

2013 July 09

## INADO Update #31

Dear Colleagues:

### Membership

Here are iNADO's 36 current Members:

- Dopingautoriteit (Netherlands)
- UKAD (United Kingdom)
- ASADA (Australia)
- JADA (Japan)
- USADA (United States)
- DFSNZ (New Zealand)
- SAIDS (South Africa)
- CCES (Canada)
- ADN (Norway)
- ADD (Denmark)
- NADA Germany
- Antidoping Switzerland
- Singapore AD
- AFLD (France)
- NADA Austria
- NADA Romania
- NADC Barbados
- FINADA (Finland)
- ISC (Irish Sports Council)
- PRADO (Puerto Rico)
- QADC (Qatar)
- BSADA (Bermuda)
- AEA (Spain)
- NOC of Slovenia
- San Marino CPA
- KADC (Kuwait)
- JADO (Jordan)
- BADC (Bahamas)
- Indian NADA
- CyADA (Cyprus)
- LTU ADA (Lithuania)
- PANDA (Poland)
- KADA (Korea)
- ALAD (Luxembourg)
- SSC (Swedish Sport Confederation)
- EADA (Estonia)

I encourage you to join iNADO as early in 2013 as possible. This will increase iNADO's influence and broaden efforts to share best practices and to raise standards. The membership application and the list of membership subscription fees are posted in the "About iNADO" section of the iNADO website under the heading "Finances": [www.inado.org](http://www.inado.org). It typically takes 1 -2 business days for the iNADO Board to consider and approval membership applications. Once a membership application is approved, iNADO will issue an invoice for the membership fee.

### NADO Comments on the Pound Report now Posted on iNADO Website

You will recall that iNADO Update #28 provided a summary of WADA's Pound Report (into the "ineffectiveness" of testing). Through iNADO, WADA has formally asked for feedback from the NADO/RADO community by July 31, 2013. iNADO Update #29 asked for your preliminary views.

The comments of 7 NADOs are now posted on the iNADO website for your consideration and to stimulate your own thinking. Additional comments are most welcome. iNADO will make its own comments to WADA reflected the views of the NADO/RADO submissions it receives.

### **Draft 2015 World Anti-Doping Code Version 3.0 (June 2013)**

The Annex to this Update is a review of the most recent version of the Draft 2015 World Anti-Doping Code. This version 3.0 is especially important for several reasons:

- It contains a number of significant changes from previous versions.
- A number of these changes respond to the Pound Report (into the Ineffectiveness of Testing).
- This version of the draft is the last major opportunity to make additional suggestions for improvement before September, 2013 when the WADA ExCo approves the text that will be presented for adoption at the World Conference on Doping in Sport in South Africa in November 2015.

Therefore, if NADOs and RADOs want to seek further improvements to the text of the 2015 Code, now is the time to do so. iNADO encourages all NADOs and RADOs to consider these changes, share their views with each other (through iNADO) and advise WADA of suggestions for improvements.

### **ASADA Legislation Passes Australian Parliament**

The *ASADA Amendment Bill 2013* has been passed by the Australian Parliament. It will come into force in the near future. The Amendment Bill:

- provides ASADA with the power to issue a disclosure notice to compel persons to attend an interview with an investigator and to produce information and documents or things relevant to the administration of the National Anti-Doping Scheme;
- imposes penalties for failing to comply with a disclosure notice;
- clarifies the role of the Anti-Doping Rule Violation Panel;
- provides that conflict of interest provisions apply to matters relating to activities of the panel or the Australian Sports Drug Medical Advisory Committee;
- clarifies that the eight year statute of limitations specified in the World Anti-Doping Code applies in Australia's anti-doping arrangements; and
- amends the *Australian Sports Anti-Doping Authority Act 2006* and *Australian Postal Corporation Act 1989* to enable Australia Post to share information with ASADA.

Here is a link to the Parliamentary website with full details of the Amendment Bill:

[http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=s902](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s902)

### **A New Cycling Sponsor has "Zero Tolerance" for Doping**

An interesting report of the positive anti-doping philosophy of a new cycling team sponsor:

[http://espn.go.com/sports/endurance/story/\\_/id/9416579/new-sponsor-belkin-vows-zero-tolerance](http://espn.go.com/sports/endurance/story/_/id/9416579/new-sponsor-belkin-vows-zero-tolerance)

### **"I trusted the team doctors" - Retest of 1998 Tour de France Samples Reveals EPO**

Anecdotal evidence consistent with the findings of the recent independent report into Dutch cycling (see iNADO Update #30) about rider reliance on team doctors and the past role of some team doctors in

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doping athletes: <http://www.velonation.com/News/ID/14835/Laurent-Jalabert-surprised-after-reports-of-positive-samples-from-1998-Tour-de-France.aspx>

### **JADA Joins CCES, UKAD and USADA in Global Drug Reference Online (Global DRO)**

JADA has now joined other NADOs in use of the Global DRO: <http://www.cces.ca/en/news-238-japan-joins-global-drug-reference-online>. For the Global DRO website, go to <http://www.globaldro.com/>.

This online resource provides athletes and support personnel with information about the prohibited status of specific substances based on the current World Anti-Doping Agency (WADA) Prohibited List. Visitors can search the Global DRO for specific information on products sold in the United Kingdom, Canada, the United States and Japan. It also contains links to similar services for Australia, Ireland, South Africa and Switzerland.

These services are available free of charge and can be used by athletes and teams visiting, training and competing in these countries.

This is another example of NADO-NADO international cooperation that protects clean athletes and their right to fair sport.

### **Substantial Assistance Decision in Australia**

Here is a report of a recent “substantial assistance” case in Australia that may assist NADOs and RADOs determine when to apply that rule in other cases:

[http://www.asada.gov.au/publications/media/media\\_releases/asada\\_release\\_130702\\_Matthew\\_White\\_cycling.pdf](http://www.asada.gov.au/publications/media/media_releases/asada_release_130702_Matthew_White_cycling.pdf)

### **Concluding Words**

Never hesitate to contact me if you need assistance. Let me know what is happening in your country and in your organisation. Tell me how iNADO can help you do a better job.

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**iNADO is the Institute of National Anti-Doping Organisations. It promotes best practices by NADOs and RADOs, and is their collective voice.**

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## Annex

### **Draft 2015 World Anti-Doping Code – Version 3.0 (June 2013) Significant Changes**

This document notes the most significant changes to the Draft 2015 World Anti-Doping Code contained in the version released by WADA in the later part of June, 2013: [http://playtrue.wada-ama.org/news/third-draft-of-2015-code-published/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=third-draft-of-2015-code-published](http://playtrue.wada-ama.org/news/third-draft-of-2015-code-published/?utm_source=rss&utm_medium=rss&utm_campaign=third-draft-of-2015-code-published)

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Therefore, if NADOs and RADOs want to seek further improvements to the text of the 2015 Code, now is the time to do so.

#### **Article 2 (Anti-Doping Rule Violations)**

- 2.10.2 (Prohibited Association): the duration of the prohibited status of the individual is now stated to be “the longer of six years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed”.

#### **Article 3 (Proof of Doping)**

- 3.2.1: this provision now “presumes” to be scientifically valid the analytical methods or decision limits approved by WADA. But it also provides a new mechanism for dealing with challenges to scientific validity, including appointment of a “scientific expert” to assist a CAS Panel hearing the challenge: “In any case before CAS where the basis of scientific validity of a method or decision limit approved by WADA has been challenged, the CAS panel shall inform WADA of the challenge and shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. WADA, at its option, shall have the right to intervene as a party or otherwise provide evidence in such proceeding.”

Query what if any challenge procedure is available before a national or IF disciplinary tribunal?

**Article 4 (Prohibited List)**

- 4.3.1 (Criteria for Including Substances and Methods on the Prohibited List): this provision has reverted back to the current “two of three” criteria approach. The draft version considered at the May 2013 ExCo meeting had proposed that performance enhancement be required in all cases.

**Article 5 (Testing and Investigations)**

- As the change in title suggestions, these provisions are considerably expanded.
- 5.1.2: this new provision requires investigations to be collected in all cases of “Atypical Findings” and “Adverse Passport Findings” to determine possible violations under Article 2.1 (Presence) and 2.2 (Use or Attempted Use), and in relation to all other possible indications of non-analytical anti-doping rule violations under Articles 2.3 – 2.10. See new Article 5.8, below.
- 5.2, Comment: now explicit recognises that it is appropriate to collect samples from Athletes between the hours of 11:00 p.m. and 6:00 a.m. with “serious and specific suspicion” that the Athlete may be engaged in doping.
- 5.4.2: all ADOs must provide WADA with a copy of their Test Distribution Plans on request. (This is not a new provision; it is relocated from Article 23.3.)
- 5.5: the IST is renamed the International Standard for Testing and Investigations (ISTI).
- 5.8 (Investigations and Intelligence-Gathering): this new provision is the main investigations and intelligence article of the proposed 2015 Code. In accordance with the ISTI, ADOs must ensure they can:
  - “5.8.1 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);
  - “5.8.2 Investigate Atypical Findings and Adverse Passport Findings, in accordance with Articles 7.4 and 7.5 respectively; and
  - “5.8.3 Investigate any other analytical or non-analytical information or intelligence that indicates a possible anti-doping rule violation(s), in accordance with Articles 7.6 and 7.7, in order either to rule out the possible violation or to develop evidence that would support the initiation of an anti-doping rule violation that would otherwise result from that test.”

**Article 7 (Results Management)**

- 7.1 (Authority to Conduct Results Management): WADA’s decisions on disputes between ADOs about results management authority may be appealed to CAS on an expedited basis.

**Article 10 (Sanctions on Individuals)**

- 10.5.1.3 (Substances of Abuse): this provision, permitting lesser sanctions, is removed entirely. This relates to the change in reporting threshold for cannabis.
- 10.9 (Repayment of CAS Awards and Forfeited Prize Money): this provision now relaxes the requirement for repayment as a condition of return to eligibility. It no longer covers “fines.” It adds that where an Athlete or other Person can demonstrate that the general rule of repayment would create a financial burden that is “manifestly excessive,” then the Athlete or other Person may submit a payment plan to CAS for approval. “Failure to comply with an approved payment plan will automatically result in Ineligibility.”

Query whether a similar rule could be applied before a national or IF disciplinary tribunal?

**Article 20 (Additional Roles and Responsibilities of Signatories)**

- 20.3.10: in addition to vigorously pursuing anti-doping rule violations and investigations, IFs must also ensure “proper enforcement of Consequences.”
- 20.4.3: the reference to “governance” of NADOs is removed. NOCs and NPCs must respect the “autonomy” of NADOs, and not interfere with their “operational decisions and activities.” These changes were needed to accommodate that some NADOs are part of the NOC/NPC in some countries.
- 20.4.6.1: a new provision that where the country is a member of a RADO, NOCs and NPCs must support it.
- 20.5.7: in addition to vigorously pursuing anti-doping rule violations and investigations, NADOs must also ensure “proper enforcement of Consequences.”

**Article 22 (Involvement of Governments)**

- 22.6: the reference to “governance” of NADOs is removed. Governments must respect the “autonomy” of NADOs, and not interfere with their “operational decisions and activities.” These changes were needed to accommodate that some NADOs are government agencies in some countries.

**Appendix 1 - Definitions**

- Athlete: this definition is made more explicit to permit an ADO to apply anti-doping rules to non-International-Level of non-National-Level Athletes. A new provision in the Comment also recognises that in some countries individuals participate in sport for recreation and are under the authority of the NADO. There is limited flexibility in applying anti-doping rules to them.

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However, “...an anti-doping rule violation involving an Adverse Analytical Finding or Tampering, results in all of the Consequences provided for in the Code (with the exception of Article 14.3.2). The decision on whether Consequences apply to recreational-level Athletes who engage in fitness activities but never compete is left to the National Anti-Doping Organization.”

### **Appendix 3 (Period of Ineligibility – First Violation)**

- This Appendix is deleted.