so, the burden shifts to the Anti-Doping Organisation to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.

to answer questions from the hearing panel or the Anti-Doping Organisation or AFL asserting the Anti-Doping Rule Violation.

# 17. Sanctions on Individuals<sup>26</sup>

# 17.1 Disqualification of results in the event during which an Anti-Doping Rule Violation occurs

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- (a) An Anti-Doping Rule Violation occurring during, or in connection with, an AFL Competition may, upon the decision of the AFL Commission, lead to disqualification of all of the Player's individual results obtained in that event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in clause 17.1(c).
- (b) Factors to be included in considering whether to disqualify other results in an event might include, for example, the seriousness of the Player's Anti-Doping Rule Violation and whether the Player tested negative in the other AFL Competitions.
- (c) If the Player establishes that he or she bears No Fault or Negligence for the violation, the Player's individual results in the other AFL Competitions shall not be disqualified, unless the player's results in AFL Competitions other than the AFL Competition in which the Anti-Doping Rule Violation occurred were likely to have been affected by the Player's Anti-Doping Rule Violation.

# 17.2 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances or Prohibited Method

The period of Ineligibility imposed for a violation of Clause 10.2 (presence of Prohibited Substance or its Metabolites or Markers), Clause 10.3 (Use or Attempted Use of Prohibited Substance or Prohibited Method) and Clause 10.7 (Possession of Prohibited Substances and Methods) shall be as follows, subject to potential reduction or suspension pursuant to clauses 17.4 and 17.5, or 17.6:

- (a) The period of Ineligibility shall be four (4) years where:
  - (i) The Anti-Doping Rule Violation does not involve a Specified Substance, unless the Player or other Person can establish that the Anti-Doping Rule Violation was not intentional;
  - (ii) The Anti-Doping Rule Violation involves a Specified Substance and the AFL or Anti-Doping Organisation can establish that the Anti-Doping Rule Violation was intentional.
- (b) If Clause 17.2(a) does not apply, the period of Ineligibility shall be two (2) years.

<sup>&</sup>lt;sup>26</sup> Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the Players are professionals making a sizable income from the sport and in others the Players are true amateurs; in those sports where an Player's career is short, a standard period of Ineligibility has a much more significant effect on the Player than in sports where careers are traditionally much longer. A primary argument in favour of harmonisation is that it is simply not right that two Players from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between international federations and National Anti-Doping Organisations.

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(c) As used in clauses 17.2 and 17.3, the term 'intentional' is meant to identify those Players who cheat. The term, therefore, requires that the Player or other Person engaged in conduct which he or she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and manifestly disregarded that risk. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not 'intentional' if the substance is a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered 'intentional' if the substance is not a Specified Substance and the Player can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.

# 17.3 Ineligibility for Other Anti-Doping Rule Violations

The period of Ineligibility for Anti-Doping Rule Violations other than as provided in clause 17.2 shall be as follows, unless Clause 17.5 or 17.6 are applicable:

- (a) For violations of clause 10.4 (Evading, Refusing or Failing to Submit to Sample Collection) or clause 10.6 (Tampering) the period of Ineligibility imposed shall be four (4) years unless, in the case of failing to submit to Sample collection, the Player can establish that the commission of the Anti-Doping Rule Violation was not intentional, in which case the period of Ineligibility shall be two years.
- (b) For violations of clause 10.5 (Whereabouts Failures), the period of Ineligibility shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the Player's degree of Fault. The flexibility between two years and one year of Ineligibility in this clause is not available to Players where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Player was trying to avoid being available for Testing.
- (c) For violations of clause 10.8 (Trafficking) or 10.9 (Administration) the period of Ineligibility shall be a minimum of four years up to lifetime Ineligibility, depending on the seriousness of the violation. A clause 10.8 or clause 10.9 violation involving a Minor shall be considered a particularly serious violation and, if committed by an Athlete Support Person for violations other than for Specified Substances, shall result in lifetime Ineligibility for the Athlete Support Person. In addition, significant violations of clause 10.8 or 10.9 which may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional or judicial authorities.<sup>27</sup>
- (d) For violations of clause 10.10 (Complicity), the period of Ineligibility shall be at a minimum two (2) years, up to four (4) years, depending on the seriousness of the violation.
- (e) For Violations of clause 10.11 (Prohibited Association) the period of Ineligibility shall be two (2) years, subject to reduction down to a minimum of one (1) year,

<sup>&</sup>lt;sup>27</sup> Those who are involved in doping Players or covering up doping should be subject to sanctions which are more severe than the Players who test positive. Since the authority of Sporting Organisations is generally limited to Ineligibility for accreditation, membership and other sport benefits, reporting Athlete Support Persons to competent authorities is an important step in the deterrence of doping.

depending on the Player or other Person's degree of Fault and other circumstances of the case.

# 17.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence

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If a Player or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period on Ineligibility shall be eliminated.<sup>28</sup>

# 17.5 Reduction of the Period of Ineligibility Based on No Significant Fault or Negligence

(a) Reduction of Sanctions for Specified Substances or Contaminated Products for Violations of Clause 10.2 (Presence), 10.3 (Use) or 10.7 (Possession)

## (i) Specified Substances

Where the Anti-Doping Rule Violation involves a Specified Substance, and the Player or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years of Ineligibility, depending on the Player's or other Person's degree of Fault.

#### (ii) Contaminated Products

In cases where the Player or other Person can establish No Significant Fault or Negligence and the detected Prohibited Substance came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years Ineligibility, depending on the Player's or other Person's degree of Fault.<sup>29</sup>

(b) Application of No Significant Fault or No Significant Negligence beyond the Application of Clause 17.5(a)

If a Player or other Person establishes in an individual case where clause 17.5(a) is not applicable, that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in clause 17.6, the otherwise applicable period of Ineligibility may be reduced based on the Player or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the

<sup>&</sup>lt;sup>28</sup> This clause and clause 17.5(b) apply only to the imposition of sanctions; they are not applicable to the determination of whether an Anti-Doping Rule Violation has occurred. They will only apply in exceptional circumstances, for example where a Player could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Players are responsible for what they ingest and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Player's physician or trainer without disclosure to the Player (Players are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Player's food or drink by a spouse, coach or other Person within the Player's circle of associates (Players are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Clause 17.5 based on No Significant Fault or Negligence.

<sup>&</sup>lt;sup>29</sup> In assessing that Player's degree of Fault, it would, for example, be favourable for the Player if the Player had declared the product which was subsequently determined to be contaminated on his or her Doping Control form

otherwise applicable period of Ineligibility is a lifetime, the reduced period under this clause may be no less than eight (8) years.<sup>30</sup>

# 17.6 Elimination, Reduction, or Suspension of Period of Ineligibility or other Consequences for Reasons other than Fault

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- (a) Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations<sup>31</sup>
  - (i) An Anti-Doping Organisation with results management responsibility for an Anti-Doping Rule Violation or AFL may, prior to a final appellate decision under clause 20 or the expiration of the time to appeal, suspend a part of the period of Ineligibility imposed in an individual case where the Player or other Person has provided Substantial Assistance to an Anti-Doping Organisation, the AFL, another criminal authority or professional disciplinary body which results in:
    - (A) the Anti-Doping Organisation or AFL discovering or bringing forward an Anti-Doping Rule Violation by another Person; or
    - (B) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another Person and the information provided by the Person providing Substantial Assistance is made available to the Anti-Doping Organisation with results management responsibility.
  - (ii) After a final appellate decision under clause 20 or the expiration of time to appeal, an Anti-Doping Organisation or AFL may only suspend a part of the otherwise applicable period of Ineligibility with the approval of WADA.
  - (iii) The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Anti-Doping Rule Violation committed by the Player or other Person and the significance of the Substantial Assistance provided by the Player or other Person to the effort to eliminate doping in sport.
  - (iv) No more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the non-suspended period under this clause must be no less than eight (8) years.
  - (v) If the Player or other Person fails to continue to cooperate and to provide the complete and credible Substantial Assistance upon which a suspension of the period of Ineligibility was based, the Anti-Doping Organisation that suspended the period of ineligibility shall reinstate the original period of Ineligibility. If an Anti-Doping Organisation decides to reinstate a suspended period of Ineligibility or decides not to reinstate a

<sup>&</sup>lt;sup>30</sup> Clause 17.5(b) may be applied to any Anti-Doping Rule Violation, except those clauses where intent is an element of the Anti-Doping Rule Violation or an element of a particular sanction or a range of Ineligibility is already provided in a clause based on the Player or other Person's degree of Fault.

<sup>&</sup>lt;sup>31</sup> The cooperation of Players, Athlete Support Person and other Persons who acknowledge their mistakes and are willing to bring other Anti-Doping Rule Violations to light is important to clean sport. This is the only circumstance under the Code where the suspension of an otherwise applicable period of Ineligibility is authorised.

suspended period of Ineligibility, that decision may be appealed by any Person entitled to appeal under clause 20.

- (vi) To further encourage Players and other Persons to provide Substantial Assistance to Anti-Doping Organisations or AFL, at the request of the Anti-Doping Organisation conducting results management or at the request of the Player or other Person who has, or has been asserted to have, committed an Anti-Doping Rule Violation, WADA may agree at any stage of the results management process, including after a final appellate decision under clause 20, to what it considers to be an appropriate suspension of the otherwise-applicable period of Ineligibility and other Consequences. In exceptional circumstances, WADA may agree to suspension of the period of Ineligibility and other Consequences for Substantial Assistance greater than those otherwise provided in this Code. or even no period of Ineligibility, and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of sanction, as otherwise provided in this clause. Notwithstanding clause 20, WADA's decisions in the context of this clause may not be appealed by any other Anti-Doping Organisation.
- (vii) If any part of an otherwise applicable sanction is suspended because of Substantial Assistance, then notice providing justification for the decision shall be provided to the other Anti-Doping Organisations with a right to appeal under clause 20. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorise an Anti-Doping Organisation to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the Substantial Assistance agreement or the nature of Substantial Assistance being provided.
- (b) Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence

Where a Player or other Person voluntarily admits the commission of an Anti-Doping Rule Violation before having received notice of a Sample collection which could establish an Anti-Doping Rule Violation (or, in the case of an Anti-Doping Rule Violation other than clause 10.2, before first receiving notice of the admitted violation) and that admission is the only reliable evidence of the violation at the time of the admission, then the period of Ineligibility may be reduced, but not below one half of the period of Ineligibility otherwise applicable.<sup>32</sup>

(c) Prompt admission of an Anti-Doping Rule Violation after being confronted with a violation sanctionable under Clause 17.2(a) or Clause 17.3(a)

A Player or other Person potentially subject to a four-year sanction under clause 17.2(a) or 17.3(a), by promptly admitting the asserted Anti-Doping Rule Violation after being confronted by an Anti-Doping Organisation, and also upon the approval and at the discretion of both WADA and the Anti-Doping Organisation with results management responsibility, may receive a reduction in the period of Ineligibility down to a minimum of two (2) years, depending on the seriousness of the violation and the Player or other Person's degree of Fault.

<sup>&</sup>lt;sup>32</sup> This clause is intended to apply when a Player or other Person comes forward and admits to an Anti-Doping Rule Violation in circumstances where no Anti-Doping Organisation is aware that an Anti-Doping Rule Violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Player or other Person believes he is about to be caught. The amount by which Ineligibility is reduced should be based on the likelihood that the Player or other Person would have been caught had he or she not come forward voluntarily.

(d) Application of Multiple Grounds for Reduction of a Sanction

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Where a Player or other Person establishes entitlement to reduction in sanction under more than one provision of clause 17.4, 17.5 or 17.6, before applying any reduction or suspension under clause 17.6, the otherwise applicable period of Ineligibility shall be determined in accordance with clauses 17.2, 17.3, 17.4 and 17.5. If the Player or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under clause 17.6, then the period of Ineligibility may be reduced or suspended, but not to below one-fourth of the otherwise applicable period of Ineligibility.<sup>33</sup>

## 17.7 Multiple Violations

- (a) For a Player or other Person's second Anti-Doping Rule Violation, the period of Ineligibility shall be the greater of:
  - (i) six (6) months;
  - (ii) one half of the period of Ineligibility imposed for the first Anti-Doping Rule Violation without taking into account any reduction under clause 17.6; or
  - (iii) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation, without taking into account any reduction under Clause 17.6.
- (b) The period of Ineligibility established above may then be further reduced by the application of Clause 17.6.
- (c) A third Anti-Doping Rule Violation will always result in a lifetime period of Ineligibility, except if the third violation fulfils the condition for elimination or reduction of the period of Ineligibility under clause 17.4 or 17.5, or involves a violation of clause 10.5. In these particular cases, the period of Ineligibility shall be from eight (8) years to lifetime Ineligibility.
- (d) An Anti-Doping Rule Violation for which a Player or other Person has established No Fault or Negligence shall not be considered a prior violation for purposes of this clause.
- (e) Additional Rules for Certain Potential Multiple Violation
  - (i) For purposes of imposing sanctions under Clause 17.7, an Anti-Doping Rule Violation will only be considered a second violation if the Anti-Doping Organisation can establish that the Player or other Person committed the second Anti-Doping Rule Violation after the Player or other Person received notice pursuant to clause 14, or after the Anti-Doping Organisation made reasonable efforts to give notice, of the first Anti-Doping Rule Violation. If the Anti-Doping Organisation cannot establish this, the violations shall be considered together as one single first violation,

<sup>&</sup>lt;sup>33</sup> The appropriate sanction is determined in a sequence of four steps. First, the hearing panel (or sporting administration body if the Player waives their right to a hearing and admits the Anti-Doping Rule Violation/s) determines which of the basic sanctions apply to the particular Anti-Doping Rule Violation. Second, if the basic sanction provides for a range of sanctions, the hearing panel must determine the applicable sanction within that range according to the Player or other Person's degree of Fault. In a third step, the hearing panel establishes whether there is a basis for elimination, suspension, or reduction of the sanction. Finally, the hearing panel decides on the commencement of the period of Ineligibility.

and the sanction imposed shall be based on the violation that carries the more severe sanction.

- (ii) If, after the imposition of a sanction for a first Anti-Doping Rule Violation, an Anti-Doping Organisation discovers facts involving an Anti-Doping Rule Violation by the Player or other Person which occurred prior to notification regarding the first violation, then the Anti-Doping Organisation or AFL, shall impose an additional sanction based on the sanction that could have been imposed if the two violations had been adjudicated at the same time.
- (f) Multiple Anti-Doping Rule Violations during Ten-Year Period

For purposes of clause 17.7, each Anti-Doping Rule Violation must take place within the same ten-year period in order to be considered multiple violations.

# 18. Nature of Hearing/Tribunal

- (a) Where the alleged Anti-Doping Rule Violation arises out of an Adverse Analytical Finding, the Tribunal may only determine that an Anti-Doping Rule Violation has not occurred if the Player establishes to the satisfaction of the Tribunal that:
  - (i) the Sampling or Testing procedure was not conducted in accordance with this Code;
  - (ii) the Samples which led to the Adverse Analytical Finding were not those of the Player; or
  - (iii) the Samples which led to the Adverse Analytical Finding were so contaminated as to materially affect the result of the test;
  - (iv) or any combination of these factors.

This clause will not apply where the Player has admitted the Anti-Doping Rule Violation.

- (b) An entry on the Register of Findings by ASADA under the ASADA Act will be recognised by the Tribunal as proof, and without the need for further enquiry, that the applicable procedures have been observed.
- (c) A Person may appear in Person or by a Players' advocate, an Officer of a Club or a legal practitioner. The AFL may be represented by a legal practitioner. The costs and expenses of any such advocate (including a legal practitioner) will be borne by the Person on whose behalf they appear.
- (d) All hearings before the Tribunal in relation to this Code will be conducted in private unless otherwise authorised by the Tribunal Chairman.
- (e) All hearings and appeals conducted will respect in principle the rules applicable to the Tribunal and Appeals Board.
- (f) If a Player or other Person retires while a result management process is underway, the AFL retains the jurisdiction to complete its results management process. If the Player or other Person retires before any results management process has begun, the AFL will have jurisdiction to conduct results management.

# 19. Resolution without a hearing

(a) A Player or other Person against whom an Anti-Doping Rule Violation is asserted may admit that violation at any time, waive a hearing, and accept the Consequences that are mandated by this Code or (where some discretion as to Consequences exists under this Code) that have been offered by an Anti-Doping Organisation or the AFL.

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- (b) Alternatively, if the Player or other Person against whom an Anti-Doping Rule Violation is asserted fails to dispute that assertion within the deadline specified in the Infraction Notice asserting the violation, then he or she shall be deemed to have admitted the violation, to have waived a hearing, and to have accepted the Consequences that are mandated by this Code or (where some discretion as to Consequences exists under this Code) that have been offered by an Anti-Doping Organisation or the AFL.
- (c) In cases where clause 19(a) or 19(b) applies, a hearing before a Tribunal shall not be required. Instead the AFL, in consultation with an Anti-Doping Organisation, shall promptly issue a written decision confirming the commission of the Anti-Doping Rule Violation(s) and the Consequences imposed as a result, and setting out the reasons for any period of Ineligibility imposed, including (if applicable) a justification for why the maximum potential period of Ineligibility was not imposed. The AFL shall send copies of that decision to other Anti-Doping Organisations with a right to appeal under clause 20.2(d), and shall Publicly Disclose that decision in accordance with this Code.

# 20. Appeals<sup>34</sup>

Nothing in this clause 20 operates in relation to any breach of clause 31 of this Code.

## 20.1 Decisions Subject to Appeal

Decisions made under this Code may be appealed as set out below. Such decisions shall remain in effect while under appeal unless CAS or the Appeals Board orders otherwise. Before an appeal is commenced, any post-decision review authorised in the NAD Scheme must be exhausted.

(a) Scope of review not limited

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.

(b) Appeal Board shall not defer to the findings being appealed

In making its decision, the Appeal Board need not give deference to the discretion exercised by the body whose decision is being appealed.<sup>35</sup>

<sup>&</sup>lt;sup>34</sup> The object of the WADA Code and this Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Specified Persons and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organisations with a right to appeal under this Clause does not include Players, or their federations, who might benefit from having another competitor disqualified.

<sup>&</sup>lt;sup>35</sup> Appeal Board proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before the Appeal Board.

(c) WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under this clause and no other party has appealed a final decision within the process set out in this Code, WADA may appeal such decision directly to CAS without having to exhaust other remedies set out in this Code.<sup>36</sup>

# 20.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions, Recognition of Decisions and Jurisdiction

A decision that an Anti-Doping Rule Violation was committed, a decision imposing Consequences for an Anti-Doping Rule Violation, or a decision that no Anti-Doping Rule Violation was committed; a decision that an Anti-Doping Rule Violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision that AFL lacks jurisdiction to rule on an alleged Anti-Doping Rule Violation or its Consequences; a decision by ASADA or AFL not to bring forward an Adverse Analytical Finding or an Atypical Finding as an Anti-Doping Rule Violation after an investigation; a decision that ASADA, the AFL (or another Anti-Doping Organisation) lacks jurisdiction to rule on an alleged Anti-Doping Rule Violation or its Consequences; a decision to suspend, or not suspend, a period of Ineligibility or to reinstate, or not reinstate, a suspended period of Ineligibility; may be appealed exclusively as provided in this subclause.

- (a) All appeals shall be to the Appeal Board, constituted differently than for the original hearing and shall respect the following principles:
  - (i) a timely hearing;
  - (ii) a fair, impartial and independent hearing panel;
  - (iii) the right to be represented by a counsel at the Person's expense; and
  - (iv) a timely, written, reasoned decision.
- (b) The determination of the Appeals Board will be final and binding on the parties to the appeal and no Person may institute or maintain proceedings in any court or tribunal.
- (c) AFL must inform any Person or organisation informed of the original determination the outcome of any appeal within seven (7) days of the release by the Appeals Board of the written decision of the appeal.
- (d) Persons Entitled to Appeal

The parties having the right to appeal to the Appeals Board shall be as provided in the NAD Scheme but, at a minimum, shall include the following parties:

(i) the Player or other Person who is the subject of the decision being appealed;

<sup>&</sup>lt;sup>36</sup> Where a decision has been rendered before the final stage of an Anti-Doping Organisation's process (for example, a first hearing) and no party elects to appeal that decision to the next level of the Anti-Doping Organisation's process (e.g., the Appeals Board), then WADA may bypass the remaining steps in the Anti-Doping Organisation's internal process and appeal directly to CAS.

- (ii) the other party to the case in which the decision was rendered;
- (iii) AFL;
- (iv) ASADA; and
- (v) WADA.
- (e) Appeal to CAS

ASADA, WADA and a Player shall also have the right to appeal to CAS with respect to the decision of the Appeal Board. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being appealed and the information shall be provided if CAS so directs.

## 20.3 Failure to Render a Timely Decision by an Anti-Doping Organisation

Where, in a particular case, an Anti-Doping Organisation fails to render a decision with respect to whether an Anti-Doping Rule Violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if the Anti-Doping Organisation had rendered a decision finding no Anti-Doping Rule Violation.<sup>37</sup>

# 20.4 Time for Filing Appeals

- (a) The time to file an appeal shall be within twenty one (21) days of the release by the original Tribunal of the written decision of the initial hearing.
- (b) The filing deadline for an appeal or intervention filed by WADA shall be twenty-one (21) days after the last day on which any other party in the case could have appealed.

# 21. Commencement of Ineligibility Period

Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.

(a) Delays Not Attributable to the Player or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Player or other Person, the body imposing the sanction may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred. Unless determined otherwise by the AFL Commission, all competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be disqualified.<sup>38</sup>

<sup>&</sup>lt;sup>37</sup> Given the different circumstances of each Anti-Doping Rule Violation investigation and results management process, it is not feasible to establish a fixed time period for an Anti-Doping Organisation to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping Organisation and give the Anti-Doping Organisation an opportunity to explain why it has not yet rendered a decision.

<sup>&</sup>lt;sup>38</sup> In cases of Anti-Doping Rule Violations other than under Clause 10.2, the time required for the Anti-Doping Organisation to discover and develop facts sufficient to establish an Anti-Doping Rule Violation may be lengthy, particularly where the Player or

## (b) Timely Admission

Where the Player or other Person promptly (which, in all events, for a Player means before the Player competes again) admits the Anti-Doping Rule Violation after being confronted with the Anti-Doping Rule Violation by the Anti-Doping Organisation, the period of Ineligibility may start as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred. In each case, however, where this clause is applied, the Player or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Player or other Person accepted the imposition of a sanction, or the date the sanction is otherwise imposed. This clause shall not apply where the period of Ineligibility already has been reduced under clause 17.6(c).

- (c) Credit for Provisional Suspension or Period of Ineligibility Served
  - (i) If a Provisional Suspension is imposed and respected by the Player or other Person, then the Player or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Player or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.
  - (ii) If a Player or other Person voluntarily accepts a Provisional Suspension in writing from an the AFL and thereafter respects the Provisional Suspension, the Player or other Person shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed.<sup>39</sup>
  - (iii) No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension regardless of whether the Player elected not to compete or was suspended by his or her Club.
  - (iv) For the avoidance of doubt, should a Player or Person return to competing in an AFL Competition after serving a period of Provisional Suspension but before the any period of Ineligibility is imposed, the Player or Person will receive credit for such period of Provisional Suspension served, however will not be entitled to receive credit for any further period of Provisional Suspension undertaken before the determination of the Tribunal.

# 22. Status During Ineligibility

# 22.1 Prohibition Against Participation During Ineligibility

(a) No Player or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in an AFL Competition or activity

other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this clause to start the sanction at an earlier date should not be used.

<sup>&</sup>lt;sup>39</sup> A Player's voluntary acceptance of a Provisional Suspension is not an admission by the Player and shall not be used in any way to draw an adverse inference against the Player.

(other than authorised Anti-Doping education or rehabilitation programs) authorised by the AFL, Affiliated State or Territory Body or AFL Clubs, any Signatory or Signatory's member organisation or a club or other member organisation of a Signatory's member organisation, or in competitions authorised or organised by any professional league or any international or national level event organisation or any elite or national-level sporting activity funded by a government agency.

- (b) A Player or other Person subject to a period of Ineligibility longer than four (4) years may after completing four years of the period of Ineligibility, participate in local sports events, but only so long as the local sport event is not at a level that could otherwise qualify such Player or other Person directly or indirectly to compete in (or accumulate points toward) a national championship or international event, and does not involve the Player or other Person working in any capacity with Minors.
- (c) A Player or other Person subject to a period of Ineligibility shall remain subject to Testing.<sup>40</sup>

# 22.2 Return to Training

As an exception to clause 22.1, a Player may return to train with a team or to use the facilities of a club or other member organisation of a Signatory's member organisation during the shorter of:

- (a) the last two (2) months of the Player's period of Ineligibility; or
- (b) the last one-quarter of the period of Ineligibility imposed. 41

### 22.3 Violation of the Prohibition of Participation During Ineligibility

Where a Player or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in clause 22.1, the results of such participation shall be disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility may be adjusted based on the Player or other Person's degree of Fault and other circumstances of the case. The determination of whether a Player or other Person has violated the prohibition against participation, and where adjustment is appropriate, shall be made by the AFL. This decision may be appealed under clause 20.

### 22.4 Withholding of Financial Support during Ineligibility

In addition for any Anti-Doping Rule Violation not involving a reduced sanction as described in clause 17.4 or 17.5, some or all sport-related financial support or other sport related financial support or other sport related benefits received such Player will be withheld by the AFL, AFL Club and governments.

<sup>&</sup>lt;sup>40</sup> For example, subject to clause 22.2, an Ineligible Player cannot participate in a training camp, exhibition or practice. The term 'activity' also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this clause. Ineligibility imposed in one sport shall also be recognised by other sports.

<sup>&</sup>lt;sup>41</sup> A Player cannot effectively train on his or her own so as to be ready to compete at the end of the Player's period of Ineligibility. During the training period described in this Clause, an Ineligible Player may not compete or engage in any activity described in Clause 22.1 other than training.

#### 22.5 Automatic Publication of Sanction

A mandatory part of each sanction shall include automatic publication, as provided in by this Code.

# 23. Confidentiality and Reporting

# 23.1 Information concerning Adverse Analytical Findings, Atypical Findings, and other asserted Anti-Doping Rule Violations

(a) Notice of Anti-Doping Rule Violations to Players and other Persons

Notice to Players or other Persons that an Anti-Doping Rule Violation is being asserted against them shall occur as provided under clause 14 and 23 of this Code.

(b) Notice of Anti-Doping Rule Violations to AFL and WADA

Notice of the assertion of an Anti-Doping Rule Violation AFL and WADA shall occur as provided under clauses 14 and 23 of this Code, simultaneously with the notice to the Player or other Person.

(c) Content of an Anti-Doping Rule Violation Notice

Notification shall include: the Player's name, country, sport, whether the test was In-Competition or Out-of-Competition, the date of Sample collection, the analytical result reported by the laboratory, and other information as required by the International Standard for Testing and Investigations (where applicable), or, for Anti-Doping Rule Violations other than under clause 10.2, the rule violated and the basis of the asserted violation.

### (d) Status reports

Except with respect to investigations which have not resulted in notice of an Anti-Doping Rule Violation pursuant to clause 23.1(a), the AFL and WADA shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to clause 14, 18 or 20 and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### (e) Confidentiality

The recipient organisations shall not disclose this information beyond those persons with a need to know (which would include the appropriate personnel at the AFL, and Club) until ASADA, the AFL or other Anti-Doping Organisation has made public disclosure or has failed to make Public Disclosure as required in clause 23.3.

#### 23.2 Notice of Anti-Doping Rule Violation decisions and request for files

(a) Anti-Doping Rule Violation decisions rendered pursuant to this Code shall include the full reasons for the decision, including, if applicable, a justification for why the greatest possible Consequences were not imposed.

(b) An Anti-Doping Organisation having a right to appeal a decision received pursuant to clause 23.2(a) may, within fifteen days of receipt, request a copy of the full case file pertaining to the decision.

#### 23.3 Public disclosure

- (a) The identity of any Player or other Person who is asserted to have committed an Anti-Doping Rule Violation, may be Publicly Disclosed by ASADA, AFL or another Anti-Doping Organisation only after notice has been provided to the Player or other Person in accordance with clause 14.3, 14.4, 14.5, 14.6 or 14.7 and simultaneously to WADA and the AFL.
- (b) No later than twenty (20) days after it has been determined in a final appellate decision under this Code, or such appeal has been waived, or a hearing in accordance with this Code has been waived, or the assertion of an Anti-Doping Rule Violation has not been timely challenged, ASADA and the AFL must Publicly Report the disposition of the matter, including the sport, the anti-doping rule violated, the name of the Player or other Person committing the violation, the Prohibited Substance or Prohibited Method involved (if any) and the Consequences imposed. ASADA and the AFL must also Publicly Report within twenty (20) days the results of final appeal decisions concerning Anti-Doping Rule Violations, including the information described above.
- (c) In any case where it is determined, after a hearing or appeal, that the Player or other Person did not commit an Anti-Doping Rule Violation, the decision may be Publicly Disclosed only with the consent of the Player or other Person who is the subject of the decision. ASADA and the AFL shall use reasonable efforts to obtain such consent. If consent is obtained, ASADA and the AFL shall Publicly Disclose the decision in its entirety or in such redacted form as the Player or other Person may approve.
- (d) Publication shall be accomplished at a minimum by placing the required information on ASADA's website or publishing it through other means and leaving the information up for the longer of one month or the duration of any period of Ineligibility.
- (e) Neither ASADA, nor the AFL, nor any official of either body, shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the Player or other Person against whom an Anti-Doping Rule Violation is asserted, or their representatives.
- (f) Where a Player or other Person or their representative comments about their matter the Player or other Person is taken to have consented to ASADA and AFL commenting in response to their matter for the purposes of the ASADA Act.
- (g) The mandatory Public Reporting required in clause 23.3(b) shall not be required where the Player or other Person who has been found to have committed an Anti-Doping Rule Violation is a Minor. Any optional Public Reporting in a case involving a Minor shall be proportionate to the facts and circumstances of the case.

# 24. ASADA

- (a) Each Player, Club, Officer and Official acknowledges that ASADA may perform functions under this Code, including without limitation the functions specified under the ASADA Act.
- (b) In performing its functions under this Code or otherwise, ASADA is not and must not be deemed to be the agent of the AFL. For the avoidance of doubt, it is expressly stated that ASADA has no authority or capacity on behalf of the AFL to:
  - (i) authorise or approve the use of any substance or method prohibited under this Code;
  - (ii) give advice as to the application or interpretation of this Code; and
  - (iii) bind or commit the AFL in any manner.
- (c) In providing all drug awareness or education lectures and in respect of its Drugs in Sport Hotline, ASADA does not and will not be deemed to represent the AFL. All such services are provided by ASADA in its own right pursuant to its objects and functions under the ASADA Act.

# 25. Consequences to Teams

Where more than one Player from a Club has been notified of a possible Anti-Doping Rule Violation in any one season, the Club shall be subject to Target Testing for the remainder of the season. If more than one Player in a Club is found to have committed an Anti-Doping Rule Violation during a season, the Club may be subject to sanctions to be determined, in their absolute discretion, by the Commission.

# 26. Retirement of Players

- (a) A Player who wants to retire from AFL Competition must do so by notifying the AFL as required under the AFL Player Rules.
- (b) Upon receipt of the notification in accordance with clause 26(a), the AFL will, as soon as reasonably practicable, provide ASADA with notification of the retirement of the Player.
- (c) Retirement does not:
  - (i) excuse a Player from giving a Sample requested on or before their retirement date, or a Sample required as part of an investigation commenced prior to their retirement date;
  - (ii) excuse a Player from assisting, cooperating and liaising with the AFL, ASADA or other Anti-Doping Organisation in relation to conduct of any investigation or hearing into an alleged Anti-Doping Rule Violation;
  - (iii) prevent analysis of a Sample given by the Player on or before their retirement date;
  - (iv) affect the results of Testing under (i) or (ii) above;

- (v) exempt the player from this Code in relation to an Anti-Doping Rule Violation committed on or before their retirement date; or
- (vi) affect the AFL's power to conduct results management.
- (d) A Player who has retired in accordance with clause 26(a) and who wishes to return to AFL Competition must do so by notifying the AFL in accordance with the AFL Rules. The Player's reinstatement request date will be the date the AFL approves the Player's return to AFL Competition.
- (e) Upon receipt of notification under clause 26(d), the AFL will, as soon as reasonably practicable, notify ASADA of the reinstatement date.
- (f) If reinstatement is granted, then this Code will apply to the Player from the date of their reinstatement.
- (g) A Player who is reinstated pursuant to clause 26(d) may not compete in the AFL Competition for a period of three (3) months from the date of reinstatement.
- (h) Subject to consultation with ASADA, the AFL may reduce or extend the time period stated in clause 26(g), at its absolute discretion, in circumstances where the AFL considers special treatment is required.
- (i) A Player must be available for unannounced Out Of Competition Testing in accordance with this Code from the date of their reinstatement.

# 27. Mutual Recognition

- (a) Subject to the right to appeal under clause 20, the Testing, TUE's and hearing results or other financial adjudications of any Signatory to the WADA Code which are consistent with the WADA Code and are within that Signatory's authority, shall be recognised and respected by the AFL.
- (b) The AFL may recognise the same determinations of other bodies which have not accepted the WADA Code if the rules of those bodies are otherwise consistent with the WADA Code. On being advised of such determination, the AFL shall take all necessary action to render the determination effective.

#### 28. Statute of Limitations

No action may be commenced under this Code against a Player or other Person for a breach of this Code unless such action is commenced within ten (10) years from the date the breach is asserted to have occurred.

# 29. Transitional Provisions

### 29.1 General Application of the 2015 Code

The 2015 Code shall apply in full as of 1 January 2015 (Effective Date).

# 29.2 Non-Retroactive except for Clauses 17.7(f) Unless Principle of 'Lex Mitior' Applies

The retrospective periods in which prior violations can be considered for purposes of multiple violations under Clause 17.7(f) are procedural rules and should be applied

retroactively. Otherwise, with respect to any Anti-Doping Rule Violation case which is pending as of the Effective Date and any Anti-Doping Rule Violation case brought after the Effective Date based on an Anti-Doping Rule Violation which occurred prior to the Effective Date, the case shall be governed by the substantive Anti-Doping Rules in effect at the time the alleged Anti-Doping Rule Violation occurred, unless the panel hearing the case determines the principle of 'Lex Mitior' appropriately applies under the circumstances of the case.

# 29.3 Application to Decisions Rendered Prior to the 2015 Code

With respect to cases where a final decision finding an Anti-Doping Rule Violation has been rendered prior to the Effective Date, but the Player or other Person is still serving the period of Ineligibility as of the Effective Date, the Player or other Person may apply to AFL for the Anti-Doping Rule Violation to consider a reduction in the period of Ineligibility in light of the 2015 Code. Such application must be made before the period of Ineligibility has expired. The decision rendered by the AFL may be appealed pursuant to clause 20. The 2015 Code shall have no application to any Anti-Doping Rule Violation case where a final decision finding an Anti-Doping Rule Violation has been rendered and the period of Ineligibility has expired.

# 29.4 Multiple Violations Where the First Violation Occurs Prior to 1 January 2015

For purposes of assessing the period of Ineligibility for a second violation under Clause 17.7(a), where the sanction for the first violation was determined based on pre-2015 Code rules, the period of Ineligibility which would have been assessed for that first violation had 2015 Code rules been applicable, shall be applied.

# 30. Interpretation of the WADA Code

- (a) The official text of the WADA Code shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.
- (b) The comments annotating various provisions of the WADA Code shall be used to interpret the WADA Code.
- (c) The WADA Code shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Signatories or governments.
- (d) The headings used for the various Parts and Articles of the WADA Code are for convenience only and shall not be deemed part of the substance of the WADA Code or to affect in any way the language of the provisions to which they refer.
- (e) The WADA Code shall not apply retrospectively to matters pending before the date the WADA Code is accepted by a Signatory and implemented in its rules. However, pre-WADA Code Anti-Doping Rule Violations would continue to count as "First violations" or "Second violations" for purposes of determining sanctions under Article 10 of the WADA Code for subsequent post-WADA Code violations.
- (f) The Purpose, Scope and Organisation of the World Anti-Doping Program and the WADA Code and APPENDIX I DEFINITIONS shall be considered integral parts of the WADA Code.

# Part 2

### 31. AFL Treatment Rules

# 31.1 Application of This Clause

- (a) This clause 31 sets out the AFL's rules in relation to the Use of Treatments by, and Administration of Treatments to, various persons and is a key component of the AFL's integrity program.
- (b) This clause operates independently from the Anti-Doping Rule Violations set out in clause 10 and the sanctions that may be imposed by the AFL in accordance with clause 31.10 in relation to any contravention of this clause 31 are separate and independent from the sanctions which apply under clause 17.
- (c) For the avoidance of doubt, the AFL is responsible for implementation of, and monitoring compliance with, this clause 31 including issuing any sanctions for non-compliance and neither an Anti-Doping Organisation nor WADA has any power, function or jurisdiction in relation to the matters set out in this clause 31.
- (d) For the purposes of this clause 31, if a Player, Club or Official assists, encourages, aids, abets, covers up or is complicit in a breach of this clause, the relevant Player, Club or Official will be in breach of the relevant clause and liable to be sanctioned by the AFL in accordance with clause 31.10.
- (e) In the event of a possible Anti-Doping Rule Violation, the Player or Athlete Support Person will be subject to the provisions of Part 1 of this Code, in addition to the provisions of Part 2 of this Code.

#### 31.2 Certain Treatments and Providers Prohibited or Controlled

- (a) The General Counsel may determine from time to time, in its sole discretion and subject to such conditions as it deems fit, that:
  - (i) a Treatment or class of Treatment is to be an AFL Prohibited Treatment by including the relevant Treatment or class of Treatment on the AFL Prohibited Treatments List:
  - (ii) a person or class of person is a Prohibited Provider by including the relevant person or class of person on the Prohibited Providers List;
  - (iii) a Treatment or class of Treatment is a Controlled Treatment by including the relevant Treatment or class of Treatment on the Controlled Treatments List:
- (b) The General Counsel may amend the AFL Prohibited Treatments List, the Controlled Treatments List and the Prohibited Providers List from time to time by giving notice in writing to each Club and the AFL.

#### 31.3 Offence to Use AFL Prohibited Treatments or Prohibited Providers

- (a) No Player may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Player to be Administered any AFL Prohibited Treatment.
- (b) No Player, and no Official or Club by itself or its Officers, servants or agents, may permit or allow a Prohibited Provider to act as a Provider with respect to a Player.

# 31.4 Offence to possess AFL Prohibited Treatments and Prohibited Substances

- (a) A Player must not have in his Possession or control at any time an AFL Prohibited Treatment without the prior written approval of the General Counsel.
- (b) A Club must not have on its premises any Prohibited Substance or AFL Prohibited Treatment at any time without the prior written approval of the General Counsel.
- (c) No Person may permit a Prohibited Substance or AFL Prohibited Treatment to be brought onto the premises of the Club or to any AFL Venue without the prior written approval of the General Counsel.
- (d) A Club must take reasonable steps to ensure that all substances to be provided to Players as a Treatment are stored in a central, secure location, access to which is limited to authorised persons and that a proper inventory system for such substances is maintained. The General Counsel may issue minimum standards with respect to this requirement.

# 31.5 No Needles Policy

- (a) Subject to clause 31.5(b), no Player may Use, and no Official or Club by itself or its Officers, servants or agents, may permit or allow any Player to be Administered any substance by injection without the prior approval of the General Counsel.
- (b) Clause 31.5(a) does not apply to an injection that is:
  - (i) administered by an appropriately qualified medical professional in accordance with this clause 31; and
  - (ii) necessary to treat a legitimate medical condition meaning that there is no reasonable alternative way of treating the legitimate medical condition other than by injection.
- (c) Save for the Club Medical Officer, no Person may have in their Possession any object or material used for an injection or any injectable substance without the prior approval of the General Counsel.
- (d) For the purpose of this clause 31, "injection" includes any type of injection including intravenous, intra-articular, subcutaneous, peri-articular, peri-tendonous, epidural, intradermal, etc., but does not include "dry needling".

### 31.6 Approval of Controlled Treatments by Club Medical Officer

(a) Subject to clause 31.6(c), 31.6(d) and 31.6(e), no Player may use, and no Official, or Club by itself or its Officers, servants or agents, may, fund, permit or allow any

Player to be Administered any Controlled Treatment, unless the relevant Club Medical Officer has provided prior written approval of the Controlled Treatment in a form prescribed by the General Counsel.

- (b) The General Counsel may prescribe the form of approval referred to in clause 31.6(a) in respect of certain Treatments or classes of Treatments.
- (c) Clause 31.6(a) does not apply to a medical emergency situation where it is not possible to first seek the approval of the Club Medical Officer.
- (d) Where it is not reasonably practicable for the Club Medical Officer to provide his or her prior approval in writing under clause 31.6(a), the Club Medical Officer may initially provide his or her approval verbally, with written approval to follow as soon as reasonably practicable and no later than 24 hours after the verbal approval is given.
- (e) The General Counsel may declare further exceptions to clause 31.6(a) by notice in the Controlled Treatments List.

# 31.7 Register of Controlled Treatments

- (a) Each Club must keep and maintain a complete, accurate and up to date Register of Controlled Treatments.
- (b) The Register of Controlled Treatments shall include in relation to each Club:
  - (i) a record of all Controlled Treatments Administered to Players which the Club funds or authorises.
  - (ii) such details as are prescribed by the General Counsel with respect to such Treatments.
- (c) The Register of Controlled Treatments shall be maintained in the form prescribed by the General Counsel from time to time.
- (d) A Club must procure from relevant Providers such details as are required to be maintained in the Register of Controlled Treatments.
- (e) The register outlined in this clause 31.7 must be made available to the AFL at all times.

### 31.8 Doping Control Form Declarations

Each Player must record all Treatments used by or administered to him on the doping control form at the time of providing a Sample.

# 31.9 Conduct Unbecoming

No Person may engage in conduct in relation to any AFL Prohibited Treatment, Prohibited Substance or Prohibited Method that is unbecoming or likely to prejudice the interests or reputation of the AFL or bring the game of football into disrepute.

#### 31.10 Sanctions for AFL Treatment Rules

Where the AFL Commission or General Counsel determines that a Club or Person has committed a breach of this clause 16, the Club or Person will be sanctioned as the AFL Commission or General Counsel deems appropriate in their sole and absolute discretion, unless the AFL Commission or General Counsel determines such breach should be referred to the Tribunal for determination, in which case the Tribunal may determine the sanction in its sole and absolute discretion. For the avoidance of doubt, clause 17 of this Code will not apply to breaches of this clause 31.

# 31.11 Appeals Regarding Contravention of AFL Treatment Rules

A Player, Club or other person to whom the AFL Treatment Rules apply may appeal a decision of the AFL General Counsel in respect of a breach of the AFL Treatment Rules to the Appeals Board on a question of law only. For the avoidance of doubt, neither WADA nor ASADA shall have any right of appeal with respect to any matters involving the AFL Treatment Rules unless the conduct also falls under the Anti-Doping Violation section. For the avoidance of doubt, clause 20 of this Code will not apply to breaches of this clause 31.

# 32. AFL Screening and Risk Analysis

- (a) Notwithstanding any other provision of this Code, the AFL may conduct its own sample collection from Players and the screening/analysis of such samples for intelligence purposes and developing the strategic direction of the AFL's anti-doping program.
- (b) Samples not collected and Tested in accordance with clause 14 of this Code cannot be used to establish a violation of this Code.

# 33. Statistical Analysis

The Testing Authority may screen all Samples provided by Players for the presence of substances not prohibited under this Code at the request of the AFL from time to time. This screening will be for statistical and research purposes. The Testing Authority will notify the AFL General Counsel of the results of the screening and the Player's Club. The Testing Authority must not notify any other person of the name of any Player, or details from which the identity of the Player might reasonably be determined, whose sample is found to have contained such substances or to take any other steps arising from the presence of such substances.

# 34. Notification

- (a) Any person who directly or indirectly, formally or informally receives an approach or invitation from any other person to engage in any conduct prohibited by this Code, must as soon as practicable, advise and provide a written statement containing full details of such approach or invitation to the General Counsel.
- (b) A person must as soon as practicable advise and provide full details to the General Counsel of any incident, fact, or matter that comes to their attention that may evidence an offence under this Code by another party, including, without limitation, approaches or invitations that have been received by any other party engaged in conduct that may amount to a breach of this Code.

# 35. Drug Rehabilitation Program

A Player who is found to have returned an Adverse Analytical Finding for Doping may be required by the Tribunal to undergo a drug rehabilitation programme in addition to any other sanction imposed. A first time offending Player who refuses or fails to undertake any required drug rehabilitation programme will automatically receive a 22 Match suspension in addition to any other sanction already imposed by the Tribunal. Any subsequent refusal or failure by a first time offending Player, or a refusal by a second time offending Player, will automatically incur a lifetime suspension.

# **Annexure A – Whereabouts Form**

# Player's Contact Details:

Date:

Player's Name:	
Club:	
Address:	
Telephone home:	
Mobile telephone	<u></u>
Email:	
	rise my Club to provide details of my whereabouts, including nues, schedules and times, to all relevant Testing Authority and the
I agree to comp above change.	lete a new whereabouts form immediately should any details listed
Player's signature	<del>)</del> :

# Tribunal Arbitral du Sport



# Court of Arbitration for Sport

# Code de l'arbitrage en matière de sport

Entré en vigueur le 1er janvier 2017

# **Code of Sports-related Arbitration**

In force as from 1 January 2017

# Statutes of the Bodies Working for the Settlement of Sports-Related Disputes

# **A** Joint Dispositions

- S1 In order to resolve sports-related disputes through arbitration and mediation, two bodies are hereby created:
  - the International Council of Arbitration for Sport ("ICAS")
  - the Court of Arbitration for Sport ("CAS").

The disputes to which a federation, association or other sports-related body is a party are a matter for arbitration pursuant to this Code, only insofar as the statutes or regulations of the bodies or a specific agreement so provide.

The seat of both ICAS and CAS is Lausanne, Switzerland.

- S2 The purpose of ICAS is to facilitate the resolution of sports-related disputes through arbitration or mediation and to safeguard the independence of CAS and the rights of the parties. It is also responsible for the administration and financing of CAS.
- S3 CAS maintains a list of arbitrators and provides for the arbitral resolution of sportsrelated disputes through arbitration conducted by Panels composed of one or three arbitrators.

CAS comprises of an Ordinary Arbitration Division and an Appeals Arbitration Division.

CAS maintains a list of mediators and provides for the resolution of sports-related disputes through mediation. The mediation procedure is governed by the CAS Mediation Rules.

# B The International Council of Arbitration for Sport (ICAS)

## 1 Composition

S4 ICAS is composed of twenty members, experienced jurists appointed in the following manner:

- a. four members are appointed by the International Sports Federations ("IFs"), *viz.* three by the Association of Summer Olympic IFs ("ASOIF") and one by the Association of Winter Olympic IFs ("AIOWF"), chosen from within or outside their membership;
- b. four members are appointed by the Association of the National Olympic Committees ("ANOC"), chosen from within or outside its membership;
- c. four members are appointed by the International Olympic Committee ("IOC"), chosen from within or outside its membership;
- d. four members are appointed by the twelve members of ICAS listed above, after appropriate consultation with a view to safeguarding the interests of the athletes;
- e. four members are appointed by the sixteen members of ICAS listed above, chosen from among personalities independent of the bodies designating the other members of the ICAS.
- The members of ICAS are appointed for one or several renewable period(s) of four years. Such nominations shall take place during the last year of each four-year cycle.

Upon their appointment, the members of ICAS sign a declaration undertaking to exercise their function personally, with total objectivity and independence, in conformity with this Code. They are, in particular, bound by the confidentiality obligation provided in Article R43.

Members of the ICAS may not appear on the list of CAS arbitrators or mediators nor act as counsel to any party in proceedings before the CAS.

If a member of the ICAS resigns, dies or is prevented from carrying out her/his functions for any other reason, she/he is replaced, for the remaining period of her/his mandate, in conformity with the terms applicable to her/his appointment.

ICAS may grant the title of Honorary Member to any former ICAS member who has made an exceptional contribution to the development of ICAS or CAS. The title of Honorary Member may be granted posthumously.

#### 2 Attributions

- S6 ICAS exercises the following functions:
  - 1. It adopts and amends this Code;
  - 2. It elects from among its members for one or several renewable period(s) of four years:
    - the President,
    - two Vice-Presidents who shall replace the President if necessary, by order of seniority in age; if the office of President becomes vacant, the senior Vice-President shall exercise the functions and responsibilities of the President until the election of a new President,
    - the President of the Ordinary Arbitration Division and the President of the Appeals Arbitration Division of the CAS,

• the deputies of the two Division Presidents who can replace them in the event they are prevented from carrying out their functions;

The election of the President and of the Vice-Presidents shall take place after consultation with the IOC, the ASOIF, the AIOWF and the ANOC.

The election of the President, Vice-Presidents, Division Presidents and their deputies shall take place at the ICAS meeting following the appointment of the ICAS members for the forthcoming period of four years.

- 3. It appoints the arbitrators who constitute the list of CAS arbitrators and the mediators who constitute the list of CAS mediators; it can also remove them from those lists;
- 4. It resolves challenges to and removals of arbitrators, and performs any other functions identified in the Procedural Rules:
- 5. It is responsible for the financing of CAS. For such purpose, *inter alia*:
- 5.1 it receives and manages the funds allocated to its operations;
- 5.2 it approves the ICAS budget prepared by the CAS Court Office;
- 5.3 it approves the annual accounts of CAS prepared by the CAS Court Office;
- 6. It appoints the CAS Secretary General and may terminate her/his duties upon proposal of the President;
- 7. It supervises the activities of the CAS Court Office;
- 8. It provides for regional or local, permanent or *ad hoc* arbitration;
- 9. It may create a legal aid fund to facilitate access to CAS arbitration for individuals without sufficient financial means and may create CAS legal aid guidelines for the operation of the fund;
- 10. It may take any other action which it deems necessary to protect the rights of the parties and to promote the settlement of sports-related disputes through arbitration and mediation.
- S7 ICAS exercises its functions itself, or through its Board, consisting of the President, the two Vice-Presidents of the ICAS, the President of the Ordinary Arbitration Division and the President of the CAS Appeals Arbitration Division.

The ICAS may not delegate to the Board the functions listed under Article S6, paragraphs 1, 2, 5.2 and 5.3.

## 3 Operation

S8 1. ICAS meets whenever the activity of CAS so requires, but at least once a year.

A quorum at meetings of the ICAS consists of at least half its members. . Decisions are taken during meetings or by correspondence by a majority of the votes cast. Abstentions and blank or spoiled votes are not taken into consideration in the calculation of the required majority. Voting by proxy is not allowed. Voting is held by secret ballot if the President so decides or upon the request of at least a quarter of the members present. The President has a casting vote in the event of a tie.

- 2. Any modification of this Code requires a majority of two-thirds of the ICAS members. Furthermore, the provisions of Article S8.1 apply.
- 3. Any ICAS member is eligible to be a candidate for the ICAS Presidency. Registration as a candidate shall be made in writing and filed with the Secretary General no later than four months prior to the election meeting.

The election of the ICAS President shall take place at the ICAS meeting following the appointment of the ICAS members for a period of four years. The quorum for such election is three-quarters of the ICAS members. The President is elected by an absolute majority of the members present. If there is more than one candidate for the position of President, successive rounds of voting shall be organized. If no absolute majority is attained, the candidate having the least number of votes in each round shall be eliminated. In the case of a tie among two or more candidates, a vote between those candidates shall be organized and the candidate having the least number of votes shall be eliminated. If following this subsequent vote, there is still a tie, the candidate(s) senior in age is(are) selected.

If a quorum is not present or if the last candidate in the voting rounds, or the only candidate, does not obtain an absolute majority in the last round of voting, the current president shall remain in her/his position until a new election can be held. The new election shall be held within four months of the unsuccessful election and in accordance with the above rules, with the exception that the President is elected by a simple majority when two candidates or less remain in competition.

The election is held by secret ballot. An election by correspondence is not permitted.

- 4. The CAS Secretary General takes part in the decision-making with a consultative voice and acts as Secretary to ICAS.
- The President of ICAS is also President of CAS. She/he is responsible for the ordinary administrative tasks pertaining to the ICAS.
- S10 The Board of ICAS meets at the invitation of the ICAS President.

The CAS Secretary General takes part in the decision-making with a consultative voice and acts as Secretary to the Board.

A quorum of the Board consists of three of its members. Decisions are taken during meetings or by correspondence by a simple majority of those voting; the President has a casting vote in the event of a tie.

A member of ICAS or the Board may be challenged when circumstances allow legitimate doubt to be cast on her/his independence *vis-à-vis* a party to an arbitration

which must be the subject of a decision by ICAS or the Board pursuant to Article S6, paragraph 4. She/he shall pre-emptively disqualify herself/himself when the subject of a decision is an arbitration procedure in which a sports-related body to which she/he belongs appears as a party or in which a member of the law firm to which she/he belongs is an arbitrator or counsel.

ICAS, with the exception of the challenged member, shall determine the process with respect to the procedure for challenge.

The disqualified member shall not take part in any deliberations concerning the arbitration in question and shall not receive any information on the activities of ICAS and the Board concerning such arbitration.

# C The Court of Arbitration for Sport (CAS)

#### 1 Mission

S12 CAS constitutes Panels which have the responsibility of resolving disputes arising in the context of sport by arbitration and/or mediation pursuant to the Procedural Rules (Articles R27 et seq.).

For such purpose, CAS provides the necessary infrastructure, effects the constitution of Panels and oversees the efficient conduct of the proceedings.

The responsibilities of Panels are, inter alia:

- a. to resolve the disputes referred to them through ordinary arbitration;
- b. to resolve through the appeals arbitration procedure disputes concerning the decisions of federations, associations or other sports-related bodies, insofar as the statutes or regulations of the said sports-related bodies or a specific agreement so provide
- c. to resolve the disputes that are referred to them through mediation.

#### 2 Arbitrators and mediators

S13 The personalities designated by ICAS, pursuant to Article S6, paragraph 3, appear on the CAS list for one or several renewable period(s) of four years. ICAS reviews the complete list every four years; the new list enters into force on 1 January of the year following its establishment.

There shall be not less than one hundred fifty arbitrators and fifty mediators.

The ICAS shall appoint personalities to the list of CAS arbitrators with appropriate legal training, recognized competence with regard to sports law and/or international arbitration, a good knowledge of sport in general and a good command of at least one CAS working language, whose names and qualifications are brought to the attention of ICAS, including by the IOC, the IFs, the NOCs and by the athletes' commissions of the IOC, IFs and NOCs. ICAS may identify the arbitrators having a specific expertise to deal with certain types of disputes.

The ICAS shall appoint personalities to the list of CAS mediators with experience in mediation and a good knowledge of sport in general.

- S15 ICAS shall publish such lists of CAS arbitrators and mediators, as well as all subsequent modifications thereof.
- When appointing arbitrators and mediators, the ICAS shall consider continental representation and the different juridical cultures.
- Subject to the provisions of the Procedural Rules (Articles R27 et seq.), if a CAS arbitrator resigns, dies or is unable to carry out her/his functions for any other reason, she/he may be replaced, for the remaining period of her/his mandate, in conformity with the terms applicable to her/his appointment.
- S18 Arbitrators who appear on the CAS list may serve on Panels constituted by either of the CAS Divisions.

Upon their appointment, CAS arbitrators and mediators shall sign an official declaration undertaking to exercise their functions personally with total objectivity, independence and impartiality, and in conformity with the provisions of this Code.

CAS arbitrators and mediators may not act as counsel for a party before the CAS.

S19 CAS arbitrators and mediators are bound by the duty of confidentiality, which is provided for in the Code and in particular shall not disclose to any third party any facts or other information relating to proceedings conducted before CAS.

ICAS may remove an arbitrator or a mediator from the list of CAS members, temporarily or permanently, if she/he violates any rule of this Code or if her/his action affects the reputation of ICAS and/or CAS.

### **3** Organisation of the CAS

- S20 The CAS is composed of two divisions, the Ordinary Arbitration Division and the Appeals Arbitration Division.
  - a. **The Ordinary Arbitration Division** constitutes Panels, whose responsibility is to resolve disputes submitted to the ordinary procedure, and performs, through the intermediary of its President or her/his deputy, all other functions in relation to the efficient running of the proceedings pursuant to the Procedural Rules (Articles R27 et seq.).
  - b. **The Appeals Arbitration Division** constitutes Panels, whose responsibility is to resolve disputes concerning the decisions of federations, associations or other sports-related bodies insofar as the statutes or regulations of the said sports-related bodies or a specific agreement so provide. It performs, through the intermediary of its President or her/his deputy, all other functions in relation to the efficient running of the proceedings pursuant to the Procedural Rules (Articles R27 et seq.).

Arbitration proceedings submitted to CAS are assigned by the CAS Court Office to the appropriate Division. Such assignment may not be contested by the parties nor be raised by them as a cause of irregularity. In the event of a change of circumstances during the proceedings, the CAS Court Office, after consultation with the Panel, may assign the arbitration to another Division. Such re-assignment shall not affect the constitution of the Panel nor the validity of any proceedings, decisions or orders prior to such re-assignment.

The CAS mediation system operates pursuant to the CAS Mediation Rules.

The President of either Division may be challenged if circumstances exist that give rise to legitimate doubts with regard to her/his independence *vis-à-vis* one of the parties to an arbitration assigned to her/his Division. She/he shall pre-emptively disqualify herself/himself if, in arbitration proceedings assigned to her/his Division, one of the parties is a sports-related body to which she/he belongs, or if a member of the law firm to which she/he belongs is acting as arbitrator or counsel.

ICAS shall determine the procedure with respect to any challenge. The challenged President shall not participate in such determination.

If the President of a Division is challenged, the functions relating to the efficient running of the proceedings conferred upon her/him by the Procedural Rules (Articles R27 et seq.), shall be performed by her/his deputy or by the CAS President, if the deputy is also challenged. No disqualified person shall receive any information concerning the activities of CAS regarding the arbitration proceedings giving rise to her/his disqualification.

S22 CAS includes a Court Office composed of the Secretary General and one or more Counsel, who may represent the Secretary General when required.

The CAS Court Office performs the functions assigned to it by this Code.

# **D** Miscellaneous Provisions

- S23 These Statutes are supplemented by the Procedural Rules adopted by ICAS.
- S24 The English text and the French text are authentic. In the event of any divergence, the French text shall prevail.
- S25 These Statutes may be amended by decision of the ICAS pursuant to Article S8.
- S26 These Statutes and Procedural Rules come into force by the decision of ICAS, taken by a two-thirds majority.

# **Procedural Rules**

#### **A** General Provisions

## R27 Application of the Rules

These Procedural Rules apply whenever the parties have agreed to refer a sports-related dispute to CAS. Such reference may arise out of an arbitration clause contained in a contract or regulations or by reason of a later arbitration agreement (ordinary arbitration proceedings) or may involve an appeal against a decision rendered by a federation, association or sports-related body where the statutes or regulations of such bodies, or a specific agreement provide for an appeal to CAS (appeal arbitration proceedings).

Such disputes may involve matters of principle relating to sport or matters of pecuniary or other interests relating to the practice or the development of sport and may include, more generally, any activity or matter related or connected to sport.

#### R28 Seat

The seat of CAS and of each Arbitration Panel ("Panel") is Lausanne, Switzerland. However, should circumstances so warrant, and after consultation with all parties, the President of the Panel may decide to hold a hearing in another place and may issue the appropriate directions related to such hearing.

### R29 Language

The CAS working languages are French and English. In the absence of agreement between the parties, the President of the Panel or, if she/he has not yet been appointed, the President of the relevant Division, shall select one of these two languages as the language of the arbitration at the outset of the procedure, taking into account all relevant circumstances. Thereafter, the proceedings shall be conducted exclusively in that language, unless the parties and the Panel agree otherwise.

The parties may request that a language other than French or English be selected, provided that the Panel and the CAS Court Office agree. If agreed, the CAS Court Office determines with the Panel the conditions related to the choice of the language; the Panel may order that the parties bear all or part of the costs of translation and interpretation. If a hearing is to be held, the Panel may allow a party to use a language other than that chosen for the arbitration, on condition that it provides, at its own cost, interpretation into and from the official language of the arbitration.

The Panel or, prior to the constitution of the Panel, the Division President may order that all documents submitted in languages other than that of the proceedings be filed together with a certified translation in the language of the proceedings.

# R30 Representation and Assistance

The parties may be represented or assisted by persons of their choice. The names, addresses, electronic mail addresses, telephone and facsimile numbers of the persons representing the parties shall be communicated to the CAS Court Office, the other party and the Panel after its formation. Any party represented by an attorney or other person shall provide written confirmation of such representation to the CAS Court Office.

### R31 Notifications and Communications

All notifications and communications that CAS or the Panel intend for the parties shall be made through the CAS Court Office. The notifications and communications shall be sent to the address shown in the arbitration request or the statement of appeal, or to any other address specified at a later date.

All arbitration awards, orders, and other decisions made by CAS and the Panel shall be notified by courier and/or by facsimile and/or by electronic mail but at least in a form permitting proof of receipt.

The request for arbitration, the statement of appeal and any other written submissions, printed or saved on digital medium, must be filed by courier delivery to the CAS Court Office by the parties in as many copies as there are other parties and arbitrators, together with one additional copy for the CAS itself, failing which the CAS shall not proceed. If they are transmitted in advance by facsimile or by electronic mail at the official CAS email address (procedures@tas-cas.org), the filing is valid upon receipt of the facsimile or of the electronic mail by the CAS Court Office provided that the written submission and its copies are also filed by courier within the first subsequent business day of the relevant time limit, as mentioned above.

Filing of the above-mentioned submissions by electronic mail is permitted under the conditions set out in the CAS guidelines on electronic filing.

The exhibits attached to any written submissions may be sent to the CAS Court Office by electronic mail, provided that they are listed and that each exhibit can be clearly identified; the CAS Court Office may then forward them by the same means. Any other communications from the parties intended for the CAS Court Office or the Panel shall be sent by courier, facsimile or electronic mail to the CAS Court Office.

## R32 Time limits

The time limits fixed under this Code shall begin from the day after that on which notification by the CAS is received. Official holidays and non-working days are included in the calculation of time limits. The time limits fixed under this Code are respected if the communications by the parties are sent before midnight, time of the location of their own domicile or, if represented, of the domicile of their main legal

representative, on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the location from where the document is to be sent, the time limit shall expire at the end of the first subsequent business day.

Upon application on justified grounds and after consultation with the other party (or parties), either the President of the Panel or, if she/he has not yet been appointed, the President of the relevant Division, may extend the time limits provided in these Procedural Rules, with the exception of the time limit for the filing of the statement of appeal, if the circumstances so warrant and provided that the initial time limit has not already expired. With the exception of the time limit for the statement of appeal, any request for a first extension of time of a maximum of five days can be decided by the CAS Secretary General without consultation with the other party (-ies).

The Panel or, if it has not yet been constituted, the President of the relevant Division may, upon application on justified grounds, suspend an ongoing arbitration for a limited period of time.

## R33 Independence and Qualifications of Arbitrators

Every arbitrator shall be and remain impartial and independent of the parties and shall immediately disclose any circumstances which may affect her/his independence with respect to any of the parties.

Every arbitrator shall appear on the list drawn up by the ICAS in accordance with the Statutes which are part of this Code, shall have a good command of the language of the arbitration and shall be available as required to complete the arbitration expeditiously.

#### R34 Challenge

An arbitrator may be challenged if the circumstances give rise to legitimate doubts over her/his independence or over her/his impartiality. The challenge shall be brought within seven days after the ground for the challenge has become known.

Challenges shall be determined by the ICAS Board, which has the discretion to refer a case to ICAS. The challenge of an arbitrator shall be lodged by the party raising it, in the form of a petition setting forth the facts giving rise to the challenge, which shall be sent to the CAS Court Office. The ICAS Board or ICAS shall rule on the challenge after the other party (or parties), the challenged arbitrator and the other arbitrators, if any, have been invited to submit written comments. Such comments shall be communicated by the CAS Court Office to the parties and to the other arbitrators, if any. The ICAS Board or ICAS shall give brief reasons for its decision and may decide to publish it.

An arbitrator may be removed by the ICAS if she/he refuses to or is prevented from carrying out her/his duties or if she/he fails to fulfil her/his duties pursuant to this Code within a reasonable time. ICAS may exercise such power through its Board The Board shall invite the parties, the arbitrator in question and the other arbitrators, if any, to submit written comments and shall give brief reasons for its decision. Removal of an arbitrator cannot be requested by a party.

## R36 Replacement

In the event of resignation, death, removal or successful challenge of an arbitrator, such arbitrator shall be replaced in accordance with the provisions applicable to her/his appointment. If, within the time limit fixed by the CAS Court Office, the Claimant/Appellant does not appoint an arbitrator to replace the arbitrator it had initially appointed, the arbitration shall not be initiated or, in the event it has been already initiated, shall be terminated. Unless otherwise agreed by the parties or otherwise decided by the Panel, the proceedings shall continue without repetition of any aspect thereof prior to the replacement.

### R37 Provisional and Conservatory Measures

No party may apply for provisional or conservatory measures under these Procedural Rules before all internal legal remedies provided for in the rules of the federation or sports-body concerned have been exhausted.

Upon filing of the request for provisional measures, the Applicant shall pay a non-refundable Court Office fee of Swiss francs 1,000.—, without which CAS shall not proceed. The CAS Court Office fee shall not be paid again upon filing of the request for arbitration or of the statement of appeal in the same procedure.

The President of the relevant Division, prior to the transfer of the file to the Panel, or thereafter, the Panel may, upon application by a party, make an order for provisional or conservatory measures. In agreeing to submit any dispute subject to the ordinary arbitration procedure or to the appeal arbitration procedure to these Procedural Rules, the parties expressly waive their rights to request any such measures from state authorities or tribunals.

Should an application for provisional measures be filed, the President of the relevant Division or the Panel shall invite the other party (or parties) to express a position within ten days or a shorter time limit if circumstances so require. The President of the relevant Division or the Panel shall issue an order on an expedited basis and shall first rule on the *prima facie* CAS jurisdiction. The Division President may terminate the arbitration procedure if she/he rules that the CAS clearly has no jurisdiction. In cases of utmost urgency, the President of the relevant Division, prior to the transfer of the file to the Panel, or thereafter the President of the Panel may issue an order upon mere presentation of the application, provided that the opponent is subsequently heard.

When deciding whether to award preliminary relief, the President of the Division or the Panel, as the case may be, shall consider whether the relief is necessary to protect the applicant from irreparable harm, the likelihood of success on the merits of the claim, and whether the interests of the Applicant outweigh those of the Respondent(s).

The procedure for provisional measures and the provisional measures already granted, if any, are automatically annulled if the party requesting them does not file a related request for arbitration within 10 days following the filing of the request for provisional measures (ordinary procedure) or any statement of appeal within the time limit provided by Article R49 of the Code (appeals procedure). Such time limits cannot be extended.

Provisional and conservatory measures may be made conditional upon the provision of security.

# **B** Special Provisions Applicable to the Ordinary Arbitration Procedure

## R38 Request for Arbitration

The party intending to submit a matter to arbitration under these Procedural Rules (Claimant) shall file a request with the CAS Court Office containing:

- the name and full address of the Respondent(s);
- a brief statement of the facts and legal argument, including a statement of the issue to be submitted to the CAS for determination;
- its request for relief;
- a copy of the contract containing the arbitration agreement or of any document providing for arbitration in accordance with these Procedural Rules;
- any relevant information about the number and choice of the arbitrator(s); if the relevant arbitration agreement provides for three arbitrators, the name of the arbitrator from the CAS list of arbitrators chosen by the Claimant.

Upon filing its request, the Claimant shall pay the Court Office fee provided in Article R64.1.

If the above-mentioned requirements are not fulfilled when the request for arbitration is filed, the CAS Court Office may grant a single short deadline to the Claimant to complete the request, failing which the CAS Court Office shall not proceed.

# R39 Initiation of the Arbitration by CAS and Answer – CAS Jurisdiction

Unless it is clear from the outset that there is no arbitration agreement referring to CAS, the CAS Court Office shall take all appropriate actions to set the arbitration in motion. It shall communicate the request to the Respondent, call upon the parties to express themselves on the law applicable to the merits of the dispute and set time limits for the Respondent to submit any relevant information about the number and choice of the arbitrator(s) from the CAS list, as well as to file an answer to the request for arbitration.

The answer shall contain:

- a brief statement of defence;
- any defence of lack of jurisdiction;
- any counterclaim.

The Respondent may request that the time limit for the filing of the answer be fixed after the payment by the Claimant of its share of the advance of costs provided by Article R64.2 of this Code.

The Panel shall rule on its own jurisdiction, irrespective of any legal action already pending before a State court or another arbitral tribunal relating to the same object between the same parties, unless substantive grounds require a suspension of the proceedings.

When an objection to CAS jurisdiction is raised, the CAS Court Office or the Panel, if already constituted, shall invite the parties to file written submissions on jurisdiction. The Panel may rule on its jurisdiction either in a preliminary decision or in an award on the merits.

Where a party files a request for arbitration related to an arbitration agreement and facts similar to those which are the subject of a pending ordinary procedure before CAS, the President of the Panel, or if she/he has not yet been appointed, the President of the Division, may, after consulting the parties, decide to consolidate the two procedures.

## R40 Formation of the Panel

## R40.1 Number of Arbitrators

The Panel is composed of one or three arbitrators. If the arbitration agreement does not specify the number of arbitrators, the President of the Division shall determine the number, taking into account the circumstances of the case. The Division President may then choose to appoint a Sole arbitrator when the Claimant so requests and the Respondent does not pay its share of the advance of costs within the time limit fixed by the CAS Court Office.

# R40.2 Appointment of the Arbitrators

The parties may agree on the method of appointment of the arbitrators from the CAS list. In the absence of an agreement, the arbitrators shall be appointed in accordance with the following paragraphs.

If, by virtue of the arbitration agreement or a decision of the President of the Division, a sole arbitrator is to be appointed, the parties may select her/him by mutual agreement within a time limit of fifteen days set by the CAS Court Office upon receipt

of the request. In the absence of agreement within that time limit, the President of the Division shall proceed with the appointment.

If, by virtue of the arbitration agreement, or a decision of the President of the Division, three arbitrators are to be appointed, the Claimant shall nominate its arbitrator in the request or within the time limit set in the decision on the number of arbitrators, failing which the request for arbitration is deemed to have been withdrawn. The Respondent shall nominate its arbitrator within the time limit set by the CAS Court Office upon receipt of the request. In the absence of such appointment, the President of the Division shall proceed with the appointment in lieu of the Respondent. The two arbitrators so appointed shall select the President of the Panel by mutual agreement within a time limit set by the CAS Court Office. Failing agreement within that time limit, the President of the Division shall appoint the President of the Panel.

#### R40.3 Confirmation of the Arbitrators and Transfer of the File

An arbitrator nominated by the parties or by other arbitrators shall only be deemed appointed after confirmation by the President of the Division, who shall ascertain that each arbitrator complies with the requirements of Article R33.

Once the Panel is formed, the CAS Court Office takes notice of the formation and transfers the file to the arbitrators, unless none of the parties has paid an advance of costs provided by Article R64.2 of the Code.

An *ad hoc* clerk independent of the parties may be appointed to assist the Panel. Her/his fees shall be included in the arbitration costs.

# R41 Multiparty Arbitration

## R41.1 Plurality of Claimants / Respondents

If the request for arbitration names several Claimants and/or Respondents, CAS shall proceed with the formation of the Panel in accordance with the number of arbitrators and the method of appointment agreed by all parties. In the absence of agreement, the President of the Division shall decide on the number of arbitrators in accordance with Article R40.1.

If a sole arbitrator is to be appointed, Article R40.2 shall apply. If three arbitrators are to be appointed and there are several Claimants, the Claimants shall jointly nominate an arbitrator. If three arbitrators are to be appointed and there are several Respondents, the Respondents shall jointly nominate an arbitrator. In the absence of such a joint nomination, the President of the Division shall proceed with the particular appointment.

If there are three or more parties with divergent interests, both arbitrators shall be appointed in accordance with the agreement between the parties. In the absence of

agreement, the arbitrators shall be appointed by the President of the Division in accordance with Article R40.2.

In all cases, the arbitrators shall select the President of the Panel in accordance with Article R40.2.

#### R41.2 Joinder

If a Respondent intends to cause a third party to participate in the arbitration, it shall so state in its answer, together with the reasons therefor, and file an additional copy of its answer. The CAS Court Office shall communicate this copy to the person whose participation is requested and fix a time limit for such person to state its position on its participation and to submit a response pursuant to Article R39. It shall also fix a time limit for the Claimant to express its position on the participation of the third party.

## R41.3 Intervention

If a third party wishes to participate as a party to the arbitration, it shall file an application to this effect with the CAS Court Office, together with the reasons therefor within 10 days after the arbitration has become known to the intervenor, provided that such application is filed prior to the hearing, or prior to the closing of the evidentiary proceedings if no hearing is held. The CAS Court Office shall communicate a copy of this application to the parties and fix a time limit for them to express their position on the participation of the third party and to file, to the extent applicable, an answer pursuant to Article R39.

## R41.4 Joint Provisions on Joinder and Intervention

A third party may only participate in the arbitration if it is bound by the arbitration agreement or if it and the other parties agree in writing.

Upon expiration of the time limit set in Articles R41.2 and R41.3, the President of the Division or the Panel, if it has already been appointed, shall decide on the participation of the third party, taking into account, in particular, the *prima facie* existence of an arbitration agreement as contemplated in Article R39. The decision of the President of the Division shall be without prejudice to the decision of the Panel on the same matter.

If the President of the Division accepts the participation of the third party, CAS shall proceed with the formation of the Panel in accordance with the number of arbitrators and the method of appointment agreed by all parties. In the absence of agreement between the parties, the President of the Division shall decide on the number of arbitrators in accordance with Article R40.1. If a sole arbitrator is to be appointed, Article R40.2 shall apply. If three arbitrators are to be appointed, the arbitrators shall be appointed by the President of the Division and shall nominate the President of the Panel in accordance with Article R40.2.

Regardless of the decision of the Panel on the participation of the third party, the formation of the Panel cannot be challenged. In the event that the Panel accepts the participation, it shall, if required, issue related procedural directions.

After consideration of submissions by all parties concerned, the Panel shall determine the status of the third party and its rights in the procedure.

After consideration of submissions by all parties concerned, the Panel may allow the filing of *amicus curiae* briefs, on such terms and conditions as it may fix.

#### R42 Conciliation

The President of the Division, before the transfer of the file to the Panel, and thereafter the Panel may at any time seek to resolve the dispute by conciliation. Any settlement may be embodied in an arbitral award rendered by consent of the parties.

## R43 Confidentiality

Proceedings under these Procedural Rules are confidential. The parties, the arbitrators and CAS undertake not to disclose to any third party any facts or other information relating to the dispute or the proceedings without the permission of CAS. Awards shall not be made public unless all parties agree or the Division President so decides.

## R44 Procedure before the Panel

#### **R44.1** Written Submissions

The proceedings before the Panel comprise written submissions and, in principle, an oral hearing. Upon receipt of the file and if necessary, the President of the Panel shall issue directions in connection with the written submissions. As a general rule, there shall be one statement of claim, one response and, if the circumstances so require, one reply and one second response. The parties may, in the statement of claim and in the response, raise claims not contained in the request for arbitration and in the answer to the request. Thereafter, no party may raise any new claim without the consent of the other party.

Together with their written submissions, the parties shall produce all written evidence upon which they intend to rely. After the exchange of the written submissions, the parties shall not be authorized to produce further written evidence, except by mutual agreement, or if the Panel so permits, on the basis of exceptional circumstances.

In their written submissions, the parties shall list the name(s) of any witnesses, whom they intend to call, including a brief summary of their expected testimony, and the name(s) of any experts, stating their area of expertise, and shall state any other

evidentiary measure which they request. Any witness statements shall be filed together with the parties' submissions, unless the President of the Panel decides otherwise.

If a counterclaim and/or jurisdictional objection is filed, the CAS Court Office shall fix a time limit for the Claimant to file an answer to the counterclaim and/or jurisdictional objection.

## R44.2 Hearing

If a hearing is to be held, the President of the Panel shall issue directions with respect to the hearing as soon as possible and set the hearing date. As a general rule, there shall be one hearing during which the Panel hears the parties, any witnesses and any experts, as well as the parties' final oral arguments, for which the Respondent is heard last.

The President of the Panel shall conduct the hearing and ensure that the statements made are concise and limited to the subject of the written presentations, to the extent that these presentations are relevant. Unless the parties agree otherwise, the hearings are not public. Minutes of the hearing may be taken. Any person heard by the Panel may be assisted by an interpreter at the cost of the party which called such person.

The parties may only call such witnesses and experts which they have specified in their written submissions. Each party is responsible for the availability and costs of the witnesses and experts it has called.

The President of the Panel may decide to conduct a hearing by video-conference or to hear some parties, witnesses and experts via tele-conference or video-conference. With the agreement of the parties, she/he may also exempt a witness or expert from appearing at the hearing if the witness or expert has previously filed a statement.

The Panel may limit or disallow the appearance of any witness or expert, or any part of their testimony, on the grounds of irrelevance.

Before hearing any witness, expert or interpreter, the Panel shall solemnly invite such person to tell the truth, subject to the sanctions of perjury.

Once the hearing is closed, the parties shall not be authorized to produce further written pleadings, unless the Panel so orders.

After consulting the parties, the Panel may, if it deems itself to be sufficiently well informed, decide not to hold a hearing.

## R44.3 Evidentiary Proceedings Ordered by the Panel

A party may request the Panel to order the other party to produce documents in its custody or under its control. The party seeking such production shall demonstrate that such documents are likely to exist and to be relevant.

If it deems it appropriate to supplement the presentations of the parties, the Panel may at any time order the production of additional documents or the examination of witnesses, appoint and hear experts, and proceed with any other procedural step. The Panel may order the parties to contribute to any additional costs related to the hearing of witnesses and experts.

The Panel shall consult the parties with respect to the appointment and terms of reference of any expert. The expert shall be independent of the parties. Before appointing her/him, the Panel shall invite her/him to immediately disclose any circumstances likely to affect her/his independence with respect to any of the parties.

## R44.4 Expedited Procedure

With the consent of the parties, the Division President or the Panel may proceed in an expedited manner and may issue appropriate directions therefor.

#### R44.5 Default

If the Claimant fails to submit its statement of claim in accordance with Article R44.1 of the Code, the request for arbitration shall be deemed to have been withdrawn.

If the Respondent fails to submit its response in accordance with Article R44.1 of the Code, the Panel may nevertheless proceed with the arbitration and deliver an award.

If any of the parties, or its witnesses, has been duly summoned and fails to appear at the hearing, the Panel may nevertheless proceed with the hearing and deliver an award.

## R45 Law Applicable to the Merits

The Panel shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to Swiss law. The parties may authorize the Panel to decide ex aequo et bono.

## R46 Award

The award shall be made by a majority decision, or, in the absence of a majority, by the President alone. The award shall be written, dated and signed. Unless the parties agree otherwise, it shall briefly state reasons. The sole signature of the President of the Panel or the signatures of the two co-arbitrators, if the President does not sign, shall suffice. Before the award is signed, it shall be transmitted to the CAS Secretary General who may make rectifications of pure form and may also draw the attention of the Panel to fundamental issues of principle. Dissenting opinions are not recognized by the CAS and are not notified.

The Panel may decide to communicate the operative part of the award to the parties, prior to delivery of the reasons. The award shall be enforceable from such notification of the operative part by courier, facsimile and/or electronic mail.

The award, notified by the CAS Court Office, shall be final and binding upon the parties subject to recourse available in certain circumstances pursuant to Swiss Law within 30 days from the notification of the original award. It may not be challenged by way of an action for setting aside to the extent that the parties have no domicile, habitual residence, or business establishment in Switzerland and that they have expressly excluded all setting aside proceedings in the arbitration agreement or in a subsequent agreement, in particular at the outset of the arbitration.

# C Special Provisions Applicable to the Appeal Arbitration Procedure

# R47 Appeal

An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned.

# R48 Statement of Appeal

The Appellant shall submit to CAS a statement of appeal containing:

- the name and full address of the Respondent(s);
- a copy of the decision appealed against;
- the Appellant's request for relief;
- the nomination of the arbitrator chosen by the Appellant from the CAS list, unless the Appellant requests the appointment of a sole arbitrator;
- if applicable, an application to stay the execution of the decision appealed against, together with reasons;
- a copy of the provisions of the statutes or regulations or the specific agreement providing for appeal to CAS.

Upon filing the statement, the Appellant shall pay the CAS Court Office fee provided for in Article R64.1 or Article R65.2.

If the above-mentioned requirements are not fulfilled when the statement of appeal is filed, the CAS Court Office may grant a one-time-only short deadline to the Appellant to complete its statement of appeal, failing receipt of which within the deadline, the CAS Court Office shall not proceed.

# R49 Time limit for Appeal

In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.

#### **R50** Number of Arbitrators

The appeal shall be submitted to a Panel of three arbitrators, unless the parties have agreed to a Panel composed of a sole arbitrator or, in the absence of any agreement between the parties regarding the number of arbitrators, the President of the Division decides to submit the appeal to a sole arbitrator, taking into account the circumstances of the case, including whether or not the Respondent pays its share of the advance of costs within the time limit fixed by the CAS Court Office.

When two or more cases clearly involve the same issues, the President of the Appeals Arbitration Division may invite the parties to agree to refer these cases to the same Panel; failing any agreement between the parties, the President of the Division shall decide.

# R51 Appeal Brief

Within ten days following the expiry of the time limit for the appeal, the Appellant shall file with the CAS Court Office a brief stating the facts and legal arguments giving rise to the appeal, together with all exhibits and specification of other evidence upon which it intends to rely. Alternatively, the Appellant shall inform the CAS Court Office in writing within the same time limit that the statement of appeal shall be considered as the appeal brief. The appeal shall be deemed to have been withdrawn if the Appellant fails to meet such time limit.

In its written submissions, the Appellant shall specify the name(s) of any witnesses, including a brief summary of their expected testimony, and the name(s) of any experts, stating their area of expertise, it intends to call and state any other evidentiary measure which it requests. The witness statements, if any, shall be filed together with the appeal brief, unless the President of the Panel decides otherwise.

## R52 Initiation of the Arbitration by the CAS

Unless it appears from the outset that there is clearly no arbitration agreement referring to CAS, that the agreement is clearly not related to the dispute at stake or that the internal legal remedies available to the Appellant have clearly not been exhausted, CAS shall take all appropriate actions to set the arbitration in motion. The CAS Court Office shall communicate the statement of appeal to the Respondent, and the President of the Division shall proceed with the formation of the Panel in accordance with Articles R53 and R54. If applicable, she/he shall also decide promptly on any application for a stay or for interim measures.

The CAS Court Office shall send a copy of the statement of appeal and appeal brief to the authority which issued the challenged decision, for information.

The CAS Court Office may publicly announce the initiation of any appeals arbitration procedure and, at a later stage and where applicable, the composition of the arbitral panel and the hearing date, unless the parties agree otherwise.

With the agreement of the parties, the Panel or, if it has not yet been appointed, the President of the Division may proceed in an expedited manner and shall issue appropriate directions for such procedure.

Where a party files a statement of appeal in connection with a decision which is the subject of a pending appeal before CAS, the President of the Panel, or if she/he has not yet been appointed, the President of the Division, may decide, after inviting submissions from the parties, to consolidate the two procedures.

## R53 Nomination of Arbitrator by the Respondent

Unless the parties have agreed to a Panel composed of a sole arbitrator or the President of the Division considers that the appeal should be submitted to a sole arbitrator, the Respondent shall nominate an arbitrator within ten days after receipt of the statement of appeal. In the absence of a nomination within such time limit, the President of the Division shall make the appointment.

# R54 Appointment of the Sole Arbitrator or of the President and Confirmation of the Arbitrators by CAS

If, by virtue of the parties' agreement or of a decision of the President of the Division, a sole arbitrator is to be appointed, the President of the Division shall appoint the sole arbitrator upon receipt of the motion for appeal or as soon as a decision on the number of arbitrators has been rendered.

If three arbitrators are to be appointed, the President of the Division shall appoint the President of the Panel following nomination of the arbitrator by the Respondent and after having consulted the arbitrators. The arbitrators nominated by the parties shall only be deemed appointed after confirmation by the President of the Division. Before proceeding with such confirmation, the President of the Division shall ensure that the arbitrators comply with the requirements of Article R33.

Once the Panel is formed, the CAS Court Office takes notice of the formation of the Panel and transfers the file to the arbitrators, unless none of the parties has paid an advance of costs in accordance with Article R64.2 of the Code.

An *ad hoc* clerk, independent of the parties, may be appointed to assist the Panel. Her/his fees shall be included in the arbitration costs.

Article R41 applies mutatis mutandis to the appeals arbitration procedure, except that the President of the Panel is appointed by the President of the Appeals Division.

## R55 Answer of the Respondent – CAS Jurisdiction

Within twenty days from the receipt of the grounds for the appeal, the Respondent shall submit to the CAS Court Office an answer containing:

- a statement of defence;
- any defence of lack of jurisdiction;
- any exhibits or specification of other evidence upon which the Respondent intends to rely;
- the name(s) of any witnesses, including a brief summary of their expected testimony; the witness statements, if any, shall be filed together with the answer, unless the President of the Panel decides otherwise;
- the name(s) of any experts it intends to call, stating their area of expertise, and state any other evidentiary measure which it requests.

If the Respondent fails to submit its answer by the stated time limit, the Panel may nevertheless proceed with the arbitration and deliver an award.

The Respondent may request that the time limit for the filing of the answer be fixed after the payment by the Appellant of its share of the advance of costs in accordance with Article R64.2.

The Panel shall rule on its own jurisdiction. It shall rule on its jurisdiction irrespective of any legal action already pending before a State court or another arbitral tribunal relating to the same object between the same parties, unless substantive grounds require a suspension of the proceedings.

When an objection to CAS jurisdiction is raised, the CAS Court Office or the Panel, if already constituted, shall invite the parties to file written submissions on the matter of CAS jurisdiction. The Panel may rule on its jurisdiction either in a preliminary decision or in an award on the merits.

## R56 Appeal and answer complete – Conciliation

Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer.

The Panel may at any time seek to resolve the dispute by conciliation. Any settlement may be embodied in an arbitral award rendered by consent of the parties.

# R57 Scope of Panel's Review – Hearing

The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. The President of the Panel may request communication of the file of the federation, association or sports-related body, whose decision is the subject of the appeal. Upon transfer of the CAS file to the Panel, the President of the Panel shall issue directions in connection with the hearing for the examination of the parties, the witnesses and the experts, as well as for the oral arguments.

After consulting the parties, the Panel may, if it deems itself to be sufficiently well informed, decide not to hold a hearing. At the hearing, the proceedings take place in camera, unless the parties agree otherwise.

The Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. Articles R44.2 and R44.3 shall also apply.

If any of the parties, or any of its witnesses, having been duly summoned, fails to appear, the Panel may nevertheless proceed with the hearing and render an award.

# R58 Law Applicable to the merits

The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.

## R59 Award

The award shall be rendered by a majority decision, or in the absence of a majority, by the President alone. It shall be written, dated and signed. The award shall state brief reasons. The sole signature of the President of the Panel or the signatures of the two co-arbitrators, if the President does not sign, shall suffice.

Before the award is signed, it shall be transmitted to the CAS Secretary General who may make rectifications of pure form and may also draw the attention of the Panel to

fundamental issues of principle. Dissenting opinions are not recognized by CAS and are not notified.

The Panel may decide to communicate the operative part of the award to the parties, prior to the reasons. The award shall be enforceable from such notification of the operative part by courier, facsimile and/or electronic mail.

The award, notified by the CAS Court Office, shall be final and binding upon the parties subject to recourse available in certain circumstances pursuant to Swiss Law within 30 days from the notification of the original award. It may not be challenged by way of an action for setting aside to the extent that the parties have no domicile, habitual residence, or business establishment in Switzerland and that they have expressly excluded all setting aside proceedings in the arbitration agreement or in an agreement entered into subsequently, in particular at the outset of the arbitration.

The operative part of the award shall be communicated to the parties within three months after the transfer of the file to the Panel. Such time limit may be extended by the President of the Appeals Arbitration Division upon a reasoned request from the President of the Panel.

A copy of the operative part of the award, if any, and of the full award shall be communicated to the authority or sports body which has rendered the challenged decision, if that body is not a party to the proceedings.

The award, a summary and/or a press release setting forth the results of the proceedings shall be made public by CAS, unless both parties agree that they should remain confidential. In any event, the other elements of the case record shall remain confidential.

## D Special Provisions Applicable to the Consultation Proceedings

R60 [abrogated]

R61 [abrogated]

R62 [abrogated]

# **E** Interpretation

R63 A party may, not later than 45 days following the notification of the award, apply to CAS for the interpretation of an award issued in an ordinary or appeals arbitration, if the operative part of the award is unclear, incomplete, ambiguous, if its components

are self-contradictory or contrary to the reasons, or if the award contains clerical mistakes or mathematical miscalculations.

When an application for interpretation is filed, the President of the relevant Division shall review whether there are grounds for interpretation. If so, she/he shall submit the request for interpretation to the Panel which rendered the award. Any Panel members who are unable to act at such time shall be replaced in accordance with Article R36. The Panel shall rule on the request within one month following the submission of the request for interpretation to the Panel.

# **F** Costs of the Arbitration Proceedings

R64 General

R64.1 Upon filing of the request/statement of appeal, the Claimant/Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.—, without which the CAS shall not proceed. The Panel shall take such fee into account when assessing the final amount of costs.

If an arbitration procedure is terminated before a Panel has been constituted, the Division President shall rule on costs in the termination order. She/he may only order the payment of legal costs upon request of a party and after all parties have been given the opportunity to file written submissions on costs.

R64.2 Upon formation of the Panel, the CAS Court Office shall fix, subject to later changes, the amount, the method and the time limits for the payment of the advance of costs. The filing of a counterclaim or a new claim may result in the calculation of additional advances.

To determine the amount to be paid in advance, the CAS Court Office shall fix an estimate of the costs of arbitration, which shall be borne by the parties in accordance with Article R64.4. The advance shall be paid in equal shares by the Claimant(s)/Appellant(s) and the Respondent(s). If a party fails to pay its share, another may substitute for it; in case of non-payment of the entire advance of costs within the time limit fixed by the CAS, the request/appeal shall be deemed withdrawn and the CAS shall terminate the arbitration; this provision applies *mutatis mutandis* to any counterclaim.

R64.3 Each party shall pay for the costs of its own witnesses, experts and interpreters.

If the Panel appoints an expert or an interpreter, or orders the examination of a witness, it shall issue directions with respect to an advance of costs, if appropriate.

- R64.4 At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:
  - the CAS Court Office fee.
  - the administrative costs of the CAS calculated in accordance with the CAS scale,
  - the costs and fees of the arbitrators,
  - the fees of the *ad hoc* clerk, if any, calculated in accordance with the CAS fee scale.
  - a contribution towards the expenses of the CAS, and
  - the costs of witnesses, experts and interpreters.

The final account of the arbitration costs may either be included in the award or communicated separately to the parties. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.

- R64.5 In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.
- R65 Appeals against decisions issued by international federations in disciplinary matters
- R65.1 This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the Panel on the issue.
- R65.2 Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS.

Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.— without which CAS shall not proceed and the appeal shall be deemed withdrawn.

If an arbitration procedure is terminated before a Panel has been constituted, the Division President shall rule on costs in the termination order. She/he may only order the payment of legal costs upon request of a party and after all parties have been given the opportunity to file written submissions on costs.

- R65.3 Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.
- R65.4 If the circumstances so warrant, including the predominant economic nature of a disciplinary case or whether the federation which has rendered the challenged decision is not a signatory to the Agreement constituting ICAS, the President of the Appeals Arbitration Division may apply Article R64 to an appeals arbitration, either ex officio or upon request of the President of the Panel.

## R66 Consultation Proceedings

[abrogated]

# **G** Miscellaneous Provisions

- R67 These Rules are applicable to all procedures initiated by the CAS as from 1 January 2017. The procedures which are pending on 1 January 2017 remain subject to the Rules in force before 1 January 2017, unless both parties request the application of these Rules.
- R68 CAS arbitrators, CAS mediators, ICAS and its members, CAS and its employees are not liable to any person for any act or omission in connection with any CAS proceeding.
- R69 The French text and the English text are authentic. In the event of any discrepancy, the French text shall prevail.
- R70 The Procedural Rules may be amended pursuant to Article S8.